



Planning Commission - Staff Report

Meeting Date: August 27, 2012
From: Bob Borchard
Action Title: Adoption of the Updated Waterford CEQA Policies & Procedures Guide

EXECUTIVE SUMMARY:

The Update to the City of Waterford's CEQA Policies and Procedures was prepared as under the Prop. 84 Grant award to Stanislaus County and its eight cities. The City of Waterford is responsible for preparing three reports. The first report, an Urban Forest Plan, was adopted by the Waterford City Council. The second report, A Waterford Blueprint Implementation Matrix, and the third report was a comprehensive update to the Waterford CEQA Policies and Procedures, both up for consideration tonight. The primary focus of this update was to address recent changes in CEQA rules and the CEQA Guidelines. Of particular importance was addressing new requirements for the analysis of Greenhouse Gas (GHG) project impacts.

In accordance with Sections 21083 and 21087 of the California Public Resources Code, Section 15022 of the California Environmental Quality Act (CEQA) Guidelines requires that a public agency, such as the City of Waterford, adopt objectives, criteria, and specific procedures consistent with CEQA and the CEQA Guidelines for the administering of the City of Waterford's responsibilities under CEQA, including the orderly evaluation of projects and preparation of environmental documents. Specific requirements of the law are set forth below. The proposed Waterford CEQA Policies and Procedures update meets and exceeds the requirements of state law.

RECOMMENDATION / ANALYSIS:

The Update to the City of Waterford's CEQA Policies and Procedures Guide is modified from previous versions in that previous versions of the City's CEQA Policies and Procedures contained information that was a duplication of information contained in the State published CEQA Guidelines. The updated version of these Guidelines eliminates this duplication and the reader is given direct reference to State published documentation and forms.

This approach reduces the obligation of City staff to maintain the City's Policies and Procedures when there are changes in the State Guidelines or court actions have modified the interpretation of the Guidelines.

FISCAL IMPACT:

The update to the City of Waterford's CEQA Policies and Procedures was prepared with funds that were awarded to the City through the California Department of Housing and Community Development Sustainable Communities Planning Grants Program as administered by the California Department of Conservation, Division of Land Resources Protection. The costs of compliance with the requirements of the California Environmental Quality Act are not changed as a result of adoption of these Policies and Procedures.

BACKGROUND:

In accordance with State Law, decisions made by the Waterford City Council, Planning Commission, Parks and Recreation Commission and, where applicable, City staff, are subject to CEQA review.

Specific actions, which are deemed to be “projects” under CEQA and which is not otherwise exempt from CEQA review, must be subjected to a formal CEQA review/analysis process. To assist the City in the performance of its responsibilities under the CEQA law, the law requires that the City adopt “policies and procedures as follows:

CEQA Guidelines Section 15022

- (a) Each public agency shall adopt objectives, criteria, and specific procedures consistent with CEQA and these Guidelines for administering its responsibilities under CEQA, including the orderly evaluation of projects and preparation of environmental documents. The implementing procedures should contain at least provisions for:
 - (1) Identifying the activities that are exempt from CEQA. These procedures should contain:
 - (A) Provisions for evaluating a proposed activity to determine if there is no possibility that the activity may have a significant effect on the environment.*
 - (B) A list of projects or permits over which the public agency has only ministerial authority.*
 - (C) A list of specific activities which the public agency has found to be within the categorical exemptions established by these Guidelines.**
 - (2) Conducting Initial Studies.*
 - (3) Preparing Negative Declarations.*
 - (4) Preparing draft and final EIRs.*
 - (5) Consulting with and obtaining comments from other public agencies and members of the public with regard to the environmental effects of projects.*
 - (6) Assuring adequate opportunity and time for public review and comment on the Draft EIR or Negative Declaration.*
 - (7) Evaluating and responding to comments received on environmental documents.*
 - (8) Assigning responsibility for determining the adequacy of an EIR or Negative Declaration.*
 - (9) Reviewing and considering environmental documents by the person or decision-making body who will approve or disapprove a project.*
 - (10) Filing documents required or authorized by CEQA and these Guidelines.*
 - (11) Providing adequate comments on environmental documents which are submitted to the public agency for review.*
 - (12) Assigning responsibility for specific functions to particular units of the public agency.*
 - (13) Providing time periods for performing functions under CEQA.**
- (b) Any district, including a school district, need not adopt objectives, criteria, and procedures of its own if it uses the objectives, criteria, and procedures of another public agency whose boundaries are coterminous with or entirely encompass the district.*
- (c) Public agencies should revise their implementing procedures to conform to amendments to these Guidelines within 120 days after the effective date of the amendments. During the period while the public agency is revising its procedures, the agency must conform to any statutory changes in the California Environmental Quality Act that have become effective regardless of whether the public agency has revised its formally adopted procedures to conform to the statutory changes.
 - (d) In adopting procedures to implement CEQA, a public agency may adopt the State CEQA Guidelines through incorporation by reference. The agency may then adopt only those specific procedures or provisions described in subsection (a) which are necessary to tailor the general provisions of the Guidelines to the specific operations of the agency. A public agency may also choose to adopt a complete set of procedures identifying in one document all the necessary requirements.**

Once the City of Waterford, is identified as the “Lead Agency” for a “project” under CEQA, all other involved agencies, whether state or local, become responsible or trustee agencies. Responsible and trustee agencies *must* consider the environmental document prepared by the lead agency and *do not*, except in rare instances, prepare their own environmental documents. The procedure for issuing each particular development permit is governed by the particular law that establishes the permit authority and by the California Permit Streamlining Act. It is also important to note that the City of Waterford may be a “responsible” agency under the provisions of CEQA and in that instance has responsibilities under CEQA even though it is not in a direct “project” decision-making capacity.

Perhaps the most substantive element of this update to the City’s Policies and Procedures is the update to the Checklist with respect to Greenhouse Gas Emissions and the addition to the City’s Policies and Procedures Appendix “P” *City of Waterford Greenhouse Gas Impact Assessment Guidance*. This Appendix provides background information and guidance to preparers of CEQA documents for the City with respect to the application of new requirements of law with respect to CEQA review of GHG impacts. It is important to note that ALL “projects” not otherwise exempt from CEQA and SOME projects that might otherwise be exempt from CEQA MAY be subject to CEQA GHG analysis. Under State law, GHG impacts are deemed “cumulative” and unless impacts can be reduced (mitigated) to a level deemed “less than significant” and EIR is required! This requirement of State may have huge implications with respect to future environmental review documentation and review time-lines.

Note that Appendix “P” contains the GHG Inventory for the City of Waterford, prepared by another project funded under the Stanislaus County “Tool Kit” Proposition 84 Grant and the “Best Practices” mitigation table approved by the Valley Air Board.

CEQA COMPLIANCE:

The “action” of the City Council to approve and adopt CEQA Policies and Procedures can be considered a “project” under CEQA and therefore subject to CEQA review. In this instance, the formal action to adopt CEQA Policies and Procedures by the Waterford City Council can be found “exempt” from CEQA under Class 8 as follows:

15308.Actions by Regulatory Agencies for Protection of the Environment

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

As noted above, the City of Waterford is mandated by State law to administer compliance with CEQA for “projects” undertaken by or approved by the City. At the same time, the formal action to adopt policies and procedures that implement the requirements of State Law can be seen as NOT having a “physical impact” on the environment and therefore not subject to CEQA!

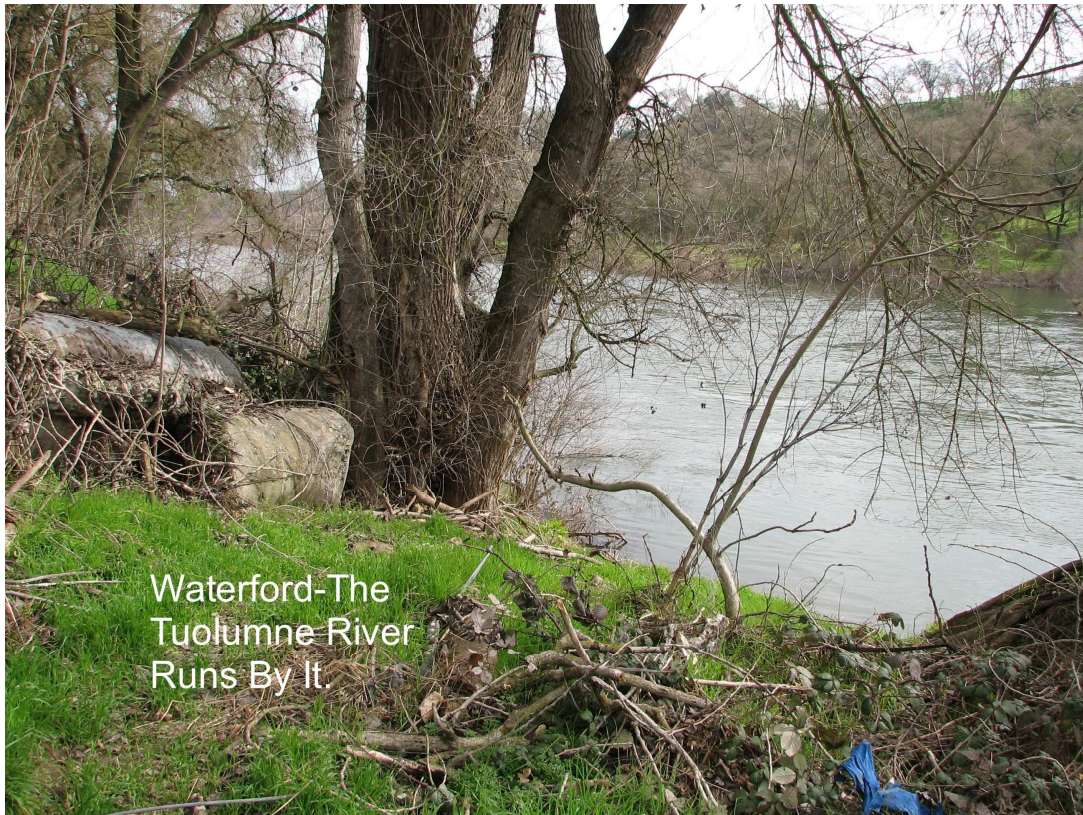
STAFF RECOMMENDATION:

Staff is recommending that the Waterford Planning Commission review the proposed Waterford CEQA Policies & Procedures Guides Update and provide recommendations to the Waterford City Council regarding adoption of the Updated Policies & Procedures.

ATTACHMENTS:

- **Updated Waterford CEQA Policies and Procedures**

City of Waterford



Waterford-The
Tuolumne River
Runs By It

California Environmental Quality Act (CEQA) Implementation Policies and Procedures

As Updated August 2013

INTRODUCTION

Excerpts From

Overview of the California Environmental Review and Permit Approval Process

Governor's Office of Planning and Research

In California, the development permit process is coordinated with the environmental review process under CEQA. Every development project that is not exempt from CEQA must be analyzed by the lead agency to determine the potential environmental effects of the project. State law requires this analysis. It must be completed within specified time periods that are concurrent with the time periods in which an agency is required to approve or deny the project.

Once the lead agency is identified, all other involved agencies, whether state or local, become responsible or trustee agencies. Responsible and trustee agencies *must* consider the environmental document prepared by the lead agency and *do not*, except in rare instances, prepare their own environmental documents. The procedure for issuing each particular development permit is governed by the particular law that establishes the permit authority and by the California Permit Streamlining Act.

Summary of the CEQA and Permit Application Process

There are three major phases in the development process as provided by CEQA and the PSA:

- *The Pre-Application Phase,*
- *The Application Phase, and*
- *The Review Phase.*

I. Pre-Application Phase:

The Pre-Application Phase begins when the developer or applicant has completed the conceptual and preliminary design work for a project and is ready to prepare a project proposal. At this point, enough information should be available to describe project activities and to identify the project's proposed location. The primary objective of this phase is to identify the appropriate permitting agencies and to collect as much relevant background information possible.

Many proposals (projects) will require special studies either before or during the formal processing of the application. All state and local agencies are required to list the type of information and the criteria they will use in evaluating a project application. Developers or applicants may request a pre-application conference or "scoping" meetings with the permitting agencies to discuss how agencies' specific rules will apply to their proposed projects.

By the end of the pre-application phase, the developer-applicant should have a good understanding of the detailed project information required, a list of probable permitting agencies, and an indication of the degree of environmental analysis required by the agencies.

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At this point, the applicant will learn which agency (if there will be more than one permitting agency) will be the "lead agency." The lead agency is the single agency responsible for determining the type of environmental analysis CEQA requires. In addition, the lead agency must prepare the environmental review document it calls for. The agency with the greatest authority over the project will usually assume the lead agency role. Criteria for determining the lead agency are provided in the CEQA Guidelines at Section 15051. In the event of a dispute over the lead agency status between or among agencies, the Office of Planning and Research may designate the lead. However, once the lead agency is identified, all other involved agencies, whether state or local, become responsible or trustee agencies.

II. The Application Phase:

The Application Phase begins with the filing of the necessary permit application forms along with a detailed project description. Supporting documents must also be filed, where CEQA requires, with the respective agencies. Unless otherwise specified, the sequence of filing applications is left up to the applicant. It must be noted, however, that the failure of some agencies to accept an application until certain other permit approvals have been granted does not in any way impact the time limits under which the agency must act.

During this phase, each receiving agency must review the submitted application to determine if the individual filing is complete. The lead agency must make its determination in writing within 30 days. Should the agency fail to make its determination within 30 days, the application will be deemed accepted as complete by operation of law. If the application is determined to be incomplete, the agency *must* specify the deficiencies and the manner in which the deficiencies may be corrected. The developer or applicant may then re-file the corrected application. Upon re-filing, the agency has another 30 days to review for completeness. If the application is again determined to be incomplete, the agency must provide a process for an appeal of the determination and reach a decision within 60 days. Further dispute may be adjudicated. This step is critical to the process. A permit may not be denied for failure to provide information not requested.

Once an application is accepted as complete, the lead agency has six months to approve or disapprove a project for which an Environmental Impact Report (EIR) has been certified. The time limit in all other cases is three months after a negative declaration is adopted or an exemption issued.

III. Review Phase:

The Review Process begins immediately with the completion of the specific application. In recognition of § 65941 of Chapter 4.5 of the Permit Streamlining Act, the lead agency will simultaneously review the project under the applicable permit rules and conduct the necessary environmental analysis. Permit rules vary depending on the particular permit authority in question, but the process generally involves comparing the proposed project with existing statutes. The procedure may result in a public hearing followed by a written decision by the agency or its designated officer. Typically, a project may be approved, denied, or approved subject to specified conditions.

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The CEQA procedure involves a number of steps that produce an environmental document examining the lead agency's as well as the responsible and/or trustee agencies' permit decisions.

The first step in the CEQA process is to determine whether the proposed project is subject to CEQA. There are a number of statutory and categorical exemptions. If the proposal is not covered by CEQA, the lead agency may file a *Notice of Exemption*. If the project is covered by CEQA, the lead agency must prepare an *Initial Study* to determine whether the project may have a significant adverse impact on the environment. The initial study must be completed within 30 days after an application is accepted as complete.

If the Initial Study shows that the project will not have a significant effect on the environment, the lead agency must prepare and circulate a *Negative Declaration*. Where potential significant effects are shown, but the project is modified such that the effects are rendered insignificant, the lead agency must prepare and circulate a mitigated Negative Declaration. In either case, the Negative Declaration must be circulated for review for 30 days and must be ready for adoption by the lead agency within 105 days after a completed application is accepted.

If, on the other hand, the Initial Study shows that the project may have one or more significant effects, the lead agency must circulate a *Notice of Preparation (NOP)* in anticipation of preparing an environmental impact report (EIR) and must consult with responsible and trustee agencies as to the content of the environmental analysis. Responsible agencies must respond to the NOP within 30 days. If a responsible or trustee agency fails to respond, the lead agency may assume that the responsible agency has no response to make. Further, if a responsible agency fails to respond or responds incompletely, the responsible agency may not subsequently raise issues or objections regarding the adequacy of the environmental review.

At the close of this period, the lead agency must prepare and circulate a *Draft Environmental Impact Report (DEIR)*. All concerned agencies and the public may review the DEIR. All comments on the DEIR must be made within the 45 day review period.

At the close of the review and comment period, the lead agency must respond to the comments received. Comments from responsible or trustee agencies shall be limited to those project activities which are within the agency's area of expertise, are required to be carried out or approved by the agency, or will be subject to the exercise of powers by the agency.

The lead agency prepares and certifies a *Final Environmental Impact Report (FEIR)*. If the lead agency approves the project, it must find that each significant impact will be mitigated below the level of significance where feasible, and that overriding social or economic concern merit the approval of the project in the face of unavoidable effects.

With the CEQA and permit review process completed, the lead agency must approve or deny the permit within 6 months of certifying the EIR or within 3 months of adopting the Negative Declaration and file a *Notice of Determination (NOD)*. Responsible agencies must then act within six months after the lead agency's action or, if the developer or applicant has not already filed an application with a responsible agency, within six months from the time the application is filed (except as modified under Health and Safety Code §25199.6).

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Environmental documents for projects involving one or more state agencies or involving issues of area-wide or statewide significance must be sent to the State Clearinghouse for distribution to interested state agencies. The State Clearinghouse will link the lead agency with the responsible state agencies.

Special Concerns in the CEQA/Permit Process

There are several key points that agencies, developer-applicants and the public must be aware of in order to avoid misunderstandings and delays:

- The time limits for completing the requirements of CEQA and acting on a permit are concurrent and not consecutive. The Permit Streamlining Act discourages a government agency from requiring a completed EIR before accepting a permit application.
- CEQA can help resolve public policy disputes relating to development projects. Technical issues that find their way into policy disputes, no matter how dependent on scientific considerations, are inherently value-laden. CEQA specifically addresses the potential for conflicting expert discussions and mandates that all sides of an issue are considered.
- Under the Permit Streamlining Act, if a public agency does not approve or deny a project within the statutory time limit, the project may be deemed approved. The proponent must give notice to invoke the Permit Streamlining Act.
- The Permit Streamlining Act time limits are not applicable to all permit applications. Time limits only apply to development projects as defined in the Permit Streamlining Act. The Streamlining Act specifically excludes ministerial permits such as certain building permits. The time limits do not apply to legislative actions such as the adoption or amendment of zoning ordinances. The time limits do not operate where a federal law specifies a longer or shorter period for action and, *with* the consent of the developer-applicant, the lead agency may waive the time limit if a joint environmental document is being prepared with a federal permitting agency.
- Where a public agency (or series of agencies) will issue more than one permit for a project, the agency(ies) makes each approval separately, but must still act upon the entire project within the statutory time limit.
- All Permit Streamlining Act time limits are maximum. Public agencies should act in a shorter time whenever possible.
- Members of the public may challenge, in court, a wide variety of public agency action and inaction, but only if they first present those challenges to the agency itself within 30 to 180 days after the occurrence of the challenged action, depending upon whether an NOD was filed or not by the agency.

