



**Agenda Item D.3
PUBLIC HEARING
Meeting Date: August 19, 2008**

TO: Mayor and Councilmembers

FROM: Steve Chase, Planning and Environmental Services Director

CONTACT: Patricia Miller, Manager, Current Planning Division
Shine Ling, Assistant Planner

SUBJECT: Revisions to the City's Environmental Review Guidelines

RECOMMENDATION:

- A. Allow oral presentations from staff.
- B. Conduct a public hearing and receive testimony.
- C. Adopt City Council Resolution 08-___ entitled "A Resolution of the City Council of the City of Goleta, California, Repealing Resolution 03-56 and Adopting Environmental Review Guidelines for the Implementation of the Provisions of the California Environmental Quality Act" (Attachment 1).

BACKGROUND:

The California Environmental Quality Act (CEQA) requires each public agency to adopt guidelines (objectives, criteria, and specific procedures) for administering its responsibilities under CEQA. The City's Environmental Review Guidelines (the "City CEQA Guidelines") set forth the City of Goleta's procedures for complying with CEQA.

The City Council adopted the current version of the City CEQA Guidelines in December 2003. Review and approval of updated guidelines is recommended in order to reflect the most recent statutory requirements and to clarify and streamline the City's procedures.

DISCUSSION:

Staff reviewed the City CEQA Guidelines and compared them to the current CEQA statute and State CEQA Guidelines and recommends certain revisions. A redline/strikeout version of the City CEQA Guidelines is included as Attachment 2

to this report. The City's Environmental Thresholds and Guidelines Manual is an attachment to the guidelines. No changes are proposed to the thresholds manual at this time. An update of the thresholds manual is included in the General Plan as an implementation task and would be programmed into the Department's budget at a later time.

The following revisions to the City CEQA Guidelines are recommended:

1. *Hearings on Environmental Documents*

Currently, public hearings on draft environmental documents are conducted by the decision-making body for a discretionary land use project (e.g., Planning Commission or City Council). The scope of the hearing is limited to comments on the draft environmental document, not to the merits of the project itself. However, when the hearing is conducted by the decision-making body, comments are inevitably made about the project as well as the environmental document. The decision-making body, therefore, unintentionally begins consideration of the project.

Staff recommends that a staff-level Environmental Hearing Officer be designated to conduct these environmental hearings. The Officer would be the Director of Planning and Environmental Services (or designee). The duties of the Officer would be to convene public hearings on draft environmental documents, receive public testimony on the documents, and make a staff determination regarding adequacy of the draft document. If the Officer were to determine that a document was not adequate, the Officer would direct staff to revise the document or to prepare a different environmental document, if warranted. If the Officer were to determine that the document was adequate, the Officer would then direct staff to prepare the final version of the document (a Final Negative Declaration or Final Environmental Impact Report). The final environmental document would then be transmitted to the decision-making body at the time of the public hearing on a project's approval, at which time the decision-making body would make a final determination regarding the adequacy and potential for certification of the final document.

Delegating review of draft environmental documents to an Environmental Hearing Officer avoids the premature consideration of the merits of the project. Public notice for such hearings would continue to be provided per the City's noticing requirements and provisions of State law.

The sections of the City CEQA Guidelines that are proposed to be amended for establishing the role of the Environmental Hearing Officer include Sections VII.D and following (pertaining to Negative Declarations) and Sections VIII.N and following (pertaining to Environmental Impact Reports).

2. *Fees*

When the City selects a contractor to prepare an environmental document, Section III.D of the City CEQA Guidelines require that applicants submit a document administration deposit of 20% of the total estimated cost of the contract, in addition to a deposit to cover the cost of the contract. In practice, City staff time used in administering the contract is charged to the fee deposit for the project application (e.g., a Development Plan), and the separate 20% administration deposit is redundant. Staff recommends that this requirement be deleted.

3. *Other Minor Changes*

A number of minor edits are recommended to clarify the provisions of the City CEQA Guidelines and ensure consistency with the State Guidelines. Also, a new Definitions section placed at the end is also recommended.

Sections where some of these minor edits are proposed include Sections VI.E, VII.D, and VIII.Q and following.

GOLETA STRATEGIC PLAN:

This update of the City CEQA Guidelines is consistent with the goal in the Goleta Strategic Plan entitled, "Complete General Plan, Ordinances, and Implementation Measures." Specifically, the updated City CEQA Guidelines would help staff implement the General Plan and CEQA more effectively.

ALTERNATIVES:

The City Council may choose to direct staff to modify some of the recommended revisions to the City Guidelines.

FISCAL IMPACTS:

Funding is included in the Planning and Environmental Services budget for the preparation of the revised City CEQA Guidelines.

LEGAL REVIEW:

The City's original CEQA Guidelines were prepared by, and the proposed amendments have undergone legal review by, the City Attorney's Office.

Submitted By:

Reviewed By:

Approved By:

Steve Chase, Director
Planning and Environmental
Services

Michelle Greene, Director
Administrative Services

Daniel Singer
City Manager

ATTACHMENTS:

1. Resolution 08-___, for Adoption of 2008 City Environmental Review Guidelines*
2. Redline/Strikeout Version of 2008 City Environmental Review Guidelines*

* The City Environmental Review Guidelines include two attachments: an Environmental Checklist Form and the Environmental Thresholds and Guidelines Manual. Neither one of these attachments would be revised as part of Resolution 08-___ and are therefore not included in this staff report due to the length of the attachments. The attachments would be included at the time of execution of Resolution 08-___ and are available upon request at Planning and Environmental Services.

ATTACHMENT 1

**Resolution 08-__
for Adoption of 2008 City Environmental Review Guidelines**

RESOLUTION NO. 08-___

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GOLETA,
CALIFORNIA, REPEALING RESOLUTION 03-56 AND ADOPTING
ENVIRONMENTAL REVIEW GUIDELINES FOR THE IMPLEMENTATION OF
THE PROVISIONS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

WHEREAS, the California Environmental Quality Act of 1970, as amended ("CEQA"), governs the environmental review and approval process of development within the City; and

WHEREAS, the provisions of CEQA are contained in Public Resources Code Section 21000 and following and in the accompanying State CEQA Guidelines, which are set forth in Title 14 of the California Code of Regulations beginning with Section 15000 and following; and

WHEREAS, Public Resources Code Section 21082 and Section 15022 of the State CEQA Guidelines require that each public agency adopt objectives, criteria, and specific procedures consistent with CEQA and the State CEQA Guidelines for the purpose of administering its responsibilities under CEQA; and

WHEREAS, the City Council adopted Environmental Review Guidelines by Resolution 03-56 as of December 15, 2003; in order to fulfill its obligations under CEQA and the State Guidelines, protect local and regional resources in a manner that reflects local values, and translate the myriad of State laws and judicial interpretations regarding CEQA into a precise guide for use by the City, project proponents, and the general public; and

WHEREAS, the City Council now wishes to amend the Environmental Review Guidelines consistent with local objectives, criteria, and specific procedures.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GOLETA AS FOLLOWS:

SECTION 1. Resolution 03-56 is hereby repealed.

SECTION 2. Public Resources Code Section 21082 and Section 15022 of the State CEQA Guidelines require that each public agency adopt objectives, criteria, and specific procedures consistent with CEQA and the State CEQA Guidelines for the purpose of administering its responsibilities under CEQA.

SECTION 3. The amended City of Goleta Environmental Review Guidelines attached as "Exhibit A" are hereby adopted and replace the repealed

guidelines in their entirety in fulfillment of the City's obligations under CEQA to adopt such guidelines.

SECTION 4. The procedures set forth in the City's Environmental Review Guidelines are not meant to replace the State Guidelines or the substantive requirements of CEQA but to implement and tailor the general provisions of the State Guidelines and CEQA to the specific operations of the City. If any section of the City's Environmental Review Guidelines is in conflict or contrary to any of the provisions of CEQA or of the State Guidelines as they now exist or may be amended hereafter, the provisions of CEQA and the State Guidelines shall control.

SECTION 5. The City Clerk shall certify as to the adoption of this resolution.

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2008.

MICHAEL T. BENNETT, MAYOR

ATTEST:

APPROVED AS TO FORM:

DEBORAH CONSTANTINO
CITY CLERK

JULIE HAYWARD BIGGS
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) ss.
CITY OF GOLETA)

I, DEBORAH CONSTANTINO, City Clerk of the City of Goleta, California, DO HEREBY CERTIFY that the foregoing Resolution No.08-__ was duly adopted by the City Council of the City of Goleta at a regular meeting held on the ___ day of _____, 2008, by the following vote of the Council:

AYES:

NOES:

ABSENT:

(SEAL)

DEBORAH CONSTANTINO
CITY CLERK

CITY OF GOLETA

**ENVIRONMENTAL REVIEW
GUIDELINES**

ADOPTED BY RESOLUTION NO. 08-__
_____, 2008

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**Attachment 1: State Guidelines for the Implementation of CEQA,
Appendix G: Environmental Checklist Form**

Attachment 2: Environmental Thresholds and Guidelines Manual

I. INTRODUCTION

The California Environmental Quality Act (CEQA) of 1970 (as amended) is California's most fundamental and far-reaching environmental law. CEQA is a procedural act that governs the review and approval process of most developments in California. These policies and procedures are written for the purpose of implementing the requirements of CEQA as contained in California Public Resources Code (PRC) Section 21000 and following and the State CEQA Guidelines (State Guidelines) contained in Title 14, Division 6, Chapter 3, Section 15000 and following of the California Code of Regulations (CCR).

A. BASIC PURPOSES OF CEQA (§15002)¹:

The basic purposes of CEQA are to:

1. Inform governmental decision-makers and the public about the environmental effects of proposed activities;
2. Involve the public in the decision-making process;
3. Identify ways that damage to the environment can be avoided or significantly reduced; and,
4. Prevent environmental damage by requiring changes in projects through the use of alternatives, mitigation measures, or both.

B. PURPOSE OF CITY GUIDELINES:

The City's Environmental Review Guidelines (hereafter "Guidelines") set forth comprehensive procedures for complying with the California Environmental Quality Act. CEQA requires each public agency to adopt guidelines (objectives, criteria, and specific procedures) for administering its responsibilities under CEQA (§15022). The purpose of these Guidelines is to protect both local and regional environmental resources in a manner that reflects local values.

An additional purpose of these Guidelines is to implement CCR Section 15006: to reduce delay and paperwork in determining if CEQA applies to particular projects. Section 15006 enumerates methods for conducting environmental review of projects that are not exempt. The intent of this document is to translate the myriad of

¹ Unless otherwise indicated, all sections references are to applicable section of the State Guidelines as set forth in Title 14, Division 6, Chapter 3, of the California Code of Regulations.

State laws and judicial interpretations into a precise guide for use by the City, project proponents, and general public.

The City's Guidelines summarize State law. Please refer to the State Guidelines (the California Code of Regulations sections in parentheses), which are hereby incorporated by reference, for more detail. These Guidelines are not meant to replace the State Guidelines but to implement and tailor the general provisions of the State Guidelines to the specific operations of the City. If any section of these Guidelines is in conflict with or contrary to any provisions of CEQA or the State Guidelines, as each may be amended, the provisions of CEQA and the State Guidelines shall control.

II. OVERVIEW AND SUMMARY OF PROCEDURES

The following subsections provide the procedures for following CEQA requirements. In all cases determinations shall be by the Director of Planning and Environmental Services ("Director").

A. **APPLICABILITY (See also Section V. B., Actions that Constitute a Project):**

A proposed activity or application must first be evaluated to determine if it is a "project" and is, therefore, subject to further CEQA review. A project is defined as any discretionary action that may cause a physical change to the environment. A project is the whole of an action that might result in a physical change to the environment, directly or ultimately. However, if the proposed activity is a project under CEQA, it may still be exempt from environmental review (see categorical exemptions and "general rule" exemptions).

B. **CEQA PROCESS:**

There are three steps in the CEQA process that incorporate environmental documentation. These three separate steps are taken in deciding which environmental document to prepare for a project subject to CEQA.

1. **Preliminary Review.** City staff will conduct a preliminary review of a project to determine whether it is subject to CEQA, or is exempt. If it is exempt, no further work by the applicant is necessary. If the project is not exempt then the applicant must submit a completed environmental information form. (§15060)
2. **Initial Study.** If the proposed activity is a project under CEQA (§15378), and is not exempt from review, the City

will prepare an Initial Study². Where an EIR is clearly required based upon preliminary review, the City may skip further initial review and begin work directly on the EIR. The City, however, at its discretion may elect to complete an Initial Study. The Initial Study determines whether a negative declaration, a mitigated negative declaration, or an Environmental Impact Report (EIR) is needed.

