

ITEM #1

DATE: August 26, 2020

TO: Orange County Planning Commission

FROM: OC Development Services/Planning

SUBJECT: 2020 Local CEQA Procedures Manual and 2020 Standard CEQA Agenda Staff Report Template Language

PROPOSAL: Recommend approval and adoption of the County of Orange 2020 Local California Environmental Quality Act (CEQA) Procedures Manual and 2020 Standard CEQA Agenda Staff Report (ASR) Template Language by the Board of Supervisors.

ZONING/ GENERAL PLAN DESIGNATION: N/A

LOCATION: Unincorporated Areas of Orange County

APPLICANT: OC Development Services

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RECOMMENDED ACTION(S):

OC Development Services/Planning recommends the Planning Commission:

- a. Receive staff report and public testimony.
- b. Find that the subject activity is not a project within the meaning of CEQA Guidelines Section 15378 and is therefore not subject to CEQA.



- c. Recommend approval and adoption of the County of Orange 2020 Local California Environmental Quality Act (CEQA) Procedures Manual and 2020 Standard CEQA Agenda Staff Report (ASR) Template Language by the Board of Supervisors.

BACKGROUND:

California Environmental Quality Act (CEQA) was enacted in 1970 by the California legislature and was modeled after National Environmental Protection Act (NEPA), which was enacted in 1969. CEQA's main objectives are to (1) disclose to decision makers and the public the significant physical environmental effects of proposed activities; (2) identify ways to prevent or minimize environmental damage; (3) prevent environmental damage by requiring implementation of feasible alternatives or mitigation measures; (4) disclose to the public reasons for agency approval of projects with significant effects; (5) foster interagency coordination in the review of projects; and (6) enhance public participation in the planning process. Since its enactment, CEQA has been amended on a regular basis to comply with State law and to address community needs.

Public agencies are required to adopt objectives, criteria and specific procedures consistent with CEQA Statutes and CEQA Guidelines for administering its responsibilities under CEQA, including the orderly evaluation of projects and preparation of environmental documents in accordance with Section 210001(f) of the CEQA Statutes (California Public Resources Code, Division 13, Sections 210000, et seq.) and Section 15022(a) of the CEQA Guidelines (Title 14, Sections 15000, et seq., of the California Code of Regulations). Thus, the County of Orange has prepared and updated the Local CEQA Procedures Manual and Standard CEQA Agenda Staff Report Template Language to comply with recent changes that have been made to CEQA and the CEQA Guidelines.

PROPOSED PROJECT:

The purpose of the County's 2020 Local CEQA Procedures Manual (the "Manual") is to update the County's local policies and procedures for implementation of CEQA. Its companion document, the 2020 Standard CEQA Agenda Staff Report (ASR) Template Language ("ASR Template") has also been updated to guide County staff during the preparation and review of ASRs to comply with CEQA and the CEQA Guidelines. The ASR Template is intended to be used in conjunction with the Manual, as both currently exist or may be amended from time to time after approval.



Local CEQA Procedures Manual

On October 28, 2014, the Board of Supervisors (Board) approved and adopted the 2014 Local CEQA Procedures Manual (Attachment 1 and 2) to ensure consistency with recent published court decisions, legislative amendments, and updated regulatory rule-making processes.

Since then, the 2020 Local CEQA Procedures Manual (Attachment 3) was prepared to clarify the environmental review process by incorporating more details, tables and attachments while also updating to comply with current CEQA Guidelines. This 2020 Local CEQA Procedures Manual would replace and supersede the previously adopted 2014 Local CEQA Procedures Manual.

In particular, the updated Manual is intended to serve as a guide for County staff and external environmental consulting firms when conducting CEQA reviews. The Manual applies to all activities undertaken by or approved by the County and all special districts governed by the Board. In addition, the Manual is to be utilized in conjunction with CEQA and the CEQA Guidelines, as both currently exist or may be amended from time to time after approval of the Manual. In any case of conflict between the Manual and CEQA, CEQA and the CEQA Guidelines will prevail. The Manual does not, nor is it intended to, add to or modify any legal requirements contained in CEQA.

In general, the Manual provides procedures for the following topics:

Chapter 1	Purpose and Intent
Chapter 2	National Environmental Policy Act
Chapter 3	CEQA Guidelines
Chapter 4	Decision-Making Bodies
Chapter 5	Decision Appeal Process
Chapter 6	Private Project Initiation Process
Chapter 7	Public Project Initiation Process
Chapter 8	Non-County Lead Reviews
Chapter 9	Determining Whether An Activity is a Project
Chapter 10	Exemption Process
Chapter 11	Negative/Mitigated Negative Declaration Process
Chapter 12	Environmental Impact Report Process
Chapter 13	Previous and Subsequent Document Process



Chapter 14	On-Call and Job Order Contracts Process
Chapter 15	Processing Fees
Chapter 16	Contributors
Chapter 17	References

The information included in the Manual is presented at a high level and references the State CEQA Guidelines website to ensure consistency with current guidelines. More specifically, the Manual also incorporates policies and procedures on recent legislation, including Senate Bill 743 provisions related to Vehicle Miles Traveled (VMT) recommendations outlined by the Governor’s Office of Planning and Research (OPR) to assist with the evaluation of projects within unincorporated Orange County.

To assist in the creation of the Manual, a Local CEQA Procedures Manual Update working group was created to gather feedback and input on the County’s environmental review process. The working group consisted of the following agencies: OC Public Works, Office of the County Counsel, OC Waste & Recycling, OC Community Resources, CEO Real Estate, and John Wayne Airport.

The working group convened on January 30, 2019 to discuss and approve the new outline for the 2020 Manual. On February 28, 2019, the First Draft of the Manual was sent to the working group for review and on March 20, 2019, the working group met to discuss the comments. The working group comments were addressed and on April 11, 2019, the Second Draft of the Manual was distributed to numerous County Agencies and Departments for review. Additional comments and proposed edits were then received, discussed and addressed throughout the year. The Manual was also discussed with Development Processing Review Committee (DPRC) and their comments were also addressed.

Standard CEQA ASR Template Language

One of the many responsibilities of OC Development Services/Planning is to conduct CEQA reviews for ASRs generated by all County Agencies and Departments. The 2020 Standard CEQA ASR Template Language (Attachment 4) will replace the 2014 ASR Template Language. The 2020 Standard CEQA ASR Template complies with the current version of CEQA and CEQA Guidelines; however, the ASR Template does not replace thoughtful consideration of CEQA issues. When in doubt, County agencies are encouraged to contact OC Development Services/Planning early in the process of a project.



Since similar activities frequently occur throughout the County of Orange, it is critical for County Agencies and Departments to utilize standard language in the ASRs. The ASR Template is intended to provide uniform language and a consistent methodology to assist in analyzing proposed activities to determine what, if any, CEQA findings need be made prior to any Board approval of such activities. The ASR Template provides examples of appropriate CEQA findings to be placed in ASRs for review and consideration by the Board. The ASR Template was also reformatted to be more user-friendly, and includes findings required for Not a Project, Exemptions, Negative Declaration/Mitigated Negative Declaration, Environmental Impact Reports, Addendums, prior environmental documents, and the use of CEQA documents from other agencies.

There are periodic changes in CEQA Statutes (Public Resources Code Section 21000, et. seq.), and CEQA Guidelines (14 California Code of Regulations, Chapter 3, Section 15000 et. seq.), as well as reported case law. Consequently, non-substantial changes may be made to the 2020 Local CEQA Procedures Manual and 2020 Standard CEQA ASR Template for clarification purposes by OC Public Works Director or designee, prior to the next comprehensive update to the Manual and ASR Template.

CEQA COMPLIANCE:

This action is not a project within the meaning of CEQA Guidelines Section 15378 and is therefore not subject to CEQA, since it does not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The approval of this action does not commit the County to a definite course of action in regards to a project since this is the approval and adoption of the County of Orange 2020 Local CEQA Procedures Manual and 2020 Standard CEQA ASR Template Language. This proposed activity is therefore not subject to CEQA.

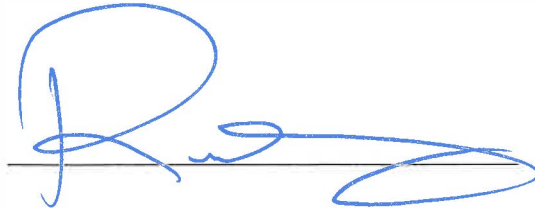


Submitted by:

Reviewed by,



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Richard Vuong, Interim Deputy Director
OC Public Works/OC Development Services

- Attachment 1 2014 Local CEQA Procedures Manual
- Attachment 2 Agenda Staff Report dated October 28, 2014
- Attachment 3 2020 Local CEQA Procedures Manual
- Attachment 4 2020 Standard CEQA Agenda Staff Report Template Language



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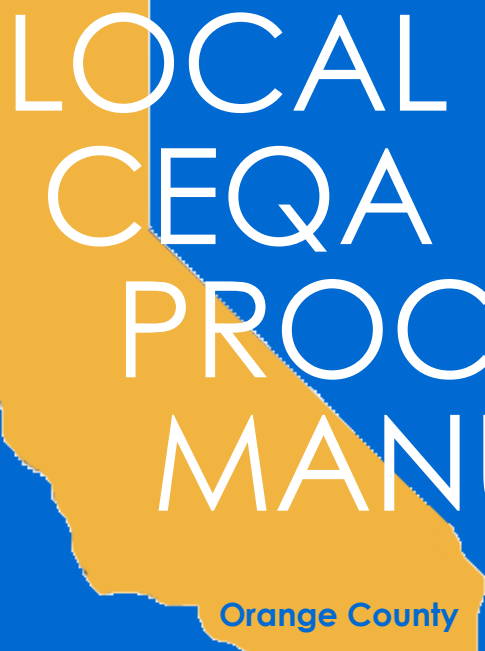
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Attachment 1



LOCAL
CEQA
PROCEDURES
MANUAL
2014

Orange County

October 2014



COUNTY OF ORANGE

LOCAL CEQA PROCEDURES MANUAL

Adopted by the
Orange County Board of Supervisors

October 2014

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October 2014

COUNTY OF ORANGE

LOCAL CEQA PROCEDURES MANUAL



Adopted by the Orange County Board of Supervisors
October 2014

COUNTY OF ORANGE
LOCAL CEQA PROCEDURES MANUAL
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The following staff members made significant contributions to the revision of this document:

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- Polin Modanlou, Manager, OC Facilities-Design & Construction
- Chris Uzo-Diribe, OCPW/OC Development Services

- Nardy Khan, Manager, OC Engineering
- Christopher J. Miller, County Counsel

ACRONYMS

§	Section reference (normally followed by reference number)
A&E	Architect/Engineer
AQMD	Air Quality Management District
CE	Categorical Exemption from CEQA
CEO	County Executive Office(r)
CEQA	California Environmental Quality Act (Division 13 of the California Public Resources Code §21000 et seq.)
CEQA Guidelines	California Environmental Quality Act Guidelines (Title 14 of the California Code of Regulations §15000 et seq.)
COA	Condition(s) of Approval
DEIR	Draft EIR
EIR	Environmental Impact Report
EIS	Environmental Impact Statement pursuant to NEPA
FEIR	Final Environmental Impact Report
Guidelines	CEQA Guidelines
GHGE	Green House Gas Emissions
OC HCA	Orange County Health Care Agency
IP	Initial Study for a publicly initiated project application
IS	Initial Study for a privately initiated project application
OCW&R	Orange County Waste & Recycling
JWA	John Wayne Airport
MEIR	Master Environmental Impact Report
MM	Mitigation Measure
MMRP	Mitigation Monitoring and Reporting Program
MOU	Memorandum of Understanding
NCL	Non-County Lead
ND	Negative Declaration or
MND	Mitigated Negative Declaration
NEPA	National Environmental Policy Act
NOA	Notice of Availability of a Draft EIR
NOC	Notice of Completion
NOD	Notice of Determination
NOE	Notice of Exemption
NOI	Notice of Intent
NOP	Notice of Preparation of an EIR or Notice of Intent to prepare an EIR
OC	Orange County
OCFA	Orange County Fire Authority
O&M	Operations & Maintenance
OPR	State of California Office of Planning and Research State Clearinghouse
PA	Planning Application
PDF	Project Design Feature
OC	Orange County Planning Services
DEVELOPMENT SERVICES	
OCPW	Orange County Public Works Department

October 2014

Ordinance	County Fee Ordinance No. 10-0008
PSE	Plans, Specifications and Engineering
RTC	Response to Comments
SCAQMD	Southern California Air Quality Management District
SCEIR	Screencheck Environmental Impact Report
SEIR	Subsequent or Supplemental EIR
SOC	Statement of Overriding Considerations

I. Purpose

The purpose of this manual is to set forth the local policies and procedures of the County of Orange (County) for the implementation of the California Environmental Quality Act (CEQA).¹ This manual is meant to be used in conjunction with the CEQA statutes and the CEQA Guidelines, (hereinafter, "Guidelines") as both currently exist or may be amended from time to time after approval of this Manual. In any case of conflict between this manual and CEQA, CEQA will prevail. The CEQA Guidelines are hereby incorporated by reference within this document, pursuant to Guidelines Section 15022(d). Where a topic is adequately addressed in CEQA and/or the Guidelines, it is not separately discussed in this document. This document is intended to serve as a guide for County staff to provide awareness of internal County procedures to comply with CEQA and the CEQA Guidelines.

These local CEQA procedures supersede the procedural requirements of any previously-adopted Board of Supervisors Resolutions or Minute Orders concerning CEQA procedures.

These procedures will apply to all activities undertaken by the County and all special districts governed by the Orange County Board of Supervisors. This procedures manual does not, nor is it intended to, add to or modify any legal requirements contained in CEQA.

As a Lead Agency, the County analyzes and prepares environmental documents for all discretionary activities which have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, which are approved by the County, pursuant to Guidelines Section 15378. The approvals include both projects proposed by private entities or individuals, including but not limited to, General Plan Amendments, Zone Change, Use Permits and any other discretionary land use approval. As Lead Agency, the County and its related special districts such as the Orange County Flood Control District, approve a variety of public works projects including flood facilities, roads, bridges, parks and other construction activities for which it prepares required environmental documents.

As a Responsible Agency under CEQA the County reviews environmental documents prepared by other lead agencies or jurisdictions to reduce or avoid impacts on land uses and ensure the lead agency's environmental

¹ All references to Section Numbers relate to either the Act itself (Public Resources Code Section 21000, et seq.) or the Guidelines (Title 14 California Code of Regulations, Sections 15000-15387). Any exceptions are identified in the body of the manual. The authority for these local procedures is found in Guidelines Section 15022. Note: The CEQA Statute may be accessed on the Internet at http://ceres.ca.gov/topic/env_law/ceqa/stat/ and the Guidelines at http://ceres.ca.gov/topic/env_law/ceqa/guidelines/.

document is adequate to fulfill the requirements of CEQA, within the scope of the County's jurisdiction as responsible agency, pursuant to Guidelines Section 15000, et. seq.

In addition to its role as a Responsible Agency, the County as the Non County Lead (NCL) provides guidance and comments for other development projects located both within and outside of the County, depending upon the project location.

II. Definitions

All terms used herein are as defined in CEQA Sections 21060 – 21072 and Guidelines Sections 15350 – 15387.

III. Role of Decision Making Body and Others

A. *Board of Supervisors*

The Orange County Board of Supervisors has several roles regarding CEQA compliance. These roles include in most cases (unless otherwise, stated herein or per County Code) that the Board of Supervisors is the “decision-maker” for the County on projects and proposals and on the related EIR or other CEQA document.

Under CEQA, the “decision-making body” is defined to mean any person or group of people within a public agency permitted by law to approve or disapprove the project at issue. Guidelines, section 15356. The actions of the Board or other decision-maker are directed by Guidelines Section 15090 concerning certification of the final Environmental Impact Report (EIR) which states:

1. "Prior to approving a project the lead agency shall certify that:
 - a. The Final EIR has been completed in compliance with CEQA;
 - b. The Final EIR (FEIR) was presented to the decision-making body of the lead agency and that the decision-making body reviewed and considered the information contained in the FEIR prior to approving the project; and
 - c. The FEIR reflects the lead agency's independent judgment and analysis."

2. ***When an EIR is certified by a non-elected decision-making body within a local lead agency, that certification may be appealed to the local lead agency's elected decision-making body, if one exists. For example, certification of an EIR for flood control improvements in Prado Basin and vicinity by the County's Planning Commission may be appealed to the Board of Supervisors. Each local lead agency shall provide for such appeals. Please see Section XIII for full discussion on appeals.***

Negative Declaration, Mitigated Negative Declaration

3. The proposed project scope at a minimum must include sufficient information describing the project, location, and the potential environmental effects of the project, that are helpful to the public and the agencies to identify the range of actions, alternatives, and mitigation measures to be included in the DEIR.
 - a. "Prior to approving a project, the decision-making body of the lead agency shall consider the proposed Negative Declaration or Mitigated Negative Declaration together with any comments received during the public review process. The decision-making body shall adopt the proposed Negative Declaration or Mitigated Negative Declaration only if it finds on the basis of the whole record before it (including the initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the Negative Declaration or Mitigated Negative Declaration reflects the lead agency's independent judgment and analysis.
 - b. When adopting a Negative Declaration or Mitigated Negative Declaration, the lead agency shall specify the location and custodian of the documents or other material which constitute the record of proceedings upon which its decision is based.
 - c. When adopting a Mitigated Negative Declaration, the lead agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to mitigate or avoid significant environmental effects.
 - d. A lead agency shall not adopt a Negative Declaration or Mitigated Negative Declaration for a project within the boundaries of a comprehensive airport land use plan or, if a

comprehensive airport land use plan has not been adopted, for a project within two nautical miles of a public airport or public use airport, without first considering whether the project will result in a safety hazard or noise problem for persons using the airport or for persons residing or working in the project area.

- e. When a non-elected official or decision-making body of a local lead agency adopts a Negative Declaration or Mitigated Negative Declaration, that adoption may be appealed to the agency's elected decision-making body, if one exists. For example, adoption of a Negative Declaration for a project by a County planning commission may be appealed to the Board of Supervisors. A local lead agency may establish procedures governing such appeals -- Please see Section XIII for full discussion on appeals."

B. Planning Commission

The Orange County Planning Commission has several roles regarding CEQA compliance. These roles include:

1. Determining the adequacy of environmental documentation prepared for projects for which the Planning Commission is the designated decision-making body.
2. Acting as the decision-maker in the area of compliance with CEQA for all projects where an EIR, ND or MND was prepared and the decision making body is not the Board of Supervisors. A statement or finding regarding the adequacy of the EIR or approval or non-approval of ND or MND will be made by the Planning Commission along with the appropriate findings prior to any action by the decision-maker on the project. It is to be noted that in rare instances, a county agency or division may function as the decision-maker, such as the local enforcement agency (LEA). That body will approve the project and certify the EIR or approve other environmental documents. See, *No Wetlands Landfill Expansion v. County of Marin* (2012) 204 Cal.App. 4th 573.
3. Making recommendations as to the adequacy of environmental documentation on those projects for which the Planning Commission is required to make a recommendation to the Board of Supervisors.
4. Serving as the appeals board for environmental determinations made by County decision-makers other than the Board of Supervisors.

5. Appeals of any Planning Commission environmental determinations and/or project approvals may be appealed to the Board of Supervisors.

6. For additional information on appeals, see Section XIII.

C. Zoning Administrator

The Zoning Administrator (ZA) acts on discretionary permits and the accompanying CEQA documentation. The ZA does not have CEQA duties beyond that role.

D. Purchasing Agent

Various provisions of the Government Code, the Public Contracts Code and the County Contract Policy Manual provide that the Purchasing Agent is authorized to enter into certain contracts, including contracts for public works projects pursuant to sections 20120 and following of the Public Contracts Code, as well as Government Code section 25501. Public Contracts Code section 22032 provides that, where a county has elected to proceed under the Uniform Construction Cost Accounting Act, there are monetary limitations on certain contracts and limitations on letting contracts by a formal or informal bidding procedure.

As a result of these contracting requirements, the purchasing agent is generally authorized to approve and execute public works contracts as set forth in the act (PCC § 220032(b)) by informal procedures and is therefore the decision making body for the County for these contracts as provided in Guidelines section 15356. The delegated authority for the county purchasing agent must always be verified by reference to the latest version of the Contract Policy Manual, which is updated periodically and approved by the Board of Supervisors.

In some limited circumstances, as described above, the County Purchasing Agent or other individual staff members, rather than the Board of Supervisors or Planning Commission may be called upon to make CEQA determinations on projects or activities they approve, such as the assignment of a task order pursuant to an on-call A-E contract approved by the Board of Supervisors on a prior occasion. The Purchasing Agent or other County staff may only make the CEQA decision and approve projects that are either statutorily exempt or categorically exempt or fall with the so-called "common-sense" exemption, or those activities which do not

constitute a project for CEQA purposes. See, Guidelines Sections 15260 et. seq., 15300 et seq., and 15378.

Only specified members of senior management may make the CEQA decision on and approve projects for which a Negative Declaration (ND) or Mitigated Negative Declaration (MND) has been prepared but which do not require approval of the Board of Supervisors or Planning Commission.

Such CEQA decisions are appealable to the Planning Commission, and thereafter, to the Board of Supervisors.

E. Others

1. OC Development Services

OC Development Services is the County's primary provider of environmental documentation for all County actions which are within the realm of CEQA. The Director, OC Development Services has primary responsibility for the implementation of the provisions of CEQA, the Guidelines and these Board approved procedures, consistent with the CEQA statute and Guidelines. The Director may delegate this responsibility but will retain accountability for the proper and timely implementation of these procedures.

In limited circumstances, other County Departments may have active and expanded roles in the preparation and processing of CEQA documents which affect their activities. Such arrangements shall be confirmed in writing to clarify roles. In all instances, the need for full and consistent adherence to CEQA will be the primary criteria in determining such working arrangements. Coordination and cooperation among County departments and agencies is critical to the successful implementation of the CEQA process.

From time to time, OC Development Services provides basic training on CEQA issues to staff from other departments. This training is meant to ensure that appropriate staff are familiar with CEQA process, its Guidelines and these Procedures, especially as they relate to Non-County Lead Document reviews. (See Section XII.) County Counsel regularly provides CEQA education programs and will provide such presentations to departments or other County groups on request.

Staff assigned to OC Development Services includes those individuals whose primary responsibility is the consistent

implementation of CEQA. This Division is, in essence, the County's quality control center for CEQA compliance and environmental documentation. The Director, OC Development Services or his/her designee, has the day-to-day responsibility to ensure that the County adheres to the requirements of CEQA.

One of the many responsibilities of OC Development Services is to conduct CEQA review for a high volume of Agenda Staff Reports (ASRs), generated by County Agencies. These reports are mandated by the Board to be cleared for CEQA by OC Development Services. Annually, these reports total approximately 400-500 CEQA clearances.

These reports are for actions to be taken and/or projects to be carried out that require Board of Supervisor's approval. Additionally, the proposed actions can range anywhere from approval of licenses, agreements or other documents, to award of construction contracts by the Board of Supervisors.

In accordance with CEQA, any activity that has the potential for significant impact to the environment is subject to CEQA. In any case in which a CEQA document must be approved, or other CEQA determination made, OC Development Services evaluates the adequacy of the CEQA action or document to ensure that it is correct. Such review assures that the discretionary decision to be made by the Board of Supervisors is supported by the correct environmental determination.

2. Project Proponents/Applicants

Project proponents may be either private landowners who are processing some form of land use project or the Orange Flood Control District (OCFCD) or the County, acting through its established departments or divisions itself, which is undertaking a project directly. Examples of private party actions are:

- a. Major general plan amendment/zone change and associated entitlements.
- b. Discretionary Permits include (but not limited to these):
 - i. Area Plans
 - ii. Use permits or
 - iii. Site Development Permit to establish an allowable use within a zoning district.

- iv. Variance approval for an existing established use
- v. Coastal Development Permit for projects within coastal areas.

3. County Projects:

Examples of public or County projects include:

- a. master plan for a new County facility (e.g., airport or landfill)
- b. improvements to existing commercial buildings
- c. a lease of office space by a County Department.
- d. maintenance and improvement of existing County and OCFCD facilities
- e. Public Works projects involving construction of roads, highways, harbors, flood control projects, airports, jails and any other significant construction work.

In all cases, the public or private project proponents will work in close cooperation with staff at OC Development Services.

4. Environmental Consultants

County Projects

The County generally contracts with an independent environmental consulting firm to prepare environmental documents for its own projects.

Private Projects

Project proponents generally contract with an independent environmental consulting firm to prepare environmental documents for their proposed projects for County consideration.

OC Development Services maintains a database of firms which a project proponent may consider in its determination of the retention of an environmental consultant to prepare documents. The County is considered the lead agency.

A public agency may use any of the following methods to provide for preparation of a Draft EIR (DEIR):

- a. Preparing the document with County staff.

- b. Contracting with another public or private entity to prepare the draft document.
- c. Accepting a draft prepared by a private applicant or a consultant retained by the applicant.
- d. Executing a third party contract or memorandum with the applicant regarding preparation of a DEIR by an independent contractor.
- e. Using a previously prepared FEIR.

All CEQA documents prepared for projects for which the County is the lead agency are County documents and part of the public record. Accordingly, the work of environmental consultants is supportive of, not a replacement for, the responsibility of the County generally or OC Development Services specifically to exercise independent judgment in determining the adequacy and objectivity of the document, consistent with Guidelines Section 15084 (e).

5. Responsible/Trustee Agencies

Responsible Agencies are those agencies that will have some discretionary permit authority on some stage of the project and will also need to comply with CEQA for the issuance of that permit prior to project approval. Trustee Agencies are state agencies empowered by law to oversee a natural resource in California, e.g. Department of Fish and Wildlife. Responsible and Trustee Agency definitions are found in Sections 15381 and 15386 respectively, of the Guidelines. The County may act as Lead Agency that must coordinate with Responsible Agencies, Trustee Agencies and Agencies having Jurisdiction by Law. In its capacity as Responsible Agency, the County may coordinate with the Lead Agency and is authorized to rely on a CEQA document certified or adopted by the Lead Agency.

When the County acts as a Responsible Agency with discretionary authority over some stage of a project, but is not the Lead Agency, OC Development Services will be responsible for responding to early consultation from the Lead Agency through draft documents or communications and will be responsible for reviewing and commenting on the adequacy of environmental documents circulated by the Lead Agency (Guidelines Section 15096).

Comments regarding adequacy of the environmental document are submitted to the Lead Agency. (See also the discussion in

Section VIII.) In some cases, the County may elect to provide its own environmental documentation at the time the County decision is made.

In addition, Board approval of this activity is required, usually in the form of a resolution that is provided for consideration by the County decision-maker stating that: 1) the County, in its role as a Responsible Agency, considered the environmental document; 2) the County found it adequate for compliance with CEQA; and 3) the County adopts the Mitigation Monitoring and Reporting Program (MMRP) as it pertains to the limited scope of the County approval. Normally, a Responsible Agency is legally entitled to rely on the CEQA document prepared by the Lead Agency unless the Responsible Agency identifies some defect, as provided by the Guidelines. The County may need to make findings of facts or take other actions in some circumstances pursuant to Guidelines Section 15091.

6. Agencies Having Jurisdiction by Law

Any public agency which has “jurisdiction by law” as defined (Guidelines Section 15366) or a Trustee Agency must be consulted by the lead agency in preparing an EIR, even if the agency has no discretionary authority over the project. Examples include the Local Agency Formation Commission (LAFCO) California Department of Transportation (CALTRANS), California Department of Fish & Wildlife, Federal Highway Authority (FHA) and the Airport Land Use Commission (ALUC).

7. Other County Departments

County Counsel plays a key role in CEQA activities due to the highly complex and potentially litigious environment surrounding CEQA matters since opponents of a decision can challenge the CEQA aspects of the process more easily than other, project-related aspects. County Counsel and the Director, OC Development Services will ensure the appropriate level of coordination between their two departments.

Other County departments are primary clients for the CEQA services provided by OC Development Services. In these instances, the staff from OC Development Services will provide service to these Departments to ensure that best efforts are made to meet the requirements of CEQA in a timely and cost effective manner. Funding for this work is accomplished through the normal County budgeting process.

Under certain circumstances, other county departments may assume the duty to originate findings and documentation pursuant to CEQA for their projects. Notwithstanding, it remains the responsibility of OC Development Services to provide consistent countywide standards for all facets of CEQA compliance. Therefore, unless otherwise agreed through a memorandum of understanding (MOU), all CEQA findings and documentation originated by other County Departments will be reviewed and approved by OC Development Services prior to submittal to a decision-maker.

Such interdepartmental arrangements will be documented by a MOU between the Director, OC Development Services and the relevant department head. This memorandum will, in part, document the benefits to the County of the decentralized arrangement. Such interdepartmental MOUs which confer a degree of autonomy on a Department for CEQA issues will specify respective departmental roles and establish procedures to ensure both ongoing coordination with OC Development Services and the implementation of CEQA as described in the CEQA Statute and Guidelines and this manual. There is presently an MOU regarding OC Waste & Recycling.

8. County Agencies & CEQA Determinations (separate from the Board of Supervisors).

In limited circumstances similar to the discussion above in Sections III B, C, and D, County officials other than the Board of Supervisors and bodies which are subordinate to the Board may need to take actions which are subject to CEQA. In those instances, the normal County review and staff support system will be utilized, but the ultimate decision will be made by the independent official, or appropriate County staff. Examples of this role include:

- a. Sheriff acting pursuant to state laws which require a specific and separate action.
- b. Officials in the HCA/Environmental Health Division when acting as the Local Enforcement Agency on behalf of the California Department of Resources Recycling and Recovery (CalRecycle).
- c. The Director, OC Public Works or his/her designee undertakes minor flood control facility and road maintenance projects requiring CEQA clearance. Many of these projects are not required to be approved by the Board of Supervisors. In such instances, the Director, OC Public Works, or his/her

designee, serves as the decision-maker. The existing procedure requires that the project manager, e.g., Operations and Maintenance (O&M), OC Flood, or OC Road, prepare a Concurrence Memo (see Appendix D) to the Director, OC Public Works, or his/her designee, which sets forth the required recommended actions and associated findings the Director, or his/her designee, must implement to verify CEQA compliance and approve the project.

- d. The Director, OC Parks or his/her designee
- e. The Director OC Waste & Recycling or his/her designee
- f. The County Purchasing Agent in some circumstances as discussed above.

In most cases, because of the dollar limitation, these will be relatively small projects which are likely to be covered by a statutory or categorical exemption. (Guidelines 15191-15196, 15260-15285, 15300-15333.) However, for some projects, either because of unavailability of an exemption, due to inapplicability of the exemption or an exception to the exemption (such as a potentially significant impact) will require preparation of a negative declaration or mitigated negative declaration. As the law now stands, a negative declaration could theoretically be approved by the purchasing agent (or others as described previously). The Purchasing Agent should only approve public works projects which are categorically exempt. Where other CEQA documents have been prepared and must be approved with the project, the matter should be referred to OC Development Services (see Section E – Others) above.

- g. The Orange County Flood Control District is a separate governmental entity from the County and prepares, reviews and approves CEQA documents for its own projects. However, its Board is the same as the County Board of Supervisors.

IV. Types of Environmental Determinations

The County typically prepares a number of types of CEQA determinations for projects which are under its purview. The type of determination which is appropriate is spelled out in the CEQA Statute and Guidelines. The options are as summarized below in a general order of ascending complexity. Later sections in this manual focus on the individual types of determinations.

Certain actions by County decision-makers are not projects within the context of CEQA². An example of this category would be the selection of a consultant to undertake a technical analysis. .

V. Exemptions

Other actions may be defined as projects in the general context of CEQA, but may be exempted from further CEQA review. Actions may also be exempted by statute, such as approval of ministerial projects, emergency projects, residential infill and agricultural housing, feasibility and planning studies and others, (Guidelines Sections 15260-15285), or exempted because the projects fall within categories of activities having minimal impact (Guidelines Sections 15300-15333). An example of a project category so exempted is the repair, maintenance or minor alteration of a public facility. Exemptions are discussed in more detail in Part V

OC Development Services is assigned primary responsibility for determining whether an action fits the definition of “not a project” as defined in the Guideline, pursuant to Section 15378. OC Development Services is further assigned primary responsibility to determine if a project is exempt from CEQA. (CEQA Section 21084 and Guidelines Section 15061(c)).

The CEQA Guidelines describe the following types of exemptions in which an action may be exempt from CEQA analysis:

1. Statutory exemptions (Guidelines 15260 through 15285) which includes ministerial actions, and
2. Categorical exemptions (Guidelines 15300 through 15333),
3. Activities covered by the general rule that CEQA applies only to projects having the potential for causing a significant effect on the environment [15061 (b) (3)], the so-called “common sense exemption.”
4. Special Situations (Guidelines Sec. 15180-15190.5),
5. Certain State Regulatory Programs are also exempt from CEQA (Guidelines 15250-15253), as currently set forth in the Guidelines.

Section 15260, et seq., lists projects that have been granted statutory exemptions. Note that “ministerial” projects are a type of statutory exemption (Guidelines Section 15268). A listing of common County projects that are considered ministerial is provided in Appendix C of these County procedures.

² Guidelines Section 15378 provides the definition of “project” for purposes of CEQA.

Section 15300, et seq., of the Guidelines describes the various types of categorical exemptions (CEs). A list of common County projects that may qualify for CEs is provided in Appendix D of these procedures.

Notwithstanding these provisions, whenever an action or activity or special circumstances could result in potential significant adverse effects, or an exception to an exemption applies, as described in the Guidelines, an initial study will be prepared to determine what environmental documentation is required.

A. Local Categorical Exemptions (Guidelines Section 15300.4)

Local projects which are considered categorically exempt pursuant to CEQA are listed in Appendix D of these procedures. This list may be amended by the Director, OC Development Services.

Projects will not be exempted in cases in which it is known that a significant adverse impact may occur, or if the following exceptions from Section 15300.2 of the Guidelines apply:

1. Location – where the project may impact an environmental resource of hazardous or critical concern;
2. Cumulative Impact – where the cumulative impact of successive projects of the same type in the same place, over time is significant; and
3. Significant Effect – where the project may have a significant effect due to unusual circumstances.

The County Agency/Division will consult with the Director, OC Development Services, or his/her designee, to determine whether or not a proposed project is categorically exempt.

B. No Significant Effect

Per Guidelines Sections 15022(a) and 15061(b)(3) for local projects which require discretionary approvals, but where it can be determined with certainty that there is no possibility that such activities will have significant effects on the environment, then such activities are not subject to CEQA. This result is often referred to as the “common sense” exemption, as referenced above. This conclusion is based upon the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The Director, OC Development Services or his/her designee, may recommend that the decision making body make such a finding for a particular project. If the decision making

body concurs, it will make an appropriate finding and no further action under the CEQA Statute, the Guidelines, or these procedures will be required.

Types of projects which normally have no significant effect are listed in Appendix E of these procedures. However, each such project must be evaluated on a case-by-case basis.

C. *Notice of Exemption*

After a project has been approved for which a Statutory or Categorical Exemption finding was made, the County may file a Notice of Exemption with the County Clerk per Guidelines Section 15062. The Notice shall be filed, on a timely basis following approval of the project and must be posted for a full 30 days.

The filing of a Notice of Exemption in the manner specified in Guidelines Section 15062 begins a 35-day statute of limitations period on legal challenges to the decision. If no notice of exemption is filed, the action is subject to potential legal challenge for 180 days. The requirements of Section 15062 must be strictly complied with for the 35 day statute of limitations to apply.

The Notice will normally be filed within one day after the project receives final approval.

VI. Initial Study Process

A. *Application*

The project proponent/applicant (public or private) shall prepare for the Director, OC Development Services or his/her designee, a fully completed application and any supplementary data that may be required³. Filing instructions contain a list of the materials which are required for each application. These instructions implement the general requirements for the County's Environmental Information Requirements⁴.

Upon receipt of an application for a private project, the Director, OC Development Services or his/her designee will consider the information contained in the application and determine within 30

³ The Development Processing Center, located on the ground floor of the H.G. Osborne Building, 300 North Flower Street, Santa Ana, CA, is the place where filing instructions may be obtained, completed applications submitted and fees paid.

⁴ The County's Environmental Information requirements are based on CEQA Guidelines Appendix H, but differ to the extent that more and different information is required as shown in Appendix E to this document.

days if the application is sufficient to proceed, per Guidelines Section 15060.

Once a request for CEQA determination for a public project has been received, the Director, OC Development Services or his/her designee will ensure that the application will be reviewed in the same manner as used with private projects to assure that the level of detail is evaluated and the proposing division is informed whether or not sufficient information is available to allow the initial study analysis to proceed. Should there be insufficient information, the lead division will be informed that work cannot continue until additional material is received.

B. Analysis

Upon receipt of a complete application for a private project, the Director, OC Development Services or his/her designee will determine within 30 days the appropriate environmental document to be prepared for the project, unless otherwise specified pursuant to Guidelines Section 15102. This 30 day period is exclusive of the time discussed in "A", immediately above.

The County utilizes the most current CEQA checklist as it may be revised from time to time by the Secretary for Natural Resources, to assist in the evaluation of the potential environmental impact of a proposed project. The Checklist form is designed for use when the initial analysis is conducted for the proposed project. A copy of the current updated checklist is attached as Appendix G of this Manual.

This current checklist is provided as an aid to identify potential environmental issues which could result in adverse significant effects on the environment from the implementation of the proposed project. The checklist is not intended to provide thresholds of significance for the final determination by the decision-maker. Thresholds of significance are within the discretion of the decision-maker and may vary depending upon the context of a particular project being analyzed.

A written analysis is produced, containing the explanation, reasoning and references for a particular proposed project. The analysis is then used in arriving at a particular determination as to the appropriate CEQA documentation to be prepared. This narrative along with the checklist is known as an initial study.

CEQA documentation will typically require discussion of impacts to the environment, including, but not limited to, biological, hydrological, geological, noise, and emissions, as well as land use, aesthetics, traffic, historical and cultural resources.

VII. Negative Declarations/Mitigated Negative Declarations

Certain projects which are subject to CEQA can be shown to have no significant effects on the environment. In these instances a Negative Declaration (ND) is the appropriate determination (Guidelines Section 15070). A Negative Declaration⁵ is appropriate for projects which will not have a significant effect on the environment where the initial study shows there is no substantial evidence, in light of the whole record before the County, to support a fair argument that the project may have a potentially significant effect.

In other cases, the CEQA analysis may show some potential impacts, but mitigation measures that are identified to avoid, reduce or otherwise limit the impacts, result in a Mitigated Negative Declaration (MND) upon the imposition of mitigation measures.

The contents of the ND and the MND are the same, with the exception of mitigation measures set forth in the MND, as provided in Guidelines Section 15071.

i. Notice of Intent to Adopt a Negative Declaration or Mitigated Negative Declaration.

In accordance with Section 15072 of the CEQA Guidelines, the County provides a notice of intent to adopt a negative declaration or mitigated negative declaration to the public, responsible agencies, trustee agencies, and the county clerk of each county within which the proposed project is located, sufficiently prior to adoption of the negative declaration or mitigated negative declaration to allow the public and agencies the review period provided under Section 15105, which specifies public review periods for each environmental document.

Additionally, the county may mail a notice of intent to adopt a negative declaration or mitigated negative declaration to the last known name and address of all organizations and individuals who have previously requested such notice in writing and shall also give notice of intent to adopt a negative declaration or mitigated negative declaration by at least one of the following procedures to allow the public the review period listed under Section 15105.

The Proposed Negative Declaration or Mitigated Negative Declaration must be made available for public review for a period of not less than 20 days, or not less than 30 days if submitted to the State Clearinghouse (Guidelines Sections 15105, 15073).

⁵ Unless the context indicates otherwise, the term negative declaration refers to both mitigated negative declarations and negative declarations.

When the County is the Lead Agency on a Project for which a Negative Declaration/Mitigated Negative Declaration or an EIR is to be prepared, it is the County's responsibility to consult with Responsible Agencies and Trustee Agencies prior to making a final determination on the type of environmental document (CEQA Section 21080 and Guidelines Sections 15072 and 15086). Consultation may occur on a formal or informal basis depending on the specific issues and facts and the circumstances surrounding the consultation. Notification of proposed approval/certification of the document will be provided consistent with the notification requirements for Negative Declarations and EIRs (Guidelines Sections 15072 and 15087).

If a Mitigated Negative Declaration is adopted or an Environmental Impact Report is certified then a program to monitor its mitigation measures must be adopted with the action approving the project. (Guidelines Section 15097).

A public agency which has commented must be notified in writing of any public hearing on the project, if required. Should there be substantial evidence to support a fair argument that a significant effect may still occur, an Environmental Impact Report shall be required.

Refer to Appendix B attached hereto for a general flow chart of the County's CEQA process.

A. *Procedures after public comment period*

The description and content of the ND and MND and public notification procedures are set forth above.

Upon conclusion of the public comment period, should the lead agency determine that substantial revision of the ND or MND be required prior to adoption, the document shall be recirculated as provided in Guidelines Section 15073.5.

The document becomes final when the decision-maker finds that it is adequate and approves the project.

B. *Notice of Determination*

After a project has been approved for which a Negative Declaration, Mitigated Negative Declaration, has been approved or certified, a Notice of Determination (NOD) is filed with the County Clerk/Recorder's office and posted for a full 30 days as required by CEQA (Guidelines Sections 15075). The filing and posting of this

notice starts a 30-day statute of limitations during which a legal challenge regarding the adequacy of the CEQA document for a project can be filed in court, pursuant to Guidelines Section 15112(c)(1). The NOD must be filed with the Clerk/Recorder within 5 working days of the project approval and must contain the information listed in Guidelines Section 15075.

VIII. Environmental Impact Reports

The decision to prepare an EIR is made during the preliminary review pursuant to Guidelines Section 15060, or at the conclusion of the initial study, after applying the standards set forth in Guidelines Section 15064. A thorough environmental analysis is undertaken when there is substantial evidence that a project may have a significant environmental effect on the environment. In these instances, an environmental impact report (EIR), which will include various technical studies, must be prepared (Guidelines Section 15064).

An EIR is prepared when there may be significant direct or indirect environmental impacts associated with a project, as described in Guidelines Section 15358(a)(1-2)). The Guidelines identify different types and variations of EIRs, tailored to different situations and intended uses (Guidelines Section 15160). Descriptions of the types and variations of EIRs are found in the Guidelines, Sections 15160 through 15179.5. The decision as what type of an EIR is appropriate shall follow the determination that one is required (Guidelines Sections 15160-15179.5).

Subsequent Analysis

At times, a previously approved EIR, MND or ND may be appropriate for a later project "as defined by" CEQA section 21094, Guidelines Sections 15153, 15183. In these instances, the decision-maker must examine significant impacts of the later project upon the environment, by considering the previous documentation and conclude that it is still appropriate based on whether the facts and analysis remain the same, or whether there are new facts or circumstances which require preparation of a Subsequent or Supplemental EIR (Guidelines Section 15162). In cases where some minor changes or additions to the previous document are necessary to address fully a given stage of an already-approved project, CEQA allows for an addendum to be prepared (Guidelines Section 15164). An addendum may be prepared to update either an EIR or a negative declaration, so long as the addendum conforms to the specific requirements in the Guidelines. There is no public review associated with the preparation of an addendum.

The same series of steps are generally followed, regardless of what type of EIR is prepared for a given project. The steps include the following:

1. Complete checklist review for determination
2. Pre-preparation meeting
3. Notice of Preparation
4. Public Scoping process/meeting(s)
5. Preparation and internal review of screencheck document
6. DEIR and Notice of Availability
7. Public review and comment on DEIR
8. Preparation of responses to comments
9. Preparation of proposed FEIR
10. Decision by appropriate official/body on project
11. Filing of Notice of Determination

The decision-maker reviews and considers the information contained in the document and uses its independent judgment to determine the adequacy of the EIR pursuant to Guidelines Section 15090(a)(3) and makes any needed findings. See also Section III A above.

All or portions of EIRs may be written by independent consultants under contract with the County, by independent consultants under contract to a project proponent, or by OC Development Services staff directly (Guidelines Section 15084). Also see Section III H. above.

An EIR prepared by another party or entity and/or project proponent's submittals must be independently reviewed, modified and analyzed so that the DEIR represents the independent judgment of the County.

Regardless of authorship, the process outlined above ensures that the EIR when complete is a County document.

A. *Pre-preparation Meeting*

Proposed project scope at a minimum must include sufficient information describing the project, location, and the potential environmental effects of the project, that are helpful to the public and the agencies to identify the range of actions, alternatives, and mitigation measures to be included in the DEIR.

A pre-preparation meeting affords the project proponent and OC Development Services staff an opportunity to discuss informally the general scope, required content and EIR processing steps. Other County offices as well as other involved public agencies, particularly if they will be Responsible Agencies, may be invited to send representatives. The purpose of such meetings is to facilitate the orderly preparation and processing of the EIR. There is normally only one pre-preparation meeting for a project. It may occur prior to an official filing of a project or it may occur shortly after that step has been taken.

B. Notice of Preparation

Once a decision is made that an EIR will be prepared for a project, OC Development Services will assign a number to the EIR and will prepare a Notice of Preparation (NOP) (Guidelines Section 15082). The NOP contains a project description and location and discloses the probable environmental effects of the project. Its purpose is to provide other involved public agencies (as well as the public) with sufficient information describing the project and the potential environmental effects to allow Responsible Agencies and the public to make a meaningful response, as to the scope and content of the environmental information to be included in the EIR. The NOP is sent to each relevant Responsible Agency, Trustee Agency and every federal agency involved in approving or funding the projects as well as to local organizations and individuals with a known interest in the project.⁶ For projects for which one or more state agencies will be either Responsible or Trustee Agencies, the EIR is submitted to the State Clearinghouse (a branch of the State Office of Planning and Research in Sacramento). The Clearinghouse assigns a unique identification number to all such EIRs. The County uses certified mailing or any other method of transmittal that provides a record that the notice was received by the Agencies.

In addition to written comments, one or more meetings to discuss the scope and content of the EIR may be held between or among the agencies set forth above, consistent with County practice. Such meetings are recommended, but not required by CEQA (CEQA Section 21080.4). These meetings, commonly called “scoping meetings”, are designed to facilitate an exchange of information between the team preparing the EIR and interested parties, particularly Responsible or Trustee Agencies. This process involves receipt of input as to the content and scope of the EIR from a wide range of interested parties. While it is not required that there be a public scoping meeting (Guidelines Sections 15082(c) and 15083),

⁶ Guidelines Section 15083.5 addresses special requirements for consultation with water agencies that are placed on certain major land use projects.

it is the County's general policy to undertake at least one public scoping meeting for each EIR, as needed. The Director, OC Development Services may authorize omission of a scoping meeting under special circumstances.

C. *Preparation and Review of Screencheck Document*

EIRs prepared for consideration by County of Orange decision-makers undergo a phase known as the "screencheck". A screencheck document is an early draft which has been prepared for internal review by County offices. The County generally requires that the entire screencheck document be submitted for staff review. In rare circumstances, if approved by the Director, OC Development Services or his/her designee, individual chapters or sections may be submitted. Under no circumstances will approval to proceed (to include printing of the Draft EIR) be given before review and approval of the complete screencheck has been given by the Director, OC Development Services or his/her designee. In some cases multiple screenchecks will be prepared and reviewed.

The purpose of the screencheck phase is to ensure that the resultant document meets the County's standards for content, format and clarity. When approved, the screencheck represents a document that is of sufficient quality to be reviewed by outside offices and individuals. As such, the screencheck process ensures that the Draft EIR does represent the County's independent review and analysis. As an internal review document, the screencheck is not a part of the administrative record. County policy is to dispose of all screencheck documents once the Draft EIR has been approved for distribution

D. *DEIR*

The DEIR is a document which represents the explanation and analysis of the environmental consequences of the proposed project and alternatives thereto. It is County policy to present information as clearly as possible to all interested parties and, especially, decision-makers through the use of executive summaries, graphics and other such techniques, consistent with mandated content requirements (Guidelines Section 15120 et seq.).

E. *Public Review and Comment on DEIR*

Once a DEIR is prepared, it is circulated for public review. This process includes filing a notice of completion (NOC) with the State Clearinghouse when required by Guidelines Section 15085. Section 15085 also provides that public agencies are encouraged to make

notices of completion available in electronic format on the internet. At the same time that the NOC is submitted, a public notice often referred to as a “notice of availability” is prepared and distributed to interested parties to announce the availability of, and locations where the DEIR may be reviewed. Details relating to this notice may be found in Guidelines Section 15087.

DEIRs are normally available for review for a period of 45 days, though CEQA provides for a review period of between 30 and 60 days (Guidelines section 15105). Under unusual circumstances, a longer review period may be authorized. The County requires that a request for a longer review period be made in writing. In addition, certain EIRs which do not require referral to the Clearinghouse may be circulated for review for only 30 days (Guidelines Sections 15205-15206). There are few examples of such EIRs processed by Orange County however, unless otherwise authorized by the Director, OC Development Services, County DEIRs are available for 45 days.

It is County policy that a complete copy of the DEIR and all supporting documents be available for public review for the entire review period at the offices of the OC Development Services, located at 300 North Flower Street in Santa Ana. Announcements of a DEIR’s availability may be posted on the OC Development Services Internet web site. Guidelines Section 15201 directs lead agencies to make DEIRs available in electronic form on the internet at the agency web site. DEIRs are also available in branches of the Orange County Public Library (or corresponding city libraries) as a means of making the documents readily available to interested parties. Copies of the DEIR are made available to public agencies, adjacent cities and counties as well as state and federal agencies, which have a jurisdictional interest in the project.⁷ Copies are normally sent to designated citizens’ bodies (Zoning Code Section 7-9-150.3(b)) and may be sent to other parties with an expressed interest in the project.

Interested parties are encouraged to provide their comments on the scope and adequacy of the DEIR to the County as the lead agency in accordance with Guidelines Section 15204 and 15087. [Comments beyond the scope of CEQA are not appropriate.] The County is not required to respond to comments received after the close of the comment period. It is County practice to review comments received after the end of the comment period and to respond to the extent time and circumstances permit.

⁷ A primary role of the Clearinghouse is to ensure that California state agencies are appropriately notified and their comments forwarded to the lead agency.

Comments are often directed to the merits of the project itself. Such comments are to be directed to staff, since these comments may not technically address the adequacy of the EIR or other environmental document but to the project in general.

Written comments must be addressed to either the identified project manager or to the Director, OC Development Services as identified in the Notice of Availability and must be received by the date indicated on the Notice of Availability. Assuring receipt by the County is the responsibility of the sender.

Comments may be submitted via E-mail, Fax, or United States mail, in which case the electronic date and the “received stamp” on the document provides a clear indication of the date the comment was received by the OC Development Services. Hand-delivered comments to the OC Development Services office are processed in a similar fashion. A postal or electronic return address is necessary so that a notice of the availability of the County’s response(s) may be sent to commenters wishing to receive such responses. Lastly, the County cannot accept comments on video or audio tape unless special arrangements are made due to a commenter’s disability under the Americans with Disabilities Act that renders the commenter unable to submit comments in a standard written format.

Comments may be presented verbally if a public workshop meeting is held on the environmental impact report by the Planning Commission or Board of Supervisors. There is no requirement for such a public meeting or hearing during a review period and in practice such meetings are rare.

A public meeting or hearing will be scheduled and properly noticed where action on the proposed project will be taken and the CEQA documents certified or adopted. Comments may be received during the pendency of such meetings, and may be responded to by the lead agency.

F. *Preparation of Response to Comments (RTC)*

The County responds to each environmental comment received on a DEIR during the legally-defined review period and makes those responses available to the decision-maker, and describes the disposition of any significant environmental issue raised by commenters (CEQA 21091, Guidelines Section 15088, 15132, 15204). Responses to comments which are generated by a public agency concerning an EIR will be sent to that agency at least 10 days prior to action by the decision-maker (Guidelines Section 15088).

Further, the County is not obligated to respond to comments received after the close of the noticed review period or extension thereof, but may do so (Guidelines Section 15088(a)).

In cases where the Planning Commission is not the decision making body, it is County practice to distribute the DEIR, comments, and responses to comments to the Commission prior to its taking action as to the adequacy of the DEIR and forwarding its recommendation to the appropriate decision-maker. This will usually be the Board of Supervisors.

G. *Preparation of the FEIR*

Under Orange County procedures, the DEIR does not become "final" until it is certified by the decision-maker prior to the approval of the project (Guidelines Section 15090). Following circulation of the DEIR and preparation of responses to comments, a Proposed FEIR is prepared for consideration by the decision-maker. The Proposed FEIR that is reviewed by the Planning Commission and decision-maker will contain all items listed under Guidelines Section 15132. In addition, all findings pursuant to Guidelines Sections 15091 and 15093 and the Mitigation Monitoring and Reporting Program (MMRP) and in appropriate cases, a Statement of Overriding Considerations, will be a part of the adoption/certification resolution.

H. *Findings pursuant to CEQA Guidelines Section 15091*

CEQA Section 21081 and Guidelines Section 15091 require that no public agency approve a project for which an EIR has been certified which identifies one or more significant effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale of each finding. The possible findings, which must be supported by substantial evidence in the record, are usually the following, dependent upon the factual situation presented to the decision-maker:

1. Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment (hereafter, "Finding 1").
2. Changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency (hereafter, "Finding 2").

3. Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the EIR (hereafter, "Finding 3").

For those significant effects that cannot be mitigated to below a level of significance, and the intent is to approve, the public agency is required to make written findings that specific overriding economic, legal, social, technological, or other benefits of the proposed project outweigh the unavoidable adverse environmental effects caused by it. Said findings must be supported by substantial evidence in the record (Guidelines Section 15093).

In addition, CEQA requires a public agency to make a finding that the EIR reflects the public agency's independent review and judgment (Guidelines Section 15090(a)(3)).

The FEIR consists of the following (Guidelines Section 15132):

1. The DEIR including revisions.
2. Comments and recommendations received on the DEIR.
3. A list of persons, organizations or agencies commenting on the EIR.
4. The responses to comments by the County on comments received.
5. Any other information added by the lead agency which may include any or all of the following and other relevant information:
 - a. Staff Reports to the Planning Commission and other decision-makers if any
 - b. Certification Resolution and all appurtenant attachments (i.e. Findings, Statement of Overriding Considerations, MMRP, etc. (Guidelines Sections 15091 and 15093)).
 - c. NOD
 - d. NOP
 - e. Initial Study (if prepared)
 - f. Comments on the NOP

Although copies of the Final EIR may be maintained in outlying locations (e.g., in the files of the lead division for a public project), the official file is maintained by OC Development Services. At least one copy of the FEIR as certified is bound and added to the County's FEIR library maintained by OC Development Services.

I. Decision by Appropriate Official/Body

The CEQA process is "intended to be used in conjunction with discretionary powers granted to public agencies by other laws" (Guidelines Section 15040). In and of itself, CEQA does not require any formal public hearings. Therefore, if a project will require a public hearing, e.g. a use permit, the disposition of the CEQA document may be considered at that time. The decision whether to certify or approve the CEQA document must occur after the close of the public hearing but prior to the decision on the project.

Planning Commission

As enumerated under Section III B, the Planning Commission plays a pivotal role in the CEQA process. In the case of EIRs, the Planning Commission can be:

1. The decision-maker on the project and will act in its capacity as a decision-maker on the project and the EIR prepared for the Project, or,
2. The body determining the adequacy of the EIR or other document and making a recommendation to the Board of Supervisors, or
3. The body determining the adequacy of the EIR or other document and making a recommendation to another decision-maker (e.g., the Sheriff-Coroner, if acting on a legally-mandated project requiring action only by that official).