Requirements for Public Agency Implementing Procedures

CEQA Guidelines Section 15022

- (a) Each public agency shall adopt objectives, criteria, and specific procedures consistent with CEQA and these Guidelines for administering its responsibilities under CEQA, including the orderly evaluation of projects and preparation of environmental documents. The implementing procedures should contain at least provisions for:
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 - (2) Conducting Initial Studies.
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 - (5) Consulting with and obtaining comments from other public agencies and members of the public with regard to the environmental effects of projects.
 - (6) Assuring adequate opportunity and time for public review and comment on the Draft EIR or Negative Declaration.
 - (7) Evaluating and responding to comments received on environmental documents.
 - (8) Assigning responsibility for determining the adequacy of an EIR or Negative Declaration.
 - (9) Reviewing and considering environmental documents by the person or decision-making body who will approve or disapprove a project.
 - (10) Filing documents required or authorized by CEQA and these Guidelines.
 - (11) Providing adequate comments on environmental documents which are submitted to the public agency for review.
 - (12) Assigning responsibility for specific functions to particular units of the public agency.
 - (13) Providing time periods for performing functions under CEQA.
- (b) Any district, including a school district, need not adopt objectives, criteria, and procedures of its own if it uses the objectives, criteria, and procedures of another public agency whose boundaries are coterminous with or entirely encompass the district.
- (c) Public agencies should revise their implementing procedures to conform to amendments to these Guidelines within 120 days after the effective date of the amendments. During the period while the public agency is revising its procedures, the agency must conform to any statutory changes in the California Environmental Quality Act that have become effective regardless of whether the public agency has revised its formally adopted procedures to conform to the statutory changes.
- (d) In adopting procedures to implement CEQA, a public agency may adopt the State CEQA Guidelines through incorporation by reference. The agency may then adopt only those specific procedures or provisions described in subsection (a) which are necessary to tailor the general provisions of the Guidelines to the specific operations of the agency. A public agency may also choose to adopt a complete set of procedures identifying in one document all the necessary requirements.

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Sections 21082, 21100.2, and 21151.5, Public Resources Code.

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Section 1.000 Purpose and Intent

1.100 Reference

These Policies and Procedures are written for the purpose of implementing the requirements of the California Environmental Quality Act (CEQA) as contained in *Division 13, Section 21000 et seq. of the Public Resources Code and the CEQA Guidelines* as contained in *Title 14, Division 6, Chapter 3, Section 15000 et seq. of the California Administrative Code* within the City of Waterford.

Throughout this document, citations are listed for applicable sections of the State CEQA Guidelines, the CEQA law and various Court legal citations for applicable CEQA Sections. To reduce redundancy and assure that latest changes in the law and/or interpretations of the law by the Courts, during their review of a CEQA decision challenge, the user of this document should refer to <http://ceres.ca.gov/ceqa/> for the actual CEQA language and citations.

1.200 Background

The California State Legislature adopted the California Environmental Quality Act (CEQA) in 1970 in order to protect the environment from the potentially harmful impacts of development. The primary functions of CEQA are to:

- **Inform** governmental decision-makers and the public about the potential significant environmental effects of proposed activities;
- **Identify** ways that environmental damage can be avoided or significantly reduced;
- **Prevent** significant avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigating measures when the governmental agency finds the changes to be feasible; and
- **Disclose** to the public the reasons why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved (*Section 15002 CEQA Guidelines*).

1.300 Purpose

The purposes of the City of Waterford CEQA Policies and Procedures is to:

- **Assist** in interpretation and implementation of the State CEQA Guidelines;
- **Establish** specific criteria for determination of project status (exempt, negative declaration, EIR) under CEQA;
- **Provide** standardized forms, notices, letters and resolutions to aid in following CEQA; and
- **Use** local values and input to establish standards for the protection of the environment in the City of Waterford and surrounding area as required by State law.

These Policies and Procedures are intended to supplement the provisions of State law and the Administrative Code and provide the necessary administrative rules to carry out the intent of the law within Waterford. Nothing contained within the following Policies and Procedures is intended to limit the City from establishing alternative procedures for processing a project's environmental review where either specific policies and procedures are not set forth herein or where an alternative procedure will expedite review consistent with State law and the purpose of

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CEQA.

1.400 Definition of Terms and Reference

All terms and phrases utilized herein shall be defined in accordance with CEQA and such administrative guidelines established by the Resources Agency of the State of California pursuant to the requirements of CEQA. In all cases, such terms or phrases not specifically defined as provided above will be subject to such definitions as applicable in Waterford City Code or policy.

1.500 Interpretation

All questions regarding the specific application or interpretation of procedures, standards and policies set forth herein shall be determined by the City of Waterford in its capacity as Lead Agency as defined in Section 3.100 of these Policies and Procedures.

1.600 Incorporation of the California Environmental Quality Act (CEQA)

The California Environmental Quality Act of 1970, as amended (CEQA) and the CEQA Guidelines as amended (Title 14 of Division 6 of the California Administrative Code, Section 15000-15387, with appendices attached thereto) are deemed incorporated into these Policies and Procedures. In the event of an amendment to CEQA or the CEQA Guidelines, the amendment shall be incorporated by inference into these Policies and Procedures from the operative date thereof, without any further action by the City of Waterford. These Policies and Procedures shall be construed consistent with CEQA and the CEQA Guidelines and in event any provision herein proves to be inconsistent with CEQA and/or the CEQA Guidelines, the latter shall prevail to the extent of such inconsistency.

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Section 2.000 Applicability and Authority

2.100 CEQA Applicability

The provisions of CEQA are applicable to all development proposals, both public and/ or private, which can be considered "projects" (CEQA §15378) (see *Initial Review Section 7.000*) under the following circumstances:

- The project is an activity undertaken by the City; or
- The project is financed by the City in part or whole; or
- The project is a private activity requiring City approval; and
- The project is a Discretionary Activity. (CEQA §15002)

2.200 Discretionary vs. Ministerial Activities

CEQA applies only if *discretion* is required to determine how to carry-out a project. If no discretion is involved, an activity is considered “ministerial” and is, therefore, not subject to CEQA. An example of a ministerial activity is a building permit. (See *Section 7.500, Ministerial Projects*)

2.300 City Authority Under CEQA

Since development projects are typically submitted and approved at the local (City or County) level, CEQA places the authority to carry out the provisions of CEQA with local governing agencies.

CEQA authorizes the City of Waterford to:

- **Require** modifications or changes to development projects to reduce or avoid (mitigate) significant effects on the environment. (CEQA §15041)
- **Disapprove** projects in order to avoid significant environmental effects. (CEQA §15042)
- **Approve** projects that have significant environmental effects where the City can determine that the expected benefits from the project outweigh the adverse impacts. (CEQA §15043)
- **Accept** comments concerning the environmental effects of projects under consideration, (CEQA §15044)
- **Comment**, as a responsible agency, to a Lead Agency (see *Lead Agency Section 3.100*) regarding the environmental effects of projects under consideration. (CEQA §15096)
- **Recover** the estimated costs of preparing environmental documents and administering the CEQA process. (CEQA §15045)

2.400 The Permit Streamlining Act

A. Government Code Section 65920 to 65957.1 contains provisions which must be met in connection with the approval of development projects and intended to expedite decisions on such projects. The provisions are applicable to all public agencies in California, including the City of Waterford. These Government Code Sections are known collectively as the Permit Streamlining Act.

B. The Permit Streamlining Act contains provisions that:

- Establish guidelines for public agencies issuing and approving permit applications, and

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- Establishes the State Office of Permit Assistance.
- C. The Permit Streamlining Act requires each state and local agency to compile one or more lists specifying in detail the information that will be required from any applicant for a “*development project*”. The public agency will notify applicants for development permits of the time limits established in the Permit Streamlining Act in addition to other details regarding the public agency’s implementation of the Act.

2.410 *Development and Development Project*

- A. Within the Permit Streamlining Act “Development” means, on land, in or under water:
- The placement or erection of any solid material or structure;
 - Discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste;
 - Grading, removing, dredging, mining, or extraction of any materials;
 - Change in the density of intensity of use of land, including but not limited to, subdivision pursuant to the Subdivision Map Act and any other division of land except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use;
 - Change in the intensity of use of water, or of access thereto;
 - Construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility;
 - And the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operation which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z’berg-Nejedly Forest Practices Act of 1973.
 - “Development” does not mean a “change of organization”, as defined in Section 56021 or a “reorganization”, as defined in Section 56073 of Government Code.
- B. Within the Permit Streamlining Act “Development Project means any project undertaken for the purpose of development including the issuance of a permit for construction or reconstruction but not a permit to operate. “Development Project” does not include any ministerial projects proposed to be carried out or approved by a public agency.
- C. Within the Permit Streamlining Act, “Project” means any activity involving the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.
- D. Court review of the Permit Streamlining Act has resulted in the determination that the permit Streamlining Act does not apply to:
1. Administrative appeals within a state or local agency or to a state or local agency.
 2. Agency actions that are legislative or quasi-legislative in character such as requests for general plan amendments and zoning changes.
 3. Ministerial in nature such as certificates of compliance under the Subdivision Map Act.

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The courts have interpreted these exemptions to the Permit Streamlining Act in such a manner as to exclude projects that are “research” and the permit applied for must result in “development” in the narrow sense of the word.

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Section 3.000 Lead Agency and Authority

3.100 Lead Agency

The Lead Agency (CEQA §15367) is the government agency with the primary responsibility for carrying out or approving a project. The Lead Agency is also the one that prepares, or oversees the preparation of; the environmental documentation for a project. Disputes regarding designating the Lead Agency may be referred to the State of California Governor's Office of Planning and Research.

Agencies may designate a Lead Agency by mutual agreement. Generally, the determination of Lead Agency will be based on the following criteria:

- A. Public projects:
 - A public agency is the Lead Agency for its own projects.

- B. Private projects requiring government approval:
 - An agency with general governmental powers prevails over an agency with limited or single purpose.
 - Pre-zones are the responsibility of the City, not LAFCO. Therefore, the City is the Lead Agency for all pre-zones.
 - When other criteria are equal, the agency taking the first step will be the Lead Agency.

3.200 Lead Agency Designation

- A. Within the City of Waterford there may be several departments or agencies that have the authority to act on behalf of the City for projects reviewed and acted on by the City as Lead Agency.

- B. In the event that more than one public agency or body has responsibility for carrying out or issuing a permit for the project, the criteria outlined in *Section 15051 of the CEQA Guidelines* shall be used to determine the Lead Agency.

3.300 Lead Agency Determinations-Decision Making Body

3.310 City Council

The City Council of the City of Waterford is the principal *Decision Making Body* of the City as a Lead Agency with respect to CEQA.

3.320 Planning Commission

- A. The Planning Commission, as provided by State Law and the City of Waterford Municipal Code, has the authority to make discretionary project decisions. This capacity as a *Decision Making Body* for the City of Waterford the Planning Commission can make CEQA determinations that can be appealed to the City Council.

- B. Where the matter before the Planning Commission requires a final environmental determination from the City Council, the Planning Commission may provide recommendations where appropriate or when requested by the City Council.

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3.330 Department Level Environmental Review

A Department Head, such as the Director of Public Works, as provided by state law, Section 6500 of these Policies and Procedures and the City of Waterford Municipal Code has the authority to carry out projects on behalf of the City of Waterford. In this capacity, the Department Head is authorized to implement these Policies and Procedures in a manner necessary to assure full compliance with the law and City Policy.

3.400 Delegation of Responsibilities

The City Council or Planning Commission of the City of Waterford, as decision-making bodies of the City in its capacity as Lead Agency, shall not delegate the following responsibilities:

- a) Reviewing and considering a final EIR or approving a negative declaration prior to approving a project;
- b) Certification that the final EIR or negative declaration has been reviewed and considered by the City Council or Planning Commission prior to approval;
- c) The making of findings as required by the State CEQA Guidelines.

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Section 4.000 CEQA Process Overview

4.100 CEQA Flow Chart

CEQA requires that development applications be evaluated in order to determine their potential impacts upon the environment. The CEQA process can be confusing to those unfamiliar with it (see *CEQA Flowchart Figure 1*). This section provides a brief overview of the process in its entirety. Each component of the process is described in greater detail in subsequent sections of these guidelines.

4.110 Initial Review

The first step in the CEQA process is an initial, or preliminary, review by City staff. During this preliminary review, all development applications submitted to the City are evaluated to determine if they can be classified as "projects" under CEQA (see *Initial Review Section 7.000*). If a development proposal is deemed a "project", it may require further environmental review, or it may be exempt (see *Exemptions, Appendix "A" Special Situations and Exceptions Appendix "B"*) from the requirements of CEQA. <http://ceres.ca.gov/ceqa/>

4.120 Environmental Analysis

For projects that are not exempt, City staff must perform an environmental analysis or Initial Study. The Initial Study aids City staff in determining the environmental effects of the project and the corresponding course of action required under CEQA. Based upon the results of the Initial Study, City staff makes a determination of the project's potential environmental impacts. Depending upon the significance of the project's environmental impacts either a Negative Declaration or an Environmental Impact Report (EIR) is prepared.

4.200 Public Disclosure

After deciding which environmental determination is required for the project, staff informs the applicant and the public (see *Public Notification, Section 5.200*) of the environmental determination and prepares the appropriate documentation. City staff normally prepares negative Declarations while Environmental Impact Reports (EIRs) are typically prepared by an environmental consulting firm under contract with the City of Waterford.

4.300 Lead Agency Approval and Notice of Determination

Once the environmental documents have been prepared and approved by the appropriate decision-making body of the Lead Agency, a Notice of Determination is filed with the appropriate department. Filing of the Notice of Determination begins the statute of limitations for court challenges based on CEQA.

4.400 Time Periods

Table 1 provides a brief summary of the Time Periods required for the Review of Environmental Documents.

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Table 1
CEQA Time Periods for Review and Action

Document or Action	Effect	Time Period	CEQA Statute and Guidelines
Review of application for completeness	Lead agency has 30 days to review an application for completeness. If no determination is made within this period, it will be deemed complete	30 days	15060 15101
Lead Agency acceptance of an application as complete	Begins maximum one year period to complete environmental review for certain projects	1 year	15060 PRC 21100.2 PRC 21151.5
Initial Study	Provides 30 days to determine whether an EIR or Negative Declaration will be required	30 days	15102
Notice of Preparation (NOP)	Provides 30 days from receipt of NOP for agencies to respond to the lead agency	30 days	15103
Convening of scoping meetings	Requires a meeting requested by an agency or by the applicant to be convened within 30 days of the request	30 days	15104
Public review of draft documents	When an environmental document is submitted to the SCH, the public review period shall be set at least as long as the review set by the SCH	EIR: 30-60 days ND: 20-30 days	15105
Posting of City of Waterford Legal Notices	City Appeal public notice provisions provide 10-days, prior the date of a CEQA decision to be posted/published prior to City Action.	10 days	City of Waterford
Review by state agencies	Provides standard 45 days for EIRs and standard 30 days for Negative Declarations, through the SCH	EIR: 45 days ND: 30 days	15105
Completion of Negative Declaration	For a private project, the Negative Declaration must be adopted within 180 days after the application is complete	180 days	15107 PRC 21100.2 PRC 21151.5
Posting of Notice of Availability of a Draft EIR.	Notice of the availability of the Draft EIR shall be posted in the County Clerk's office for 30 days.	30 days	City of Waterford
Public Review of a Draft EIR.	The public review period for an EIR is 45 days..	45 days	City of Waterford
Completion and certification of EIR	For a private project, an EIR must be completed within one year - may be extended once for up to 90 days	1 year	15108 PRC 21100.2 PRC 21151.5
Response to comments (EIR)	Lead agency must give commenting agencies a response at least 10 days before certifying the EIR	10 days	PRC 21092.5
Notice of Completion (EIR)	A copy of the Notice of Completion shall also be filed with the Stanislaus County Clerk for a minimum of thirty (30) days prior to any action by the Lead Agency.	30days	PRC 21092.3
Notice of intent of City Action on a Negative Declaration	A Notice of availability of a proposed Negative Declaration shall be posted in the City Clerk's Office 10-days prior to adoption.	20 days	City of Waterford
Notice of Determination (NOD)	Provides that agencies shall file notice within 5 days of project approval	5 days	15075 15094

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**Table 1 *Continued*
CEQA Time Periods for Review and Action**

Document or Action	Effect	Time Period	CEQA Statute and Guidelines
Action by City of Waterford on Negative Declaration	The City of Waterford must take action on a proposed Negative Declaration, for a private project within 105 day from the date the application is deemed complete.	105 days	City of Waterford
Statute of limitations for CEQA challenge	Filing starts a 30 day statute of limitations to court challenges to the approval of the project. If NOD not fled, then statute of limitations is 180 days from date of project approval	30 days 180 days	15075 15094 15112
Notice of Exemption (NOE)	Filing of NOE following approval of projects exempt from CEQA starts a 35 day statute of limitations. If NOE is not fled, then statute of limitations is 180 days	35 days 180 days	15062
Suspension of time limits	Unreasonable delay of document preparation caused by the application allows suspension of time periods in Guidelines, Sections 15107 and 15108	Varies	15109
Projects with federal involvement	Time limits may be waived or superseded by federal time requirements	Varies	15110

NOTE: Related time periods for project approval are contained in Chapter 4.5 of the Government Code beginning at Section 65920.

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Section 5.000 CEQA Administration

The following provisions shall apply to the administration of the CEQA process in the City of Waterford.

5.100 Administrative Appeal Provisions

- A. The City Council of the City of Waterford shall hear and decide all appeals of CEQA decisions made in accordance with these Policies and Procedures. Where the Waterford City Council is directly responsible for determinations under the provisions of CEQA, there shall be no administrative appeal process of their decision.

- B. All decisions or determinations made pursuant to these Policies and Procedures, which are subject to appeal under this Section, may be appealed to the City Council provided that such appeal is filed in accordance with the City's adopted appeals procedures for the application process for which the CEQA decision is being made. Where no formal appeal process is described for a CEQA decision, the appeal shall be filed with the City Clerk within 10 working days of the published or posted decision. Public notification of an appeal hearing shall be conducted in accordance with established City policy.

5.200 Public Notification Standards

All formal written environmental determinations, made by the City of Waterford, in its capacity as Lead Agency, shall be posted in a prominent public place in City Hall. Such postings shall be date stamped and initialed by the City Clerk at the time of posting and this posting date shall be used, by the City, for establishing appeal periods for environmental determinations.

5.210 Posting of Legal Notices

“Posting” shall mean the physical posting by City staff of a written notice on or near the subject project site in such a manner that the property owner and surrounding property owners can see and read such posted notice. Such “posting” shall be done at least 10-days prior to the date contemplated action on the project and shall advise of the date, time, place and matter to be decided. Such “posted” notices that are removed, and/or disfigured shall be replaced as practical by the City staff. At the close of the 10-day notice period, City staff shall remove all notices.