If the Initial Study identifies potentially significant impacts resulting from a project, the City may consult with the applicant to determine if the applicant is willing to modify the project to reduce or avoid the significant effects identified in the Initial Study (§ 15063(g)). The applicant may make changes to the project, or agree to changes suggested by the City in order to avoid or reduce to insignificance potential impacts (§15063(c)(2) and §15070(b)(1)). (For public projects, see Section V.B.(1)(a) below.)

3. **Preparation of a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report:**
 - a. **Negative Declaration.** If no significant impacts are identified, a Negative Declaration is prepared. A Negative Declaration is a written statement by the City describing why a project will not have a significant impact on the environment and therefore does not require the preparation of an EIR. A Negative Declaration may be prepared when no substantial evidence exists that the project may have a significant environmental effect (§15070).
 - b. **Mitigated Negative Declaration.** If the City determines that project revisions or mitigation measures are needed to lessen the impacts to an insignificant level or to avoid significant impacts, then a Mitigated Negative Declaration is prepared (§15041(a)). (See Section VI.G., Formulation of Mitigation Measures, below.)
 - c. **Focused EIR.** For certain small residential or commercial projects, where a Master EIR has been prepared, if a significant impact is identified that has not been, or cannot be, adequately mitigated, the Initial Study shall conclude that the project has

² Unless otherwise defined in these Guidelines, all initially capitalized terms shall have the meaning given such term in the State Guidelines.

significant environmental effects and a Focused EIR is required. A Focused EIR shall be required when a specific physical condition, or several physical conditions have been identified within a proposed project area as being potentially impacted. (§§ 15178, 15179.5)

- d. **Project EIR.** A Project EIR shall be required when the physical conditions exist within an area which will be affected by a proposed project including land, air, water, minerals, flora, fauna, ambient noise, objects of historical or aesthetic significance, or historical and unique archeological resources.
- e. **Subsequent EIR.** A Subsequent EIR shall be required when there are substantial changes proposed in the project which would require major revisions to the previous EIR; or that substantial changes in circumstances under which the project is undertaken will require major revisions of the previous EIR; or that new information of substantial importance, which was not known or could not have been known at the time of the previous EIR. (§ 15162)
- f. **Supplemental EIR.** A Supplemental EIR may be prepared where the conditions described above for a subsequent EIR are met and only minor additions or changes would be necessary to make the previous EIR adequate. (§ 15163)
- g. **Addendum.** An Addendum shall be prepared where none of the conditions described above for a subsequent EIR are met and only minor technical changes or additions are necessary. (§ 15164)

C. CONTENTS OF EIRs (§15120 et seq.):

The required contents of EIRs, as set forth in Article 9 of the State Guidelines, are incorporated herein by this reference.

III. AUTHORITY PROVIDED BY CEQA (§15040)

CEQA gives the City, as Lead Agency, authority to mitigate, approve, or disapprove projects despite significant impacts, and to charge fees to recover costs incurred in the preparation of the environmental documentation.

A. MITIGATE (§15041(a)):

The City has authority to require changes in the project to lessen or avoid significant effects on the environment (CCR §§15041(a), 15042 and 15064(b); PRC §§21002 and 21004). The City shall draft mitigation measures to achieve the objective of mitigating or avoiding significant effects on the environment identified in the Initial Study or EIR.

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

B. APPROVE PROJECTS DESPITE SIGNIFICANT EFFECTS (§15043):

The City may approve a project despite significant environmental effects identified in an EIR if: the City makes a fully informed and publicly disclosed decision that there is no feasible way to lessen or avoid these effects; and the City adopts, when certifying the EIR, a Statement of Overriding Considerations to address those significant environmental effects. Findings shall be included in the adoption identifying the expected benefits from the project that outweigh the adverse impacts or the costs of mitigating the impacts of the project.

C. DISAPPROVE PROJECTS (§15042):

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

D. FEES (§15045):

The City, as a Lead Agency, may charge and collect reasonable fees in order to recover the estimated cost in preparing environmental documents and for procedures necessary to comply with CEQA on the project. These fees are subject to periodic review and adjustment in order to assure that City costs are recovered. Litigation expenses, costs and fees incurred in actions alleging noncompliance with CEQA are not recoverable.

Costs for the preparation of contracted documents will be determined on a case by case basis depending upon the scope of the document, and the full amount of the not-to-exceed cost shall be deposited with the City prior to execution of a contract for

services. To begin the document preparation process the applicant shall submit to the Planning and Environmental Services Department a deposit to the City of the not-to-exceed cost of the contracted document.

In the event the applicant fails or refuses to deposit such fees as are determined to be required, the Director may recommend to the decision maker that processing be suspended or the project be denied without prejudice pursuant to State CEQA Guideline Section 15109. In such a case, it shall be presumed that without preparation of adequate environmental documents, required findings for project approval cannot be made.

IV. APPLICABILITY OF CEQA (§15002)

A. TIME OF COMPLIANCE:

Compliance with CEQA procedures as set forth in these Guidelines is required whenever the City proposes to carry out or approve a project. CEQA review, preparation, and certification of appropriate documentation occurs prior to or concurrently with an approval of a private project or authorization of a public project.

B. RESPONSIBILITY FOR COMPLIANCE:

The Director shall ensure that these guidelines are followed for public and private projects. These guidelines apply to all agencies of the City.

C. ADVISORY ROLE OF THE PLANNING AND ENVIRONMENTAL SERVICES DEPARTMENT:

The Director will provide direction, guidance, advice and consultation to other City departments at their request with respect to interpretation of CEQA, State Guidelines or these Guidelines.

V. PRELIMINARY REVIEW

A. INITIAL PROJECT REVIEW:

All activities that are initiated by the City, which are determined to be a project under CEQA, funded in whole or part by the City, or require authorization or entitlement from the City are subject to CEQA review. City staff, with primary responsibility for processing, reviewing, or authorizing activities affecting the environment should be familiar with these guidelines. Activities that are not exempt from CEQA will be reviewed or processed by the Planning and Environmental Services Department.

B. ACTIONS THAT CONSTITUTE A “PROJECT” (§15378; see also Section II.A., APPLICABILITY):

Except as otherwise provided, these Guidelines shall apply to Discretionary Projects (see also §15357 and 15369) proposed to be carried out or approved by the City. A project is defined as:

1. The whole of an action, which has a potential for resulting in a physical change in the environment, directly or ultimately, and that is any of the following:
 - a. An activity directly undertaken by any public agency including but not limited to public works construction and related activities, clearing or grading of land, improvements to existing public structures, enactment and amendment of zoning ordinances, and the adoption and amendment of local general plans or elements thereof pursuant to Government Code Sections 65100-65700.
 - b. An activity undertaken by a person which is supported in whole or in part through public agency contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies.
 - c. An activity involving the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.
2. Project does not include:
 - a. Proposals for legislation to be enacted by the State Legislature;
 - b. Continuing administrative or maintenance activities, such as purchases for supplies, personnel-related actions, emergency repairs to public service facilities, general policy and procedure making (except as they are applied to specific instances covered above);
 - c. The submittal of proposals to a vote of the people of the State or of a particular community;
 - d. 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.

- e. Organizational or administrative activities of governments which are political or which are not physical changes in the environment (such as the reorganization of a school district or detachment of park land).
3. The term "project" refers to the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term "project" does not mean each separate governmental approval.

C. DETERMINING EXEMPTIONS:

Generally, there are two types of exemptions: statutory and categorical. Statutory exemptions apply to projects that the State Legislature has ruled to have insignificant effects. Statutory exemptions include ministerial projects and emergency projects.

The City has 30 calendar days from a completeness determination in which to determine whether a project is exempt or not. The City must act on a project determined to be exempt within 90 calendar days after determination of exemption. Exemptions do not apply where the cumulative impact of successive projects of the same type in the same place over time is significant; where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances; where a project may result in damage to scenic resources; when a project is labeled a hazardous waste site pursuant to Government Code Section 65962.5; or when a project may cause a substantial adverse change in the significance of a historical resource. After approving an exempt project, the City or applicant may file a Notice of Exemption with the County Clerk. All proposed activities must be reviewed to determine if one of the following exemptions is appropriate:

1. **Statutory Exemptions:** Certain activities have been exempted from CEQA by the Legislature. These exemptions include feasibility or planning studies, ministerial projects, and emergency actions. A complete list of statutory exemptions is included in Article 18 of the State Guidelines (§15260 and following).
2. a. **Categorical Exemptions:** Certain classes or "categories" of projects have been determined by the State's Secretary for Resources to have an insignificant effect on the environment, and are known

as categorical exemptions. Currently, the State Guidelines recognize 32 classes of categorically exempt projects. A complete list of these exemptions is included in Article 19 of the State Guidelines (§15300 and following).

- b. **General Rule:** Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to environmental review. In such cases, the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment (§15061(b)(3)).
3. **Project Rejection or Disapproval:** The project will be rejected or disapproved by a public agency.
4. **Exemption Verification:** If a project falls within a Categorical Exemption category, the Planning and Environmental Services Department shall make an additional inquiry as to whether the Categorical Exemption is inapplicable, because of the existence of any of the following factors:
 - a. There are unusual circumstances creating the reasonable possibility of significant effects (e.g., an otherwise exempt project located in a wetland).
 - b. The project and successive projects of the same type in the same place will result in Cumulative Impacts.
 - c. For Classes 3 (New Construction or Conversion of Small Structures), 4 (Minor Alterations to Land), 5 (Minor Alterations in Land Use Limitations), 6 (Information Collection), and 11 (Accessory Structures), the project may affect an environmental resource of hazardous or critical concern officially adopted pursuant to law (e.g., an otherwise exempt project that would impact habitat of an endangered species).
 - d. The project 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 exception does not apply to improvements which are

required as mitigation by an adopted negative declaration or certified EIR.

- e. The project is located on a site which is included on any list of hazardous waste sites compiled pursuant to Section 65962.5 of the Government Code.
- f. The project may cause a substantial adverse change in the significance of a historical resource.

If any of these factors cause the Categorical Exemption to be inapplicable, the applicant shall be required to submit an environmental information form and a detailed project description. Additional information, data, studies, and the like, may be required of the applicant in order for the City to make an environmental determination.

D. NOTICE OF EXEMPTION (§15062):

If a determination is made that the activity is exempt from CEQA, a Notice of Exemption (NOE) may be filed with the County Clerk.

1. When the City approves or decides to carry out the project, the City or the applicant shall file a Notice of Exemption with the office of the County Clerk. This initiates a 35-calendar day statute of limitations period on legal challenges to the City's determination that the project is exempt from CEQA. If a Notice of Exemption is not filed, a 180-calendar day statute of limitations applies. After the County Clerk has posted the NOE for 30 calendar days, a copy of the posted NOE is sent back to the City. The City is required to keep a copy of the NOE on file for a period of nine months after that time.
2. The NOE shall include a brief description of the project, findings of exemption, including citation to the State CEQA Guidelines section under which it is found exempt, and reasons supporting those findings.
3. If filed, the notice shall be filed with the County Clerk. If state resources could be affected the NOE shall be filed with the Office of Planning and Research (OPR). Copies of the NOE shall be available for public inspection. The City may also post NOEs at its website on the Internet.

E. CITY PROJECTS - ENVIRONMENTAL REVIEW PROCEDURES (§15378(a)(1)):

When the City is the Lead Agency and any of its departments contemplates any activity resulting in physical change in the environment, including but not limited to construction and related activities, clearing or grading of land, improvements to existing public structures, enactment and amendment of zoning ordinances initiated by the City, and the amendment of the City of Goleta General Plan or any of its elements, the following procedures shall be followed.

The department which contemplates the activity shall request the Planning and Environmental Services Department to determine whether the activity qualifies for an exemption. If the activity is exempt, no further CEQA review is required and regular processing of plans for the activity may continue without further environmental review.

If the activity is not exempt, the department shall forward its plans and specifications to the Planning and Environmental Services Department. Upon receipt of the plans and specifications for the project, the Planning and Environmental Services Department shall conduct an Initial Study to determine if the project may have a significant effect on the environment. The environmental review process from that point on, including determinations and filing of notices, will be conducted in the same manner as specified herein in the procedures for environmental review of private projects, with the department proposing to carry out the project being treated as the "applicant."

VI. INITIAL STUDY

The Planning and Environmental Services Department shall determine whether it intends to prepare a Negative Declaration or an EIR within 30 calendar days after determining the application complete. The 30 calendar day period may be extended 15 calendar days upon the consent of the City and the project applicant. (For public projects, these time limits do not apply.) The project applicant shall be notified of the determination in writing. Staff recommendations for requiring particular environmental documents may be appealed, in writing, to the approving agency for the project upon payment of proper fees.