In each of these situations, the Planning Commission will allow the public an opportunity to be heard prior to making a decision on EIR adequacy.

J. Notice of Determination (NOD)

After a project for which an FEIR has been prepared has been certified, a Notice of Determination (NOD) is filed with the County Clerk/Recorder's office as required by CEQA (Guidelines Section 15094). The filing of this notice starts a 30-day statute of limitation within which a legal challenge regarding the adequacy of the FEIR can be filed pursuant to Guidelines Section 15112(c). The NOD must be filed with the Clerk/Recorder within 5 working days of the

project approval and contains a variety of information listed in the guidelines as referenced above. The NOD is required to be posted for the entire 30 day period.

K. *Fish and Wildlife Fee*

Compliance with Fish and Game Code Section 711.4 regarding fees and fee collection imposed through the filing of the NOD and collected by the Clerk/Recorder is mandatory. Failure to pay Fish and Wildlife Fees renders the project **not** operative, vested or final until such fees are paid (CEQA Section 21089).

L. *Appeal of EIR Decision to Board of Supervisors*

A decision by a non-elected decision-maker on any CEQA matter may be appealed to the Board of Supervisors (CEQA Section 21151(c)). FEIRs certified by the Board of Supervisors are a final determination.

As noted in Section III, the Planning Commission is the body that makes decisions on the adequacy of an EIR when the Board of Supervisors is not the decision-maker on the project. Those decisions are appealable to the Board of Supervisors. If the project is one which is appealable to the Board of Supervisors, the appeal of the EIR certification will be heard with the appeal of the project. Actions which require Board action such as General Plan Amendments and Zone Changes will automatically go to the Board and there is no need for appeal in those cases.

Any person may initiate an appeal of an FEIR certified by the Planning Commission by delivering written notice of the appeal to the Director, OC Development Services. Such an appeal must be filed within 15 days of the date of Planning Commission's Decision. If the fifteenth day falls on a weekend or County holiday, the time to file the appeal will extend to the next County business day.

The appeal will be considered filed on the date that the Director, OC Development Services receives written notice of the appeal. The appeal will address the reason the appellant believes that the certifying body should not have certified the FEIR. Each appeal filed within the allotted time will be placed on the agenda of the Board of Supervisors at the earliest practicable date.. The Board of Supervisors will consider the appeal and may grant or deny the appeal in whole or in part.

Following the denial of any appeal and ratification of the Planning Commission's certification, or certification of the EIR by the Board of Supervisors with modifications, the decision-maker for the project

may approve the project. Upon approval of the project, the Director, OC Development Services will cause a NOD to be filed with the County Clerk pursuant to Section VII.B.

IX. Addenda

In cases where some minor changes or additions are necessary, but the conditions of Guidelines 15162 for preparation of a subsequent or supplemental EIR or ND/MND are not met, an addendum to the original CEQA document may be prepared, rather than a new EIR or ND (Guidelines Section 15164). The County will analyze the scope of the changes and their disposition in relationship to the original EIR or ND in order to determine whether a project will trigger the requirements of Guidelines Section 15162 by identifying substantial changes in the project or the circumstances under which the project will be carried out that require major revisions in the EIR or ND, or new information of substantial importance is discovered. Addenda are not circulated for public review, but must be considered by a decision-maker. Once a decision-maker has acted on the project, a NOD will be filed as discussed under Section VII.B.

X. Reliance on Previously Certified FEIRs

When a project is proposed which meets the requirements of CEQA Section 21094 for a previously approved EIR, the Director, OC Development Services shall determine whether or not the EIR is adequate to serve as the EIR for the proposed project (CEQA Section 21094). A prior EIR can be used for a project if the EIR includes the work which constitutes or is necessarily included element of the project and there have been no significant changes in the facts, circumstances and environmental impacts since the Prior EIR was prepared. If a previously approved EIR is adequate for the subsequent proposed project, the determination will be noted in the project file and all required public notices which are required shall be properly described on any public agenda with appropriate CEQA finding made prior to consideration of approval of the new project or activity.

XI. Master, Program and Staged EIRs

CEQA provides for Master, Program or Staged EIRs (Guidelines Sections 15165, 15167, 15168, 15175-15179) in certain specified circumstances. To make the Program EIR determination, an initial study application will normally be required for review under Guidelines Sections 15162 and 15168. The County may use such documents; however, that decision should be made at the time preparation of the EIR is begun. In some cases additional findings (Guidelines Section 15091) and any additional

overriding considerations may be necessary as part of this determination as set forth herein.

XII. Non-County Lead Document Reviews

OC Development Services acts as a clearinghouse for the review of all environmental documentation for which the County is not the lead agency. This process ensures that a consistent, unified County position is reflected in all correspondence and comments on the proposed project. The Director, OC Development Services, coordinates review of the documentation by forwarding it to appropriate divisions within the County for review and comment.

The Director, OC Development Services consolidates the comments received from different County departments into a unified comment and transmits those comments to the lead agency. The Director, OC Development Services will normally sign all letters to lead agencies commenting on environmental documentation for projects for which the County is a Responsible Agency.

Comments from individual County divisions or departments directly to the lead agency are not appropriate except for highly technical topics which are solely within the purview of that office (e.g., comments relaying information on an adopted environmental health standard)⁸. In any such case, the Director, OC Development Services will be consulted prior to transmittal of the comment, and will coordinate transmittal of the separate comment letter.

In cases when an individual County division or department receives an environmental document directly, that office shall contact OC Development Services at once to allow for a countywide distribution of the environmental document.

XIII. Appeal Processes

Two types of appeals are addressed in these procedures, both of which are intended to be consistent with the provisions of Zoning Code section 7-9-150.4, which addresses appeals regarding actions taken on discretionary permit applications and CEQA determinations. Notwithstanding any of the provisions of section 7-9-150.4, all CEQA determinations shall be appealable to the Planning Commission and ultimately, to the Board of Supervisors.

⁸ For example, Environmental Health may regulate projects/operations proposed in Non-County Lead documents. For such projects/operations, Environmental health may be a responsible agency and may issue specific regulatory requirements. In such situations, it may be appropriate to identify such comments separately within the County's letter.

A. Appeal of staff determination to the Planning Commission

The first type of appeal relates solely to the internal decision made by staff to require the preparation of a specific type of environmental document or any CEQA determination which characterizes, for CEQA purposes, the proposed discretionary action to be taken. Should the applicant or another interested party believe that this decision is incorrect, it may be appealed. An example of this type of appeal would be a determination by staff that a proposed action is or is not subject to a statutory or categorical exemption, or that an EIR is required for a project while the applicant feels that a negative declaration would be appropriate.

- i. Decision to Require Preparation of Environmental Document or CEQA statutory or categorical exemption and etc.

As noted above, staff generally conducts an Initial Study process to determine the appropriate type of document for a given project. Staff may also make a determination that a proposed discretionary action is subject to a statutory or categorical exemption. This determination is subject to appeal to Director, OC Development Services and subsequently, to the Planning Commission if necessary, by the project proponent. Any such appeal must be filed with the Planning Commission Secretary during the mandated posting period for a Negative Declaration/Mitigated Negative Declaration per Guidelines Section 15073, or consistent with the provisions of Section 7-9-150.4 of the Zoning Code. Any such decision is appealable to the Board of Supervisors. As set forth in section 7-9-150.4, if the final day to perfect an appeal falls on a weekend or County holiday, the time to file the appeal will extend to the next County business day. The appeal is considered filed on the date that the Planning Commission Secretary⁹ receives written notice of an appeal and any required fees. Each appeal filed within the time allotted will be placed on the Planning Commission agenda for consideration at the earliest practicable date consistent with the provisions of section 7-9-150.4.

An appeal may be resolved without a Planning Commission determination by mutual agreement among the Director, OC Development Services, the person(s) filing the appeal and the project proponent. Notice of agreement served by the Director on the Secretary of the Planning Commission will terminate the appeal proceedings.

⁹ Orange County Planning Commission, Attn: Secretary; Post Office Box 4048, Santa Ana, CA 92702-4048.

In cases of a tie vote by the Planning Commission, the appeal is denied and the determination by staff shall stand. However, any such decision shall be appealable to the Board of Supervisors, as noted herein.

B. Appeal of Environmental Document Decision to Board of Supervisors

The second type of appeal involves an appeal of the certified environmental document determination which is disputed by the project proponent or any interested party. This appeal may also involve a special case which addresses the adequacy of an EIR/ND/MND or CE, which has been approved/certified by the Planning Commission or other decision-makers. In this case, the adequacy of the document prepared is challenged through an appeal to the Board of Supervisors or Planning Commission first depending. All such appeals shall conform to the provisions of section 7-9-150.4, as discussed above in item A.

Following the denial of any appeal and ratification of the Planning Commission's certification, or certification of the EIR by the Board of Supervisors with modifications, the decision-maker for the project may approve the project. Upon approval/certification of the environmental documentation, the Director, OC Development Services will cause a NOD to be filed with the County Clerk pursuant to Section VI B.

C. The Board of Supervisors as decision-maker

Notwithstanding the above, any CEQA categorical exemption, environmental document determination, or the case of an EIR certified by a non-elected decision-maker may be appealed to the Board of Supervisors (CEQA Section 21151(c)). EIRs certified by the Board of Supervisors are not appealable to itself. Any further remedy must be addressed by Petition for Writ of Mandate or other appropriate judicial proceeding.

For appeal fees refer to Section XIV "Fees" below.

XIV. Fees

As allowed under Section 15045 of the CEQA Guidelines, the County collects fees for the preparation, reproduction and distribution of the environmental document. These costs are borne by the applicant/project proponent through the establishment of a charge account. These fees are collected with submittal of the project application or at a later date

In addition, appellants may be charged a fee for the filing of an appeal pursuant to Section XIII above. Any such fee shall be established pursuant to provisions of the current County Fee Ordinance as adopted by the Board of Supervisors for Building and Planning Schedules which include the Building and Planning and Safety Rate Table. Applicants filing an appeal of an approved project with a certified environmental documentation will be charged staff costs for the presentation of the appeal to the Planning Commission and/or the Board of Supervisors, consistent with the provisions of the Ordinance currently in effect, as cited herein.

XV. Unusual Cases: Job Order and On Call Contracts

Job Order Contracts (JOC) and On Call Contracts create unusual circumstances for performance of CEQA review.

In some circumstances, the Board is asked to approve a slate of Architect-Engineer (A&E) Contractors to do certain types of work over a period of time for a not to exceed amount. The A&E is assigned civil engineering tasks throughout the term of the contract. When the contract is approved the Board of Supervisors (BOS) approves a scope of services that the A&E will perform but does not approve actual tasks. The tasks are developed and approved by staff (OCPW, OCWR, OC Parks, etc.) and generally will not go to the BOS. The only time such a task would ever go to the BOS after the initial approval of the contract is if additional money needs to be added to the contract. In other cases, OCPW each year approves slate of A&E on call contracts. When individual projects arise, OCPW assigns the design work to one of the contractors on the slate. At the time the slate of On-Call contractors are approved, there is no project approved. Depending on the size of the project, the BOS may or may not approve the contract with the individual A&E.

JOC contracts are a subset of On Call Contracts which are construction contracts for repair and maintenance of County facilities. They are one year contracts, they cannot be used for new construction. When they are approved the BOS approves a “book” that contains standard specifications for a wide range of building tasks, e.g. painting, plumbing and electrical tasks and the price schedule for those tasks. There is no specific project approved at the time the BOS approves the contract. OCPW develops individual task during the course of the contracts and pulls the applicable specs form the book, the contractor is then paid in accordance with the price schedule in the “book.”

Initial Board actions such as: Authorization to solicit or award On Call A&E Contracts or Job Order Contracts (not individual job orders) are “not a project” per CEQA Guidelines Section 15378 since they only involve creation of a contract and are not related to any specific activity which could have an impact on the environment. In addition, as provided in

Section 15378 (b) (4), they may also involve “fiscal activities of government that are not committed to any specific project which may result in a potentially significant physical impact of the environment.” As indicated above, the Board actions simply involve entering into Job Order Contracts for future “to-be-determined” projects; the actions do not involve approval of any specific projects.

Consequently, the following statement should be used in the Agenda Staff Reports associated with either action:

Compliance with CEQA: This action is not a project within the meaning of CEQA Guidelines Section 15378 and is therefore not subject to CEQA, since it does not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The approval of this agenda item does not commit the County to a definite course of action in regard to a project since (fill in appropriate explanation; for example, the action authorized herein may lead to the negotiation of an agreement). This proposed activity is therefore not subject to CEQA. Any individual, specific work authorized pursuant to this contract will be reviewed for compliance with CEQA.

Where the project approved is either a “job order contract” or an “on call contract” the approving body, whether it is the Board of Supervisors, the Purchasing Agent or any other person or body shall ensure that CEQA review is completed for each individual Contract Task Order for a “job order contract” or an “on call contract pursuant to the delegation of authority.”

CEQA Determinations for Specific Job Order Contract Projects

Because Job Order Contracting is limited to repair and rehabilitation work and cannot be used for new construction, most projects will be Categorically Exempt from CEQA, typically as one of the following, though others may be applicable in specific circumstances:

- Class 1 – Existing Facilities (Guidelines 15301)
- Class 2 – Replacement or Reconstruction (Guidelines 15302)
- Class 3 – Conversion of Small Structures (Guidelines 15303)
- Class 4 – Minor Alterations to Land (Guidelines 15304)

However, some projects eligible for Job Order Contracting will not be Categorically Exempt, either because of unavailability of an exemption, due to inapplicability of the exemption or an exception to the exemption (such as a potentially significant impact), which will require preparation of a negative declaration or mitigated negative declaration. This will often be due to the physical environments in which the work to be done is located. For example, replacement of existing underground utility lines within an

existing roadway would be exempt [Class 2 (c)]; on the other hand, were the same replacement project to involve lines located within a sensitive habitat area, it would not be exempt from CEQA. An appropriate CEQA determination and documentation must be completed prior to the issuance of a Contract Task Order (CTO). This includes a determination whether the project is categorically exempt or whether some other type of CEQA review is required. If the CEQA review is not an exemption, it must be prepared, reviewed and acted on in the manner required by CEQA and the Guidelines.

The initial question to be resolved before proceeding will be: Is the project Categorically Exempt from CEQA?

- If the answer is “Yes”, the Statutory or Categorical Exemption is identified and appropriately documented (typically by OC Development). At that time, it is critical to confirm that the project specifically complies with the factual requirements for the suggested Statutory or Categorical Exemption and that no exception or exclusion applies. The attached list of qualifying Statutory or Categorical Exempt projects is provided to facilitate this decision, or if there are questions, consult with either the Department’s designated CEQA specialist or with the CEQA staff in OC Development Services to make the determination as to how to proceed. Then the project moves to the “Joint Scope Meeting” with the Job Order Contractor.
- If the answer is “No”, an Initial Study must be completed to assess whether the project requires preparation of a Negative Declaration, a Mitigated Negative Declaration or an Environmental Impact Report. The project cannot proceed further until after the appropriate document is prepared, processed and reviewed by the decision-maker in the manner required by CEQA and the Guidelines.

In either case, a proper determination will be made prior to the project moving on to implementation through a CTO.

The CEQA review process and CEQA findings for “On Call AE Contracts” are essentially the same as for “Job Order Contracts” since there is no difference between the two types of agreements for purposes of CEQA review. *Following the denial of any appeal and ratification of the Planning Commission’s certification, or certification of the EIR by the Board of Supervisors with modifications, the decision-maker for the project may approve the project. Upon approval of the project, the Director, OC Development Services will cause a Notice of Determination (NOD) to be filed with the County Clerk pursuant to Section VI B.*

XVI. Mitigation Monitoring

CEQA requires that a mitigation monitoring or reporting program be adopted by the decision-maker any time a project is approved for which either an EIR or Negative Declaration has been prepared and which involves the imposition of mitigation measures. (Guidelines Section 15097) This requirement ensures that the mitigation measures imposed are fully implemented. Certain mitigation measures are completed prior to, or during, project implementation. Others may require monitoring over an extended period of time (e.g. mitigation measures for biological impacts that require rehabilitation of habitat). As such, this phase of the CEQA process may extend for a number of years beyond project approval and implementation.

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APPENDICES

October 2014

Appendix A

Sample Concurrence Memo

October 2014



Shane L. Silsby, P.E., Director
300 N. Flower Street
Santa Ana, CA 92703
P.O. Box 4048
Santa Ana, CA 92702-4048
Telephone: (714) 667-8800
Fax: (714) 967-0896

DATE:

TO: Shane Silsby, Director, OC Public Works

FROM: Section Manager

SUBJECT: Approval of _____ Project

This memo is to request that you review the project plans for the _____ Project, the related MND for the project, and adopt the MND and approve the _____ Project.

Recommended Action: **THIS SHOULD BE THE SAME AS THE RECOMMENDED ACTION TO THE BOARD OF SUPERVISORS FOR A SIMILAR PROJECT.**

1. Consider the adequacy of Initial Study IP _____ and the related Mitigated Negative Declaration No. IP _____, and find that Mitigated Negative Declaration No. IP _____, pursuant to Section 21080(c) of the Public Resources Code and CEQA Guidelines Section 15074, satisfies the requirements of CEQA, adequately describes the environmental impacts of the proposed project, and its adoption is recommended for the proposed project based upon the following findings:

A. Having reviewed and considered Mitigated Negative Declaration No. IP _____, including any and all comments received by the (Board of Supervisors or OCFCD) on Mitigated Negative Declaration No. IP _____ and (Board of Supervisors or OCFCD's) responses to comments, there is no substantial evidence in the entire record to support a fair argument that the project, with the implementation of mitigation measures included in the Negative Declaration, will have a significant effect on the environment.

B. Mitigated Negative Declaration No. _____ reflects the independent judgment of the lead agency, the (Board or Supervisors or Orange County Flood Control District).

C. Proposed Mitigation Monitoring and Reporting Program No. IP _____ is found adequate and is adopted pursuant to Public Resources Code Section 21081.6 and CEQA Guidelines Section 15074(d) by the Orange County (Board of Supervisors or OCFCD). The mitigation measures are enforceable and have either been adopted as conditions, incorporated as part of project design, or included in the procedures of project implementation.

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D. Pursuant to Section 711.4 of the California Fish and Game Code, this project is exempt from the required fees as it has been determined that no adverse impacts to wildlife resources will result from the project.

or:

Pursuant to Section 711.4 of the California Fish and Game Code, this project is subject to the required fees as it has been determined that potential adverse impacts to wildlife resources may result from the project.

or:

Pursuant to Section 711.4 of the California Fish and Game Code, this project is subject to the required fees. However, the required fees were paid previously (see attached receipt).

2. Approve the _____ Project.

Respectfully submitted:

Section Manager

APPROVED AS RECOMMENDED

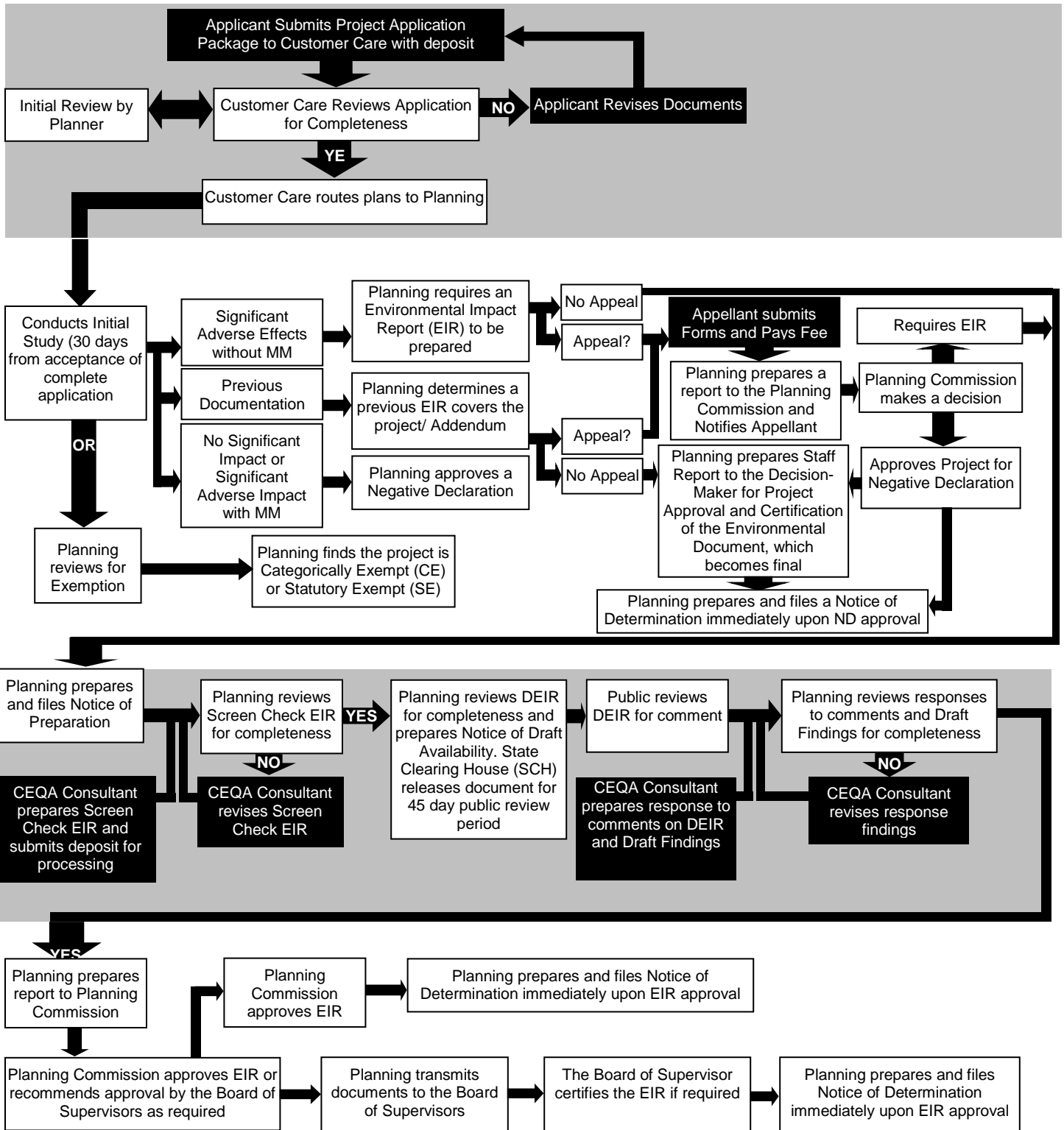
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Appendix B

Orange County CEQA Process Flow Chart

October 2014

Orange County CEQA Process Flow Chart (excludes appeal process)



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Appendix C

Ministerial Projects

APPENDIX C: MINISTERIAL PROJECTS

Ministerial projects are defined in Guidelines Section 15369. Section 15268(a) and (c) permit the public agency to determine whether a project is ministerial. In addition to those actions listed under Guidelines Section 15268(b) , the following County activities are considered to be ministerial processes which do not require an exercise of discretion by the approving person or entity , and are therefore exempt from CEQA:

OC Development Services

- Building Permit
- Electrical Permit
- Mechanical Permit
- Plumbing Permit
- Sign Permit
- Plaster Permit
- Demolition Permit
- Mobilehome Permit
- Relocation Permit
- Certificate of Compliance
- Improvement Plans
- Certificate of Use and Occupancy
- Extraction Permit
- Precise Grading Permits¹⁰
- Approval in Concept

JOHN WAYNE AIRPORT

- Aircraft Tie down Permit
- Aircraft Hangar Permit
- Non-Profit Flying Club Operating Permit

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¹⁰ In the case of Precise Grading Permits, the Permit maybe Ministerially Exempt or in some cases may be a Project subject to CEQA review.

APPENDIX C: MINISTERIAL PROJECTS (continued)

HCA/ANIMAL CONTROL

- Dog Licenses
- Exotic Animal Permits

HCA/EMERGENCY MEDICAL SERVICES

- Ambulance Licenses

HCA/ENVIRONMENTAL HEALTH

- All Health Permits issued by Environmental Health:
 - Food facility permits
 - Convalescent (skilled nursing facility) home food facility permit
 - Hospital food facility permit
 - Labor camp permit
 - Day camp permit
 - Organized camp permit
 - Liquid waste hauling vehicles and vessels permit
 - Massage parlor permit
 - Peep show permit
 - Tattooing/Permanent cosmetic facility permit (regulations pending)
 - Body piercing facility permit (regulations pending)
 - Swimming pool operating approvals/inspections
 - Hotel/motel
- Underground Storage Tank Permit
- Water Quality Permits
 - Groundwater monitoring well permit
 - Groundwater production well permit
- Solid Waste Facility Permits
 - Solid waste facility permit-registration tier

SHERIFF-CORONER

- Business Licenses
- Ramp Permit

OC Waste and Recycling

- Collection Permit
- Disposal Permit

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Appendix D

Categorically Exempt Projects

APPENDIX D: CATEGORICALLY EXEMPT PROJECTS

This list is not exclusive; projects not listed but which satisfy Guidelines Section 15300 et. seq. are also included. Each project is still individually assessed to determine if it meets the requirements for exemption or whether it is subject to an exception to the exemption and therefore requires further environmental review.:

15300.4 Categorical Exemptions

County projects meeting the definition of categorically exempt section 15354 include the following:

OC Development Services

- Oil Well Drilling Permit (Class 1)
- Encroachment Permit (Class 1 and 4)
- Temporary Use Permit (Class 1 and 4)
- Construction Permit (Class 1 and 4)
- Lot Line Adjustment (Class 3 and 5)
- Tentative Parcel and Tract Maps for financing purposes or condominium conversions (Class 1 and 15)
- Projects for financing purposes only where future development would not be predetermined or prejudiced (Class 1)
- Condominium conversions (Class 1)
- Tentative parcel maps involving:
 - Projects for financing purposes only where future development would not be predetermined or prejudiced (Class 1 and 15)
 - Condominium conversions (Class 1 and 15)
 - Senior Affordable Housing Units (Class 32)
 - Solar Panels/Solar Energy System (Class 3)
- Non-Ministerial Grading Permit for less than 5,000 cubic yards to be graded on less than 15% average slope (Class 1 and 4)
- Detail Plans to comply with a condition of approval (Class 6 and 8)
- Reclamation Plans (Class 8)
- Building Line Plan (Class 3 and 5)
- General Plan Implementation (Class 6 and 8)
- Architectural Control (Class 6 and 8)

APPENDIX D: CATEGORICALLY EXEMPT PROJECTS (continued)

- Discretionary Permits involving:
 - Accessory structures and uses on the same site as the approved principal use (Class 11)
 - One residential structure of four or less dwelling units (Class 3)
 - Three or fewer single-family detached units in an urban area (Class 3)
 - Temporary uses of 2 years or less (Class 4 and 11)

OC PARKS

- General repairs, replacement, and maintenance of County and District facilities (Class 1 and 2)
- Installation of security fencing and walls (Class 1)
- Erosion control projects and landscaping (Class 4)
- Installation of aids to navigation (e.g., Channel buoys, shoal markers, speed limit signs, etc.) (Class 1)
- Riding and hiking trails (class 1 and 4)
- Interior modification and minor decorative exterior changes in lessee's structures (Class 2)
- Public information signs (Class 11)
- Installation of minor accessory structures and facilities including storage sheds, rest stops, restrooms, workroom, nursery building, shed structures, site furniture, footbridges, security lighting, and tot-lots (Class 3 and 11)

OCPW/FACILITIES OPERATIONS

- General repairs, replacement and maintenance of County and District facilities (Class 1 and 2)
- Sediment removal (Class 1)
- Control of vegetation, rodents, and pests in accordance with State and Federal regulations (Class 1)
- Installation and maintenance of traffic safety devices including signs, striping, pavement markers, lighting, and signals (Class 1 and 2)
- Granting or acquiring of property rights (e.g., easement, leases, fee titles) which are the result of an earlier action (e.g., zone change, tract map) (Class 1 and 27)

APPENDIX D: CATEGORICALLY EXEMPT PROJECTS (continued)

- Installation and maintenance of surveying monuments (Class 1 and 2)
- Creation of bike trails within existing road facilities (Class 4)

AGRICULTURAL COMMISSIONER

- Restricted Material Permit (Class 7 and 8)
- Quarantine Certificate (Class 7 and 8)

JOHN WAYNE AIRPORT

- Commercial Aircraft Washing (Class 8)
- Mechanics Licenses (Class 9)
- Mobile Catering Truck Licenses (Class 9)
- Off-Airport Rental Car Licenses (Class 9)
- Interior modifications and minor exterior changes in lessee structures (Class 2)
- Information Signs (Class 11)
- The conveyance of easement, leases or fees to other governmental agencies (City, County, State, Federal) for Airport uses (e.g., navigational) (Class 1)
- Renewal of amendment to lease involving no substantial construction or change in use (Class 1)
- Acquisition of Right of Entry agreements for maintenance and repair of existing facilities (class 1 and 8)
- Permits and easements to governmental bodies or public utilities for the purpose of providing services to the Airport (Class 1)
- Lease Assignments (Class 1 and 3)
- Minor temporary uses of land having negligible or not permanent effects on the environment, including ground breaking or open house ceremonies and helicopter/airplane shows within the Airport (Class 11 and 23)
- Sales or surplus land (Class 12)

HCA/ANIMAL CONTROL

- Animal Permits (Class 1 and 9)
- Animal Business License (Class 1,4, and 9)

APPENDIX D: CATEGORICALLY EXEMPT PROJECTS (continued)

REAL ESTATE (relevant to various County departments)

- Extension of Lease Term (Class 1)
- Consents to Subleases (Class 1)
- Consents to Assignment of Lease (Class 1)
- Lease of Space in Existing County Buildings (Class 1)
- Rental of Residential Property (Class 27)
- Licenses Issued Under Delegated Authority (Class 4,6 and 11)
- Easements for Utilities Serving County Facilities (Class 3 and 11)
- Sale of Excess Land (Class 12)
- Donated Space Agreements (Class 1)

OC WASTE & RECYCLING

- Construction/Installation of landfill gas or groundwater monitoring wells and probes (Class 6)
- Extension of drainage channels and culverts within a landfill refuse footprint. (Class 3)
- Landfill erosion control projects, to include hydroseeding, the spreading of straw mats or processed green material, and the placement of sandbags, hay bales or silt fences. (Class 4)

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Appendix E

Projects with No Significant Effect



Planning Application Submittal Information Form

County of Orange

APPENDIX E: PROJECTS WITH NO SIGNIFICANT EFFECT

This list is not exclusive; projects not listed but which satisfy Guidelines Section 15061(b)(3) are also included. In addition, regardless of whether the project is included on this list, the determination of whether a project may have a significant effect is determined after examination of the specific facts of the activity and the surrounding circumstances, so inclusion on this list should not be treated as dispositive of whether a project may have a significant effect.

OC Development Services

- Tentative Tract Maps involving an extension of time only
- Tentative Parcel Maps involving an extension of time only
- Park Modification
- Discretionary permits involving:
 - Extension of time only
 - Reduction in parking requirements by less than 10%
 - Residential projects of four dwelling units or less that are impacted by noise only
 - Commercial projects of less than 10 employees that are impacted by exterior noise only
 - Model sales complex for approved tracts. Also includes use permits.

Appendix F₁

Project Information Form for Private & Public Projects

This form is used for all discretionary permits such as Site Development Permits, Coastal Development Permits, Use Permits Variances, etc.

PROJECT/CEQA INFORMATION

Application Type: _____ Date: _____

Director Zoning Administrator Planning Commission Board of Supervisors

Project Name: _____ APN: _____

Street Address or Location: _____ Zoning: _____

Project Description: _____

Existing Site and Environmental Conditions: _____

Previous County Action(s) and/or Environmental Documentation: _____

CONTACT INFORMATION

Property Owner:	Project Agent	License
------------------------	----------------------	----------------

Mailing Address:	Mailing License
-------------------------	------------------------

City:	Zip:	City:	Zip:
--------------	-------------	--------------	-------------

Phone #:	Email:	Phone #:	Email:
-----------------	---------------	-----------------	---------------

STAFF USE ONLY

Assessor's Parcel #: _____ Legal: _____ Lot Size: _____

Zoning: _____ Gen Plan: _____ Sup District: _____ Flood Plan: _____

Specific Plan: _____ Zoning: _____ Coastal Zone: _____

PC: _____ Zoning: _____ Sphere of Influence: _____

Review Board: _____ School District: _____

CERTIFICATION

I acknowledge that:

1. There are no assurances at any time, implicitly or otherwise, regarding final staff recommendations to the decision making body about this application.
2. Major changes of the proposed project may require a new application and payment of new fees.
3. The County will charge the actual cost of the staff work on the application per the current Fee Ordinance. The costs of processing the application will be deducted from the deposit. If the deposit is reduced to a point that is insufficient to complete the future work, you will be notified to deposit additional amounts.

I hereby certify to the best of my knowledge that the information I have presented on this form and attached materials is true and correct. I also understand that additional data and information may be required prior to final action on this application. I have read and understand the contents contained in the above statements 1 through 3.

Print Name _____ Signature _____ Date _____

Please indicate Project "Bill to" : Project Owner Project Agent Other : _____

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Appendix F₂

Environmental Information Form,

Public Projects

ENVIRONMENTAL INFORMATION FORM INSTRUCTIONS PUBLIC PROJECTS

1. PROJECT TITLE

Provide the project name.

2. PROJECT LOCATION

Describe the location of the project. Indicate the nearest major intersection or access point, the name of the community in which the project is located, and any other information, which will allow easy identification of the project location.

3. PROJECT DESCRIPTION

Accurately and completely describe the nature of the proposed project. Indicate the size of the project, the area of influence and any other features necessary to accurately describe the project. List the reasons for proposing the project at this time as well as the date you would like the environmental determination completed. Indicate any features of the project, which will reduce or eliminate potential adverse environmental effects.

4. EXISTING ENVIRONMENTAL CONDITIONS

Describe the existing environmental conditions on the project site. This description should include the following information (to the best of your knowledge):

Earth: Topography, slope, aspect, presence of geologic hazards, general soil types, etc.

Water: Drainage patterns, stream locations, flood hazards, ground water,

Biological Resources: Types of vegetation on site; types of animals known to frequent the site.

Land Use: Land uses on the project site and surrounding land.

Hazards: Environmental hazards known or suspected (e.g., previous waste disposal site, etc.).

Cultural/Historical/Paleo/Archaeo Resources: Any known or potential resources that are present on or near the site.

Traffic: Amount of traffic generated by the proposed project.

5. SUPPORTING DATA

List all supporting documents or exhibits submitted with the project. The following attachments must be included for all site-specific construction or development projects:

Location: Map with the project site outlined (1 “:2000’ USGS base map or similar).

Draft Plan: The proposed site plan layout for the project. Please provide 8 ½ x 11 or 11 x 17 size graphics to be included with the environmental documentation.

Photographs: Representative photographs of the project site and a key showing the directions and location from which the photographs were taken.

In addition to the items listed above, the following additional information must be provided based on the project types listed:

a. County-Initiated Plan or Code Amendments (non-site specific)

Text of proposed revisions using underline and strike-through notation (or some other means) to clearly indicate additions and deletions.

Provide any background information in support of the proposed changes.

b. Construction Projects

Existing land use map for site and surrounding area.

Project report, traffic study (if applicable), geotechnical study, grading plan, hydrologic study, biological study, noise study (if applicable).

Description of construction method that will be used and the type of construction equipment needed.

Anticipated project start date and completion date.

Is project located within an existing public right-of-way?

Utility connections, disruptions or relocations, and who has prior rights.

Erosion and sediment control methods to be used.

Alterations to natural drainage patterns that may occur.

Use of herbicides, defoliants, bulldozing, burning or cutting that may be required.

Trees or other significant vegetation that may be removed by type, size and quantity.

Measures to be used to control dust.

Construction methods that may be used (e.g., pile drivers, jackhammers or blasting).

Measures that will be used to minimize vehicular and pedestrian traffic disruption.

Landscaping, if any, that will be provided.

Measures that will buffer adjacent land uses from adverse impacts.

Any property that may be condemned or persons relocated as a result of the project.

c. Other Projects:

If a proposed project does not fall into the categories listed above, consult with OC Development Services staff (714) 667-8857 to determine appropriate supplemental documents. Other technical information such as archaeological, paleontological, or biological surveys; foundation/soil reports; percolation test reports; noise studies or traffic analyses may be necessary in some cases. If such reports are needed in order to complete the CEQA documentation, you will be notified by staff OC Development Services. If any such reports have already been prepared, please include copies with your submittal.

6. PREVIOUS COUNTY ACTION (S)/ ENVIRONMENTAL DOCUMENTATION

Please list any previous actions relative to the property and any previous environmental documentation covering the project.

7. GOVERNMENT APPROVAL (S) REQUIRED

Indicate which decision making body will make the first decision on your project (e.g., Planning Commission, Board of Supervisors, Army Corps of Engineers).

In addition, please indicate other approvals in the future that will be necessary to implement your project. If federal or state funds are involved in the project, indicate the funding source. If a General Plan consistency determination from any non-County agency is necessary, indicate which agency is involved. If state approval of any phase of the project is necessary, please explain.

8. CONTACT PERSONS (S)

Please give the name, telephone number, e-mail address and mailing address of the person most knowledgeable about the proposed project.

ENVIRONMENTAL INFORMATION

1. PROJECT TITLE:
2. PROJECT LOCATION:
3. PROJECT DESCRIPTION:
4. EXISTING ENVIRONMENTAL CONDITIONS:
5. ITEMIZATION OF ATTACHED SUPPORT DATA:
6. PREVIOUS COUNTY ACTION(S) AND/OR ENVIRONMENTAL DOCUMENTATION:
7. NAME OF PUBLIC AGENCY APPROVING THE PROJECT:
8. APPLICANT OR AGENCY CARRYING OUT THE PROJECT:
9. ADDRESS:
10. CONTACT PERSON(S) Please include phone number:
11. DECLARATION:
<p>I hereby declare that the statements furnished above, including any attached hereto, represent all information required for this initial evaluation. Said statements, together with any exhibits attached hereto, are true and correct. I hereby agree to pay all required fees for work performed by the County in processing, reviewing, and analyzing the necessary environmental documentation in accordance with adopted County Procedures.</p>
<p>DATE _____ SIGNATURE _____</p>

October, 2014

October 2014

Appendix G

Environmental Analysis Checklist

October 2014

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|---|---|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture and Forestry Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Geology/Soils |
| <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Hydrology/Water Quality |
| <input type="checkbox"/> Land Use/Planning | <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Noise |
| <input type="checkbox"/> Population/Housing | <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Transportation/Traffic | <input type="checkbox"/> Utilities/Service Systems | <input type="checkbox"/> Mandatory Findings of Significance |

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but a least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature

Date

Signature

Date



B. ENVIRONMENTAL ANALYSIS CHECKLIST

Negative Declaration Number PA # 000000

Project Name

ISSUES AND SUPPORTING DATA SOURCES:	Potential Significant Impact	Less than Significant Impact/MM	Less than Significant Impact	No Impact
-------------------------------------	------------------------------------	---------------------------------------	------------------------------------	-----------

1. AESTHETICS. Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|--------------------------|
| a. Have a substantial adverse effect on a scenic vista? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c. Substantially degrade the existing visual character or quality of the site and its surroundings? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| d. Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

2. AGRICULTURE & FORESTRY RESOURCES. Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|--------------------------|
| a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Conflict with existing zoning for agricultural use, or a Williamson Act contract? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| d. Result in the loss of forest land or conversion of forest land to non-forest use. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| e. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or forest land to non-forest use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

3. AIR QUALITY. Would the project:

ISSUES AND SUPPORTING DATA SOURCES:	Potential Significant Impact	Less than Significant Impact/MM	Less than Significant Impact	No Impact
a. Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions, which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. BIOLOGICAL RESOURCES. Would the project:				
a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ISSUES AND SUPPORTING DATA SOURCES:	Potential Significant Impact	Less than Significant Impact/MM	Less than Significant Impact	No Impact
f. Conflict with provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. CULTURAL/SCIENTIFIC RESOURCES. Would the project:				
a. Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. GEOLOGY AND SOILS. Would the project:				
a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ii. Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
iii. Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
iv. Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Be located on expansive soils, as defined	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ISSUES AND SUPPORTING DATA SOURCES:	Potential Significant Impact	Less than Significant Impact/MM	Less than Significant Impact	No Impact
in Table 18-1-B of the California Building Code (1994), creating substantial risks to life or property?				
e. Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal system where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. GREENHOUSE GAS EMISSIONS. Would the project:				
a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. HAZARDS & HAZARDOUS MATERIALS. Would the project:				
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. For a project located within an airport land use plan or, where such plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. For a project within the vicinity of private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ISSUES AND SUPPORTING DATA SOURCES:	Potential Significant Impact	Less than Significant Impact/MM	Less than Significant Impact	No Impact
g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h. Expose people or structures to a significant risk or loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. HYDROLOGY & WATER QUALITY. Would the project:				
a. Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or lowering of the local groundwater table level (e.g., the production rate of the pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Substantially alter drainage patterns of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h. Place within a 100-year flood hazard area structures, which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ISSUES AND SUPPORTING DATA SOURCES:	Potential Significant Impact	Less than Significant Impact/MM	Less than Significant Impact	No Impact
i. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j. Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. LAND USE & PLANNING. Would the project:				
a. Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. MINERAL RESOURCES. Would the project:				
a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. NOISE. Would the project result in:				
a. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. For a project located within an airport land use plan or, where such plan has not been adopted, within two miles of a public airport	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ISSUES AND SUPPORTING DATA SOURCES:	Potential Significant Impact	Less than Significant Impact/MM	Less than Significant Impact	No Impact
or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				
f. For a project within the vicinity of a private airstrip, would the project expose people residing or working the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. POPULATION & HOUSING. Would the project:				
a. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. PUBLIC SERVICES.				
a. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i. Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ii. Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
iii. Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
iv. Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
v. Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15. RECREATION.				
a. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ISSUES AND SUPPORTING DATA SOURCES:

Potential Significant Impact **Less than Significant Impact/MM** **Less than Significant Impact** **No Impact**

the environment?

16. TRANSPORTATION/TRAFFIC. Would the project:

- a. Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?
- b. Conflict with an applicable congestion management program, including, but not limited to level of service standard and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?
- c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?
- d. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?
- e. Result in inadequate emergency access?
- f. Conflict with adopted policies, plans or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?

17. UTILITIES & SERVICE SYSTEMS. Would the project:

- a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?
- b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental impacts?
- c. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of

ISSUES AND SUPPORTING DATA SOURCES:	Potential Significant Impact	Less than Significant Impact/MM	Less than Significant Impact	No Impact
which would cause significant environmental effects?				
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. Comply with federal, state and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

MANDATORY FINDINGS

a. Does the project have the potential to 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a 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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Does project have environmental effects which will cause substantial adverse cause effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DETERMINATION:

Based upon the evidence in light of the whole record documented in the attached environmental checklist explanation, cited incorporations and attachments, I find that the proposed project:

- a. **COULD NOT** have a significant effect on the environment, and a negative declaration (ND) will be prepared pursuant to CEQA Guidelines Article 6, 15070 through 15075.

- b. **Could have** a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures have been added to the project or revisions in the project have been made by or agreed to by the project proponent. A Mitigated Negative Declaration (MND) will be prepared pursuant to CEQA Guidelines Article 6, 15070 through 15075.

- c. **MAY have** a significant effect on the environment, which has not been analyzed previously. Therefore, an environmental impact report (EIR) is required.

- d. **MAY have** a “potentially significant effect on the environment” or “potentially significant effect unless mitigated” impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards and 2) has been addressed by mitigation measures based on the earlier analysis as described on the attached sheets. An Environmental Impact Report is required, but it must analyze only the effects that remain to be addressed.

- e) **Although the** proposed project could have a significant effect on the environment, because potentially effects 1) have been analyzed adequately in an earlier EIR or ND/MND pursuant to applicable legal standards and 2) have been avoided or mitigated pursuant to that earlier EIR/ND/MND, including revisions or mitigation measures that are imposed upon the project, nothing further is required.

- f) **Although the** proposed project could have a significant effect on the environment, because potentially effects 1) have been analyzed adequately in an earlier EIR or ND/MND pursuant to applicable legal standards and 2) have been avoided or mitigated pursuant to that earlier EIR/ND/MND, including revisions or mitigation measures that are imposed upon the project. **However, minor additions and/or clarifications are needed** to make the previous documentation adequate to cover the project which are documented in this Addendum to the earlier CEQA Document (Sec. 15164)

October 2014

Signature: _____

Planner:
Dept: OC Development Services
Telephone: (714) 667-

NOTE: All referenced and/or incorporated documents may be reviewed by appointment only, at the County of Orange Public Works Department, 300 N. Flower Street, Santa Ana, California, unless otherwise specified. An appointment can be made by contacting the CEQA Contact Person identified above.

Revised 2/4/2014

October 2014

Appendix H

CEQA Public Information Handout

WHAT IS CEQA?

CEQA is the California Environmental Quality Act of 1970. Enacted by the State Legislature, it provides decision makers and the public with useful information about how public and private actions affect the environment. This Act declares that it is the State's policy to "Develop and maintain a high-quality environment, now and in the future, and take all action necessary to protect, rehabilitate and enhance the environment quality of the State."

WHAT DOES CEQA REQUIRE OF ORANGE COUNTY?

CEQA requires the Orange County Environmental Planning staff to make an accurate environmental determination based on the record before the Agency, whether a project is exempt from CEQA. If a project is not determined to be exempt from CEQA, an Initial Study will have to be prepared to identify potential significant impacts of a project on the environment, and if an Environmental Impact Report is necessary, to identify alternatives and to show how potentially significant impact(s) can be mitigated.

WHY DOES CEQA REQUIRE IDENTIFICATION & DISCUSSION OF SIGNIFICANT IMPACTS?

- It allows the project applicant and the County to reduce the undesirable effects of a project.
- It allows the public an opportunity to comment on the project information and on the effects, individual or cumulative.
- It allows decision makers such as the Planning Director, Planning Commission, Subdivision Committee and Board of Supervisors to receive important information prior to determining whether the project should be approved or disapproved.



KEY TERMS USED IN THE CEQA PROCESS

ENVIRONMENT

The physical conditions that exist within the area, which will be affected by a proposed project, including but not limited to land, air, water, minerals, botanical, noise, historical or aesthetic features.

CATEGORICAL EXEMPTION (CE)

A list of classes that has been determined to not have a significant effect on the environment pursuant to section 15300 of the CEQA Guidelines. These are exempt from CEQA (see County of Orange CEQA Manual for list of CEs). Examples of Categorical Exemptions include minor repairs to existing facilities, building replacement, new construction or conversion of small structures, minor alterations of land, etc.

INITIAL STUDY (IS)

A preliminary analysis prepared by the Lead Agency (the agency with primary responsibility for project approval) to identify potentially significant environmental effects and to determine whether an Environmental Impact Report, a Negative Declaration, or a Mitigated Negative Declaration must be prepared.

NEGATIVE DECLARATION (ND)

A written statement describing the reasons why a proposed project will not have a significant adverse effect on the environment and thus does not require the preparation of an Environmental Impact Report.

MITIGATED NEGATIVE DECLARATION (MND)

The same as an ND, except it requires incorporation of mitigation measures to reduce significant adverse impacts or project design features in the Initial Study to less than significant levels.

ENVIRONMENTAL IMPACT REPORT (EIR)

A detailed report analyzing:

- The significant adverse environmental effects of a project.
- Potential measures to mitigate these effects.
- Alternatives to the project and environmental effects.
- Growth inducing impacts of the project.
- Cumulative adverse impact(s).

STEPS INVOLVED IN THE CEQA PROCESS FOR THE ORANGE COUNTY PLANNING DEPARTMENTS

I.

Projects exempt from CEQA:

Non-Projects – Not subject to CEQA because they do not fall under the term “projects” as defined by CEQA.

Statutory Exemptions – Created by the State Legislature, certain projects fall within a statutory exemption not subject to CEQA (e.g. Emergency Projects)

Categorical Exemptions – Classes of projects found by the State Secretary of Resources to not have a significant effect on the environment and have been declared exempt from CEQA (e.g. minor repairs to an existing single-family dwelling unit). The Board of Supervisors has also supplemented these classes with specific activities they have determined to not have a significant effect on the environment (e.g. oil drilling permits). If a project falls within any of the above exemption types, it proceeds through the entitlement process without further CEQA analysis.

II.

An Initial Study (IS) is prepared by the Planning staff in conjunction with other technical divisions and any interested parties. Based on the findings of the IS, the Planning staff determines the appropriate environmental document (ND, MND, Addendum or EIR). If an EIR is required, the Planning staff in consultation with the managers will identify what impact issues are to be covered and include them in a public notice called the "Notice of Preparation."

III.

If the Environmental staff decides on an ND, the Environmental planner prepares the appropriate form with little or no additional environmental study undertaken. If an MND is required, usually negotiations are entered into between the County Technical Division(s), affected agencies and the applicant to develop detailed mitigation measures to reduce adverse environmental effects.

If the Planning staff decides an EIR is required, an environmental consultant will be hired by the County or

the applicant. The consultant will work with staff to prepare an administrative document, called the "screencheck" EIR, which is reviewed by all applicable County technical divisions for adequacy. All comments received are fully analyzed and incorporated into the screencheck EIR. The screencheck EIR document may be subject to a second or possibly third screencheck review until the environmental staff is assured that all technical comments have been fully addressed and incorporated into the document as requested by the technical division. A draft EIR is then prepared based on the administrative draft and released for public review.

NDs and MND's receive 20-30 days of public review and EIRs 30-45 days, depending on the need for State review.

IV.

The EIR is reviewed by Trustee agencies, responsible agencies, residents and any interested parties. Every comment received is reviewed and responded to by the Planning staff in consultation with the CEQA consultant. At the end of the 45-day review period, Planning staff prepares the draft EIR, Responses to Comments (RTC), Facts and Findings, Statement of Overriding Consideration (if applicable) and Mitigation Monitoring and Reporting Program (MMRP), for Planning Commission action, who reviews the document for adequacy and makes recommendation to the Board for certification as meeting the requirements of CEQA at the time the project is considered for approval.

V.

For an ND, MND, Addendum or other CEQA document, once completed, it is reviewed by the appropriate decision maker (e.g. Director of Planning, Zoning Administrator, the Subdivision Committee, Planning Commission, or sometimes the Board of Supervisors); and if determined to be adequate, it is approved or certified as meeting the requirements of CEQA at the time the project is considered for approval.



Addendum #1 to Local CEQA Procedures Manual December 12, 2017

The Local CEQA Procedures Manual (“Manual”) was approved by the Board of Supervisors on October 28, 2014 and is an internal County resource tool that sets up County policies and procedures relative to CEQA processes and determinations, and references State of California (State) adopted CEQA statutes and Guidelines, but is subordinate to them. In any case of conflict between the Manual and CEQA, CEQA statutes and the CEQA Guidelines prevail.

The Manual is meant to be used in conjunction with the CEQA statutes and the CEQA Guidelines as both currently exist or may be amended from time to time after approval of the Manual. Consequently, this Addendum is to provide further clarification on the following items in the Manual:

- Environmental Analysis Checklist (Appendix G)
- Notice of Determination (NOD) Filing
- Local Categorical Exemptions

Environmental Analysis Checklist (Appendix G)

The County utilizes the most current Environmental Analysis Checklist (Appendix G) as it may be revised from time to time by the Secretary for Natural Resources, to assist in the evaluation of the potential environmental impact of any potential project. The Checklist is intended to be utilized when any activity is a) determined to be a ‘Project’ under the context of CEQA; and b) not exempt under Sec. 15260 & 15300. The Checklist, which is referenced in Section VI(B) of the Manual and included as Appendix G of the Manual, is dated October 2014. On September 27, 2016, the Office of Planning and Research (OPR) approved an amendment to the Appendix G checklist to incorporate a section specifically for Tribal Cultural Resources in accordance with AB 52. Attached is a copy of the 2017 update of the County’s Environmental Analysis Checklist, which incorporates those revisions.

Timing for Filing of Notice of Determination (NOD)

Public Resources Code Section 21152 states the following: “If a local agency approves or determines to carry out a project that is subject to this division (Division 13: Environmental Quality), the local agency shall file notice of the approval or determination within five (5) working days after the approval or determination becomes final...” Sections VII(B) and VIII(J) of the Manual identify the process for filing a NOD for a Negative Declaration, Mitigated Negative Declaration and Environmental Impact Report, respectively. The filing period for the NOD is clarified below.

Filing of NOD Following Board of Supervisors Approval: When the approving authority is the Board of Supervisors, the NOD shall be filed with the County Clerk within five (5) working days of the approval or determination.

Filing of NOD Following Director/Zoning Administrator/Planning Commission Approval: An NOD shall not be filed prior to the expiration of the fifteen (15) day appeal period for decisions made by the Zoning Administrator (ZA) or Director. According to the Zoning Code, the Planning Commission (PC) is the Board of Appeals for all decisions by the Director, and ZA. The PC is the final decision maker on such appeals, unless the CEQA determination is being appealed, in which case, both the CEQA determination and the discretionary permit application are appealable to the Board. If the PC decision is appealable due to a challenge to the CEQA determination:

- If no appeal is filed, the NOD shall be filed within 5 working days after the 15-day appeal period expires based on Orange County Codified Ordinance section 7-9-150.3(f)(3).
- If an appeal is filed, then the NOD shall be filed within five (5) working days after that appeal has been decided. This prevents a situation where two NODs would be filed, one within the appeal period and a second after the appeal is decided.

Early filing of an NOD could result in the 30-day Statute of Limitation period not being applicable. Technical deficiencies in the NOD could result in the 180-day period being applicable instead of the 30-day statute of limitations.

Filing of NOD Following Subdivision Committee Approval: An NOD shall not be filed prior to the expiration of the ten (10) day appeal period for any decisions made by the Subdivision Committee. According to the Subdivision Code, the Planning Commission (PC) is the Board of Appeals for any action of the Subdivision Committee. The Board of Supervisors is the Board of Appeals for any action by the Planning Commission or any challenge to a CEQA determination.

- If no appeal is filed, the NOD shall be filed within five (5) working days after the 10-day period expires based on OCCO section 7-9-259(a).
- If an appeal is filed, then the NOD shall be filed within five (5) working days after that appeal has been decided and any subsequent appeal period to the Board of Supervisors has expired based on OCCO 79-260(a). This prevents a situation where two NODs would be filed, one within the appeal period and a second after the appeal is decided.

To avoid any ambiguity, Lead Agency staff shall file all NODs. If the County is the approving Agency, the County agency that is heading the project will be responsible for filing the NODs.

Local Categorical Exemptions

Section V(A) of the Manual identifies projects which may be exempted from further CEQA review pursuant to the State CEQA Guidelines. The 2014 County of Orange Local CEQA Procedures Manual includes a portion of this list on page 14 of Appendix D. This memo intends to provide the complete list of local categorical exemptions to reflect current State CEQA Guidelines. Pursuant to the State CEQA Guidelines, projects will not be exempted in cases in which it is known that a significant adverse impact may occur. The *exceptions* to the categorical exemptions in Section 15300.2 of the Guidelines apply and thus, should be considered when seeking to apply a categorical exemption to a project:

1. 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. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.
2. 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.
3. 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.
4. 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.
5. 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.
6. 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.

CERTIFICATION

I hereby certify that Addendum to Local CEQA Procedures Manual #1 has been approved.