5.220 Publication of Legal Notices

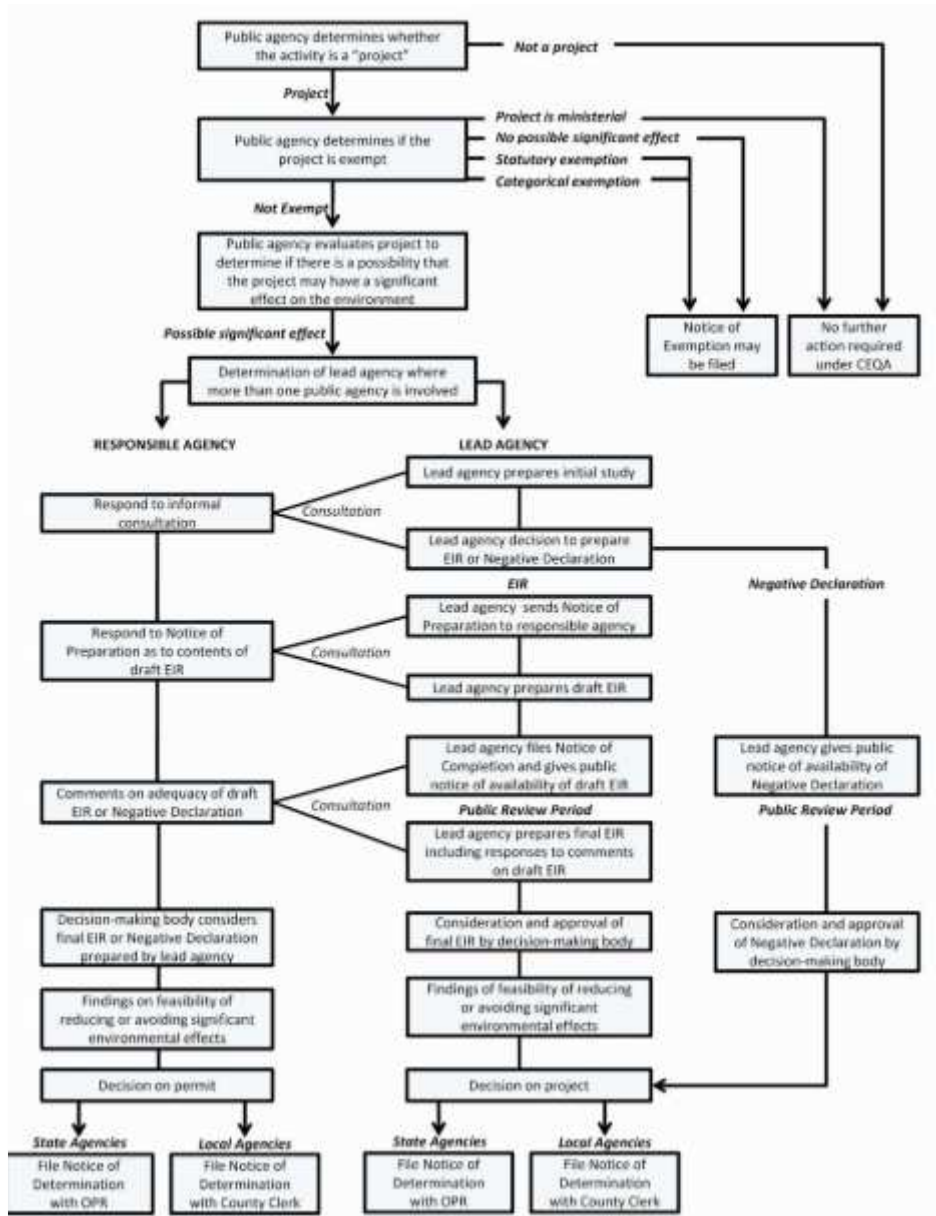
“Publish” shall mean the publication of a legal notice in a newspaper of general circulation. Such “publication” shall be done at least 10 days prior to the date of formal action on a project proposal and shall advise of the date, time, and place where the matter is to be decided.

5.230 Direct Notification

“Direct Notification” shall mean the mailing of a legal notice directly to the Affected Property Owner, project applicant, agent, public agency or other interested party. Such “Direct Notification” shall be done at least 10 days prior to the date of formal action on the project and shall advise of the date, time, place and matter to be decided.

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Figure 1
 CEQA Process Flow Chart



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5.300 Affected Property Owner

Where Affected Property Owner is required to be notified under the provisions of these Policies and Procedures, “Affected Property Owner” shall be defined in accordance with the following standards:

- A. Affected property owner shall mean:
 - 1. Adjacent property owners within 300 feet of the physical boundaries “project” site.
 - 3. Such other persons and property owners where it is determined by the Environmental Review Coordinator that such persons or property owners could be affected (as defined by law) due to the unique or unusual characteristics of the project under review.
 - 4. In addition to affected property owners, other persons, agencies or organizations requesting notification regarding a specific project may be provided written notice of pending action on a project under consideration by the City.
- B. When required, affected property owners, as defined in Section 4.230 (A) above, shall be notified of a pending environmental review action a minimum of 10 calendar days prior to the scheduled date of the final environmental determination by direct first-class mailing. Other means of notification, as described in No.'s 1 and 2 below, may be used if the City finds that reasonable public notification will be provided. Any combination of notification methods may be used to achieve reasonable public notice as follows:
 - 1. **Posting** in accordance with Section 4.210 of these Policies,
 - 2. **Publication** in accordance with Section 4.220 of these Policies,
 - 3. **Direct Notification** in accordance with Section 4.230 of these Policies.
- C. All public notification on, as outlined in Section 5.230 (B) above, shall include the following information:
 - 1. The period during which comments will be received on the draft EIR or negative declaration.
 - 2. The date, time, and place of any public meetings or hearings where a decision to approve, conditionally approve or deny the proposed project is to be made.
 - 3. A brief description of the proposed project and its location.
 - 4. Address where copies of the draft EIR or negative declaration or other applicable environmental documents are available for review.
 - 5. Options an affected property owner may have with respect to the proposed project.

5.400 Notice of Determination

- C. The Notice of Determination shall be filed with the County Clerk of Stanislaus County. if the project requires a discretionary permit approval from any state agency, the Notice of Determination also shall be filed with the State Clearinghouse.
- D. The filing of the Notice of Determination and the posting on a list of such notices starts a 30-day statute of limitations on court challenges to the approval under CEQA.
- E. Copies of the appropriate forms to be utilized for filing **Notice of Determination** and the **State Clearinghouse Notice** can be found on-line at <http://ceres.ca.gov/ceqa/> .

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5.500 Consultation with Other Agencies

- A. Prior to undertaking an environmental impact report, the City shall consult with, and obtain comments from potentially affected public agencies including, but not limited to, Cities, Counties, State and Federal Agencies and special districts.
- B. For projects of statewide, regional, or area-wide significance, the State Clearinghouse, and/or local Clearinghouse shall be notified in accordance with the requirements of CEQA. Typically, a project has statewide, regional or area-wide significance if another public agency has some permitting approval authority over some aspect of the project. The City should consult with applicable statewide or regional planning agencies and public agencies directly when possible.
- C. Within 30 days of a request by a statewide or regional planning agency or responsible agency, at least one scoping meeting shall be held between the City and the requesting agency.

5.510 Responsible Agencies and Trustee Agencies

- A. Any public agency or a body, which is not the Lead Agency but still has permit issuing responsibility for a project, is called a *Responsible Agency*. All Responsible Agencies must be consulted and allowed to comment on the environmental documents prepared by the Lead Agency. An example of a Responsible Agency is the California Department of Transportation that must issue an encroachment permit for projects approved by the City which proposes access from a state highway.
- B. There may also be Trustee Agencies that need to be consulted with for a project. A *Trustee Agency* does not have any permit issuing responsibility for a project but has a resource(s) under its jurisdiction that could be affected by the project. An example would be a project located in the wildlife migration route under the jurisdiction of the State Department of Fish and Game. The Department of Fish and Game would not have permit issuing responsibility for the project but its resources (endangered species or critical wildlife habitat) could be affected.

5.520 State Clearinghouse Review

All draft Environmental Impact Reports and draft Negative Declarations for projects that involve a state Responsible or Trustee agency or are of statewide, regional, or area-wide significance must be submitted to the SCH.

Upon receiving these documents from public agencies, the SCH distributes the documents to state agencies for comment. After the review period closes, the SCH coordinates the transmittal of comments from state agencies to the Lead Agency for certain types of environmental documents.

- A. The State Clearinghouse in the Office of Planning and Research was created to ensure that environmental documents are properly distributed to all affected state agencies. All Negative Declarations and Draft EIR's for projects where a state agency is involved must be sent to the State Clearinghouse for distribution to state agencies. (see **Figure 2** for a description) Direct consultation with an affected state agency is encouraged but does not

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relieve a local agency of the requirement for Clearinghouse review.

- B. In general, Clearinghouse review is required for all CEQA projects where a state agency is a Responsible Agency, Trustee Agency, or otherwise has jurisdiction by law on the project. In addition, Clearinghouse review must also be conducted on projects of state wide, regional or area-wide significance as defined in *Section 15206 of the CEQA Guidelines*.
- C. State Clearinghouse review typically requires that at least 10 copies of the document be sent to the Clearinghouse. The review periods can vary but are usually 30 days for a Negative Declaration and 45 days for a draft EIR. (*See Table 1*) *Section 15205 of the CEQA Guidelines* should be carefully reviewed by the representatives of the City as Lead Agency prior to submitting any documents to the Clearinghouse.
- B. In general, Clearinghouse review is required for all CEQA projects where a state agency is a Responsible Agency, Trustee Agency, or otherwise has jurisdiction by law on the project. In addition, Clearinghouse review must also be conducted on projects of state wide, regional or area-wide significance as defined in *Section 15206 of the CEQA Guidelines*.
- C. State Clearinghouse review typically requires that at least 10 copies of the document be sent to the Clearinghouse. The review periods can vary but are usually 30 days for a Negative Declaration and 45 days for a draft EIR. (*See Table 1*) *Section 15205 of the CEQA Guidelines* should be carefully reviewed by the representatives of the City as Lead Agency prior to submitting any documents to the Clearinghouse.
- D. Under exceptional circumstances and when requested in writing by the City of Waterford, in its capacity as Lead Agency, the State Clearinghouse in the Office of Planning and Research (OPR) may shorten the usual review periods for proposed negative declarations, mitigated negative declarations and draft EIRs submitted to the Clearinghouse. A request must be made by the decision-making body of the City, or by a properly authorized representative of the decision-making body.

A shortened review period may be granted when any of the following circumstances exist:

- (1) The City is operating under an extension of the one-year period for completion of an EIR and would not otherwise be able to complete the EIR within the extended period.
- (2) The public project applicant is under severe time constraints with regard to obtaining financing or exercising options that cannot be met without shortening the review period.
- (3) The document is a supplement to a draft EIR or proposed negative declaration or mitigated negative declaration previously submitted to the State Clearinghouse.
- (4) The health and safety of the community would be at risk unless the project is approved expeditiously.

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Figure 2
CEQA Review and State Departments

CEQA: CALIFORNIA ENVIRONMENTAL QUALITY ACT

Bay Conservation and Development Commission	Air Resources Board	Resources Agency	Health Services	Savings and Loan	Real Estate	Caltrans	Dept of Housing and Community Development	Dept of Motor Vehicles	Corporations	California Highway Patrol	Aeronautics	Food and Agriculture	STATUTORY AUTHORITY OF STATE DEPARTMENTS
	*		*					*		16	*	1	1. Air quality and air pollution control
			*									*	2. Chemical contamination and food products
26			7										3. Coastal areas, wetlands, estuaries, waterfowl refuges, and beaches
	24		8		*		*						4. Congestion in urban areas, housing, and building displacement
			*									*	5. Disease control
	*		*										6. Electric energy generation and supply
			9		*	*	*						7. Environmental effects with special impact in low-income neighborhoods
					*							*	8. Flood plains and watersheds
			*									*	9. Food additives and food sanitation
		*	*									*	10. Herbicides
						*							11. Historic and archaeological sites
	*		*										2
			*									*	13. Microbiological contamination
													14. Mineral land reclamation
	16		10								*		15. Natural gas energy development generation and supply
25													16. Navigable airways
													17. Navigable waterways
			*						*	*			18. Noise control and abatement
25												*	19. Parks, forests, trees and outdoor recreation areas
		*	*									*	20. Pesticides
		*	*										21. Radiation and radiological health
	24		11	*	*	*	*				*		22. Regional comprehensive planning
			*										23. Rodent control
			*										3
			*										24. Sanitation and waste systems
													25. Shellfish sanitation
												*	26. Soil and plant life, sedimentation, erosion, and hydrologic conditions
			*									*	27. Toxic Materials
			*					*		*			4
			*									*	28. Transportation and handling of hazardous materials
													29. Water quality and water pollution control
			12										5
25			13										30. Fish and wildlife
	24												31. Activities with special impact on regional jurisdictions
	24												32. Water project formulation
													33. Geothermal energy
													34. Oil and petroleum development, generation and supply
													35. Statewide land use patterns
	24												36. Open space policy
						*							37. Statewide overview — cumulative impact of separate projects
							*						38. Seismic hazards

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CEQA: CALIFORNIA ENVIRONMENTAL QUALITY ACT

Office of Planning & Research	Native American Heritage Commission	Water Resources	State Water Resources Control Board	State Reclamation Board	State Lands Commission	Solid Waste Mgmt Board	Parks and Recreation	Forestry	Fish and Game	Energy Commission	Conservation	Colorado River Board	CTRPA	Coastal Commission	Boating and Waterways	
			*								*		27			1. Air quality and air pollution control
			*						*							2. Chemical contamination and food products
		*	*		*		*		*		*	14	27	26	*	3. Coastal areas, wetlands, estuaries, waterfowl refuges, and beaches
			21										27	26		4. Congestion in urban areas, housing, and building displacement
		*						22	*			14				5. Disease control
		*					*	23	*	*		14		26	*	6. Electric energy generation and supply
							19									7. Environmental effects with special impact in low-income neighborhoods
		*		20	*		*		*		*	14	27	26		8. Flood plains and watersheds
			*				*	22	*			14				9. Food additives and food sanitation
	*				*		*		*				27	26		11. Historic and archaeological sites
*							*		*				27	26		12. Human ecology
			*						*			14				13. Microbiological contamination
					*		*		*		*		27	26		14. Mineral land reclamation
					*				15	*	*			26		15. Natural gas energy development generation and supply
								16								16. Navigable airways
				20	*				*			14	27	26	*	17. Navigable waterways
								17								18. Noise control and abatement
	*				*		*		*		*	14	27	26	*	19. Parks, forests, trees and outdoor recreation areas
		*	*				*	22	*			14				20. Pesticides
*		*	*		*		*		*	*	*	14	27	26	*	21. Radiation and radiological health
							*	22	*							22. Regional comprehensive planning
		*	*			*			18		*	14		26		23. Rodent control
			*						*							24. Sanitation and waste systems
			*						*							25. Shellfish sanitation
		*	*		*		*		*		*	14	27	26		26. Soil and plant life, sedimentation, erosion, and hydrologic conditions
			*			*	*		*			14				27. Toxic Materials
			*							*	*					28. Transportation and handling of hazardous materials
		*	*						*		*	14	27	26	*	29. Water quality and water pollution control
			21				*		*			14	27	26		30. Fish and wildlife
		*		20			*					14	27	26		31. Activities with special impact on regional jurisdictions
		*	*	20			*	23	*			14			*	32. Water project formulation
		*	21		*				*	*	*	14				33. Geothermal energy
			21		*				*	*	*			26		34. Oil and petroleum development, generation and supply
*					*				*	*	*		27	26		35. Statewide land use patterns
*	*				*				*		*		27	26		36. Open space policy
*										*						37. Statewide overview — cumulative impact of separate projects
		*							*	*			27	26		38. Seismic hazards

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CEQA: CALIFORNIA ENVIRONMENTAL QUALITY ACT

Footnotes

1. **Food and Agriculture** - Effects on plants and animals.
2. **Food and Agriculture** - Protection of food and fiber.
3. **Food and Agriculture** - Agricultural, dairy and feed lot Systems.
4. **Food and Agriculture** - As pertains to transportation, handling, storage and decontamination of pesticides.
5. **Food and Agriculture** - Pesticide effects, predatory animal control, bird control.
6. **California Highway Patrol** - Enforcement of motor vehicle regulations.
7. **Health Services - Beach sanitation**, water pollution, solid waste and mosquito control.
8. **Health Services** - Pertains to health component.
9. **Health Services** - Most if these are strongly related to health.
10. **Health Services** - Pertains to noise.
11. **Health Services** - Pertains to personal and environmental health components.
12. **Health Services** - As it may pertain to human health hazards.
13. **Health Services** - Pertains to comprehensive health planning.
14. **Colorado River Board** - As pertains to the Colorado, New and Alamo Rivers.
15. **Fish and Game** - As field development and distribution systems may affect fish and wildlife.
16. **Fish and Game** - As may affect migrating and resident wildlife.
17. **Fish and Game** - As excessive noise may affect wildlife.
18. **Fish and Game** - As water quality may affect fish and wildlife.
19. **Parks and Recreation - In impacted** areas only.
20. **Reclamation Board** - In areas of Board's jurisdiction only — the Sacramento-San Joaquin Valley.
21. **State Water Resources Control Board** - As may pertain to water quality.
22. **Forestry** - With respect to forest land.
23. **Forestry** - (6) and (32) - As related to fire protection or State (fire protection) responsibility land.
24. **Air Resources Board** - (4), (22), (32), (33), and (36) - As may pertain to residential, commercial, industrial or transportation growth.
25. **San Francisco Bay Conservation and Development Commission** - (3), (17), (19), and (30) - With respect to San Francisco Bay, Suisun Bay and adjacent shore areas.
26. **California Coastal Commission** - (3), (4), (6), (8), (11), (12), (14), (15), (17), (19), (22), (23), (26), (29), (30), (31), (34), (35), and (36) - With respect to effects within the California Coastal Zone.
27. **California Tahoe Regional Planning Agency** - With respect to effects in the Tahoe Basin.
28. **Native American Heritage Commission** - With respect to places of special religious or social significance to Native Americans including archaeological sites, cemeteries, and places of worship.

NOTE: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21080.3, 21080.4, 21104, and 21153, Public Resources Code.

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- (5) The document is a revised draft EIR, or proposed negative declaration or mitigated negative declaration, where changes in the document are primarily the result of comments from agencies and the public.

Shortened review cannot be provided to a draft EIR or proposed negative declaration or mitigated negative declaration which has already begun the usual review process. Prior to requesting shortened review, the City should have already issued a notice of preparation and received comments from applicable State agencies, in the case of an EIR, or consulted with applicable State agencies, in the case of a proposed negative declaration or mitigated negative declaration.

No shortened review period shall be granted unless the City has contacted and obtained prior approval for a shortened review from the applicable state responsible and trustee agencies. No shortened review shall be granted for any project that is of statewide, regional, or area-wide significance, as defined in *Section 15206 of the CEQA Guidelines*. Information on State Clearinghouse Document Submission/ shortened review request, the Clearinghouse web site http://opr.ca.gov/s_ceqadocumentsubmission.php is available to provide specific processes and guidance.