A. PURPOSES OF AN INITIAL STUDY:

1. Provide the City with information to use as the basis for deciding whether to prepare an EIR or Negative Declaration (§15063(c)(1));
2. Enable an applicant or the City to modify a project, avoiding, or mitigating adverse impacts thereby enabling the project to qualify for a Negative Declaration;
3. Facilitate environmental assessment early in the design of a project;
4. Determine whether a previously prepared EIR could be used for the project;
5. Eliminate unnecessary EIRs;
6. Assist the preparation of an EIR, if one is required.

B. PROJECT INFORMATION REQUIRED:

The initial source of project information for the Initial Study is the environmental information form (§15063(f)). This form is completed by the applicant and received as part of the project (application) submittal. Any information that the project proponent or City deems relevant and will facilitate the environmental review of a project, should be submitted along with the project application. The City may require the project proponent to provide additional data and information determined necessary for the preparation of the Initial Study (§§15060(b), 15063(e), & 15064(b)).

An unreasonable delay by the applicant in providing information (studies, surveys, maps, etc.) requested by the City shall suspend the running of the time periods as described in §15107 and §15108 (§15109). After a reasonable period of time, if no action has been taken to collect or supply the necessary information the project will be set on the approving agency agenda for denial without prejudice.

C. PREPARATION:

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

2. Notwithstanding #1 above, if the City determines that an EIR will be required for a project, the City may skip further initial review of the project and begin work directly on the EIR. However, an Initial Study can prove to be a useful tool in assisting the City in identifying the significant effects of the project upon which the EIR shall focus and provide findings why other effects would not be significant or potentially significant.

D. CONTENT OF INITIAL STUDY:

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

1. Project description,
2. Environmental setting,
3. Environmental checklist,
4. Identification of environmental effects by use of a checklist, matrix, or other method,
5. Discussion of any impacts and ways to avoid or mitigate identified impacts,
6. Examination of consistency with zoning, general plans and other applicable land use controls (§15063(d)).

All phases of project planning, implementation, and operation shall be considered in the Initial Study. Staff shall consult with City departments, public entities that may be a responsible or trustee agency for the project and any individuals or organizations otherwise concerned.

E. DETERMINING ENVIRONMENTAL SIGNIFICANCE:

Critical to the environmental analysis is the determination of significant effect. The State CEQA Guidelines define the term "significant effect on the environment" as "a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic and aesthetic significance." (§15382).

The environmental evaluation must also consider:

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

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

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

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

Mandatory Findings of Significance (§15065): The project may be found to have a significant effect on the environment if any of the following findings are made by the City:

- a. The project has the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a threatened or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory.
- b. The project has the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.
- c. The project has possible environmental effects which are individually limited but cumulatively considerable. As

used in this subsection, "cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

- d. The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.

The City must prepare an EIR if any of the above findings occur unless, prior to commencement of preliminary review of an environmental document, the applicant agrees to mitigation measures or project modifications that would avoid any significant effect on the environment as specified above, or would mitigate the significant effect to a point where clearly no significant effect on the environment would occur. In such cases, a Negative Declaration or Mitigated Negative Declaration may be prepared instead, as appropriate.

Determining the Significance of the Environmental Effects Caused by a Project (§15064):

In evaluating the significance of the environmental effect of a project, the direct and reasonably foreseeable indirect physical changes in the environment which may be caused by the project shall be considered. (See also Attachment 1: State CEQA Guidelines for the Implementation of CEQA, Appendix G, Environmental Checklist Form for effects that may be significant.)

F. THRESHOLDS:

Determining the significance of environmental impacts is a critical and often controversial aspect of the environmental review process. It is critical because a determination of significance requires that the project be substantially altered, or that mitigation measures be readily employed to avoid the impact or reduce it below the level of significance. If the impact cannot be reduced or avoided, an Environmental Impact Report (EIR) must be prepared.

The State Guidelines define the term "significant impact on the environment" as a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project. However, there is no ironclad definition of what constitutes a substantial change because the significance of an

activity may vary according to location. Each public agency is encouraged to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects. A threshold of significance is an identifiable, quantitative, qualitative, 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 significant.

Thresholds of significance to be adopted for general use as part of the Lead Agency's environmental review process must be adopted by ordinance, resolution, rule, or regulation and developed through a public review process and be supported by substantial evidence.

The City Council of the City of Goleta, by Resolution No. 03-08 approved on February 3, 2003, has adopted thresholds for evaluating the level of significance of environmental impacts to the extent consistent with City policies. These thresholds are included as Attachment 2 to these Guidelines. The City's adopted "Environmental Thresholds and Guidelines Manual" shall be publicly available for purchase. This document shall be revised periodically as necessary to maintain a standard which will afford the fullest possible protection to the environment, within the reasonable scope of CEQA, by imposing a low threshold requirement for the preparation of an EIR. For issue areas for which there are no thresholds, the guidance provided in State CEQA Guidelines Sections 15064, 15065, 15382, and Appendix G shall provide the basis for determining significance.

G. FORMULATION OF MITIGATION MEASURES (§15370):

Mitigation measures are actions designed to alleviate or avoid the adverse environmental effects of proposed plans and projects. If there is a potential for significant impacts, efforts should be made to identify and incorporate mitigation measures, either into the project design prior to completion of the Initial Study, or staff, in consultation with the applicant, shall incorporate appropriate mitigation measures into the project approval. If identified impacts can be mitigated to a non-significant level, a Mitigated Negative Declaration can be used. Impacts must be reduced to a non-significant level or an EIR is required. Mitigation includes:

1. *Avoiding* the impact all together by not taking a certain action, or parts of an action or redesigning the project;

2. *Minimizing* impacts by limiting the degree or magnitude of the action and its implementation;
3. *Repairing, rehabilitating, or restoring* an impacted environment;
4. *Reducing or eliminating* the impact over time by preservation and maintenance operations during the life of the action;
5. *Compensation* for the impact by replacing or providing substitute resources or environments.

Creativity, reasonableness, and practicality should be used in developing mitigation measures for identified impacts, providing that the mitigation adequately and accurately addresses the impact.

The Mitigation Monitoring and/or Reporting Program shall be submitted during project processing and shall be made a condition of approval of the project subsequent to review and approval by the decision makers. The City shall require a Mitigation Monitoring and/or Reporting Program for each mitigation measure required. For mitigation of complicated or technical impacts, a consultant may need to be hired at the applicant's expense (see Section IX.B., Mitigation Monitoring and/or Reporting Program, below).

When other agencies have jurisdiction over aspects of the project, the developer will have to meet the design, mitigation, and monitoring requirements imposed by those agencies, as well as any additional requirements established by the City of Goleta.

VII. NEGATIVE DECLARATIONS (§15070)

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

CEQA continues to give the City the option of allowing applicants to modify their project so that the City can make a finding that the project would not have a significant effect on the environment as proposed. If the applicant can modify a project to avoid potentially significant effects, the applicant can qualify for a Mitigated Negative Declaration.

A. PREPARATION OF A NEGATIVE DECLARATION (§15070):

A Negative Declaration shall be prepared for nonexempt projects if:

1. The Initial Study shows that there is no substantial evidence of the project having a significant effect on the environment; or
2. The Initial Study identified potentially significant effects but:
 - a. Prior to completion of the Initial Study, the project is revised to avoid or mitigate the effects to a point where no significant effects would occur; and
 - b. There is no substantial evidence that the project, as revised, may have a significant effect on the environment.

B. RESPONSIBILITY FOR PREPARATION

The Planning and Environmental Services Department shall prepare the proposed Negative Declaration, or shall cause it to be prepared by a private consultant. Consultants may be used when workload exceeds available staff resources or when the proposed document requires expertise not available within the Department.

C. CONTENTS OF NEGATIVE DECLARATIONS (§15071):

A Negative Declaration shall include:

1. A brief project description;
2. The location of the project (preferably a location map), and the name of the project proponent;
3. A proposed finding that the project will not have a significant effect on the environment;
4. An attached copy of the Initial Study documenting reasons to support the finding;
5. Mitigation Measures, if any, included in the project to avoid potentially significant effects.

D. PUBLIC NOTICE AND REVIEW (§15072; 15073):

The City shall notify the public of its intention to adopt a Negative Declaration, and provide opportunities to review it and any related documents by direct mail to all landowners within a 500 foot radius of the exterior project boundary for residential projects and a 1000 foot radius of the exterior project boundary for nonresidential projects. The notice shall include a reference as to where all documents are available for review. The notice shall also appear in a newspaper of local circulation and be posted with the County Clerk.

Where one or more state agencies will be a Responsible Agency or a Trustee Agency or will exercise jurisdiction by law over natural resources affected by the project, the City shall send copies of the Negative Declaration to the State Clearinghouse for distribution to the state agencies (§15073).

The public review period for a Negative Declaration shall be at least 20 calendar days. When a proposed negative declaration or mitigated negative declaration and initial study have been submitted to the State Clearinghouse for review by state agencies, the public review period shall be no less than 30 days, and shall be at least as long as the review period established by the State Clearinghouse (§15073). The public review period may be extended at discretion of the Environmental Hearing Officer.

The Environmental Hearing Officer may hold a public hearing on the Negative Declaration during the public review period. The public hearing shall be held for the purpose of receiving comments by interested and affected agencies, the public, and the applicant on the accuracy and adequacy of the proposed Negative Declaration.

If, upon review of the proposed Negative Declaration and comments received during the public review process, the Environmental Hearing Officer determines that the Negative Declaration is inadequate, the Planning and Environmental Services Department staff shall be directed to make appropriate revisions or to prepare an EIR, pursuant to Section VIII.

E. TIME LIMITS:

When the City is Lead Agency for private projects involving the issuance of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies, the Negative Declaration must be completed and approved within 180 days from the date when the City accepted the application as complete. Any

unreasonable delays resulting from failure of the applicant to provide information requested by the City and necessary to complete the Negative Declaration, shall suspend these limits (§15109).

F. CONSIDERATION AND ADOPTION OF NEGATIVE DECLARATIONS (§15074):

At the time of project approval, the decision-making body responsible for approval of the project shall consider the proposed Negative Declaration with any comments received during the review process.

1. The decision-making body shall adopt the Negative Declaration if it finds on the basis of the Initial Study, and comments received, that there is no substantial evidence of significant effects on the environment.
2. The Negative Declaration shall reflect the City's independent judgment and analysis.
3. The City shall inform, through public notice, the location and custodian of documents or other material which constitutes the record.
4. When a Mitigated Negative Declaration is adopted, the City shall adopt a Mitigation Monitoring and/or Reporting Program (§15097).
5. A Negative Declaration cannot be adopted for a project within the boundaries of a comprehensive airport land use plan without first considering safety and noise issues (§15074).

G. DETERMINATION BY DECISION-MAKER THAT NEGATIVE DECLARATION IS INADEQUATE

If, upon review of the proposed Negative Declaration and comments received during the public review process, the decision-making body determines that the Negative Declaration is inadequate, the decision-making body shall direct Planning and Environmental Services Department staff to make appropriate revisions or to prepare an EIR, pursuant to Section VIII.

H. NOTICE OF DETERMINATION (§15075):

After deciding to carry out or approve a project for which a Negative Declaration has been approved, the City shall file a Notice of

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

VIII. ENVIRONMENTAL IMPACT REPORTS (EIRs)

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

A. DECISION TO PREPARE AN EIR (§15063):

If the Initial Study determines that a project may have a significant effect on the environment, which cannot be eliminated by changing the project or adding mitigation measures, the Planning and Environmental Services Department shall initiate the preparation of an EIR. If the Planning and Environmental Services Department can determine that an EIR will clearly be required for the project, an Initial Study is not required but may still be desirable.

The Planning and Environmental Services Director will determine whether an EIR is required within 30 calendar days of determining the application complete. A 15-calendar day extension may be approved upon consent of the applicant.

B. SCOPE OF AN EIR (§15082):

The breadth of analysis in the EIR shall be determined by one or more of the following: the Initial Study, comments of the City staff, and/or responses to the Notice of Preparation. The EIR should focus on potentially significant impacts, and need not discuss items determined to be insignificant by the Initial Study, or items not raised in response to the Notice of Preparation. When requested by Caltrans for projects under their jurisdiction or for projects of statewide, regional, or area-wide significance, City staff shall hold a community scoping meeting. Scoping meetings for all other projects are at the discretion of the Planning and Environmental Services Department. If a scoping meeting is held, it shall be held during the same time period as the Notice of Preparation.