Colby Cataldi, Deputy Director, OC Public Works/OC Development Services



Richard Vuong, Planning Manager, OC Public Works/OC Development Services

Attachments:

Environmental Analysis Checklist – Appendix G (2017)

C: Joanna Chang, Land Use Manager, OC Public Works/OC Development Services
Brian Kurnow, Land Use Manager, OC Public Works/OC Development Services

Attachment 2



AGENDA STAFF REPORT

Agenda Item

ASR Control 14-001431

MEETING DATE: 10/28/14
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): All Districts
SUBMITTING AGENCY/DEPARTMENT: OC Public Works (Approved)
DEPARTMENT CONTACT PERSON(S): Shane Silsby (714) 667-9700
 Robyn Uptegraff (714) 667-3255

SUBJECT: Adoption of 2014 Local CEQA Procedure Manual and ZCA 14-01

CEO CONCUR Concur	COUNTY COUNSEL REVIEW Approved Ordinance to Form	CLERK OF THE BOARD Public Hearing 3 Votes Board Majority
-----------------------------	--	---

Budgeted: N/A **Current Year Cost:** N/A **Annual Cost:** N/A

Staffing Impact: No **# of Positions:** **Sole Source:** N/A

Current Fiscal Year Revenue: N/A

Funding Source: GF: 100% **County Audit in last 3 years:** No

Prior Board Action: 02/15/2000 #14

RECOMMENDED ACTION(S):

1. Find that the subject activities are not a project within the meaning of California Environmental Quality Act (CEQA) Guidelines Section 15378 and are therefore not subject to review under CEQA.
2. Approve and adopt the updated County of Orange Local CEQA Procedures Manual.
3. Read title of ordinance.
4. Order further reading of ordinance be waived.
5. Conduct Public Hearing.
6. Direct ordinance to be placed on agenda of the next regularly scheduled Board meeting for adoption.
7. At the next regular meeting, consider the matter, and adopt the ordinance.

SUMMARY:

Approving and adopting the updated California Environmental Quality Act (CEQA) Local Procedures Manual will provide for the interpretation of CEQA consistent with recently published court decisions, legislative amendments, and updated regulatory rule-making processes. Adopting Zoning Code ordinance amendment CA 14-01 will ensure consistency between the Zoning Code and the state law requirement that all CEQA determinations within the County of Orange are appealable to the elected Board of Supervisors.

BACKGROUND INFORMATION:

The County of Orange Local California Environmental Quality Act (CEQA) Procedures Manual (Manual) is being updated to ensure consistency with recently published court decisions, legislative amendments, and updated regulatory rule-making processes, as shown in Attachment A. In addition, the County of Orange Zoning Code is being amended to revise several sections to provide that all CEQA determinations are appealable to the Board of Supervisors (Board) in compliance with State law. Adoption of the proposed CEQA Manual update and the Zoning Code ordinance amendment will bring both of these documents into compliance with current State law.

The purpose of the CEQA Manual is to set forth the local policies and procedures of the County of Orange (County) for the implementation of CEQA. The Manual will be used in conjunction with CEQA Statutes and Guidelines. Section 21001(f) of the CEQA Statutes, and Section 15022(a) of the CEQA Guidelines, require each public agency to adopt objectives, criteria, and specific procedures consistent with CEQA and its Guidelines for administering its responsibilities under CEQA, including the orderly evaluation of projects and preparation of environmental documents. After a thorough review, the updated Manual consists of revisions to the County's CEQA implementation procedures Manual last approved by the Board on February 15, 2000, as shown in Attachment B.

The Manual is an internal County resource tool that sets up County policies and procedures relative to CEQA processes and determinations, which references State of California (State) adopted CEQA statutes and guidelines, but remains subordinate to them. California Public Resource Code (PRC) Section 21151 and CEQA Guidelines Section 15090 provide for delegation of authority to approve CEQA documents, but Section 15074 provides for appeal of that determination to the Board as set forth in both the PRC Section 21151 and CEQA Guidelines Section 15090(b), as shown in Attachment F. The proposed revisions to the Manual and the zoning code are responsive to these State adopted changes in CEQA statutes and the Guidelines that have occurred since the year 2000.

The updated Manual provides for all CEQA matters within its jurisdiction to be appealable to the Board. This is a significant change to the current Manual, which previously allowed the Planning Commission (PC) to determine the adequacy of CEQA documentation prepared for projects, for which the PC is the decision-making body, and enables the PC to serve as the appeals board for CEQA determinations made by entities other than the Board such as the Subdivision Committee, Zoning Administrator, and the Director of OC Development Services.

The proposed Zoning Code ordinance amendment will revise Sections 7-9-5, 7-9-150.4, and 7-9-157 to provide that all CEQA matters are appealable to the Board. This will ensure compliance with State law and consistency with the updated Manual. It should be noted that the County has followed existing State Laws regarding CEQA appeals in spite of the previous inconsistent language in the County's Zoning Code.

Another update includes the Job Order Contract and On-Call contract provisions discussed in Section III (D) of the Manual, which were added to ensure consistency with the approved 2012 County Contract Policy Manual with regard to ‘delegation of authority’ given to the County Purchasing Agent in the context of making CEQA determinations. Additionally, in limited circumstances, County officials other than the Board, and bodies that are subordinate to the Board, may need to take actions that are subject to CEQA. In the updated Manual, the Director of OC Public Works or designee, the Director of OC Parks or designee, and the Director of OC Waste & Recycling or designee were included in the approval list.

Section VIII (D) of the Manual was also broadened to address electronic communications (e.g. fax, internet, and e-mails), including its consistency with other County documents, such as the County's Zoning Code. Minor revisions to the Manual include grammatical and typographical corrections as well as changes to the organizational structure, titles, etc.

The following departments and agencies were invited to participate in the CEQA Manual update process: OC Waste & Recycling, OC Community Resources, Health Care Agency, OC Flood, OC Road, OC Operations & Maintenance, OC Watersheds and John Wayne Airport (JWA). JWA, OC Flood, OC Waste & Recycling provided comments. These comments were reviewed by OC Development Services and County Counsel and were incorporated into the updated Manual. The proposed update was provided to the Development Processing Review Committee (DPRC) and the Building Industry Association Orange County Chapter (BIA/OC) for review and comment. Comments were received by both the DPRC and BIA/OC. One of the comments received regarded the appeal process set forth in the Manual and the potential inconsistency with provisions in the County's Zoning Code. The Manual indicates the Board of Supervisors shall constitute the final Board of Appeals for CEQA determinations and current provisions in the County's Zoning Code do not. This inconsistency is being addressed through the proposed Zoning Code ordinance amendment CA 14-01 texts, as shown in Attachment C. The remaining comments submitted were addressed by proposed revisions to the Manual.

County Counsel has reviewed the Manual update, and proposed Zoning Code ordinance amendment CA 14-01, and has recommended adoption of both by the Board. There are no significant adverse impacts anticipated from any proposed updates to the Manual.

Planning Commission Action: On April 23, 2014, the Planning Commission conducted a public hearing and voted to recommend adoption of the updated County of Orange Local CEQA Procedures Manual. Subsequently, on August 27, 2014, the Planning Commission conducted a public hearing to review revisions to the Manual update and the proposed Zoning Code ordinance amendment CA 14-01, as shown in Attachment G. The Planning Commission voted unanimously to recommend adoption of the County of Orange Local CEQA Procedures Manual and Zoning Code ordinance amendment CA 14-01 by the Board. The Planning Commission Staff Reports and Minutes are attached as Attachments D and E.

Compliance with CEQA: These activities are not a project within the meaning of project in California Environmental Quality Act (CEQA) Guidelines Section 15378 and are therefore not subject to CEQA, since they do not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The approval of this action does not commit the County to a definite course of action in regard to a project since this is the adoption of a Manual and Zoning Code ordinance amendment regarding procedures. The proposed activities are therefore not subject to CEQA.

FINANCIAL IMPACT:

N/A

STAFFING IMPACT:

N/A

ATTACHMENT(S):

- Attachment A - Draft Local CEQA Procedures Manual 2014
- Attachment B - 2000 CEQA Procedures Manual - Strikethrough
- Attachment C - Proposed Zoning Code Amendment CA 14-01 Texts
- Attachment D - OC Development Services Staff Reports
- Attachment E - Planning Commission Minutes
- Attachment F - CEQA Code Sections Referenced
- Attachment G - Draft Board Ordinance

ORANGE COUNTY BOARD OF SUPERVISORS
MINUTE ORDER
October 28, 2014

Submitting Agency/Department: OC PUBLIC WORKS

Public Hearing to consider first reading of "An Ordinance of the County of Orange, California Amending Sections 7-9-5, 7-9-150.4(a) and 7-9-157 of Article 2 of Division 9 of Title VII of the Orange County Codified Ordinances Regarding the Administrative Appeal of CEQA Determination to the Orange County Board of Supervisors"; set second reading and adoption for 11/18/14, 9:30 a.m; adopt updated Local CEQA Procedures Manual and make California Environmental Quality Act findings - All Districts

The following is action taken by the Board of Supervisors:

APPROVED AS RECOMMENDED OTHER

Unanimous (1) NGUYEN: Y (2) MOORLACH: Y (3) SPITZER: Y (4) NELSON: Y (5) BATES: X

Vote Key: Y=Yes; N=No; A=Abstain; X=Excused; B.O.=Board Order

Documents accompanying this matter:

- Resolution(s)
- Ordinances(s)
- Contract(s)

Item No. 42

Special Notes:

Copies sent to:

OCPW: Lina Navarrette
Eric Swint

10-31-14



I certify that the foregoing is a true and correct copy of the Minute Order adopted by the Board of Supervisors, Orange County, State of California
Susan Novak, Clerk of the Board

By: _____
Deputy

Attachment 3



2020

**LOCAL CEQA PROCEDURES
MANUAL**

**COUNTY OF ORANGE
OC PUBLIC WORKS
OC DEVELOPMENT
SERVICES/PLANNING**

FINAL DRAFT

2020 LOCAL CEQA PROCEDURES MANUAL

COUNTY OF ORANGE OC PUBLIC WORKS OC DEVELOPMENT SERVICES/PLANNING

**Adopted by the Orange County Board of Supervisors
Month, 2020**

Michelle Steel
Chairwoman
Second District

Andrew Do
Vice Chair
First District

Lisa Bartlett
Supervisor
Fifth District

Donald Wagner
Supervisor
Third District

Doug Chaffee
Supervisor
Fourth District

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FINAL DRAFT

ABBREVIATIONS AND ACRONYMS

The following table provides the definitions of the abbreviations and acronyms that are used in this Manual.

Table 1: Abbreviations and Acronyms

Abbreviation/Acronym	Definition
– A –	
A-E	Architecture – Engineer
Appendix G Checklist	CEQA Guidelines Appendix G Checklist
ASR	Agenda Staff Report
– B –	
BOS	Board of Supervisors
– C –	
CCR	California Code of Regulations
CE	Categorical Exemption
CEO	County Executive Office
CEQ	Council on Environmental Quality
CEQA	California Environmental Quality Act (see Statute)
CEQA Info Request Form	CEQA Environmental Information Request Form
COA	Condition of Approval
County	County of Orange
County Counsel	Office of the County Counsel
– D –	
DEIR	Draft Environmental Impact Report
– E –	
EE	Emergency Exemption
EIR	Environmental Impact Report
Exemption	Exemption from CEQA
– F –	
FEIR	Final Environmental Impact Report
FOF	Findings of Fact
– G –	
GHG	Greenhouse Gas Emissions
Guidelines	CEQA Guidelines (California Code of Regulations, Section 15000, et seq.)

ABBREVIATIONS AND ACRONYMS

Abbreviation/Acronym	Definition
	– H –
	– I –
	– J –
JOC	Job Order Contracts
JWA	John Wayne Airport
	– K –
	– L –
Legislature	California State Legislature
LCP	Local Coastal Program
Local CEQA Manual	County of Orange 2020 Local CEQA Manual
	– M –
Manual	2020 Local CEQA Procedures Manual
ME	Ministerial Exemption
MEIR	Master Environmental Impact Report
MM	Mitigation Measure
MMRP	Mitigation Monitoring and Reporting Program
MND	Mitigated Negative Declaration
MOU	Memorandum of Understanding
	– N –
NAHC	Native American Heritage Commission
NCL	Non-County Lead
ND	Negative Declaration
NEPA	National Environmental Policy Act
NOA	Notice of Availability
NOC	Notice of Completion & Environmental Document Transmittal
NOD	Notice of Determination
NOE	Notice of Exemption
NOI	Notice of Intent
NOP	Notice of Preparation
	– O –
O&M	Operations and Maintenance
OC	Orange County

ABBREVIATIONS AND ACRONYMS

Abbreviation/Acronym	Definition
OCFA	Orange County Fire Authority
OCFCD	Orange County Flood Control District
OCHCA	Orange County Health Care Agency
OCPW	Orange County Public Works
OCWR	Orange County Waste and Recycling
OPR	Governor’s Office of Planning and Research
Ordinance	County Ordinance
– P –	
PA	Planning Application
PC	Planning Commission
PCC	Public Contracts Code
PDF	Project Design Feature
PP	Initial Study Identifier for a Public Project in Orange County’s Land Management System (previously referred to as IP)
PRC	Public Resources Code
PS&E	Plans, Specifications and Engineering
– Q –	
QA	Quality Assurance
– R –	
RTC	Response to Comments
– S –	
SCAG	Southern California Association of Governments
SCAQMD	South Coast Air Quality Management District
Statutes	CEQA Statute (Public Resources Code, Section 21000 et seq.) (commonly referred to as “The Statutes”)
State	State of California
SE	Statutory Exemption
SOC	Statement of Overriding Considerations
– T –	
Threshold	Threshold of Significance
T&M	Time and Materials
TCR	Tribal Cultural Resources
– U –	

ABBREVIATIONS AND ACRONYMS

Abbreviation/Acronym	Definition
	– V –
	– W –
	– X –
	– Y –
	– Z –
Zone	Zoning District (ex. A1 “General Agricultural” District)
ZA	Zoning Administrator

FINAL DRAFT

CHAPTER 1.0 - PURPOSE AND INTENT

Introduction

The purpose of the 2020 Local CEQA Procedures Manual (Manual) is to set forth the local policies and procedures of the County of Orange (County) for the implementation of the California Environmental Quality Act (CEQA). This Manual is meant to be used in conjunction with the CEQA Statutes and the CEQA Guidelines, as both currently exist or may be amended from time to time after approval of this Manual. In any case of conflict between this Manual and CEQA, CEQA will prevail. The CEQA Guidelines are hereby incorporated by reference within this document, pursuant to Guidelines Section 15022(d). Where a topic is adequately addressed in CEQA and/or the Guidelines, it is not separately discussed in this document. The Manual is intended to serve as a guide for County staff, applicants, and private environmental consultants on internal County procedures and to comply with CEQA Statutes and the CEQA Guidelines.

This Manual supersedes any previously adopted Board of Supervisors Resolutions or Minute Orders concerning CEQA procedures.

The Manual applies to all activities undertaken by or approved by the County and all special districts governed by the Orange County Board of Supervisors (BOS). The Manual does not, nor is it intended to, add to or modify any legal requirements contained in CEQA.

Signed into law in 1970, CEQA requires State and local government agencies and special districts to inform decision makers and the public about the potential environmental impacts of proposed projects prior to their approval, and to reduce those environmental impacts to the extent feasible.

PRC Sections 21000 and 21001 sets forth the legislative intent of CEQA:

- The maintenance of a quality environment for the people of this State now and in the future is a matter of Statewide concern.
- It is necessary to provide a high-quality environment that at all times is healthful and pleasing to the senses and intellect of man.
- There is a need to understand the relationship between the maintenance of high-quality ecological systems and the general welfare of the people of the state, including their enjoyment of the natural resources of the State.

- The capacity of the environment is limited, and it is the intent of the Legislature that the government of the State take immediate steps to identify any critical thresholds for the health and safety of the people of the State and take all coordinated actions necessary to prevent such thresholds being reached.
- Every citizen has a responsibility to contribute to the preservation and enhancement of the environment.
- The interrelationship of policies and practices in the management of natural resources and waste disposal requires systematic and concerted efforts by public and private interests to enhance environmental quality and to control environmental pollution.
- It is the intent of the Legislature that all agencies of the State government which regulate activities of private individuals, corporations, and public agencies which are found to affect the quality of the environment, shall regulate such activities so that major consideration is given to preventing environmental damage, while providing a decent home and satisfying living environment for every Californian.
- Develop and maintain a high-quality environment now and in the future, and take all action necessary to protect, rehabilitate, and enhance the environmental quality of the State.
- Take all action necessary to provide the people of this State with clean air and water, enjoyment of aesthetic, natural, scenic, and historic environmental qualities, and freedom from excessive noise.
- Prevent the elimination of fish or wildlife species due to man's activities, ensure that fish and wildlife populations do not drop below self-perpetuating levels, and preserve for future generations representations of all plant and animal communities and examples of the major periods of California history.
- Ensure that the long-term protection of the environment, consistent with the provision of a decent home and suitable living environment for every Californian, shall be the guiding criterion in public decisions.

- Create and maintain conditions under which man and nature can exist in productive harmony to fulfill the social and economic requirements of present and future generations.
- Require governmental agencies at all levels to develop standards and procedures necessary to protect environmental quality.
- Require governmental agencies at all levels to consider qualitative factors as well as economic and technical factors and long-term benefits and costs, in addition to short-term benefits and costs and to consider alternatives to proposed actions affecting the environment.

Section 1.1 Lead Agency

Lead Agency means the public agency which has the principal responsibility for carrying out or approving a project. The Lead Agency will decide whether an EIR or Negative Declaration/Mitigated Negative Declaration will be required for the project and will cause the document to be prepared (Guidelines Section 15367). The Lead Agency at the County is the agency that is carrying out the project. OC Development Services/Planning provides CEQA support for the County Lead Agency.

Note: Public agency includes any State agency, board, or commission and any local or regional agency, as defined in these Guidelines. It does not include the courts of the State. This term does not include agencies of the federal government (Guidelines Section 15379).

The Lead Agency analyzes and prepares environmental documents for all discretionary activities approved by the County that have the potential to result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to Guidelines Section 15378. As Lead Agency, the County and its related entities such as the Orange County Flood Control District, also approve a variety of projects including flood facilities, roads, bridges, parks and other construction activities for which it prepares required environmental documents.

Section 1.2 Responsible Agency

Responsible Agency means a public agency that proposes to carry out or approve a project, for which a Lead Agency is preparing or has prepared a CEQA document. For the purposes of CEQA, the term “Responsible Agency” includes all public agencies other than the Lead Agency which have discretionary approval power over the project (Guidelines Section 15381).

Note: Public agency includes any State agency, board, or commission and any local or regional agency, as defined in these Guidelines. It does not include the courts of the State. This term does not include agencies of the federal government (Guidelines Section 15379).

As a Responsible Agency under CEQA, the County reviews environmental documents prepared by other lead agencies or jurisdictions to reduce or avoid impacts on land uses and ensure the Lead Agency's environmental document is adequate to fulfill the requirements of CEQA, within the scope of the County's jurisdiction as Responsible Agency. In its capacity as a Responsible Agency, the County may coordinate with the Lead Agency and is authorized to rely on a CEQA document certified or adopted by the Lead Agency.

Section 1.3 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 (Guidelines Section 15383).

Section 1.4 Trustee Agency

Trustee Agency means a State agency having jurisdiction by law over natural resources affected by a project which are held in trust for the people of the State of California. In accordance with Guidelines Section 15386, Trustee Agencies include:

- The California Department of Fish and Wildlife 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;
- The State Lands Commission with regard to State owned "sovereign" lands such as the beds of navigable waters and State school lands;
- The State Department of Parks and Recreation with regard to units of the State Park System; and;
- The University of California with regard to sites within the Natural Land and Water Reserves System.

Any public agency that has "jurisdiction by law" as defined (Guidelines Section 15366) or a Trustee Agency must be consulted by the Lead Agency in preparing an EIR, ND or MND, even if the agency has no discretionary authority over the project. Examples include the Orange County Local Agency Formation Commission (LAFCO), California Department of Transportation

(CALTRANS), California Department of Fish & Wildlife (CDFW), Federal Highway Authority (FHA) and the Orange County Airport Land Use Commission (ALUC) for Orange County.

Section 1.5 OC Public Works/OC Development Services/Planning Division Purpose, Roles and Responsibilities

OC Development Services/Planning has the primary responsibility of coordinating the local implementation of CEQA for private and public projects, and review of Non-County Lead private and public projects for which the County of Orange is not the Lead Agency.

- Private projects are those sponsored by private property owners, developers, etc. that are subject to the planning application review and approval process, and represent discretionary actions. Refer to Chapter 6.0 for details on the private project initiation process.
- Public projects are those sponsored by public agencies, where the Lead Agency is the County of Orange. Refer to Chapter 7.0 for details on the public project initiation process.
- Non-County Lead projects are those projects, either public or private, that are not subject to the County review and approval process, but require comments from applicable County agencies that will be consolidated by OC Development Services/Planning. Refer to Chapter 8.0.

Following are typical responsibilities of OC Development Services/Planning:

- Review scopes of work of proposed public projects for CEQA completeness;
- Comment on pre-application planning application reviews;
- Consult with County agencies regarding CEQA level of compliance;
- Quality Assurance (QA) peer-reviews of consultant-prepared CEQA documents and supporting technical studies for public and private projects;
- Coordination with Office of the County Counsel on revisions to CEQA documentation;
- Prepare and/or review the CEQA determination portion of Planning Commission (PC) staff reports, Zoning Administrator reports, Subdivision Committee reports; and,

- Prepare and/or review language on the CEQA Recommended Action and CEQA Compliance portion of BOS ASRs.

Section 1.6 County CEQA Document Quality Assurance Peer-Review Process

OC Development Services/Planning and Office of the County Counsel (County Counsel) have a formalized quality assurance Quality Assurance (QA) peer-review process for reviewing environmental documentation prepared by environmental consultants. This process reflects standard third party reviews. The purpose of this process is to verify the following:

- Compliance with CEQA Statutes and Guidelines;
- The “whole of the action” of a project has been captured in a project description; and,
- Potential impacts to the environment are accurately and thoroughly described and analyzed.

Table 2 outlines the process for completing QA peer-reviews of CEQA documents prepared by environmental consultants.

Table 2: County QA Peer-Review Process

Order	Component	Process
1	CEQA Environmental Information Request Form (Public projects only)	County Lead Agency submits a CEQA Environmental Information Request Form (See Appendix A) and any supporting documents to OC Development Services/Planning to initiate CEQA review of the proposed project
2	CEQA Environmental Request Form Submission (Public projects only)	OC Development Services/Planning receives a CEQA Environmental Information Request Form, with supporting documents, and logs it into the Land Management System
3	CEQA Determination (Public projects only)	OC Development Services/Planning in collaboration with County Counsel, if applicable, reviews CEQA Environmental Information Request Form and supporting documents, and determines appropriate CEQA documentation (i.e. not a project, exemption, ND, MND, EIR, or other CEQA document) for the proposed project.
4	CEQA Document Submission	Depending on the nature of the project, County Lead Agency (public projects) or Applicant (private projects)-may need to contract with a consultant ¹ to

¹ See Chapter 6 on private project initiation process and Chapter 7 on public project initiation process.

Order	Component	Process
		prepare the appropriate CEQA document, which is then submitted to OC Development Services/Planning for review.
5	OC Development Services/Planning QA Peer-Review	OC Development Services/Planning performs a QA peer-review of the CEQA document, which includes revisions, edits, and comments to ensure compliance with CEQA Guidelines
6	County Counsel QA Peer-Review	County Counsel receives the QA peer-reviewed document and reviews OC Development Services/Planning's revisions and comments
7	Consolidate Comments	OC Development Services/Planning combines comments into a single CEQA document
8	Return CEQA Document	OC Development Services/Planning returns the CEQA document to the County Lead Agency (for public projects) or Applicant (for private projects) for revision
9	Address Comments	County Lead Agency or Applicant will work with OC Development Services/Planning and Consultant to ensure all comments are adequately addressed in the CEQA document.
10	Finalize CEQA Document	Once all comments are addressed, County Lead Agency or Applicant will finalize the CEQA document and coordinate with OC Development Services/Planning on public review process.

CHAPTER 2.0 - NATIONAL ENVIRONMENTAL POLICY ACT

National Environmental Policy Act (NEPA) documentation is required for projects that are carried-out, financed, or approved in whole or in part by a federal agency. OC Development Services/Planning does not review NEPA documents; however, if the project requires joint NEPA and CEQA documents, OC Development Services/Planning will provide consultation.

The NEPA of 1969 and the Environmental Quality Improvement Act of 1970 recognized that nearly all federal activities affect the environment in some way, and mandated that federal agencies must consider the environmental effects of their actions during their planning and decision-making processes.

The Council on Environmental Quality (CEQ) is a division of the Executive Office of the President that coordinates federal environmental efforts in the United States and works closely with agencies and other White House offices on the development of environmental and energy policies and initiatives. The CEQ oversees NEPA implementation, principally through issuing guidance and interpreting regulations that implement NEPA's procedural requirements. CEQ also reviews and approves federal agency NEPA procedures, approves alternative arrangements for compliance with NEPA for emergencies, helps to resolve disputes between federal agencies and with other governmental entities and members of the public, and oversees federal agency implementation of the environmental impact assessment process and coordinates when agencies disagree over the adequacy of such assessments.

Note: There are specific circumstances when joint NEPA and CEQA documents are prepared for a project and other circumstances when separate NEPA and CEQA documents are prepared. When NEPA and CEQA documentation is necessary, the CEQA Guidelines provides the necessary requirements. (Refer to Guidelines Sections 15220 through 15229).

CHAPTER 3.0 - CEQA GUIDELINES

Introduction

The Governor's Office of Planning and Research (OPR) shall prepare and develop proposed Guidelines for the implementation of CEQA by public agencies. The Guidelines include objectives and criteria for the orderly evaluation of projects and the preparation of environmental impact reports and negative/mitigated negative declarations in a manner consistent with CEQA (PRC Section 21083(a)). Appendix B of this Manual includes a flowchart to illustrate the CEQA Process.

Section 3.1 Overview of CEQA Guidelines

All public agencies shall adopt by ordinance, resolution, rule, or regulation, objectives, criteria, and procedures for the evaluation of projects and the preparation of environmental impact reports and negative/mitigated negative declarations pursuant to CEQA. The objectives, criteria, and procedures shall be consistent with the Legislative intent outlined in Chapter 1.0 (PRC Section 21082).

Pursuant to Guidelines Section 15002(b), the Guidelines state that CEQA applies to government actions including the following:

- Activities directly undertaken by a governmental agency
- Activities financed in whole or in part by a governmental agency
- Private activities which require approval from a governmental agency

Section 3.2 CEQA Guidelines Implementing Procedures

In accordance with State law, this Manual is consistent with the CEQA Guidelines' implementing procedures (Guidelines Section 15022(a)). In accordance with the Guidelines, this Manual includes procedures for:

- Identifying the activities that are exempt from CEQA. These procedures contain:
 - Evaluation of the proposed activity to determine if there is no possibility that the activity may have a significant effect on the environment
 - Review of a list of projects or permits over which the public agency has only ministerial authority

- Review of a list of specific activities which the public agency has found to be within the categorical exemptions established by these Guidelines
- Review of recent statutory exemptions for applicability to the specific project type.
- Conducting Initial Studies
- Preparing Negative Declarations
- Preparing draft and final EIRs
- Consulting with and obtaining comments from other public agencies and members of the public with regard to the environmental effects of projects
- Assuring adequate opportunity and time for public review and comment on the Draft EIR or Negative Declaration
- Evaluating and responding to comments received on environmental documents
- Assigning responsibility for determining the adequacy of an EIR or Negative Declaration
- Reviewing and considering environmental documents by the person or decision-making body who will approve or disapprove a project
- Filing documents required or authorized by CEQA and the Guidelines
- Providing adequate comments on environmental documents which are submitted to the public agency for review
- Assigning responsibility for specific functions to particular units of the public agency
- Providing time periods for performing functions under CEQA

Section 3.3 CEQA Guidelines Appendix G Checklist

As part of the CEQA compliance process, an Initial Study is prepared to identify impacts associated with a proposed project by utilizing Appendix G Environmental Checklist Form of the CEQA Guidelines, which is located at the California Natural Resources Agency website. In addition, the County Environmental Checklist template which mirrors Appendix G and includes additional project specific information, is to be utilized for public and private projects, and is available at the OC Development Services Document Library website.

Note: The County Environmental Checklist template may be revised periodically due to changes in State law, court cases, and updated practices in the CEQA practice community.

The checklist contains questions used to determine potential impacts according to a pre-defined set of topical environmental issues. The environmental topical factors are as follows:

- Aesthetics
- Agriculture & Forestry Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Energy
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards & Hazardous Materials
- Hydrology & Water Quality
- Mandatory Findings of Significance
- Land Use & Planning
- Mineral Resources
- Noise
- Population & Housing
- Public Services
- Recreation
- Transportation
- Tribal Cultural Resources
- Utilities & Service Systems
- Wildfire

Section 3.4 Laws Required for Inclusion in CEQA

During the CEQA review process, other laws and regulations, in addition to the Guidelines must be analyzed. Listed below are a few examples of laws and regulations, but additional laws and regulations may also be included in the CEQA document:

- Local Regulations to be considered may include the General Plan, Zoning Code and Codified Ordinance, and Specific Plan
- State Laws to be considered include AB 52 and SB 18 (Native American Consultation), and regulations implemented by California Department of Fish and Wildlife

- Federal Laws to be considered may include the federal Endangered Species Act, and regulations implemented by United States Department of Fish and Wildlife, and Federal Emergency Management Agency
- SB 743 provisions to be considered by utilizing the Vehicles Miles Traveled (VMT) recommendations outlined by the Governor's Office of Planning and Research (OPR) to assist with the evaluation of projects within unincorporated Orange County.
- Recently approved legislation and case studies related to exemptions and the CEQA review process.

Section 3.5 Native American Tribal Consultation

Native American consultation is governed by two laws: Assembly Bill 52 (AB 52) and Senate Bill (SB 18) enacted to encourage the involvement of California Native American Tribes, as defined in PRC Section 21073, in proposed projects.

AB 52 was enacted on September 17, 2017, to promote the involvement of California Native American Tribes in the decision-making process when it comes to identifying potential impacts to Tribal Cultural Resources and developing mitigation for impacts to resources of importance to their cultures by adding a new topical environmental issue to the Appendix G checklist.

SB 18 was enacted on January 1, 2005, to consult with the California Native American Tribes through the Native American Heritage Commission (NAHC) related to adopting or amending a general plan or specific plan and land designated or proposed to be designated as open space, for the preservation of, or the mitigation of impacts to, specified Native American places, features, and objects.

The information from the consultation process would be discussed in the Cultural Resources and Tribal Cultural Resources section, of the environmental document. Table 3 illustrates the applicability, process and timeline for AB 52 and SB 18 consultation. Additional details can be found on the California Native American Heritage Commission website.

Table 3: Summary of AB 52 and SB 18 Process

Item	AB 52	SB 18	Note
Trigger	CEQA Projects	Planning Projects	<u>CEQA Projects</u> : Projects with ND, MND, or EIR <u>Planning Projects</u> : General Plans, Specific Plans, and Amendments thereto, Open Space Designations, and adoption or amendment of a Local Coastal Program
Applicable	CEQA Lead Agency	Cities/Counties	<u>AB-52</u> : Lead agencies include Cities, Counties, Special Districts, etc. <u>SB-18</u> : Cities and Counties only
Consultation List	From Tribes with a “standing” Notification Request for all Projects	Provided by NAHC upon City/County Request Cities and Counties then Initiate Contact	Same Tribes may have multiple mailing addresses
Timeline	14 Day Notification to Tribe by Lead Agency 30 Days for Tribe to Respond 30 Days for Lead Agency to Initiate Consultation <i>See Public Resources Code Section 21080.3.1</i>	30 Days for NAHC to Provide Consultation List Cities/Counties Notify Tribes (no specified period) 90 Days for Tribes to Request Consultation	<u>AB-52</u> : Timeline can be reduced if agreed to by Tribes <u>SB-18</u> : Timeline can be reduced if agreed to by Tribes

Section 3.6 Vehicle Miles Traveled Analysis

Senate Bill (SB) 743, signed in 2013, changed the way transportation studies are conducted in CEQA documents. Vehicle miles traveled (VMT) replaces motorist delay and level of service (LOS) as the metric for impact determination. VMT is the product of the daily trips generated by a new development and the distance those trips travel to their destinations.

In December 2018, OPR provided a Technical Advisory (TA) on Evaluating Transportation Impacts in CEQA, which provides advice and recommendations on employing VMT as the metric of transportation impact, including recommended thresholds of significance and is intended to provide substantial evidence for the thresholds proposed therein. In January 2019, the Natural Resources Agency and the Governor's Office of Planning and Research (OPR) codified SB 743 into the Public Resources Code (PRC) and the CEQA Guidelines.

CEQA Guidelines Section 15064.3, states the criteria for analyzing transportation impacts using VMT as it relates to land use projects, transportation projects, as well as, qualitative analysis if existing models or methods are not available to estimate the vehicle miles traveled for the particular project being considered, and the appropriate methodology to evaluate a project's vehicle miles traveled.

Guidelines for Evaluating Vehicles Miles Traveled Under CEQA , attached hereto as Appendix C, serves as a guide for application and substantial evidence for the County of Orange's adopted project screenings, significance thresholds and mitigation strategies modeled after OPR's Technical Advisory, for CEQA transportation studies; however, as in previous CEQA practice, the applicant/project proponent will still be required to provide traffic analysis that is specific to the proposed project to be reviewed and approved by the County.

Section 3.6.1 Definition of Region

VMT is a regional effect not defined by roadway, intersection, or pathway. In line with the TA, the region, for purposes of VMT analysis and establishing the baseline VMT against which a project will be compared, shall be the entire County of Orange.

Section 3.6.2 Project Screening

Project screening is conducted as the initial step. Screening thresholds identify when a project should be expected to cause a less than significant impact without conducting a detailed VMT study analysis. The TA suggests that VMT impacts may be screened out using considerations including project size, maps, transit availability, and provision of affordable housing. If the

project meets any one of the screening criteria for VMT specified under Section 3.6.2, the project may be presumed to create a less than significant impact and no VMT analysis would be required.

Land Development Projects

The OPR Technical Advisory acknowledges that conditions may exist under which a land development project would have a less than significant impact, thus screened out from VMT analysis. These may be size, location, proximity to transit, or trip-making potential. Land development projects that have one or more of the following attributes may be presumed to create a less than significant impact.

- Project in High-Quality Transit Area
- Neighborhood retail project
- Affordable housing project
- Low VMT area project
- Redevelopment Projects and Public Facilities

Screening Threshold for Projects Near Transit Stations

Consistent with CEQA Guidelines Section 15064.3 (b)(1), projects within one-half mile of either an existing major transit stop or a stop along an existing high quality transit corridor may be presumed to cause less than significant transportation impacts, thus, screened out from VMT analysis, unless project-specific or location-specific information indicates that the project will still generate significant VMT. See Appendix C, Figure 4 depicting transit priority areas within unincorporated Orange County, including high-quality transit corridors.

Screening Threshold for Small Projects

Projects that demonstrate trip generation of less than 500 average daily trips (ADT) may be presumed to cause less than significant transportations impacts, unless the project conflicts with an adopted plan, substantially increases hazards or results in inadequate emergency access. In addition, projects that propose local-serving retail space of less than 50,000 square feet may be presumed to cause less than significant impacts. Finally, projects with 100% affordable housing units may also be presumed to create a less than significant impact on transportation, thus, screened out from VMT analysis.

Screening Thresholds for Transportation Projects

See Appendix C, Section 3.2 for a sample list of transportation projects that may be presumed to cause less than a significant impact, thus, screened out from VMT analysis.

Section 3.6.3 Significance Thresholds for Projects

Appendix C details the metrics and evidence, supporting the thresholds the County sets forth here for various land development and transportation projects. A proposed project that exceeds any of the thresholds indicated below may indicate a significant impact that requires further analysis and potentially mitigation.

Significance Thresholds for Land Development Projects²

- **Residential:** 15 percent below existing regional average VMT per capita ($17.9 \times 0.85 = 15.2$)
- **Office:** 15 percent below existing regional average VMT per employee ($24.1 \times 0.85 = 20.5$)
- **Retail:** no net increase in total VMT
- **Mixed Use:** consider each component of the project separately based on the threshold for residential, office, retail, etc. and take credit for internal capture
- **Other Land Uses (not noted above):** no net change in total VMT if consistent with the General Plan

Significance Threshold for Transportation Projects

For transportation projects that cannot be screened out, a net increase in VMT may be considered a significant impact. The threshold for significance for a capacity-enhancing roadway project is any additional VMT generated by the project either due to the increased roadway use or as a result of induced growth attributable to the project. For details regarding the calculations to determine quantitatively whether the transportation project will contribute to growth in VMT please see Appendix C, Chapter 5.

Significant Threshold for Land Plans

VMT analysis for land use plans, including general plans, area plans, or community plans, must compare the existing VMT per capita for the land plan area with the expected horizon year VMT

² Existing regional average VMT per capita is derived from OCTAM 5.0 and will need to be updated by applicants as OCTAM is updated.

per service population (population and employment). The recommended target is to achieve a lower VMT per service population in the horizon year with the proposed land plan than occurs for the existing condition.

Section 3.6.4 Mitigation Strategies for Reducing VMT

When a significant impact is identified, feasible mitigation measures that could avoid or substantially reduce that impact must be considered. CEQA Guidelines Section 15370 defines mitigations as follows:

“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.*
- e. Compensating for the impact by replacing or providing substitute resources or environments, including through permanent protection of such resources in the form of conservation easements.*

CEQA Guidelines Section 15097 states that “the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects.”

See Appendix C, Chapter 7 for mitigation considerations and potential strategies for projects. Applicants should use available resources and innovative ideas to reduce VMT.

CHAPTER 4.0 - DECISION-MAKING BODIES

Introduction

This section describes any person or group of people within the County of Orange permitted by law to approve or disapprove a project under consideration. Under CEQA, the decision-making body is defined to mean any person or group of people within a public agency permitted by law to approve or disapprove the project at issue (Guidelines Section 15356).

The appropriate decision-making bodies are based on the nature of the action taken. See Table 4 for a summary of decision-making bodies and County of Orange Zoning Code for additional details.

Table 4: Decision Making Bodies

Decision-Making Bodies for Private Projects	
Discretionary Permit/Action Type and related CEQA document	Review/Decision-Making Body
Site Development Permit	Deputy Director, OC Public Works/Manager, OC Development Services, Planning Division
Use Permit	Zoning Administrator Planning Commission
Variance Permit	Zoning Administrator Planning Commission
Combined Permits <i>(When a permit requiring a public hearing is combined with one not requiring a public hearing, the combined application shall require a public hearing).</i>	Zoning Administrator Planning Commission
Coastal Development Permit	Zoning Administrator Planning Commission
Area Plan	Planning Commission

Changed Plan or Minor Modification	Deputy Director, OC Public Works/Manager, OC Development Services/Planning
Permit Revocation	Planning Commission
Decision-Making Bodies for Private Projects	
Legislative Action	Review/Recommending Authority
General Plan Amendments	Planning Commission
Zoning Code Amendments and Zone Changes	Planning Commission
Specific Plan Adoption and Amendments	Planning Commission
Decision-Making Bodies for Public Projects	
General Plan Amendments	Board of Supervisors
Zoning Code Amendments	Board of Supervisors
Negative Declaration, Mitigated Negative Declaration and Environmental Impact Reports	Board of Supervisors
Other Environmental Documents/Determinations	See Sections 4.5-4.9, below

Section 4.1 Board of Supervisors

The Orange County Board of Supervisors (BOS) has several roles regarding CEQA compliance. These roles include (unless otherwise, stated in this Manual or per County Code) that the BOS is the final decision-maker for appeals on discretionary projects where the Planning Commission acts as a recommending body.

The actions of the BOS or other decision-maker are directed by Guidelines Section 15074 concerning adoption of a Negative Declaration and Mitigated Negative Declaration and Guidelines Section 15090 concerning certification of a final Environmental Impact Report. Additional information can be found in Section 11.8 and Section 12.8, Negative/Mitigated Negative Declaration and final Environmental Impact Reports, respectively.

Also, appeals from certifications of an EIR, adoptions of a ND/MND or a determination that a project is not subject to CEQA, go the BOS (PRC Section 21151). If the CEQA appeal is part of a land use application, the land use application will accompany the CEQA appeal to the BOS. See Chapter 5 for additional details.

Section 4.2 Planning Commission

The Orange County Planning Commission (PC) may also act as the decision-maker in the area of compliance with CEQA for all projects where an EIR, ND or MND was prepared and the decision-making body for the project is not the BOS. Please refer to Table 4 for additional details on the types of projects where the PC may act as the decision-maker.

The authority of the PC is derived from the following sources:

- A. State Planning and Zoning Law relating to the general plan, plans, zoning and subdivisions (codified in the Government Code commencing with Section 65000).
- B. Codified Ordinances of the County of Orange.
- C. The Local CEQA Manual adopted pursuant to the State Guidelines for Implementation of the California Environmental Quality Act (PRC Section 21000 et seq.).
- D. Specific policies and directives of the Orange County Board of Supervisors set forth in various resolutions and minute orders.

With regard to CEQA compliance, the PC's role includes:

1. Determining the adequacy of environmental documentation prepared for projects for which the PC is the designated decision-making body. A statement or finding regarding the adequacy of the EIR or approval or non-approval of ND or MND will be made by the PC along with the appropriate findings prior to any action by the decision-maker on the project.
2. Making recommendations as to the adequacy of environmental documentation on those projects for which the PC is required to make a recommendation to the Board of Supervisors.
3. Serving as the appeals board for environmental determinations made by County decision-makers other than the Board of Supervisors.

Section 4.3 Subdivision Committee

The Subdivision Committee is designated as an advisory agency as that term is used in the Subdivision Map Act, and has the authority to review and approve, conditionally approve, or disapprove tentative tract maps and tentative parcel maps and related CEQA documents. In addition, the Subdivision Committee reviews and makes recommendations to the Board of Supervisors on petitions for reversions to acreage. For additional details, see Subdivision Code and Manual.

Section 4.4 Zoning Administrator

The Zoning Administrator (ZA) is a decision-making body given the power to decide petitions for changes in the zoning map or use classifications for specific properties. The ZA acts on discretionary projects and related CEQA documents, which require the exercise of judgment or deliberation when the public agency or body decides to approve or disapprove a particular activity, as distinguished from situations where the public agency or body merely has to determine whether there has been conformity with applicable Statutes, ordinances, or regulations, or other fixed standards (Guidelines Section 15357). Please refer to Table 4 for additional details on the types of projects where the ZA may act as the decision-maker.

Section 4.5 OC Public Works Director

The OC Public Works Director, or the designee may approve projects and related CEQA documents. In such instances, the OC Public Works or designee, serves as the decision-maker. Approval through the Director, OC Public Works requires that the project manager set forth the required recommended actions and associated findings to the Director, or designee, to verify CEQA compliance and approval of the project. The Director may delegate this responsibility but will retain accountability for the proper and timely implementation of these procedures. Please refer to Table 4 for additional details on the types of projects where the Director may act as the decision-maker.

Section 4.6 Deputy Director, OC Public Works, OC Development Services/Planning

The Deputy Director, OC Development Services/Planning and OC Development Services/Planning have the primary responsibility for the implementation of the provisions of CEQA, the Guidelines, and BOS approved procedures. The Deputy Director may delegate this responsibility, but retains accountability for the proper and timely implementation of these procedures.

OC Development Services/Planning serves as the County's quality control center for CEQA compliance and environmental documentation, and ensures that the County adheres to the CEQA requirements.

Section 4.7 OC Procurement

The Purchasing Agent is authorized to enter into certain contracts, including contracts for public works projects, pursuant to the County Contract Policy Manual, the Design and Construction Procurement Policy Manual, Public Contracts Code (PCC) Section 22032, and Government Code Sections 20120 and 25501. The purchasing agent is generally authorized to approve and execute public works contracts as set forth in the act (PCC Section 220032(b)) by informal procedures and is therefore the decision-making body for the County for these contracts as provided in Guidelines Section 15356. The delegated authority for the County Purchasing Agent must always be verified by reference to the latest version of the Design Construction Procurement Policy Manual and Contract Policy Manual, which are updated periodically and approved by the BOS.

In limited circumstances, the County Purchasing Agent or other individual staff members, may be called upon to make CEQA determinations on projects or activities they approve, such as the assignment of a task order pursuant to an on-call Architectural - Engineering (A-E) contract approved by the BOS on a prior occasion. Where the project approved is either a "job order contract (JOC)" or an "on call contract" the approving body, whether it is the BOS, the Purchasing Agent or any other person or body, shall ensure that CEQA review is completed for each individual Contract Task Order for a JOC or an "on call contract pursuant to the delegation of authority." See Chapter 14.

The County Purchasing Agent, Director, or designee may only make the CEQA decision and approve projects that are either statutorily exempt or categorically exempt or fall within the "common-sense" exemption, or those activities which do not constitute a project for CEQA purposes, per Guidelines Sections 15260 et. seq., 15300 et seq., and 15378. In most cases, because of the dollar limitation, County Purchasing Agent, Director, or designee will be making decisions on contracts for relatively small projects which are likely to be covered by a statutory or categorical exemption (Guidelines Sections 15191-15196, 15260-15285, 15300-15333). Where other CEQA documents have been prepared and must be approved with the project, the matter should be referred to OC Development Services/Planning for review in order to determine the appropriate CEQA decision maker.

Section 4.8 OC Waste and Recycling

Interdepartmental arrangements, documented by a memorandum of understanding (MOU) between the Director, OC Public Works and the relevant department head, confer a degree of autonomy on a Department for CEQA determinations, specify respective departmental roles, and establish procedures to ensure both ongoing coordination with OC Development Services and the implementation of CEQA as described in the CEQA Statutes and Guidelines and this manual. The ultimate responsibility for implementing the provisions of CEQA for the County of Orange rests with the Director of OC Public Works. An MOU with OC Waste & Recycling (OCWR) establishes the delegation of implementation of the provisions of CEQA to OCWR for certain projects in consideration of the special qualification of OCWR staff. This authority includes the processing of CEQA documents. The BOS would be the final decision-maker for OCWR Negative Declarations, Mitigated Negative Declarations, and EIRs.

Section 4.9 Other County Departments

In limited circumstances, County officials, other than the BOS, and bodies which are subordinate to the Board may need to take actions which are subject to CEQA (see list of applicable agencies below). In those instances, the County review and staff support system will be utilized, but the ultimate decision will be made by the independent official, or appropriate County staff with expertise related to the environmental resource.

- **OC Infrastructure Programs** manages the programs for flood control, roadways, and bikeways. This includes engineering, programming, design, policy development, project development and management, and project delivery support services. Many of these projects are not required to be approved by the Board of Supervisors. In such instances, the Director, OC Public Works, or Deputy Director, OC Infrastructure Programs, or designee, serves as the decision-maker.
- **OC Facilities Design and Construction Management** provides a broad range of A-E - related services for capital improvement projects and programs for various County agencies, such as library and animal care projects for OC Community Resources. Ongoing maintenance, repairs, and improvements that are typically undertaken by the County may be reviewed as a project, on a case-by-case basis.
- **Orange County Flood Control District** is a separate governmental entity from the County and prepares, reviews, and approves CEQA documents for its own projects. However, its Board is the County Board of Supervisors.

- **Orange County Airport Commission** makes recommendations to the Orange County Board of Supervisors for development, maintenance and operation of John Wayne Airport and other airports which may be operated by the County of Orange. It advises the Board of Supervisors and makes recommendations on any matter pertaining to airports or air transportation.
- **OC Parks** encompasses regional, wilderness and historical facilities, as well as coastal areas and regional trails throughout the County of Orange.
- **Orange County Sheriff Department** acts pursuant to State laws, which may require a specific and separate action.
- **OC Health Care Agency/Environmental Health Care Division** includes officials in the OC Health Care Agency/Environmental Health Division that may act as the Local Enforcement Agency on behalf of the California Department of Resources Recycling and Recovery (CalRecycle).

CHAPTER 5.0 - DECISION APPEAL PROCESS

Introduction

The CEQA Guidelines allow for decisions on discretionary projects to be appealed. This section describes the decision-making bodies and to whom a decision may be appealed, applicable fees, and the appeal timeline. Any interested person is allowed to file an appeal. Refer to Chapter 4 for a description of decision-making bodies.

If a nonelected decision-making body of a local lead agency certifies an Environmental Impact Report, adopts a Negative/Mitigated Declaration, or determines that a project is not subject to CEQA, that certification, adoption, or determination may be appealed to the elected decision-making body, in this instance, the Board of Supervisors (PRC Section 21151).

Section 5.1 Board of Supervisors as Board of Appeals

The Board of Supervisors serves as the Board of Appeals for any CEQA determinations set forth in PRC Section 21151 and may be challenged in court (Guidelines Section 15185).

If a CEQA appeal is part of a land use project, the land use project will also accompany the CEQA appeal to the BOS. As an example, a private project may go to the ZA for a use permit. That project can get appealed to the Planning Commission. The CEQA related to that project can get appealed to the BOS. The CEQA appeal would then bring the land use that was approved by the ZA and PC to the BOS.

Section 5.2 Appeal Fees

An appeal fee, in accordance with the approved County Ordinance is made by an appellant to initiate the appeal process. Efforts to complete the appeal will be billed on a Time and Materials (T&M) basis charged to the project applicant.

Section 5.3 Appeal Schedule

Table 5 provides the processing schedule for appeals.

Table 5: Appeal Schedule

Calendar Days	Action
10	Subdivision appeal period is no later than 10 days after a final decision is rendered, if applicable.
15	Appeal must be filed with OC Development Services/Planning no later than 15 days after a final decision is rendered. If the 15 th day occurs on a County

Calendar Days	Action
	non-working day, the appeal period will be extended to the next County working day.
30	Within 30 days of filing an appeal application, the application will be reviewed, and the appellant will be notified in writing by OC Development Services /Planning.
60	<p>The Board of Appeals shall consider the appeal no later than 90 days from the end of the appeal period. The Board of Appeals may do one of the following:</p> <ol style="list-style-type: none"> 1) take action on the appeal; 2) continue the appeal; or, 3) refer the application back to the approving authority with directions.

FINAL DRAFT

CHAPTER 6.0 - PRIVATE PROJECT INITIATION PROCESS

Introduction

A private project is initiated by submitting a Discretionary Permit Application to OC Development Services/Planning. Generally, CEQA documents are not submitted on the initial submittal of a Discretionary Permit Application but may be required if previously coordinated with or deemed required during the application assessment with OC Development Services. Similarly, technical studies, which support CEQA analysis, may be required on a case by case basis.

For private projects, project proponents generally contract with an independent environmental consulting firm to prepare environmental documents for their proposed projects for County consideration. A few examples of private projects include major general plan amendment/zone changes and associated entitlements; and discretionary permits, which include, but are not limited to area plans, use permits, site development permits, variances, and coastal development permits.

OC Development Services would be considered the County Lead Agency for private projects. The County would be responsible for activities such as initiating the Tribal Consultation process and facilitating the coordination for project approval.

Section 6.1 Time of Preparation

OC Development Services/Planning encourages the applicant to incorporate environmental considerations into project conceptualization, design, and planning at the earliest feasible time (Guidelines Section 15004(b)(3)).

The environmental document preparation and review should be coordinated in a timely fashion with the existing planning, review, and project approval processes being used by each public agency. These procedures, to the maximum extent feasible, are to run concurrently, not consecutively (Guidelines Section 15004(c)).

A public agency cannot approve a project prior to completing CEQA review. CEQA requires environmental review at the earliest opportunity and before commitment to a definite course of action. CEQA should be initiated at the earliest feasible time when discussions regarding construction, building, master planning for future construction, remodeling, maintenance, leases, contracts that involve possible/future construction, maintenance, etc. occur.

Section 6.2 Pre-Application Review

OC Development Services/Planning offers optional pre-application reviews, meetings, or both at the request of a potential applicant. The purpose of the review is to identify potential issues and concerns in advance of filing a formal Discretionary Permit Application. This review identifies the potential environmental issues that would be the focus of a forthcoming CEQA document and potential project design features (PDFs) that could be incorporated into the project to avoid potentially significant impacts (Guidelines Section 15060.5).

In order to conduct a pre-application review, the following items must be submitted:

- **Create a myOCeservices account:** To create a customer portal account, please use the following website at <https://myoceservices.ocgov.com/> or call Customer Care at 714-667-8888 for more information.
- **Project Description:** It is essential that the application include an accurate, stable, and finite project description. The project description provides the basis for the analysis. The project description should include project background and location, project elements, project construction (including but not limited to construction schedule, traffic control, excavation, construction equipment) and project operation;
- **Complete application and supporting documentation:** Submit the application(s) (including any pre-application review) and supporting documentation online at <https://myoceservices.ocgov.com/>. Pre-application reviews may be distributed for review and comment to the following divisions and others, as may be applicable:
 - Building & Safety
 - OCPW Current Planning
 - Engineering Design
 - OCPW Geology/Geotechnical
 - OCPW Traffic & Development Support
 - Hydrology & Environmental Resources
 - Orange County Fire Authority
 - OC Parks

Comments are combined into a single comment matrix and submitted to the potential applicant for consideration. Based on the results of the pre-application review, the potential applicant may request a meeting with the reviewers to further discuss the results of the review. Potential benefits of a pre-application review include reduced number of application reviews, reduced duration to completion, and increased accuracy in the CEQA document.

CHAPTER 7.0 - PUBLIC PROJECT INITIATION PROCESS

Introduction

Public projects are related to property owned, leased, and/or maintained by the County. Initiation occurs when the County Lead Agency submits a CEQA Environmental Information Request Form to OC Development Services/Planning. Each Agency or Department has the responsibility for contacting OC Development Services/Planning for clarification on any proposed activities for which they are unsure. Some common activities that do not need to be reviewed for CEQA include the ordering of supplies and personnel functions.

Section 7.1 CEQA Environmental Information Request Form Review

For public projects, the County Lead Agency generally contracts with an independent environmental consulting firm to prepare environmental documents.

CEQA requires environmental review at the earliest opportunity and before commitment to a definite course of action. The CEQA Environmental Information Request Form (Appendix A - CEQA Environmental Information Request Form) must be completed by the County department/agency and submitted to OC Development Services in order to allow OC Development Services to obtain information on the proposed project and make a CEQA determination. The CEQA Info Request Form assists in gathering information for a CEQA determination to be made by OC Development Services/Planning. In particular, it is essential that the CEQA document have an accurate, stable, and finite project description. The project description in the CEQA Info Request Form should include project background and location, project elements, project construction related information (including but not limited to construction schedule, staging areas, access routes, traffic control, excavation, and construction equipment) and project operation. The CEQA Info Request Form is available in Appendix A hereto and is available on the OC Development Services website.

Potential benefits of early involvement of OC Development Services/Planning in CEQA review may include reduced timeframe for completion, reduced number of iterations and increased accuracy in the CEQA document.

Once the appropriate CEQA Document has been determined and the draft has been prepared, OC Development Services/Planning will perform a QA peer-review the CEQA document. See Table 2 for additional details on the County peer review process.

However, if changes have been made to the proposed project after the CEQA determination has been made (i.e. not a project, exemption, ND, MND, or EIR) the County department/agency shall contact OC Development Services/Planning to review the changes for consistency with the original CEQA determination. A revised CEQA determination may be made after review of the new information.