5.600 Public Comment and Hearings

CEQA does not require a formal public hearing at any stage of the environmental review process. Public comments may, under the provisions of *Section 15202 of the CEQA Guidelines*, be restricted to written comments.

- A. When a public hearing is required as part of the normal project approval process, the City of Waterford will receive written comments regarding environmental concerns relating to the project before the City for consideration.
- B. Due to the legal requirements for making CEQA determinations, the City of Waterford typically cannot accept verbal comments as part of the formal CEQA review process. **All comments on environmental documents processed by the City of Waterford in accordance with CEQA, NEPA and these Policies and Procedures should be in written form signed and dated by the person, individual, group, organization or entity making the comment to assure that they are considered part of the “public record” of the proceeding.** Where the comment is based on “Expert” knowledge, the basis of this Expert opinion should be clearly stated for the record.
- C. According to the law, argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute “substantial evidence” for purposes of making determinations or “significance” within the context of CEQA. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts. Evidence of economic and social impacts that do not contribute to or are not caused by physical changes in the environment is not substantial evidence that the project may have a significant effect on the environment. [*CEQA Guidelines §15064 (f) (5) and (6)*]

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- D. Public comments should focus on the proposed finding that the project would not have a significant effect on the environment. The comment should:
1. Identify the specific environmental effect,
 2. Explain why it is believed that the effect would occur, and
 3. Explain why the effect is believed to be significant within the meaning of CEQA.
- E. Public hearings shall be conducted in accordance with established City policy. The public hearing may be continued from time to time, **within CEQA mandated time limits**, (*See Section 5.900*) at the pleasure of the City.
- F. Written public comments regarding CEQA related issues and concerns may be received by the Decision-Making Body in an open public hearing up to the time a decision is to be made. Upon receipt of public input in a public hearing, the Decision Making Body may close the public hearing and decide the matter or continue the decision to a time and date certain to permit preparation of appropriate documents (including findings) and assure that Decision Makers have adequate time to review public input regarding any written environmental comments related to project approval, conditional approval or denial. **In accordance with City policy, upon closing of the public hearing, no further public input will be accepted by the City unless, on a majority vote of the Decision Making Body chooses to re-open the public hearing process.**
- G. Failure to comment within the time periods established for review and comment will result in the assumption that the person, agency or organization does not have any comments relative to the proposed environmental decision. This does not preclude the requesting of additional time for review, as provided by CEQA, nor does this policy limit the City's ability to consider comments received after the close of a formal public review period. (*CEQA Guidelines §15127*)
- H. All comments received relative to an environmental document shall be retained for a period of one-year or 90-days following the filing of a notice of determination on the project CEQA decision.

5.700 Environmental Review Costs and Fees

- A. The City of Waterford, in preparing environmental documents for projects to be carried out by any person or agency other than the City itself, shall charge and collect a reasonable fee from such person or agency in order to recover the estimated costs incurred in preparing such environmental documents. Such fees may include the costs of *legal notices* and *affected property owner notification*, the costs of preparing and reviewing *initial studies*, *notices of preparation*, *notices of determination*, DFG and County Clerk filing fees, environmental impact reports, mitigation monitoring and reporting, and other environmental review documents, the cost of conducting public hearings or appeal hearings before the City Council or other designated Board, Commission or Public Official charged with the responsibility for reviewing and acting on environmental documents on behalf of the City.
- B. The City may charge and collect a reasonable fee from members of the public for a copy of an environmental document or providing written public notice not to exceed the actual

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cost of reproducing a copy of the document or providing such notice.

- C. Fee amounts and administrative procedures for collecting and depositing fees, if required, shall be established by ordinance or resolution, adopted by the City Council and shall become part of these CEQA Policies and Procedures.

5.800 Department of Fish and Game Fee (Resources Code §21089)

- A. The State Department of Fish and Game (DFG) requires all applicants to pay a fee for filing *Notices of Determinations* for projects requiring a Negative Declaration and Environmental Impact Report. The amount of the fee is established by DFG and is payable to the County of Stanislaus. The fee is forwarded to the County Clerk along with the Notice of Determination, the Department of Fish and Game's Certificate and the environmental document. The DFG requires that only one fee be paid per project. A copy of the applicant's receipt is attached to any additional Notices of Determination that may be required for the same project.

5.900 Environmental Review Time Limitations)

Specific procedural time limitations are listed under the Initial Study/Negative Declaration and Environmental Impact Report sections of these Policies and Procedures. (*see Table 1*).

5.910 Time Frames in General (CEQA §15100-15112)

- A. *Article 8 of the CEQA Guidelines*, commencing with *Section 15100*, outlines the mandatory time frames within which the various steps of the CEQA review process must be completed by the City in its capacity as Lead Agency. The purpose of these time frames is to provide adequate public review and to ensure that the environmental review process does not cause undue delays in the consideration of projects.
- B. The mandatory time frames contained in CEQA begin when the City determines that the project application is complete. An application for a project or permit shall not be considered complete for processing, pursuant to the time limits in *Article 8 of the CEQA Guidelines*, until all other information required by City policy has been provided by the applicant. All applicants and or project proponents shall be notified of the completeness of their application within 30 days of submittal of the application or the application is automatically considered complete on the 30th day. (*Section 15101, CEQA Guidelines*)

5.911 Suspension of Time Frames (CEQA §15109)

The time frames contained in *Article 8 of the CEQA Guidelines* shall be suspended when an applicant causes an unreasonable delay in meeting requests by the City necessary for the preparation of environmental documents. **The City may also disapprove a project application where there is unreasonable delay, by a project applicant, in meeting requests for information necessary for the City to process an applicant's project in compliance with CEQA.**

5.912 Statutes of Limitations(CEQA §15112)

The statutes of limitations on the filing of court challenges to CEQA actions are contained in *Section 15112 of the CEQA Guidelines*. The statutes of limitations vary between 30 days and 180

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days depending upon whether or not the City has filed a Notice of Determination as discussed in Section 5.400 of these Policies and Procedures.

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Section 6.000 General CEQA Compliance

5.100 General Responsibilities

Public, public purpose, and private projects subject to City review and approval shall comply with environmental review procedures and requirements established by the State CEQA Guidelines, and the procedures contained herein.

6.200 Environmental Review Coordinator Designated

The City Council of the City of Waterford hereby designates the City Planning Director as the City's Environmental Coordinator and assigns the responsibility for coordinating and administering CEQA and NEPA policies for the City of Waterford. The duties Environmental Review Coordinator include, but are not limited to:

- a) Coordinate and administer the City's review and comment on notices of preparation, draft environmental impact reports, or negative declarations and other types of environmental documents;
- b) Making the determination if it is a project subject to CEQA;
- c) Preliminary determination whether a project is exempt from review;
- d) Making the initial determination of the need for preparation of a Negative Declaration or Environmental Impact Report on a project;
- e) Consultation with Responsible Agencies and Trustee Agencies;
- f) Preparation of environmental documents, either directly, or by contract;
- g) Prepare or review and approve all staff reports regarding CEQA/NEPA and their implementation;
- h) Maintaining a list of qualified environmental consultants;
- i) Coordinating the public and agency review process of environmental documents;
- j) Consulting with the public and public agencies on the review, circulation and preparation of environmental documents for the City;
- k) Make recommendations to the City Council or Planning Commission on alternatives or mitigation measures;
- l) Filing CEQA/NEPA notices, as appropriate;
- m) Conducting special meetings or public hearings, for the purpose of accepting public input, regarding environmental documents;
- n) Preparation of responses to public comments;
- o) Certification that the decision-making body has reviewed and considered a negative declaration or EIR prior to making a decision on a project;
- p) Maintain all records of the City's actions relative to CEQA/NEPA as required by law;
- q) Other tasks, as determined by the City Council, necessary to implement the State CEQA Guidelines, and the City's Environmental Policies and Procedures.

As Environmental Review Coordinator, the City Planning Director may delegate certain duties and responsibilities to appropriate City staff or consultants. The City Planning Director shall review and approve all determinations, decisions, and documents prepared by City staff regarding the implementation and administration of CEQA.

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6.300 CEQA Review Procedures

Where it is determined that the City of Waterford, or any board, commission, or public official acting under the authority of the City of Waterford (a political subdivision of the State of California) is the Lead Agency as described in Section 3.000, then the City shall apply these Policies and Procedures in the fulfillment of its responsibilities under the law.

6.400 City Council

- A. The Waterford City Council shall be responsible for the final environmental determinations on those project actions that require Council approval. The City Council shall have final responsibility for the determination of applicability of CEQA and the appropriateness of categorical exemptions.
- B. The City Council shall be responsible for hearing appeals of environmental determinations made by other lead agencies and public officials acting under the authority of the City of Waterford, including, but not limited to, the Planning Commission, Public Works Department, City Engineer, Building Department, and the Parks and Recreation Department.
- C. The City Council may refer pending Resolutions and Ordinances to the Environmental Review Coordinator for recommendations on the potential for significant environmental effects and the applicability of CEQA. In all cases however, the final determinations and responsibility for compliance with CEQA shall remain with the City Council.

6.500 CEQA Review By City Departments

Certain City Departments shall have, with respect to the various activities that come within the scope of the Department's responsibility, the duty of making a Preliminary Evaluation with respect to CEQA compliance. If the activity is subject to CEQA, the Department has the responsibility of preparing all applicable environmental forms including, but not limited to, Notices of Determination, CEQA Checklists, and preliminary Environmental Data Forms, with the support of the Environmental Review Coordinator. The Environmental Review Coordinator shall assist the responsible Department staff in meeting the requirements of these Policies and Procedures.

In cases where more than one Department has responsibility for an activity subject to CEQA, the Environmental Review Coordinator shall determine which Department has primary responsibility and full responsibility for CEQA compliance.

The Environmental Review Coordinator has final responsibility for assuring that all CEQA documents are noticed, reviewed and filed in accordance with the law and these Policies and Procedures. All responsible Departments shall cooperate with the Environmental Review Coordinator in meeting this responsibility.

6.510 Cooperation with Responsible Departments

All City Departments shall cooperate to full extent of its ability with any Department responsible for CEQA compliance on a project or activity. Cooperation shall include the timely response to *Responsible Department* requests for information and data and may include other support as

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directed by the City Manager and/or City Council.

6.520 Forms-Private Projects

Any City Department responsible for the review and approval of any non-exempt “project” applications submitted by private citizens or applicants shall use the City Environmental Information Form in conjunction with any other permit application. The responsible Department may request information from other City Departments and/or public agencies as necessary to complete the CEQA process in a complete and timely manner. The responsible Department shall consult with the Environmental Review Coordinator in the proper manner and process for complying with the requirements of CEQA and these policies.

6.530 Forms-Public Projects

Where a City Department is responsible for the initiation, management and execution of a public project on behalf of the City of Waterford, the responsible Department shall comply with all applicable provisions of these procedures under the direction of the Environmental Review Coordinator. The responsible Department may request information from other City Departments and/or public agencies as necessary to complete the CEQA process in a complete and timely manner. The responsible Department shall complete the City Environmental Information Form and submit it to the Environmental Review Coordinator for review and approval. The responsible Department shall consult with the Environmental Review Coordinator in the proper manner and process for complying with the requirements of CEQA and these policies.

6.540 Designation of Responsible Department

It shall be the duty of the Environmental Review Coordinator to determine what department has final authority with respect to a project decision on behalf of the City as Lead Agency.

6.600 Consultants

The City may retain consultants in the preparation and evaluation of initial studies, negative declarations and environmental impact reports (draft and final) and/or other environmental documents or studies. If consultants are retained for the preparation of environmental documents or studies and the project is not initiated by the City, the expenses involved in such preparation of environmental documents or studies, in addition to such administrative costs of administering consultant contracts, will be borne by the project applicant.

6.610 Consultant List

- A. The City may develop and maintain a list of qualified environmental consultants. The list shall indicate the firm's particular field of expertise. Consultants wishing to be added to the *City's Environmental Consultant* list shall submit a statement of qualifications, indicating the firm's principal personnel, work experience, and abilities.

- B. The Environmental Review Coordinator is responsible for review all statements of qualifications and selection of consultants to be placed on the *City's Environmental Consultant* list. Selection to the list will be based upon experience, knowledge of the City, and available expertise to insure that high quality, in-depth and comprehensive environmental documents are prepared. The Environmental Review Coordinator shall periodically revise and update the consultant listing in order to insure that the most

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qualified consultants remain available to the City.

6.620 Consultant Selection

Upon determination of the need to retain an environmental consultant, the Environmental Review Coordinator shall cause to be prepared an agreement between the City and the project applicant wherein the project applicant agrees to pay all reasonable costs for the preparation of the necessary environmental documents and/or studies.

- A. Following notification by the City that a consultant must be retained for his project, the applicant may request that specific consultants be permitted to prepare a proposal for the preparation of necessary environmental documents or studies by filing with the Environmental Review Coordinator a written request. The applicant may submit specialized studies for use by the City, as part of the application, and such studies may be used by the City subject to approval of the Environmental Review Coordinator.
- B. The City staff, upon receipt of the required fee deposit from a project applicant, shall prepare a formal Request for Proposal (RFP) that addresses the work necessary to complete the environmental document. Upon completion of the RFP, if requested by the applicant, the City staff will forward the RFP to the applicant for review and comment. The applicant may make suggestions for modifications to the RFP, but the City staff is not bound to comply with the suggestions.
- C. An RFP prepared by the City staff and transmitted to as many qualified consultants on the City's list deemed appropriate by the Environmental Review Coordinator. Any supplemental information supplied by the applicant related to the preparation of such work may also be submitted with the request.
- D. The selection of the consultant to perform document preparation shall be determined by the City Council upon the recommendation of the Environmental Review Coordinator after review of the scope and comprehensiveness of the work plan of each proposal submitted by the consultants. The scope and quality of the proposal along with the level of skill and experience of the consultant will be of equal importance with cost in the choosing of a consultant by the Environmental Review Coordinator.
- E. Consultants with a possible conflict of interest in the project, either direct or indirect, may or may not be considered for the document preparation upon the determination of the Environmental Review Coordinator. The determination will be based on Consultant qualifications, quality of documentation and the general public perception regarding the credibility of the Consultant (and conclusions) given the relationship of the Consultant to the project applicant.
- F. The City and consultant shall enter into a two party agreement. The agreement shall specify the work plan, time limit, payment schedule, and maximum allowable cost. The City staff shall monitor the progress of the preparation of all environmental documents. The Environmental Review Coordinator, as outlined in the agreement, shall authorize progress payments to consultants. These payments will be made upon satisfaction of the adequacy of the document prepared, within the scope of the work plan agreed to.

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Section 7.000 Project Review

Initial Review: The first step of the Environmental Review process involves the review of a proposed activity by City staff. The review must include an analysis of whether the proposed activity can be considered a “*Project*” under CEQA and/or whether it meets the requirements for “*Exemption*” under CEQA. Each of the components of initial environmental review is described below.

7.100 Preliminary “Project” Review (Resources Code §21080 - CEQA Statutes & §15060)

- A. City staff must review all development applications to determine if they should be considered “*Projects*”, as defined by CEQA. Under CEQA, a project is the “whole of an action which has the potential for resulting in a *physical change in the environment, directly or ultimately*” [emphasis added].
- B. If a development application is deemed “not a project”, then it is exempt from CEQA requirements. If a development proposal is deemed a “project”, it may require further environmental review (see *Initial Study, Section 10.000 and EIR, Section 11.000*), or it may be exempt (see *Exemptions, Section 8.000*) from the requirements of CEQA. City staff shall, upon the request of a potential applicant, provide consultation prior to the filing of an application. This gives the applicant an opportunity to discuss with staff the type of discretionary action, potential alternatives, mitigation measures, and any potential and significant effects on the environment of a given project.

7.200 Criteria for Determining Application Completeness

The initial review of project applications submitted for private projects to the City for review and action shall include a determination of application completeness. This determination is critical with respect to City compliance with mandatory permit processing time frames established under state law.

- A. All private project applications and forms shall be date stamped and the date initialed by the person receiving the application.
- B. The individual receiving the private project application shall immediately determine what department is responsible for processing the application and forward the application to the responsible Department for processing. If there is a question regarding the proper responsible Department, the application shall be referred to the Environmental Review Coordinator.
- C. Upon receipt of the project application by the responsible Department, the application shall be reviewed to determine if all necessary project information is included in the application.
- D. Necessary project information shall, at a minimum include;
 - 1. an appropriate City application form,
 - 2. a project Environmental Information form (*see Appendix “C”*),
 - 3. necessary site plans, maps diagrams or other information required by the City for the permit the permit application, and
 - 4. appropriate processing fees, if required. (It should be noted that some fees will be established following the initial permit application.)
- E. The person responsible for determining application completeness shall notify the

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- applicant, within 30 days as to the completeness of the project application.
- F. The Notice of Application Completeness shall contain a determination with respect to acceptance of the application, by the City, as complete or identify all elements of the application that are missing.
- G. The Notice of Application Completeness shall also identify supplemental information that is deemed necessary for the complete review of the project. Such supplemental information may include engineered traffic studies, cultural and biological resource studies, water demand or wastewater discharge studies, engineered drainage studies, etc. Failure to provide supplemental information in a timely manner may result in a project determination that a significant environmental impact could result from project approval and an Environmental Impact Report can be required before further project processing can occur.
- H. The Environmental Review Coordinator shall review and approve all Notice of Application Completeness determinations and correspondence. For projects that are not subject to the Permit Streamlining Act, time-frames will be set based on the date that a Notice of Preparation is circulated for an EIR or when the project description has been approved by the Environmental Review Coordinator for projects subject to an Initial Study/Negative Declaration.

7.300 Preliminary Review

- A. City staff has **30 days** to review permit applications and other entitlement applications for completeness. Incomplete applications will not be processed.
- B. Upon initial determination of application completeness, the project application will need to be reviewed to determine if the project is exempt from CEQA and the CEQA review process. **It should be noted that some projects which are otherwise exempt from CEQA may, as a result of special project circumstances, be required to be subjected to CEQA review.**
- C. City staff should be alert for environmental issues that may require preparation of an Environmental Impact Report (EIR). If it is determined during initial project review that an EIR is **clearly** required, further initial review of the project may be skipped and work begun immediately on the EIR (see *Environmental Impact Report, Section 11.000*).
- D. If an EIR is not clearly required, formal environmental review begins when the permit application is accepted as complete and an Initial Study (see *Initial Study, Section 10.000*) is prepared.

7.400 Rule of No Possible Impact (CEQA §15061(b)(3))

When it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment, the activity is not subject to CEQA. The City staff may make the determination of No Possible Impact. Filing a Notice of Exemption is not required, however, it is good practice to prepare the notice and place it in the project file.