C. LETTER TO APPLICANT:

Prior to the preparation and distribution of the Notice of Preparation, the Planning and Environmental Services Department shall send to the applicant a certified letter giving notice of the need for an EIR. The applicant shall notify the Department in writing of the applicant's agreement to proceed with an EIR within 20 calendar days of the mailing of such notice letter. Failure of the applicant to respond in writing within this time period may result in the scheduling of the project for hearing before the approving authority with a recommendation of "Denial Without Prejudice."

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

D. APPEAL:

If the applicant wishes to appeal the City's finding that an EIR is required, the applicant shall file an appeal within 20 calendar days of the date of mailing the letter. The applicant shall submit, along with the appropriate filing fee as set forth in the Planning and Environmental Services Department's fee schedule, a letter specifying the reasons why an EIR should not be required. The appeal shall be filed with the Planning and Environmental Services Department. Action on these appeals shall be heard by the decision-making body for the project.

E. NOTICE OF PREPARATION (§15082):

After determining that an EIR is required, and upon written confirmation of acceptance by the applicant of the need to prepare an EIR, the Planning and Environmental Services Department shall prepare and distribute a Notice of Preparation (NOP) for an EIR. The NOP shall consist of the Notice of Preparation form and include a copy of the Initial Study, if any. The NOP shall be sent to the Office of Planning and Research and to each Responsible and Trustee Agency. To send copies of the notice of preparation, the Department shall use either certified mail or any other method of transmittal which provides it with a record that notice was received.

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

30 calendar days with, either a response or a request for additional time, the Planning and Environmental Services Department may assume that the Responsible Agency has no response to make.

The response at a minimum shall identify:

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

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

F. RESPONSIBILITY FOR PREPARATION

The Planning and Environmental Services Department shall prepare an EIR or cause it to be prepared by a private consultant. The option for staff-prepared EIRs is generally only available when workload allows and for analysis that is small in scope, having only one or two potentially significant impact areas to analyze.

G. CONSULTANT SELECTION PROCEDURE:

Once the Planning and Environmental Services Department has determined that an EIR is required in accordance with the process described above, and that preparation will be by private consultant, the consultant selection process can begin.

The City shall maintain an EIR Consultant list. Inclusion on the EIR Consultant list requires the submittal of qualifications for each area of expertise. It should be noted that there are many local consultants who are well qualified to be used as prime and sub-consultants for EIRs.

It is the desire of the City to utilize local consultants when possible and feasible. A selection of three (3) or more consultants will be made from the City's list of EIR consultants.

Once it has been determined that an EIR will be required, the Planning and Environmental Services Department will request letters of interest/statement of qualifications. Upon determination that at least a group of three consultants desire to make a proposal, the Department may set and hold a pre-proposal meeting with interested consultants and the applicant. Prior to or at the meeting the Department will provide the consultants with a detailed project

description and supporting material and maps, advise them of the areas of concern, and specify the extent of analysis desired. The consultants will have the opportunity to ask questions of the Planning and Environmental Services staff and the applicant at the pre-proposal meeting. Any questions that do arise after the close of the pre-proposal meeting must be directed through City staff. If the questions affect the final content of the request for proposal or the scope of work, Planning and Environmental Services staff will inform all consultants by phone or in writing.

The preparation of the consultant proposal shall conform to the format and content specified in the Planning and Environmental Services Department's Request for Proposal. After EIR proposals are received, staff disqualifies any which are unacceptable. These could include proposals which staff finds non-responsive, or proposals for which staff concludes that substantial revision of the EIR would likely be needed prior to release of the public draft, or proposals from firms which would have a conflict of interest, etc. Upon making the final selection, the City executes and manages the contract with the EIR consultant. Prior to executing any contract, the consultant retained by the City shall file a statement of economic interest with the City Clerk and, demonstrate possession of liability insurance and statutory workers compensation coverage as specified in the City's Professional Services Agreement.

H. EXECUTION OF CONTRACT:

The contract for consultant services shall be between the City and the consultant. The contract shall reference the scope of work, and shall include a schedule for deliverables, the preparation of the Administrative Draft EIR, Draft EIR, and Final EIR, attendance at public hearings, preparation of the response to comments, and expenses.

I. PREPARATION OF ADMINISTRATIVE DRAFT EIR (§15084):

The Administrative Draft of the EIR is considered a working document to be circulated among City staff and any responsible agency, if appropriate. The consultant shall submit a minimum of five (5) copies of the Administrative Draft EIR for staff review. The purpose of staff review is to evaluate the EIR for adequacy and accuracy prior to public circulation. Generally, review of the Administrative Draft EIR is concluded within a few weeks, after which comments are provided to the consultant, who prepares the Draft EIR for publication and distribution.

J. ANALYSIS OF PROJECT ALTERNATIVES (§15126.6)

All EIRs shall include a discussion of project alternatives. Development of project alternatives should focus on options which have the potential to reduce significant environmental impacts and attain project objectives. The EIR should describe the rationale for selection of alternatives and identify alternatives considered but rejected as infeasible.

K. CUMULATIVE IMPACT EVALUATION (§15130)

An EIR shall discuss cumulative impacts of a project when the project's incremental effect is cumulatively considerable. Where an incremental effect is not cumulatively considerable, a brief description of the basis for such a conclusion shall be provided. The potential effects of development not included in baseline data shall include a list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the public agency. Unless otherwise specified in the City's adopted "Environmental Thresholds and Guidelines Manual", a project's potential contribution to cumulative impacts is assessed utilizing the same significance criteria as those for project specific impacts.

L. NOTICE OF COMPLETION OF A DRAFT EIR (§15085):

As soon as the draft EIR is completed and ready for public circulation, a Notice of Completion and copies of the draft EIR shall be filed with the Governor's Office of Planning and Research (OPR). This notice of completion may be filed in a printed hard copy or in electronic form on a diskette or by electronic mail transmission. Additionally, public agencies are encouraged to make copies of notices of completion available in electronic format on the Internet.

M. PUBLIC REVIEW OF DRAFT EIR (§15087):

At the time the Notice of Completion is filed with OPR, the City shall provide notice of the availability of a Draft EIR and public hearing date by means of a public notice in a local newspaper. Additional notice shall be provided by direct mailing to property owners within a 500-foot radius of the exterior project boundary for residential projects and within a 1,000-foot radius of the exterior project boundary for nonresidential projects. The notice shall also be posted with the County Clerk for a period of at least 30 days. The public notice shall include the name of the staff person to contact, length of the review period, and deadline for receipt of comments.

The public notice shall inform the public of the presence of hazardous wastes, if any.

Copies of the Draft EIR will be made available at the Goleta Library and at the public counter at the Planning and Environmental Services Department. Copies of the Draft EIR may be made available for purchase at a local printing/copying company. The public review period for a Draft EIR shall not be less than 45 calendar days (30 calendar days when authorized by the State Clearinghouse (§15105)).

N. PUBLIC HEARING ON DRAFT EIR:

A public hearing shall be conducted by the Environmental Hearing Officer to solicit comments on the draft EIR. Notice of the hearing shall be provided by means provided in Subsection M, above, and/or by other additional means as determined by the Environmental Hearing Officer. The public hearing shall be scheduled during the review period, prior to the last week of the review period. For clarity and accuracy of the record, written comments are encouraged in conjunction with, or in lieu of, oral testimony. The Environmental Hearing Officer may extend the comment period and continue the public hearing, if additional time is warranted.

O. EVALUATION OF RESPONSES TO COMMENTS (§15088):

After the review period for the Draft EIR closes, Planning and Environmental Services staff will assemble all written comments and summary minutes of comments made at the public hearing(s) and transmit this package to the consultant for preparation of responses to comments received. Staff will work closely with the consultant to determine:

1. Which comments address environmental impacts and mitigation(s). These comments shall be responded to by the consultant/staff;
2. Which comments address the merits of the project (as distinguished from environmental impacts of the project) and do not require a response, but should be noted for the record;
3. Which comments are beyond the scope of environmental review (such as legal interpretations); and
4. Which comments on impacts are too speculative for evaluation.

Responses shall be provided for all comments. At least ten (10) calendar days before certifying the EIR, the response to comments shall be provided to all agencies or individuals who request response to their comments. If significant new information is added to the EIR after public notice of the availability of the Draft EIR for public review, the City shall recirculate the Draft EIR in accordance with Section 15088.5 (see below).

P. DETERMINATION BY ENVIRONMENTAL HEARING OFFICER THAT AN EIR IS INADEQUATE

If, after review, the Environmental Hearing Officer determines that the Draft EIR is inadequate and requires major revisions, the document will be returned to the lead department for revision. Recirculation of the document for public review may be required (see Section M below). In this case, a new Notice of Completion shall be prepared as provided above.

Q. CRITERIA FOR RECIRCULATION OF AN EIR (§15088.5)

A Draft EIR shall be recirculated for public review prior to certification when significant new information is added to the EIR after public notice is given of the availability of the Draft EIR for public review pursuant to section M above, but before certification. "Significant new information" requiring recirculation includes, for example, a disclosure showing that:

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

R. CONTENTS OF THE FINAL EIR (§15132):

If, after the public review period and public hearing, the Environmental Hearing Officer determines that the EIR is adequate, the Environmental Hearing Officer shall direct Planning and Environmental Services staff and the City's EIR consultant to prepare a Final EIR. The Final EIR will consist of the Draft EIR or a revision of the draft, copies of comments received, the response to comments (which includes corrections and error of fact of the Draft EIR), a list of persons, organizations, and public agencies who made comments, and any other information added by the Lead Agency. The Environmental Hearing Officer shall transmit the Final EIR to the decision-making body with recommended findings for certification of the Final EIR (see Section T, below).

S. CHANGES BY A DECISION-MAKER

If the decision-making body disagrees with the conclusions set forth in the EIR regarding the significance of environmental impacts or feasibility of mitigation measures and alternatives, the decision-making body shall correct them and set forth its reasons for the correction.

T. FINDINGS (§15091):

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

1. Changes have been required, or incorporated into, the project that avoid or substantially lessen the significant environmental effects as identified in the certified final EIR. Necessary changes are generally identified after preparing the Initial Study.
2. Changes that would avoid or substantially lessen the significant environmental effects are within the jurisdiction of another public agency or have already been adopted by another agency.

3. Specific economic, social or other considerations make the identified mitigation measures or project alternatives infeasible. This finding shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.

A Statement of Overriding Considerations (see Subsection U below) does not substitute for these required findings.

When making findings pursuant to subsection (1) above, the City shall adopt a Mitigation Monitoring and Reporting program pursuant to Section IX below and adopt conditions of approval for the project that ensure such changes will avoid or significantly lessen the significant environmental effects.

U. STATEMENT OF OVERRIDING CONSIDERATIONS (§15093):

If the benefits of a proposed project outweigh the unavoidable adverse effects, such effects may be considered "acceptable." The City shall take into consideration economic, legal, social and technological benefits for consideration when determining if the benefits outweigh the significant effects. If the City approves a project that allows the occurrence of significant effects, it shall adopt a Statement of Overriding Considerations as part of the project approval that states specific reasons to support its action based on the certified final EIR and/or other information in the record. This Statement of Overriding Considerations shall be in writing and shall be supported by substantial evidence in the record. This statement does not substitute for, and shall be in addition to, findings required pursuant to Subsection T above. The consultant who prepared the draft and final EIR shall be responsible for drafting the findings, subject to review and approval by the decision-making body.

V. CERTIFICATION OF THE FINAL EIR AND TIME LIMITS (§15090):

The decision-making body shall certify the Final EIR for private projects within one year of accepting the application for the project as complete. Upon consent of the applicant and the City, the one-year limit may be extended a maximum of an additional 90 calendar days. Delays by the applicant in providing necessary information to complete the Final EIR shall suspend these time periods. In certifying the Final EIR the decision making body shall find that the Final EIR was prepared in compliance with CEQA, was reviewed and considered prior to project approval, and reflects the independent judgment of the City.

W. NOTICE OF DETERMINATION (§15094):

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

IX. MITIGATION MONITORING AND/OR REPORTING PROGRAM (§15097):

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

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

A. PROCESSING OF MITIGATION MONITORING AND/OR REPORTING PROGRAM - ROLES AND RESPONSIBILITIES:

1. **Administrative Responsibilities:** It shall be the overall responsibility of the Director to perform the duties of Compliance Monitor.
2. **Selection of Monitor:** The Director shall be responsible for implementing the MMRP and/or shall be responsible for selecting the person(s) or firm(s) hired by the City, through funding by the project developer, to implement the Mitigation and/or Reporting Program for each project. In all cases, the person(s) or firm(s) responsible for monitoring shall have sufficient expertise to determine whether or not the mitigation measure has been accomplished.