Section 7.2 Agenda Staff Report Reviews

One of the many responsibilities of OC Development Services/Planning is to conduct CEQA review for Agenda Staff Reports (ASRs), generated by County Agencies and Departments. OC Development Services/Planning receives requests to review ASRs through Comprehensive Agenda Management Solutions (CAMS) where OC Development Services/Planning is selected as CEQA reviewer or external collaborator, or directly from the agency/department ASR coordinator or project manager. The project manager should verify and comply with the applicable procedures for CEQA reviews for their respective agency/department. In particular, OC Development Services/Planning will prepare and review language on CEQA Recommended Action and CEQA Compliance sections of the ASRs in accordance with the 2020 California Environmental Act (CEQA) ASR Template Language document. The ASR Template is intended to serve as a guide and does not replace thoughtful consideration of CEQA issues. See Chapter 14 for details addressing On-Call and Job Order Contracts in ASRs.

As mandated by the BOS, all ASRs for County departments/agencies are to be cleared for CEQA by OC Development Services/Planning and approved by County Counsel; however, County agencies may also exercise their discretion to not include CEQA clearance language in select ASRs on a case by case basis.

CHAPTER 8.0 - NON-COUNTY LEAD REVIEWS

OC Development Services/Planning acts as a clearinghouse for the review of environmental documentation for which the County of Orange is not the lead agency. This process ensures that consistent, unified County feedback is reflected in all correspondence and comments on the proposed project. The County as the Non-County Lead (NCL) may provide guidance and comments for other private and public projects located both within and outside of the County that may impact County properties or residents within the unincorporated areas.

OC Development Services/Planning coordinates the review by forwarding the environmental documents and related information from other jurisdictions or special districts to appropriate County agencies/departments for review and comment. In cases when an individual County department receives an environmental document directly, they may also contact OC Development Services/Planning to coordinate countywide distribution of the environmental document. OC Development Services/Planning consolidates the comments received from the different County departments into a unified feedback and submit those comments to the Lead Agency.

Individual County agencies/departments may also directly transmit comments to the Lead Agency for highly technical topics which are solely within the purview of that agency/department, and coordinate with OC Development Services/Planning accordingly. If a County agency/department is also the responsible agency and may have a vested interest, it may be appropriate to identify such comments separately with the Lead Agency. After submittal of the comment letter, OC Development Services/Planning will continue its coordinating role, and circulate to those agencies that provided comments or have expressed an interest in receiving project updates.

CHAPTER 9.0 – DETERMINING WHETHER AN ACTIVITY IS A PROJECT

Introduction

Certain activities that are proposed may not be subject to the provisions CEQA. This chapter will explain the process for determining when an activity is or is not a project subject to CEQA. If the activity is not a project, then CEQA would not apply.

Note: Although an activity may be determined to not be a project, there are other laws, such as obtaining applicable permits, which may need to be fulfilled.

Section 9.1 Preliminary Review

Consult with OC Development Services/Planning upon initial discussions about construction, building, master planning for future construction, remodeling, maintenance, leases, contracts that involve possible/future construction, maintenance, etc. The public agency cannot approve a project (commit to a definite course of action), prior to completing CEQA review.

For additional details on the public project initiation process, see Chapter 7.

Section 9.2 Three-Step Process

In accordance with the CEQA Guidelines, proposed actions undergo a three-step review process to determine if the activity is a project subject to CEQA. See Table 6 for specific details on how OC Development Services/Planning applies the three-step process.

Table 6: Three-Step Process

Step	Description	Action
1	OC Development Services/Planning examines the activity to determine: <ol style="list-style-type: none"> a. whether the activity is a project; b. if the activity is determined to be a project, then examine whether it is qualifies for an exemption. 	Not a project - the review process does not proceed any further, as no further action is required under CEQA. Refer to Section 9.3 for the definition of not a project. Project - reviewed to determine if it qualifies for an exemption from CEQA. Refer to Chapter 10 for the exemption process.
2	If the activity is a project and is not exempt, the County Lead Agency takes the second step and prepares an Initial Study to	Prepare an Initial Study to determine the potentially significant effects of a project. Refer to Section 11.3 for the

Step	Description	Action
	determine whether the project may have a significant effect on the environment.	Initial Study process. If the project is determined to not have significant effect on the environment, a Negative/Mitigated Negative Declaration will be prepared. Refer to Chapter 11 for the Negative/Mitigated Negative Declaration process.
3	If the Initial Study shows that the project may have a significant effect, the County Lead Agency takes the third step and prepares an EIR.	If the project is determined to have significant effect on the environment, an Environmental Impact Report will be prepared. Refer to Chapter 12 for the Environmental Impact Report process.

Section 9.3 Not A Project

CEQA only applies to discretionary “projects” (as defined in CEQA). An activity is not subject to CEQA if: 1) the activity does not involve the exercise of discretionary powers by a public agency; or 2) the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment. Common “not a project” examples include:

- Approval of A-E contracts for design only. Procuring preliminary design or engineering services to explore issues such as feasibility or initial project capabilities/options would not amount to approval of a “project” for purposes of CEQA, provided that the County is not pre-committing to implementing any one design, cutting off the ability to adopt project alternatives, impose mitigation measures, or to not go forward with the project at all.
- Acquisition of land or property without any future plans or improvements that may impact the physical environment.

Refer to Appendix D (Table D-1) for a list of common activities determined to be not a project (Guidelines Section 15060(c)) and Table D-2 for a list of activities determined to be not a project by County Agencies/Departments.

Any preliminary or pre-approval agreement regarding a project should comport with CEQA Guidelines 15004.

CHAPTER 10.0 - EXEMPTION PROCESS

Introduction

When the proposed action is determined to be a project, the next step is to identify any applicable exemptions that may apply and analyze the project accordingly. This chapter identifies the types of exemptions and describes the exemption process. Sections 10.1 through 10.4 outline the various exemptions. Table 6 in Chapter 9.0 identifies the first step of the three-step process.

Section 10.1 Common Sense Exemptions

An activity may be covered by the common sense exemption when the activity is a project defined by CEQA, but seen with *certainty* that there is no possibility that the activity in question may have a significant effect on the environment (Guidelines Section 15061(b)(3)).

Section 10.2 Statutory Exemptions

Statutory exemptions are specific exemptions from CEQA granted by the State Legislature. The exemptions take several forms and apply to different types of activities and projects. Some exemptions are complete exemptions from CEQA whereas other exemptions apply to only part of the requirements of CEQA, and others apply only to the timing of CEQA compliance. Common statutory exemptions that the County utilizes that are complete exemptions from CEQA include the following:

- Rates, tolls, fees and other charges: The establishment or modification, structuring, restructuring or approval of rates, tolls, fares, and other charges by a public agency, which are for the purpose of meeting operating expenses, including employee wage rates and fringe benefits; and purchasing or leasing supplies, equipment, or materials may be considered a statutory exemption.
- Feasibility and Planning Studies: 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 (Guidelines Section 15262).
- Emergency Projects
 - a) Projects to maintain, repair, restore, demolish or replace property or facilities damaged or destroyed as a result of a disaster for which a State of Emergency has

been declared, or emergency repairs to publicly or privately-owned service facilities necessary to maintain service essential to the public health, safety or welfare (Guidelines Section 15269(a)).

- b) Emergency repairs to publicly or privately-owned service facilities necessary to maintain service essential to the public health, safety or welfare. Emergency repairs include those that require a reasonable amount of planning to address an anticipated emergency (Guidelines Section 15269(b)).
- 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, but this exclusion does not apply (i) if the anticipated period of time to conduct an environmental review of such a long-term project would create a risk to public health, safety or welfare, or (ii) if activities (such as fire or catastrophic risk mitigation or modifications to improve facility integrity) are proposed for existing facilities in response to an emergency at a similar existing facility (Guidelines Section 15269(b)).
- 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 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.

Section 10.2.1 Certified Regulatory Programs

Pursuant to Guidelines Section 15250 and 15251((i)), Certification means that a regulatory program of a State agency is exempt from the requirements to prepare an environmental document because the environmental analysis in the program is the functional equivalent of

CEQA. A functional equivalent document can be used by responsible agencies in their evaluation of the potentially significant impacts of a project proposal.

Section 10.2.2 Ministerial Exemptions

Ministerial exemptions, identified in the CEQA Guidelines as a type of statutory exemption, involve exemptions for governmental decisions involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely applies the law to the facts as presented but uses no special discretion or judgment in reaching a decision. A ministerial decision involves only the use of fixed standards or objective measurements, and the public official cannot use personal, subjective judgment in deciding whether or how the project should be carried out. Refer to Appendix E (Table E-1) for a list of common ministerial exemptions by County Agencies/Departments.

Projects that contain elements of both a ministerial action and a discretionary action are not subject to a ministerial exemption and therefore are subject to the requirements of CEQA (Guidelines Section 15268(d)).

Section 10.3 Categorical Exemptions

Categorical exemption means an exemption from CEQA, based on a finding by the Secretary for Resources, that certain classes of projects do not have a significant effect on the environment. Refer to Appendix F (Table F-1) herein for the list of the 33 classes of categorical exemptions and a description of individual categorical exemptions within each class (Guidelines Section 15354). Refer to Appendix F (Table F-2) for a list of common categorical exemptions by County Agency/Department.

Section 10.4 Exceptions to Categorical Exemptions

Pursuant to Guidelines Section 15300.2, exceptions to categorical exemptions may apply, depending on location, cumulative impact, significant impact, scenic highways, hazardous waste sites, and historical resources. Refer to Appendix F (Table F-3) herein for a table of exceptions to categorical exemptions.

Section 10.5 Exemptions Outside of CEQA

The Legislature has established CEQA exemptions for a wide range of reasons. A number of these exemptions are found outside of the CEQA Statutes and Guidelines, and most are not contained in the CEQA Guidelines.

The Governor's Office of Planning and Research prepared a Technical Advisory entitled *CEQA Exemptions Outside of the CEQA Statute*. This publication lists exemptions from CEQA located outside of Division 13 of the PRC. Please be aware that this technical advisory does not provide an exhaustive list. There may be other potentially applicable CEQA exemptions depending on the nature of the project. The technical advisory is available for review and download on the Governor's Office of Planning and Research State Clearinghouse website or see Appendix F-4.

Section 10.6 Project Approval

CEQA reviews should be conducted and completed prior to project approval and physical work being performed. Project approval means any actions, activities, ordinances, resolutions, agreements, approvals, determinations, findings, or decisions taken, adopted, or approved by the lead agency required to allow the applicant to commence the construction of the project, as determined by the Lead Agency. A project is approved when a decision is made that commits the County to a definite course of action in regard to a project (Guidelines Section 15352). Project approval is generally a separate step, taken by the decision-making body.

Section 10.7 Filing of Notice of Exemption

Prior Exemption Finding: Depending on how much time has lapsed, there is no need to file a new NOE when making prior exemption findings; however, if any project changes have occurred since the prior exemption finding, further environmental review is required. Please consult OC Development Services/Planning.

New Exemption Finding: *It is strongly recommended that a Notice of Exemption (NOE) be filed by the project manager for the County Lead Agency in a timely manner to limit the period in which a legal challenge to the project may be brought.* The filing of a NOE is not required by law and there is no time limit for filing a NOE after approval of the project, but the NOE should be filed as soon as practicable after project approval. The filing of a NOE starts a 35-day statute of limitations period on legal challenges to the agency's decision that the project is exempt from CEQA. If the NOE is not filed, a 180-day statute of limitations will likely apply (Guidelines Section 15062(d)). See Appendix G for Notice of Exemption and filing instructions (public projects).

Private Projects: Since the NOE filing is optional, applicants will be required to indicate how they would like to proceed with the NOE filing form prior to either the scheduling of the public hearing or administrative approval. The options are as follows: 1) OC Development Services to file the NOE form; 2) Applicant to file the NOE form; or 3) Applicant to acknowledge the CEQA

Guidelines on NOEs and decline to file the NOE form. Table 7 below provides a summary of filing of NOEs. See Appendix H for Notice of Exemption and filing instructions (private projects).

Table 7: Summary of Filing of Notice of Exemption

Document	Filing Timeline	Filing Location
Notice of Exemption (County form)	The filing of a NOE is not required by law, but strongly recommended to reduce the likelihood of a legal challenge. If the applicant/agency chooses to file a NOE, the NOE form shall be filed following the approval of the project by the decision-maker (i.e. Board of Supervisors, Planning Commission, Zoning Administrator, Subdivision Committee, etc.).	County Clerk-Recorder

CHAPTER 11.0 - NEGATIVE/MITIGATED NEGATIVE DECLARATION PROCESS

Introduction

When the proposed action is determined to be a project, and no exemption applies, the next step is to prepare an Initial Study to determine any potentially significant effects of a project. Each project is still individually assessed to determine if it meets the requirements of a negative or mitigated negative declaration and therefore requires further environmental review. Table 6 in Chapter 9.0 identifies the second step of the three-step process.

Negative Declaration: A Negative Declaration (ND) is the appropriate determination for projects that are subject to CEQA and are shown to have no significant effects on the environment and would have no impacts. An ND is appropriate when the initial study shows there is no substantial evidence, in light of the whole record before the County, to support a fair argument that the project may have a potentially significant effect (CEQA Guidelines Section 15070).

Mitigated Negative Declaration: A Mitigated Negative Declaration (MND) is the appropriate determination for projects which are subject to CEQA that may show some potential impacts, but mitigation measures are identified to avoid, reduce or otherwise mitigate the impacts to less than significant (CEQA Guidelines Section 15070), and to support a fair argument that the project may have a potentially significant effect (CEQA Guidelines Section 15070).

Section 11.1 Project Description and Other Required Content

Pursuant to Guidelines Section 15071, an ND/MND circulated for public review shall include the following:

- A description of the project and location. The project description provides the foundation for the analysis. It is essential that an environmental document have an accurate, stable, and finite project description.
- A proposed finding that the project will not have a significant effect on the environment;
- An attached copy of the Initial Study documenting reasons to support the finding; and
- Mitigation measures, if any, are included in the project to avoid potentially significant effects.

In particular, the project description should include a project background and location, project elements, project construction (including but not limited to construction schedule, traffic control, excavation, construction equipment) and project operation.

In addition, a statement of the objectives fulfilled by the proposed project and a general description of the project's technical, economic, and environmental characteristics should be included. A list of permits and other approvals required to implement the project and a list of related environmental review and consultation requirements required by federal, State, or local laws, regulations, or policies should also be included.

Section 11.2 Assembly Bill 52 and Senate Bill 18 Noticing

Once the project description is complete and final, a letter will be sent to each of the applicable Tribes and the Native American Heritage Commission, notifying them of the project in accordance to AB 52 and SB 18. Refer to Section 3.5 for additional details.

Section 11.3 Initial Study

The Initial Study analyzes whether the project has a potential to have a significant environmental impact and is the process used for determining the appropriate environmental document. A significant impact is a substantial adverse change in the physical environment as a result of the project. Significance can be determined by location, compliance with laws and regulations, social or economic impacts caused by a physical change in environment, cultural and tribal effects related to the site, and effects on the environment.

The County utilizes the most current Appendix G Checklist (as it may be revised from time to time), to assist in the evaluation of the potential environmental impact of a proposed project. Appendix G Checklist of the CEQA Guidelines is located at the California Natural Resources Agency website. The County of Orange's Appendix G checklist is located on the OC Development Services website.

An initial study describes/analyzes:

- Discussion of environmental impacts, using the Checklist in Appendix G;
- Facts/Reasoning behind findings; information showing impact and application to project;
- Significance criteria or threshold used;

- Project and location; environmental setting;
- Whole action (offsite, indirect, cumulative, construction impacts); and
- Impact is potentially significant if evidence exists that it may be.

The checklist is not intended to provide thresholds of significance for the final determination by the decision-maker. Thresholds of significance are within the discretion of the decision-maker and may vary depending upon the context of a particular project being analyzed.

Section 11.4 Projects of Statewide, Regional, or Areawide Significance

Pursuant to Guidelines Section 15206, a project of Statewide, Regional, or Areawide Significance can generally be defined as a project that has the potential for causing significant effects on the environment extending beyond the city or county in which the project would be located, or a project which would substantially affect sensitive wildlife habitats including but not limited to riparian lands, wetlands, bays, estuaries, marshes, and habitats for endangered, rare and threatened species, or a project which would interfere with attainment of regional water quality standards as stated in the approved areawide waste treatment management plan.

Note: Projects of Statewide, Regional, or Areawide Significance require notifying the State Clearinghouse and the Southern California Council of Governments (Guidelines Section 15206(a)(1)).

Section 11.5 Public Review Period

The public review period will depend on the type of project. See below:

- The public review period for a ND or MND shall not be less than 20 days (PRC Section 21091).
- No shortened review shall be granted for any project which is of statewide, regional, or areawide significance, as defined in Guidelines Section 15206; and,
- If the ND or MND is submitted to the State Clearinghouse for review, the review period shall be at least 30 days; however, if the ND or MND is not a project of Statewide, regional, or areawide significance, submittal to the State Clearinghouse is not necessary. However, if a State agency is lead, responsible, or a trustee, the document may need to be filed with the State Clearinghouse.

Refer to Section 11.9 Public Noticing for additional details.

Note: The review period includes the beginning and ending dates (Guidelines Section 15072(g)(2)).

Section 11.6 Mitigation Monitoring and Reporting Program

A mitigation monitoring and reporting program is required to be adopted by the decision-maker at the same time a MND has been adopted (Guidelines Section 15074(d)). This requirement ensures that the mitigation measures imposed are fully implemented.

Certain mitigation measures are completed prior to, or during, project implementation. Other measures may require monitoring over an extended period of time (e.g. mitigation measures for biological impacts that require rehabilitation of habitat). As such, this phase of the CEQA process may extend for a number of years beyond project approval and implementation (Guidelines Section 15097).

Note: The County Lead Agency of the project will be noted as the responsible party to ensure compliance of the mitigation measures.

Section 11.7 Response to Comments

At the discretion of the County Lead Agency for the project, responses to comments received during the public comment period for an ND or MND may be formally responded to through a) a stand-alone response to comments document; b) a separate response to comments section in the ND or MND; c) a response to comments attachment in the Agenda Staff Report (ASR) or staff report; and/or d) a summary of comments and responses under the 'Compliance with CEQA' section in the ASR.

Note: The County is required to consider comments received on the Negative or Mitigated Negative Declaration prior to approving a project but is not required to respond to comments (Guidelines Section 15074(b)).

Section 11.8 Adoption of Negative Declaration/Mitigated Negative Declaration

The ND or MND becomes final when the decision-maker finds the environmental document is adequate and adopts the ND or MND and approves the project.

Upon conclusion of the public comment period, should the lead agency determine that substantial revision of the ND or MND be required prior to adoption, the document shall be recirculated as provided in Guidelines Section 15073.5. A revision is considered a "substantial

revision” when a new, avoidable significant effect is identified or new mitigation measures or revisions must be added. New mitigation measures would be required because the proposed mitigation measures/project revisions will not reduce potential effects. Refer to Chapter 13 for additional information on subsequent documents.

Section 11.9 Public Noticing

This section describes the process for completing and posting the types of notices identified specific to ND/MND. This section also describes the filing timelines, depending on the approving body. CEQA documents are available for the public to view at the County Administration South (CAS) in the Civic Center Plaza and on the OC Development Services website.

Section 11.9.1 Notice of Intent to Adopt a Negative/Mitigated Negative Declaration

Once a draft ND/MND is ready for public comments, the lead agency shall provide the Notice of Intent to Adopt the proposed ND/MND by at least one of the following procedures (pursuant to Guidelines Section 15072):

- Publication at least one time in a newspaper of general circulation in the area affected by the proposed project;
- Posting of notice on and off site in the area where the proposed project is to be located; and
- Notice by direct mailing to the owners and occupants of property contiguous to the proposed project site.

Note: When a public hearing has not been determined but a date is anticipated, the anticipated date will be shown on the public hearing notice. If a hearing date has not been determined nor anticipated, the public hearing notice will state the public hearing date is to be determined. A Notice of Intent may be resent once a public hearing date becomes known. A note will be added to the notice stating this is courtesy notice and not a new notice.

Section 11.9.2 Notice of Completion & Environmental Document Transmittal

A Notice of Completion & Environmental Document Transmittal (NOC) is a State Clearinghouse document that identifies the project characteristics and indicates that an IS ND/MND has been prepared. The NOC is filed with State Clearinghouse as soon as the draft ND/MND is completed

for projects classified as Statewide, regional, or areawide significance (Guidelines Section 15206).

Section 11.9.3 Notice of Determination

A Notice of Determination (NOD) is a notice to be filed by a public agency after deciding to carry out or approving a project (Guidelines Section 15094). As noted in Table 8 below, after Director/Zoning Administrator/Planning Commission approval, and after the fifteen (15) day appeal period, if no appeal was filed during the appeal period, the NOD shall be filed within five (5) working days. After BOS approval or determination (which is a final determination), the NOD shall be filed within five (5) working days.

Note: The County Zoning Code states an approval determination by the approving authority is not final until fifteen (15) days after the date the decision is made.

Filing and posting of the NOD commences a 30 day statute of limitations for legal challenges to the approval. If the NOD is not both filed and posted, a 180 day statute of limitations period will apply instead. The project manager for the County Lead Agency shall file all NODs. See Appendices I and J for the Notice of Determination and filing instructions.

Table 8 below provides a summary of public noticing for ND and MNDs.

Table 8: Summary of Public Noticing for ND and MNDs

Document	Filing Timeline	Filing Location
Notice of Intent (County form). See Section 11.9.1 Notice of Completion & Environmental Document Transmittal, if applicable. See Section 11.5) <i>To be filed at the same time</i>	File once the draft ND/MND is ready and complete for public review	Office of Planning and Research County Clerk-Recorder
Notice of Determination (County form)	Director/Zoning Administrator/Planning Commission Approval – If no appeal is filed, the NOD shall be filed within 5 working days after the 15-day appeal period expires. Board of Supervisors Approval – File within 5 working days of approval or determination.	Office of Planning and Research County Clerk-Recorder

CHAPTER 12.0 - ENVIRONMENTAL IMPACT REPORT PROCESS

Introduction

Each project is individually assessed to determine the level of environmental review required. Table 6 in Chapter 9.0 identifies the third step of the three-step process.

The decision to prepare an Environmental Impact Report (EIR) is made during the preliminary review process or after an initial study has been prepared using the standards set forth in the CEQA Guidelines. An EIR is prepared when there may be significant direct or indirect environmental impacts associated with a project, as described in Guidelines Section 15358(a)(1-2)). A thorough environmental analysis is undertaken when there is substantial evidence that a project may have a significant effect on the environment. In these instances, an EIR, which will include various technical studies, must be prepared (Guidelines Section 15060 and 15064).

An EIR is an informational document which provides public agencies and the general public with detailed information about the effects that a proposed project is likely to have on the environment. The EIR also lists the ways in which these environmental effects might be minimized and whether there are any alternatives to the project.

Section 12.1 Project Description and Other Required Content

An EIR shall include a description of the project and location. The project description provides the foundation for the analysis. It is essential that an environmental document have an accurate, stable, and finite project description. In particular, the project description should include a project background and location, project elements, description of project construction (including, but not limited to construction schedule, traffic control, excavation, and construction equipment) and project operation.

In addition, a statement of the objectives of the proposed project and a general description of the project's technical, economic, and environmental characteristics should be included. A list of permits and other approvals required to implement the project and a list of related environmental review and consultation requirements required by federal, State, or local laws, regulations, or policies should also be included. The EIR will include a statement briefly describing the intended uses and a list of the agencies that are expected to use the EIR in their decision-making.

Section 12.2 Assembly Bill 52 and Senate Bill 18 Noticing

Once the project description is complete and final, a letter will be sent to each of the applicable Tribes and the Native American Heritage Commission, notifying them of the project in accordance to AB 52 and, if applicable, SB 18. Refer to Section 3.5 for additional details.

Section 12.3 Projects of Statewide, Regional, or Areawide Significance

Pursuant to Guidelines Section 15206, a project of Statewide, Regional, or Areawide Significance can generally be defined as a project that has the potential for causing significant effects on the environment extending beyond the city or county in which the project would be located, a project which would substantially affect sensitive wildlife habitats including but not limited to riparian lands, wetlands, bays, estuaries, marshes, and habitats for endangered, rare and threatened species, or a project which would interfere with attainment of regional water quality standards as stated in the approved areawide waste treatment management plan.

Section 12.4 Public Noticing

This section describes the process for completing and posting the various required notices that are specific to EIRs. This section will also describe the filing timelines. CEQA documents are available for the public to view at the County Administration South (CAS) in the Civic Center Plaza and on the OC Development Services website.

Section 12.4.1 Notice of Preparation

A Notice of Preparation (NOP) is a document stating that the County Lead Agency plans to prepare an EIR for the project. The purpose of the notice is to solicit guidance from agencies (such as Responsible Agencies, Trustee Agencies, the Office of Planning and Research, and involved federal agencies) as to the scope and content of the environmental information to be included in the EIR.

The NOP may be prepared with or without an Initial Study. For a NOP without an Initial Study, all environmental resources sections must be discussed in the EIR. If a NOP includes an Initial Study, those environmental resources that do not have an impact would not need to be discussed in the EIR.

Section 12.4.2 Public Scoping Meeting

Pursuant to Guidelines Section 15082(c)(1), a lead agency shall hold at least one scoping meeting for either of the following:

(1) A proposed project that may affect highways or other facilities under the jurisdiction of the Department of Transportation (Caltrans) if the meeting is requested by the department. The lead agency shall call the scoping meeting as soon as possible, but not later than 30 days after receiving the request from the Department of Transportation.

(2) A project of Statewide, regional, or areawide significance.

Section 12.4.3 Notice of Availability

The County lead agency shall provide public notice of the availability (NOA) of a DEIR at the same time as it sends a Notice of Completion & Environmental Document Transmittal (NOC) to the Office of Planning and Research. The NOA is prepared and distributed to interested parties to announce the availability of, and locations where the DEIR may be reviewed. The NOA shall be mailed to the last known name and address of all organizations and individuals who have previously requested such notice in writing, and notice shall also be given by at least one of the following procedures (pursuant to Guidelines Section 15087):

- publication at least one time in a newspaper of general circulation in the area affected by the proposed project
- posting of notice on and off site in the area where the proposed project is to be located
- notice by direct mailing to the owners and occupants of property contiguous to the proposed project site

Section 12.4.4 Notice of Completion & Environmental Document Transmittal

A Notice of Completion & Environmental Document Transmittal (NOC) is a document that identifies the project and indicates that a DEIR has been prepared. The NOC is filed with State Clearinghouse prior to start of the public review period.

Section 12.5 Public Review Period

Public review period for an EIR is as follows:

- The public review period for a Draft EIR shall not be less than 30 days nor should it be longer than 60 days, except under unusual circumstances (Guidelines Section 15105).
- The public review period shall not be less than 45 days, (unless a shorter period, not less than 30 days as approved), upon submittal of the Draft EIR to the State Clearinghouse.

Refer to Section 12.4 Public Noticing for additional details.

Section 12.6 Draft EIR

Additional required contents of an EIR should include the following:

- Table of contents or index;
- Summary including Areas of known controversy, Description of significant effects, and Issues to be resolved;
- Discussion of Cumulative Impacts;
- Project Description;
- Environmental setting;
- Consideration and Discussion of significant environmental impacts;
- Economic and Social Effects;
- Organizations and persons consulted;
- Effects not found to be significant;
- Mitigation measures proposed to minimize significant effects;
- Alternatives to the proposed project;
- Growth inducing impacts; and,
- Significant and irreversible changes (only required in certain EIRs).

Note: CEQA provides for Master, Program or Staged EIRs in certain circumstances pursuant to Guidelines Sections 15165, 15167, 15168, 15175-15179. See Table 9: Types of EIRs, for additional details.

Table 9: Types of EIRs

Activity	Type of EIR
Specific project	Project EIR Joint EIR/EIS (federal Agency involvement) Focused EIR (when tiered off Master EIR) Staged EIR
Planned, Policy, or Program	Tiered EIR Program EIR Master EIR General Plan EIR

Activity	Type of EIR
Certified EIR	Supplemental EIR* Subsequent EIR* Addendum to EIR*

* Discussed in Chapter 13

Section 12.7 Mitigation Monitoring and Reporting Program

CEQA requires that a mitigation monitoring and reporting program be adopted by the decision-maker any time a project is approved for which either an EIR or Mitigated Negative Declaration has been certified/adopted and involves the imposition of mitigation measures. This requirement ensures that the mitigation measures imposed are fully implemented.

Note: The County Lead Agency of the project will be noted as the responsible party to ensure compliance of the mitigation measures.

Certain mitigation measures are completed prior to, or during, project implementation. Others may require monitoring over an extended period of time (e.g. mitigation measures for biological impacts that require rehabilitation of habitat). As such, this phase of the CEQA process may extend for a number of years beyond project approval and implementation (Guidelines Section 15097).

Section 12.8 Final EIR

The DEIR does not become "final" until it is certified by the decision-maker prior to the approval of the project (Guidelines Section 15090(2)). Following circulation of the DEIR and preparation of responses to comments, a Proposed Final EIR (FEIR) is prepared for consideration by the decision-maker. The County responds to each environmental comment received during the legally-defined review period and makes those responses available to the decision-maker, and describes the disposition of any significant environmental issue raised by commenters (PRC Section 21091(d) and Guidelines Sections 15088, 15132, and 15204). Responses to comments from a public agency will be sent to that agency at least 10 days prior to action by the decision-maker (Guidelines Section 15088). The County is not obligated to respond to comments received after the close of the noticed review period or extension thereof, but may do so (Guidelines Section 15088(a)).

The Proposed FEIR that is reviewed by the Planning Commission and decision-maker will contain all items listed under Guidelines Section 15132. In addition, all findings pursuant to Guidelines Sections 15091 and 15093 the Mitigation Monitoring and Reporting Program

(MMRP) and, in appropriate cases, a Statement of Overriding Considerations will be a part of the adoption/certification resolution.

In cases where the Planning Commission is not the decision-making body, it is County practice to distribute the DEIR, comments, and responses to comments to the Commission prior to its taking action as to the adequacy of the DEIR and forwarding its recommendation to the appropriate decision-maker.

Section 12.9 Statement of Overriding Considerations

A statement of overriding considerations is not required for all projects. For EIRs that conclude that certain significant and unavoidable impacts remain after application of mitigation measures, project design features, and standard conditions of approval, a statement of overriding considerations is prepared.

Pursuant to Guidelines Section 15093, the requirements for preparing a statement of overriding considerations include:

- (a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or Statewide environmental 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, including region-wide or Statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.”
- (b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.
- (c) 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, findings required pursuant to Section 15091.

Section 12.10 Findings of Fact

A Findings of Fact shall be prepared if the EIR results in a determination that significant and unavoidable impacts remain after application of mitigation measures, project design features, and standard conditions of approval. In addition, a public agency shall not approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding (Guidelines Section 15091).

Section 12.11 Certification of EIR

Prior to approving a project, the County lead agency shall certify that:

- (1) The Final EIR has been completed in compliance with CEQA;
- (2) The Final EIR was presented to the decision-making body of the lead agency, and that the decision-making body reviewed and considered the information contained in the Final EIR prior to approving the project; and,
- (3) The Final EIR reflects the lead agency’s independent judgment and analysis.

Section 12.12 Notice of Determination

A Notice of Determination (NOD) is a notice to be filed by a public agency after it approves or determines to carry out a project subject to the requirements of CEQA. Filing and posting of this notice commences a 30 day statute of limitations for legal challenges to the approval. If NOD is not filed and posted for 30 days, a 180-day statute of limitations period applies instead. The project manager for the County Lead Agency shall file all NODs. If the project requires discretionary approval by a State agency, the NOD must be filed with the Office of Planning & Research. See Appendices I and J for NOD and filing instructions for public and private projects.

Table 10 provides a summary of public noticing for EIRs.

Table 10: Summary of Public Noticing for EIRs

Document	Filing Timeline	Filing Location
Notice of Preparation See Section 12.4.1	After deciding that an EIR is required for a project and when the project description is complete and final.	Office of Planning and Research County Clerk-Recorder

Document	Filing Timeline	Filing Location
Notice of Availability (County form)	When the DEIR is complete	Office of Planning and Research County Clerk-Recorder
Notice of Completion & Environmental Document Transmittal (State Clearinghouse Transmittal)	When the DEIR is complete When the FEIR is complete	Office of Planning and Research County Clerk-Recorder
Notice of Determination (County form)	<p>Director/Zoning Administrator/Planning Commission Approval – If no appeal is filed, the NOD shall be filed within 5 working days after the 15-day appeal period</p> <p>Board of Supervisors Approval – File within five working days of approval or determination.</p> <p>For actions adopted by ordinance, the NOD will be filed after the first reading or second reading depending on the ordinance.</p>	Office of Planning and Research County Clerk-Recorder

CHAPTER 13.0 - PREVIOUS AND SUBSEQUENT DOCUMENT PROCESS

Introduction

This section discusses the circumstances under which further environmental review is required following certification of an EIR or ND/MNDs (Guidelines Section 15162) and introduces the process for completing the document. This section also provides details on the use of previous environmental documents for proposed activities following certification of an EIR or adoption of an ND/MND, and an explanation for when a subsequent or previous document is not applicable. Each project is still individually assessed to determine if it meets the requirements for appropriate CEQA documentation. Assessment of a previous document may use a checklist, consistency memo, or both. See Table 11 for a summary of post- environmental documents.

The County utilizes the Initial Study Checklist to assist in 1) determining whether the use of a previous environmental document is permissible and no additional documentation is needed or 2) determining which further environmental document (subsequent, supplemental or addendum) is appropriate.

Section 13.1 Use of Previous Environmental Document

When a project is proposed falls within and meets the requirements of a previously approved EIR, OC Development Services/Planning shall determine whether or not the previous environmental document is adequate for the proposed project (Guidelines Sections 15063(b)1)(B) and 15153). A prior environmental document can be used for a project if the environmental document includes activities which constitute or are necessarily included elements of the project and there have been no significant changes in the facts, circumstances and environmental impacts since the prior environmental document was prepared. If a previously approved prior environmental document is adequate for the subsequent proposed project, the determination may be noted in the project file and all required public notices which are required, and, as appropriate under the circumstances may be presented to a decision maker as appropriate based on Table 4 in Chapter 4.0. Once a decision-maker has acted on the project, a NOD will be filed (Guidelines Section 15094). In some instances, the County can elect to utilize environmental documents prepared and approved by other jurisdictions or special districts, as applicable.

Section 13.2 Use of Further Environmental Document

Pursuant to Guidelines Section 15162, when an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

- (1) Substantial changes are proposed in the project which will require major revisions due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known at the time the previous EIR was certified as complete or the negative declaration was adopted.

Section 13.2.1 Addendum to Negative/Mitigated Negative Declaration and Environmental Impact Report

In cases where some changes or additions are necessary with no additional significant impacts, but the conditions for the preparation of a subsequent or supplemental EIR or ND/MND are not met, an addendum to the original CEQA document may be prepared, rather than a new EIR or ND/MND. The County will analyze the scope of the changes and their disposition in relationship to the original EIR or ND/MND in order to determine whether a project will trigger the requirements of CEQA by identifying substantial changes in the project or the circumstances under which the project will be carried out that require major revisions in the EIR or ND/MND, or new information of substantial importance is discovered. Addenda are not circulated for public review, but will be considered by an applicable decision-maker. See Table 4 in Chapter 4.0 for additional details on decision-making bodies. Once a decision-maker has acted on the project, a NOD will be filed (Guidelines Section 15094).

Section 13.2.2 Supplemental Environmental Impact Report

In other cases where changes or additions to the project are necessary a supplemental document to the original CEQA document may be prepared, rather than a new EIR.

A supplemental EIR discusses minor additions, or revisions to certain portions of the previous EIR in order to make that EIR adequate for the project. The supplement to the EIR need contain

only the information necessary to make the previous EIR adequate for the project as revised. A supplement to an EIR may be circulated by itself without recirculating the previous draft or final EIR. When the agency decides whether to approve the project, the decision-making body shall consider the previous EIR as revised by the Supplemental EIR. A finding shall be made for each significant effect shown in the previous EIR as revised (Guidelines Section 15163). See Table 4 in Chapter 4.0 for additional details on decision-making bodies. Once a decision-maker has acted on the project, a NOD will be filed (Guidelines Section 15094).

Section 13.2.3 Subsequent Environmental Impact Report and Negative/Mitigated Negative Declaration

A subsequent environmental impact report or a ND/MND is prepared, if substantial changes to the project or the circumstances under which the project is undertaken, require major revisions to the EIR or ND/MND, or new information of substantial importance is added, that show the project will have significant effects not previously discussed in the EIR, or significant effects previously discussed will be substantially more severe, or mitigation measures previously found infeasible are feasible and the project proponent declines to adopt them (Guidelines Section 15162). A Subsequent EIR revises the entire EIR, usually when there are substantial changes to the project, rather than just supplementing the document with additions, or changes, or revisions to certain sections. New information after an approval does not require reopening of that approval. However, after the project is approved, a subsequent document should be prepared by the public agency if substantial changes are proposed. See Table 4 in Chapter 4.0 for additional details on decision-making bodies. Once a decision-maker has acted on the project, a NOD will be filed (Guidelines Section 15094).

Table 11: Post Environmental Documents

Type of document	Description
Addendum to Negative/Mitigated Negative Declaration and Environmental Impact Report	For a Negative/Mitigated Negative Declaration Minor technical changes only, with no significant impact For a EIR some changes or additions are necessary that do not result in a new significant impact
Supplemental Environmental Impact Report	Minor additions or changes addressing significant impacts
Subsequent Environmental Impact Report and Negative/Mitigated Negative Declaration	Substantial changes addressing new significant or more severe impacts

CHAPTER 14.0 - ON-CALL AND JOB ORDER CONTRACTS PROCESS

Introduction

This section addresses the process for CEQA compliance for the approval of on-call and job order contracts, as well as the individual job or task orders that are subsequently issued under those contracts.

A job order contract is a subset of an on-call contract. Where a project is proposed to be approved using a contractor/vendor under a “job order contract” or an “on call contract,” the approving body, whether it is the Board of Supervisors (BOS), the Purchasing Agent or any other authorized person, shall ensure that each job/Task Order issued undergoes separate and individual CEQA review as necessary to comply with CEQA.

Section 14.1 On-Call Contracts for A-E Services

In some circumstances, the BOS is asked to approve a slate of Architectural-Engineering (A-E) Contractors to do certain types of work over a period of time for a not to exceed amount. A key factor is that, when it comes to approval of on-call A&E contracts, the BOS is not being called upon to approve actual projects themselves. Rather, the BOS approves a scope of services that the A-E is authorized to perform, if it receives a specific task order, but actual tasks specific to a project are not approved. The tasks are identified, developed, assigned and approved by County project managers and generally will not go to the BOS, unless there are other factors which trigger the need for additional BOS approval (if additional money or extension of time needs to be added to the contract).

In particular, when individual projects arise, County Lead Agency assigns the design work to one of the contractors on the A-E slate. At the time the slate of On-Call contractors is approved, however, there is no actual project approved (just approval of the on-call slate). Consequently, the action of approving the on-call contract may be deemed to not constitute a project, as defined by CEQA Guidelines Section 15378, since no physical impact to the environment is taking place. However, any future action connected to the on-call contract approval that constitutes a project will need to be reviewed for compliance with CEQA. In other words, any specific tasks or jobs issued against the on-call contract will need to undergo its own, project-specific CEQA review.

Section 14.2 Job Order Contracts

Job Order Contracts (JOC) are contracts used to approve a slate of contractors, usually to perform repair and maintenance of County facilities. A JOC is a subset of an On-Call contract. When an On-Call Contract is approved, the BOS approves a “book” that contains standard specifications for a wide range of construction tasks, (i.e. painting, plumbing and electrical) and the unit price schedule for those tasks. Consequently, the BOS approval is limited to approval to engage the contractors under the terms of the on-call contract, for future “to-be-determined” projects. The approval of a JOC contract does not involve approval of any specific projects. Any future action connected to the approval or of a JOC proposal or task order for construction of a project will need to be reviewed for compliance with CEQA.

Section 14.3 Steps for On-call and Job Order Contracts

As discussed in Chapter 9, OC Development Services/Planning undertakes a three-step process to determine CEQA compliance for on call and job order contracts, and the job/task orders issued under on-call or job order contracts.

This first step is to determine whether the proposed activity is a project or exempt under CEQA Guidelines Section 15378. Generally, because of the nature of on-call and job order contracts, approval of these types of agreements can be deemed “not a project” for purposes of CEQA. But each individual job order or task order issued against the contract will subsequently need to undergo the three-step process to be assessed for whether it constitutes a project, and, if so, whether it qualifies for an exemption.

There may be instances where a job order contract has a scope of work that is very specific and clearly limited to activities which would be exempt under CEQA. In these instances, an exemption finding could be made at time of approval of the job order contract. For example, if the scope of work for a job order contract specifically limits the contractors to performing routine or regular maintenance work on existing facilities – in other words, work which would be exempt from CEQA under the Class 1 categorical exemption (Guidelines Section 15301) – then it would be appropriate to ask the BOS to make a finding that the job order contract (and all future job orders to be issued thereunder) is exempt from CEQA under Class 1. However, making a CEQA finding at this early stage (when no actual job or task orders have been issued) is dependent entirely on the scope of work and whether the scope lends itself to a categorical or statutory exemption. And even when a CEQA exemption finding is made at this early stage,

purchasing agents or anyone else authorized to issue specific job orders should ensure that the activities associated with any specific job order are in fact exempt.

Next, if a proposed action in a job order or task order does not qualify for an exemption, an Initial Study must be completed to assess whether the project requires preparation of an environmental document. Under special circumstances, some projects eligible for Job Order Contracting will not be Categorically Exempt, either because the nature of the project does not qualify for any categorical exemption, or because an exception to the exemption applies (such as a potentially significant impact). These instances will require preparation of an initial study and appropriate environmental document. For example, replacement of existing underground utility lines located within a sensitive habitat area would not be exempt from CEQA and appropriate CEQA determination must be completed prior to the issuance of a Contract Task Order (CTO).

Lastly, the project cannot be approved until an appropriate environmental document is prepared, processed and approved/certified by the decision-maker in the manner required by CEQA Guidelines.

If there are questions, consult with OC Development Services/Planning staff to make the determination.

CHAPTER 15.0 - PROCESSING FEES

Introduction

This section briefly discusses the process for determining the processing fees associated with environmental documentation.

Section 15.1 County Processing Fees for Private Projects

Private project applicants will incur various fees to process a project (see below for details):

- Time and Material (T&M) costs will be charged to the applicant through the establishment of a charge account. This deposit, as indicated in the current County Fee Ordinance, is collected with the submittal of the project application or during the review process. The County periodically revises these fees.
- As allowed under Guidelines Section 15045, the County collects fees for the filing of the environmental documents (i.e. Notice of Determinations). The current fee schedule for the filing of environmental documents is located at the OC Clerk-Recorder's website.
- If applicable, appellants may be charged a fee for the filing of an appeal on a project with an adopted or certified environmental document. Additionally, project applicants will be charged staff costs for the presentation of the appeal to the Board of Supervisors. Any such fee shall be established pursuant to provisions of the current County Fee Ordinance as adopted by the Board of Supervisors.

Section 15.2 County Processing Fees for Public Projects

OC Development Services/Planning shall be charging the County Lead Agency for staff time preparing and reviewing CEQA Documents and ASRs.

Section 15.3 California Department of Fish and Wildlife Fees

Per Section 711.4(c)(2)(A) of the Fish and Game Code, CEQA exempt projects are automatically exempt from Fish and Game filing fees.

Per Section 711.4(c)(1) of the Fish and Game Code, all project applicants and public agencies for which an EIR, Mitigated Negative Declaration, or Negative Declaration has been adopted shall pay a filing fee for each proposed project and failure to pay Fish and Game Fees renders the project not operative, vested or final until such fees are paid (PRC Section 21089). Addenda are not subject to the Fish and Wildlife filing fee. However, applicants may request the filing fee

PROCESSING FEES

exemption through a No Effect Determination, which can be found on the California Department of Fish and Wildlife website.

For current California Department of Fish and Wildlife Environmental Document Filing Fees, refer to the California Department of Fish and Wildlife website.

FINAL DRAFT

CHAPTER 16.0 - CONTRIBUTORS

The following individuals made significant contributions to preparing the Manual.

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CHAPTER 17.0 - REFERENCES

California Department of Fish and Wildlife: <https://www.wildlife.ca.gov/Conservation/CEQA>

California Natural Resources Agency: <https://resources.ca.gov/>

California Native American Heritage Commission: <http://nahc.ca.gov/>

[California Native American Heritage Commission, SB 18 Tribal Consultation Guidelines:](#)

<http://nahc.ca.gov/wp-content/uploads/2019/04/SB-18-Tribal-Consultation-Guidelines.pdf>

CalEPA, California Native American Tribal Relations: <http://www.calepa.ca.gov/tribal/>

[County of Orange Codes and Regulations:](#)

<https://cms.ocgov.com/gov/pw/ds/planning/codes/default.asp>

Governor's Office of Planning and Research on Evaluating Transportation Impacts in CEQA

http://opr.ca.gov/docs/20190122-743_Technical_Advisory.pdf

Governors' Office of Planning and Research, Tribal Cultural Resources and CEQA (AB 52):

<https://www.opr.ca.gov/ceqa/updates/ab-52/>

OC Development Services, Fee Schedule <https://www.huduser.gov/portal/datasets/il.html>

OC Development Services, Document Library

<http://prg.ocpublicworks.com/DevServicesDocumentInternet/Search.aspx>

State Clearinghouse: <http://www.opr.ca.gov/clearinghouse/ceqa/>

State Clearinghouse Technical Advisories: <http://www.opr.ca.gov/ceqa/technical-advisories.html>

APPENDIX A
CEQA ENVIRONMENTAL INFORMATION
REQUEST FORM (PUBLIC PROJECTS)

CEQA ENVIRONMENTAL INFORMATION REQUEST FORM

JOB CODE: Click or tap here to enter text.

TYPE OF PROJECT: Click or tap here to enter text.

DATE FORM SUBMITTED: Click or tap to enter a date.

DEADLINE FOR ENVIRONMENTAL DETERMINATION: Click or tap to enter a date.

1. PROJECT TITLE:
Click or tap here to enter text.
2. PROJECT LOCATION(S):
Click or tap here to enter text.
3. PROJECT DESCRIPTION AND INCLUDE PROJECT TIMELINE:
Click or tap here to enter text.
4. EXISTING ENVIRONMENTAL CONDITIONS:
Click or tap here to enter text.
5. LIST OF SUPPORTING DOCUMENTS:
Click or tap here to enter text.
6. PREVIOUS COUNTY ACTION(S) AND/OR ENVIRONMENTAL DOCUMENTATION:
Click or tap here to enter text.
7. NAME OF PUBLIC AGENCY APPROVING THE PROJECT:
Click or tap here to enter text.
8. APPLICANT OR AGENCY CARRYING-OUT THE PROJECT:
Click or tap here to enter text.
9. ADDRESS OF APPLICANT OR AGENCY:
Click or tap here to enter text.
10. CONTACT PERSON(S) Please include phone number:
Click or tap here to enter text.
11. ACKNOWLEDGEMENT:
DATE _____ SIGNATURE _____



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**Submit completed forms to
Cindy Salazar (cindy.salazar@ocpw.ocgov.com), Steven Giang
(steven.giang@ocpw.ocgov.com)
and Joanna Chang (joanna.chang@ocpw.ocgov.com)**

**CEQA ENVIRONMENTAL INFORMATION REQUEST FORM
INSTRUCTIONS**

Include the following information to the best of your knowledge.

1. PROJECT TITLE

Provide the project name.

2. PROJECT LOCATION

Describe the location of the project. Indicate the nearest major intersection and/or access point, the name of the community in which the project is located, and any other information.

3. PROJECT DESCRIPTION

Describe the nature of the proposed project. Indicate the size of the project, the area of influence, along with any offsite information necessary for the project. Describe the general land use characteristics of the site. Indicate any features of the project, which will reduce or eliminate potential adverse environmental effects. Also, include all entitlements that will be required by this CEQA determination.

In addition, please include a timeline/schedule for the project (such as estimated dates for project initiation, planning, construction, and operation).

4. EXISTING ENVIRONMENTAL CONDITIONS

Briefly describe the existing environmental conditions on the project site:

- Biological Resources and vegetation
- Onsite water features
- Land Use
- Traffic (such as traffic detours, vehicular access, and number of vehicles for construction and operation)
- Any known or potential resources present on or near the site
- Any known hazards

5. LIST OF SUPPORTING DOCUMENTS

List supporting documents or exhibits for the project. The following attachments can be included:

- **Location:** Map with the project site outlined.



- **Draft Plan:** The proposed site plan layout for the project.
- **Photographs:** Representative photographs of the project site and a key showing the directions and location from which the photographs were taken.

Consult with OC Development Services/Planning staff to determine appropriate supplemental documents. Other technical information such as archaeological, paleontological, or biological surveys; foundation/soil reports; noise studies or traffic analyses may be necessary.

6. PREVIOUS COUNTY ACTION(S)/ ENVIRONMENTAL DOCUMENTATION

Please list any previous actions related to the property and any previous environmental documentation that may be covering the project or project site.

7. NAME OF PUBLIC AGENCY APPROVING THE PROJECT

Indicate which decision-making body will make the decision on your project (e.g. Planning Commission and Board of Supervisors) or other applicable agencies.

In addition, please indicate future approvals that will be necessary to implement your project and if a General Plan consistency determination, (California Government Code Section 65402) is also being requested.

8-9. APPLICANT OR AGENCY CARRYING-OUT THE PROJECT

Include applicant or agency responsible for the project.

10. CONTACT PERSON(S)

Please indicate the name, telephone number, e-mail address and mailing address of the person most knowledgeable about the proposed project.



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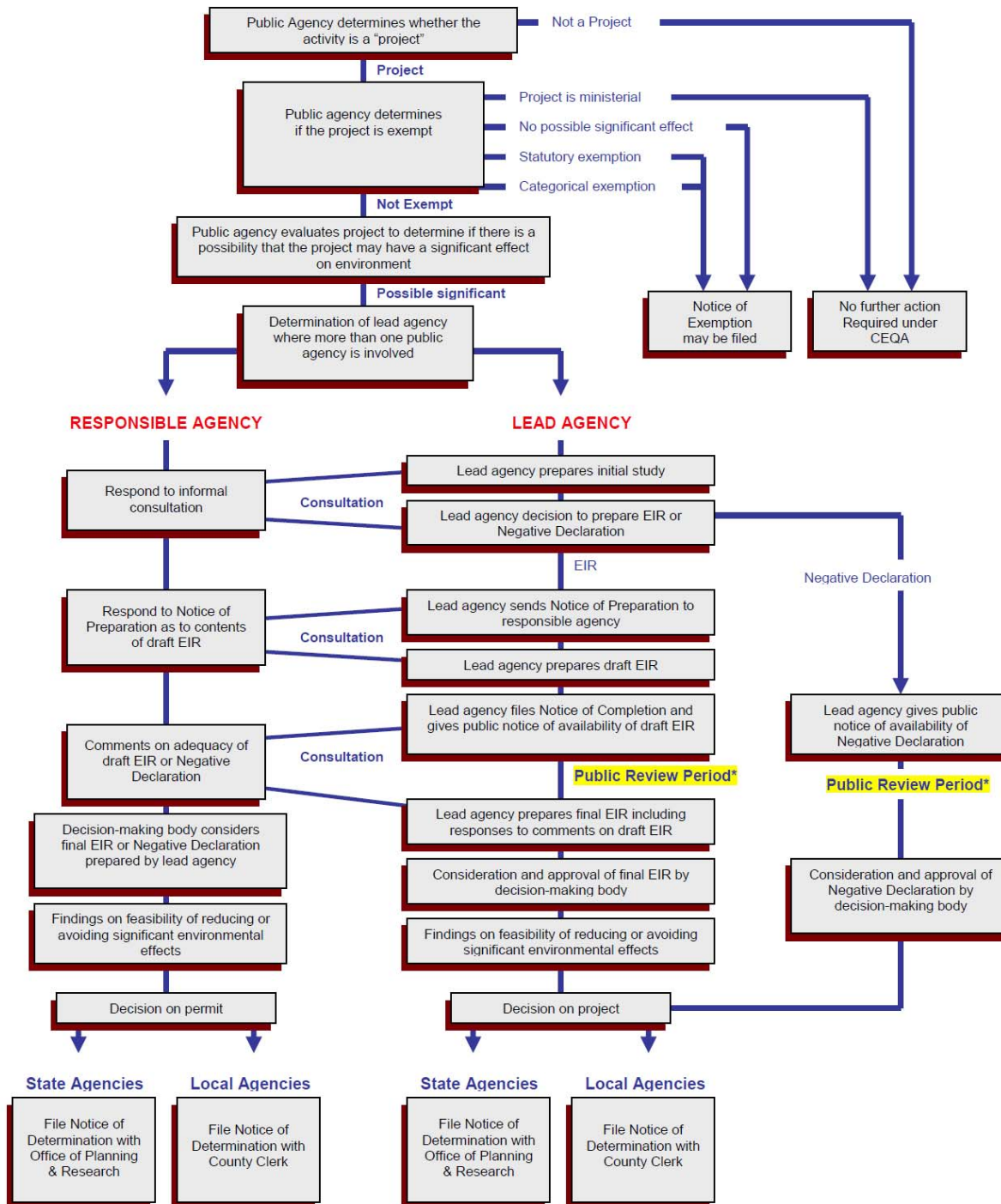


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APPENDIX B
CEQA GUIDELINES FLOWCHART

FINAL DRAFT

CEQA Process Flow Chart



Source: California Environmental Resources Evaluation System, http://ceres.ca.gov/topic/env_law/ceqa/flowchart/index.html
 * The public review and comment period shall not be less than 30 days and nor should it be longer than 60 days, per the CEQA Guidelines at http://ceres.ca.gov/topic/env_law/ceqa/guidelines/

APPENDIX C
GUIDELINES TO EVALUATING VEHICLE
MILES TRAVELED UNDER CEQA
(AUGUST 2020)



LSA

GUIDELINES FOR EVALUATING VEHICLE MILES TRAVELED UNDER CEQA

for the
COUNTY OF ORANGE

AUGUST 7, 2020

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GUIDELINES FOR EVALUATING VEHICLE MILES TRAVELED UNDER CEQA

COUNTY OF ORANGE

Submitted to:

Joanna Chang
Land Use Manager
OC Public Works
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Prepared by:

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(949) 553-0666

Project No. OCY1701.19

August 2020

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LIST OF ABBREVIATIONS AND ACRONYMS

ADT	average daily trips
CalEEMod	California Emissions Estimator Model
Caltrans	California Department of Transportation
CAPCOA	California Air Pollution Control Officers Association
CARB	California Air Resources Board
CEQA	California Environmental Quality Act
CO ₂ e	carbon dioxide equivalent
County	County of Orange
EO	Executive Order
FAR	floor-to-area ratio
Guidelines	2020 <i>State CEQA Guidelines</i> , 14 California Code of Regulations, Section 15000, et. seq.
GWP	global warming potential
HOT	high-occupancy toll
HOV	high-occupancy vehicle
HQTA	High-Quality Transit Area
LOS	level of service
LRTP	Long-Range Transportation Plan
mi	mile
MT	metric ton
MPO	Metropolitan Planning Organizations
OCTAM	Orange County Transportation Analysis Model
OPR	Governor's Office of Planning and Research

PRC	Public Resources Code
RTP/SCS	Regional Transportation Plan/Sustainable Communities Strategy
RTPA	Regional Transportation Planning Agency
SB	Senate Bill
SCAG	Southern California Association of Government
SOC	Statement of Overriding Considerations
TA	Technical Advisory
TDM	transportation demand management
TPA	Transit Priority Area
TSP	Transit Signal Priority
VMT	vehicle miles traveled



1.0 INTRODUCTION

Senate Bill (SB) 743, signed in 2013, changed the way transportation studies are conducted in California Environmental Quality Act (CEQA) documents. Vehicle miles traveled (VMT) replaces motorist delay and level of service (LOS) as the metric for impact determination. For land development projects, VMT is simply the product of the daily trips generated by a new development and the distance those trips travel to their destinations. For capital projects, impacts are identified as the new VMT attributable to the added capital project, both from the installation of the facility and the induced growth.