7.500 Discretionary Projects and Ministerial Projects

- A. The terms **discretionary project** and **ministerial project** have special meaning with

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respect to compliance with CEQA and the CEQA Guidelines. *Discretionary projects require CEQA review while ministerial projects do not.*

- B. *Ministerial projects* are those actions where the person or agency acting on the project uses little or no personal judgment as to the wisdom or manner of carrying out the project. The action involves merely applying the law to the project facts as presented to determine if there is compliance with relevant codes, statutes and ordinances. Common examples of ministerial projects include sign permits, dog licenses and building permits in compliance with the building codes. (*Section 15357 and 15369, CEQA Guidelines*)
- C. *Discretionary projects* are those actions where the public agency or body uses independent judgment and deliberation when taking action on the project. That is, the public agency or body uses “personal subjective” judgment in deciding if or how the project should be carried out.

The following actions of the City are typically defined as *Discretionary* projects and subject to the requirements of CEQA.

1. Zoning and Rezoning,
2. General Plan adoption and amendments,
3. Specific Plan adoption and amendment,
4. Area Plan adoption and amendment,
5. Development of new City structures and facilities,
6. Ordinances and Resolutions having the potential for significant environmental effects as determined by the City Council,
7. Conditional Use Permit or Special Zoning Permits,
8. Subdivision of Land,
9. Capital Improvement Projects,
10. Other actions having the potential for significant environmental effects, as defined by CEQA upon determination by the City Council.

7.600 Not a Project Under CEQA

If a proposed activity is not a project, it is exempt from CEQA review. A Notice of Exemption is not required.

7.700 Previous Studies

In an effort to minimize duplication and streamline the environmental review process, CEQA provides procedures that allow a lead agency to utilize previous CEQA documents in the project review process.

7.710 Tiering of EIRs and Initial Study/Negative Declarations (CEQA Guidelines §15152)

Tiering in CEQA is designed to promote efficiency in the environmental review process and improve compatibility of CEQA with the NEPA process. The concept of Tiering recognizes that approval of many projects will move through a series of separate public agency decisions, each of which is subject to CEQA review.

- A. Where an EIR has been prepared and certified for a program, plan, policy, or ordinance

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consistent with the requirements of CEQA, a lead agency for a later project pursuant to or consistent with the program, plan, policy, or ordinance would limit the EIR or negative declaration on the later project to effects which:

1. Were not examined as significant effects on the environment in the prior EIR; or
 2. Are susceptible to substantial reduction or avoidance by the choice of specific revisions in the project, by the imposition of conditions, or other means.
- B. Significant environmental effects have been “adequately addressed” if the lead agency determines that:
1. They have been mitigated or avoided as a result of the prior environmental impact report and findings adopted in connection with that prior environmental impact report;
 2. They have been examined at a sufficient level of detail in the prior environmental impact report to enable those effects to be mitigated or avoided by site specific revisions, the imposition of conditions, or by other means in connection with the approval of the later project.
- C. Types of EIRs that may be used in a tiering situation include, but are not limited to, a general plan EIR (15166), Staged EIR (15167), Program EIR (15168) Master EIR (15175), Multi-family residential development, residential and commercial or retail mixed use developments (15179.5), redevelopment project 15180, housing, neighborhood commercial facilities in an urbanized area (15181), or projects consistent with a community plan, general plan, or zoning (15183).
- D. For purposes of implementing this section, the form contained in *Appendix “F”* of these Policies and Procedures (*Section 15152 Findings*)

7.720 Subsequent EIRs and Initial Study/Negative Declarations (CEQA Guidelines §15162)

- A. Where an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:
1. Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or substantial increase in the severity of previously identified significant effects;
 2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
 3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the

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previous EIR was certified as complete or the Negative Declaration was adopted, show any of the following:

- a. The project will have one or more significant effects not discussed in the previous EIR or Negative Declaration;
- b. Significant effects previously examined will be substantially more severe than shown in the previous EIR or Initial Study upon which a Negative Declaration was adopted;
- c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
- d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measures or alternative.

- B. For purposes of implementing this section, the form contained in *Appendix "F"* of these Policies and Procedures (*Section 15162 Findings*)

7.800 Special CEQA Situation Review Exemptions (Article 12 and 12.5 of the CEQA Guidelines)

The California Environmental Quality Act, as implemented with the CEQA Guidelines, contain special provisions and exemptions. These are identified as "Special Situations" (*CEQA Guidelines §15180 to 15190.5*) and Exemptions for Agricultural Housing, Affordable Housing, and Residential Infill Projects (*CEQA Guidelines §15191 to 15196*)

7.810 Article 12 Special Situations (CEQA Guidelines §15180, to §15190.5)

CEQA identifies certain project types that are subject to special review procedures these "Special Situation" provisions are as follows:

Article 12 Special Situations:

15180. Redevelopment Projects
15182. Residential Projects Pursuant to a Specific Plan
15183. Projects Consistent with a Community Plan or Zoning
- 15183.5. Tiering and Streamlining the Analysis of Greenhouse Gas Emissions.
15184. State Mandated Local Projects
15185. Administrative Appeals
15186. School Facilities
15187. Environmental Review of New Rules and Regulations
15188. Focused EIR for Pollution Control Equipment
15189. Compliance with Performance Standards or Treatment Requirement Rule or Regulation.
15190. Deadlines for Compliance with Sections 15188 and 15189
- 15190.5. Department of Defense Notification Requirement

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Where a project involves one of the “Special Situations” listed above, the relevant CEQA Guideline provisions should be reviewed prior to initiating the CEQA review process.
See Appendix “B”

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Section 8.000 Initial Study/Negative Declaration

If a proposed activity is not exempt from CEQA (see *Exemptions, Section 8.000*), City staff must evaluate the project to determine whether a Negative Declaration (ND) should be prepared or if an Environmental Impact Report (EIR) is required; this evaluation is made via completion of an Initial Study.

However, if it is determined that the project will have a significant effect on the environment and that an EIR is required, an Initial Study may be prepared to assist in determining the scope of the EIR.

8.100 Initial Study (CEQA §15063)

City staff utilizes the Initial Study to determine the type of action required under CEQA. The primary sources of project information for the Initial Study are the application and the Environmental Questionnaire (CEQA §15102), as well as any other environmental documents required of the applicant by the City staff.

8.110 Purpose of an Initial Study

The specific purposes of an Initial Study are to:

- **Provide** City staff with the information necessary to determine whether the project will require an EIR or Negative Declaration;
- **Identify** potential environmental impacts early in the design of a given project;
- **Enable** the applicant and/or City staff to make modifications to a project, mitigating identified potential environmental impacts before preparation of an EIR [This makes it possible for a project to qualify' for a Mitigated Negative Declaration (see *Mitigated Negative Declaration*)];
- **Document** the factual basis for finding, in a Negative Declaration, that a project will not have a significant effect on the environment;
- **Assist** in the preparation of an EIR, if one is required, by:
 1. Focusing the EIR on the effects determined to be significant,
 2. Identifying the effects determined not to be significant, and
 3. Explaining the reasons for determining that potentially significant effects would not be significant.
- **Eliminate** unnecessary EIRs; and
- **Determine** if a previously prepared EIR may be utilized for the project. [See "Tiering", CEQA §15063(b)(1)(C)]

What is an Initial Study?

An Initial Study is a preliminary analysis prepared by City staff, in consultation with other relevant agencies, to determine whether an EIR or Negative Declaration is needed.

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8.120 Preparation and Content of Initial Studies(CEQA §15063)

The City shall cause an Initial Study to be prepared with the project applicant completing the preliminary environmental data form (*see Appendix "C"*). Any substantial evidence that the project proponent deems relevant, and will facilitate the environmental review of a project, should be submitted along with the project application. The City may request, and the project proponent and responsible agencies shall provide, additional information, studies or reports deemed necessary for the preparation of the Initial Study.

8.130 Initial Study Forms

The Initial Study conducted by the City shall result in the preparation of a written document entitled "Initial Study" and shall be available for public review and comment in accordance with Section 5.000 of these Policies and Procedures. The Initial Study shall not be deemed complete until it has undergone public review and public comments received by the City.

8.140 Notification of Project Proponent and Payment of Fees

City staff shall notify the applicant by letter that a Negative Declaration is required and also advise whether the application is complete. (*See Section 7.200*). The applicant shall pay any required environmental fees in order to continue processing the application.

8.150 Initial Study Contents

- A. The Initial Study may be prepared by City staff or a consultant and shall contain the following:
- Project Description
 - Environmental Setting
 - Potential Environmental Impacts
 - Mitigation Measures for any Significant Effect
 - Consistency with Plans and Policies
 - Names of Preparers
- B. Though the Initial Study may use the checklist format, it must also present the factual evidence or data used to reach conclusions regarding environmental significance. Responses to each question or category of questions on the checklist must be substantiated regardless of whether the issue is applicable. The City must conduct a reasonable investigation of potential impacts when it prepares the Initial Study (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296). Complex projects may require additional special studies. All phases of project planning, implementation, and operation must be considered in the Initial Study. Staff shall confer with other City departments, all responsible and trustee agencies for the project, and any individuals or organizations otherwise concerned.
- C. Prior to completing the initial study, the Initial Study Preparer shall identify and consult with all known local and State responsible, affected and trustee agencies. Comments from these agencies shall be considered in the final preparation of the initial study. (*See Section 5.500 of these Policies and Procedures*)

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8.160 Time Limits (CEQA §15102)

Within 30 days after accepting an application as complete, City staff shall determine whether to prepare an EIR or a Negative Declaration or to use a previously prepared EIR or Negative Declaration. The 30-day period may be extended 15 days if City staff and the applicant agree to the extension.

8.170 Determination (CEQA §15074, §15107, §15109, Resources Code §21091, & §65950)

- A. The Environmental Review Coordinator or any City Department or Commission making a recommendation to the decision-making body shall review and consider the proposed Negative Declaration before making a recommendation.
- B. Before approving a project, the decision-making body shall consider the proposed Negative Declaration together with any comments received and considered during the public review process.
- C. The Negative Declaration must be completed and ready for approval within 105 days from the date that an application for a private project is deemed complete.
- D. A development project requiring only a Negative Declaration must be approved or disapproved by the decision-making body within three (3) months following adoption of the Negative Declaration.

8.180 Public Notice and Review (CEQA §15205 & 15072, Resources Code §21091, & §21092)

Upon completion, review and acceptance of an Initial Study, including the mandatory determinations as contained in the Initial Study form and written agreement from the project applicant to the mitigation measures contained in the Initial Study or project modification that implements the mitigation measures, the City, in its capacity as Lead Agency, may approve a Negative Declaration in accordance with the following procedures:

City staff shall notify' the public of its intention to adopt a Negative Declaration and provide opportunities to review it and any related documents in accordance with the following:

- A. Notice of the availability of a proposed Negative Declaration shall be posted in the City Clerk's Office 20 days prior to adoption by the decision-making body.
- B. The public review period for a proposed Negative Declaration shall not be less than 20 days.
- C. Notices shall be sent to any individual or agency that requested a notice or that, in the judgment of the City, has an interest in the project.
- D. Notice shall also be given by at least one of the following methods:
 - 1) Publication in the local newspaper;
 - 2) Posting on and off the project site; or
 - 3) Direct mailing to property owners and occupants of contiguous property.
- E. If the proposed Negative Declaration is to be reviewed by a state agency, a Notice of Completion and ten copies of the Initial Study and Negative Declaration must be sent to

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the State Clearinghouse. (*See Appendix I; Notice of Completion-State Clearinghouse.*)
The review period for projects requiring state agency approval is 30 days.

- F. The foregoing notification requirements are in addition to any other notification requirements associated with a project.

8.190 Initial Study Public Comment and Hearing

For projects that require a public hearing, the public comments regarding Negative Declaration shall be considered during the public hearing process. Negative Declarations for projects that do not require a public hearing may be approved by the Decision-Making Body after considering any comments received during the public review process. (*Refer to Section 1.600 of these Policies and Procedures*)

Where environmental comments are received during a public hearing the Environmental Review Coordinator or designee shall:

- Receive, date, and preserve the written public input;
- Provide copies of written CEQA related comments to the City Decision-Making Body.

8.200 Re-Circulation of an Initial Study (CEQA §15073.5)

A City is required to re-circulate a negative declaration when the document must be substantially revised after public notice of its availability has previously been given pursuant to these Policies and Procedures.

- A. A "substantial revision" of the negative declaration shall mean:

1. A new, avoidable significant effect is identified and mitigation measures or project revisions must be added in order to reduce the effect to insignificance, or
2. The City determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures or revisions must be required.

- B. Re-circulation is not required under the following circumstances:

1. Mitigation measures are replaced with equal or more effective measures pursuant to these Policies and Procedures and CEQA.
2. New project revisions are added in response to written or verbal comments on the project's effects identified in the proposed negative declarations that are not new avoidable significant effects.
3. Measures or conditions of project approval are added after circulation of the negative declaration which are not required by CEQA, which do not create new significant environmental effects and are not necessary to mitigate an avoidable significant effect.
4. New information is added to the negative declaration that merely clarifies, amplifies, or makes insignificant modifications to the negative declaration.

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- C. If during the negative declaration process there is substantial evidence in light of the whole record, before the Decision Making Body of the City that the project, as revised, may have a significant effect on the environment that cannot be mitigated or avoided, the City shall prepare a draft EIR and certify a final EIR prior to approving the project. It shall circulate the draft EIR for consultation and review pursuant to these Policies and Procedures and CEQA, and advise reviewers in writing that a proposed negative declaration had previously been circulated for the project.

8.210 Negative Declarations (CEQA §15070)

If City staff determines that, based upon the Initial Study, a proposed project has no significant environmental effects, a Negative Declaration may be prepared. A Mitigated Negative Declaration (See *Mitigated Negative Declaration*) is a Negative Declaration containing Mitigation Measures (See *Mitigation Measures*) which are intended to minimize the potential negative environmental effects of a project.

A Negative Declaration shall be prepared if:

- A. The Initial Study shows that there is not substantial evidence of the project having a significant effect on the environment; or
- B. The Initial Study identifies potentially significant effect, but
- C. Prior to completion of the Initial Study, the project is revised to avoid or mitigate the effects to a point where no significant effects could occur; and
- D. There is no substantial evidence that the project, as revised, may have a significant effect on the environment.

8.220 Mitigated Negative Declarations

A Mitigated Negative Declaration is a Negative Declaration that includes Mitigation Measures. If there is a potential for significant environmental impacts, every effort should be made to identify and incorporate mitigation measures into the project design prior to completion of the Initial Study. Every known impact must be reduced in this fashion, or an EIR is required.

What is a Negative Declaration?

A Negative Declaration is a written statement, accompanied by an Initial Study, which briefly explains why a proposed project will not have a significant environmental effect.

8.230 Mitigation Measures (CEQA §15370)

Creativity, reasonableness, and practicality should be used in developing mitigation measures for identified impacts. The same standards apply to both Mitigated Negative Declaration mitigation measures and EIR mitigation measures. In short, Mitigation Measures should:

- Avoid the impact altogether by not taking a certain action, or parts of an action;
- Minimize impacts by limiting the degree or magnitude of the action and its implementation;
- Repair, rehabilitate, or restore an impacted environment;

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- Reduce or eliminate the impact over time by preservation and maintenance during the life of the action; and compensate for the impact by replacing or providing substitute resources or environments.

What's in a Negative Declaration?

- Project Description
- Location Map and Project Proponent Name
- Finding that the Project will not have a Significant Effect on the Environment;
- The Initial Study, documenting reasons supporting the findings.

Additionally, for Mitigated Negative Declarations....

- Mitigation Measures to be included in the project to avoid all potentially significant impacts
- Applicant's Signature of agreement with Mitigation Measures.

Source: CEQA Guidelines § 15071

8.240 Mitigation Monitoring and Reporting Programs (CEQA §15097, Resources Code §21081.6)

Mitigation measures incorporated into a Mitigated Negative Declaration must be monitored in order to ensure compliance.

8.250 Consent Agreement

The project applicant is required to agree, via signed statement, to the project Mitigation Measures that shall be made as a condition of project approval.

8.260 Previous Environmental Studies

In order to reduce duplication and redundancy in the environmental review process, Lead Agencies may make changes in existing environmental documents or refer to previous documents to comply with CEQA

8.270 Addendum to Negative Declarations (CEQA §15164)

An addendum to an adopted Negative Declaration may be prepared if changes to a project or its circumstances occur or new information becomes available after adoption of the Negative Declaration and only minor technical changes or additions are necessary. An addendum does not require public notification and can be attached to the adopted Negative Declaration.

8.280 Subsequent Negative Declarations (CEQA §15162)

- A. When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the City determines, on the basis of substantial evidence in the light of the whole record;
- changes in the project, or
 - the project circumstances have occurred or
 - new information of substantial importance indicates that significant impacts may result from project approval. (See *Section 7.720* of these Policies and Procedures)
- B. If changes to a project, or its circumstances occur or new information becomes available after adoption of a negative declaration, the City shall prepare a subsequent EIR if required. Otherwise, the City shall determine whether to prepare a subsequent negative declaration, an addendum, or no further documentation.
- C. Determinations, in accordance with these provisions shall be supported by findings, a

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subsequent Negative Declaration shall be given the same notice and public review as required for the initial Negative Declaration.

- D. As a result of the Public Review and Comment, the Environmental Review Coordinator or Decision Making Body:
1. May approve a negative declaration, a revised initial study, a mitigated negative declaration, may revise or amend the initial study, or may require an environmental impact report based upon information obtained from the public review and comment process or other information provided for the proceedings record.
 2. Shall maintain a record of the public review and comment process for the purpose of review or appeal
- E. In the event such actions are subject to appealable review proceedings, no action of the City shall be considered final until such times as appeal review periods have expired or appeal proceedings, if initiated, have been completed.

8.290 Notice of Determination (CEQA §15075 & Resources Code §21092)

- A. City staff, under the direction of the Environmental Review Coordinator, shall file a Notice of Determination with the County Clerk five days after the Negative Declaration has been approved by the Planning Commission or City Council. If the project requires a discretionary approval from any state agency, the Notice of Determination also shall be filed with the State Clearinghouse.
- B. The filing of the Notice of Determination, payment of DFG fees and payment of County recording fees for posting on a list of such notices starts a 30-day statute of limitations on court challenges to the approval under CEQA.

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9.000 Environmental Impact Report

9.100 Decision to Prepare an EIR (CEQA §15060, §15063, & §15102)

A. 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, City staff must initiate the preparation of an EIR. If an EIR is clearly required, further initial review of the project may be skipped and work begun immediately on the EIR. It is recommended, however, that the Initial Study be utilized in order to identify what issues need and need not be addressed in the EIR. The environmental determination shall be made within 30 days after accepting an application as complete. A 15-day extension may be approved upon consent of the applicant and City staff.

B. At the earliest possible time, City staff shall notify the applicant by letter that an EIR is required. The applicant shall then remit a fee (*See Section 7.700*) in order to continue processing the application. This fee shall not cover the cost of retaining a consultant to prepare the EIR.

9.200 Notice of Preparation (Resources Code CEQA §21080.4 & §15082)

A. In accordance with *CEQA Section 15082*, a notice of preparation shall be forwarded to the State Clearinghouse and all responsible agencies; trustee agencies responsible for resources affected by the project and federal agencies involved with approving or funding the project. Such notice of preparation shall be forwarded by registered mail by the City and contain:

1. Notice of a preparation form.
2. Project location on portion of USGS 15' or 7 1/2' topographical map or its equivalent.
3. Brief description of project and probable environmental effects or copy of initial study.