3. **Monitoring Responsibility:** The Compliance Monitor (CM) shall be responsible for:
 - a. Coordinating the monitoring tasks and verification program;
 - b. Ensuring that the project proponent prepares a compliance schedule;
 - c. Coordinating monitoring by various City departments and other agencies;
 - d. Processing and filing compliance reports and verification reports; and
 - e. Preparing an annual environmental monitoring report.

The Compliance Monitor shall submit regular progress and verification reports to the Planning and Environmental Services Director.

4. **Enforcement Responsibility:** The Compliance Monitor is authorized to enforce compliance with the Monitoring Program. When compliance is lacking or incomplete, the Compliance Monitor is empowered to either stop work, temporarily stop work, or allow work to continue while compliance is being achieved.
5. **Exemptions - Limitations:** Any deviation from the adopted mitigation measures can only be amended or deleted by the approving body of the environmental document. All mitigation measures shall be met unless the circumstances or conditions that required the mitigation no longer exist.
6. **Feedback:** The Director shall provide for a process for informing staff and decision makers of the relative success of mitigation measures and using those results to improve future mitigation measures.

B. PREPARATION OF MONITORING AND/OR REPORTING PROGRAM:

A Mitigation Monitoring and/or Reporting Program shall be prepared by the EIR consultant for every project for which an EIR was prepared where mitigation measures were adopted by the approving body. The Mitigation Monitoring and/or Reporting Program shall be reviewed and approved by the decision-making

body prior to its implementation and use. The Program shall contain the following:

1. A statement that the requirements of the adopted Program run with the real property on which the project is located and that successive owners, heirs, and assigns of this real property are bound to comply with all of the requirements of the adopted Program.
2. A statement which specifies the responsibilities of the applicant and the Compliance Monitor as well as any professional expertise required to evaluate any part of the Program.
3. The time requirements, schedule, phases or tasks for each mitigation measure that will, upon completion, result in issuance of a Program Completion letter from the Compliance Monitor.

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

C. PROGRAM COMPLETION LETTER:

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

D. COMPLIANCE WITH STATE GUIDELINE SECTION 15097:

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

X. SEVERABILITY

If any portion of these Guidelines is held unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions.

XI. DEFINITIONS

The following words, where not defined in the State Guidelines, shall have the meaning ascribed to them in these definitions. These definitions are intended to clarify City processes by supplementing definitions used in the State Guidelines.

- A. County Clerk: The Clerk of the Board of Supervisors of the County of Santa Barbara.
- B. Decision-Maker: The decision-making body responsible for taking final action on a project under state law or City ordinances, such as the City Council, Planning Commission, Zoning Administrator, City Manager, or Planning and Environmental Services Director.
- C. Environmental Hearing Officer: The Planning and Environmental Services Director, or his/her designee, in the capacity of holding public hearings to receive comments on environmental documents and other duties as described in the City's CEQA Guidelines.
- D. Planning and Environmental Services (PES): The planning department of the City of Goleta.

ATTACHMENT 2

**Redline/Strikeout Version
of 2008 City Environmental Review Guidelines**

CITY OF GOLETA
ENVIRONMENTAL REVIEW
GUIDELINES

Redline/Strikeout Version

ADOPTED BY RESOLUTION NO. 08-__
_____, 2008

I. INTRODUCTION

The California Environmental Quality Act (CEQA) of 1970 (as amended) is California's most fundamental and far reaching environmental law. CEQA is a procedural act that governs the review and approval process of most developments in California. These policies and procedures are written for the purpose of implementing the requirements of CEQA as contained in California Public Resources Code (PRC) Section 21000 and following and the State CEQA Guidelines (State Guidelines) contained in Title 14, Division 6, Chapter 3, Section 15000 and following of the California Code of Regulations (CCR).

A. BASIC PURPOSES OF CEQA (§15002)¹:

The basic purposes of CEQA are to:

1. Inform governmental decision-makers and the public about the environmental effects of proposed activities;
2. Involve the public in the decision-making process;
3. Identify ways that damage to the environment can be avoided or significantly reduced; and,
4. Prevent environmental damage by requiring changes in projects through the use of alternatives, mitigation measures, or both.

B. PURPOSE OF CITY GUIDELINES:

The City's Environmental Review Guidelines (hereafter "Guidelines") set forth comprehensive procedures for complying with the California Environmental Quality Act. CEQA requires each public agency to adopt guidelines (objectives, criteria, and specific procedures) for administering its responsibilities under CEQA (§15022). The purpose of these Guidelines is to protect both local and regional environmental resources in a manner that reflects local values.

An additional purpose of these Guidelines is to implement CCR Section 15006: to reduce delay and paperwork in determining if CEQA applies to particular projects. Section 15006 enumerates methods for conducting environmental review of projects that are not exempt. The intent of this document is to translate the myriad of

¹ Unless otherwise indicated, all sections references are to applicable section of the State Guidelines as set forth in Title 14, Division 6, Chapter 3, of the California Code of Regulations.

State laws and judicial interpretations into a precise guide for use by the City, project proponents, and general public.

The City's Guidelines summarize State law. Please refer to the State Guidelines (the California Code of Regulations sections in parentheses), which are hereby incorporated by reference, for more detail. These Guidelines are not meant to replace the State Guidelines but to implement and tailor the general provisions of the State Guidelines to the specific operations of the City. If any section of these Guidelines is in conflict with or contrary to any provisions of CEQA or the State Guidelines, as each may be amended, the provisions of CEQA and the State Guidelines shall control.

II. OVERVIEW AND SUMMARY OF PROCEDURES

The following subsections provide the procedures for following CEQA requirements. In all cases determinations shall be by the Director of Planning and Environmental Services ("Director").

A. APPLICABILITY (See also Section V. B., Actions that Constitute a Project):

A proposed activity or application must first be evaluated to determine if it is a "project" and is, therefore, subject to further CEQA review. A project is defined as any discretionary action that may cause a physical change to the environment. A project is the whole of an action that might result in a physical change to the environment, directly or ultimately. However, if the proposed activity is a project under CEQA, it may still be exempt from environmental review (see categorical exemptions and "general rule" exemptions).

B. CEQA PROCESS:

There are three steps in the CEQA process that incorporate environmental documentation. These three separate steps are taken in deciding which environmental document to prepare for a project subject to CEQA.

- 1. Preliminary Review.** City staff will conduct a preliminary review of a project to determine whether it is subject to CEQA, or is exempt. If it is exempt, no further work by the applicant is necessary. If the project is not exempt then the applicant must submit a completed environmental information form. (§15060)
- 2. Initial Study.** If the proposed activity is a project under CEQA (§15378), and is not exempt from review, the City

will prepare an Initial Study². Where an EIR is clearly required based upon preliminary review, the City may skip further initial review and begin work directly on the EIR. The City, however, at its discretion may elect to complete an Initial Study. The Initial Study determines whether a negative declaration, a mitigated negative declaration, or an Environmental Impact Report (EIR) is needed.

If the Initial Study identifies potentially significant impacts resulting from a project, the City may consult with the applicant to determine if the applicant is willing to modify the project to reduce or avoid the significant effects identified in the Initial Study (§ 15063(g)). The applicant may make changes to the project, or agree to changes suggested by the City in order to avoid or reduce to insignificance potential impacts (§15063(c)(2) and §15070(b)(1)). (For public projects, see Section V.B.(1)(a) below.)

3. **Preparation of a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report:**

- a. **Negative Declaration.** If no significant impacts are identified, a Negative Declaration is prepared. A Negative Declaration is a written statement by the City describing why a project will not have a significant impact on the environment and therefore does not require the preparation of an EIR. A Negative Declaration may be prepared when no substantial evidence exists that the project may have a significant environmental effect (§15070).
- b. **Mitigated Negative Declaration.** If the City determines that project revisions or mitigation measures are needed to lessen the impacts to an insignificant level or to avoid significant impacts, then a Mitigated Negative Declaration is prepared (§15041(a)). (See Section VI.G., Formulation of Mitigation Measures, below.)
- c. **Focused EIR.** For certain small residential or commercial projects, where a Master EIR has been prepared, if a significant impact is identified that has not been, or cannot be, adequately mitigated, the Initial Study shall conclude that the project has

² Unless otherwise defined in these Guidelines, all initially capitalized terms shall have the meaning given such term in the State Guidelines.

significant environmental effects and a Focused EIR is required. A Focused EIR shall be required when a specific physical condition, or several physical conditions have been identified within a proposed project area as being potentially impacted. (§§ 15178, 15179.5)

- d. **Project EIR.** A Project EIR shall be required when the physical conditions exist within an area which will be affected by a proposed project including land, air, water, minerals, flora, fauna, ambient noise, objects of historical or aesthetic significance, or historical and unique archeological resources.
- e. **Subsequent EIR.** A Subsequent EIR shall be required when there are substantial changes proposed in the project which would require major revisions to the previous EIR; or that substantial changes in circumstances under which the project is undertaken will require major revisions of the previous EIR; or that new information of substantial importance, which was not known or could not have been known at the time of the previous EIR. (§ 15162)
- f. **Supplemental EIR.** A Supplemental EIR may be prepared where the conditions described above for a subsequent EIR are met and only minor additions or changes would be necessary to make the previous EIR adequate. (§ 15163)
- g. **Addendum.** An Addendum shall be prepared where none of the conditions described above for a subsequent EIR are met and only minor technical changes or additions are necessary. (§ 15164)

C. CONTENTS OF EIRs (§15120 et seq.):

The required contents of EIRs, as set forth in Article 9 of the State Guidelines, are incorporated herein by this reference.

III. AUTHORITY PROVIDED BY CEQA (§15040)

CEQA gives the City, as Lead Agency, authority to mitigate, approve, or disapprove projects despite significant impacts, and to charge fees to recover costs incurred in the preparation of the environmental documentation.

A. MITIGATE (§15041(a)):

The City has authority to require changes in the project to lessen or avoid significant effects on the environment (CCR §§15041(a), 15042 and 15064(b); PRC §§21002 and 21004). The City shall draft mitigation measures to achieve the objective of mitigating or avoiding significant effects on the environment identified in the Initial Study or EIR.

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

B. APPROVE PROJECTS DESPITE SIGNIFICANT EFFECTS (§15043):

The City may approve a project despite significant environmental effects identified in an EIR if: the City makes a fully informed and publicly disclosed decision that there is no feasible way to lessen or avoid these effects; and the City adopts, when certifying the EIR, a Statement of Overriding Considerations to address those significant environmental effects. Findings shall be included in the adoption identifying the expected benefits from the project that outweigh the adverse impacts or the costs of mitigating the impacts of the project.

C. DISAPPROVE PROJECTS (§15042):

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

D. FEES (§15045):

The City, as a Lead Agency, may charge and collect reasonable fees in order to recover the estimated cost in preparing environmental documents and for procedures necessary to comply with CEQA on the project. These fees are subject to periodic review and adjustment in order to assure that City costs are recovered. Litigation expenses, costs and fees incurred in actions alleging noncompliance with CEQA are not recoverable.

Costs for the preparation of contracted documents will be determined on a case by case basis depending upon the scope of the document, and the full amount of the not-to-exceed cost shall be deposited with the City prior to execution of a contract for services. To begin the document preparation process the applicant

shall submit to the Planning and Environmental Services Department:

1. ~~A deposit to the City of the not-to-exceed cost of the contracted document;~~
2. ~~A document administration deposit of 20% of the total estimated cost, but not less than \$2500 to account for hourly time of City staff for review and contract administration.~~

In the event the applicant fails or refuses to deposit such fees as are determined to be required, the Director may recommend to the decision maker that processing be suspended or the project be denied without prejudice pursuant to State CEQA Guideline Section 15109. In such a case, it shall be presumed that without preparation of adequate environmental documents, required findings for project approval cannot be made.

IV. APPLICABILITY OF CEQA (§15002)

A. TIME OF COMPLIANCE:

Compliance with CEQA procedures as set forth in these Guidelines is required whenever the City proposes to carry out or approve a project. CEQA review, preparation, and certification of appropriate documentation occurs prior to or concurrently with an approval of a private project or authorization of a public project.

B. RESPONSIBILITY FOR COMPLIANCE:

The Director shall ensure that these guidelines are followed for public and private projects. These guidelines apply to all agencies of the City.