This document serves as a guide for application and substantial evidence for the County of Orange's (County) adopted project screenings, significance thresholds, and mitigation strategies, modeled after the Governor's Office of Planning and Research's (OPR) Technical Advisory (TA) for CEQA transportation studies; however, as in previous CEQA practice, the applicant/project proponent will still be required to provide traffic analysis that is specific to the proposed project to be reviewed and approved by the County. These guidelines apply to all projects for which the County is the Lead Agency for certification or adoption of CEQA documents. If the County is the Lead Agency, but the project is located in another jurisdiction, these guidelines would apply. However, if the County is not the Lead Agency, and the project is located in another jurisdiction, the Lead Agency would determine which VMT guidelines should be used for analysis.

In January 2019, the Natural Resources Agency and the OPR codified SB 743 into the Public Resources Code (PRC) and the *State CEQA Guidelines*.

The *State CEQA Guidelines*, included in Title 14 of the California Code of Regulations, Section 15064.3 subdivision (b)—hereafter referred to as the Guidelines—states the following criteria for analyzing transportation impacts:

- 1. Land Use Projects.** Vehicle miles traveled exceeding an applicable threshold of significance may indicate a significant impact. Generally, projects within one-half mile of either an existing major transit stop or a stop along an existing high quality transit corridor should be presumed to cause a less than significant transportation impact. Projects that decrease vehicle miles traveled in the project area compared to existing conditions should be presumed to have a less than significant transportation impact.
- 2. Transportation Projects.** Transportation projects that reduce, or have no impact on, vehicle miles traveled should be presumed to cause a less than significant transportation impact. For roadway capacity projects, agencies have discretion to determine the appropriate measure of transportation impact consistent with CEQA and other applicable requirements. To the extent that such impacts have already been adequately addressed at a programmatic level, such as in a regional transportation plan EIR, a lead agency may tier from that analysis as provided in Section 15152.
- 3. Qualitative Analysis.** If existing models or methods are not available to estimate the vehicle miles traveled for the particular project being considered, a lead County may analyze the project's vehicle miles traveled qualitatively. Such a qualitative analysis would evaluate factors

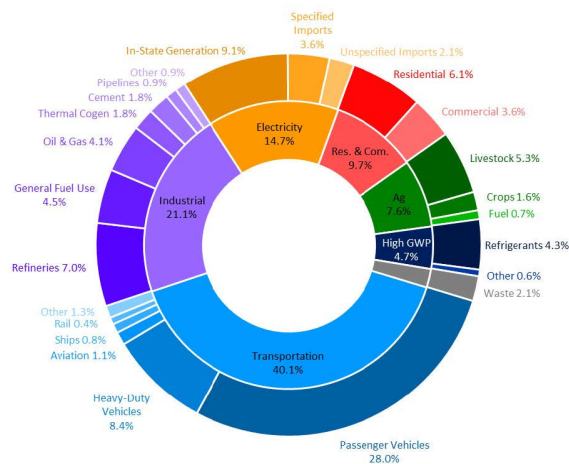


such as the availability of transit, proximity to other destinations, etc. For many projects, a qualitative analysis of construction traffic may be appropriate.

4. **Methodology.** A lead agency has discretion to choose the most appropriate methodology to evaluate a project’s vehicle miles traveled, including whether to express the change in absolute terms, per capita, per household, or in any other measure. A lead agency may use models to estimate a project’s vehicle miles traveled, and may revise those estimates to reflect professional judgment based on substantial evidence. Any assumptions used to estimate vehicle miles traveled and any revisions to model outputs should be documented and explained in the environmental document prepared for the project. The standard of adequacy in Section 15151 shall apply to the analysis described in this section.

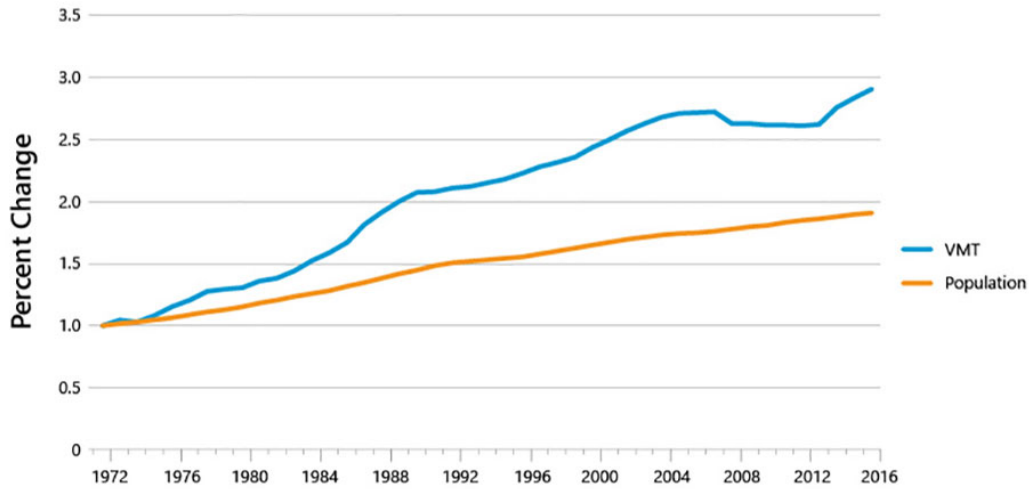
The OPR provides a TA (see Appendix A) as a guidance document to establish thresholds under this new VMT metric. The laws and rules governing the CEQA process are contained in the CEQA statute (PRC Section 21000 and following), the Guidelines (California Code of Regulations, Title 14, Section 15000 and following), published court decisions interpreting CEQA, and locally adopted CEQA procedures. The TA is intended as a reference document; it does not have the weight of law, but is intended by OPR to provide substantial evidence for the thresholds proposed therein. Thus, deviating from the TA is best undertaken with substantial evidence to support the County action.

The State of California has committed to reducing greenhouse gas (GHG) emissions and achieving long-term climate change goals. To achieve these climate change goals, the State has determined that overall VMT needs to be reduced. As Figure 1 shows, transportation is the single largest sector contributing to the State’s GHG emissions. More than 40 percent of the GHG emissions come from the transportation sector, primarily passenger cars and light-duty trucks. According to the State, removing these vehicle trips and/or reducing the length of existing trips is expected to result in reduced VMT and reduced GHG emissions. As illustrated in Figure 2, over the last 40 years, VMT has grown faster than population growth. According to the OPR and the State, the new Guidelines and the establishment of VMT thresholds for CEQA analyses are linked to GHG reduction strategies and overall statewide climate change goals.



Source: California Greenhouse Gas Emissions for 2000 to 2017 Trends of Emissions and Other Indicators (California Air Resources Board Report)

Figure 1: 2017 GHG Emissions in California by Scoping Plan Sector and Sub-Sector Category



Source: <https://ca50million.ca.gov/transportation/>

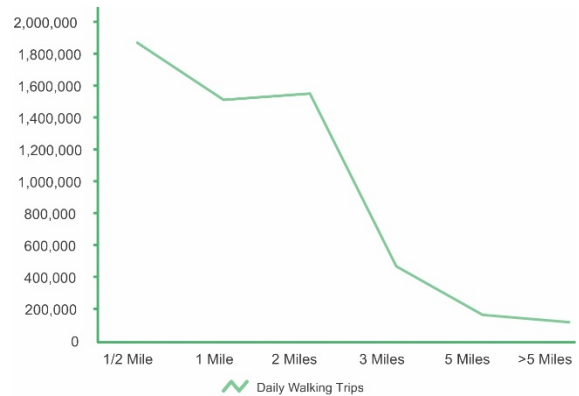
Figure 2: California Statewide Population and VMT Trends

The State and the Southern California Association of Governments (SCAG), the metropolitan planning organization for Southern California, have provided guidance that the number of vehicle trips and the length of vehicle trips can be reduced by locating new development near available transit and a mix of other land uses. This is one example of a strategy to reduce project related VMT. SB 743 is intended to promote infill development, encourage multimodal transportation networks, and reduce GHG emissions.

In one example, SCAG’s Draft Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) (SCAG 2019) includes data showing that the number of walking trips greatly diminishes for distances longer than 2 miles (Figure 3). If a person’s destination or a transit station are within 2 miles of a person’s home, the person may choose a non-vehicle travel mode.

This document provides a guide for application and substantial evidence for the County’s adopted thresholds of significance, modeled after OPR’s suggestions, for CEQA transportation studies. It is divided into chapters, including:

- Chapter 2 – Definition of Region:** Here, the document describes what the comparative region is for analysis purposes. Each project will be compared to an existing regional average. The geographical area that defines the region is defined and described.



Sources: SCAG Connect Social: The 2020-2045 RTP/SCS Active Transportation Technical Appendix, Page 30; California Household Travel Survey (2012).

Figure 3: SCAG Region Total Number of Daily Walking Trips by Distance



- **Chapter 3 – Project Screening:** This chapter provides criteria, and, where applicable, substantial evidence for screening out certain types of projects that, by their nature, or by virtue of other factors, would result in less than significant transportation impacts. This is consistent with the OPR’s acknowledgment that certain projects are either low VMT generators, or by virtue of their location would have a less than significant impact.
- **Chapter 4 – Significance Thresholds for Land Development Projects:** In this chapter, the threshold that would define a significant CEQA impact for land use projects is identified. This threshold is linked to a specific travel mode and a set of trip purposes. The actual VMT metric (either an efficiency rate or total VMT) is described.
- **Chapter 5 – Significant Thresholds for Transportation Projects:** This chapter describes the method to evaluate significant CEQA impacts associated with transportation projects. Many non-vehicular capital projects are presumed to have a less than significant impact. Capacity-enhancing projects may have significant impacts and will be subject to a detailed analysis that will include measuring induced travel.
- **Chapter 6 – Significance Thresholds for Land Plans:** This chapter provides guidance and substantial evidence to support the County’s treatment of land use plans and their CEQA transportation analysis.
- **Chapter 7 – Mitigation Strategies:** This chapter provides examples of potential mitigation strategies. It is noted that this discussion does not present an exhaustive list of feasible mitigation measures that may be applied to a project. As in previous CEQA practice, the applicant/project proponent will be required to identify mitigation measures to reduce, avoid, or offset the specific project-related impacts identified in an individual environmental document.



2.0 DEFINITION OF REGION: VEHICLE MILES TRAVELED CONTEXT AND DETERMINING THE BASELINE

The question of context defines the scope of the VMT analysis. The common term for this in previous delay-based LOS analyses is **project study area**. In the delay-based LOS analyses, a project study area is generally determined based on the incremental increase in traffic from the project and its potential to create a significant LOS impact. This generally includes intersections and roadway segments where the project would add a prescribed number of peak-hour trips. Many times, lead agencies stop study area boundaries at their jurisdictional borders.

Based on the evidence and analysis provided below, the “Region” for Orange County is the entire county area.

Region is not defined in the TA. Instead, the OPR offers the following suggestions:

*In cases where the region is substantially larger than the geography over which most workers would be expected to live, it might be appropriate to refer to a smaller geography, such as **county**, that includes the area over which nearly all workers would be expected to live (page 16).*

1. *For residential projects in unincorporated county areas, the local County can compare a residential project’s VMT to (1) the region’s VMT per capita, or (2) the aggregate population weighted VMT per capita of all cities in the region.*

The TA bases recommendations for thresholds for the primary land use types (residential and office) on a comparison to a **regional average**. The County will utilize the region’s VMT per capita approach. The OPR guidance recommends consistency in approach; once a region is established, that region should be used for all subsequent traffic analyses.

Other large or urbanized areas around the State have been surveyed to identify what region has been established for VMT thresholds. In most cases, the county boundary has been identified as the region selected for VMT analysis. In some cases, this county boundary has other names, such as the Council of Governments boundary.

County is a common and reoccurring context for CEQA VMT analyses throughout the State. According to the Orange County Transportation Analysis Model (OCTAM 5.0), of the total trips in and out of Orange County, about 21 percent originate and are destined within the unincorporated county area. Another 67 percent of trips originate or are destined within the municipal jurisdictions (cities) in Orange County. The remaining 12 percent of Orange County trips have a trip end in the other counties of the SCAG region or beyond. Because the majority of the unincorporated county trips are contained within the entirety of Orange County (approximately 88 percent) and many other large urbanized areas are defining their region as their counties, the use of Orange County in its entirety is defined as the region for CEQA land development transportation analyses.

Table A: County of Orange Unincorporated Vehicle Miles Traveled Data (Using OCTAM Base Year 2016)

Table 1 - San Diego Trips

Region	Total Trips	Trips to/from San Diego	Percent San Diego Trips
Unincorporated Orange County	668,689	3,165	0.5%
Total Orange County (including unincorporated Orange)	19,004,260	69,830	0.4%

Table 2 - Percent County of Orange Trips with Orange County as region

Trips within Unincorporated Orange County + Trips between Unincorporated and Incorporated Orange County	525,288
Total Trips within Entire Orange County (Internal - Internal)	8,559,626
Percent County of Orange Trips within Orange County	6.1%

Table 3 - Percent County of Orange Trips with Orange County + 10 mile buffer as region

Trips within Unincorporated Orange County + Trips between Unincorporated and Incorporated Orange County, and 10-mile buffer around Orange County (parts of LA, Riverside, and San Bernadino County)	575,922
Total Trips within Entire Orange County + 10-Mile Buffer around Orange County (Internal - Internal)	14,800,711
Percent County of Orange Trips within Orange County + 10-mile Buffer	3.9%

Table 3a - Percent County of Orange Trips with Orange County + 10 mile buffer as region

Total Trips to/from Entire Orange County (includes unincorporated Orange County + external trips)	9,451,544
Trips within Entire Modeling area (Orange, LA, Ventura, Riverside, and San Bernadino Counties + External Stations)	48,342,620
Percent Orange County Trips In Entire Modeling Area	19.6%

Table 4 - VMT Per Capita

Region	Total Homebased VMT	Total Household Population	VMT/Capita
Unincorporated Orange County	3,477,242	145,121	24.0
Total Orange County (including unincorporated Orange)	56,757,571	3,179,626	17.9
Total Orange County + Part LA, Riverside, and SB Counties (10 miles from county boundary)	116,115,946	6,241,508	18.6

Table 5 - VMT Per Employee

Region	Total Homebased Work VMT	Total Employment	VMT/Employee
Unincorporated Orange County	1,348,364	33,312	40.5
Total Orange County (including unincorporated Orange)	41,174,971	1,710,147	24.1
Total Orange County + Part LA, Riverside, and SB Counties (10 miles from county boundary)	66,768,783	2,766,068	24.1

Source: OCTAM5 Base Year model run (2016)



It should be recognized the use of Orange County as the region defines the comparative (i.e., baseline), or the denominator, in the identification of project-related impact. The numerator is the project's VMT contribution. The project-related/generated VMT profile may go beyond the county boundary and not be truncated by a jurisdictional boundary. For example, a new, large land development proposed near Orange County's eastern boundary may include VMT from as far away as Corona or other communities in Riverside and San Bernardino counties. In that case, it would be the responsibility of the applicant and their traffic study preparer to include the project VMT, regardless of geographical limit, to the satisfaction of the County staff. This project-related VMT profile would be compared against the County regional baseline.

Unlike delay-based LOS analyses, VMT is a regional effect not defined by roadway, intersection, or pathway. The OPR acknowledges this in its TA (page 6), which states,

Lead agencies should not truncate any VMT analysis because of jurisdictional or other boundaries by failing to count the portion of a trip that falls outside the jurisdiction or by discounting the VMT from a trip that crosses a jurisdictional boundary.

Table A is used as the current 2020 calculations to demonstrate what calculations should be applied. Tables 2, 4, and 5, in Table A identify the relevant VMT baselines for the region. These baselines will be revised as the OCTAM is revised beyond version 5.0. Applicants should use the most up-to-date version of the OCTAM in setting the baseline and analyzing their project.

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3.0 PROJECT SCREENING

The TA acknowledges that certain activities and projects may result in a less-than-significant impact to transportation and circulation. A variety of projects may be screened out of a complicated VMT analysis due to the presumption described in the TA regarding the occurrence of less-than-significant impacts.

3.1 Land Development Projects

The TA acknowledges that conditions may exist under which a land development project would have a less than significant impact on transportation and circulation. These may be size, location, proximity to transit, or trip-making potential.

Land development projects that have one or more of the following attributes may be presumed to create a less than significant impact on transportation and circulation.

- **Project in High-Quality Transit Area (HQTA):** The project is within 0.5 mile (mi) of a Transit Priority Area (TPA) or an HQTA, unless the project is inconsistent with the RTP/SCS, has a floor-to-area ratio (FAR) less than 0.75, provides an excessive amount of parking, or reduces the number of affordable residential units. In accordance with SB 743, “Transit priority areas” are defined as “an area within one-half mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program. A Major Transit Stop means: “a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service of 15 minutes or less during the morning and afternoon peak commute periods.” An HQTA or Corridor is a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours.

Figure 4 depicts TPAs within unincorporated Orange County¹, including HQTA corridors served by the Orange County Transportation Authority with service intervals of 15 minutes or less and major transit stops along the Metrolink² system. Although the figure shows the San Clemente Pier Metrolink station, it does not qualify as a major transit stop because service is limited to weekends. Projects proposed in these areas would be presumed to have a less than significant transportation impact unless the project is inconsistent with the RTP/SCS, has an FAR less than 0.75, provides an excessive amount of parking, or reduces the number of affordable residential units.

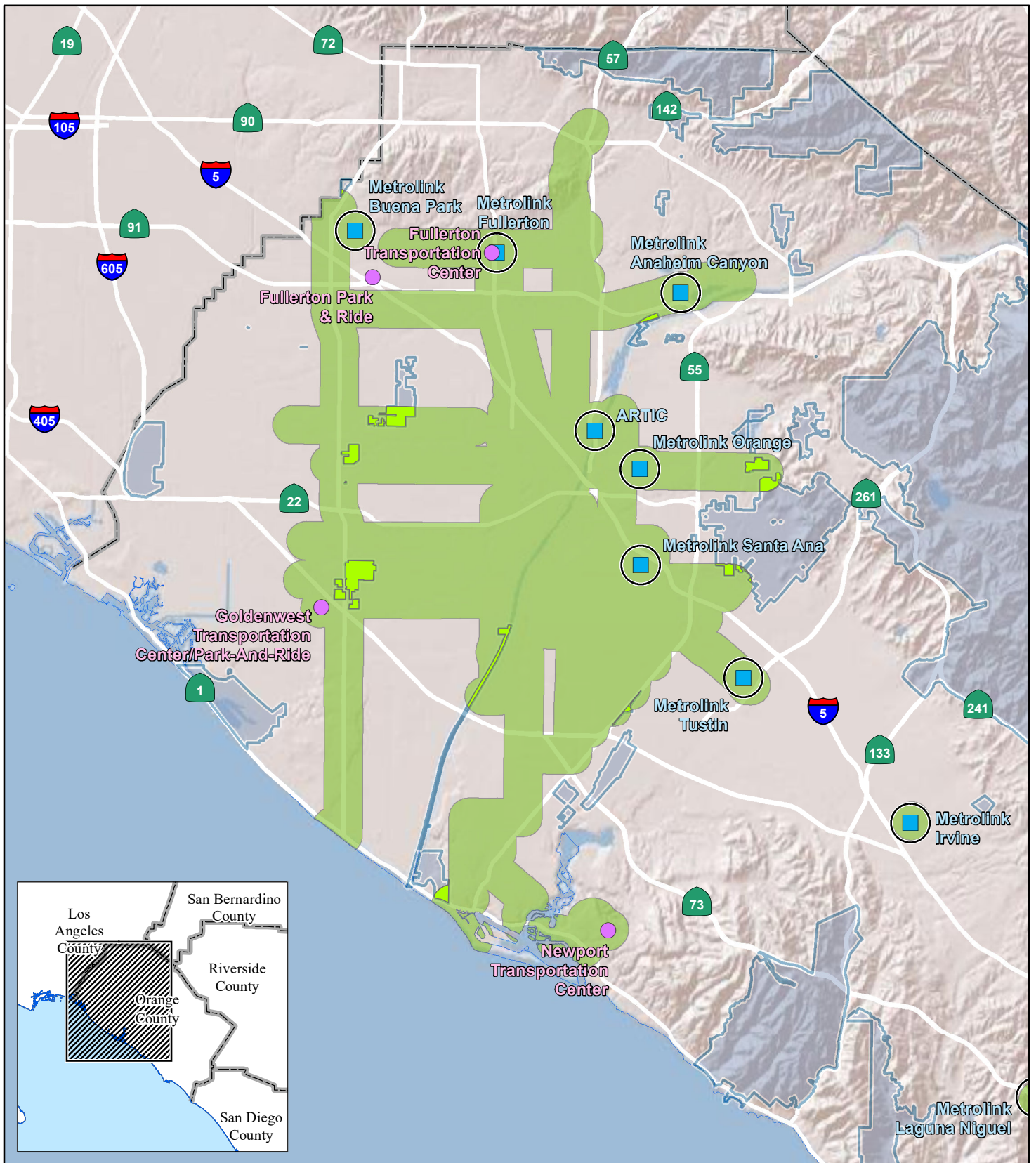
- **Neighborhood Retail Project:** The project involves local-serving retail space of less than 50,000 square feet.
- **Affordable Housing Project:** The project is 100 percent affordable-housing units.

¹ Figure 4 may be updated periodically as necessary.

² Amtrak runs along Metrolink’s Orange County route and stops at many Orange County Metrolink stations.

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LSA

LEGEND

- Unincorporated Areas of Orange County
- High Quality Transit Areas
- Unincorporated Areas within High Quality Transit Areas
- Transportation Centers
- Metrolink Station (with half-mile buffer)

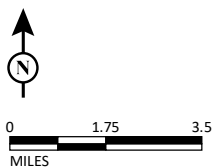
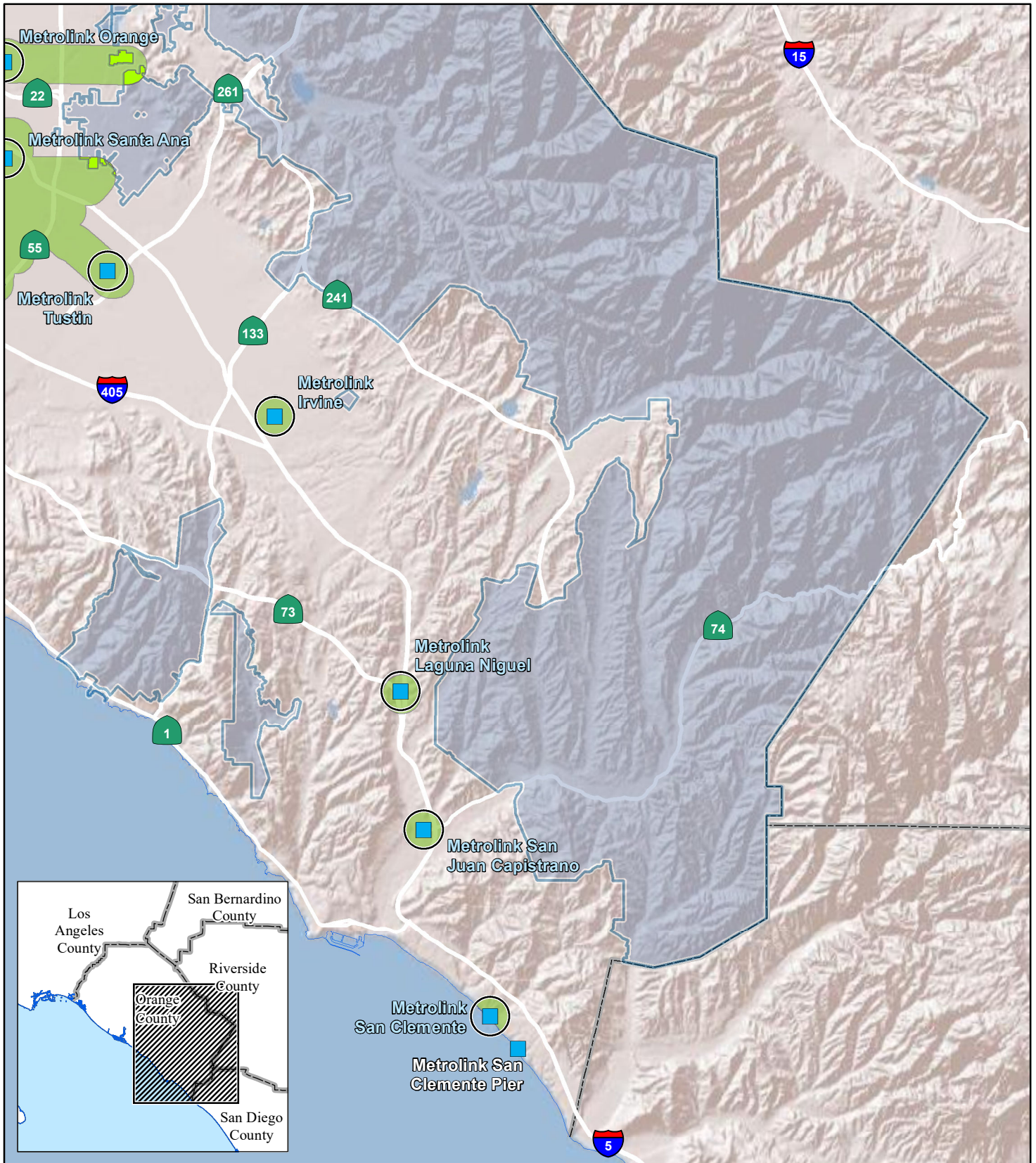


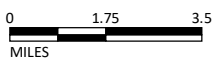
FIGURE 4
Sheet 1 of 2



LSA

LEGEND

- Unincorporated Areas of Orange County
- High Quality Transit Areas
- Unincorporated Areas within High Quality Transit Areas
- Transportation Centers
- Metrolink Station (with half-mile buffer)



SOURCE: OCPW (3/2020), SCAG (6/2019); OCTA (11/2019); Bing (2019)

I:\OCY1701.19\GIS\MXD\HQTA.mxd (4/1/2020)

FIGURE 4
Sheet 2 of 2

- **Low VMT Area³ Project:** The project is in low VMT areas. The applicant may submit data from the most recent OCTAM version showing the proposed project is within a low VMT area, which may be used, at the discretion of staff, to screen out the project.
- **Small Project:** A project generates 500 or fewer average daily trips (ADT). The TA recommends a volume of 110 ADT as the low volume that would allow the project to be screened out. This recommendation is not based on any analysis of GHG reduction, but was instead based on the potential trip generation of an office project that would already be categorically exempt under CEQA. LSA prepared a deeper analysis and used the California Emissions Estimator Model (CalEEMod, version 2016.3.2) to correlate the effect of changes in project-related ADT to the resulting GHG emissions. This model was selected because it is provided by the California Air Resources Board (CARB) to be used statewide for determining project-level GHG emissions. CalEEMod was used with the built-in default trip lengths and types to show the vehicular GHG emissions from incremental amounts of ADT. Table B shows the resulting annual VMT and GHG emissions from the incremental ADT.

Table B: Representative Vehicle VMT and GHG Emissions from CalEEMod

Average Daily Trips	Annual Vehicle Miles Traveled	GHG Emissions (metric tons CO ₂ e per year)
200	683,430	258
300	1,021,812	386
400	1,386,416	514
500	1,703,020	643
600	2,043,623	771

Source: CalEEMod version 2016.3.2. Example project used: 50 single-family Homes in Orange County.

CalEEMod = California Emissions Estimator Model

CO₂e = carbon dioxide equivalent

GHG = greenhouse gas

A common GHG emissions threshold is 3,000 metric tons (MT) of carbon dioxide equivalent⁴ (CO₂e) per year. Vehicle emissions are typically more than 50 percent of the total project GHG emissions. Thus, a project with 500 ADT would generally have total project emissions that could be less than 1,300 MT CO₂e/year (i.e., 50 percent or 643 MT CO₂e/year coming from vehicle emissions and the other 50 percent coming from other project activities). As this level of GHG

³ Orange County's land area may be described in terms of low, medium and high VMT areas based on thresholds described in Chapter 4. These descriptions are Low: less than 85 percent of the regional average; Medium: equal to or more than 85 percent of the regional average **and** less than or equal to 117 percent of regional average; and High: greater than 117 percent of regional average.

⁴ Carbon dioxide equivalent (CO₂e) is a concept developed to provide one metric that includes the effects of numerous GHGs. The global warming potential (GWP) of each GHG characterizes the ability of each GHG to trap heat in the atmosphere relative to another GHG. The GWPs of all GHGs are combined to derive the CO₂e.



emissions would be less than 3,000 MT CO₂e/year, the emissions of GHG from a project up to 500 ADT would typically be less than significant.

The County's current Transportation Implementation Manual establishes screening criteria of 200 ADT. However, based on the analysis in Table B, projects with fewer than 500 ADT are unlikely to result in significant impacts.

Based on this qualitative analysis, the County establishes screening criteria for small projects of up to 500 ADT.

- **Public Facilities:** The development of institutional/government and public service uses that support community health, safety or welfare are also screened from subsequent CEQA VMT analysis. The following includes some examples and is not an exhaustive list of public facilities that are screened from subsequent CEQA VMT analysis: police/sheriff stations, fire stations, community centers, refuse stations, jails, and landfills. These facilities are already part of the community and, as a public service, the VMT is accounted for in the existing regional average. Many of these facilities also generate fewer than 500 ADT and/or use vehicles other than passenger-cars or light duty trucks. These other vehicle fleets are subject to regulation outside of CEQA, such as CARB and the South Coast Air Quality Management District.

3.2 Transportation Projects

The primary attribute to consider with transportation projects is the potential to increase vehicle travel. While the County has discretion to continue to use delay analysis for CEQA disclosure of transportation projects, changes in vehicle travel must also be quantified.

The TA lists a series of projects that would not likely lead to a substantial or measurable increase in vehicle travel and that, therefore, would generally not require an induced travel analysis. The current list of projects, which is not intended to be exhaustive, includes the following examples:

- Rehabilitation, maintenance, replacement, safety, and repair projects designed to improve the condition of existing transportation assets (e.g., highways; roadways; bridges; culverts; Transportation Management System field elements such as cameras, message signs, detection, or signals; tunnels; transit systems; and assets that serve bicycle and pedestrian facilities) and that do not add additional motor vehicle capacity
- Roadside safety devices or hardware installation such median barriers and guardrails
- Roadway shoulder enhancements to provide "breakdown space," dedicated space for use only by transit vehicles, to provide bicycle access, or to otherwise improve safety, but which will not be used as automobile vehicle travel lanes
- Addition of an auxiliary lane of less than 1 mile in length designed to improve roadway safety



- Installation, removal, or reconfiguration of traffic lanes that are not for through traffic, such as left-, right-, and U-turn pockets, two-way left-turn lanes, or emergency breakdown lanes that are not utilized as through lanes
- Addition of roadway capacity on local or collector streets, provided the project also substantially improves conditions for pedestrians, cyclists, and, if applicable, transit
- Conversion of existing general-purpose lanes (including ramps) to managed lanes or transit lanes, or changing lane management in a manner that would not substantially increase vehicle travel
- Addition of a new lane that is permanently restricted to use only by transit vehicles
- Reduction in the number of through lanes
- Grade separation to separate vehicles from rail, transit, pedestrians, or bicycles, or to replace a lane in order to separate preferential vehicles (e.g., high-occupancy vehicles [HOVs], high-occupancy toll [HOT] lane traffic, or trucks) from general vehicles
- Installation, removal, or reconfiguration of traffic control devices, including Transit Signal Priority (TSP) features
- Installation of traffic metering systems, detection systems, cameras, changeable message signs, and other electronics designed to optimize vehicle, bicycle, or pedestrian flow
- Timing of signals to optimize vehicle, bicycle, or pedestrian flow
- Installation of roundabouts or traffic circles
- Installation or reconfiguration of traffic calming devices
- Adoption of or increase in tolls
- Addition of tolled lanes, where tolls are sufficient to mitigate VMT increase
- Initiation of a new transit service
- Conversion of streets from one-way to two-way operation with no net increase in the number of traffic lanes
- Removal or relocation of off-street or on-street parking spaces
- Adoption or modification of on-street parking or loading restrictions (including meters, time limits, accessible spaces, and preferential/reserved parking permit programs)
- Addition of traffic wayfinding signage



- Rehabilitation and maintenance projects that do not add motor vehicle capacity
- Addition of new or enhanced bike or pedestrian facilities on existing streets/highways or within existing public rights-of-way
- Addition of Class I bike paths, trails, multi-use paths, or other off-road facilities that serve nonmotorized travel
- Installation of publicly available alternative fuel/charging infrastructure
- Addition of passing lanes, truck climbing lanes, or truck brake-check lanes in rural areas that do not increase overall vehicle capacity along the corridor

Additionally, transit and active transportation projects generally reduce VMT and are, therefore, presumed to cause a less than significant impact on transportation. This presumption may apply to all passenger rail projects, bus and bus rapid-transit projects, and bicycle and pedestrian infrastructure projects.



4.0 SIGNIFICANCE THRESHOLDS FOR LAND DEVELOPMENT PROJECTS

The TA states that SB 743 and all CEQA VMT transportation analyses refer to automobiles. Here, the term automobile refers to on-road passenger vehicles, specifically cars and light-duty trucks (page. 4). Heavy-duty trucks can be addressed in other CEQA sections and are subject to regulation in a separate collection of rules under CARB jurisdiction. This approach was amplified by Chris Ganson, Chief Planner at OPR in a recent presentation at the Fresno Council of Governments (October 23, 2019) and by Ellen Greenberg, California Department of Transportation (Caltrans) Deputy Director for Sustainability, at the San Joaquin Valley Regional Planning Association meeting (January 9, 2020).

The OPR has identified the subject of the thresholds as the primary trips in the home-based typology: specifically, home-based work trips. This includes residential uses, office uses, and retail uses. The home-based work trip type is the primary tripmaking during the peak hours of commuter traffic in the morning and evening periods.

The focus of analyzing transportation impacts has shifted from congestion to climate change, and the purpose of the CEQA analysis is to disclose and ultimately reduce GHG emissions by reducing the number and length of automobile trips. This change in CEQA analysis does not diminish the County's ability to require an LOS analysis to confirm accessibility to a project site, conformance with General Plan policies, or as a function of their general health, safety, and welfare discretion and authority. As part of the SB 375 land use/transportation integration process and the GHG goal setting, most metropolitan planning organizations and regional transportation planning agencies have agreed to reduce GHG through integrated land use and transportation planning by approximately 15 percent by 2035. Furthermore, in its 2017 Scoping Plan-Identified VMT Reductions and Relationship to State Climate Goals, the CARB recommends total VMT per capita rates approximately 15 percent below existing conditions.

The TA therefore recommends:

A proposed (residential) project exceeding a level of 15 percent below existing regional average VMT per capita may indicate a significant transportation impact.

A similar threshold would apply to office projects (15 percent below existing regional average VMT per employee).

VMT generated by retail projects would indicate a significant impact for any net increase in total VMT.

While regional planning documents such as the RTP/SCS calculate a single VMT rate by dividing total VMT for the SCAG region by the total service population, it should be noted that the TA identifies a different denominator for the residential and office comparison rates. If regional average VMT per capita and VMT per employee were calculated using the service population (population plus employment), the denominator would be the same, which would be inconsistent with the TA. Furthermore, using service population to calculate regional average rates would complicate future project analyses.



The environmental document for a proposed land use project will identify population for a residential project and employment for an office project. These values should be used in the transportation analysis to calculate the project's VMT per capita or VMT per employee. If a project's VMT per capita (VMT/project population) or VMT per employee (VMT/project employment) is compared to a regional average based on service rate (VMT/[regional population + employment]), the comparison is not equivalent.

According to the Orange County Transportation Authority calculations using OCTAM 5.0, the average VMT/capita in Orange County is 17.9. The average VMT/employee in Orange County is 24.1.

Mixed-use projects should be evaluated for each component of the project independently, or the County may use the predominant land use type for the analysis. Credit for internal trip capture should be accounted for. No discrete land use types other than residential, office, or retail are identified for threshold development in the TA.

The TA suggests that the County may, but is not required to, develop thresholds for any other use. One approach is to review the County General Plan and/or Countywide Long-Range Transportation Plan (LRTP) and identify whether the implementation of the plan would result in a reduction of VMT and GHGs. If it does, the County may conclude the implementation of the plan, including all the other land use types to achieve the regional climate change goals. Therefore, consistency with the plan and no net change in VMT per employee is a rational threshold for the other land use types. This approach would require disclosure of substantial evidence, including the General Plan or LRTP findings, and other supporting traffic and air quality forecasting support.

4.1 Summary

In summary, the County's thresholds of significance for the following land uses are:

- **Residential** – 15 percent below existing regional average VMT per capita ($17.9 \times 0.85 = 15.2$)
- **Office** – 15 percent below existing regional average VMT per employee ($24.1 \times 0.85 = 20.5$)
- **Retail** – no net change in total VMT
- **Mixed Use:** consider each component of the project separately based on the threshold for residential, office, retail, etc. and take credit for internal capture
- **Other Land Uses** – no net change in VMT per employee if consistent with the General Plan or 15 percent below regional average if seeking a General Plan Amendment

Figure 5 demonstrates the potential land development entitlement process to comply with the Guidelines related to VMT and transportation impacts. It provides the path from application filing through determination of impacts. It is presented as the standard process; each development application is considered unique and may create alternative or modified steps through the process. Each step that diverges from this standard process should be accompanied with substantial



evidence demonstrating compliance with other climate change and GHG emission reduction laws and regulations.

4.2 Agency Communication

At the outset of the project development process, the applicant should seek a meeting with County staff to discuss the project description, the transportation study content, and the analysis methodology. Key elements to address include describing the project in sufficient detail to generate trips and identify the potential catchment area (i.e., trip lengths, if no modeling is being undertaken), estimating project VMT, discussing project design features that may reduce the VMT from the project development, and discussing the project location and associated existing regional VMT percentages. As a result of the meeting, the applicant or their consultant shall prepare a transportation analysis scope of work for review and approval by the County.

4.3 Project Screening

Once a development application is filed, project screening is conducted as the initial step. If the project meets any one of the screening criteria for VMT, the project may be presumed to create a less than significant impact in the area of transportation and circulation and no further analysis as to this topical environmental area is necessary. The CEQA document should enumerate the screening criteria and how the project meets or exceeds that threshold. If project screening does not apply, a VMT analysis may be required, in accordance with CEQA. The extent of this analysis may be a simple algebraic demonstration or a more sophisticated traffic modeling exercise.

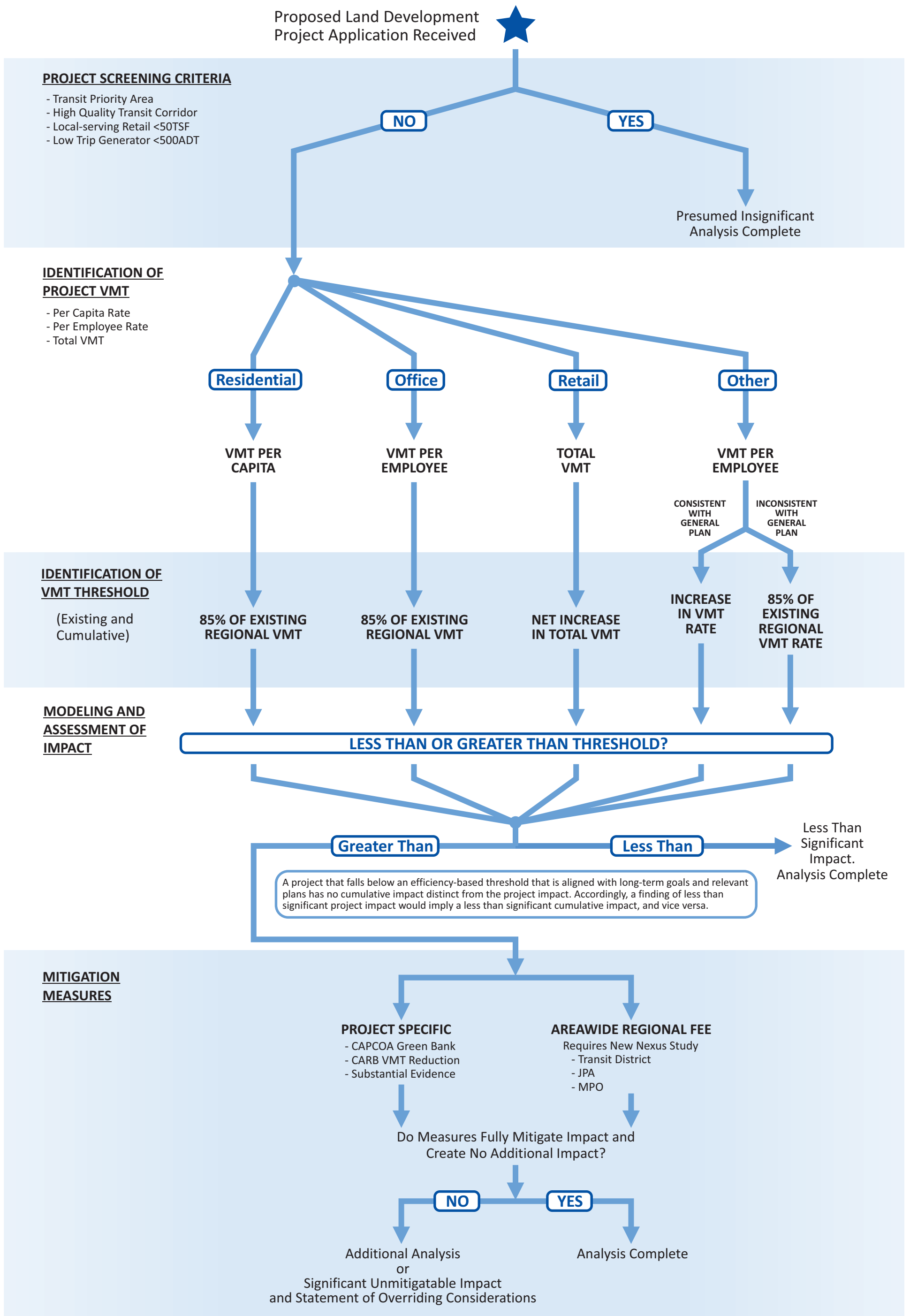
4.4 Project VMT Analysis

The first step is to identify the project land use type and the appropriate efficiency rate to use. If the project is residential, use the per capita (or residential population) efficiency rate. If the project is commercial office (or a similar trip generator), use the per employee efficiency rate. For retail projects, use the total VMT generated by the project. For mixed use projects, report each land use after generating trips, taking credit for internal trip capture, to arrive at the VMT. As an alternative, the predominant use may be reported for mixed-use projects. For all other uses, use the VMT per employee as the comparative.



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4.4.1 Medium Project VMT Analysis

For medium-sized projects (projects generating greater than 500 ADT but less than 1,000 ADT) or those with one predominant use, the determination of project VMT may be identified manually as the product of the daily trip generation (land use density/intensity multiplied by the County-approved trip generation rates, usually the ITE Trip Generation Manual) and the trip length in miles for that specific land use. Trip lengths can be found in other related air quality tools, such as CalEEMod, or may be derived from OCTAM.

4.4.2 Large Project VMT Analysis

For large or multi-use projects, use of the OCTAM traffic forecasting tool is required. For purposes of County review, a project generating 1,000 ADT or more should use the OCTAM traffic forecasting tool. At this level of trip generating, the probability of trip fulfillment expands to an area greater than the immediate project location and may include a greater regional attraction. The OCTAM traffic forecasting tool can more accurately define the select links used and the total VMT generated by the project.

Next, the project generated efficiency rate, or total VMT, depending on project type, is compared to the appropriate significance threshold. **This is either 85 percent of the existing regional average per capita or employment (for the County) for residential and office uses, or no net increase in total VMT for retail or other uses that are consistent with the General Plan.** For those projects that require a General Plan Amendment, 85 percent of existing regional average is appropriate, as the project has yet to be evaluated as part of the County's ultimate land development vision.

If the project VMT (expressed as a per capita or per employee rate or total number) is at or less than the significance threshold, the project is presumed to create a less than significant impact. No further analysis is required. If the project is greater than the significance threshold, mitigation measures are required.

4.5 Mitigation Measures

The applicant is required, per CEQA, to identify feasible mitigation to mitigate the impact created by the project, to a level that is less than significant. Appendices A and B list some ideas for potential mitigation strategies. This is not an exhaustive list of feasible mitigation measures that may be applied to the project. As in previous CEQA practice, the applicant/project proponent will be required to identify mitigation measures to reduce, avoid, or offset the specific project-related impacts identified in an individual environmental document. Thus, the applicant should submit other creative, feasible mitigation for their project. The mitigation measures suggested and the related VMT percentage reduction must be reviewed and either approved or rejected by the County.

If the mitigation measures mitigate the project impact to a less than significant level, no further analysis is required. If the project's VMT impact cannot be fully mitigated, the County may: 1) request the project be redesigned, relocated, or realigned to reduce the VMT impact, or 2) prepare a Statement of Overriding Considerations (SOC) for the transportation impacts associated with the project. All feasible mitigation measures must be assigned to and carried out by the project, even if a SOC is prepared.



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5.0 SIGNIFICANCE THRESHOLDS FOR TRANSPORTATION PROJECTS

Section 15064.3.b.(2) of the Guidelines reads in part:

For roadway capacity projects, agencies have the discretion to determine the appropriate measure of transportation impact consistent with CEQA and other applicable requirements.

The County may continue to use delay and LOS for transportation projects as long as impacts related to “other applicable requirements” are disclosed. This has generally been interpreted as VMT impacts and other State climate change objectives. These other applicable requirements may be found in other parts of an environmental document (i.e., air quality, GHG), or may be provided in greater detail in the transportation section.

For projects on the State highway system, Caltrans will use and will require sponsoring agencies to use VMT as the CEQA metric, and Caltrans will evaluate the VMT “attributable to the project” (Caltrans Draft VMT-Focused Transportation Impact Study Guide, February 28, 2020). Caltrans’ Intergovernmental Review will review environmental documents for capacity-enhancing projects for the County’s analysis of VMT change.

The assessment of a transportation project’s VMT should disclose the VMT without the project and the difference in VMT with the project. According to the TA, any growth in VMT attributable to the transportation project would result in a significant impact.

The primary difference in these two scenarios (without the project and with the project) to OPR is related to induced growth. Current traffic models have limited abilities to forecast induced growth, as their land use or socioeconomic databases are fixed to a horizon date. OPR refers to a limited set of reports that would indicate elasticities. The most recent major study (Duranton & Turner 2011, p. 24) estimates an elasticity of 1.0, meaning that every 1 percent change in lane miles results in a 1 percent increase in VMT.

The TA presents one method to identify the induced growth, as shown below. This method may be used in Orange County to estimate induced growth attributable to new roadway capacity.

To estimate VMT impacts from roadway expansion projects:

1. *Determine the total lane-miles over an area that fully captures travel behavior changes resulting from the project (generally the region, but for projects affecting interregional travel look at all affected regions).*
2. *Determine the percentage change in total lane miles that will result from the project.*
3. *Determine the total existing VMT over that same area.*
4. *Multiply the percentage increase in lane miles by the existing VMT, and then multiply that by the elasticity from the induced travel literature:*

$$[\% \text{ increase in lane miles}] \times [\text{existing VMT}] \times [\text{elasticity}] = [\text{VMT resulting from the project}]$$



It should be pointed out that OPR assigns this induced growth to induced land use.

As an alternative method, Caltrans has identified a computerized tool that estimates VMT generation from transportation projects. It was developed at the University of California, Davis, and is based on elasticities and the relationship of lane mile additions and growth in VMT. It uses Federal Highway Administration definitions of facility type and ascribes VMT increases to each facility. Output includes increases on million vehicle miles per year. Caltrans is investigating its use for all its VMT analyses of capital projects. It is available for use by local agencies and applicants, and the County may recommend utilization of this tool for calculations.

The TA provides other options to identify induced growth- and project-related VMT. These include:

- 1. Employ an expert panel. An expert panel could assess changes to land use development that would likely result from the project. This assessment could then be analyzed by the travel demand model to assess effects on vehicle travel. Induced vehicle travel assessed via this approach should be verified using elasticities found in the academic literature.*
- 2. Adjust model results to align with the empirical research. If the travel demand model analysis is performed without incorporating projected land use changes resulting from the project, the assessed vehicle travel should be adjusted upward to account for those land use changes. The assessed VMT after adjustment should fall within the range found in the academic literature.*
- 3. Employ a land use model, running it iteratively with a travel demand model. A land use model can be used to estimate the land use effects of a roadway capacity increase, and the traffic patterns that result from the land use change can then be fed back into the travel demand model. The land use model and travel demand model can be iterated to produce an accurate result.*

The TA provides additional guidance, below:

Whenever employing a travel demand model to assess induced vehicle travel, any limitation or known lack of sensitivity in the analysis that might cause substantial errors in the VMT estimate (for example, model insensitivity to one of the components of induced VMT described above) should be disclosed and characterized, and a description should be provided on how it could influence the analysis results. A discussion of the potential error or bias should be carried into analyses that rely on the VMT analysis, such as greenhouse gas emissions, air quality, energy, and noise.

The threshold for significance for a capacity-enhancing roadway project is any additional VMT generated by the project either due to the increased roadway use or as a result of induced growth attributable to the project.



6.0 SIGNIFICANCE THRESHOLDS FOR LAND PLANS

In the TA, the OPR provided guidance on the treatment of CEQA traffic analyses for land use plans. The TA reiterates previous direction regarding individual land use assessments:

- Analyze the VMT outcomes over the full area over which the plan may substantively affect travel patterns (the definition of region).
- VMT should be counted in full rather than split between origins and destinations (the full impact of the project VMT).

The TA provides a single sentence as consideration for land use plans. It states, *“A general plan, area plan, or community plan may have a significant impact on transportation if proposed new residential, office or retail land uses would in aggregate exceed the respective thresholds recommended above.”* This recommendation refers to 85 percent of the existing city or regional average, and no net gain for residential, office, and retail land uses.

OPR is recommending a focus on specific trip purposes (i.e., home-based trips for residential projects and work-based trips for office projects). Depending on the modeling platform, at least four other trip types are recognized as contributors to large-scale plan-level analyses. Home-based origins will have interactions with other non-work-based destinations. Therefore, if home-based trips are the focus of a plan-level assessment, a great deal of VMT would not be accounted for in the estimation of total VMT.

To assess a land plan, use of a traffic-forecasting tool is recommended. The total VMT for the plan should be identified for all trip types and all potential VMT contributors within the plan area. Similar traffic model runs should be conducted for the existing base year and the horizon year with No Project.

The SB 375 process and the Regional Targets Advisory Committee GHG goal setting has established a baseline GHG emissions reduction that local Metropolitan Planning Organizations (MPOs) and Regional Transportation Planning Agencies (RTPAs) can achieve. These achievements are provided in the integration of land use planning and transportation, not solely through the imposition of regulation on passenger cars and light-duty trucks. The CARB reviews the GHG reduction strategies and has approved the most recent round of GHG emission reductions for MPOs and RTPAs around the State.

Other legislative mandates and State policies speak to GHG reduction targets. A sample of these include:

- Assembly Bill 32 (2006) requires statewide GHG emissions reductions to 1990 levels by 2020 and continued reductions beyond 2020.
- SB 32 (2016) requires at least a 40 percent reduction in GHG emissions from 1990 levels by 2030.



- Executive Order (EO) B-30-15 (2015) sets a GHG emissions reduction target of 40 percent below 1990 levels by 2030.
- EO S-3-05 (2005) sets a GHG emissions reduction target of 80 percent below 1990 levels by 2050.
- EO B-16-12 (2012) specifies a GHG emissions reduction target of 80 percent below 1990 levels by 2050 specifically for transportation.

Guidelines Section 15064.3(b)(4) states (in part) the following:

A lead agency has discretion to choose the most appropriate methodology to evaluate a project's vehicle miles traveled, including whether to express the change in absolute terms, per capita, per household, or in any other measure.

Therefore, the recommended methodology for conducting VMT assessments for land plans is to compare the existing VMT per capita for the land plan area with the expected horizon year VMT per service population (population and employment). The recommended target is to achieve a lower VMT per service population in the horizon year with the proposed land plan than occurs for the existing condition.



7.0 MITIGATION STRATEGIES

When a significant CEQA impact is identified according to the thresholds described above, the project proponent will be required to identify feasible mitigation measures in order to reduce, avoid, or offset the impact. Although previous vehicle LOS impacts could be mitigated with location-specific vehicle level of service improvements, VMT impacts likely require mitigation of regional impacts through more behavioral changes. Enforcement of mitigation measures will still be subject to the mitigation monitoring requirements of CEQA, as well as the regular police powers of the County. These measures can also be incorporated as a part of plans, policies, regulations, or project designs.

7.1 Definition of Mitigation

Section 15370 of the Guidelines defines mitigations as follows:

“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.*
- e. *Compensating for the impact by replacing or providing substitute resources or environments, including through permanent protection of such resources in the form of conservation easements.*

Section 15097 of the Guidelines states that “the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects.”

VMT mitigations are not necessarily physical improvements; rather, they are complex in nature and will significantly depend on changes in human behavior.

Section 21099 (b) (4) of the PRC states, “This subdivision [requiring a new transportation metric under CEQA] does not preclude the application of local general plan policies, zoning codes, conditions of approval, thresholds, or any other planning requirements pursuant to the police power or any other authority.” Thus, despite the fact that automobile delay will no longer be considered a significant impact under CEQA, the County can still require projects to meet the LOS standards designated in its zoning code or general plan. Many projects will likely still be required to propose LOS improvements for congestion relief in addition to VMT strategies as CEQA mitigation measures.



7.2 Mitigation Measures and Project Alternatives

7.2.1 Land Development Projects and Community/General Plans

Mitigations and project alternatives for VMT impacts have been suggested by the OPR and are included in the TA. VMT mitigation can be extremely diverse and can be classified under several categories such as land use/location, road pricing, transit improvements, commute trip reduction strategies, and parking pricing/policy. Improvements related to VMT reduction strategies have been quantified in sources such as the California Air Pollution Control Officers Association (CAPCOA) report *Quantifying Greenhouse Gas Mitigation Measures* (CAPCOA Green Book) and CARB sources and are generally presented in wide ranges of potential VMT reduction percentages.

Appendix B provides a brief menu of the different potentially applicable VMT mitigation measures and project alternatives stated in the CAPCOA Green Book (only those strategies directly attributed to transportation) and the OPR TA for land development projects. This discussion does not present an exhaustive list of feasible mitigation measures that may be applied to a project. As in previous CEQA practice, the applicant/project proponent will be required to identify mitigation measures to the County to reduce, avoid, or offset the specific project-related impacts identified in an individual environmental document.