B. The purpose of a Notice of Preparation is to provide the public and other agencies. with notification that an EIR is being prepared and to seek guidance about significant environmental issues and mitigation measures that should be explored.

Use of an EIR from an Earlier Project

An EIR from an earlier project may be used for a later project if:

- The project has similar impacts.
- Circumstances are essentially the same.
- An Initial Study shows that the following are adequately described:
 - ✓ Environmental setting
 - ✓ Significant Impacts
 - ✓ Alternatives
 - ✓ Mitigation Measures

An Agency reusing an EIR from an earlier project must provide public notice that includes:

- Project description
- Statement that an earlier EIR is being used.
- Location where the earlier EIR may be examined
- Respond to comments.
- Make finding as necessary.
- Re-certify the earlier EIR.

(CEQA Guidelines 15153)

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Types of EIRs

Master EIR: Examines the environmental impacts of the entire project area, usually the city limits and is usually done in conjunction with General Plans.

Tiered EIR: A "multilevel" approach to preparing specific types of EIRs. Usually, the Master or General Plan EIR is the first tier, a specific plan or program EIR is the second, and a projector focused EIR is the third and final tier.

Project EIR: Examines the environmental impacts of a specific development project.

Subsequent EIR: Prepared where there are substantial changes to a project or if circumstances occur and important changes are necessary (EIR must be re-circulated).

Supplemental EIR: Prepared when substantial changes to a project or its circumstances occur or new information becomes *available* hut only *minor* additions or changes are necessary (EIR must be re-circulated).

Addendum to an EIR: Prepared when only minor technical changes or additions are necessary, but are caused by conditions different from those which require a subsequent EIR (EIR need not be re-circulated).

Program EIR: Prepared for a series of actions that can be characterized as one large project. General Plan EIR: The General Plan serves as an EIR if all the *points* required to be *in* an EIR are *satisfied*, Stage EIR; Estimates the environmental consequences of large capital projects due to be approved in stages.

Joint EIR/EIS: Meets the requirements of both CEQA and NEPA National Environmental Protection Act).

Focused EIR: Focuses on one or wore previously identified environmental issues within a Master EIR document for use on a single project.

9.210 Recipients

The Notice of Preparation shall be sent to adjacent property owners, individuals and organizations that have previously requested such notification, responsible and trustee agencies, (*See Section 5.510*) and to any affected local, regional, or Federal agency. If any State agency is affected, the Notice shall be sent to the State Clearinghouse for distribution (*See Section 5.520*). City staff shall use certified mail or any other method of transmittal that provides a record that the Notice was received.

9.220 Timing and Response Period

City staff shall provide public notice immediately after deciding that an EIR is required for a project. The response period shall be a minimum of 30 days, but may be longer for controversial or complicated projects.

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9.230 Scope of an EIR (CEQA §15082)

- A. The extent of analysis in the EIR shall be determined by the Initial Study and responses to the Notice of Preparation.
- B. 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.
- C. City staff may conduct a scoping meeting with representatives of the agencies involved, the project proponent, and the EIR consultant to assist in determining the scope and content of the EIR. City staff may also consult directly with any person or organization it believes will be concerned. with the environmental effects of The project.

9.300 Contents of EIRs (CEQA §15126)

Under CEQA, EIRs are required to contain certain subjects, or elements. If these elements are not discussed separately, the EIR shall include a table showing where each of the subjects is discussed. (See Appendix: N, Contents of EIRs.)

9.310 Preparation of Administrative Draft EIR (CEQA §15084)

- A. After the agreement, the consultant prepares an Administrative Draft of the EIR. The Administrative Draft is a working document that is circulated among City staff and any responsible agency, if appropriate, and is not available for public review. The purpose of the Administrative Draft is to evaluate the EIR for adequacy and accuracy prior to public circulation. Staff comments are provided to the consultant, who prepares the Draft EIR for public review.
- B. It should be noted that the EIR is a “City” document and must meet the City’s needs, as “Lead Agency”, with respect to analysis, conclusions and recommendations.

9.320 Draft EIR Review

- A. Upon completion of an Administrative draft EIR, the City shall review the draft EIR for adequacy. The Environmental Review Coordinator shall review and recommend acceptance prior to the Decision Making Body authorization to initiate public review. Any document which is not deemed adequate for public review by Environmental Review Coordinator or the Decision Making Body shall be revised in a timely manner to assure compliance with statutory time limits. When the City determines that a draft EIR is adequate, the document shall be submitted for public review as follows:
 - 1. Submit the document to appropriate City Departments for review and comment.
 - 2. File a Notice of Completion and copies of the draft EIR with the State Clearinghouse, if necessary (see section 5.520).
 - 3. Publish, in a newspaper of general circulation within City, a notice briefly describing the project, it's general location, addresses where copies of the draft EIR are available for inspection and date when a public bearing will be held on the draft FIR, as appropriate.
 - 4. Direct notification of affected property owners as defined in Section 5.300 by first

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- class mailing; such notification to include information as described in the published notification.
5. Direct notification of public agencies, other than state agencies notified by state clearinghouse procedures, having jurisdiction by law with respect to any environmental impact involved with a project.
- B. Copies of draft environmental impact reports shall be deposited in at least one public library located near the project site and or the area affected by the project.
- C. If a Public Hearing is conducted on an EIR, all costs of the hearing or hearings are to be reimbursed to the City in accordance with Section 5.600 of these procedures; the hearing may be conducted simultaneously with any required hearing to approve the project provided that such project hearing is closed and continued to a date certain to permit the preparation and certification of the final EIR prior to any action on the project.

9.330 Notice of Completion

- A. In accordance with *CEQA Section 15085*, a Notice of Completion must be filed with the Office of Planning and Research as soon as the Draft EIR is completed (*See Section 5.520*). The Notice of Completion shall include:
1. A brief description of the project,
 2. The proposed location of the project,
 3. An address where copies of the draft EIR is available,
 4. The period during which comments on the draft EIR will be received,
- B. A copy of a Notice of Completion form is available on-line at the Office of Planning and Research Web-site.
- C. The Notice of Completion will provide the basis for information published in the California EIR Monitor Where the EIR will be reviewed through the State Clearinghouse, the cover form required by the State Clearinghouse will serve as the Notice of Completion.
- D. A copy of the Notice of Completion shall also be filed with the Stanislaus County Clerk for a minimum of thirty (30) days prior to any action by the Lead Agency, in accordance with *Section 21092.3 of the Public Resources Code*.

9.340 Public Notice and Review of Draft EIR (CEQA §15087, & §21092)

City staff shall notify the public of the availability of a Draft EIR and provide opportunities to review it and any related documents.

- A. Notice of the availability of the Draft EIR shall be posted in the County Clerk's office for 30 days.
- B. The public review period for an EIR is 45 days.
- C. The notice shall be sent to all organizations and individuals that have previously requested such notice.

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- D. Notice shall also be given using *at least one* of the following procedures:
- 1). Publication at least one time in a local newspaper;
 - 2). Posting on and off the site in the vicinity of the project; or
 - 3). Direct mailing to owners and occupants of property contiguous to the parcel(s) on which the project is located.
- E. As soon as the draft EIR is completed, a Notice of Completion must be filed with the State Clearinghouse. If the draft EIR is submitted to the State Clearinghouse for review by state agencies, 45 days are allowed for public review.
- F. These notification requirements are in addition to any other notification requirements associated with a project.

9.350 *Response to Comments (CEQA §15088 & §21092.5)*

- A. After the review period for the Draft EIR closes, City staff shall assemble all written comments and transmit them to the consultant for preparation of the Response to Comments.
- B. If significant environmental issues are raised, the Response to Comments must describe the revisions to the proposed project to mitigate the anticipated impacts or objections.
- C. Major environmental issues raised when the City's position is at variance with recommendations and objections raised in the comments must be addressed in detail, explaining why specific comments and suggestions were not accepted.
- D. Responses shall be provided for all comments unless a response is not appropriate, in which case an explanation will be provided as to why a response is not warranted.
- E. At least 10 days before certifying the EIR, the Response to Comments must be provided to all agencies or individuals that commented on the Draft EIR.

9.360 *Re-circulation of an EIR Prior to Certification (CEQA §15088.5)*

The City is required to re-circulate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. As used in this section, the term "information" can include changes in the project or environmental setting as well as additional data or other information.

- A. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. "Significant new information" requiring re-circulation include, for example, a disclosure showing that:

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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 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 conclusionary nature that meaningful public review and comment were precluded.
- B. Re-circulation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.
- C. If the revision is limited to a few chapters or portions of the EIR, the City need only re-circulate the chapters or portions that have been modified.
- D. Re-circulation of an EIR requires notice pursuant to these Policies and Procedures and CEQA.
- E. A decision not to re-circulate an EIR must be supported by substantial evidence in the administrative record.
- F. The City shall evaluate and respond to comments. Re-circulating an EIR can result in the lead agency receiving more than one set of comments from reviewers. Following are two ways in which the lead agency may identify the set of comments to which it will respond. This dual approach avoids confusion over whether the lead agency must respond to comments that are duplicates or that are no longer pertinent due to revisions to the EIR. In no case shall the City fail to respond to pertinent comments on significant environmental issues.
1. When the EIR is substantially revised and the entire EIR is re-circulated, the City may require that reviewers submit new comments and need not respond to those comments received during the earlier circulation period. The City shall advise reviewers, either within the text of the revised EIR or by an attachment to the revised EIR, that although part of the administrative record, the previous comments do not require a written response in the final EIR, and that new comments must be submitted for the revised EIR. The City need only respond to those comments submitted in response to the re-circulated revised EIR. The City shall send directly to every agency, person, or organization that commented on the prior draft EIR a notice of the re-circulation specifying that new comments must be submitted.
 2. When the EIR is revised only in part and the lead agency is re-circulating only the revised chapters or portions of the EIR, the lead agency may request that reviewers limit their comments to the revised chapters or portions. The lead agency need only respond to

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- a. comments received during the initial circulation period that relate to chapters or portions of the document that were not revised and re-circulated, and
- b. comments received during the re-circulation period that relates to the chapters or portions of the earlier EIR that were revised and re-circulated. The City's request that reviewers limit the scope of their comments shall be included either within the text of the revised EIR or by an attachment to the revised EIR.

G. When re-circulating a revised EIR, either in whole or in part, the City shall, in the revised EIR or by an attachment to the revised EIR, summarize the revisions made to the previously circulated draft EIR.

9.400 Preparation of the Final EIR (CEQA §15088 & §15132)

A. A final EIR shall be prepared under the supervision and at the direction of the City following public review.

B. A final FIR shall contain:

- 1. The Draft EIR or a revision of the Draft EIR.
- 2. Comments and recommendations received on the Draft EIR either verbatim or in summary.
- 3. A list of persons, organizations and public agencies commenting on the Draft EIR.
- 4. The responses of the City to significant environmental points raised in the review and consultation process of the Draft EIR.
- 5. Address other comments as to why responses are not appropriate or required under CEQA.
- 6. Any other information added by the City.

Contents of a Final EIR

- Draft EIR Public review comments
- List of persons/entities commenting
- Revisions made to the Draft EIR

9.410 Draft EIR Public Comment and Hearing (CEQA §15087)

For projects that require a public hearing, the public comments regarding EIR shall be considered during the public hearing process. Environmental Impact Reports for projects that do not require a public hearing may be approved by the Decision Making Body after considering any comments received during the public review process. (*Refer to Section 1.600 of these Policies and Procedures*)

Where environmental comment are received during a public hearing the Environmental Review Coordinator or designee shall:

- Receive, date, and preserve the written public input;
- Provide copies of written CEQA related comments to the City Decision-Making Body.

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9.420 Certification of the Final EIR and Time Limits (CEQA §15090)

- A. The decision-making body with approval power over the proposed project shall certify that the Final EIR is in compliance with CEQA, was reviewed and considered prior to project approval, and reflects the independent judgment of the body.
- B. The City Council shall certify the Final EIR for *private* projects *within one year of* accepting the application as complete. Upon consent of the applicant and City staff the one-year limit may be extended an additional 90 days.

9.500 Statement of Overriding Considerations (CEQA §15093 & §21002)

CEQA requires the decision-maker to balance the benefits of a proposed project against its unavoidable environmental risks in determining whether to approve the project. If the benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "Acceptable".

- B. Where the decision of the public agency allows the occurrence of significant effects which are identified in the final EIR but are not at least substantially mitigated, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. This statement may be necessary if the agency also makes a finding under *CEQA Section 15091 (a) (2) or (a) (3)*.
- B. If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the Notice of Determination.
- C. A statement of overriding considerations should be prepared by, or at least reviewed by the City Attorney and the applicants Attorney. A model Statement of Overriding Consideration is included in *Appendix "I"*.

9.600 EIR Findings by the City as Lead Agency (CEQA §15091 & §21081)

- A. As provided in *Section 15091 of CEQA Guidelines* no public agency or official shall approve or carry out a project for which an Environmental Impact Report has been completed which identifies one or more significant effects of the project unless the public agency makes one or more of the following written findings for each of those significant effects, accompanied by a statement of the facts supporting each finding.
 - 1. Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant environmental effects thereof as identified in the final EIR.
 - 2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
 - 3. Specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the final EIR.

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- B. The findings required by Subsection A above shall be supported by substantial evidence in the record,
- C. The finding in Subsection "A" (2) above shall not be made if the City has concurrent jurisdiction with another agency with responsibility for identified feasible mitigation measures or alternatives.

9.700 Project Approval (CEQA §15092)

- A. If an EIR is certified, the project must be approved or disapproved within six months from the date of approval.
- B. After considering the Final EIR, the decision-making body shall not approve a project for which an EIR was prepared unless the project as approved will not have a significant effect on the environment; or all avoidable significant effects on the environment have been eliminated *or* substantially lessened, and any remaining significant effects on the environment are determined to be unavoidable and acceptable based on the findings described above.

9.800 Notice of Determination (Resources Code §21152 & CEQA §15094)

- A. The City staff shall file a Notice of Determination with the County Clerk after the EIR has been certified. If the project requires a discretionary approval from any state agency, the Notice of Determination also shall be filed with the State Clearinghouse.
- B. The filing of the Notice of Determination, payment of DFG fees and payment of County recording fees for posting on a list of such notices starts a 30-day statute of limitations on court challenges to the approval under CEQA.

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Section 10.000 Mitigation Monitoring and Reporting

10.100 Mitigation Monitoring and Reporting Authority and Purpose (CEQA §15097)

The purpose of this policy provision is to establish a *Mitigation Monitoring and Reporting* program that will ensure compliance with all environmental mitigation measures and conditions on new discretionary development projects undertaken or approved by the City.

A mitigation measure and condition Monitoring and Reporting program is hereby established within the City of Waterford to comply with the California Environmental Quality Act (CEQA) as amended by Chapter 1232 (*California Resources Code Section 21081.6, implementing Assembly Bill 3180*).

A mitigation measure and condition enforcement and Monitoring and Reporting program is hereby established for all discretionary development projects requiring a Mitigated Negative Declaration or Environmental Impact Report.

10.200 Mitigation Monitoring and Reporting Definitions

For the purpose of this Section, unless otherwise apparent from the context, certain words and phrases used in this policy are defined as follows:

- A. *Pre-construction conditions* shall mean conditions that must be satisfied prior to project construction, such as protection of archaeological resources, tree protection, plan checks required calculations, studies, etc.
- B. *Construction conditions* shall mean conditions affecting the way construction is carried out and completed such as noise control, drainage, parking, streambed setbacks, inspections, grading, dust abatement, etc.
- C. *Post-construction conditions* shall mean on-going conditions applicable to the life of a project such as those that control hours of operation, noise, odors, traffic system management, etc.
- D. *Mitigation Monitoring and Reporting coordinator* shall mean a City staff person or a consultant designated to monitor enforcement of, and compliance with, mitigation measures and conditions as specified in this policy.
- E. *Monitoring and Reporting checklist* shall mean a data form used by the mitigation Monitoring and Reporting coordinator to monitor enforcement of, and compliance with, mitigation measures and/or conditions of an approved project. Information on the form includes each mitigation measure and/or condition, agencies responsible for enforcement, etc. (*See Appendix "G"*)
- F. *Project proponent* shall mean the owner or owner's representative who is identified as being the person responsible to submit a development application to, and be the liaison with, City officials and staff during the processing of said development application and to be responsible for project completion if the application is approved.

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10.300 Mitigation Monitoring and Reporting Conditions Required

Whenever a project is proposed for which changes are required or conditions imposed in order to mitigate identified impacts, a Monitoring and Reporting Plan shall be adopted prior to approval of the project. This plan should include, depending on the complexity of the project and/or mitigation measures, the following:

- a) Impact to be mitigated (only if the mitigation measure requires a change in the project or imposition of a condition).
- b) Mitigation measure to be monitored including the required change or additional condition (s).
- c) Method of Monitoring and Reporting or reporting including who will monitor or report, qualifications of the monitor, when the monitoring or reporting will be done, and need or frequency of any site visits
- d) The anticipated costs that will have to be paid by the applicant and the timing of the payment. Actual dollar amounts are not required, but the plan should include identification of the type of personnel or firms to be paid, the anticipated number of inspections, etc.
- e) Remedial action for non-compliance (e.g., denial of building permit, immediate halt to construction, etc.)

10.400 Roles & Responsibilities

The City may delegate Reporting or Monitoring responsibilities to another public agency or to a private entity that accepts the delegation; however, until mitigation measures have been completed the lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program.

- A. Where the project at issue is the adoption of a general plan, specific plan, community plan or other plan-level document (zoning, ordinance, regulation, policy), the monitoring plan shall apply to policies and any other portion of the plan that is a mitigation measure or adopted alternative. The monitoring plan may consist of policies included in plan-level documents. The annual report on general plan status required pursuant to the Government Code is one example of a reporting program for adoption of a city or county general plan.
- B. Designation of Mitigation Monitoring and Reporting Coordinator.
The Environmental Review Coordinator may designate a City staff person or hire and supervise a qualified consultant for each discretionary development project that it conditionally approves to serve as the City's Mitigation Monitoring and Reporting Coordinator for that project. The Mitigation Monitoring and Reporting Coordinator shall oversee implementation of all mitigation measures and conditions using the process that is provided for in various sections of these Policies and Procedures.
- B. Planning Commission or City Council.
It shall be the responsibility of the Planning Commission or the City Council of the City of Waterford (whichever takes final action on a project) to adopt a monitoring and/or reporting program when conditions of project approval have been added or the project is changed in order to mitigate significant environmental effects.

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C. Environmental Review Coordinator.

It shall be the responsibility of the Environmental Review Coordinator, or designee, to ensure preparation and adoption of the Monitoring and Reporting plan. In addition, the Environmental Review Coordinator, or designee, shall coordinate the implementation of the plan.