C. ADVISORY ROLE OF THE PLANNING AND ENVIRONMENTAL SERVICES DEPARTMENT:

The Director will provide direction, guidance, advice and consultation to other City departments at their request with respect to interpretation of CEQA, State Guidelines or these Guidelines.

V. PRELIMINARY REVIEW

A. INITIAL PROJECT REVIEW:

All activities that are initiated by the City, which are determined to be a project under CEQA, funded in whole or part by the City, or require authorization or entitlement from the City are subject to

CEQA review. City staff, with primary responsibility for processing, reviewing, or authorizing activities affecting the environment should be familiar with these guidelines. Activities that are not exempt from CEQA will be reviewed or processed by the Planning and Environmental Services Department.

B. ACTIONS THAT CONSTITUTE A “PROJECT” (§15378; see also Section II.A., APPLICABILITY):

Except as otherwise provided, these Guidelines shall apply to Discretionary Projects (see also §15357 and 15369) proposed to be carried out or approved by the City. A project is defined as:

1. The whole of an action, which has a potential for resulting in a physical change in the environment, directly or ultimately, and that is any of the following:
 - a. An activity directly undertaken by any public agency including but not limited to public works construction and related activities, clearing or grading of land, improvements to existing public structures, enactment and amendment of zoning ordinances, and the adoption and amendment of local general plans or elements thereof pursuant to Government Code Sections 65100-65700.
 - b. An activity undertaken by a person which is supported in whole or in part through public agency contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies.
 - c. An activity involving the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.
2. Project does not include:
 - a. Proposals for legislation to be enacted by the State Legislature;
 - b. Continuing administrative or maintenance activities, such as purchases for supplies, personnel-related actions, emergency repairs to public service facilities, general policy and procedure making (except as they are applied to specific instances covered above);
 - c. The submittal of proposals to a vote of the people of the State or of a particular community;

- d. 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.
 - e. Organizational or administrative activities of governments which are political or which are not physical changes in the environment (such as the reorganization of a school district or detachment of park land).
3. The term "project" refers to the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term "project" does not mean each separate governmental approval.

C. DETERMINING EXEMPTIONS:

Generally, there are two types of exemptions: statutory and categorical. Statutory exemptions apply to projects that the State Legislature has ruled to have insignificant effects. Statutory exemptions include ministerial projects and emergency projects.

The City has 30 calendar days from a completeness determination in which to determine whether a project is exempt or not. The City must act on a project determined to be exempt within 90 calendar days after determination of exemption. Exemptions do not apply where the cumulative impact of successive projects of the same type in the same place over time is significant; where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances; where a project may result in damage to scenic resources; when a project is labeled a hazardous waste site pursuant to Government Code Section 65962.5; or when a project may cause a substantial adverse change in the significance of a historical resource. After approving an exempt project, the City or applicant may file a Notice of Exemption with the County Clerk. All proposed activities must be reviewed to determine if one of the following exemptions is appropriate:

1. **Statutory Exemptions:** Certain activities have been exempted from CEQA by the Legislature. These exemptions include feasibility or planning studies, ministerial projects, and emergency actions. A complete list of statutory

exemptions is included in Article 18 of the State Guidelines (§15260 and following).

2. a. **Categorical Exemptions:** Certain classes or “categories” of projects have been determined by the State’s Secretary for Resources to have an insignificant effect on the environment, and are known as categorical exemptions. Currently, the State Guidelines recognize 32 classes of categorically exempt projects. A complete list of these exemptions is included in Article 19 of the State Guidelines (§15300 and following).
- b. **General Rule:** Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to environmental review. In such cases, the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment (§15061(b)(3)).
3. **Project Rejection or Disapproval:** The project will be rejected or disapproved by a public agency.
4. **Exemption Verification:** If a project falls within a Categorical Exemption category, the Planning and Environmental Services Department shall make an additional inquiry as to whether the Categorical Exemption is inapplicable, because of the existence of any of the following factors:
 - a. There are unusual circumstances creating the reasonable possibility of significant effects (e.g., an otherwise exempt project located in a wetland).
 - b. The project and successive projects of the same type in the same place will result in Cumulative Impacts.
 - c. For Classes 3 (New Construction or Conversion of Small Structures), 4 (Minor Alterations to Land), 5 (Minor Alterations in Land Use Limitations), 6 (Information Collection), and 11 (Accessory Structures), the project may affect an environmental resource of hazardous or critical concern officially adopted pursuant to law (e.g., an otherwise exempt project that would impact habitat of an endangered species).

- d. The project 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 exception does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.
- e. The project is located on a site which is included on any list of hazardous waste sites compiled pursuant to Section 65962.5 of the Government Code.
- f. The project may cause a substantial adverse change in the significance of a historical resource.

If any of these factors cause the Categorical Exemption to be inapplicable, the applicant shall be required to submit an environmental information form and a detailed project description. Additional information, data, studies, and the like, may be required of the applicant in order for the City to make an environmental determination.

D. NOTICE OF EXEMPTION (§15062):

If a determination is made that the activity is exempt from CEQA, a Notice of Exemption (NOE) may be filed with the County Clerk.

1. When the City approves or decides to carry out the project, the City or the applicant shall file a Notice of Exemption with the office of the County Clerk. This initiates a 35-calendar day statute of limitations period on legal challenges to the City's determination that the project is exempt from CEQA. If a Notice of Exemption is not filed, a 180-calendar day statute of limitations applies. After the County Clerk has posted the NOE for 30 calendar days, a copy of the posted NOE is sent back to the City. The City is required to keep a copy of the NOE on file for a period of nine months after that time.
2. The NOE shall include a brief description of the project, findings of exemption, including citation to the State CEQA Guidelines section under which it is found exempt, and reasons supporting those findings.
3. If filed, the notice shall be filed with the County Clerk. If state resources could be affected the NOE shall be filed with the Office of Planning and Research (OPR). Copies of

the NOE shall be available for public inspection. The City may also post NOEs at its website on the Internet.

E. CITY PROJECTS - ENVIRONMENTAL REVIEW PROCEDURES (§15378(a)(1)):

When the City is the Lead Agency and any of its departments contemplates any activity resulting in physical change in the environment, including but not limited to construction and related activities, clearing or grading of land, improvements to existing public structures, enactment and amendment of zoning ordinances initiated by the City, and the amendment of the City of Goleta General Plan or any of its elements, the following procedures shall be followed.

The department which contemplates the activity shall request the Planning and Environmental Services Department to determine whether the activity qualifies for an exemption. If the activity is exempt, no further CEQA review is required and regular processing of plans for the activity may continue without further environmental review.

If the activity is not exempt, the department shall forward its plans and specifications to the Planning and Environmental Services Department. Upon receipt of the plans and specifications for the project, the Planning and Environmental Services Department shall conduct an Initial Study to determine if the project may have a significant effect on the environment. The environmental review process from that point on, including determinations and filing of notices, will be conducted in the same manner as specified herein in the procedures for environmental review of private projects, with the department proposing to carry out the project being treated as the "applicant."

VI. INITIAL STUDY

The Planning and Environmental Services Department shall determine whether it intends to prepare a Negative Declaration or an EIR within 30 calendar days after determining the application complete. The 30 calendar day period may be extended 15 calendar days upon the consent of the City and the project applicant. (For public projects, these time limits do not apply.) The project applicant shall be notified of the determination in writing. Staff recommendations for requiring particular environmental documents may be appealed, in writing, to the approving agency for the project upon payment of proper fees.

A. PURPOSES OF AN INITIAL STUDY:

1. Provide the City with information to use as the basis for deciding whether to prepare an EIR or Negative Declaration (§15063(c)(1));
2. Enable an applicant or the City to modify a project, avoiding, or mitigating adverse impacts thereby enabling the project to qualify for a Negative Declaration;
3. Facilitate environmental assessment early in the design of a project;
4. Determine whether a previously prepared EIR could be used for the project;
5. Eliminate unnecessary EIRs;
6. Assist the preparation of an EIR, if one is required.

B. PROJECT INFORMATION REQUIRED:

The initial source of project information for the Initial Study is the environmental information form (§15063(f)). This form is completed by the applicant and received as part of the project (application) submittal. Any information that the project proponent or City deems relevant and will facilitate the environmental review of a project, should be submitted along with the project application. The City may require the project proponent to provide additional data and information determined necessary for the preparation of the Initial Study (§§15060(b), 15063(e), & 15064(b)).

An unreasonable delay by the applicant in providing information (studies, surveys, maps, etc.) requested by the City shall suspend the running of the time periods as described in §15107 and §15108 (§15109). After a reasonable period of time, if no action has been taken to collect or supply the necessary information the project will be set on the approving agency agenda for denial without prejudice.

C. PREPARATION:

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

2. Notwithstanding #1 above, if the City determines that an EIR will be required for a project, the City may skip further initial review of the project and begin work directly on the EIR. However, an Initial Study can prove to be a useful tool in assisting the City in identifying the significant effects of the project upon which the EIR shall focus and provide findings why other effects would not be significant or potentially significant.

D. CONTENT OF INITIAL STUDY:

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

1. Project description,
2. Environmental setting,
3. Environmental checklist,
4. Identification of environmental effects by use of a checklist, matrix, or other method,
5. Discussion of any impacts and ways to avoid or mitigate identified impacts,
6. Examination of consistency with zoning, general plans and other applicable land use controls (§15063(d)).

All phases of project planning, implementation, and operation shall be considered in the Initial Study. Staff shall consult with City departments, public entities that may be a responsible or trustee agency for the project and any individuals or organizations otherwise concerned.

E. DETERMINING ENVIRONMENTAL SIGNIFICANCE:

Critical to the environmental analysis is the determination of significant effect. The State CEQA Guidelines define the term "significant effect on the environment" as "a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic and aesthetic significance." (§15382).

The environmental evaluation must also consider:

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

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

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

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

Mandatory Findings of Significance (§15065): The project may be found to have a significant effect on the environment if any of the following findings are made by the City:

- a. The project has the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a threatened or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory.
- b. The project has the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.
- c. The project has possible environmental effects which are individually limited but cumulatively considerable. As

used in this subsection, “cumulatively considerable” means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

- d. The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.

The City must prepare an EIR if any of the above findings occur unless, prior to commencement of preliminary review of an environmental document, the applicant agrees to mitigation measures or project modifications that would avoid any significant effect on the environment as specified above, or would mitigate the significant effect to a point where clearly no significant effect on the environment would occur. In such cases, a Negative Declaration or Mitigated Negative Declaration may be prepared instead, as appropriate.

Determining the Significance of the Environmental Effects Caused by a Project (§15064):

In evaluating the significance of the environmental effect of a project, the direct and reasonably foreseeable indirect physical changes in the environment which may be caused by the project shall be considered. (See also Attachment 1: State CEQA Guidelines for the Implementation of CEQA, Appendix G, Environmental Checklist Form for effects that may be significant.)

F. THRESHOLDS:

Determining the significance of environmental impacts is a critical and often controversial aspect of the environmental review process. It is critical because a determination of significance requires that the project be substantially altered, or that mitigation measures be readily employed to avoid the impact or reduce it below the level of significance. If the impact cannot be reduced or avoided, an Environmental Impact Report (EIR) must be prepared.

The State Guidelines define the term “significant impact on the environment” as a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project. However, there is no ironclad definition of what constitutes a substantial change because the significance of an

activity may vary according to location. Each public agency is encouraged to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects. A threshold of significance is an identifiable, quantitative, qualitative, 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 significant.

Thresholds of significance to be adopted for general use as part of the Lead Agency's environmental review process must be adopted by ordinance, resolution, rule, or regulation and developed through a public review process and be supported by substantial evidence.

The City Council of the City of Goleta, by Resolution No. 03-08 approved on February 3, 2003, has adopted thresholds for evaluating the level of significance of environmental impacts to the extent consistent with City policies. These thresholds are included as Attachment 2 to these Guidelines. The City's adopted "Environmental Thresholds and Guidelines Manual" shall be publicly available for purchase. This document shall be revised periodically as necessary to maintain a standard which will afford the fullest possible protection to the environment, within the reasonable scope of CEQA, by imposing a low threshold requirement for the preparation of an EIR. For issue areas for which there are no thresholds, the guidance provided in State CEQA Guidelines Sections 15064, 15065, 15382, and Appendix G shall provide the basis for determining significance.