As additional mitigation measures are developed to offset VMT impacts in the future for the Guidelines process, linkages between the strategy and the incremental effect and quantified offset must be made. This can be based on other sources' observations and measurements or County experience in these practices. The key to mitigation is to base its efficacy on real and substantial evidence.

7.2.2 Transportation Projects

Although OPR provides detailed guidance on how to assess induced-growth impacts associated with transportation projects, it leaves the subject of mitigation measures vague. Only four strategies are suggested as mitigation measures:

- Tolling new lanes to encourage carpools and fund transit improvements
- Converting existing general-purpose lanes to HOV or HOT lanes
- Implementing or funding off-site travel demand management
- Implementing Intelligent Transportation Systems strategies to improve passenger throughput on existing lanes

No quantified reduction percentage is allocated to these strategies, and LSA could find no substantial evidence that would provide guidance to levels of significance after implementation of these strategies. Review of the four recommended strategies suggests that OPR is directing strategies away from general-purpose mixed-flow lanes on expressways, freeways, and arterial highways. Inasmuch as these are the project descriptions and Purpose and Need, the project intent and the project mitigation may be at odds. The County may be subject to an SOC for the capital project VMT impact.





APPENDIX A

TECHNICAL ADVISORY ON EVALUATING TRANSPORTATION IMPACTS IN CEQA (OPR, DECEMBER 2018)



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TECHNICAL ADVISORY

ON EVALUATING TRANSPORTATION IMPACTS IN CEQA



December 2018

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A. Introduction

This technical advisory is one in a series of advisories provided by the Governor’s Office of Planning and Research (OPR) as a service to professional planners, land use officials, and CEQA practitioners. OPR issues technical assistance on issues that broadly affect the practice of land use planning and the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.). (Gov. Code, § 65040, subs. (g), (l), (m).) The purpose of this document is to provide advice and recommendations, which agencies and other entities may use at their discretion. This document does not alter lead agency discretion in preparing environmental documents subject to CEQA. This document should not be construed as legal advice.

[Senate Bill 743](#) (Steinberg, 2013), which was codified in Public Resources Code section 21099, required changes to the guidelines implementing CEQA (CEQA Guidelines) (Cal. Code Regs., Title 14, Div. 6, Ch. 3, § 15000 et seq.) regarding the analysis of transportation impacts. As one appellate court recently explained: “During the last 10 years, the Legislature has charted a course of long-term sustainability based on denser infill development, reduced reliance on individual vehicles and improved mass transit, all with the goal of reducing greenhouse gas emissions. Section 21099 is part of that strategy” (*Covina Residents for Responsible Development v. City of Covina* (2018) 21 Cal.App.5th 712, 729.) Pursuant to Section 21099, the criteria for determining the significance of transportation impacts must “promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses.” (*Id.*, subd. (b)(1); see generally, adopted CEQA Guidelines, § 15064.3, subd. (b) [Criteria for Analyzing Transportation Impacts].) To that end, in developing the criteria, OPR has proposed, and the California Natural Resources Agency (Agency) has certified and adopted, changes to the CEQA Guidelines that identify vehicle miles traveled (VMT) as the most appropriate metric to evaluate a project’s transportation impacts. With the California Natural Resources Agency’s certification and adoption of the changes to the CEQA Guidelines, automobile delay, as measured by “level of service” and other similar metrics, generally no longer constitutes a significant environmental effect under CEQA. (Pub. Resources Code, § 21099, subd. (b)(3).)

This advisory contains technical recommendations regarding assessment of VMT, thresholds of significance, and mitigation measures. Again, OPR provides this Technical Advisory as a resource for the public to use at their discretion. OPR is not enforcing or attempting to enforce any part of the recommendations contained herein. (Gov. Code, § 65035 [“It is not the intent of the Legislature to vest in the Office of Planning and Research any direct operating or regulatory powers over land use, public works, or other state, regional, or local projects or programs.”].)

This December 2018 technical advisory is an update to the advisory it published in April 2018. OPR will continue to monitor implementation of these new provisions and may update or supplement this advisory in response to new information and advancements in modeling and methods.

B. Background

VMT and Greenhouse Gas Emissions Reduction. Senate Bill 32 (Pavley, 2016) requires California to reduce greenhouse gas (GHG) emissions 40 percent below 1990 levels by 2030, and Executive Order B-16-12 provides a target of 80 percent below 1990 emissions levels for the transportation sector by 2050. The transportation sector has three major means of reducing GHG emissions: increasing vehicle efficiency, reducing fuel carbon content, and reducing the amount of vehicle travel. The California Air Resources Board (CARB) has provided a path forward for achieving these emissions reductions from the transportation sector in its 2016 Mobile Source Strategy. CARB determined that it will not be possible to achieve the State's 2030 and post-2030 emissions goals without reducing VMT growth. Further, in its 2018 Progress Report on California's Sustainable Communities and Climate Protection Act, CARB found that despite the State meeting its 2020 climate goals, "emissions from statewide passenger vehicle travel per capita [have been] increasing and going in the wrong direction," and "California cannot meet its [long-term] climate goals without curbing growth in single-occupancy vehicle activity."¹ CARB also found that "[w]ith emissions from the transportation sector continuing to rise despite increases in fuel efficiency and decreases in the carbon content of fuel, California will not achieve the necessary greenhouse gas emissions reductions to meet mandates for 2030 and beyond without significant changes to how communities and transportation systems are planned, funded, and built."²

Thus, to achieve the State's long-term climate goals, California needs to reduce per capita VMT. This can occur under CEQA through VMT mitigation. Half of California's GHG emissions come from the transportation sector³, therefore, reducing VMT is an effective climate strategy, which can also result in co-benefits.⁴ Furthermore, without early VMT mitigation, the state may follow a path that meets GHG targets in the early years, but finds itself poorly positioned to meet more stringent targets later. For example, in absence of VMT analysis and mitigation in CEQA, lead agencies might rely upon verifiable offsets for GHG mitigation, ignoring the longer-term climate change impacts resulting from land use development and infrastructure investment decisions. As stated in CARB's 2017 Scoping Plan:

"California's future climate strategy will require increased focus on integrated land use planning to support livable, transit-connected communities, and conservation of agricultural and other lands. Accommodating population and economic growth through travel- and energy-efficient land use provides GHG-efficient growth, reducing GHGs from both transportation and building energy use. GHGs can be further reduced at the project level through implementing energy-efficient construction and travel demand management approaches."⁵ (*Id.* at p. 102.)

¹ California Air Resources Board (Nov. 2018) *2018 Progress Report on California's Sustainable Communities and Climate Protection Act*, pp. 4, 5, available at https://ww2.arb.ca.gov/sites/default/files/2018-11/Final2018Report_SB150_112618_02_Report.pdf.

² *Id.*, p. 28.

³ See <https://ca50million.ca.gov/transportation/>

⁴ Fang et al. (2017) *Cutting Greenhouse Gas Emissions Is Only the Beginning: A Literature Review of the Co-Benefits of Reducing Vehicle Miles Traveled*.

⁵ California Air Resources Board (Nov. 2017) *California's 2017 Climate Change Scoping Plan*, p. 102, available at https://www.arb.ca.gov/cc/scopingplan/scoping_plan_2017.pdf.

In light of this, the 2017 Scoping Plan describes and quantifies VMT reductions needed to achieve our long-term GHG emissions reduction goals, and specifically points to the need for statewide deployment of the VMT metric in CEQA:

“Employing VMT as the metric of transportation impact statewide will help to ensure GHG reductions planned under SB 375 will be achieved through on-the-ground development, and will also play an important role in creating the additional GHG reductions needed beyond SB 375 across the State. Implementation of this change will rely, in part, on local land use decisions to reduce GHG emissions associated with the transportation sector, both at the project level, and in long-term plans (including general plans, climate action plans, specific plans, and transportation plans) and supporting sustainable community strategies developed under SB 375.”⁶

VMT and Other Impacts to Health and Environment. VMT mitigation also creates substantial benefits (sometimes characterized as “co-benefits” to GHG reduction) in both in the near-term and the long-term. Beyond GHG emissions, increases in VMT also impact human health and the natural environment. Human health is impacted as increases in vehicle travel lead to more vehicle crashes, poorer air quality, increases in chronic diseases associated with reduced physical activity, and worse mental health. Increases in vehicle travel also negatively affect other road users, including pedestrians, cyclists, other motorists, and many transit users. The natural environment is impacted as higher VMT leads to more collisions with wildlife and fragments habitat. Additionally, development that leads to more vehicle travel also tends to consume more energy, water, and open space (including farmland and sensitive habitat). This increase in impermeable surfaces raises the flood risk and pollutant transport into waterways.⁷

VMT and Economic Growth. While it was previously believed that VMT growth was a necessary component of economic growth, data from the past two decades shows that economic growth is possible without a concomitant increase in VMT. (Figure 1.) Recent research shows that requiring development projects to mitigate LOS may actually reduce accessibility to destinations and impede economic growth.^{8,9}

⁶ *Id.* at p. 76.

⁷ Fang et al. (2017) *Cutting Greenhouse Gas Emissions Is Only the Beginning: A Literature Review of the Co-Benefits of Reducing Vehicle Miles Traveled*, available at https://ncst.ucdavis.edu/wp-content/uploads/2017/03/NCST-VMT-Co-Benefits-White-Paper_Fang_March-2017.pdf.

⁸ Haynes et al. (Sept. 2015) *Congested Development: A Study of Traffic Delays, Access, and Economic Activity in Metropolitan Los Angeles*, available at http://www.its.ucla.edu/wp-content/uploads/sites/6/2015/11/Haynes_Congested-Development_1-Oct-2015_final.pdf.

⁹ Osman et al. (Mar. 2016) *Not So Fast: A Study of Traffic Delays, Access, and Economic Activity in the San Francisco Bay Area*, available at http://www.its.ucla.edu/wp-content/uploads/sites/6/2016/08/Taylor-Not-so-Fast-04-01-2016_final.pdf.

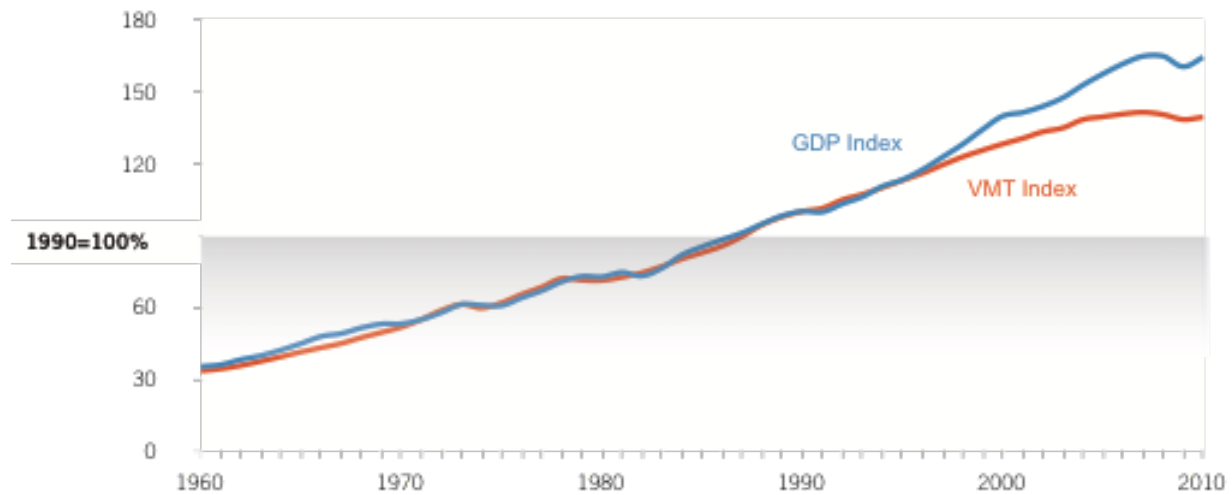


Figure 1. Kooshian and Winkelman (2011) *VMT and Gross Domestic Product (GDP), 1960-2010*.

C. Technical Considerations in Assessing Vehicle Miles Traveled

Many practitioners are familiar with accounting for VMT in connection with long-range planning, or as part of the CEQA analysis of a project’s greenhouse gas emissions or energy impacts. This document provides technical information on how to assess VMT as part of a transportation impacts analysis under CEQA. Appendix 1 provides a description of which VMT to count and options on how to count it. Appendix 2 provides information on induced travel resulting from roadway capacity projects, including the mechanisms giving rise to induced travel, the research quantifying it, and information on additional approaches for assessing it.

1. Recommendations Regarding Methodology

Proposed Section 15064.3 explains that a “lead agency may use models to estimate a project’s vehicle miles traveled . . .” CEQA generally defers to lead agencies on the choice of methodology to analyze impacts. (*Santa Monica Baykeeper v. City of Malibu* (2011) 193 Cal.App.4th 1538, 1546; see *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 409 [“the issue is not whether the studies are irrefutable or whether they could have been better” ... rather, the “relevant issue is only whether the studies are sufficiently credible to be considered” as part of the lead agency’s overall evaluation].) This section provides suggestions to lead agencies regarding methodologies to analyze VMT associated with a project.

Vehicle Types. Proposed Section 15064.3, subdivision (a), states, “For the purposes of this section, ‘vehicle miles traveled’ refers to the amount and distance of automobile travel attributable to a project.” Here, the term “automobile” refers to on-road passenger vehicles, specifically cars and light trucks. Heavy-duty truck VMT could be included for modeling convenience and ease of calculation (for example, where models or data provide combined auto and heavy truck VMT). For an apples-to-apples

comparison, vehicle types considered should be consistent across project assessment, significance thresholds, and mitigation.

Residential and Office Projects. Tour- and trip-based approaches¹⁰ offer the best methods for assessing VMT from residential/office projects and for comparing those assessments to VMT thresholds. These approaches also offer the most straightforward methods for assessing VMT reductions from mitigation measures for residential/office projects. When available, tour-based assessment is ideal because it captures travel behavior more comprehensively. But where tour-based tools or data are not available for all components of an analysis, a trip-based assessment of VMT serves as a reasonable proxy.

Models and methodologies used to calculate thresholds, estimate project VMT, and estimate VMT reduction due to mitigation should be comparable. For example:

- A tour-based assessment of project VMT should be compared to a tour-based threshold, or a trip-based assessment to a trip-based VMT threshold.
- Where a travel demand model is used to determine thresholds, the same model should also be used to provide trip lengths as part of assessing project VMT.
- Where only trip-based estimates of VMT reduction from mitigation are available, a trip-based threshold should be used, and project VMT should be assessed in a trip-based manner.

When a trip-based method is used to analyze a residential project, the focus can be on home-based trips. Similarly, when a trip-based method is used to analyze an office project, the focus can be on home-based work trips.

When tour-based models are used to analyze an office project, either employee work tour VMT or VMT from all employee tours may be attributed to the project. This is because workplace location influences overall travel. For consistency, the significance threshold should be based on the same metric: either employee work tour VMT or VMT from all employee tours.

For office projects that feature a customer component, such as a government office that serves the public, a lead agency can analyze the customer VMT component of the project using the methodology for retail development (see below).

Retail Projects. Generally, lead agencies should analyze the effects of a retail project by assessing the change in total VMT¹¹ because retail projects typically re-route travel from other retail destinations. A retail project might lead to increases or decreases in VMT, depending on previously existing retail travel patterns.

¹⁰ See Appendix 1, *Considerations About Which VMT to Count*, for a description of these approaches.

¹¹ See Appendix 1, *Considerations About Which VMT to Count*, “Assessing Change in Total VMT” section, for a description of this approach.

Considerations for All Projects. Lead agencies should not truncate any VMT analysis because of jurisdictional or other boundaries, for example, by failing to count the portion of a trip that falls outside the jurisdiction or by discounting the VMT from a trip that crosses a jurisdictional boundary. CEQA requires environmental analyses to reflect a “good faith effort at full disclosure.” (CEQA Guidelines, § 15151.) Thus, where methodologies exist that can estimate the full extent of vehicle travel from a project, the lead agency should apply them to do so. Where those VMT effects will grow over time, analyses should consider both a project’s short-term and long-term effects on VMT.

Combining land uses for VMT analysis is not recommended. Different land uses generate different amounts of VMT, so the outcome of such an analysis could depend more on the mix of uses than on their travel efficiency. As a result, it could be difficult or impossible for a lead agency to connect a significance threshold with an environmental policy objective (such as a target set by law), inhibiting the CEQA imperative of identifying a project’s significant impacts and providing mitigation where feasible. Combining land uses for a VMT analysis could streamline certain mixes of uses in a manner disconnected from policy objectives or environmental outcomes. Instead, OPR recommends analyzing each use separately, or simply focusing analysis on the dominant use, and comparing each result to the appropriate threshold. Recommendations for methods of analysis and thresholds are provided below. In the analysis of each use, a mixed-use project should take credit for internal capture.

Any project that includes in its geographic bounds a portion of an existing or planned Transit Priority Area (i.e., the project is within a ½ mile of an existing or planned major transit stop or an existing stop along a high quality transit corridor) may employ VMT as its primary metric of transportation impact for the entire project. (See Pub. Resources Code, § 21099, subds. (a)(7), (b)(1).)

Cumulative Impacts. A project’s cumulative impacts are based on an assessment of whether 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.” (Pub. Resources Code, § 21083, subd. (b)(2); see CEQA Guidelines, § 15064, subd. (h)(1).) When using an absolute VMT metric, i.e., total VMT (as recommended below for retail and transportation projects), analyzing the combined impacts for a cumulative impacts analysis may be appropriate. However, metrics such as VMT per capita or VMT per employee, i.e., metrics framed in terms of efficiency (as recommended below for use on residential and office projects), cannot be summed because they employ a denominator. A project that falls below an efficiency-based threshold that is aligned with long-term environmental goals and relevant plans would have no cumulative impact distinct from the project impact. Accordingly, a finding of a less-than-significant project impact would imply a less than significant cumulative impact, and vice versa. This is similar to the analysis typically conducted for greenhouse gas emissions, air quality impacts, and impacts that utilize plan compliance as a threshold of significance. (See *Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 62 Cal.4th 204, 219, 223; CEQA Guidelines, § 15064, subd. (h)(3).)

D. General Principles to Guide Consideration of VMT

SB 743 directs OPR to establish specific “criteria for determining the significance of transportation impacts of projects[.]” (Pub. Resources Code, § 21099, subd. (b)(1).) In establishing this criterion, OPR was guided by the general principles contained within CEQA, the CEQA Guidelines, and applicable case law.

To assist in the determination of significance, many lead agencies rely on “thresholds of significance.” The CEQA Guidelines define a “threshold of significance” to mean “an identifiable **quantitative, qualitative¹² or performance level** of a particular environmental effect, non-compliance with which means the effect will **normally** be determined to be significant by the agency and compliance with which means the effect **normally** will be determined to be less than significant.” (CEQA Guidelines, § 15064.7, subd. (a) (emphasis added).) Lead agencies have discretion to develop and adopt their own, or rely on thresholds recommended by other agencies, “provided the decision of the lead agency to adopt such thresholds is supported by substantial evidence.” (*Id.* at subd. (c); *Save Cuyama Valley v. County of Santa Barbara* (2013) 213 Cal.App.4th 1059, 1068.) Substantial evidence 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.” (*Id.* at § 15384 (emphasis added); *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1108-1109.)

Additionally, the analysis leading to the determination of significance need not be perfect. The CEQA Guidelines describe the standard for adequacy of environmental analyses:

An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to **make a decision which intelligently takes account of environmental consequences**. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is **reasonably feasible**. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The **courts have looked not for perfection** but for **adequacy, completeness**, and a **good faith effort** at full disclosure.

(CEQA Guidelines, § 15151 (emphasis added).)

These general principles guide OPR’s recommendations regarding thresholds of significance for VMT set forth below.

¹² Generally, qualitative analyses should only be conducted when methods do not exist for undertaking a quantitative analysis.

E. Recommendations Regarding Significance Thresholds

As noted above, lead agencies have the discretion to set or apply their own thresholds of significance. (*Center for Biological Diversity v. California Dept. of Fish & Wildlife* (2015) 62 Cal.4th 204, 218-223 [lead agency had discretion to use compliance with AB 32's emissions goals as a significance threshold]; *Save Cuyama Valley v. County of Santa Barbara* (2013) 213 Cal.App.4th at p. 1068.) However, Section 21099 of the Public Resources Code states that the criteria for determining the significance of transportation impacts must promote: (1) reduction of greenhouse gas emissions; (2) development of multimodal transportation networks; and (3) a diversity of land uses. It further directed OPR to prepare and develop criteria for determining significance. (Pub. Resources Code, § 21099, subd. (b)(1).) This section provides OPR's suggested thresholds, as well as considerations for lead agencies that choose to adopt their own thresholds.

The VMT metric can support the three statutory goals: “the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses.” (Pub. Resources Code, § 21099, subd. (b)(1), emphasis added.) However, in order for it to promote and support all three, lead agencies should select a significance threshold that aligns with state law on all three. State law concerning the development of multimodal transportation networks and diversity of land uses requires planning for and prioritizing increases in complete streets and infill development, but does not mandate a particular depth of implementation that could translate into a particular threshold of significance. Meanwhile, the State has clear quantitative targets for GHG emissions reduction set forth in law and based on scientific consensus, and the depth of VMT reduction needed to achieve those targets has been quantified. Tying VMT thresholds to GHG reduction also supports the two other statutory goals. Therefore, to ensure adequate analysis of transportation impacts, OPR recommends using quantitative VMT thresholds linked to GHG reduction targets when methods exist to do so.

Various legislative mandates and state policies establish quantitative greenhouse gas emissions reduction targets. For example:

- Assembly Bill 32 (2006) requires statewide GHG emissions reductions to 1990 levels by 2020 and continued reductions beyond 2020.
- Senate Bill 32 (2016) requires at least a 40 percent reduction in GHG emissions from 1990 levels by 2030.
- Pursuant to Senate Bill 375 (2008), the California Air Resources Board GHG emissions reduction targets for metropolitan planning organizations (MPOs) to achieve based on land use patterns and transportation systems specified in Regional Transportation Plans and Sustainable Community Strategies (RTP/SCS). Current targets for the State's largest MPOs call for a 19 percent reduction in GHG emissions from cars and light trucks from 2005 emissions levels by 2035.
- Executive Order B-30-15 (2015) sets a GHG emissions reduction target of 40 percent below 1990 levels by 2030.

- Executive Order S-3-05 (2005) sets a GHG emissions reduction target of 80 percent below 1990 levels by 2050.
- Executive Order B-16-12 (2012) specifies a GHG emissions reduction target of 80 percent below 1990 levels by 2050 specifically for transportation.
- Executive Order B-55-18 (2018) established an additional statewide goal of achieving carbon neutrality as soon as possible, but no later than 2045, and maintaining net negative emissions thereafter. It states, “The California Air Resources Board shall work with relevant state agencies to develop a framework for implementation and accounting that tracks progress toward this goal.”
- Senate Bill 391 requires the California Transportation Plan to support 80 percent reduction in GHGs below 1990 levels by 2050.
- The California Air Resources Board Mobile Source Strategy (2016) describes California’s strategy for containing air pollutant emissions from vehicles, and quantifies VMT growth compatible with achieving state targets.
- The California Air Resources Board’s 2017 Climate Change Scoping Plan Update: The Strategy for Achieving California’s 2030 Greenhouse Gas Target describes California’s strategy for containing GHG emissions from vehicles, and quantifies VMT growth compatible with achieving state targets.

Considering these various targets, the California Supreme Court observed:

Meeting our statewide reduction goals does not preclude all new development. Rather, the Scoping Plan ... assumes continued growth and depends on increased efficiency and conservation in land use and transportation from all Californians.

(Center for Biological Diversity v. California Dept. of Fish & Wildlife, supra, 62 Cal.4th at p. 220.) Indeed, the Court noted that when a lead agency uses consistency with climate goals as a way to determine significance, particularly for long-term projects, the lead agency must consider the project’s effect on meeting long-term reduction goals. *(Ibid.)* And more recently, the Supreme Court stated that “CEQA requires public agencies . . . to ensure that such analysis stay in step with evolving scientific knowledge and state regulatory schemes.” *(Cleveland National Forest Foundation v. San Diego Assn. of Governments (2017) 3 Cal.5th 497, 504.)*

Meeting the targets described above will require substantial reductions in existing VMT per capita to curb GHG emissions and other pollutants. But targets for overall GHG emissions reduction do not translate directly into VMT thresholds for individual projects for many reasons, including:

- Some, but not all, of the emissions reductions needed to achieve those targets could be accomplished by other measures, including increased vehicle efficiency and decreased fuel carbon content. The CARB’s *First Update to the Climate Change Scoping Plan* explains:

“Achieving California’s long-term criteria pollutant and GHG emissions goals will require four strategies to be employed: (1) improve vehicle efficiency and develop zero emission technologies, (2) reduce the carbon content of fuels and provide market support to get these lower-carbon fuels into the marketplace, (3) **plan and build communities to reduce vehicular GHG emissions and provide more transportation options, and (4) improve the efficiency and throughput of existing transportation systems.**”¹³ CARB’s *2018 Progress Report on California’s Sustainable Communities and Climate Protection Act* states on page 28 that “California cannot meet its climate goals without curbing growth in single-occupancy vehicle activity.” In other words, vehicle efficiency and better fuels are necessary, but insufficient, to address the GHG emissions from the transportation system. Land use patterns and transportation options also will need to change to support reductions in vehicle travel/VMT.

- New land use projects alone will not sufficiently reduce per-capita VMT to achieve those targets, nor are they expected to be the sole source of VMT reduction.
- Interactions between land use projects, and also between land use and transportation projects, existing and future, together affect VMT.
- Because location within the region is the most important determinant of VMT, in some cases, streamlining CEQA review of projects in travel efficient locations may be the most effective means of reducing VMT.
- When assessing climate impacts of some types of land use projects, use of an efficiency metric (e.g., per capita, per employee) may provide a better measure of impact than an absolute numeric threshold. (*Center for Biological Diversity, supra.*)

Public Resources Code section 21099 directs OPR to propose criteria for determining the significance of transportation impacts. In this Technical Advisory, OPR provides its recommendations to assist lead agencies in selecting a significance threshold that may be appropriate for their particular projects. While OPR’s Technical Advisory is not binding on public agencies, CEQA allows lead agencies to “consider thresholds of significance . . . recommended by other public agencies, provided the decision to adopt those thresholds is supported by substantial evidence.” (CEQA Guidelines, § 15064.7, subd. (c).) Based on OPR’s extensive review of the applicable research, and in light of an assessment by the California Air Resources Board quantifying the need for VMT reduction in order to meet the State’s long-term climate goals, **OPR recommends that a per capita or per employee VMT that is fifteen percent below that of existing development may be a reasonable threshold.**

Fifteen percent reductions in VMT are achievable at the project level in a variety of place types.¹⁴

Moreover, a fifteen percent reduction is consistent with SB 743’s direction to OPR to select a threshold that will help the State achieve its climate goals. As described above, section 21099 states that the

¹³ California Air Resources Board (May 2014) *First Update to the Climate Change Scoping Plan*, p. 46 (emphasis added).

¹⁴ CAPCOA (2010) *Quantifying Greenhouse Gas Mitigation Measures*, p. 55, available at <http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf>.

criteria for determining significance must “promote the reduction in greenhouse gas emissions.” In its document *California Air Resources Board 2017 Scoping Plan-Identified VMT Reductions and Relationship to State Climate Goals*¹⁵, CARB assesses VMT reduction per capita consistent with its evidence-based modeling scenario that would achieve State climate goals of 40 percent GHG emissions reduction from 1990 levels by 2030 and 80 percent GHG emissions reduction levels from 1990 by 2050. Applying California Department of Finance population forecasts, CARB finds per-capita light-duty vehicle travel would need to be approximately 16.8 percent lower than existing, and overall per-capita vehicle travel would need to be approximately 14.3 percent lower than existing levels under that scenario. Below these levels, a project could be considered low VMT and would, on that metric, be consistent with 2017 Scoping Plan Update assumptions that achieve climate state climate goals.

CARB finds per capita vehicle travel would need to be kept below what today’s policies and plans would achieve.

CARB’s assessment is based on data in the 2017 Scoping Plan Update and 2016 Mobile Source Strategy. In those documents, CARB previously examined the relationship between VMT and the state’s GHG emissions reduction targets. The Scoping Plan finds:

“While the State can do more to accelerate and incentivize these local decisions, local actions that reduce VMT are also necessary to meet transportation sector-specific goals and achieve the 2030 target under SB 32. Through developing the Scoping Plan, CARB staff is more convinced than ever that, in addition to achieving GHG reductions from cleaner fuels and vehicles, California must also reduce VMT. Stronger SB 375 GHG reduction targets will enable the State to make significant progress toward needed reductions, but alone will not provide the VMT growth reductions needed; there is a gap between what SB 375 can provide and what is needed to meet the State’s 2030 and 2050 goals.”¹⁶

Note that, at present, consistency with RTP/SCSs does not necessarily lead to a less-than-significant VMT impact.¹⁷ As the Final 2017 Scoping Plan Update states,

VMT reductions are necessary to achieve the 2030 target and must be part of any strategy evaluated in this Plan. Stronger SB 375 GHG reduction targets will enable the State to make significant progress toward this goal, but alone will not provide all of the VMT growth reductions that will be needed. There is a gap between what SB 375 can provide and what is needed to meet the State’s 2030 and 2050 goals.”¹⁸

¹⁵ California Air Resources Board (Jan. 2019) *California Air Resources Board 2017 Scoping Plan-Identified VMT Reductions and Relationship to State Climate Goals*, available at <https://ww2.arb.ca.gov/resources/documents/carb-2017-scoping-plan-identified-vmt-reductions-and-relationship-state-climate>.

¹⁶ California Air Resources Board (Nov. 2017) *California’s 2017 Climate Change Scoping Plan*, p. 101.

¹⁷ California Air Resources Board (Feb. 2018) *Updated Final Staff Report: Proposed Update to the SB 375 Greenhouse Gas Emission Reduction Targets*, Figure 3, p. 35, available at https://www.arb.ca.gov/cc/sb375/sb375_target_update_final_staff_report_feb2018.pdf.

¹⁸ California Air Resources Board (Nov. 2017) *California’s 2017 Climate Change Scoping Plan*, p. 75.

Also, in order to capture the full effects of induced travel resulting from roadway capacity projects, an RTP/SCS would need to include an assessment of land use effects of those projects, and the effects of those land uses on VMT. (See section titled “*Estimating VMT Impacts from Transportation Projects*” below.) RTP/SCSs typically model VMT using a collaboratively-developed land use “vision” for the region’s land use, rather than studying the effects on land use of the proposed transportation investments.

In summary, achieving 15 percent lower per capita (residential) or per employee (office) VMT than existing development is both generally achievable and is supported by evidence that connects this level of reduction to the State’s emissions goals.

1. Screening Thresholds for Land Use Projects

Many agencies use “screening thresholds” to quickly identify when a project should be expected to cause a less-than-significant impact without conducting a detailed study. (See e.g., CEQA Guidelines, §§ 15063(c)(3)(C), 15128, and Appendix G.) As explained below, this technical advisory suggests that lead agencies may screen out VMT impacts using project size, maps, transit availability, and provision of affordable housing.

Screening Threshold for Small Projects

Many local agencies have developed screening thresholds to indicate when detailed analysis is needed. Absent substantial evidence indicating that a project would generate a potentially significant level of VMT, or inconsistency with a Sustainable Communities Strategy (SCS) or general plan, projects that generate or attract fewer than 110 trips per day¹⁹ generally may be assumed to cause a less-than-significant transportation impact.

Map-Based Screening for Residential and Office Projects

Residential and office projects that locate in areas with low VMT, and that incorporate similar features (i.e., density, mix of uses, transit accessibility), will tend to exhibit similarly low VMT. Maps created with VMT data, for example from a travel survey or a travel demand model, can illustrate areas that are

¹⁹ CEQA provides a categorical exemption for existing facilities, including additions to existing structures of up to 10,000 square feet, so long as the project is in an area where public infrastructure is available to allow for maximum planned development and the project is not in an environmentally sensitive area. (CEQA Guidelines, § 15301, subd. (e)(2).) Typical project types for which trip generation increases relatively linearly with building footprint (i.e., general office building, single tenant office building, office park, and business park) generate or attract an additional 110-124 trips per 10,000 square feet. Therefore, absent substantial evidence otherwise, it is reasonable to conclude that the addition of 110 or fewer trips could be considered not to lead to a significant impact.

currently below threshold VMT (see recommendations below). Because new development in such locations would likely result in a similar level of VMT, such maps can be used to screen out residential and office projects from needing to prepare a detailed VMT analysis.

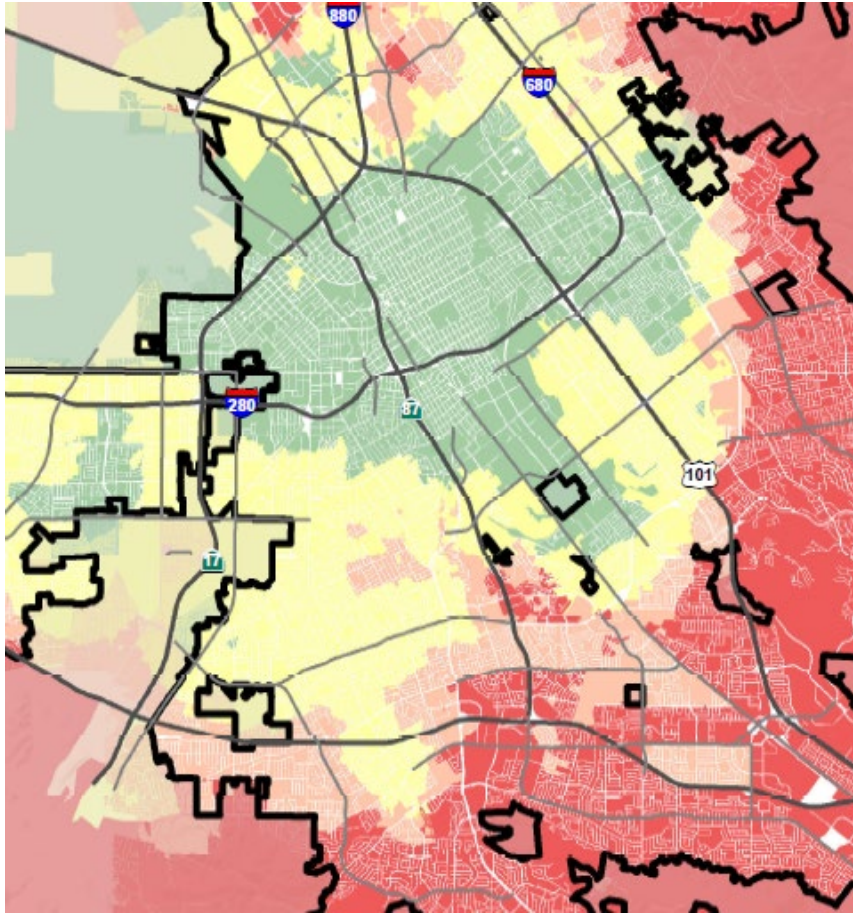


Figure 2. Example map of household VMT that could be used to delineate areas eligible to receive streamlining for VMT analysis. (Source: City of San José, Department of Transportation, draft output of City Transportation Model.)

Presumption of Less Than Significant Impact Near Transit Stations

Proposed CEQA Guideline Section 15064.3, subdivision (b)(1), states that lead agencies generally should presume that certain projects (including residential, retail, and office projects, as well as projects that are a mix of these uses) proposed within ½ mile of an existing major transit stop²⁰ or an existing stop

²⁰ Pub. Resources Code, § 21064.3 (“‘Major transit stop’ means a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.”).

along a high quality transit corridor²¹ will have a less-than-significant impact on VMT. This presumption would not apply, however, if project-specific or location-specific information indicates that the project will still generate significant levels of VMT. For example, the presumption might not be appropriate if the project:

- Has a Floor Area Ratio (FAR) of less than 0.75
- Includes more parking for use by residents, customers, or employees of the project than required by the jurisdiction (if the jurisdiction requires the project to supply parking)
- Is inconsistent with the applicable Sustainable Communities Strategy (as determined by the lead agency, with input from the Metropolitan Planning Organization)
- Replaces affordable residential units with a smaller number of moderate- or high-income residential units

A project or plan near transit which replaces affordable residential units²² with a smaller number of moderate- or high-income residential units may increase overall VMT because the increase in VMT of displaced residents could overwhelm the improvements in travel efficiency enjoyed by new residents.²³

If any of these exceptions to the presumption might apply, the lead agency should conduct a detailed VMT analysis to determine whether the project would exceed VMT thresholds (see below).

Presumption of Less Than Significant Impact for Affordable Residential Development

Adding affordable housing to infill locations generally improves jobs-housing match, in turn shortening commutes and reducing VMT.^{24,25} Further, "... low-wage workers in particular would be more likely to choose a residential location close to their workplace, if one is available."²⁶ In areas where existing jobs-housing match is closer to optimal, low income housing nevertheless generates less VMT than market-

²¹ Pub. Resources Code, § 21155 ("For purposes of this section, a high-quality transit corridor means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours.").

²² Including naturally-occurring affordable residential units.

²³ Chapple et al. (2017) *Developing a New Methodology for Analyzing Potential Displacement*, Chapter 4, pp. 159-160, available at <https://www.arb.ca.gov/research/apr/past/13-310.pdf>.

²⁴ Karner and Benner (2016) *The convergence of social equity and environmental sustainability: Jobs-housing fit and commute distance* ("[P]olicies that advance a more equitable distribution of jobs and housing by linking the affordability of locally available housing with local wage levels are likely to be associated with reduced commuting distances").

²⁵ Karner and Benner (2015) *Low-wage jobs-housing fit: identifying locations of affordable housing shortages*.

²⁶ Karner and Benner (2015) *Low-wage jobs-housing fit: identifying locations of affordable housing shortages*.

rate housing.^{27,28} Therefore, a project consisting of a high percentage of affordable housing may be a basis for the lead agency to find a less-than-significant impact on VMT. Evidence supports a presumption of less than significant impact for a 100 percent affordable residential development (or the residential component of a mixed-use development) in infill locations. Lead agencies may develop their own presumption of less than significant impact for residential projects (or residential portions of mixed use projects) containing a particular amount of affordable housing, based on local circumstances and evidence. Furthermore, a project which includes any affordable residential units may factor the effect of the affordability on VMT into the assessment of VMT generated by those units.

2. Recommended Numeric Thresholds for Residential, Office, and Retail Projects

Recommended threshold for residential projects: A proposed project exceeding a level of 15 percent below existing VMT per capita may indicate a significant transportation impact. Existing VMT per capita may be measured as regional VMT per capita or as city VMT per capita. Proposed development referencing a threshold based on city VMT per capita (rather than regional VMT per capita) should not cumulatively exceed the number of units specified in the SCS for that city, and should be consistent with the SCS.

Residential development that would generate vehicle travel that is 15 or more percent below the existing residential VMT per capita, measured against the region or city, may indicate a less-than-significant transportation impact. In MPO areas, development measured against city VMT per capita (rather than regional VMT per capita) should not cumulatively exceed the population or number of units specified in the SCS for that city because greater-than-planned amounts of development in areas above the region-based threshold would undermine the VMT containment needed to achieve regional targets under SB 375.

For residential projects in unincorporated county areas, the local agency can compare a residential project's VMT to (1) the region's VMT per capita, or (2) the aggregate population-weighted VMT per capita of all cities in the region. In MPO areas, development in unincorporated areas measured against aggregate city VMT per capita (rather than regional VMT per capita) should not cumulatively exceed the population or number of units specified in the SCS for that city because greater-than-planned amounts of development in areas above the regional threshold would undermine achievement of regional targets under SB 375.

²⁷ Chapple et al. (2017) *Developing a New Methodology for Analyzing Potential Displacement*, available at <https://www.arb.ca.gov/research/apr/past/13-310.pdf>.

²⁸ CAPCOA (2010) *Quantifying Greenhouse Gas Mitigation Measures*, pp. 176-178, available at <http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf>.

These thresholds can be applied to either household (i.e., tour-based) VMT or home-based (i.e., trip-based) VMT assessments.²⁹ It is critical, however, that the agency be consistent in its VMT measurement approach throughout the analysis to maintain an “apples-to-apples” comparison. For example, if the agency uses a home-based VMT for the threshold, it should also be use home-based VMT for calculating project VMT and VMT reduction due to mitigation measures.

Recommended threshold for office projects: A proposed project exceeding a level of 15 percent below existing regional VMT per employee may indicate a significant transportation impact.

Office projects that would generate vehicle travel exceeding 15 percent below existing VMT per employee for the region may indicate a significant transportation impact. In cases where the region is substantially larger than the geography over which most workers would be expected to live, it might be appropriate to refer to a smaller geography, such as the county, that includes the area over which nearly all workers would be expected to live.

Office VMT screening maps can be developed using tour-based data, considering either total employee VMT or employee work tour VMT. Similarly, tour-based analysis of office project VMT could consider either total employee VMT or employee work tour VMT. Where tour-based information is unavailable for threshold determination, project assessment, or assessment of mitigation, home-based work trip VMT should be used throughout all steps of the analysis to maintain an “apples-to-apples” comparison.

Recommended threshold for retail projects: A net increase in total VMT may indicate a significant transportation impact.

Because new retail development typically redistributes shopping trips rather than creating new trips,³⁰ estimating the total change in VMT (i.e., the difference in total VMT in the area affected with and without the project) is the best way to analyze a retail project’s transportation impacts.

By adding retail opportunities into the urban fabric and thereby improving retail destination proximity, local-serving retail development tends to shorten trips and reduce VMT. Thus, lead agencies generally may presume such development creates a less-than-significant transportation impact. Regional-serving retail development, on the other hand, which can lead to substitution of longer trips for shorter ones, may tend to have a significant impact. Where such development decreases VMT, lead agencies should consider the impact to be less-than-significant.

Many cities and counties define local-serving and regional-serving retail in their zoning codes. Lead agencies may refer to those local definitions when available, but should also consider any project-

²⁹ See Appendix 1 for a description of these approaches.

³⁰ Lovejoy, et al. (2013) *Measuring the impacts of local land-use policies on vehicle miles of travel: The case of the first big-box store in Davis, California*, *The Journal of Transport and Land Use*.

specific information, such as market studies or economic impacts analyses that might bear on customers' travel behavior. Because lead agencies will best understand their own communities and the likely travel behaviors of future project users, they are likely in the best position to decide when a project will likely be local-serving. Generally, however, retail development including stores larger than 50,000 square feet might be considered regional-serving, and so lead agencies should undertake an analysis to determine whether the project might increase or decrease VMT.

Mixed-Use Projects

Lead agencies can evaluate each component of a mixed-use project independently and apply the significance threshold for each project type included (e.g., residential and retail). Alternatively, a lead agency may consider only the project's dominant use. In the analysis of each use, a project should take credit for internal capture. Combining different land uses and applying one threshold to those land uses may result in an inaccurate impact assessment.

Other Project Types

Of land use projects, residential, office, and retail projects tend to have the greatest influence on VMT. For that reason, OPR recommends the quantified thresholds described above for purposes of analysis and mitigation. Lead agencies, using more location-specific information, may develop their own more specific thresholds, which may include other land use types. In developing thresholds for other project types, or thresholds different from those recommended here, lead agencies should consider the purposes described in section 21099 of the Public Resources Code and regulations in the CEQA Guidelines on the development of thresholds of significance (e.g., CEQA Guidelines, § 15064.7).

Strategies and projects that decrease local VMT but increase total VMT should be avoided. Agencies should consider whether their actions encourage development in a less travel-efficient location by limiting development in travel-efficient locations.

Redevelopment Projects

Where a project replaces existing VMT-generating land uses, if the replacement leads to a net overall decrease in VMT, the project would lead to a less-than-significant transportation impact. If the project leads to a net overall increase in VMT, then the thresholds described above should apply.

As described above, a project or plan near transit which replaces affordable³¹ residential units with a smaller number of moderate- or high-income residential units may increase overall VMT, because

³¹ Including naturally-occurring affordable residential units.

displaced residents' VMT may increase.³² A lead agency should analyze VMT for such a project even if it otherwise would have been presumed less than significant. The assessment should incorporate an estimate of the aggregate VMT increase experienced by displaced residents. That additional VMT should be included in the numerator of the VMT per capita assessed for the project.

If a residential or office project leads to a net increase in VMT, then the project's VMT per capita (residential) or per employee (office) should be compared to thresholds recommended above. Per capita and per employee VMT are efficiency metrics, and, as such, apply only to the existing project without regard to the VMT generated by the previously existing land use.

If the project leads to a net increase in provision of locally-serving retail, transportation impacts from the retail portion of the development should be presumed to be less than significant. If the project consists of regionally-serving retail, and increases overall VMT compared to with existing uses, then the project would lead to a significant transportation impact.

RTP/SCS Consistency (All Land Use Projects)

Section 15125, subdivision (d), of the CEQA Guidelines provides that lead agencies should analyze impacts resulting from inconsistencies with regional plans, including regional transportation plans. For this reason, if a project is inconsistent with the Regional Transportation Plan and Sustainable Communities Strategy (RTP/SCS), the lead agency should evaluate whether that inconsistency indicates a significant impact on transportation. For example, a development may be inconsistent with an RTP/SCS if the development is outside the footprint of development or within an area specified as open space as shown in the SCS.

3. Recommendations Regarding Land Use Plans

As with projects, agencies should analyze VMT outcomes of land use plans across the full area over which the plan may substantively affect travel patterns, including beyond the boundary of the plan or jurisdiction's geography. And as with projects, VMT should be counted in full rather than split between origin and destination. (Emissions inventories have sometimes split cross-boundary trips in order to sum to a regional total, but CEQA requires accounting for the full impact without truncation or discounting). Analysis of specific plans may employ the same thresholds described above for projects. A general plan, area plan, or community plan may have a significant impact on transportation if proposed new residential, office, or retail land uses would in aggregate exceed the respective thresholds recommended above. Where the lead agency tiers from a general plan EIR pursuant to CEQA Guidelines sections 15152 and 15166, the lead agency generally focuses on the environmental impacts that are specific to the later project and were not analyzed as significant impacts in the prior EIR. (Pub. Resources Code, § 21068.5; Guidelines, § 15152, subd. (a).) Thus, in analyzing the later project, the lead agency

³² Chapple et al. (2017) *Developing a New Methodology for Analyzing Potential Displacement*, Chapter 4, pp. 159-160, available at <https://www.arb.ca.gov/research/apr/past/13-310.pdf>.

would focus on the VMT impacts that were not adequately addressed in the prior EIR. In the tiered document, the lead agency should continue to apply the thresholds recommended above.

Thresholds for plans in non-MPO areas may be determined on a case-by-case basis.

4. Other Considerations

Rural Projects Outside of MPOs

In rural areas of non-MPO counties (i.e., areas not near established or incorporated cities or towns), fewer options may be available for reducing VMT, and significance thresholds may be best determined on a case-by-case basis. Note, however, that clustered small towns and small town main streets may have substantial VMT benefits compared to isolated rural development, similar to the transit oriented development described above.

Impacts to Transit

Because criteria for determining the significance of transportation impacts must promote “the development of multimodal transportation networks” pursuant to Public Resources Code section 21099, subd. (b)(1), lead agencies should consider project impacts to transit systems and bicycle and pedestrian networks. For example, a project that blocks access to a transit stop or blocks a transit route itself may interfere with transit functions. Lead agencies should consult with transit agencies as early as possible in the development process, particularly for projects that are located within one half mile of transit stops.

When evaluating impacts to multimodal transportation networks, lead agencies generally should not treat the addition of new transit users as an adverse impact. An infill development may add riders to transit systems and the additional boarding and alighting may slow transit vehicles, but it also adds destinations, improving proximity and accessibility. Such development also improves regional vehicle flow by adding less vehicle travel onto the regional network.

Increased demand throughout a region may, however, cause a cumulative impact by requiring new or additional transit infrastructure. Such impacts may be adequately addressed through a fee program that fairly allocates the cost of improvements not just to projects that happen to locate near transit, but rather across a region to all projects that impose burdens on the entire transportation system, since transit can broadly improve the function of the transportation system.

F. Considering the Effects of Transportation Projects on Vehicle Travel

Many transportation projects change travel patterns. A transportation project which leads to additional vehicle travel on the roadway network, commonly referred to as “induced vehicle travel,” would need to quantify the amount of additional vehicle travel in order to assess air quality impacts, greenhouse gas emissions impacts, energy impacts, and noise impacts. Transportation projects also are required to

examine induced growth impacts under CEQA. (See generally, Pub. Resources Code, §§ 21065 [defining “project” under CEQA as an activity as causing either a direct or reasonably foreseeable indirect physical change], 21065.3 [defining “project-specific effect” to mean all direct or indirect environmental effects], 21100, subd. (b) [required contents of an EIR].) For any project that increases vehicle travel, explicit assessment and quantitative reporting of the amount of additional vehicle travel should not be omitted from the document; such information may be useful and necessary for a full understanding of a project’s environmental impacts. (See Pub. Resources Code, §§ 21000, 21001, 21001.1, 21002, 21002.1 [discussing the policies of CEQA].) A lead agency that uses the VMT metric to assess the transportation impacts of a transportation project may simply report that change in VMT as the impact. When the lead agency uses another metric to analyze the transportation impacts of a roadway project, changes in amount of vehicle travel added to the roadway network should still be analyzed and reported.³³

While CEQA does not require perfection, it is important to make a reasonably accurate estimate of transportation projects’ effects on vehicle travel in order to make reasonably accurate estimates of GHG emissions, air quality emissions, energy impacts, and noise impacts. (See, e.g., *California Clean Energy Com. v. City of Woodland* (2014) 225 Cal.App.4th 173, 210 [EIR failed to consider project’s transportation energy impacts]; *Ukiah Citizens for Safety First v. City of Ukiah* (2016) 248 Cal.App.4th 256, 266.) Appendix 2 describes in detail the causes of induced vehicle travel, the robust empirical evidence of induced vehicle travel, and how models and research can be used in conjunction to quantitatively assess induced vehicle travel with reasonable accuracy.

If a project would likely lead to a measurable and substantial increase in vehicle travel, the lead agency should conduct an analysis assessing the amount of vehicle travel the project will induce. Project types that would likely lead to a measurable and substantial increase in vehicle travel generally include:

- Addition of through lanes on existing or new highways, including general purpose lanes, HOV lanes, peak period lanes, auxiliary lanes, or lanes through grade-separated interchanges

Projects that would not likely lead to a substantial or measurable increase in vehicle travel, and therefore generally should not require an induced travel analysis, include:

- Rehabilitation, maintenance, replacement, safety, and repair projects designed to improve the condition of existing transportation assets (e.g., highways; roadways; bridges; culverts; Transportation Management System field elements such as cameras, message signs, detection, or signals; tunnels; transit systems; and assets that serve bicycle and pedestrian facilities) and that do not add additional motor vehicle capacity
- Roadside safety devices or hardware installation such as median barriers and guardrails

³³ See, e.g., California Department of Transportation (2006) *Guidance for Preparers of Growth-related, Indirect Impact Analyses*, available at [http://www.dot.ca.gov/ser/Growth-related IndirectImpactAnalysis/GRI_guidance06May_files/gri_guidance.pdf](http://www.dot.ca.gov/ser/Growth-related%20IndirectImpactAnalysis/GRI_guidance06May_files/gri_guidance.pdf).

- Roadway shoulder enhancements to provide “breakdown space,” dedicated space for use only by transit vehicles, to provide bicycle access, or to otherwise improve safety, but which will not be used as automobile vehicle travel lanes
- Addition of an auxiliary lane of less than one mile in length designed to improve roadway safety
- Installation, removal, or reconfiguration of traffic lanes that are not for through traffic, such as left, right, and U-turn pockets, two-way left turn lanes, or emergency breakdown lanes that are not utilized as through lanes
- Addition of roadway capacity on local or collector streets provided the project also substantially improves conditions for pedestrians, cyclists, and, if applicable, transit
- Conversion of existing general purpose lanes (including ramps) to managed lanes or transit lanes, or changing lane management in a manner that would not substantially increase vehicle travel
- Addition of a new lane that is permanently restricted to use only by transit vehicles
- Reduction in number of through lanes
- Grade separation to separate vehicles from rail, transit, pedestrians or bicycles, or to replace a lane in order to separate preferential vehicles (e.g., HOV, HOT, or trucks) from general vehicles
- Installation, removal, or reconfiguration of traffic control devices, including Transit Signal Priority (TSP) features
- Installation of traffic metering systems, detection systems, cameras, changeable message signs and other electronics designed to optimize vehicle, bicycle, or pedestrian flow
- Timing of signals to optimize vehicle, bicycle, or pedestrian flow
- Installation of roundabouts or traffic circles
- Installation or reconfiguration of traffic calming devices
- Adoption of or increase in tolls
- Addition of tolled lanes, where tolls are sufficient to mitigate VMT increase
- Initiation of new transit service
- Conversion of streets from one-way to two-way operation with no net increase in number of traffic lanes
- Removal or relocation of off-street or on-street parking spaces
- Adoption or modification of on-street parking or loading restrictions (including meters, time limits, accessible spaces, and preferential/reserved parking permit programs)
- Addition of traffic wayfinding signage
- Rehabilitation and maintenance projects that do not add motor vehicle capacity
- Addition of new or enhanced bike or pedestrian facilities on existing streets/highways or within existing public rights-of-way
- Addition of Class I bike paths, trails, multi-use paths, or other off-road facilities that serve non-motorized travel
- Installation of publicly available alternative fuel/charging infrastructure
- Addition of passing lanes, truck climbing lanes, or truck brake-check lanes in rural areas that do not increase overall vehicle capacity along the corridor

1. Recommended Significance Threshold for Transportation Projects

As noted in Section 15064.3 of the CEQA Guidelines, lead agencies for roadway capacity projects have discretion, consistent with CEQA and planning requirements, to choose which metric to use to evaluate transportation impacts. This section recommends considerations for evaluating impacts using vehicle miles traveled. Lead agencies have discretion to choose a threshold of significance for transportation projects as they do for other types of projects. As explained above, Public Resources Code section 21099, subdivision (b)(1), provides that criteria for determining the significance of transportation impacts must promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses. (*Id.*; see generally, adopted CEQA Guidelines, § 15064.3, subd. (b) [Criteria for Analyzing Transportation Impacts].) With those goals in mind, OPR prepared and the Agency adopted an appropriate transportation metric.