10.500 Mitigation Monitoring or Reporting Determination

The City may choose whether its program will monitor mitigation, report on mitigation, or both.

"Reporting" generally consists of a written compliance review that is presented to the decision making body or authorized staff person. A report may be required at various stages during project implementation or upon completion of the mitigation measure.

"Monitoring" is generally an ongoing or periodic process of project oversight.

There is often no clear distinction between monitoring and reporting and the program best suited to ensuring compliance in any given instance will usually involve elements of both. The choice of program may be guided by the following:

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

10.600 Mitigation Monitoring and Reporting Administration

During the project review process, and if mitigation is proposed, the draft Monitoring and Reporting plan may be reviewed by the Planning Commission (and the City Council, if Council approval of the project is required).

10.610 Adoption of Monitoring and Reporting Plan.

It shall be the responsibility of the Planning Commission or City Council, whichever decision is final, to adopt such plan upon adoption of a negative declaration or certification of an EIR prior to project approval.

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10.620 Relationship to Conditions of Approval.

For projects that include mitigation measures that must be enforced by placing conditions on the approval of the project, these conditions shall be plainly listed as being imposed to mitigate environmental impacts.

10.630 Qualifications of Monitor

In all cases, the person or firm responsible for Monitoring and Reporting shall have sufficient expertise to determine whether or not the mitigation measure has been accomplished. If necessary, the City shall employ additional personnel to provide the level of expertise needed. Whenever an agency other than the City requests that a mitigation measure be imposed as a condition of approval, that agency shall be responsible for determining the level of expertise needed for the monitor

10.640 Inter-Agency Coordination

- A. The Environmental Review Coordinator is responsible for the coordination of City and Responsible Agencies Mitigation Monitoring or Reporting programs where possible.
- B. Where a trustee agency, in timely commenting upon a draft EIR or a proposed Mitigated Negative Declaration, proposes mitigation measures or project revisions for incorporation into a project, that agency, at the same time, shall prepare and submit to the lead or responsible agency a draft monitoring or reporting program for those measures or revisions. The City may use this information in preparing its monitoring or reporting program.
- C. When a project is of statewide, regional, or area-wide importance, any transportation information generated by a required monitoring or reporting program shall be submitted to the transportation planning agency in the region where the project is located. Each transportation planning agency shall adopt guidelines for the submittal of such information.

10.650 Recordation

- A. The requirements of mitigation measures and conditions run with the land and/or project, during the life of the project, including all subsequent and successive owners of interest or their designated representative.
- B. In order to assure on-going compliance with mitigation measures and conditions when there is a change in project ownership, one of the following shall be completed prior to issuance of any development entitlements, the City may require:
 - 1. Recordation of all mitigation measures and/or conditions of approval with the Stanislaus County Recorder as encumbrances on the land; and/or
 - 2. The project proponent to enter into a development agreement with the City binding all future owners to comply with all mitigation measures and/or conditions of approval.

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10.660 Processing Fees

- A. The City Council, by separate resolution, shall adopt and amend from time to time processing fees for the implementation of the mitigation Monitoring and Reporting program.
- B. The City shall also charge and collect from the project proponent additional costs to cover direct expenses incurred by the City staff and consultants in carrying out mitigation Monitoring and Reporting for any project.

City staff and consultant expenses shall be separately accounted for by the City Finance Director and be available for review by the project proponent at all times. Said expenses shall not exceed the actual cost for performing the monitoring and reporting responsibilities required by each City official and/or department.

- C. A responsible or affected agency, or other affected City department may charge from the project proponent through the City Environmental Review Coordinator, a fee in the amount of the actual cost for Monitoring and Reporting all mitigation measures required by that agency or department. A deposit may be required by the City to be applied towards this fee. Any unused portion of the deposit will be refunded. Any responsible agency requiring fees, charges or deposits from a project proponent for implementation of the mitigation Monitoring and Reporting program shall submit such fee schedule to the City prior to collection of said fees.

10.700 Mitigation Monitoring and Reporting Plan

Whenever a Monitoring and Reporting plan is required, a draft Monitoring and Reporting Plan will be attached to the proposed negative declaration. When an EIR or Initial Study/Negative Declaration proposes mitigation, the draft Monitoring and Reporting Plan should accompany the Draft EIR or Initial Study.

10.710 Adoption of Monitoring and Reporting Plan.

A Monitoring and Reporting Plan (either the draft plan or the draft plan as amended) shall be adopted when a Negative Declaration is adopted or final EIR is Certified.

10.800 Procedures for Monitoring and Reporting Compliance with Plan

- A. Upon fulfillment of a mitigation measure(s) or condition(s) of a project or upon completion of the pre-construction or construction stage of development, the project proponent shall contact the mitigation Monitoring and Reporting coordinator for verification of compliance. The coordinator shall communicate with the agency or agencies responsible for enforcement of said mitigation measure(s) or condition(s) to find out if the mitigation measure(s) or condition(s) have been fulfilled. The coordinator shall complete a Monitoring and Reporting checklist containing his or her findings.
- B. Construction stage operations shall not commence on a project until all pre-construction stage conditions have been fulfilled and verified by the Monitoring and Reporting coordinator. Likewise, the construction stage shall not be considered final until all construction stage conditions have been fulfilled and verified by the Monitoring and

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Reporting coordinator.

- C. The Monitoring and Reporting coordinator shall periodically consult with the agency or agencies responsible for enforcing on-going post-construction mitigation measures/ conditions to verify compliance.
- D. If the Monitoring and Reporting coordinator determines that a condition(s) has not been complied with and that remedial action is required, he/she shall report the situation to the City Council for appropriate action.
- E. Monitoring and Reporting checklists and reports to the Council regarding non-compliance shall be retained in the appropriate project file in the City Clerk's office, all Monitoring and Reporting forms shall be available for public review upon request.

10.900 Enforcement

The enforcement procedure and timing of enforcement shall be included in each Monitoring and Reporting Plan since situations vary from project to project. Generally, Monitoring and Reporting shall be completed and a written report submitted prior to any final approval of a project (prior to recording of a final map, prior to final inspection of a building, prior to acceptance of public improvements, etc.). In cases where the mitigation measures require on-going, long-term Monitoring and Reporting, the frequency and length of the Monitoring and Reporting period shall be determined in the adopted plan.

- A. The objective of enforcement shall be compliance. Revoking approval, stopping construction, or taking any other action to prevent completion or operation of the project shall be the last resort and shall only be considered when it is clear that no other options exist.
- B. Generally, it shall be the Environmental Review Coordinator's responsibility to coordinate Monitoring and Reporting and reporting to ensure enforcement. Whenever an agency other than the City requests a mitigation measure be imposed as a condition of approval, Monitoring and Reporting shall be considered complete and adequate upon written confirmation that the impact has been mitigated to the agency's satisfaction. If, during Monitoring and Reporting, the Environmental Review Coordinator determines that the condition or change in the project is not being met so as to mitigate the identified impact, the following procedure shall be used:
 - 1. Inform project applicant of apparent non-compliance and seek voluntary compliance with approved Monitoring and Reporting program.
 - 2. The person or firm responsible for Monitoring and Reporting shall report (whether or not it is the normal time designated in the Monitoring and Reporting plan for reporting) to the City Council the facts surrounding the non-compliance.
 - 3. Upon receipt of the Monitoring and Reporting report, the City Clerk shall place the report on the next available City Council agenda and notify the applicant of this action. The secretary shall also notify any persons who have requested such notification,

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4. The City Council shall consider the report and any information presented by the applicant and shall determine whether or not there is a violation of the project approval.
5. If no violation is found, the applicant shall be so notified in writing.
6. If the violation is found to be correctable, the applicant will be notified of the needed correction in writing and will be given a reasonable period of time (normally 10 days) in which to correct the violation.
7. If a violation is found that cannot be corrected, or if the applicant fails to correct the violation according to *Section 5* above, the City Attorney shall institute proceedings to stop work on the project and seek whatever legal remedies are available.

10.910 Complaints

- A. Any person or agency may file a complaint alleging noncompliance with mitigation measures and/or conditions. Such complaint shall be in writing and provide specific information on the alleged violation. All complaints shall be filed with the Monitoring and Reporting coordinator and a copy forwarded to the City Council, the involved enforcement agency and the project proponent.
- B. Attempts shall be made by all parties to encourage the voluntary settlement of the complaint in a fair and equitable manner. Notice and terms of any such settlement shall be delivered to the complainant, the City, the project proponent and the agency responsible for enforcement of the condition(s) involved, by the coordinator within five (5) days of said settlement.
- C. If any person is not satisfied with the results of the settlement, such person may request in writing a hearing before the City Council, within ten (10) days of the date the notification of settlement was received.
- D. The City Council shall grant a hearing on the matter with notice provided in accordance with Waterford City Codes and Policies and take action as appropriate.
- E. The costs for any noticed public hearings concerning contested settlements shall be paid by the party filing the complaint on the same date the complaint is filed.

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Appendix

Appendix A

CEQA Exemptions

Exemptions (CEQA §15061, §15250, § 15300, §15260)

Some projects may be exempt from the requirements of CEQA. Exemptions fall into different categories that are described below.

Statutory Exemptions Statutory exemptions are those actions specifically pardoned from CEQA review. Local projects that are considered to be statutorily exempt by CEQA and the City of Waterford are listed in Appendix "B".

Categorical Exemptions Categorical exemptions are those given to groups of projects that have been specifically exempted by the California State Resources Agency. This type of exemption includes, but is not limited to, projects listed in Appendix "A".

“***Categorically Exempt***” projects may still require an environmental review if it is known that a significant negative impact will occur or if the exceptions stated in §15300.2 of the California CEQA Guidelines apply. Generally, the city staff shall make the determination of categorical exemption. However, staff may also refer the project determination to the Planning Commission or City Council for a final determination of “exemption”. If the project is deemed categorically exempt, a certificate shall be prepared and placed in the project file. Filing a Notice of Exemption (see *Notice of Exemption*) is also recommended.

“***Special Status Exemption***” CEQA Guidelines Article 12.5 provides an Exemption for CEQA for qualifying Agricultural Housing, Affordable Housing and Residential Infill projects. Agricultural Housing, Affordable Housing and Residential Infill projects, as defined in §15191 of the California CEQA Guidelines, are Exempt from CEQA provided that the project can meet the Threshold Requirements set forth in §15192 of the California CEQA Guidelines. Specific Standards for projects are set forth in §15193 for Agricultural Housing projects, §15194 for Affordable Housing projects, and §15195 for Residential Infill projects. Preliminary project review shall examine the circumstances of the project to determine if these Exemptions apply to a specific project and a Notice of Exemption, in accordance with §15196 of the CEQA Guidelines shall be filed. (*See Appendix B*)

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Article 17. Exemption for Certified State Regulatory Programs
SECTIONS 15250 TO 15253

15250. GENERAL

Section 21080.5 of the Public Resources Code provides that a regulatory program of a state agency shall be certified by the Secretary for Resources as being exempt from the requirements for preparing EIRs, Negative Declarations, and Initial Studies if the Secretary finds that the program meets the criteria contained in that code section. A certified program remains subject to other provisions in CEQA such as the policy of avoiding significant adverse effects on the environment where feasible. This article provides information concerning certified programs.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21080.5, Public Resources Code.

15251. LIST OF CERTIFIED PROGRAMS

The following programs of state regulatory agencies have been certified by the Secretary for Resources as meeting the requirements of Section 21080.5:

- (a) The regulation of timber harvesting operations by the California Department of Forestry and the State Board of Forestry pursuant to Chapter 8, commencing with Section 4511 of Part 2 of Division 4 of the Public Resources Code.
- (b) The regulatory program of the Fish and Game Commission pursuant to the Fish and Game Code.
- (c) The regulatory program of the Fish and Game commissions dealing with the consideration and granting of coastal development permits under the California Coastal Act of 1976, Division 20 (commencing with Section 30000) of the Public Resources Code.
- (d) That portion of the regulatory program of the Air Resources Board which involves the adoption, approval, amendment, or repeal of standards, rules, regulations, or plans to be used in the regulatory program for the protection and enhancement of ambient air quality in California.
- (e) The regulatory program of the State Board of Forestry in adopting, amending or repealing standards, rules, regulations, or plans under the Z'berg-Nejedly Forest Practice Act, Chapter 8 (commencing with Section 4511) of Part 2 of Division 4 of the Public Resources Code.
- (f) The program of the California Coastal Commission involving the preparation, approval, and certification of local coastal programs as provided in Sections 30500 through 30522 of the Public Resources Code.
- (g) The Water Quality Control (Basin)/208 Planning Program of the State Water Resources Control Board and the Regional Water Quality Control Boards.
- (h) The permit and planning programs of the San Francisco Bay Conservation and Development Commission under the McAteer-Petris Act, Title 7.2 (commencing with Section 66600) of the Government Code; and the planning program of the San Francisco Bay Conservation and Development Commission under Suisun Marsh Preservation Act, Division 19 (commencing with Section 29000) of the Public Resources Code.
- (i) The pesticide regulatory program administered by the Department of Pesticide Regulation and the county agricultural commissioners insofar as the program consists of:
 - (1) The registration, evaluation, and classification of pesticides.
 - (2) The adoption, amendment, or repeal of regulations and standards for
 - (3) The adoption, amendment, or repeal of regulations for standards dealing with the monitoring of pesticides and of the human health and environmental effects of pesticides.
 - (4) The regulation of the use of pesticides in agricultural and urban areas of the state the permit system administered by the county agricultural commissioners.
- (j) The power plant site certification program of the State Energy Development Commission under Chapter 6 of the Warren-Alquist Act, commencing with Public Resources Code Section 25500.
- (k) The regulatory program of the State Water Resources Control Board beneficial use protection programs.
- (l) That portion of the regulatory program of the South Coast Air Quality Management District which involves the adoption, amendment, and repeal of regulations pursuant to the provisions of the Health and Safety Code.
- (m) The Program of the Delta Protection Commission involving the preparation and adoption of a Resources Management Plan for the Sacramento-San Joaquin Delta (Pub. Resources Code §29760 ff.), and the Commission's review and action on general plan amendments proposed by local governments to make their

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plans consistent with the provisions of the Commission's Resource Management Plan (Pub. Resources Code §29763.5).

- (n) The program of the Department of Fish and Game Fish and Game Code.
- (o) The program of the Department of Fish and Game application process under the California Endangered Species Act ("CESA"), Fish and Game Code sections 2080 and 2081, and specifically the regulation governing the Department of Fish and Game's role as a "lead agency" when issuing incidental take permits, found at California Code of Regulations, Title 14, section 783.5(d).
- (p) The regulatory program of the Department of Fish and Game for review and approval of voluntary local programs for routine and ongoing agricultural activities, as authorized by the California Endangered Species Act, Fish and Game Code section 2086.

Note: Authority cited: Sections 21083 and 21080.5, Public Resources Code; Reference: Section 21080.5, Public Resources Code.

15252. SUBSTITUTE DOCUMENT

- (a) The document used as a substitute for an EIR or Negative Declaration in a certified program shall include at least the following items:
 - (1) A description of the proposed activity, and
 - (2) Either:
 - (A) Alternatives to the activity and mitigation measures to avoid or reduce any significant or potentially significant effects that the project might have on the environment, or
 - (B) A statement that the agency's review of the project showed that the project would not have any significant or potentially significant effects on the environment and therefore no alternatives or mitigation measures are proposed to avoid or reduce any significant effects on the environment. This statement shall be supported by a checklist or other documentation to show the possible effects that the agency examined in reaching this conclusion.
- (b) The notice of the decision on the proposed activity shall be filed with the Secretary for Resources.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21080.5, Public Resources Code.

15253. USE OF AN EIR SUBSTITUTE BY A RESPONSIBLE AGENCY

- (a) An environmental analysis document prepared for a project Section 15251 shall be used by another agency granting an approval for the same project where the conditions in subdivision (b) have been met. In this situation, the certified agency shall act as Lead Agency, and the other permitting agencies shall act as Responsible Agencies using the certified agency's document.
- (b) The conditions under which a public agency shall act as a Responsible Agency when approving a project using an environmental analysis document prepared under a certified program in the place of an EIR or Negative Declaration are as follows:
 - (1) The certified agency is the first agency to grant a discretionary approval for the project.
 - (2) The certified agency consults with the Responsible Agencies, but the consultation need not include the exchange of written notices.
 - (3) The environmental analysis document identifies:
 - (A) The significant environmental effects within the jurisdiction or special expertise of the Responsible Agency.
 - (B) Alternatives or mitigation measures that could avoid or reduce the severity of the significant environmental effects.
 - (4) Where written notices were not exchanged in the consultation process, the Responsible Agency was afforded the opportunity to participate in the review of the property by the certified agency in a regular manner designed to inform the certified agency of the concerns of the Responsible Agency before release of the EIR substitute for the public review.

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- (5) The certified agency establishes a consultation period between the certified agency and the Responsible Agency that was at least as long as the period allowed for public review of the EIR substitute document.
 - (6) The certified agency exercised the powers of a Lead Agency by considering all the significant environmental effects of the project and making a finding under Section 15091 for each significant effect.
- (c) Certified agencies are not required to adjust their activities to meet the criteria in subdivision (b) where a certified agency does not meet the criteria in subdivision (b):
- (1) The substitute document prepared by the agency shall not be used by other permitting agencies in the place of an EIR or Negative Declaration, and
 - (2) Any other agencies granting approvals for the project shall comply with CEQA in the normal manner. A permitting agency shall act as a Lead Agency and prepare an EIR or a Negative Declaration. Other permitting agencies, if any, shall act as Responsible Agencies and use the EIR or Negative Declaration prepared by the Lead Agency.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21002.1(d), 21080.5, and 21165, Public Resources Code.

Article 18. Statutory Exemptions
SECTIONS 15260 TO 15285

15260. General

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

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b), Public Resources Code.

15261. Ongoing Project

- (a) If a project being carried out by a public agency was approved prior to November 23, 1970, the project shall be exempt from CEQA unless either of the following conditions exist:
 - (1) A substantial portion of public funds allocated for the project have not been spent, and it is still feasible to modify the project to mitigate potentially adverse environmental effects, or to choose feasible alternatives to the project, including the alternative of “no project” or halting the project; provided that a project subject to the National Environmental Policy Act (NEPA) shall be exempt from CEQA as an on-going project if, under regulations promulgated under NEPA, the project would be too far advanced as of January 1, 1970, to require preparation of an EIS.
 - (2) A public agency proposes to modify the project in such a way that the project might have a new significant effect on the environment.
- (b) A private project shall be exempt from CEQA if the project received approval of a lease, license, certificate, permit, or other entitlement for use from a public agency prior to April 5, 1973, subject to the following provisions:
 - (1) CEQA does not prohibit a public agency from considering environmental factors in connection with the approval or disapproval of a project, or from imposing reasonable fees on the appropriate private person or entity for preparing an environmental report under authority other than CEQA. Local agencies may require environmental reports for projects covered by this paragraph pursuant to local ordinances during this interim period.
 - (2) Where a project was approved prior to December 5, 1972, and prior to that date the project was legally challenged for noncompliance with CEQA, the project shall be bound by special rules set forth in Section 21170 of CEQA.
 - (3) Where a private project has been granted a discretionary governmental approval for part of the project before April 5, 1973, and another or additional discretionary governmental approvals after April 5, 1973, the project shall be subject to CEQA only if the approval or approvals after April 5, 1973, involve a greater

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degree of responsibility or control over the project as a whole than did the approval or approvals prior to that date.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21169, 21170, and 21171, Public Resources Code; County of Inyo v. Yorty, 32 Cal. App. 3d 795.