G. FORMULATION OF MITIGATION MEASURES (§15370):

Mitigation measures are actions designed to alleviate or avoid the adverse environmental effects of proposed plans and projects. If there is a potential for significant impacts, efforts should be made to identify and incorporate mitigation measures, either into the project design prior to completion of the Initial Study, or staff, in consultation with the applicant, shall incorporate appropriate mitigation measures into the project approval. If identified impacts can be mitigated to a non-significant level, a Mitigated Negative Declaration can be used. Impacts must be reduced to a non-significant level or an EIR is required. Mitigation includes:

1. *Avoiding* the impact all together by not taking a certain action, or parts of an action or redesigning the project;

2. *Minimizing* impacts by limiting the degree or magnitude of the action and its implementation;
3. *Repairing, rehabilitating, or restoring* an impacted environment;
4. *Reducing or eliminating* the impact over time by preservation and maintenance operations during the life of the action;
5. *Compensation* for the impact by replacing or providing substitute resources or environments.

Creativity, reasonableness, and practicality should be used in developing mitigation measures for identified impacts, providing that the mitigation adequately and accurately addresses the impact.

The Mitigation Monitoring and/or Reporting Program shall be submitted during project processing and shall be made a condition of approval of the project subsequent to review and approval by the decision makers. The City shall require a Mitigation Monitoring and/or Reporting Program for each mitigation measure required. For mitigation of complicated or technical impacts, a consultant may need to be hired at the applicant's expense (see Section IX.B., Mitigation Monitoring and/or Reporting Program, below).

When other agencies have jurisdiction over aspects of the project, the developer will have to meet the design, mitigation, and monitoring requirements imposed by those agencies, as well as any additional requirements established by the City of Goleta.

VII. NEGATIVE DECLARATIONS (§15070)

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

CEQA continues to give the City the option of allowing applicants to modify their project so that the City can make a finding that the project would not have a significant effect on the environment as proposed. If the applicant can modify a project to avoid potentially significant effects, the applicant can qualify for a Mitigated Negative Declaration.

A. PREPARATION OF A NEGATIVE DECLARATION (§15070):

A Negative Declaration shall be prepared for nonexempt projects if:

1. The Initial Study shows that there is no substantial evidence of the project having a significant effect on the environment; or
2. The Initial Study identified potentially significant effects but:
 - a. Prior to completion of the Initial Study, the project is revised to avoid or mitigate the effects to a point where no significant effects would occur; and
 - b. There is no substantial evidence that the project, as revised, may have a significant effect on the environment.

B. RESPONSIBILITY FOR PREPARATION

The Planning and Environmental Services Department shall prepare the proposed Negative Declaration, or shall cause it to be prepared by a private consultant. Consultants may be used when workload exceeds available staff resources or when the proposed document requires expertise not available within the Department.

C. CONTENTS OF NEGATIVE DECLARATIONS (§15071):

A Negative Declaration shall include:

1. A brief project description;
2. The location of the project (preferably a location map), and the name of the project proponent;
3. A proposed finding that the project will not have a significant effect on the environment;
4. An attached copy of the Initial Study documenting reasons to support the finding;
5. Mitigation Measures, if any, included in the project to avoid potentially significant effects.

D. PUBLIC NOTICE AND REVIEW (§15072; 15073):

The City shall notify the public of its intention to adopt a Negative Declaration, and provide opportunities to review it and any related documents by direct mail to all landowners within a 500 foot radius of the exterior project boundary for residential projects and a 1000 foot radius of the exterior project boundary for commercial nonresidential projects. The notice shall include a reference as to where all documents are available for review. The notice shall also appear in a newspaper of local circulation and be posted with the County Clerk.

Where one or more state agencies will be a Responsible Agency or a Trustee Agency or will exercise jurisdiction by law over natural resources affected by the project, the City shall send ~~fifteen~~ copies of the Negative Declaration to the State Clearinghouse for distribution to the state agencies (§15073).

The public review period for a Negative Declaration shall be at least 20 calendar days. ~~The review period for a Negative Declaration which has been submitted to the State Clearinghouse shall be at least 30 calendar days.~~ When a proposed negative declaration or mitigated negative declaration and initial study have been submitted to the State Clearinghouse for review by state agencies, the public review period shall be no less than 30 days, and shall be at least as long as the review period established by the State Clearinghouse (§15073). The public review period may be extended at discretion of the Environmental Hearing Officer.

The Environmental Hearing Officer may hold a public hearing on the Negative Declaration during the public review period. The public hearing shall be held for the purpose of receiving comments by interested and affected agencies, the public, and the applicant on the accuracy and adequacy of the proposed Negative Declaration.

If, upon review of the proposed Negative Declaration and comments received during the public review process, the Environmental Hearing Officer determines that the Negative Declaration is inadequate, the Planning and Environmental Services Department staff shall be directed to make appropriate revisions or to prepare an EIR, pursuant to Section VIII.

E. TIME LIMITS:

When the City is Lead Agency for private projects involving the issuance of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies, the Negative Declaration

must be completed and approved within 180 days from the date when the City accepted the application as complete. Any unreasonable delays resulting from failure of the applicant to provide information requested by the City and necessary to complete the Negative Declaration, shall suspend these limits (§15109).

F. CONSIDERATION AND ~~APPROVAL~~ ADOPTION OF NEGATIVE DECLARATIONS (§15074):

~~Prior to project approval, the hearing body~~ At the time of project approval, the decision-making body responsible for approval of the project shall consider the proposed Negative Declaration with any comments received during the review process.

1. ~~The hearing body~~ decision-making body shall ~~approve~~ adopt the Negative Declaration if it finds on the basis of the Initial Study, and comments received, that there is no substantial evidence of significant effects on the environment.
2. The Negative Declaration shall reflect the City's independent judgment and analysis.
3. The City shall inform, through public notice, the location and custodian of documents or other material which constitutes the record.
4. When a Mitigated Negative Declaration is adopted, the City shall adopt a Mitigation Monitoring and/or Reporting Program (§15097).
5. A Negative Declaration cannot be adopted for a project within the boundaries of a comprehensive airport land use plan without first considering safety and noise issues (§15074).

~~When a public hearing is held on the Draft ND, the City may also schedule a separate public hearing on the development application(s) for the project on the same date the public hearing on the Draft ND is scheduled (i.e. sequential public hearings on the same day).~~

G. ~~DETERMINATION BY HEARING BODY THAT ND IS INADEQUATE DETERMINATION BY DECISION-MAKER THAT NEGATIVE DECLARATION IS INADEQUATE~~

~~If, upon review of the proposed ND, the decision maker determines that an ND is inadequate, the project shall be referred to the Planning and Environmental Services Department for appropriate revisions or preparation of an EIR.~~

If, upon review of the proposed Negative Declaration and comments received during the public review process, the decision-making body determines that the Negative Declaration is inadequate, the decision-making body shall direct Planning and Environmental Services Department staff to make appropriate revisions or to prepare an EIR, pursuant to Section VIII.

H. NOTICE OF DETERMINATION (§15075):

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

VIII. ENVIRONMENTAL IMPACT REPORTS (EIRs)

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

A. DECISION TO PREPARE AN EIR (§15063):

If the Initial Study determines that a project may have a significant effect on the environment, which cannot be eliminated by changing the project or adding mitigation measures, the Planning and Environmental Services Department shall initiate the preparation of an EIR. If the Planning and Environmental Services Department can determine that an EIR will clearly be required for the project, an Initial Study is not required but may still be desirable.

The Planning and Environmental Services Department Director will determine whether an EIR is required within 30 calendar days of determining the application complete. ~~A 15-calendar day~~ An extension may be approved upon consent of the applicant.

B. SCOPE OF AN EIR (§15082):

The breadth of analysis in the EIR shall be determined by one or more of the following: the Initial Study, comments of the City staff, and/or responses to the Notice of Preparation. The EIR should focus on potentially significant impacts, and need not discuss items determined to be insignificant by the Initial Study, or items not raised in response to the Notice of Preparation. When requested by Caltrans for projects under their jurisdiction or for projects of statewide, regional, or area-wide significance, City staff shall hold a community scoping meeting. Scoping meetings for all other projects are at the discretion of the Planning and Environmental Services Department. If a scoping meeting is held, it shall be held during the same time period as the Notice of Preparation.

C. LETTER TO APPLICANT:

Prior to the preparation and distribution of the Notice of Preparation, the Planning and Environmental Services Department shall send to the applicant a certified letter giving notice of the need for an EIR. The applicant shall notify the Department in writing of the applicant's agreement to proceed with an EIR within 20 calendar days of the mailing of such notice letter. Failure of the applicant to respond in writing within this time period may result in the scheduling of the project for hearing before the approving authority with a recommendation of "Denial Without Prejudice."

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

D. APPEAL:

If the applicant wishes to appeal the City's finding that an EIR is required, the applicant shall file an appeal within 20 calendar days of the date of mailing the letter. The applicant shall submit, along with the appropriate filing fee as set forth in the Planning and Environmental Services Department's fee schedule, a letter specifying the reasons why an EIR should not be required. The

appeal shall be filed with the Planning and Environmental Services Department. Action on these appeals shall be heard by the decision-making body for the project.

E. NOTICE OF PREPARATION (§15082):

After determining that an EIR is required, and upon written confirmation of acceptance by the applicant of the need to prepare an EIR, the Planning and Environmental Services Department shall prepare and distribute a Notice of Preparation (NOP) for an EIR. The NOP shall consist of the Notice of Preparation form and include a copy of the Initial Study, if any. The NOP shall be sent to the Office of Planning and Research and to each Responsible and Trustee Agency. To send copies of the notice of preparation, the Department shall use either certified mail or any other method of transmittal which provides it with a record that notice was received.

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

Response to Notice of Preparation. Each Responsible Agency shall provide a response within 30 calendar days after receiving the Notice of Preparation. If a Responsible Agency fails to reply within 30 calendar days with, either a response or a request for additional time, the Planning and Environmental Services Department may assume that the Responsible Agency has no response to make.

The response at a minimum shall identify:

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

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

F. RESPONSIBILITY FOR PREPARATION

The Planning and Environmental Services Department shall prepare an EIR or cause it to be prepared by a private consultant. The option for staff-prepared EIRs is generally only available when workload allows and for analysis that is small in scope, having only one or two potentially significant impact areas to analyze.

G. CONSULTANT SELECTION PROCEDURE:

Once the Planning and Environmental Services Department has determined that an EIR is required in accordance with the process described above, and that preparation will be by private consultant, the consultant selection process can begin.

The City shall maintain an EIR Consultant list. Inclusion on the EIR Consultant list requires the submittal of qualifications for each area of expertise. It should be noted that there are many local consultants who are well qualified to be used as prime and sub-consultants for EIRs.

It is the desire of the City to utilize local consultants when possible and feasible. A selection of three (3) or more consultants will be made from the City's list of EIR consultants.

Once it has been determined that an EIR will be required, the Planning and Environmental Services Department will request letters of interest/statement of qualifications. Upon determination that at least a group of three consultants desire to make a proposal, the Department may set and hold a pre-proposal meeting with interested consultants and the applicant. Prior to or at the meeting the Department will provide the consultants with a detailed project description and supporting material and maps, advise them of the areas of concern, and specify the extent of analysis desired. The consultants will have the opportunity to ask questions of the City Planning and Environmental Services staff and the applicant at the pre-proposal meeting. Any questions that do arise after the close of the pre-proposal meeting must be directed through City staff. If the questions affect the final content of the request for proposal or the scope of work, City Planning and Environmental Services staff will inform all consultants by phone or in writing.

The preparation of the consultant proposal shall conform to the format and content specified in the Planning and Environmental Services Department's Request for Proposal. After EIR proposals are received, staff disqualifies any which are unacceptable. These could include proposals which staff finds non-responsive, or proposals for which staff concludes that substantial revision of the EIR would likely be needed prior to release of the public draft, or proposals from firms which would have a conflict of interest, etc. Upon making the final selection, the City executes and manages the contract with the EIR consultant. Prior to executing any contract, the consultant retained by the City shall file a statement of economic interest with the City Clerk and, demonstrate possession

of liability insurance and statutory workers compensation coverage as specified in the City's Professional Services Agreement.

H. EXECUTION OF CONTRACT:

The contract for consultant services shall be between the City and the consultant. The contract shall reference the scope of work, and shall include a schedule for deliverables, the preparation of the Administrative Draft EIR, Draft EIR, and Final EIR, attendance at public hearings, preparation of the response to comments, and expenses.

I. PREPARATION OF ADMINISTRATIVE DRAFT EIR (§15084):

The Administrative Draft of the EIR is considered a working document to be circulated among City staff and any responsible agency, if appropriate. The consultant shall submit a minimum of five (5) copies of the Administrative Draft EIR for staff review. The purpose of staff review is to evaluate the EIR for adequacy and accuracy prior to public circulation. Generally, review of the Administrative Draft EIR is concluded within a few weeks, after which comments are provided to the consultant, who prepares the Draft EIR for publication and distribution.