Whether adopting a threshold of significance, or evaluating transportation impacts on a case-by-case basis, a lead agency should ensure that the analysis addresses:

- Direct, indirect and cumulative effects of the transportation project (CEQA Guidelines, § 15064, subds. (d), (h))
- Near-term and long-term effects of the transportation project (CEQA Guidelines, §§ 15063, subd. (a)(1), 15126.2, subd. (a))
- The transportation project's consistency with state greenhouse gas reduction goals (Pub. Resources Code, § 21099)³⁴
- The impact of the transportation project on the development of multimodal transportation networks (Pub. Resources Code, § 21099)
- The impact of the transportation project on the development of a diversity of land uses (Pub. Resources Code, § 21099)

The CARB Scoping Plan and the CARB Mobile Source Strategy delineate VMT levels required to achieve legally mandated GHG emissions reduction targets. A lead agency should develop a project-level threshold based on those VMT levels, and may apply the following approach:

1. Propose a fair-share allocation of those budgets to their jurisdiction (e.g., by population);

³⁴ The California Air Resources Board has ascertained the limits of VMT growth compatible with California containing greenhouse gas emissions to levels research shows would allow for climate stabilization. (See [The 2017 Climate Change Scoping Plan: The Strategy for Achieving California's 2030 Greenhouse Gas Target](#) (p. 78, p. 101); [Mobile Source Strategy](#) (p. 37).) CARB's [Updated Final Staff Report on Proposed Update to the SB 375 Greenhouse Gas Emission Reduction Targets](#) illustrates that the current Regional Transportation Plans and Sustainable Communities Strategies will fall short of achieving the necessary on-road transportation-related GHG emissions reductions called for in the 2017 Scoping Plan (Figure 3, p. 35). Accordingly, OPR recommends not basing GHG emissions or transportation impact analysis for a transportation project solely on consistency with an RTP/SCS.

2. Determine the amount of VMT growth likely to result from background population growth, and subtract that from their “budget”;
3. Allocate their jurisdiction’s share between their various VMT-increasing transportation projects, using whatever criteria the lead agency prefers.

2. Estimating VMT Impacts from Transportation Projects

CEQA requires analysis of a project’s potential growth-inducing impacts. (Pub. Resources Code, § 21100, subd. (b)(5); CEQA Guidelines, § 15126.2, subd. (d).) Many agencies are familiar with the analysis of growth inducing impacts associated with water, sewer, and other infrastructure. This technical advisory addresses growth that may be expected from roadway expansion projects.

Because a roadway expansion project can induce substantial VMT, incorporating quantitative estimates of induced VMT is critical to calculating both transportation and other impacts of these projects. Induced travel also has the potential to reduce or eliminate congestion relief benefits. An accurate estimate of induced travel is needed to accurately weigh costs and benefits of a highway capacity expansion project.

The effect of a transportation project on vehicle travel should be estimated using the “change in total VMT” method described in *Appendix 1*. This means that an assessment of total VMT without the project and an assessment with the project should be made; the difference between the two is the amount of VMT attributable to the project. The assessment should cover the full area in which driving patterns are expected to change. As with other types of projects, the VMT estimation should not be truncated at a modeling or jurisdictional boundary for convenience of analysis when travel behavior is substantially affected beyond that boundary.

Transit and Active Transportation Projects

Transit and active transportation projects generally reduce VMT and therefore are presumed to cause a less-than-significant impact on transportation. This presumption may apply to all passenger rail projects, bus and bus rapid transit projects, and bicycle and pedestrian infrastructure projects. Streamlining transit and active transportation projects aligns with each of the three statutory goals contained in SB 743 by reducing GHG emissions, increasing multimodal transportation networks, and facilitating mixed use development.

Roadway Projects

Reducing roadway capacity (for example, by removing or repurposing motor vehicle travel lanes) will generally reduce VMT and therefore is presumed to cause a less-than-significant impact on transportation. Generally, no transportation analysis is needed for such projects.

Building new roadways, adding roadway capacity in congested areas, or adding roadway capacity to areas where congestion is expected in the future, typically induces additional vehicle travel. For the types of projects previously indicated as likely to lead to additional vehicle travel, an estimate should be made of the change in vehicle travel resulting from the project.

For projects that increase roadway capacity, lead agencies can evaluate induced travel quantitatively by applying the results of existing studies that examine the magnitude of the increase of VMT resulting from a given increase in lane miles. These studies estimate the percent change in VMT for every percent change in miles to the roadway system (i.e., “elasticity”).³⁵ Given that lead agencies have discretion in choosing their methodology, and the studies on induced travel reveal a range of elasticities, lead agencies may appropriately apply professional judgment in studying the transportation effects of a particular project. The most recent major study, estimates an elasticity of 1.0, meaning that every percent change in lane miles results in a one percent increase in VMT.³⁶

To estimate VMT impacts from roadway expansion projects:

1. Determine the total lane-miles over an area that fully captures travel behavior changes resulting from the project (generally the region, but for projects affecting interregional travel look at all affected regions).
2. Determine the percent change in total lane miles that will result from the project.
3. Determine the total existing VMT over that same area.
4. Multiply the percent increase in lane miles by the existing VMT, and then multiply that by the elasticity from the induced travel literature:

$$[\% \text{ increase in lane miles}] \times [\text{existing VMT}] \times [\text{elasticity}] = [\text{VMT resulting from the project}]$$

A National Center for Sustainable Transportation tool can be used to apply this method:

<https://ncst.ucdavis.edu/research/tools>

This method would not be suitable for rural (non-MPO) locations in the state which are neither congested nor projected to become congested. It also may not be suitable for a new road that provides new connectivity across a barrier (e.g., a bridge across a river) if it would be expected to substantially

³⁵ See U.C. Davis, Institute for Transportation Studies (Oct. 2015) *Increasing Highway Capacity Unlikely to Relieve Traffic Congestion*; Boarnet and Handy (Sept. 2014) *Impact of Highway Capacity and Induced Travel on Passenger Vehicle Use and Greenhouse Gas Emissions*, California Air Resources Board Policy Brief, available at https://www.arb.ca.gov/cc/sb375/policies/hwycapacity/highway_capacity_brief.pdf.

³⁶ See Duranton and Turner (2011) *The Fundamental Law of Road Congestion: Evidence from US cities*, available at <http://www.nber.org/papers/w15376>.

shorten existing trips. If it is likely to be substantial, the trips-shortening effect should be examined explicitly.

The effects of roadway capacity on vehicle travel can also be applied at a programmatic level. For example, in a regional planning process the lead agency can use that program-level analysis to streamline later project-level analysis. (See CEQA Guidelines, § 15168.) A program-level analysis of VMT should include effects of the program on land use patterns, and the VMT that results from those land use effects. In order for a program-level document to adequately analyze potential induced demand from a project or program of roadway capacity expansion, lead agencies cannot assume a fixed land use pattern (i.e., a land use pattern that does not vary in response to the provision of roadway capacity). A proper analysis should account for land use investment and development pattern changes that react in a reasonable manner to changes in accessibility created by transportation infrastructure investments (whether at the project or program level).

Mitigation and Alternatives

Induced VMT has the potential to reduce or eliminate congestion relief benefits, increase VMT, and increase other environmental impacts that result from vehicle travel.³⁷ If those effects are significant, the lead agency will need to consider mitigation or alternatives. In the context of increased travel that is induced by capacity increases, appropriate mitigation and alternatives that a lead agency might consider include the following:

- Tolling new lanes to encourage carpools and fund transit improvements
- Converting existing general purpose lanes to HOV or HOT lanes
- Implementing or funding off-site travel demand management
- Implementing Intelligent Transportation Systems (ITS) strategies to improve passenger throughput on existing lanes

Tolling and other management strategies can have the additional benefit of preventing congestion and maintaining free-flow conditions, conferring substantial benefits to road users as discussed above.

G. Analyzing Other Impacts Related to Transportation

While requiring a change in the methodology of assessing transportation impacts, Public Resources Code section 21099 notes that this change “does not relieve a public agency of the requirement to analyze a project’s potentially significant transportation impacts related to air quality, noise, safety, or any other impact associated with transportation.” OPR expects that lead agencies will continue to

³⁷ See National Center for Sustainable Transportation (Oct. 2015) *Increasing Highway Capacity Unlikely to Relieve Traffic Congestion*, available at http://www.dot.ca.gov/newtech/researchreports/reports/2015/10-12-2015-NCST_Brief_InducedTravel_CS6_v3.pdf; see Duranton and Turner (2011) *The Fundamental Law of Road Congestion: Evidence from US cities*, available at <http://www.nber.org/papers/w15376>.

address mobile source emissions in the air quality and noise sections of an environmental document and the corresponding studies that support the analysis in those sections. Lead agencies should continue to address environmental impacts of a proposed project pursuant to CEQA's requirements, using a format that is appropriate for their particular project.

Because safety concerns result from many different factors, they are best addressed at a programmatic level (i.e., in a general plan or regional transportation plan) in cooperation with local governments, metropolitan planning organizations, and, where the state highway system is involved, the California Department of Transportation. In most cases, such an analysis would not be appropriate on a project-by-project basis. Increases in traffic volumes at a particular location resulting from a project typically cannot be estimated with sufficient accuracy or precision to provide useful information for an analysis of safety concerns. Moreover, an array of factors affect travel demand (e.g., strength of the local economy, price of gasoline), causing substantial additional uncertainty. Appendix B of OPR's [General Plan Guidelines](#) summarizes research which could be used to guide a programmatic analysis under CEQA. Lead agencies should note that automobile congestion or delay does not constitute a significant environmental impact (Pub. Resources Code, §21099(b)(2)), and safety should not be used as a proxy for road capacity.

H. VMT Mitigation and Alternatives

When a lead agency identifies a significant impact, it must identify feasible mitigation measures that could avoid or substantially reduce that impact. (Pub. Resources Code, § 21002.1, subd. (a).) Additionally, CEQA requires that an environmental impact report identify feasible alternatives that could avoid or substantially reduce a project's significant environmental impacts.

Indeed, the California Court of Appeal recently held that a long-term regional transportation plan was deficient for failing to discuss an alternative which could significantly reduce total vehicle miles traveled. In *Cleveland National Forest Foundation v. San Diego Association of Governments, et al.* (2017) 17 Cal.App.5th 413, the court found that omission "inexplicable" given the lead agency's "acknowledgment in its Climate Action Strategy that the state's efforts to reduce greenhouse gas emissions from on-road transportation will not succeed if the amount of driving, or vehicle miles traveled, is not significantly reduced." (*Cleveland National Forest Foundation, supra*, 17 Cal.App.5th at p. 436.) Additionally, the court noted that the project alternatives focused primarily on congestion relief even though "the [regional] transportation plan is a long-term and congestion relief is not necessarily an effective long-term strategy." (*Id.* at p. 437.) The court concluded its discussion of the alternatives analysis by stating: "Given the acknowledged long-term drawbacks of congestion relief alternatives, there is not substantial evidence to support the EIR's exclusion of an alternative focused primarily on significantly reducing vehicle trips." (*Ibid.*)

Several examples of potential mitigation measures and alternatives to reduce VMT are described below. However, the selection of particular mitigation measures and alternatives are left to the discretion of

the lead agency, and mitigation measures may vary, depending on the proposed project and significant impacts, if any. Further, OPR expects that agencies will continue to innovate and find new ways to reduce vehicular travel.

Potential measures to reduce vehicle miles traveled include, but are not limited to:

- Improve or increase access to transit.
- Increase access to common goods and services, such as groceries, schools, and daycare.
- Incorporate affordable housing into the project.
- Incorporate neighborhood electric vehicle network.
- Orient the project toward transit, bicycle and pedestrian facilities.
- Improve pedestrian or bicycle networks, or transit service.
- Provide traffic calming.
- Provide bicycle parking.
- Limit or eliminate parking supply.
- Unbundle parking costs.
- Provide parking cash-out programs.
- Implement roadway pricing.
- Implement or provide access to a commute reduction program.
- Provide car-sharing, bike sharing, and ride-sharing programs.
- Provide transit passes.
- Shifting single occupancy vehicle trips to carpooling or vanpooling, for example providing ride-matching services.
- Providing telework options.
- Providing incentives or subsidies that increase the use of modes other than single-occupancy vehicle.
- Providing on-site amenities at places of work, such as priority parking for carpools and vanpools, secure bike parking, and showers and locker rooms.
- Providing employee transportation coordinators at employment sites.
- Providing a guaranteed ride home service to users of non-auto modes.

Notably, because VMT is largely a regional impact, regional VMT-reduction programs may be an appropriate form of mitigation. In lieu fees have been found to be valid mitigation where there is both a commitment to pay fees and evidence that mitigation will actually occur. (*Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 140-141; *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359; *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 727–728.) Fee programs are particularly useful to address cumulative impacts. (CEQA Guidelines, § 15130, subd. (a)(3) [a “project’s incremental contribution is less than cumulatively considerable if the project is required to implement or fund its fair share of a mitigation measure or measures designed to alleviate the cumulative impact”].) The mitigation program must undergo CEQA evaluation, either on the program as a whole, or the in-lieu fees or other mitigation must be evaluated

on a project-specific basis. (*California Native Plant Society v. County of El Dorado* (2009) 170 Cal.App.4th 1026.) That CEQA evaluation could be part of a larger program, such as a regional transportation plan, analyzed in a Program EIR. (CEQA Guidelines, § 15168.)

Examples of project alternatives that may reduce vehicle miles traveled include, but are not limited to:

- Locate the project in an area of the region that already exhibits low VMT.
- Locate the project near transit.
- Increase project density.
- Increase the mix of uses within the project or within the project's surroundings.
- Increase connectivity and/or intersection density on the project site.
- Deploy management strategies (e.g., pricing, vehicle occupancy requirements) on roadways or roadway lanes.

Appendix 1. Considerations About Which VMT to Count

Consistent with the obligation to make a good faith effort to disclose the environmental consequences of a project, lead agencies have discretion to choose the most appropriate methodology to evaluate project impacts.³⁸ A lead agency can evaluate a project's effect on VMT in numerous ways. The purpose of this document is to provide technical considerations in determining which methodology may be most useful for various project types.

Background on Estimating Vehicle Miles Traveled

Before discussing specific methodological recommendations, this section provides a brief overview of modeling and counting VMT, including some key terminology.

Here is an illustrative example of some methods of estimating vehicle miles traveled. Consider the following hypothetical travel day (all by automobile):

1. Residence to Coffee Shop
2. Coffee Shop to Work
3. Work to Sandwich Shop
4. Sandwich Shop to Work
5. Work to Residence
6. Residence to Store
7. Store to Residence

Trip-based assessment of a project's effect on travel behavior counts VMT from individual trips to and from the project. It is the most basic, and traditionally the most common, method of counting VMT. A trip-based VMT assessment of the residence in the above example would consider segments 1, 5, 6 and 7. For residential projects, the sum of home-based trips is called *home-based* VMT.

A *tour-based* assessment counts the entire home-back-to-home tour that includes the project. A tour-based VMT assessment of the residence in the above example would consider segments 1, 2, 3, 4, and 5 in one tour, and 6 and 7 in a second tour. A tour-based assessment of the workplace would include segments 1, 2, 3, 4, and 5. Together, all tours comprise *household* VMT.

³⁸ The California Supreme Court has explained that when an agency has prepared an environmental impact report:

[T]he issue is not whether the [lead agency's] studies are irrefutable or whether they could have been better. The relevant issue is only whether the studies are sufficiently credible to be considered as part of the total evidence that supports the [lead agency's] finding[.]

(*Laurel Heights Improvement Assn. v. Regents of the University of California* (1988) 47 Cal.3d 376, 409; see also *Eureka Citizens for Responsible Gov't v. City of Eureka* (2007) 147 Cal.App.4th 357, 372.)

Both trip- and tour-based assessments can be used as measures of transportation efficiency, using denominators such as per capita, per employee, or per person-trip.

Trip- and Tour-based Assessment of VMT

As illustrated above, a tour-based assessment of VMT is a more complete characterization of a project's effect on VMT. In many cases, a project affects travel behavior beyond the first destination. The location and characteristics of the home and workplace will often be the main drivers of VMT. For example, a residential or office development located near high quality transit will likely lead to some commute trips utilizing transit, affecting mode choice on the rest of the tour.

Characteristics of an office project can also affect an employee's VMT beyond the work tour. For example, a workplace located at the urban periphery, far from transit, can require an employee to own a car, which in turn affects the entirety of an employee's travel behavior and VMT. For this reason, when estimating the effect of an office development on VMT, it may be appropriate to consider total employee VMT if data and tools, such as tour-based models, are available. This is consistent with CEQA's requirement to evaluate both direct and *indirect* effects of a project. (See CEQA Guidelines, § 15064, subd. (d)(2).)

Assessing Change in Total VMT

A third method, estimating the *change in total VMT* with and without the project, can evaluate whether a project is likely to divert existing trips, and what the effect of those diversions will be on total VMT. This method answers the question, "What is the net effect of the project on area VMT?" As an illustration, assessing the total change in VMT for a grocery store built in a food desert that diverts trips from more distant stores could reveal a net VMT reduction. The analysis should address the full area over which the project affects travel behavior, even if the effect on travel behavior crosses political boundaries.

Using Models to Estimate VMT

Travel demand models, sketch models, spreadsheet models, research, and data can all be used to calculate and estimate VMT (see Appendix F of the [preliminary discussion draft](#)). To the extent possible, lead agencies should choose models that have sensitivity to features of the project that affect VMT. Those tools and resources can also assist in establishing thresholds of significance and estimating VMT reduction attributable to mitigation measures and project alternatives. When using models and tools for those various purposes, agencies should use comparable data and methods, in order to set up an "apples-to-apples" comparison between thresholds, VMT estimates, and VMT mitigation estimates.

Models can work together. For example, agencies can use travel demand models or survey data to estimate existing trip lengths and input those into sketch models such as CalEEMod to achieve more

accurate results. Whenever possible, agencies should input localized trip lengths into a sketch model to tailor the analysis to the project location. However, in doing so, agencies should be careful to avoid double counting if the sketch model includes other inputs or toggles that are proxies for trip length (e.g., distance to city center). Generally, if an agency changes any sketch model defaults, it should record and report those changes for transparency of analysis. Again, trip length data should come from the same source as data used to calculate thresholds to be sure of an “apples-to-apples” comparison.

Additional background information regarding travel demand models is available in the California Transportation Commission’s [“2010 Regional Transportation Plan Guidelines,”](#) beginning at page 35.

Appendix 2. Induced Travel: Mechanisms, Research, and Additional Assessment Approaches

Induced travel occurs where roadway capacity is expanded in an area of present or projected future congestion. The effect typically manifests over several years. Lower travel times make the modified facility more attractive to travelers, resulting in the following trip-making changes:

- **Longer trips.** The ability to travel a long distance in a shorter time increases the attractiveness of destinations that are farther away, increasing trip length and vehicle travel.
- **Changes in mode choice.** When transportation investments are devoted to reducing automobile travel time, travelers tend to shift toward automobile use from other modes, which increases vehicle travel.
- **Route changes.** Faster travel times on a route attract more drivers to that route from other routes, which can increase or decrease vehicle travel depending on whether it shortens or lengthens trips.
- **Newly generated trips.** Increasing travel speeds can induce additional trips, which increases vehicle travel. For example, an individual who previously telecommuted or purchased goods on the internet might choose to accomplish those tasks via automobile trips as a result of increased speeds.
- **Land Use Changes.** Faster travel times along a corridor lead to land development farther along that corridor; that new development generates and attracts longer trips, which increases vehicle travel. Over several years, this induced growth component of induced vehicle travel can be substantial, making it critical to include in analyses.

Each of these effects has implications for the total amount of vehicle travel. These effects operate over different time scales. For example, changes in mode choice might occur immediately, while land use changes typically take a few years or longer. CEQA requires lead agencies to analyze both short-term and long-term effects.

Evidence of Induced Vehicle Travel. A large number of peer reviewed studies³⁹ have demonstrated a causal link between highway capacity increases and VMT increases. Many provide quantitative estimates of the magnitude of the induced VMT phenomenon. Collectively, they provide high quality evidence of the existence and magnitude of the induced travel effect.

³⁹ See, e.g., Boarnet and Handy (Sept. 2014) Impact of Highway Capacity and Induced Travel on Passenger Vehicle Use and Greenhouse Gas Emissions, California Air Resources Board Policy Brief, available at https://www.arb.ca.gov/cc/sb375/policies/hwycapacity/highway_capacity_brief.pdf; National Center for Sustainable Transportation (Oct. 2015) *Increasing Highway Capacity Unlikely to Relieve Traffic Congestion*, available at http://www.dot.ca.gov/research/researchreports/reports/2015/10-12-2015-NCST_Brief_InducedTravel_CS6_v3.pdf.

Most of these studies express the amount of induced vehicle travel as an “elasticity,” which is a multiplier that describes the additional vehicle travel resulting from an additional lane mile of roadway capacity added. For example, an elasticity of 0.6 would signify an 0.6 percent increase in vehicle travel for every 1.0 percent increase in lane miles. Many of these studies distinguish “short run elasticity” (increase in vehicle travel in the first few years) from “long run elasticity” (increase in vehicle travel beyond the first few years). Long run elasticity is larger than short run elasticity, because as time passes, more of the components of induced vehicle travel materialize. Generally, short run elasticity can be thought of as excluding the effects of land use change, while long run elasticity includes them. Most studies find a long run elasticity between 0.6 and just over 1.0,⁴⁰ meaning that every increase in lanes miles of one percent leads to an increase in vehicle travel of 0.6 to 1.0 percent. The most recent major study finds the elasticity of vehicle travel by lanes miles added to be 1.03; in other words, each percent increase in lane miles results in a 1.03 percent increase in vehicle travel.⁴¹ (An elasticity greater than 1.0 can occur because new lanes induce vehicle travel that spills beyond the project location.) In CEQA analysis, the long-run elasticity should be used, as it captures the full effect of the project rather than just the early-stage effect.

Quantifying Induced Vehicle Travel Using Models. Lead agencies can generally achieve the most accurate assessment of induced vehicle travel resulting from roadway capacity increasing projects by applying elasticities from the academic literature, because those estimates include vehicle travel resulting from induced land use. If a lead agency chooses to use a travel demand model, additional analysis would be needed to account for induced land use. This section describes some approaches to undertaking that additional analysis.

Proper use of a travel demand model can capture the following components of induced VMT:

- Trip length (generally increases VMT)
- Mode shift (generally shifts from other modes toward automobile use, increasing VMT)
- Route changes (can act to increase or decrease VMT)
- Newly generated trips (generally increases VMT)
 - Note that not all travel demand models have sensitivity to this factor, so an off-model estimate may be necessary if this effect could be substantial.

However, estimating long-run induced VMT also requires an estimate of the project’s effects on land use. This component of the analysis is important because it has the potential to be a large component of

⁴⁰ See Boarnet and Handy (Sept. 2014) [Impact of Highway Capacity and Induced Travel on Passenger Vehicle Use and Greenhouse Gas Emissions](https://www.arb.ca.gov/cc/sb375/policies/hwycapacity/highway_capacity_brief.pdf), California Air Resources Board Policy Brief, p. 2, available at https://www.arb.ca.gov/cc/sb375/policies/hwycapacity/highway_capacity_brief.pdf.

⁴¹ Duranton and Turner (2011) *The Fundamental Law of Road Congestion: Evidence from US cities*, available at <http://www.nber.org/papers/w15376>.

the overall induced travel effect. Options for estimating and incorporating the VMT effects that are caused by the subsequent land use changes include:

1. *Employ an expert panel.* An expert panel could assess changes to land use development that would likely result from the project. This assessment could then be analyzed by the travel demand model to assess effects on vehicle travel. Induced vehicle travel assessed via this approach should be verified using elasticities found in the academic literature.
2. *Adjust model results to align with the empirical research.* If the travel demand model analysis is performed without incorporating projected land use changes resulting from the project, the assessed vehicle travel should be adjusted upward to account for those land use changes. The assessed VMT after adjustment should fall within the range found in the academic literature.
3. *Employ a land use model, running it iteratively with a travel demand model.* A land use model can be used to estimate the land use effects of a roadway capacity increase, and the traffic patterns that result from the land use change can then be fed back into the travel demand model. The land use model and travel demand model can be iterated to produce an accurate result.

A project which provides new connectivity across a barrier, such as a new bridge across a river, may provide a shortened path between existing origins and destinations, thereby shortening existing trips. In rare cases, this trip-shortening effect might be substantial enough to reduce the amount of vehicle travel resulting from the project below the range found in the elasticities in the academic literature, or even lead a net reduction in vehicle travel overall. In such cases, the trip-shortening effect could be examined explicitly.

Whenever employing a travel demand model to assess induced vehicle travel, any limitation or known lack of sensitivity in the analysis that might cause substantial errors in the VMT estimate (for example, model insensitivity to one of the components of induced VMT described above) should be disclosed and characterized, and a description should be provided on how it could influence the analysis results. A discussion of the potential error or bias should be carried into analyses that rely on the VMT analysis, such as greenhouse gas emissions, air quality, energy, and noise.

APPENDIX B

PROPOSED MITIGATION STRATEGIES FOR IMPLEMENTATION OF SB 743



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Proposed Mitigation Strategies for Implementation of SB 743

Categories	Mitigation Strategies	Proposed Language
<p>Tier 1 -</p> <p>On-Site Improvements</p>	<ol style="list-style-type: none"> 1. Pedestrian Network Improvements 2. Incorporate Bike Lane Street Design 3. Provide Traffic Calming Measures 4. Increase density 5. Provide enhanced bicycle and/or pedestrian facilities 6. Mixed-Use Overlay 7. Incorporate affordable housing 8. Bike parking for non-residential projects or multi-unit residential projects 	<ol style="list-style-type: none"> 1. Pedestrian Network Improvements shall be incorporated into a project site plan that provide pedestrian walkway access from a building entrance/exit to other buildings on the project site and a sidewalk that leads off-site.¹ 2. Projects that include dedicated rights-of-way, non-dedicated roadways, or both, shall be designed at an appropriate width to accommodate, at a minimum, a painted on-street Bike Lane. ² 3. Traffic Calming Measures (TCMs) shall be incorporated into a project site plan, where applicable. ³ 4. A density bonus will be allowed in conformance with Orange County Zoning Code. ⁴ 5. Projects with existing bicycle and pedestrian facilities shall double the capacity of bicycle facilities (e.g., bicycle racks) and shall expand pedestrian walkway access such that all onsite buildings are interconnected and off-street connectivity is provided. 6. A density bonus shall be allowed if a project includes both residential and employment land uses. 7. A density bonus shall be allowed if a project includes affordable housing per the Zoning Code. 8. Bicycle parking shall be provided in a secure, enclosed location and be identified on a site plan. The bike parking shall be provided based on duration for non-residential developments. ⁵

Proposed Mitigation Strategies for Implementation of SB 743

Categories	Mitigation Strategies	Proposed Language
<p>Tier 2 -</p> <p>Financial Incentives</p>	<p>9. Project contributions to infrastructure improvement projects</p> <p>10. School pool program</p> <p>11. Subsidize vanpool for housing developments</p> <p>12. Provide car-sharing, bike-sharing or ride-sharing programs</p> <p>13. Provide subsidized transit passes</p>	<p>9. Should a program be adopted in the future, this will be an option for Applicants. ⁶</p> <p>10. Each residential project would provide new homebuyers with a flyer describing the time and cost savings of carpooling. ⁷</p> <p>11. Each residential project would provide new homebuyers or resale homebuyers with vouchers for each applicable commercial vanpool service for the period of time they own the home. ⁸</p> <p>12. Each residential project would provide new homebuyers or resale homebuyers with flyers detailing the car-sharing, bike-sharing, or ride-sharing programs, documenting the time and cost savings of each. Non-residential projects would provide each employee with this flyer and post the flyer in a lunch room or break room location. ⁸</p> <p>13. Each residential project would provide new homebuyers or resale homebuyers with transit subsidies for the period of time they own the home. Non-residential projects would provide each employee with access to transit subsidies. ⁸</p>

Notes:

1. The Pedestrian Network Improvements should provide intra-project connectivity and connectivity off-site.
2. A Class II bike lane represents a minimum standard. Class I off-street bike paths or Class IV bike boulevards could also be included and may result in greater usage and a greater reduction in VMTs.
3. TCMs are going to vary significantly among project types (residential v. commercial, etc.) and the size of the project envelope, and the types of TCMs that could be included. Project applicants should ensure measures are appropriate for the proposed project.
4. The density bonus in the Zoning Code applies to residential. However, appropriate measures may be applied to a non-residential project at the discretion of the County where VMT reduction may result.
5. In accordance with the 2019 California Green Building Standards Code for non-residential developments, short-term bicycle parking will require 5% of motorized vehicle parking spaces with a minimum of one two-bike rack. Long-term bicycle parking will require 5% of tenant-occupant vehicular parking spaces with a minimum of one bike parking facility.
6. The particular type of infrastructure project should be determined, as some would be more applicable than others. Also, the fee increment would have to be calculated.
7. Actual metrics on how much time and money would be saved should be provided that are specific to the project area.
8. Coordination would be the responsibility of the project applicant.

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The logo features the letters 'LSA' in a large, bold, white sans-serif font. Below it, the website address 'www.lsa.net' is written in a smaller, white sans-serif font. The text is centered within a dark blue trapezoidal shape that tapers to the right. The background of the entire page is white, with a decorative horizontal band of light gray geometric patterns (hexagons and triangles) that passes behind the blue shape.

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APPENDIX D
LIST OF ACTIVITIES CONSIDERED NOT A
PROJECT

Table D-1: Description of non-projects (Guidelines Section 15378(b))

Non-projects are not specifically defined in either The Statutes or Guidelines. Generally, activities that do not result in any physical changes to the environment and do not involve discretionary actions are not considered projects.

Activities
Proposals for legislation to be enacted by the State Legislature
Continuing administrative or maintenance activities, such as purchases for supplies, personnel-related actions, general policy and procedure making
The submittal of proposals to a vote of the people of the State or of a particular community that does not involve a public agency sponsored initiative.
The creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.
Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

Note: This list is not exclusive; projects not listed but which satisfy Guidelines Section 15300 et. seq. are also included. Each project is still individually assessed to determine if it meets the requirements for exemption or whether it is subject to an exception to the exemption and therefore requires further environmental review.

Table D-2: List of Not a Project by County Agency/Department

Agency/Department	Not a Project
OC Development Services	Assignment, Novation and Consent of Agreement
	Initiate a General Plan Amendment by the County
	Approve Contract for Utility Management & Billing System
	Approve Development Processing Review Committee Bylaws
Sheriff-Coroner	Advertise Job Order Contracts for Various Services
OC Public Works / Facilities Operations	Architect-Engineer Design Contracts for On-Call Services
	Adopting the Unit Price Book, Unit Price List, Technical Specifications, approving bid documents
OC Public Works / Facilities Operations	Approval of the plans, specifications and bid document

APPENDIX D

Agency/Department	Not a Project
John Wayne Airport	Fee Resolution
	Architect-Engineer Contracts for On-Call Environmental
	Approve Slate of Qualified Respondents for Fixed Base Operators
	Acceptance of a donation of sculpture
OC Community Resources	Adoption of Payment Schedule
	Records Retention Schedules
	Loan Funding Request
	Contract for Emergency Services for Erosion Control
	Maintenance Management Software Contract
OC Infrastructure	Adoption of OC Public Works Standard Plans
CEO Real Estate	Acquisition of property or land for County use

APPENDIX E
LIST OF MINISTERIAL EXEMPT PROJECTS

FINAL DRAFT

This list is not exclusive. Projects not listed but which satisfy Guidelines Section 15300 et. seq. are also included. Each project is still individually assessed to determine if it meets the requirements for exemption or whether it is subject to an exception to the exemption and therefore requires further environmental review.

Ministerial projects are defined in Guidelines Section 15369. Section 15268(a) and (c) permit the public agency to determine whether a project is ministerial. In addition to those actions listed under Guidelines Section 15268(b), the following County activities are considered to be ministerial processes which do not require an exercise of discretion by the approving person or entity, and are therefore exempt from CEQA.

Table E-1: List of Ministerial Exemptions by County Agency/Department

Agency/Department	Project
OC Development Services	Building Permit
	Electrical Permit
	Mechanical Permit
	Plumbing Permit
	Sign Permit
	Plaster Permit
	Demolition Permit
	Mobile home Permit
	Relocation Permit
	Certificate of Compliance
	Improvement Plans
	Certificate of Use and Occupancy
	Extraction Permit
	Approval in Concept
Precise Grading Permits (The Permit may be Ministerially Exempt or in some cases may be a Project subject to CEQA review for an exemption).	

Agency/Department	Project
John Wayne Airport	Aircraft Tie down Permit
	Aircraft Hangar Permit
	Non-Profit Flying Club Operating Permit
OC Community Resources/Animal Care	Dog Licenses
	Exotic Animal Permits
OC Health Care Agency/Emergency Medical Services	Ambulance Licenses
OC Health Care Agency/Environmental Health	<p>All health permits issued by Environmental Health:</p> <ul style="list-style-type: none"> - Food facility permits - Convalescent (skilled nursing facility) - Home food facility permit - Hospital food facility permit - Labor camp permit - Day camp permit - Organized camp permit - Liquid waste hauling vehicles and vessels permits - Tattooing/permanent cosmetic facility permit - Body piercing permit (regulations pending) - Swimming pool operating approvals/inspections - Hotel/motel

Agency/Department	Project
OC Health Care Agency/Environmental Health (continued)	<ul style="list-style-type: none"> - Underground Storage Tank Permit - Water Quality Permits - Well/Probe/Boring permits - Liquid Waste Hauler registration - Backflow Tester certification
	<ul style="list-style-type: none"> -Solid waste facility permit-registration tier
Sheriff-Coroner	Business Licenses
	Ramp Permit

APPENDIX F

**CATEGORICAL EXEMPTIONS, TYPES OF
PROJECTS WHICH GENERALLY FALL INTO
VARIOUS EXEMPTIONS, AND EXCEPTION**

Table F-1: Categorical Exemptions by Class (Guidelines Sections 15301 - 15333)

“Categorical Exemption” is defined in CEQA Guidelines 15354 to mean “an exemption from CEQA for a class of projects based on a finding by the Secretary for Resources that the class of projects does not have a significant effect on the environment.”

Note: The Guidelines provide examples of activities for each exemption class.

Class	Guidelines Section	Title
Class 1	15301	Existing Facilities
Class 2	15302	Replacement or Reconstruction
Class 3	15303	New Construction or Conversation of Small Structures
Class 4	15304	Minor Alterations to Land
Class 5	15305	Minor Alterations in Land Use Limitations
Class 6	15306	Information Collection
Class 7	15307	Actions by Regulatory Agencies for Protection of Natural Resources
Class 8	15308	Actions by Regulatory Agencies for Protection of the Environment
Class 9	15309	Inspections
Class 10	15310	Loans
Class 11	15311	Accessory Structures
Class 12	15312	Surplus Government Property Sales
Class 13	15313	Acquisition of Lands for Wildlife Conservation Purposes
Class 14	15314	Minor Additions to Schools
Class 15	15315	Minor Land Divisions
Class 16	15316	Transfer of Ownership of Land in Order to Create Parks
Class 17	15317	Open Space Contracts or Easements
Class 18	15318	Designation of Wilderness Areas
Class 19	15319	Annexations of Existing Facilities and Lots of Exempt Faculties
Class 20	15320	Changes in Organization of Local Agencies
Class 21	15321	Enforcement Actions by Regulatory Agencies
Class 22	15322	Educational or Training Programs Involving No Physical Changes
Class 23	15323	Normal Operations of Facilities for Public Gatherings
Class 24	15324	Regulations of Working Conditions

Class	Guidelines Section	Title
Class 25	15325	Transfers of Ownership of Interest in Land to Preserve Existing Natural Conditions and Historical Resources
Class 26	15326	Acquisition of Housing for Housing Assistance Programs
Class 27	15327	Leasing New Facilities
Class 28	15328	Small Hydroelectric Projects at Existing Facilities
Class 29	15329	Cogeneration Projects at Existing Facilities
Class 30	15330	Minor Actions to Prevent, Minimize, Stabilize, Mitigate or Eliminate the Release or Threat of Release of Hazardous Waste or Hazardous Substances
Class 31	15331	Historical Resources Restoration/Rehabilitation
Class 32	15332	In-Fill Development Projects
Class 33	15333	Small Habitat Restoration Projects

Table F-2: Projects Which are Usually Categorically Exempt by County Agency/Department

The following is NOT an exclusive list of categorically exempt projects. Rather, the following is a list of some of the types of activities carried out within the County which, in the absence of any circumstances triggering an exception to exemptions under CEQA Guidelines 15300.2, usually fall within one or more categorical exemption. Because analysis of whether a project qualifies for an exemption, or triggers an exception, is fact-specific, any activity that constitutes a project under CEQA needs to be individually assessed to determine if it falls within an exemption or whether it is subject to an exception to the exemption (and therefore requires further environmental review).

Agency/Department	Project	Categorical Exemption
OC Development Services	Encroachment Permit	Class 1 and Class 4
	Temporary Use Permit (Existing Facilities)	Class 1
	Temporary Use Permit (Minor Land Alternations)	Class 4
	Lot Line Adjustment	Class 5

Agency/Department	Project	Categorical Exemption	
OC Development Services (continued)	Tentative Parcel Maps, Tract Maps for financing purposes or condominium conversions	Class 1 and Class 15	
	Condominium Conversions	Class 1	
	Affordable Housing (as an In-Fill Development)	Class 32	
	Solar Panels/Solar Energy System	Class 3	
	Non-Ministerial Grading Permit for less than 5,000 cubic yards to be graded on less than 15% average slope (See Zoning Code Section 7-9-139)	Class 1 and Class 4	
	Reclamation Plans	Class 7 and 8	
	Building Line Plan	Class 3 and 5	
	Restoration/Rehabilitation of existing historical building	Class 31	
	Discretionary Permits involving:		
	Accessory structures and uses on the same site as the approved principal use	Class 3 and Class 11	
	One residential structure of four or less dwelling units	Class 3	
	Three or fewer single-family detached units in an urban area	Class 3	
	Temporary uses of 2 years or less	Class 4 and 11	
OC Parks	General repairs, replacement, and maintenance of County and District facilities	Class 1 and 2	
	Installation of security fencing and walls	Class 1 and 3	
	Erosion control projects and landscaping	Class 4	

Agency/Department	Project	Categorical Exemption
OC Parks (continued)	Installation of aids to navigation (e.g. Channel buoys, shoal markers, speed limit signs, etc.)	Class 1, 3 and, 11
	Repair and maintenance of existing riding and hiking trails	Class 1 and 4
	Interior modification and minor decorative exterior changes in leasee's structures	Class 1, Class 2 and Class 3
	Public information signs	Class 3, Class 11
	Installation of minor accessory structures and facilities, including storage sheds, rest stops, restroom, workroom, nursery building, shed structures, site furniture, footbridges, security lighting, and tot-lots	Class 3 and 11
	Encroachment Permits	Class 1 and 4
OC Public Works / Facilities Operations	General repairs, replacement and maintenance of County and District facilities	Class 1 and 2
	Sediment removal	Class 1, Class 4
	Control of vegetation, rodents, and pests in accordance with State and federal regulations	Class 1, Class 4
	Installation and maintenance of traffic safety devices including signs, striping, pavement markers, lighting, and signals	Class 1 and 2
	Granting or acquiring of property rights (e.g. easement, leases, fee titles which are the result of an earlier actions (i.e. zone change, tract map)	Class 1, Class 12, Class 27
	Installation and maintenance of surveying monuments	Class 1, Class 3, Class 11
	Creation of bike trails within existing road facilities	Class 1 and Class 4

Agency/Department	Project	Categorical Exemption
Agricultural Commissioner	Restricted Material Permit	Class 7 and 8
	Quarantine Certificate	Class 7 and 8
John Wayne Airport	Mechanics Licenses	Class 9
	Mobile Catering Truck Licenses	Class 9
	Off-Airport Rental Car Licenses	Class 9
	Interior modifications and minor exterior changes in lessee structures	Class 1, Class 2, Class 3
	Information Signs	Class 3 and Class 11
	The conveyance of easement, leases or fees to other governmental agencies (City, County, State, Federal) for Airport uses (e.g. navigational)	Class 1
	Renewal or amendment to lease involving no substantial construction or change in use	Class 1
	Acquisition of Right of Entry agreements for maintenance and repair of existing facilities	Class 1 and 8
	Permits and easements to governmental bodies or public utilities for the purpose of providing services to the airport	Class 1
	Lease Assignments	Class 1 and 3
	Minor temporary uses of land relating to normal or historic operations, having negligible or no permanent effects on the environment, including ground breaking or open house ceremonies and helicopter/airplane shows within the Airport	Class 11 and 23
	Sales of surplus of government property	Class 12

Agency/Department	Project	Categorical Exemption
OC Community Resources/Animal Care	Animal Permits	Class 1 and 9
	Animal Business License	Class 1, 4, and 9
Real Estate (relevant to various County departments/agencies)	Extension of Lease Term	Class 1
	Lease of Existing Land or Buildings without alteration	Class 1
	Consents to Subleases	Class 1
	Consents to Assignment of Lease	Class 1
	Leases or Licenses of Space in Existing County Buildings	Class 1
	Rental of Residential Property	Class 27
	Easements for Utilities Serving County Facilities	Class 3 and 11
	Sale of Excess Land	Class 12
	Donated Space Agreement for County use	Class 1
OC Waste and Recycling	Construction/Installation of landfill gas or groundwater monitoring wells and probes	Class 1, Class 4, Class 7 and Class 8
	Extension of drainage channels and culverts within a landfill refuse footprint	Class 1 and Class 4

Table F-3: Exceptions to Categorical Exemptions

Pursuant to Guidelines Section 15300.2, the following table describes circumstances which, if present with respect to a specific project, would take the project outside of a categorical exemption. These are exceptions to categorical exemptions.

Guideline Section	Exclusion	Description
15300.2(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. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, State, or local agencies.
15300.2(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.
15300.2(c)	Significant Effect (“unusual circumstances” exception)	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.
15300.2(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.
15300.2(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.
15300.2(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.

F-4: Technical Advisory on CEQA Exemptions Outside of the CEQA Statute (June 2018)

FINAL DRAFT

TECHNICAL ADVISORY

CEQA EXEMPTIONS OUTSIDE OF THE CEQA STATUTE



June 2018

CEQA Exemptions Outside of the CEQA Statute

Purpose

The purpose of this technical advisory is to provide guidance to public agencies regarding exemptions from the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) (CEQA) that are located outside of Division 13 of the Public Resources Code. This technical advisory is one in a series of advisories provided by the Governor's Office of Planning and Research (OPR) as a service to professional planners, land use officials, and CEQA practitioners. (Gov. Code, § 65040, subs. (g), (l), (m).) OPR issues technical guidance on issues that broadly affect the practice of land use planning and CEQA. Users of this document may use it at their discretion. This document is not be construed as legal advice.

CEQA requires state and local agencies to identify the significant environmental impacts of their actions and to avoid or mitigate those impacts if feasible. The Legislature has established CEQA exemptions for a wide range of reasons. A number of these exemptions are found outside of the CEQA statute, and most are not contained in the CEQA Guidelines.

CEQA Exemptions

The following list includes exemptions from CEQA located outside of Division 13 of the Public Resources Code. Please be aware that this technical advisory does not provide an exhaustive list; there may be other potentially applicable CEQA exemptions depending on the nature of the project. The full text of the exemptions is provided in **Appendix A**.

Public Resources Code

- § 2770(h)(1): Interim management plans for idle surface mining operations
- § 2773.4(f): Review of financial assurance for reclamation plans and conduct of surface mining operations
- § 5097.98(g): Agreements related to addressing Native American human remains
- § 6307.1(g): Land exchange agreements with Arizona
- § 8710: School Land Bank Act
- § 25985: Ordinances exempting jurisdiction from solar shade control provisions
- § 42812: Existing waste tire facilities
- § 44203(g): Agreements for solid waste management facilities on Indian Country

Water Code

- § 1729: Proposed temporary changes; water appropriation

- § 1841(c): Adoption of regulations for measuring and reporting water diversion
- § 10652: Urban water management planning
- § 10728.6: Groundwater sustainability plans
- § 10736.2: Interim plans for probationary basins
- § 10851: Agriculture water management planning
- § 13389: Adoption of waste discharge requirements
- § 13552.4(c): Authority to require use of reclaimed water for residential landscaping
- § 13554(c): Authority to require use of reclaimed water for toilet and urinal flushing

Penal Code

- § 2915: Agreements to obtain secure housing capacity within state or in another state
- § 4497.02: Board of Corrections

Government Code

- § 11011(k): Disposition of state surplus real property
- § 15455(a): Method for issuing and refunding bonds for health facilities
- § 51119: Zoning a parcel as timberland production
- § 51191(d): Department of Conservation determinations relating to solar-use easements
- § 64127(a): California transportation financing
- § 65361(g): Time extensions for the preparation and adoption of local general plans
- § 65457(a): Residential development projects that are consistent with a specific plan
- § 65583(a)(4)(B): Housing element permitting, development, and management
- § 65583.2(i): Design review for owner-occupied or multifamily residential housing
- § 65584(f): Determination of housing needs
- § 65759(a): Compliance with court orders
- § 65863(h): Obligations to identify and make available additional residential sites
- § 65995.6(g): School facilities needs analysis
- § 65996: Methods of considering and mitigating impacts on school facilities
- § 65997(b): Methods of mitigating effects relating to adequacy of school facilities
- § 66207(a): Design review of development within a housing sustainability district
- § 91543: Industrial development authorities

Business and Professional Code

- § 26055(h): Adoption of ordinances, rules, or regulations requiring discretionary review and authorizations for commercial cannabis activity

Education Code

- § 17196(a): California School Finance Authority
- § 17621(a): Authorization for fee, charge or dedication to fund school construction
- § 94212(a): California Educational Facilities Authority Act; issuance and refunding of bonds

Fish and Game Code

- § 1617(g): General agreements for cannabis cultivation
- § 2301(c): Aquatic invasive species
- § 2810(c): Approval of agreements for the preparation of natural community conservation plans
- § 7078(e): Implementing regulations for fishery plans
- § 15101(c): Annual registration of aquaculture facilities

Health and Safety Code

- § 1597.46(c): Large family day care homes
- § 25198.3(g): Cooperative agreements for hazardous waste management facilities on Indian Country
- § 33492.18(a): Military base conversion redevelopment plans
- § 44561(a): California Pollution Control Financing Authority
- § 116527(j)(3): Notice of compliance with certain requirements for new public water systems

Military and Veterans Code

- § 435(g): Sale of real property for armory purposes

Welfare and Institutions Code

- § 749.33(e): Board of Corrections

Appendix A: Full Text of the Exemptions

Public Resources Code

Section 2770(h)(1)

Within 90 days of a surface mining operation becoming idle, as defined in Section 2727.1, the operator shall submit to the lead agency for review and approval an interim management plan. The review and approval of an interim management plan shall not be considered a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000)). The approved interim management plan shall be considered an amendment to the surface mining operation's approved reclamation plan for purposes of this chapter. The interim management plan shall provide measures the operator will implement to maintain the site in compliance with this chapter, including, but not limited to, all permit conditions.

Section 2773.4(f)

The review and approval of financial assurances pursuant to this chapter shall not be considered a project for the purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

Section 5097.98(g)

Notwithstanding Section 5097.9, this section, including those actions taken by the landowner or his or her authorized representative to implement this section and any action taken to implement an agreement developed pursuant to subdivision (l) of Section 5097.94, shall be exempt from the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

Section 6307.1(g)

Any land exchange made pursuant to this section shall be subject to the exemption from the California Environmental Quality Act contained in Section 21080.11.

Section 8710

An action under this chapter is not subject to the California Environmental Quality Act (Division 13 (commencing with Section 21000)), the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code), or the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code).

Section 25985

(a) A city, or for unincorporated areas, a county, may adopt, by majority vote of the governing body, an ordinance exempting their jurisdiction from the provisions of this chapter. The adoption of the ordinance shall not be subject to the California Environmental Quality Act (commencing with Section 21000).

(b) Notwithstanding the requirements of this chapter, a city or a county ordinance specifying requirements for tree preservation or solar shade control shall govern within the jurisdiction of the city or county that adopted the ordinance.

Section 42812

Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the issuance of a permit for the operation of an existing waste tire facility pursuant to this chapter, except as to any substantial change in the design or operation of the waste tire facility made between the time this chapter becomes effective and the permit is initially issued by the board and as to any subsequent substantial changes made in the design or operation of the waste tire facility.

Section 44203(g)

Neither the approval of any cooperative agreement nor amendments to the agreement, nor any determination of sufficiency provided in Section 44205, shall constitute a “project” as defined in Section 21065 and shall not be subject to review pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

Water Code

Section 1729

A proposed temporary change under this article shall be exempt from the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code.

Section 1841(c)

The adoption of the initial regulations pursuant to this article is exempt from Division 13 (commencing with Section 21000) of the Public Resources Code.

Section 10652

The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) does not apply to the preparation and adoption of plans pursuant to this part or to the implementation of actions taken pursuant to Section 10632. Nothing in this part shall be interpreted as exempting from the California Environmental Quality Act any project that

would significantly affect water supplies for fish and wildlife, or any project for implementation of the plan, other than projects implementing Section 10632, or any project for expanded or additional water supplies.

Section 10728.6

Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the preparation and adoption of plans pursuant to this chapter. Nothing in this part shall be interpreted as exempting from Division 13 (commencing with Section 21000) of the Public Resources Code a project that would implement actions taken pursuant to a plan adopted pursuant to this chapter.

Section 10736.2

Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to any action or failure to act by the board under this chapter, other than the adoption or amendment of an interim plan pursuant to Section 10735.8.

Section 10851

The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) does not apply to the preparation and adoption of plans pursuant to this part. This part does not exempt projects for implementation of the plan or for expanded or additional water supplies from the California Environmental Quality Act.

Section 13389

Neither the state board nor the regional boards shall be required to comply with the provisions of Chapter 3 (commencing with Section 21100) of Division 13 of the Public Resources Code prior to the adoption of any waste discharge requirement, except requirements for new sources as defined in the Federal Water Pollution Control Act or acts amendatory thereof or supplementary thereto.

Section 13552.4(c)

(1) Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to any project that only involves the repiping, redesign, or use of recycled water for irrigation of residential landscaping necessary to comply with a requirement prescribed by a public agency under subdivision (a).

(2) The exemption in paragraph (1) does not apply to any project to develop recycled water, to construct conveyance facilities for recycled water, or any other project not specified in this subdivision.

Section 13554(c)

Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to any project which only involves the repiping, redesign, or use of recycled water by a structure necessary to comply with a requirement issued by a public agency under subdivision (a). This exemption does not apply to any project to develop recycled water, to construct conveyance facilities for recycled water, or any other project not specified in this subdivision.

Penal Code

Section 2915(c)

The provisions of Division 13 (commencing with Section 21000) of the Public Resources Code do not apply to this section.

Section 4497.02(b)

The Board of Corrections shall not itself be deemed a responsible agency, as defined by Section 21069 of the Public Resources Code, or otherwise be subject to the California Environmental Quality Act for any activities under this title, the County Jail Capital Expenditure Bond Acts of 1981 or 1984, or the County Facility Capital Expenditure Bond Act of 1986. This subdivision does not exempt any local agency from the requirements of the California Environmental Quality Act.

Government Code

Section 11011(k)

(1) The disposition of a parcel of surplus state real property, pursuant to Section 11011.1, made on an “as is” basis shall be exempt from Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources Code. Upon title to the parcel vesting in the purchaser or transferee of the property, the purchaser or transferee shall be subject to any local governmental land use entitlement approval requirements and to Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources Code.

(2) If the disposition of a parcel of surplus state real property, pursuant to Section 11011.1, is not made on an “as is” basis and close of escrow is contingent on the satisfaction of a local governmental land use entitlement approval requirement or compliance by the local government with Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources Code, the execution of the purchase and sale agreement or of the exchange agreement by all parties to the agreement shall be exempt

from Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources Code.

(3) For the purposes of this subdivision, “disposition” means the sale, exchange, sale combined with an exchange, or transfer of a parcel of surplus state property.

Section 15455(a)

This part shall be deemed to provide a complete, additional, and alternative method for doing the things authorized by this part, and shall be regarded as supplemental and additional to powers conferred by other laws. The issuance of bonds and refunding bonds under this part need not comply with any other law applicable to the issuance of bonds, including, but not limited to, Division 13 (commencing with Section 21000) of the Public Resources Code.

Section 51119

Any action of the board or council undertaken to zone a parcel as timberland production pursuant to Section 51112 or 51113 is exempt from the requirements of Section 21151 of the Public Resources Code.

Section 51191(d)

A determination by the Department of Conservation pursuant to this section related to a project described in Section 21080 of the Public Resources Code shall not be subject to Division 13 (commencing with Section 21000) of the Public Resources Code.

Section 64127(a)

This division shall be deemed to provide a complete, additional, and alternative method for doing the things authorized by this code, and shall be regarded as supplemental and additional to powers conferred by other laws. The issuance of bonds and refunding bonds and the financing or refinancing of projects or the imposition and collection of tolls under this division need not comply with any other law applicable to the issuance of bonds or the collection of tolls, including, but not limited to, Division 13 (commencing with Section 21000) of the Public Resources Code.

Section 65361(g)

An extension of time granted pursuant to this section for the preparation and adoption of all or part of a city or county general plan is exempt from Division 13 (commencing with Section 21000) of the Public Resources Code.

Section 65457(a)

Any residential development project, including any subdivision, or any zoning change that is undertaken to implement and is consistent with a specific plan for which an environmental impact report has been certified after January 1, 1980, is exempt from the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code. However, if after adoption of the specific plan, an event as specified in Section 21166 of the Public Resources Code occurs, the exemption provided by this subdivision does not apply unless and until a supplemental environmental impact report for the specific plan is prepared and certified in accordance with the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code. After a supplemental environmental impact report is certified, the exemption specified in this subdivision applies to projects undertaken pursuant to the specific plan.

Section 65583(a)(4)(B)

The permit processing, development, and management standards applied under this paragraph shall not be deemed to be discretionary acts within the meaning of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

Section 65583.2(i)

For purposes of this section and Section 65583, the phrase use by right shall mean that the local government's review of the owner-occupied or multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a project for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that use by right does not exempt the use from design review. However, that design review shall not constitute a project for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

Section 65584(f)

Notwithstanding any other provision of law, determinations made by the department, a council of governments, or a city or county pursuant to this section or Section 65584.01, 65584.02, 65584.03, 65584.04, 65584.05, 65584.06, 65584.07, or 65584.08 are exempt from the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

Section 65759(a)

The California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code, does not apply to any action necessary to bring its general plan or

relevant mandatory elements of the plan into compliance with any court order or judgment under this article.

(1) The local agency shall, however, prepare an initial study, within the time limitations specified in Section 65754, to determine the environmental effects of the proposed action necessary to comply with the court order. The initial study shall contain substantially the same information as is required for an initial study pursuant to subdivision (c) of Section 15080 of Title 14 of the California Code of Regulations.

(2) If as a result of the initial study, the local agency determines that the action may have a significant effect on the environment, the local agency shall prepare, within the time limitations specified in Section 65754, an environmental assessment, the content of which substantially conforms to the required content for a draft environmental impact report set forth in Article 9 (commencing with Section 15140) of Title 14 of the California Code of Regulations. The local agency shall include notice of the preparation of the environmental assessment in all notices provided for the amendments to the general plan proposed to comply with the court order.

(3) The environmental assessment shall be deemed to be a part of the general plan and shall only be reviewable as provided in this article.

(4) The local agency may comply with the provisions of the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code, in any action necessary to bring its general plan or the plan's relevant mandatory elements into compliance with any court order or judgment under this section so long as it does so within the time limitations specified in Section 65754.

Section 65863(h)

An action that obligates a jurisdiction to identify and make available additional adequate sites for residential development pursuant to this section creates no obligation under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) to identify, analyze, or mitigate the environmental impacts of that subsequent action to identify and make available additional adequate sites as a reasonably foreseeable consequence of that action. Nothing in this subdivision shall be construed as a determination as to whether or not the subsequent action by a city, county, or city and county to identify and make available additional adequate sites is a "project" for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

Section 65995.6(g)

Division 13 (commencing with Section 21000) of the Public Resources Code may not apply to the preparation, adoption, or update of the school facilities needs analysis, or adoption of the resolution specified in this section.

Section 65996

(a) Notwithstanding Section 65858, or Division 13 (commencing with Section 21000) of the Public Resources Code, or any other provision of state or local law, the following provisions

shall be the exclusive methods of considering and mitigating impacts on school facilities that occur or might occur as a result of any legislative or adjudicative act, or both, by any state or local agency involving, but not limited to, the planning, use, or development of real property or any change of governmental organization or reorganization, as defined in Section 56021 or 56073:

(1) Section 17620 of the Education Code.

(2) Chapter 4.7 (commencing with Section 65970) of Division 1 of Title 7.

(b) The provisions of this chapter are hereby deemed to provide full and complete school facilities mitigation and, notwithstanding Section 65858, or Division 13 (commencing with Section 21000) of the Public Resources Code, or any other provision of state or local law, a state or local agency may not deny or refuse to approve a legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property or any change in governmental organization or reorganization, as defined in Section 56021 or 56073, on the basis that school facilities are inadequate.

(c) For purposes of this section, “school facilities” means any school-related consideration relating to a school district’s ability to accommodate enrollment.

(d) Nothing in this chapter shall be interpreted to limit or prohibit the ability of a local agency to utilize other methods to provide school facilities if these methods are not levied or imposed in connection with, or made a condition of, a legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property or a change in governmental organization or reorganization, as defined in Section 56021 or 56073. Nothing in this chapter shall be interpreted to limit or prohibit the assessment or reassessment of property in conjunction with ad valorem taxes, or the placement of a parcel on the secured roll in conjunction with qualified special taxes as that term is used in Section 50079.

(e) Nothing in this section shall be interpreted to limit or prohibit the ability of a local agency to mitigate the impacts of land use approvals other than on the need for school facilities, as defined in this section.

(f) This section shall become inoperative during any time that Section 65997 is operative and this section shall become operative at any time that Section 65997 is inoperative.

Section 65997(b)

A public agency may not, pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code or Division 2 (commencing with Section 66410) of this code, deny approval of a project on the basis of the adequacy of school facilities.

Section 66207(a)

A city, county, or city and county may, in accordance with the regulations adopted by the department, adopt design review standards applicable to development projects within the housing sustainability district to ensure that the physical character of development within the district is complementary to adjacent buildings and structures and is consistent with the city’s, county’s, or city and county’s general plan, including the housing element. For purposes of this section,

“design review standard” means the reasonable application of qualitative design requirements that are clear and concise and consistently applied to all types of development applications, with specific terms defined or generally accepted word definitions. Design review of a development within a housing sustainability district shall not constitute a “project” for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

Section 91543

All general or special laws or parts thereof inconsistent with this title shall be inapplicable to the exercise of any of the powers conferred under the provisions of this title. Without limiting the generality of the foregoing, the provisions of Divisions 3 (commencing with Section 11000), 4 (commencing with Section 16100), and 5 (commencing with Section 18000) of Title 2 of this code, relating to the executive department of the state, and of Division 13 (commencing with Section 21000) of the Public Resources Code, shall not be applicable to authorities.

Business and Professional Code

Section 26055(h)

Without limiting any other statutory exemption or categorical exemption, Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity. To qualify for this exemption, the discretionary review in any such law, ordinance, rule, or regulation shall include any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code. This subdivision shall become inoperative on July 1, 2019.

Education Code

Section 17196(a)

This chapter shall be deemed to provide a complete, additional, and alternative method for accomplishing the acts authorized in this chapter, and shall be deemed as being supplemental and additional to the powers conferred by other applicable laws, except that the issuance of revenue bonds and refunding bonds and the undertaking or projects or financings under this chapter need not comply with the requirements of any other laws applicable to the issuance of bonds, including, without limitation, Division 13 (commencing with Section 21000) of the Public Resources Code.

Section 17621(a)

Any resolution adopting or increasing a fee, charge, dedication, or other requirement pursuant to Section 17620, for application to residential, commercial, or industrial development, shall be enacted in accordance with Chapter 5 (commencing with Section 66000) of Division 1 of Title 7 of the Government Code. The adoption, increase, or imposition of any fee, charge, dedication, or other requirement pursuant to Section 17620 shall not be subject to the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code. The adoption of, or increase in, the fee, charge, dedication, or other requirement shall be effective no sooner than 60 days following the final action on that adoption or increase, except as specified in subdivision (b).

Section 94212(a)

This chapter shall be deemed to provide a complete, additional, and alternative method for doing the things authorized by this chapter, and shall be regarded as supplemental and additional to powers conferred by other laws. The issuance of bonds and refunding bonds under this chapter need not comply with any other law applicable to the issuance of bonds including, but not limited to, Division 13 (commencing with Section 21000) of the Public Resources Code.

Fish and Game Code

Section 1617(g)

Regulations adopted pursuant to this section, and any amendment thereto, shall not be subject to Division 13 (commencing with Section 21000) of the Public Resources Code.

Section 2301(c)

(1) Except as provided in paragraph (2), Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the implementation of this section.

(2) An action undertaken pursuant to subparagraph (B) of paragraph (2) of subdivision (a) involving the use of chemicals other than salt or hot water to decontaminate a conveyance or a facility is subject to Division 13 (commencing with Section 21000) of the Public Resources Code.

Section 2810(c)

The approval of the planning agreement is not a project pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

Section 7078(e)

The commission shall adopt any regulations necessary to implement a fishery plan or plan amendment no more than 60 days following adoption of the plan or plan amendment. All implementing regulations adopted under this subdivision shall be adopted as a regulation pursuant to the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The commission's adoption of regulations to implement a fishery management plan or plan amendment shall not trigger an additional review process under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

Section 15101(c)

The annual registration of information required by subdivision (b) is not a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

Health and Safety Code**Section 1597.46(c)**

A large family day care home shall not be subject to the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.

Section 25198.3(g)

Neither the approval of any cooperative agreement nor amendments to the agreement, nor any determination of sufficiency provided in Section 25198.5, shall constitute a "project" as defined in Section 21065 of the Public Resources Code and shall not be subject to review pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

Section 33492.18(a)

Notwithstanding subdivision (k) of Section 33352, the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) shall not apply to the adoption of a redevelopment plan prepared pursuant to this article if the redevelopment agency determines at a public hearing, noticed in accordance with this section, that the need to adopt a redevelopment plan at the soonest possible time in order to use the authority in this article requires the redevelopment agency to delay application of the provisions of the California Environmental Quality Act to the redevelopment plan in accordance with this section.

Section 44561(a)

This division provides a complete, additional, and alternative method for the doing of the things authorized by this division, and is supplemental and additional to powers conferred by other laws. The issuance of bonds and refunding bonds under this division need not comply with any other law applicable to the issuance of bonds including, but not limited to, Division 13 (commencing with Section 21000) of the Public Resources Code. In the construction and acquisition of a project pursuant to this division, the authority need not comply with any other law applicable to the construction or acquisition of public works, except as specifically provided in this division. Pollution control facilities and projects may be acquired, constructed, completed, repaired, altered, improved, or extended, and bonds may be issued for any of those purposes under this division, notwithstanding that any other law may provide for the acquisition, construction, completion, repair, alteration, improvement, or extension of like pollution control facilities or for the issuance of bonds for like purposes, and without regard to the requirements, restrictions, limitations, or other provisions contained in any other law.

Section 116527(j)(3)

The state board shall promptly acknowledge receipt of a written notice described in paragraph (2). The state board shall have 30 days from the acknowledgment of receipt of the written notice to issue a written notice to the applicant that compliance with the requirements of this section is necessary and that an application for a permit of a new public water system under this chapter is not complete until the applicant has complied with the requirements of this section. A determination by the state board that compliance with the requirements of this section is necessary shall be final and is not subject to review by the state board. A determination by the state board pursuant to this subdivision is not considered a project subject to Division 13 (commencing with Section 21000) of the Public Resources Code.

Military and Veterans Code

Section 435(g)

The sale of an armory shall be made on an “as is” basis and is exempt from Chapter 3 (commencing with Section 21100) of Division 13 of the Public Resources Code. Upon vesting title of the armory to the purchaser or transferee of the armory, the purchaser or transferee shall be subject to any local governmental land use entitlement requirements and to Chapter 3 (commencing with Section 21100) of Division 13 of the Public Resources Code.

Welfare and Institutions Code

Section 749.33(e)

The board shall not be deemed a responsible agency, as defined in Section 21069 of the Public Resources Code, or otherwise be subject to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) for any activities undertaken or funded pursuant to this title. This subdivision does not exempt any local agency from the requirements of the California Environmental Quality Act.

APPENDIX G
NOTICE OF EXEMPTION AND FILING
INSTRUCTIONS (PUBLIC PROJECTS)

CEQA NOTICE OF EXEMPTION

To: County Clerk, County of Orange

From: County of Orange
OC Public Works, Development Services/Planning

Public Project Number (PP):

Project Title:

Project Location(s):

Project Description:

Name of Public Agency Approving Project:

Name of County Agency Carrying-Out Project:

Address of County Agency:

Exempt Status:

- Ministerial (Guidelines Section No. 15268)
- Emergency Project (Guidelines Section No. 15269)
- Common Sense (Guidelines Section No. 15061(b)(3))
- Statutory Exemption: State Code number:
- Categorical Exemption:
- Other Exemption:

Reason(s) why project is exempt:

Date of Decision:

CEQA Contact Person:

Project Manager Signature: _____

Name:

Title:

Fish & Game Fees: Pursuant to Section 711.4 (c) (2)(A) of the California Fish and Game Code, this project is exempt from the required fees, as it is exempt from CEQA. Filing Fee is exempt per Government Code Section 6103.

Form Rev. 3.12.20





County Administration South
601 North Ross Street
Santa Ana, CA 92701
P.O. Box 4048
Santa Ana, CA 92702

(714) 667-8800

info@ocpw.ocgov.com

OCPublicWorks.com



Administrative
Services



OC Development
Services



OC Facilities Design
& Construction
Management



OC Facilities
Maintenance
& CUF



OC Fleet Services



OC Construction



OC Environmental
Resources



OC Operations &
Maintenance



OC Infrastructure
Programs



OC Survey

ORANGE COUNTY
OC Public Works
MEMORANDUM

To: Lead Agency/Department
From: OC Development Services/Planning
Subject: Public Projects: Filing NOE with the Orange County Clerk-Recorder

Your Agency/Department will be responsible for filing the CEQA documentation.

Per Government Code 6103, the County is exempt from paying the filing fees for notices.

Review the attached Notice of Exemption (NOE) form and obtain an original authorizing signature from your agency/department after the final approval action on your project.

Please note the following:

1. Following the approval of the project by the decision-maker (authorizing signatory from your section, Agency Director or designee, Board, Planning Commission, Zoning Administrator, Subdivision Committee, etc.), a NOE should be filed and posted with the County Clerk-Recorder. The date of decision on the NOE form is the date the decision-maker approved the project.
2. The NOE will normally be filed within one business day after the project receives final approval by the decision-maker.
3. The filing of an NOE is not required by law and there is no time limit for filing an NOE after approval of the project; however it is strongly recommended that the NOE be filed in a timely manner. The filing of an NOE starts a 35-day statute of limitations period on legal challenges to the agency's decision that the project is exempt from CEQA. If the NOE is not filed, a 180-day statute of limitations will apply (Section 15062(d) of CEQA Guidelines).
4. A filed/stamped NOE may be required by some grant applications so please check with the applicable federal/state/local agency for additional guidance.

According to Section 711.4(c)(2)(A) of the Fish and Game Code, CEQA exempt projects are automatically exempt from Fish and Wildlife filing fees and do not require a finding.

Submit a copy to the County Clerk-Recorder located in the Office of the County Clerk-Recorder, County Administration South, Civic Center Plaza. The Clerk will stamp the NOE, return the original set, and post the NOE for 30 days.

Send a copy of the stamped NOE to OC Development Services/Planning to include in the administrative record for the project.

Rev 04/23/2020

APPENDIX H
NOTICE OF EXEMPTION AND FILING
INSTRUCTIONS (PRIVATE PROJECTS)

CEQA NOTICE OF EXEMPTION

To: County Clerk, County of Orange

From: County of Orange
OC Public Works, Development Services/Planning

Planning Application Number (PA):
CP number to Planning Application No. number

Project Title:

Project Location(s):

Project Description:

Name of Applicant Approving Project:

Name of Applicant Carrying-Out Project:

Address of Applicant:

Exempt Status:

- Ministerial (Guidelines Section No. 15268)
- Emergency Project (Guidelines Section No. 15269)
- Common Sense (Guidelines Section No. 15061(b)(3))
- Statutory Exemption: State Code number:
- Categorical Exemption:
- Other Exemption:

Reason(s) why project is exempt:

Date of Decision:

CEQA Contact Person:

Project Manager Signature: _____

Name:

Title:

Fish & Game Fees: Pursuant to Section 711.4 (c) (2)(A) of the California Fish and Game Code, this project is exempt from the required fees, as it is exempt from CEQA.

Form Rev. 3.12.20





ORANGE COUNTY
OC Public Works
 MEMORANDUM

County Administration South
 601 North Ross Street
 Santa Ana, CA 92701
 P.O. Box 4048
 Santa Ana, CA 92702

To: Applicant
From: OC Development Services/Planning
Subject: Private Projects - Filing Notice of Exemption (NOE) form with the Orange County Clerk-Recorder

(714) 667-8800
 info@ocpw.ocgov.com
 OCPublicWorks.com

Please review the attached Notice of Exemption (NOE) and indicate how you would like to proceed with the NOE by selecting one of the options below:



- OC Development Services to file the NOE** – When the project receives final approval and after the end of the 15-day appeal period (if applicable), OC Development Services will file the NOE. A check for the filing fee will need to be submitted prior to the public hearing.
- Applicant to file the NOE** – Applicant must submit a copy to the County Clerk-Recorder in accordance with section 15062 of the CEQA Guidelines after the project receives final project approval. The Office of the County Clerk-Recorder is located at County Administration South, Civic Center Plaza. The Clerk will stamp the NOE, return the original set, and post the NOE for 30 days.
- Applicant elects not to file NOE** – Applicant has read Section 15062(d) of CEQA Guidelines and elects not to file the NOE, therefore extending the CEQA legal challenge period for the project from 35 days to 180 days.

Name of Applicant: _____

Signature: _____

Date: _____

Please note the following:

1. Following the approval of the project by the decision-maker (i.e. Board of Supervisors, Planning Commission, Zoning Administrator, Subdivision Committee, etc.), an NOE may be filed with the County Clerk-Recorder.
2. The filing of an NOE is not required by law and there is no time limit for filing a NOE after approval of the project; however, it is strongly recommended that the NOE be filed in a timely manner. The filing of a NOE starts a 35-day statute of limitations period on legal challenges to the agency's decision that the project is exempt from CEQA. If the NOE is not filed, a 180-day statute of limitations will apply (Section 15062(d) of CEQA Guidelines).

According to Section 711.4(c)(2)(A) of the Fish and Game Code, CEQA exempt projects are automatically exempt from Fish and Wildlife filing fees and do not require a finding.

APPENDIX I
NOTICE OF DETERMINATION AND FILING
INSTRUCTIONS (PUBLIC PROJECTS)

CEQA NOTICE OF DETERMINATION

To: County Clerk, County of Orange

From: County of Orange
OC Public Works, OC Development Services/Planning

Subject: Notice of Determination Filing
per Public Resources Code Section 21108 or 21152

Planning Application Number (PA):

State Clearinghouse Number (if applicable):

Project Title:

Project Location(s):

Project Description:

County Agency Contact Person:

County Agency Carrying-Out Project:

Address and Phone Number of County Agency:

Previously adopted or certified document: Not based on a previous document.

Document Number _____ adopted or certified
on _____.

The County of Orange, as Lead Agency, has made the following determination on the above-described project.

1. The project was approved by the Board of Supervisors on _____.
2. The Subsequent Environmental Impact Report was prepared and adopted pursuant to the provisions of CEQA.
3. The project will not have a significant effect on the environment because:
 - a. Mitigation measures, project design features, or both were incorporated into the project.
 - b. A Statement of Overriding Considerations was adopted for this project.
 - c. Findings and Facts were made pursuant to CEQA Guidelines 15091 (Statement of Facts and Findings).

A copy of the Subsequent Environmental Impact Report and the record of the project approval is on file and may be examined during regular business hours at the following location: OC Public Works, OC Development Services/Planning, 601 N. Ross Street, First Floor, Santa Ana, CA 92701. (714) 667-8888.

Signature: _____ **Date:** _____

Title: _____

Fish & Wildlife Document Filing Fee: Current fee schedule is located at:
<https://www.wildlife.ca.gov/Conservation/CEQA/Fees>

Form Rev. 07.03.20



 County Administration South
601 North Ross Street
Santa Ana, California 92701

 P.O. Box 4048
Santa Ana, CA 92702-4048

 info@ocpw.ocgov.com

 (714) 667-8800

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 601 North Ross Street
 Santa Ana, CA 92701
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Administrative Services



OC Development Services



OC Facilities Design & Construction Management



OC Facilities Maintenance & CUF



OC Fleet Services



OC Construction



OC Environmental Resources



OC Operations & Maintenance



OC Infrastructure Programs



OC Survey

ORANGE COUNTY
OC Public Works
 MEMORANDUM

To: Lead Agency/Department
From: OC Development Services/Planning
Subject: Filing Notice of Determination with the Orange County Clerk-Recorder

Your Agency/Department will be responsible for filing the CEQA documentation.

Per Government Code 6103, the County is exempt from paying the filing fees for notices.

Review the attached Notice of Determination (NOD) form and obtain an original authorizing signature from your agency/department after final approval action on your project.

Please note the following:

1. Per Section 15075 of the State CEQA Guidelines (Section 15001), the lead agency shall file a NOD within appropriate number of working days (based on approving authority) for which an EIR, Mitigated Negative Declaration, or Negative Declaration (“environmental document”) has been adopted.
2. If the lead agency is a local agency, the local agency shall file the NOD with the County Clerk-Recorder. If the project requires discretionary approval from any state agency, the local lead agency shall also, within five working days of the approval, file a copy of the NOD with the State Clearinghouse via email to State.Clearinghouse@opr.ca.gov
3. Filing of the NOD begins a 30-day statute of limitations on legal challenges. If a NOD is not filed, the statute of limitations becomes 180 days, by operation of law.

Per Section 711.4(c)(1) of the Fish and Game Code, all public agencies for which an EIR, Mitigated Negative Declaration, or Negative Declaration has been adopted shall pay a filing fee for each proposed project. However, applicants may request the filing fee exemption through a No Effect Determination, which can be found on the California Department of Fish and Wildlife Website.

Current fee schedule is located at: <https://www.wildlife.ca.gov/Conservation/CEQA/Fees>

Submit a copy to the County Clerk-Recorder located in the Office of the County Clerk-Recorder, County Administration South, Civic Center Plaza. The County Clerk-Recorder will stamp the NOD, return the original set, and post the NOD for 30 days.

Send a copy of the stamped NOD to OC Development Services/Planning to include in the administrative record for the project.

Rev 07/03/2020

APPENDIX J
NOTICE OF DETERMINATION AND FILING
INSTRUCTIONS
(PRIVATE PROJECTS)

CEQA NOTICE OF DETERMINATION

To: County Clerk, County of Orange

From: County of Orange
OC Public Works, OC Development Services/Planning

Subject: Notice of Determination Filing
per Public Resources Code Section 21108 or 21152

Planning Application Number (PA):

State Clearinghouse Number (if applicable):

Project Title:

Project Location(s):

Project Description:

Applicant Contact Person:

Applicant Carrying-Out Project:

Address and Phone Number of Applicant:

Previously adopted or certified document: Not based on a previous document.

Document Number _____ adopted or certified
on _____.

The County of Orange, as Lead Agency, has made the following determination on the above-described project.

1. The project was approved by the Board of Supervisors on _____.
2. The Subsequent Environmental Impact Report was prepared and adopted pursuant to the provisions of CEQA.
3. The project will not have a significant effect on the environment because:
 - a. Mitigation measures, project design features, or both were incorporated into the project.
 - b. A Statement of Overriding Considerations was adopted for this project.
 - c. Findings and Facts were made pursuant to CEQA Guidelines 15091 (Statement of Facts and Findings).

A copy of the Subsequent Environmental Impact Report and the record of the project approval is on file and may be examined during regular business hours at the following location: OC Public Works, OC Development Services/Planning, 601 N. Ross Street, First Floor, Santa Ana, CA 92701. (714) 667-8888.

Signature: _____ **Date:** _____

Title: _____

Fish & Wildlife Document Filing Fee: Current fee schedule is located at:
<https://www.wildlife.ca.gov/Conservation/CEQA/Fees>

Form Rev. 07.03.20



 County Administration South
601 North Ross Street
Santa Ana, California 92701

 P.O. Box 4048
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 (714) 667-8800

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601 North Ross Street
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Santa Ana, CA 92702

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info@ocpw.ocgov.com

OCPublicWorks.com



Administrative Services



OC Development Services



OC Facilities Design & Construction Management



OC Facilities Maintenance & CUF



OC Fleet Services



OC Construction



OC Environmental Resources



OC Operations & Maintenance



OC Infrastructure Programs



OC Survey

ORANGE COUNTY
OC Public Works
MEMORANDUM

To: Applicant

From: OC Development Services/Planning

Subject: Filing Notice of Determination with the Orange County Clerk-Recorder

The Applicant will be responsible for filing the CEQA documentation.

Review the attached Notice of Determination (NOD) form and obtain a signature after final approval action on your project.

Please note the following:

1. Filing of NOD following **Board of Supervisors Approval**: When the approving authority is the Board of Supervisors, the NOD shall be filed with the County Clerk within five (5) working days of the approval or determination.
2. Filing of NOD following **Director/Zoning Administrator/Planning Commission Approval**: An NOD shall not be filed prior to the expiration of the fifteen (15) day appeal period for decisions made by the Zoning Administrator (ZA) or Director. If no appeal is filed, the NOD shall be filed within five (5) working days after the 15-day appeal period expires based on Orange County Codified Ordinance section 7-9-150.3(f)(3).
3. Filing of NOD following **Subdivision Committee Approval**: An NOD shall not be filed prior to the expiration of the ten (10) day appeal period for any decisions made by the Subdivision Committee.
4. If the lead agency is a local agency, the local agency shall file the NOD with the County Clerk-Recorder. If the project requires discretionary approval from any state agency, the local lead agency shall also, within five (5) working days of the approval, file a copy of the NOD with the State Clearinghouse via email to State.Clearinghouse@opr.ca.gov
5. Filing of the NOD begins a 30-day statute of limitations on legal challenges. If a NOD is not filed, the statute of limitations becomes one-hundred eighty days (180) days, by operation of law.

Per Section 711.4(c)(1) of the Fish and Game Code, all project applicants for which an EIR, Mitigated Negative Declaration, or Negative Declaration has been adopted shall pay a filing fee for each proposed project. However, applicants may request the filing fee exemption through a No Effect Determination, which can be found on the California Department of Fish and Wildlife Website.

Current fee schedule is located at: <https://www.wildlife.ca.gov/Conservation/CEQA/Fees>

Submit a copy to the County Clerk-Recorder located in the Office of the County Clerk-Recorder, County Administration South, Civic Center Plaza. The County Clerk-Recorder will stamp the NOD, return the original set, and post the NOD for thirty (30) days.

Send a copy of the stamped NOD to OC Development Services/Planning to include in the administrative record for the project.

Attachment 4



**2020 STANDARD CEQA
AGENDA STAFF REPORT
TEMPLATE LANGUAGE**

**COUNTY OF ORANGE
OC PUBLIC WORKS
OC DEVELOPMENT SERVICES/PLANNING**

FINAL DRAFT

**2020 STANDARD CEQA
AGENDA STAFF REPORT TEMPLATE
LANGUAGE**

**COUNTY OF ORANGE
OC PUBLIC WORKS
OC DEVELOPMENT SERVICES/PLANNING**

**Adopted by the Orange County Board of Supervisors
Month, 2020**

Michelle Steel
Chairwoman
Second District

Andrew Do
Vice Chair
First District

Lisa Bartlett
Supervisor
Fifth District

Donald Wagner
Supervisor
Third District

Doug Chaffee
Supervisor
Fourth District

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INTRODUCTION

CHAPTER 1 - INTRODUCTION

The purpose of the 2020 California Environmental Quality Act (CEQA) Agenda Staff Reports (ASR) Template Language is to guide County of Orange (County) staff during the preparation and review of ASRs to comply with CEQA statutes and the CEQA Guidelines. This document is meant to be used in conjunction with the 2020 Local CEQA Procedures Manual (Manual), as both currently exist or may be amended.

Each project is individually assessed to determine the level of environmental review required. OC Development Services/Planning has the primary responsibility of coordinating the local implementation of CEQA for private and public projects. Potential benefits of early involvement of OC Development Services/Planning in CEQA ASR review may include reduced number of iterations and reduced duration to completion.

Template language has been developed by the County to assist in providing examples of appropriate CEQA findings to be placed in ASRs for review and consideration by the Board of Supervisors (BOS). Due to periodic changes in the CEQA statutes (Public Resources Code Section 21000, et. seq.), and the CEQA Guidelines (14 California Code of Regulations, Chapter 3, §§15000 et. seq.), as well as reported case law, changes to the template language are required from time to time.

As mandated by the BOS, all ASRs for County departments/agencies are to be cleared for CEQA by OC Development Services/Planning and approved by County Counsel.

This template is intended to serve as a guide and does not replace thoughtful consideration of CEQA issues. It is meant to provide uniform language and a consistent methodology to assist in analyzing proposed activities to determine what, if any, CEQA findings need be made prior to any BOS approval of such activities. Similar activities occur repeatedly in the business of the County, thus, the use of standard language on a countywide basis is critical.

CEQA language should always be placed first in the Recommended Action section of the ASR as the first item, or finding. CEQA requires that the BOS or other decision-making

body with authority to approve a project make CEQA findings, if needed, prior to granting discretionary approval of a proposed project. The “Compliance with CEQA” paragraph is typically included towards the end of the ASR.

This template includes findings required for Not a Projects, Exemptions, Negative Declarations/Mitigated Negative Declarations, Environmental Impact Reports, and use of other agency CEQA documents as required by a proposed project.

CHAPTER 2 – NOT A PROJECT

Section 2.1 – NOT A PROJECT

Use this language when there is a discretionary approval of a proposed activity, which does not trigger CEQA review. CEQA Guidelines Section 15378(b) provides that certain categories of proposed activities do not constitute a “project” as defined in Section 15378(a). CEQA Guidelines Section 15352(a) further provides that “approval” of a project by a public agency is the decision which commits the agency to a definite course of action in regards to the project intended to be carried out by any person. The ASR template language allows the public to know that there has been an initial CEQA due diligence analysis, which resulted in a determination that the proposed activity is not a “project” for CEQA purposes (not subject to CEQA, and does not commit the County or agency to a definite course of action).

Some proposed actions are clearly not a project, and therefore no CEQA finding is needed in the ASR (as opposed to the “not a project finding”). An example is an Architect-Engineer service contract in which there is no potential for causing a significant effect on the environment. Neither the use of the “not a project” finding, nor the “common sense” objection is employed used for such proposed actions. If uncertain, please consult with OC Development Services/Planning.

As applicable, note if the proposed project and environmental reports would be subject to a future Board action.

References in *2020 Local CEQA Procedures Manual*

- “Chapter 9.0 Determining Whether Something is a Project”
- Appendix D - List of Activities Considered Not a Project

Not A Project ASR Template Language

RECOMMENDED ACTION(S):

Find that the subject activity is not a project within the meaning of CEQA Guidelines Section 15378 and is therefore not subject to review under CEQA.

NOT A PROJECT

Compliance with CEQA: This action is not a project within the meaning of CEQA Guidelines Section 15378 and is therefore not subject to CEQA, since it does not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The approval of this agenda item does not commit the County to a definite course of action in regard to a project since (fill in appropriate explanation; for example, the action authorized herein may lead to the negotiation of an agreement) _____.

This proposed activity is therefore not subject to CEQA. Any future action connected to this approval that constitutes a project will be reviewed for compliance with CEQA.

CHAPTER 3 - EXEMPTIONS

The following sets forth standard ASR language for the use of categorical and statutory exemptions. Several specific examples are included for illustration purposes, but these examples are not exhaustive of all the exemptions that may be available under CEQA for a specific project.

References in *2020 Local CEQA Procedures Manual*

- “Chapter 10.0 Exemption Process”
- Appendix E - List of Ministerial Exempt projects
- Appendix F - List of Categorical Exemptions
- Appendix G - Notice of Exemption and filing instructions (Public Projects)
- Appendix H – Notice of Exemptions and filing instructions (Private Projects)

Section 3.1 – COMMON SENSE EXEMPTION

An activity may be covered by the common sense exemption when the activity is a project defined by CEQA, but it can be seen with *certainty* that there is no possibility that the activity in question may have a significant effect on the environment (Guidelines Section 15061(b)(3)0). See “Section 10.1 Common Sense Exemptions” in *2020 Local CEQA Procedures Manual* for additional information.

The “common sense” exemption is used when the proposed activity is deemed a project subject to CEQA requirements, is not covered or described in the statutory or categorical exemptions, but with certainty, does not have a potential for causing a significant effect on the environment. As a result, the finding would be made that the proposed activity is exempt under the “common sense” exemption. An example is the approval of an airport land use plan which simply incorporated the existing county general plan and zoning provisions that were already in place. This project approval qualified under the common sense exemption in the case of *Muzzy Ranch Co. v. Solano County Land Use Comm.* (2007) 41 Cal. 4th 372.

Key points when considering the “common sense” Exemption:

- Distinguish from “not a project.”

EXEMPTIONS

- The exemption is used in cases where the proposed activity could qualify as a “project” as defined in CEQA.
- When a proposed action does not qualify as a “project” under CEQA, the appropriate template language to use would be the “not a project” language.
- **Certainty**
 - The exemption requires “certainty,” which is a very high standard to meet. As a result, reliance solely on the common sense exemption is generally not recommended. Try to identify other categorical or statutory exemptions that may also be applicable to the project.

If it appears that the “common sense” exemption is applicable to the specific set of facts, please contact OC Development Services/Planning to verify this determination.

Common Sense Exemption ASR Template Language

RECOMMENDED ACTION(S):

Find that the proposed project is exempt from the provisions of CEQA pursuant to Guidelines Section 15061 (b) (3) since this project has no potential for causing any significant effect on the environment.

Compliance with CEQA: The proposed project is exempt from CEQA since there is no possibility that the project or activity to be carried out may have a significant effect on the environment. (Set forth facts in the record which support this conclusion, such as: The airport land use plan proposed for approval incorporates the existing County of Orange General Plan, and certain County zoning provisions which are already in place. The incorporation of these existing plans, documents and provisions in the airport land use plan has no potential to cause any significant effect on the environment.)

Section 3.2 – STATUTORY EXEMPTIONS

Statutory exemptions are specific exemptions from CEQA granted by the State Legislature. See “Section 10.2 Statutory Exemptions” in *2020 Local CEQA Procedures Manual* for additional information.

EXEMPTIONS

Statutory Exemption ASR Template Language

RECOMMENDED ACTION(S):

Find that the proposed project is Statutorily Exempt from CEQA pursuant to Section _____ of the Public Resources Code and Section _____ of the CEQA guidelines. (Example: The description may be: “feasibility and planning study pursuant to Section 15262 of the CEQA Guidelines.”)

Compliance with CEQA: The proposed project is Statutorily Exempt from review under CEQA as an _____ (insert description, such as, feasibility and planning project) pursuant to Section _____ (insert section number) of the Public Resources Code or Section _____ (insert section number) of the CEQA Guidelines.

Examples of Specific Statutory Exemptions:

RATES, TOLLS, FEES AND OTHER CHARGES

Among the types of projects that have been granted a statutory exemption from CEQA review are those projects that are specifically identified as rates, tolls, fares, and charges.

Rates, tolls, fees and other charges ASR Template Language

RECOMMENDED ACTION(S):

Find that the subject project is Statutorily Exempt from the provisions of CEQA pursuant to Section 21080(b)(8) of the Public Resources Code and Section 15273 of the CEQA Guidelines as the establishment or modification, structuring, restructuring or approval of rates, tolls, fares, and other charges by a public agency which are for the purpose of meeting operating expenses, including employee wage rates and fringe benefits; purchasing or leasing supplies, equipment, or materials as set forth herein.

Compliance with CEQA: The subject activity is statutorily exempt from review under CEQA pursuant to Section 21080(b)(8) of the Public Resources Code and Section 15273 of the CEQA Guidelines as the establishment or modification of rates fees and charges which are for the purpose of meeting operating expenses, including employee wage rates and fringe benefits; purchasing or leasing supplies, equipment, or materials.

EXEMPTIONS

EMERGENCY EXEMPTION

Projects which are necessary to prevent or mitigate an emergency can qualify for a particular statutory exemption called “the emergency exemption” (CEQA Guidelines 15269). An emergency exemption under CEQA only exempts the project from having to comply with CEQA and does not necessarily remove the Agency’s responsibility to comply with applicable state laws or federal laws. See “Section 10.2 Statutory Exemptions” in *2020 Local CEQA Procedures Manual* for additional information.

Emergency Exemption ASR Template Language

RECOMMENDED ACTION(S):

Find that the subject project is statutorily exempt from CEQA pursuant to Section 15269 of the CEQA Guidelines.

Compliance with CEQA: The subject activity is statutorily exempt from review under CEQA pursuant to Section 15269 of the CEQA Guidelines as an emergency project because it (set forth circumstances per Section 15269 a) b) c) d) or e)).

Section 3.3 - CERTIFIED REGULATORY PROGRAMS

A Certified Regulatory Program is another type of statutory exemption available for projects undertaken by a local agency to implement a rule or regulation imposed by a state agency, board or commission under a state regulatory program certified pursuant to Public Resources Code Section 21080.5.

Example of Certified Regulatory Programs

- Pesticide regulatory program administered by the Department of Pesticide Regulation and the county agricultural commissioners as provided in CEQA Guidelines Sections 15250 and 15251((i).)

Certified Regulatory Programs ASR Template Language

RECOMMENDED ACTION(S):

Find that the proposed project is exempt from CEQA pursuant to Public Resources Code Section 21080(b)(15), because it implements a rule or regulation imposed by a state

EXEMPTIONS

agency, board or commission, under a Certified State Regulatory Program as provided in CEQA Guidelines Sections 15250 through 15253.

Compliance with CEQA: The proposed project is exempt from the provisions of CEQA pursuant to Public Resources Code Section 20180(b)(15), because it implements a rule or regulation imposed by a state agency, board or commission, under a Certified State Regulatory Program as provided in CEQA Guidelines Sections 15250 through 15253 (describe program and administering state agency, and Guidelines sub-section if practicable)

Section 3.4 - CATEGORICAL EXEMPTION

Categorical exemptions refer to classes of activities/projects which are exempt from CEQA, based on a finding that certain classes of projects do not have a significant effect on the environment. See “Section 10.3 Categorical Exemptions” in *2020 Local CEQA Procedures Manual* for additional information.

Categorical Exemption ASR Template Language

RECOMMENDED ACTION(S):

Find that the project is categorically exempt from the California Environmental Quality Act (CEQA), Class X (insert title of exemption) pursuant to CEQA Guidelines section 153XX (insert section number).

Compliance with CEQA: The proposed project is Categorically Exempt (Class X) from the provisions of CEQA pursuant to Section 153XX, because it (insert explanation of why the exemption applies).

Section 3.5 – PRIOR STATUTORY OR CATEGORICAL EXEMPTIONS

Categorical or statutory exemptions apply to projects that are not determined to have a significant environmental impact. A prior categorical or statutory exemption finding is valid only to the extent that no substantial changes have been made in the project, no substantial changes in the circumstances have occurred under which the project is being undertaken, and no new information of substantial importance to the project which was not known or could not have been known since the prior environmental document was prepared. The passage of time between the initial adoption of the categorical or statutory

EXEMPTIONS

exemption and the current discretionary action should be considered when relying on a prior categorical or statutory exemption. Depending on how much time has lapsed, there is no need to file a new NOE when making prior categorical or statutory exemption findings. However, if any such changes have occurred since the prior categorical or statutory exemption finding, further environmental review is required.

Prior Statutory or Categorical Exemption ASR Template Language

No Recommended Action Needed: In the event that a prior categorical or statutory exemption finding was made by the Board of Supervisors and is applicable to the new proposed activity, no new finding, and no “continuing finding” language should be placed in the Recommend Actions section of the ASR. A CEQA Compliance paragraph in the text of the ASR will be sufficient to prove prior CEQA compliance encompasses the new proposed activity.

Compliance with CEQA: The proposed project was previously determined to be Statutorily/Categorically Exempt from CEQA pursuant to Section 153XX (Class___) of the CEQA Guidelines, on (Month Day, Year) when it originally approved. CEQA Guidelines Section 153XX provides for the exemption of (insert description of exemption type and why the exemption applied, if known).

**CHAPTER 4 – NEGATIVE DECLARATION/MITIGATED
NEGATIVE DECLARATION**

The following sets forth standard ASR language for a Negative Declaration/Mitigated Negative Declaration. Once a decision-maker has approved the project, a NOD will be filed (Guidelines Section 15164).

References in *2020 Local CEQA Procedures Manual*

- “Chapter 11.0 Negative/Mitigated Negative Declaration Process”
- Appendix I - Notice of Determination and filing instructions (Public Projects)
- Appendix J - Notice of Determination and filing instructions (Private Projects)

**Section 4.1 – NEGATIVE DECLARATION/MITIGATED NEGATIVE
DECLARATION**

A Negative Declaration (ND) is prepared for projects that are subject to CEQA, which may have potential environmental impacts, but are shown to have no significant effects on the environment. An ND is appropriate when the initial study shows there is no substantial evidence, in light of the whole record before the County, to support a fair argument that the project may have a potentially significant effect.

A Mitigated Negative Declaration (MND) is prepared for projects, that are subject to CEQA, which may have potential impacts, but mitigation measures are identified to avoid, reduce or otherwise mitigate the impacts to less than significant. An MND is appropriate when the initial study shows there is no substantial evidence, in light of the whole record, to support a fair argument that the project may have a potentially significant effect on the environment.

ND/MND ASR Template Language

RECOMMENDED ACTION(S):

1. Find that (Mitigated) Negative Declaration No. IP/PP (provide number) _____ reflects the independent judgment of the County of Orange as lead agency (or the independent judgment of the Orange County Flood Control District as lead agency), and satisfies the requirements of CEQA for the _____ (name of project).

NEGATIVE/MITIGATED NEGATIVE DECLARATION

Adoption of (Mitigated) Negative Declaration No. IP/PP (provide number) ___ is recommended for the proposed project based upon the following findings:

- a. The (Mitigated) Negative Declaration and comments on the (Mitigated) Negative Declaration received during the public review period have been considered and (Mitigated) Negative Declaration No. IP/PP (provide number) ___ is adequate in addressing potential impacts related to the project;
- b. On the basis of the whole administrative record, there is no substantial evidence that the project (if adopting an MND, add: “with the implementation of the mitigation measures included in the Mitigation Monitoring and Reporting Program”) will have a significant effect on the environment;
- c. if adopting an MND, add: Pursuant to Public Resources Code Section 21081.6 and CEQA Guidelines Section 15074 (d), the Mitigation Monitoring and Reporting Program is adopted;
- d. (Mitigated) Negative Declaration No. IP/PP (provide number) ___ is adequate to satisfy the requirements of CEQA for the _____ (name of project).

Compliance with CEQA: Adoption of the (Mitigated) Negative Declaration No. IP/PP (provide number)___ will satisfy the requirements of CEQA for the _____ (name of project).

Note: Final ND/MND may include a response to comments. At the discretion of the County Lead Agency for the project, responses to comments received during the public comment period for an ND or MND may be responded to through a) a stand-alone response to comments document; b) a separate response to comments section in the ND or MND; c) a response to comments attachment to the Agenda Staff Report (ASR); and/or d) a summary of comments and responses under the 'Compliance with CEQA' section in the Agenda Staff Report.

NEGATIVE/MITIGATED NEGATIVE DECLARATION

Section 4.2 - PRIOR NEGATIVE DECLARATION/MITIGATED NEGATIVE DECLARATION

A prior environmental document can be used for a proposed project if the proposed projects implements or consists of activities which are necessarily included elements of the project which was studied in the prior environmental document, and there have been no significant changes in the facts, circumstances and environmental impacts since the prior environmental document was prepared.

Prior ND/MND ASR Template Language

RECOMMENDED ACTION(S):

1. Find that (Mitigated) Negative Declaration No. IP/PP (provide number) ____, previously adopted by Board of Supervisors on (Month Day, Year) for the (insert name of project for which MND was adopted), reflects the independent judgment of the County of Orange and is adequate to satisfy the requirements of CEQA for the _____ project based on the following additional findings:
 - a. The circumstances of the project are substantially the same and (Mitigated) Negative Declaration No. IP/PP (provide number)____ adequately addressed the effects of the proposed project. No substantial changes have been made in the project, no substantial changes have occurred in the circumstances under which the project is being undertaken and no new information of substantial importance to the project which was not known or could not have been known when the previous (Mitigated) Negative Declaration No. IP/PP (provide number) ____, was adopted has become known; therefore no further environmental review is required.
 - b. (Mitigated) Negative Declaration No. IP/PP (provide number) ____ is adequate to satisfy the requirements of CEQA for the _____ (name of project).

Compliance with CEQA: This project is a necessarily included element of the project considered in (Mitigated) Negative Declaration No. IP/PP (provide number) ____, (describe project, for example: "approved by the BOS on March 6, 2007, for the Los Alamitos Pump Station Project which adequately addressed the effects of the proposed

NEGATIVE/MITIGATED NEGATIVE DECLARATION

project”.) No substantial changes have been made in the project, no substantial changes have occurred in the circumstances under which the project is being undertaken and no new information of substantial importance to the project which was not known or could not have been known when the (Mitigated) Negative Declaration No. IP/PP (provide number)_____ was approved has become known; therefore no further environmental review is required.

Section 4.3 – PRIOR ND/MND AND (NEW) ADDENDUM

In cases where some changes or additions are necessary with no additional significant impacts, but the conditions for the preparation of a subsequent or supplemental ND/MND are not met, an addendum to the original ND/ MND may be prepared, rather than a new ND/MND. The County will analyze the scope of the changes and their disposition in relationship to the original ND/MND in order to determine whether a project will trigger the requirements of CEQA by identifying substantial changes in the project or the circumstances under which the project will be carried out that require major revisions in the ND/MND, or new information of substantial importance is discovered. Addenda are not circulated for public review, but will be considered by an applicable decision-maker with authority to approve the proposed project.

References in *2020 Local CEQA Procedures Manual*

- “Chapter 11.0 Negative/Mitigated Negative Declaration Process”
- “Section 13.2.1 Addendum to Negative/Mitigated Negative Declaration and Environmental Impact Report”

ND/ MND and (NEW) ADDENDUM ASR Template Language

RECOMMENDED ACTION(S):

1. Find that (Mitigated) Negative Declaration No. IP/PP (provide number)_____ and Addendum No. IP/PP (provide number) _____ adequately address the effects of the proposed project, reflect the independent judgment of the County of Orange and are approved for the proposed project based on the additional findings that the circumstances of the project are substantially the same and (Mitigated) Negative Declaration No. IP/PP (provide number)_____ and Addendum No. IP/PP (provide number) _____ adequately address the effects of

NEGATIVE/MITIGATED NEGATIVE DECLARATION

the proposed project; no substantial changes have been made in the project; no substantial changes have occurred in the circumstances under which the project is being undertaken; and no new information of substantial importance to the project which was not known or could not have been known when the (Mitigated) Negative Declaration No. IP/PP (provide number)_____ and Addendum No. IP/PP (provide number)_____ were adopted has become known; therefore no further environmental review is required.

- a. (Mitigated) Negative Declaration No. IP/PP (provide number)_____ and Addendum No. IP/PP (provide number)_____ are adequate to satisfy the requirements of CEQA for the _____ (name of project).
- b. All mitigation measures fully enforceable pursuant to Public Resources Code Section 21081.6(b) have either been adopted as conditions, or incorporated as part of the project design, or included in the procedures of project implementation.

Compliance with CEQA: The circumstances of this project are substantially the same as (Mitigated) Negative Declaration No. IP/PP (provide number) _____, and Addendum No. IP/PP (provide number)_____ which includes minor changes or additions necessary, and both documents adequately address the effects of the proposed Project. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when (Mitigated) Negative Declaration No. IP/PP (provide number)_____ and Addendum No. IP/PP (provide number) _____ were adopted have become known; therefore no further environmental review is required.

CHAPTER 5.0 – ENVIRONMENTAL IMPACT REPORT

An EIR is prepared when there may be significant direct or indirect environmental impacts associated with a project, as described in Guidelines Section 15358(a)(1-2). A thorough environmental analysis is undertaken when there is substantial evidence that a project may have a significant effect on the environment. Once a decision-maker has acted on the project, a NOD will be filed (Guidelines Section 15164).

References in *2020 Local CEQA Procedures Manual*

- “Chapter 12.0 Environmental Impact Reports”
- Appendix I - Notice of Determination and filing instructions (Public Projects)
- Appendix J – Notice of Determination and filing instructions (Private Projects)

Section 5.1 - EIR

An EIR is an informational document which provides public agencies and the general public with detailed information about the effects that a proposed project is likely to have on the environment. The EIR also lists the ways in which these environmental effects might be minimized and whether there are any alternatives to the project.

A 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, list of persons, organizations, and public agencies commenting on the draft EIR, responses of the Lead Agency to significant environmental points raised in the review and consultation process and any other information added by the Lead Agency (per CEQA Guidelines Section 15132).

EIR ASR Template Language

RECOMMENDED ACTION(S):

1. Receive and consider (Department/Staff Report, if submitted) _____.
2. Adopt Resolution certifying Final EIR No. ____ for (Project Name) _____.

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3. Adopt Statement of Facts and Findings for Final EIR No. ____ for (Project Name) _____.
4. Adopt Mitigation Monitoring and Reporting Program for Final EIR No. ____ for (Project Name) _____.
5. Adopt Statement of Overriding Considerations for Final EIR No. ____.
6. Adopt Resolution approving (Project Name) _____.

Alternative recommendations that may be added as needed with appropriate insertion points:

After or part of item 1 (when EIR is being recommended for certification by the Planning Commission):

- Receive Orange County Planning Commission Resolution No. ____ (Exhibit A) recommending certification of adequacy of Final Environmental Impact Report (Final EIR No. _____) and selection of the proposed Project as the preferred alternative for the (project name) _____.

Instead of 6 (where not project approval resolution is proposed)

Approve (substantive action proposed) _____.

Compliance with CEQA: Proposed Final EIR No. ____ for (Project Name) _____, has been prepared and circulated for public review. The DEIR was posted for public review and comment from (insert date). The Responses to Comments on the DEIR were made available to the public online on (insert date). The Response to Comments portion of the FEIR No. ____ includes responses which provide a comprehensive review and response to the most common questions or comments received on the DEIR and is summarized in the Planning Commission Staff Report. FEIR No. ____ was presented to the Planning Commission on (insert date), at which time the Commission recommended certification of FEIR No. ____ by the Board. No additional or new comments were raised at the Planning Commission public hearing that had not been adequately addressed in the proposed FEIR. In addition to certifying FEIR

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No. _____, the resolution presented for consideration [insert specifics of the resolution, such as, but not limited to adopting the mitigation monitoring and reporting plan] for the Project.

Section 5.2 - PRIOR EIR

A prior environmental document can be used for a project if the environmental document includes activities which constitute or are necessarily included elements of the project and there have been no significant changes in the facts, circumstances and environmental impacts since the prior environmental document was prepared. If a previously approved prior environmental document is adequate for the subsequent proposed project, the determination may be noted in the project file and all required public notices which are required, and, as appropriate under the circumstances may be presented to a decision maker as appropriate. Please consult with OC Development Services and County Counsel to assure the new proposed activity falls within the prior EIR.

Prior EIR ASR Template Language

No Recommended Action Needed: In the event that a prior EIR was made by the BOS and is applicable to the new proposed activity, no new finding, and no “continuing finding” language should be placed in the Recommend Actions section of the ASR. A CEQA Compliance paragraph in the text of the ASR will be sufficient to prove prior CEQA compliance encompasses the new proposed activity.

Compliance with CEQA: This project is a necessarily included element of the project considered in Final EIR No. _____, certified by the BOS on (Month Day, Year), which adequately addressed the effects of the proposed project. No substantial changes have been made in the project, no substantial changes have occurred in the circumstances under which the project is being undertaken, and no new information of substantial importance to the project which was not known or could not have been known when the Final EIR No. _____ was certified and the Mitigation Monitoring and Reporting Program was adopted; therefore no further environmental review is required.

Section 5.3 - PRIOR EIR AND NEW ADDENDUM

Use when approving a prior EIR and new addendum together for the first time.

EIR Plus (New) Addendum ASR Template Language

RECOMMENDED ACTION(S):

1. Receive and consider (Department/ Staff Report, if submitted) _____.

2. Find that Final EIR No. _____, certified by [certifying body, usually BOS] on [Month Day, Year], and Addendum No. IP/PP (provide number) _____, adequately address the effects of the proposed Project, reflect the independent judgment of the County of Orange and are approved for the proposed project based on the following additional findings:
 - a. The circumstances of the project are substantially the same and Final EIR No. _____ and Addendum No. IP/PP (provide number) _____ adequately address the effects of the proposed Project. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when Final EIR No. _____ was certified has become known; therefore no further environmental review is required.

3. Adopt Addendum No. IP/PP (provide number) _____ for (project name) _____.

Compliance with CEQA: The circumstances of this project are substantially the same as Final EIR No. _____, but changes or additions have been made as set forth in Addendum No. IP/PP (provide number) _____. Together, Final EIR No.____ and Addendum No. IP/PP (provide number)____ adequately address the effects of the proposed Project. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being

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undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when Final EIR No. _____ was certified, or through the date of approval and adoption of Addendum No. IP/PP (provide number) _____ has become known; therefore no further environmental review is required.

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CHAPTER 6.0 – USE OF OTHER AGENCY CEQA DOCUMENT BY COUNTY AS RESPONSIBLE AGENCY

In instances where the County is a Responsible Agency under CEQA, the County can use and rely on environmental documents prepared and approved by other (lead) agencies, jurisdictions or special districts

Use of Other Agency CEQA Document ASR Template Language

RECOMMENDED ACTION(S):

1. Make the following California Environmental Quality Act (CEQA) findings:
 - a. The City of (or other lead agency as appropriate) _____, as lead agency under CEQA for [insert name of project], certified Final Environmental Impact Report (EIR) number _____ (or SCH #) [or adopted (Mitigated) Negative Declaration (MND) No. IP/PP ____] on (Month Day, Year). The (County of Orange or Orange County Flood Control District, or County Agency, as appropriate), _____ as a responsible agency under CEQA Guidelines Section 15381, has reviewed and considered the Final Environmental Impact Report [or MD, MND, or other document] prepared by the City (or other lead agency as appropriate) _____, and certifies that it has done so, pursuant to CEQA Guidelines Section 15050(b).
 - b. There are no significant environmental effects within the jurisdiction of the (County of Orange or Orange County Flood Control District) which require a finding on the part of the (County of Orange or Orange County Flood Control District, or County Agency, as appropriate).
 - c. The circumstances of the project are substantially the same as described in EIR No. _____ [or adopted (Mitigated) Negative Declaration (MND) No. IP/PP ____] and no substantial changes have been made in the project, no substantial changes have occurred in the circumstances under which the project is being undertaken, and no new information of substantial importance to the project which was not known or could not have been known when EIR No. _____ [or adopted (Mitigated) Negative Declaration (MND) No. IP/PP (provide number) ____] was certified has become known.

USE OF OTHER AGENCY CEQA DOCUMENT BY COUNTY AS RESPONSIBLE AGENCY

- d. There are no feasible alternatives or feasible mitigation measures within the separate authority of the (County of Orange or Orange County Flood Control District) to impose, which would substantially lessen or avoid any significant effect the project would have on the environment, pursuant to CEQA Guidelines section 15096 (g)-(h).
- e. As a responsible agency, the (County of Orange or Orange County Flood Control District, or County Agency, as appropriate) is authorized, pursuant to Guidelines section 15096, to rely on the EIR _____ [or adopted (Mitigated) Negative Declaration (MND) No. IP/PP (provide number) ____] certified or adopted by the _____(name of other agency.)

Note: If there is ever an instance where there are significant effects associated with the project, which are within the jurisdiction of the County/Orange County Flood Control District, additional findings may be necessary. In these instances, OC Development Services and County Counsel should be consulted.

Compliance with CEQA: The City of (or other lead agency as appropriate) _____, as lead agency under CEQA for this project, certified Final EIR No. [or adopted (Mitigated) Negative Declaration (MND) No. IP/PP (provide number)____] on (Month Day, Year) The (County of Orange or Orange County Flood Control District, or County Agency, as appropriate) _____, as a responsible agency under CEQA Guidelines section 15381, has reviewed and considered the Final EIR prepared and certified by the City (or other lead agency as appropriate) [or adopted (Mitigated) Negative Declaration (MND) No. IP/PP (provide number) ____] and certifies it has done so. As a responsible agency, the (County of Orange or Orange County Flood Control District, or County Agency, as appropriate) is authorized by Guidelines section 15096 to rely on the Final EIR certified or adopted by the _____ City of (or other lead agency as appropriate).

CHAPTER 7.0 –JOB ORDER CONTRACT

For CEQA purposes, Job Order Contracts and On Call Contracts are treated identically.

A job order contract is a subset of an on-call contract. Generally, the BOS approves the underlying job order contract with a particular contractor or slate of contractors (to have contractors available for future projects), without a specific project. Individual job orders are subsequently issued against these contracts, for specific projects. Where a project is proposed to be approved using a contractor/vendor under a “job order contract” (JOC) or an “on call contract,” the approving body for that project, whether it is the BOS the Purchasing Agent, or any other authorized person, shall ensure that each job/Task Order issued undergoes separate and individual CEQA review as necessary to comply with CEQA.

When the BOS approves the underlying job order contract, without regard to a specific project, the “not a project” finding is used. But a subsequent discretionary action may require that a different CEQA determination and finding be made, depending on whether that subsequent discretionary action is a project under CEQA. For example, the approval of a bidder and a contract award for an on-call Architect-Engineer (A-E) contract, or for a JOC, without any specific job or task called out, will justify the “not a project” finding. However, if the approval references a contract for a specific task or job description, or, if later, a specific job order is issued for a specific project, a CEQA determination must be made in the ASR (e.g. possibly a categorical or statutory exemption finding). Please consult with OC Development Services/Planning to identify an appropriate exemption.

References in *2020 Local CEQA Procedures Manual*

- “Chapter 14.0 On-Call and Job Order Contracts Process” for additional information.

Job Order Contract ASR Template Language (when no specific task or job is described)

RECOMMENDED ACTION(S):

Find that the subject activity is not a project within the meaning of CEQA Guidelines Section 15378 and is therefore not subject to review under CEQA.

Compliance with CEQA: This action is not a project within the meaning of CEQA Guidelines Section 15378 and is therefore not subject to CEQA, since it does not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The approval of this agenda item does not commit the County to a definite course of action in regard to a project since (fill in appropriate explanation; for example, the action authorized herein may lead to the negotiation of an agreement). This proposed activity is therefore not subject to CEQA. Any individual, specific work authorized pursuant to this contract will be reviewed for compliance with CEQA.

End of ASR Template Language

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