J. ANALYSIS OF PROJECT ALTERNATIVES (§15126.6)

All EIRs shall include a discussion of project alternatives. Development of project alternatives should focus on options which have the potential to reduce significant environmental impacts and attain project objectives. The EIR should describe the rationale for selection of alternatives and identify alternatives considered but rejected as infeasible.

K. CUMULATIVE IMPACT EVALUATION (§15130)

An EIR shall discuss cumulative impacts of a project when the project's incremental effect is cumulatively considerable. Where an incremental effect is not cumulatively considerable, a brief description of the basis for such a conclusion shall be provided. The potential effects of development not included in baseline data shall include a list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the public agency. Unless otherwise specified in the City's adopted "Environmental Thresholds and Guidelines Manual", a project's potential contribution to cumulative impacts is assessed utilizing the same significance criteria as those for project specific impacts.

L. NOTICE OF COMPLETION OF A DRAFT EIR (§15085):

As soon as the draft EIR is completed and ready for public circulation, a Notice of Completion and ~~fifteen (15)~~ copies of the draft EIR shall be filed with the Governor's Office of Planning and Research (OPR), ~~1400 10th Street, Room 121, Sacramento, CA 95814~~. This notice of completion may be filed in a printed hard copy or in electronic form on a diskette or by electronic mail transmission. Additionally, public agencies are encouraged to make copies of notices of completion available in electronic format on the Internet. ~~Receipt of this notice by OPR will initiate the mandatory 45 calendar day review period for draft EIRs. The State Clearinghouse may set shorter review periods when requested by the City due to exceptional circumstances.~~

M. PUBLIC REVIEW OF DRAFT EIR (§15087):

At the time the Notice of Completion is filed with OPR, the City shall provide notice of the availability of a Draft EIR and public hearing date by means of a public notice in a local newspaper. Additional notice shall be provided by direct mailing to property owners within a 500-foot radius of the exterior project boundary for residential projects and within a 1,000-foot radius of the exterior project boundary for ~~commercial~~ nonresidential projects. The notice shall also be posted with the County Clerk for a period of at least 30 days. The public notice shall include the name of the staff person to contact, length of the review period, and deadline for receipt of comments. The public notice shall inform the public of the presence of hazardous wastes, if any.

Copies of the Draft EIR will be made available at the Goleta Library and at the public counter at the Planning and Environmental Services Department. Copies of the Draft EIR may be made available for purchase at a local printing/copying company. The public review period for a Draft EIR shall not be less than 45 calendar days (30 calendar days when authorized by the State Clearinghouse (§15105)).

N. PUBLIC HEARING ON DRAFT EIR:

A public hearing ~~held before the initial approving body~~ shall be conducted by the Environmental Hearing Officer to solicit additional comments on the draft EIR. Notice of the hearing shall be provided by means provided in Subsection ~~K~~M, above, and/or by other additional means as determined by the ~~Director~~ Environmental Hearing Officer. The public hearing shall be scheduled during the review period, prior to the last week of the ~~45-day~~ review period.

For clarity and accuracy of the record, written comments are encouraged in conjunction with, or in lieu of, oral testimony. The ~~hearing body~~ Environmental Hearing Officer may extend the comment period and continue the public hearing, if additional time is warranted. ~~At the City's discretion, the City may also schedule a separate public hearing on the development application(s) for the project on the same date as the public hearing on the Draft EIR is scheduled (i.e. sequential hearings on the same day).~~

O. EVALUATION OF RESPONSES TO COMMENTS (§15088):

After the review period for the Draft EIR closes, Planning and Environmental Services staff will assemble all written comments and summary minutes of comments made at the public hearing(s) and transmit this package to the consultant for preparation of responses to comments received. Staff will work closely with the consultant to determine:

1. Which comments address environmental impacts and mitigation(s). These comments shall be responded to by the consultant/staff;
2. Which comments address the merits of the project (as distinguished from environmental impacts of the project) and do not require a response, but should be noted for the record;
3. Which comments are beyond the scope of environmental review (such as legal interpretations); and
4. Which comments on impacts are too speculative for evaluation.

Responses shall be provided for all comments. At least ten (10) calendar days before certifying the EIR, the response to comments shall be provided to all agencies or individuals who request response to their comments. If significant new information is added to the EIR after public notice of the availability of the Draft EIR for public review, the City shall recirculate the Draft EIR in accordance with Section 15088.5 (see below).

**~~P. DECISION BY HEARING BODY THAT AN EIR IS INADEQUATE
DETERMINATION BY ENVIRONMENTAL HEARING OFFICER
THAT AN EIR IS INADEQUATE~~**

~~If, upon review of the proposed Final EIR and the project, the hearing body determines that the EIR is inadequate, the EIR shall be referred to the lead department for appropriate revisions.~~

If, after review, the Environmental Hearing Officer determines that the Draft EIR is inadequate and requires major revisions, the document will be returned to the lead department for revision. Recirculation of the document for public review may be required (see Section M below). In this case, a new Notice of Completion shall be prepared as provided above.

Q. CRITERIA FOR RECIRCULATION OF AN EIR (§15088.5)

A Draft EIR shall be recirculated for public review prior to certification ~~where any of the following occurs~~ when significant new information is added to the EIR after public notice is given of the availability of the Draft EIR for public review pursuant to section M above, but before certification. "Significant new information" requiring recirculation includes, for example, a disclosure showing that:

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

R. CONTENTS OF THE FINAL EIR (§15132):

If, after the public review period and public hearing, the Environmental Hearing Officer determines that the EIR is adequate, the Environmental Hearing Officer shall direct Planning and Environmental Services staff and the City's EIR consultant to prepare a Final EIR. The Final EIR will consist of the Draft EIR or a revision of the draft, copies of comments received, the response to comments (which includes corrections and error of fact of the Draft EIR), a list of persons, organizations, and public agencies who made comments, and any other information added by the Lead Agency. The Environmental Hearing Officer shall transmit the Final EIR to the decision-making body with recommended findings for certification of the Final EIR (see Section T, below).

S. CHANGES BY A DECISION-MAKER

If the decision-making body disagrees with the conclusions set forth in the EIR regarding the significance of environmental impacts or feasibility of mitigation measures and alternatives, the decision-making body shall correct them and set forth its reasons for the correction.

T. FINDINGS (§15091):

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

1. Changes have been required, or incorporated into, the project that avoid or substantially lessen the significant environmental effects as identified in the certified final EIR. Necessary changes are generally identified after preparing the Initial Study.
2. Changes that would avoid or substantially lessen the significant environmental effects are within the jurisdiction of another public agency or have already been adopted by another agency.
3. Specific economic, social or other considerations make the identified mitigation measures or project alternatives infeasible. This finding shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.

A Statement of Overriding Considerations (see Subsection U below) does not substitute for these required findings.

When making findings pursuant to subsection (1) above, the City shall adopt a Mitigation Monitoring and Reporting program pursuant to Section IX below and adopt conditions of approval for the project that ensure such changes will avoid or significantly lessen the significant environmental effects.

U. STATEMENT OF OVERRIDING CONSIDERATIONS (§15093):

If the benefits of a proposed project outweigh the unavoidable adverse effects, such effects may be considered "acceptable." The City shall take into consideration economic, legal, social and

technological benefits for consideration when determining if the benefits outweigh the significant effects. If the City approves a project that allows the occurrence of significant effects, it shall adopt a Statement of Overriding Considerations as part of the project approval that states specific reasons to support its action based on the certified final EIR and/or other information in the record. This Statement of Overriding Considerations shall be in writing and shall be supported by substantial evidence in the record. This statement does not substitute for, and shall be in addition to, findings required pursuant to Subsection T above. The consultant who prepared the draft and final EIR shall be responsible for drafting the findings, subject to review and approval by the decision-making body.

V. CERTIFICATION OF THE FINAL EIR AND TIME LIMITS (§15090):

The decision-making body shall certify the Final EIR for private projects within one year of accepting the application for the project as complete. Upon consent of the applicant and the City, the one-year limit may be extended a maximum of an additional 90 calendar days. Delays by the applicant in providing necessary information to complete the Final EIR shall suspend these time periods. In certifying the Final EIR the decision making body shall find that the Final EIR was prepared in compliance with CEQA, was reviewed and considered prior to project approval, and reflects the independent judgment of the City.

W. NOTICE OF DETERMINATION (§15094):

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

IX. MITIGATION MONITORING AND/OR REPORTING PROGRAM (§15097):

A Mitigation Monitoring or Reporting Program (MMRP) can monitor mitigation, report on mitigation, or both. "Reporting" generally consists of a written compliance review that is presented to the decision making body or authorized staff person. A report may be required at various stages during project implementation or upon completion of the mitigation measure.

“Monitoring” is generally an ongoing or periodic process of project oversight. There is often no clear distinction between monitoring and reporting and the program best suited to ensuring compliance in any given instance will usually involve elements of both.

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

A. PROCESSING OF MITIGATION MONITORING AND/OR REPORTING PROGRAM - ROLES AND RESPONSIBILITIES:

1. **Administrative Responsibilities:** It shall be the overall responsibility of the Director to perform the duties of Compliance Monitor.
2. **Selection of Monitor:** The Director shall be responsible for implementing the MMRP and/or shall be responsible for selecting the person(s) or firm(s) hired by the City, through funding by the project developer, to implement the Mitigation and/or Reporting Program for each project. In all cases, the person(s) or firm(s) responsible for monitoring shall have sufficient expertise to determine whether or not the mitigation measure has been accomplished.
3. **Monitoring Responsibility:** The Compliance Monitor (CM) shall be responsible for:
 - a. Coordinating the monitoring tasks and verification program;
 - b. Ensuring that the project proponent prepares a compliance schedule;
 - c. Coordinating monitoring by various City departments and other agencies;
 - d. Processing and filing compliance reports and verification reports; and
 - e. Preparing an annual environmental monitoring report.

The Compliance Monitor shall submit regular progress and verification reports to the Planning and Environmental Services Director.

4. **Enforcement Responsibility:** The Compliance Monitor is authorized to enforce compliance with the Monitoring Program. When compliance is lacking or incomplete, the Compliance Monitor is empowered to either stop work, temporarily stop work, or allow work to continue while compliance is being achieved.
5. **Exemptions - Limitations:** Any deviation from the adopted mitigation measures can only be amended or deleted by the approving body of the environmental document. All mitigation measures shall be met unless the circumstances or conditions that required the mitigation no longer exist.
6. **Feedback:** The Director shall provide for a process for informing staff and decision makers of the relative success of mitigation measures and using those results to improve future mitigation measures.

B. PREPARATION OF MONITORING AND/OR REPORTING PROGRAM:

A Mitigation Monitoring and/or Reporting Program shall be prepared by the EIR consultant for every project for which an EIR was prepared where mitigation measures were adopted by the approving body. The Mitigation Monitoring and/or Reporting Program shall be reviewed and approved by the decision making body prior to its implementation and use. The Program shall contain the following:

1. A statement that the requirements of the adopted Program run with the real property on which the project is located and that successive owners, heirs, and assigns of this real property are bound to comply with all of the requirements of the adopted Program.
2. A statement which specifies the responsibilities of the applicant and the Compliance Monitor as well as any professional expertise required to evaluate any part of the Program.
3. The time requirements, schedule, phases or tasks for each mitigation measure that will, upon completion, result in issuance of a Program Completion letter from the Compliance Monitor.

The Mitigation Monitoring and Reporting Program shall be written to maintain consistency with the project as approved. It shall be the

responsibility of the Compliance Monitor to determine that the proposed Mitigation Monitoring Program complies with City requirements.

C. PROGRAM COMPLETION LETTER:

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

D. COMPLIANCE WITH STATE GUIDELINE SECTION 15097:

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

X. SEVERABILITY

If any portion of these Guidelines is held unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions.

XI. DEFINITIONS

The following words, where not defined in the State Guidelines, shall have the meaning ascribed to them in these definitions. These definitions are intended to clarify City processes by supplementing definitions used in the State Guidelines.

- A. County Clerk: The Clerk of the Board of Supervisors of the County of Santa Barbara.
- B. Decision-Maker: The decision-making body responsible for taking final action on a project under state law or City ordinances, such as the City Council, Planning Commission, Zoning Administrator, City Manager, or Planning and Environmental Services Director.
- C. Environmental Hearing Officer: The Planning and Environmental Services Director, or his/her designee, in the capacity of holding public hearings to receive comments on environmental documents and other duties as described in the City's CEQA Guidelines.

- D. Planning and Environmental Services (PES): The planning department of the City of Goleta.