15262. Feasibility and Planning Studies

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

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21102 and 21150, Public Resources Code.

15263. Discharge Requirements

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

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 13389, Water Code.

15264. Timberland Preserves

Local agencies are exempt from the requirement to prepare an EIR or Negative Declaration on the adoption of timberland preserve zones under Government Code Sections 51100 et seq. (Gov. Code, Sec. 51119).

Note: Authority cited: Section 21083, Public Resources Code; Reference: Government Code Section 51119, Government Code.

15265. Adoption of Coastal Plans and Programs

(a) CEQA does not apply to activities and approvals pursuant to the California Coastal Act(commencing with Section 30000 of the Public Resources Code) by:

- (1) Any local government, as defined in Section 30109 of the Public Resources Code, necessary for the preparation and adoption of a local coastal program, or
- (2) Any state university or college, as defined in Section 30119, as necessary for the preparation and adoption of a long-range land use development plan.

(b) CEQA shall apply to the certification of a local coastal program or long-range land use development plan by the California Coastal Commission.

(c) this section shifts the burden of CEQA compliance from the local agency or the state university or college to the California Coastal Commission. The Coastal Commission's program of certifying local coastal programs and long-range land use development plans has been certified under Section 21080.5, Public Resources Code. See: Section 15192.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21080.9, Public Resources Code.

15266. General Plan Time Extension

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

Note: Authority cited: Section 21083, Public Resources Code, Code; Reference: Section 21080.10(a), Public Resources Code.

15267. Financial Assistance to Low or Moderate Income Housing

CEQA does not apply to actions taken by the Department of and Community Development to provide financial assistance for the development and construction of residential housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code. The residential project

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which is the subject of the application for financial assistance will be subject to CEQA when approvals are granted by another agency.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21080.10(b), Public Resources Code.

15268. Ministerial Projects

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

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b)(1), Public Resources Code; Day v. City of Glendale, 51 Cal. App. 3d 817.

15269. Emergency Projects

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

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

Note: Authority: Section 21083, Public Resources Code; Reference: Sections 21080(b)(2), (3), and (4), 21080.33 and 21172, Public Resources Code; Castaic Lake Water Agency v. City of Santa Clarita (1995) 41 Cal.App.4th 1257; and Western Municipal Water District of Riverside County v. Superior Court of San Bernardino County (1987) 187 Cal.App.3d 1104.

15270. Projects Which are Disapproved

- (a) CEQA does not apply to projects which a public agency rejects or disapproves.

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- (b) This section is intended to allow an initial screening of projects on the merits for quick disapprovals prior to the initiation of the CEQA process where the agency can determine that the project cannot be approved.
- (c) This section shall not relieve an applicant from paying the costs for an EIR or Negative Declaration prepared for his project prior to the Lead Agency's disapproval of the project after normal evaluation and processing.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b)(5), Public Resources Code.

15271. Early Activities Related to Thermal Power Plants

- (a) CEQA does not apply to actions undertaken by a public agency relating to any thermal power plant site or facility including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for such a thermal power plant, if the thermal power plant site and related facility will be the subject of an EIR or Negative Declaration or other document or documents prepared pursuant to a regulatory program certified pursuant to Public Resources Code Section 21080.5, which will be prepared by:

- (1) The State Energy Resources Conservation and Development Commission,
- (2) The Public Utilities Commission or
- (3) The city or county in which the power plant and related facility would be located.

- (b) The EIR, Negative Declaration, or other document prepared for the thermal power plant site or facility, shall include the environmental impact, if any, of the early activities described in this section.
- (c) This section acts to delay the timing of CEQA compliance from the early activities of a utility to the time when a regulatory agency is requested to approve the thermal power plant and shifts the responsibility for preparing the document to the regulatory agency.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 15080(b)(6), Public Resources Code.

15272. Olympic Games

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

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b)(7), Public Resources Code.

15273. Rates, Tolls, Fares, and Charges

- (a) CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by public agencies which the public agency finds are for the purpose of:
 - (1) Meeting operating expenses, including employee wage rates and fringe benefits,
 - (2) Purchasing or leasing supplies, equipment, or materials,
 - (3) Meeting financial reserve needs and requirements,
 - (4) Obtaining funds for capital projects, necessary to maintain service within existing service areas, or
 - (5) Obtaining funds necessary to maintain such intra-city transfers as are authorized by city charter.
- (b) Rate increases to fund capital projects for the expansion of a system remain subject to CEQA. The agency granting the rate increase shall act either as the Lead Agency if no other agency has prepared environmental documents for the capital project or as a Responsible Agency if another agency has already complied with CEQA as the Lead Agency.
- (c) The public agency shall incorporate written findings in the record of any proceeding in which an exemption under this section is claimed setting forth with specificity the basis for the claim of exemption.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b)(8), Public Resources Code.

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15274. Family Day Care Homes

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

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21083, Public Resources Code.

15275. Specified Mass Transit Projects

CEQA does not apply to the following mass transit projects:

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

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b)(11), (12), and (13), Public Resources Code.

15276. Transportation Improvement and Congestion Management Programs

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

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b)(13), Public Resources Code.

15277. Projects Located Outside California

CEQA does not apply to any project or portion thereof located outside of California which will be subject to environmental impact review pursuant to the National Environmental Policy Act of 1969 or pursuant to a law of that state requiring preparation of a document containing essentially the same points of analysis as in an Environmental Impact Statement prepared under the National Environmental Policy Act of 1969. Any emissions or discharges that would have a significant effect on the environment in the State of California are subject to CEQA where a California public agency has authority over the emissions or discharges.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b)(15), Public Resources Code; 58 Opinions of the California Attorney General 614 (S.O. 75/50).

15278. Application of Coatings

- (a) CEQA does not apply to a discretionary decision by an air quality management district for a project consisting of the application of coatings within an existing facility at an automotive manufacturing plant if the district finds all of the following:

- (1) The project will not cause a net increase in any emissions of any pollutant for which a national or state ambient air quality standard has been established after the internal emission accounting for previous emission reductions achieved at the facility and recognized by the district.
- (2) The project will not cause a net increase in adverse impacts of toxic air contaminants as determined by a health risk assessment. The term "net increase in adverse impacts of toxic air contaminants as determined by a health risk assessment" shall be determined in accordance with the rules and regulations of the district.
- (3) The project will not cause any other adverse effect on the environment.

- (b) The district shall provide a 10-day notice, at the time of the issuance of the permit, of any such exemption. Notice shall be published in two newspapers of general circulation in the area of the project and shall be mailed to any person who makes a written request for such a notice. The notice shall state that the complete file on the project and the basis for the district's findings of exemption are available for inspection and copying at the office of the district.

- (c) Any person may appeal the issuance of a permit based on an exemption under subdivision (a) to the hearing

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board as provided in Section 42302.1 of the Health and Safety Code. The permit shall be revoked by the hearing board if there is substantial evidence in light of the whole record before the board that the project may not satisfy one or more of the criteria established pursuant to subdivision (a). If there is no such substantial evidence, the exemption shall be upheld. Any appeal under this subdivision shall be scheduled for hearing on the calendar of the hearing board within 10 working days of the appeal being filed. The hearing board shall give the appeal priority on its calendar and shall render a decision on the appeal within 21 working days of the appeal being filed. The hearing board may delegate the authority to hear and decide such an appeal to a subcommittee of its body.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Chapter 1131, Statutes of 1993, Section 1.

15279. (Deleted)

15281. Air Quality Permits

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

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21080.24,

15282. Other Statutory Exemptions

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

- (a) The notification of discovery of Native American burial sites as set forth in Section 5097.98 of the Public Resources Code.
- (b) Specified prison facilities as set forth in Sections 21080.01, 21080.02, 21080.03 and 21080.07 of the Public Resources Code.
- (c) The lease or purchase of the rail right-of-way used for the San Francisco Peninsula commute service between San Francisco and San Jose as set forth in Section 21080.05 of the Public Resources Code.
- (d) Any activity or approval necessary for or incidental to project funding or authorization for the expenditure of fund for the project, by the Rural Economic Development Infrastructure Panel as set forth in Section 21080.08 of the Public Resources Code.
- (e) The conversion of an existing rental mobilehome park to a resident initiated subdivision, cooperative, or condominium for mobilehomes as set forth in Section 21080.8 of the public resources Code.
- (f) Settlements of title and boundary problems by the State Land Commission and to exchanges or leases in connection with those settlements as set forth in Section 21080.13 of the Public Resources Code.
- (g) Any railroad grade separation project which eliminates an existing grade crossing or which reconstructs an existing grade separation as set forth in Section 21080.13 of the Public Resources Code.
- (h) The adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code.
- (i) The closing of any public school or the transfer of students from that public school to another school in which kindergarten or any grades 1 through 12 is maintained as set forth in 21080.18 of the Public Resources Code.
- (j) A project for restriping streets or highways to relieve traffic congestion as set forth in Section 21080.19 of the Public Resources Code.
- (k) The installation of new pipeline or maintenance, repair, restoration, removal, or demolition of an existing pipeline as set forth in Section 21080.21 of the Public Resources Code, as long as the project does not exceed one mile in length.
- (l) The activities and approvals by a local government necessary for the preparation of general plan amendments pursuant to Public Resources Code §29763 as set forth in Section 21080.22 of the Public Resources Code. Section 29763 of the Public Resources Code refers to local government amendments made for consistency with the Delta Protection Commission's regional plan.

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- (m) Minor alterations to utilities made for the purposes of complying with Sections 116415 of the Health and Safety Code as set forth in Section 21080.26 of the Public Resources Code.
- (n) The adoption of an ordinance exempting a city or county from the provisions of the Solar Shade Control Act as set forth in Section 25985 of the Public Resources Code.
- (o) The acquisition of land by the Department of Transportation if received or acquired within a statewide or regional priority corridor designated pursuant to Section 65081.3 of the of the Government Code as set forth in Section 33911 of the Public Resources Code.
- (p) The adoption or amendment of a nondisposal facility element as set forth in Section 41735 of the Public Resources Code.
- (q) Cooperative agreements for the development of Solid Waste Management Facilities on Indian country as set forth in Section 44203(g) of the Public Resources Code.
- (r) Determination made regarding a city or county's regional housing needs as set forth in Section 65584 of the Government Code.
- (s) Any action necessary to bring a general plan or relevant mandatory element to the general plan into compliance pursuant to a court order as set forth in Section 65759 of the Government Code.
- (t) Industrial Development Authority activities as set forth in Section 91543 of the Government Code.
- (u) Temporary changes in the point of diversion, place of use, or purpose of use due to a transfer or exchange of water or water rights as set forth in Section 1729 of the Water Code.
- (v) The preparation and adoption of a Urban Water Management Plans pursuant to the provisions of Section 10652 of the Water Code

Note: Authority: Section 21083, Public Resources Code; References: Sections 5097.98(c), 21080.01, 21080.02, 21080.03, 21080.05, 21080.08, 21080.7, 21080.8, 21080.11, 21080.13, 21080.17, 21080.18, 21080.19, 21080.21, 21080.22, 21080.26, 25985, 33911, 41735, and 44203(g), Public Resources Code.

15283. Housing Needs Allocation.

CEQA does not apply to regional housing needs determinations made by the Department of Housing and Community Development, a council of governments, or a city or county pursuant to Section 65584 of the Government Code.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 65584, Government Code.

15284. Pipelines.

- (a) CEQA does not apply to any project consisting of the inspection, maintenance, repair, restoration, reconditioning, relocation, replacement, or removal of an existing hazardous or volatile liquid pipeline or any valve, flange, meter, or other piece of equipment that is directly attached to the pipeline.
- (b) To qualify for this exemption the diameter of the affected pipeline must not be increased and the project must be located outside the boundaries of an oil refinery. The project must also meet all of the following criteria:
 - (1) The affected section of pipeline is less than eight miles in length and actual construction and excavation activities are not undertaken over a length of more than one-half mile at a time.
 - (2) The affected section of pipeline less than eight miles distance from any section of pipeline that had been subject to this exemption in the previous 12 months.
 - (3) The project is not solely for the purpose of excavating soil that is contaminated by hazardous materials.
 - (4) To the extent not otherwise required by law, the person undertaking the project has, in advance of undertaking the project, prepared a plan that will result in notification of the appropriate agencies so that they may take action, if necessary, to provide for the emergency evacuation of members of the public who may be located in close proximity to the project, and those agencies, including but not limited to the local fire department, police, sheriff, and California Highway Patrol as appropriate, have reviewed and agreed to that plan.
 - (5) Project activities take place within an existing right-of-way and that right-of-way will be restored to its pre-project condition upon completion of the project.
 - (6) The project applicant will comply with all conditions otherwise authorized by law, imposed by the city or county as part of any local agency permit process, and to comply with the Keene-Nejedly California Wetlands Preservation Act (Public Resources Code Section 5810, et seq.), the California Endangered Species Act (Fish and Game Code Section 2050, et seq.), other applicable state laws, and all applicable federal laws.

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(c) When the lead agency determines that a project meets all of the criteria of subdivisions (a) and (b), the party undertaking the project shall do all of the following:

(1) Notify in writing all responsible and trustee agencies, as well as any public agency with environmental, public health protection, or emergency response authority, of the lead agency's invocation of this exemption.

(2) Mail notice of the project to the last known name and address of all organizations and individuals who have previously requested such notice and notify the public in the affected area by at least one of the following procedures:

(A) Publication at least one time in in a newspaper of general circulation in the area affected by the proposed project. If more than one area is affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas.

(B) Posting of notice on and off site in the area where the project is to be located.

(C) Direct mailing to the owners and occupants of contiguous property shown on the latest equalized assessment roll.

The notice shall include a brief description of the proposed project and its location, and the date, time, and place of any public meetings or hearings on the proposed project. This notice may be combined with the public notice required under other law, as applicable, but shall meet the preceding minimum requirements.

(3) In the case of private rights-of-way over private property, receive from the underlying property owner permission for access to the property.

(4) Immediately inform the lead agency if any soil contaminated with hazardous materials is discovered.

(5) Comply with all conditions otherwise authorized by law, imposed by the city or county as part of any local agency permit process, and to comply with the Keene-Nejedly California Wetlands Preservation Act (Public Resources Code Section 5810, et seq.), the California Endangered Species Act (Fish and Game Code Section 2050, et seq.), other applicable state

(d) For purposes of this section, "pipeline" is used as defined in subdivision (a) of Government Code Section 51010.5. This definition includes every intrastate pipeline used for the transportation of hazardous liquid substances or highly volatile liquid substances, including a common carrier pipeline, and all piping containing those substances located within a refined products bulk loading facility which is owned by a common carrier and is served by a pipeline of that common carrier, and the common carrier owns and serves by pipeline at least five such facilities in California.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21080.23, Public Resources Code.

15285. Transit Agency Responses to Revenue Shortfalls.

(a) CEQA does not apply to actions taken on or after July 1, 1995 to implement budget reductions made by a publicly owned transit agency as a result of a fiscal emergency caused by the failure of agency revenues to adequately fund agency programs and facilities. Actions shall be limited to those directly undertaken by or financially supported in whole or in part by the transit agency pursuant to Section 15378(a)(1) or (2), including actions which reduce or eliminate the availability of an existing publicly owned transit service, facility, program, or activity.

(b) When invoking this exemption the transit agency shall make a specific finding that there is a fiscal emergency. Before taking its proposed budgetary actions and making the finding of fiscal emergency, the transit agency shall hold a public hearing. After this public hearing, the transit agency shall respond within 30 days at a regular public meeting to suggestions made by the public at that initial hearing. The transit agency may make the finding of fiscal emergency only after it has responded to public suggestions.

(c) For purposes of this subdivision, "fiscal emergency means that the transit agency is projected to have negative working capital within one year from the date that the agency finds that a fiscal emergency exists. "Working capital" is defined as the sum of all unrestricted cash, unrestricted short-term investments, and unrestricted short-term accounts receivable, minus unrestricted accounts payable. Employee retirements funds, including deferred compensation plans and Section 401(k) plans, health insurance reserves, bond payment reserves, workers' compensation reserves, and insurance reserves shall not be included as working capital.

(d) This exemption does not apply to the action of any publicly owned transit agency to reduce or eliminate a transit service, facility, program, or activity that was approved or adopted as a mitigation measure in any environmental document certified or adopted by any public agency under either CEQA or NEPA. Further, it does not apply to actions of the Los Angeles County Metropolitan Transportation Authority.

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Note: Authority cited: Sections Section 21083, Public Resources Code; References: Sections 21080 and 21080.32, Public Resources Code.

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Article 19. Categorical Exemption

SECTIONS 15300 TO 15329

15300. Categorical Exemptions

Section 21084 of the Public Resources Code requires these Guidelines to include a list of classes of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA.

In response to that mandate, the Secretary for Resources has found that the following classes of projects listed in this article do not have a significant effect on the environment, and they are declared to be categorically exempt from the requirement for the preparation of environmental documents.

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

15300.1. Relation to Ministerial Projects

Section 21080 of the Public Resources Code exempts from the application of CEQA those projects over which public agencies exercise only ministerial authority. Since ministerial projects are already exempt, categorical exemptions should be applied only where a project is not ministerial under a public agency's statutes and ordinances. The inclusion of activities that may be ministerial within the classes and examples contained in this article shall not be construed as a finding by the Secretary for Resources that such an activity is discretionary.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15300.2. Exceptions

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

Note: Authority cited: Section 21083, Public Resources Code; References: Sections 21084 and 21084.1, Public Resources Code; Wildlife Alive v. Chickering (1977) 18 Cal.3d 190; League for Protection of Oakland's Architectural and Historic Resources v. City of Oakland (1997) 52 Cal.App.4th 896; Citizens for Responsible Development in West Hollywood v. City of West Hollywood (1995) 39 Cal.App.4th 925; City of Pasadena v. State of California (1993) 14 Cal.App.4th 810; Association for the Protection etc. Values v. City of Ukiah (1991) 2 Cal.App.4th 720; and Baird v. County of Contra Costa (1995) 32 Cal.App.4th 1464

e qualified by consideration of where the project is to be

15300.3. REVISIONS TO LIST OF CATEGORICAL EXEMPTIONS

A public agency may, at any time, request that a new class of categorical exemptions be added, or an existing one amended or deleted. This request must be made in writing to the Office of Planning and Research and shall contain detailed information to support the request. The granting of such request shall be by amendment to these Guidelines.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

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15300.4. APPLICATION BY PUBLIC AGENCIES

Each public agency shall, in the course of establishing its own procedures, list those specific activities which fall within each of the exempt classes, subject to the qualification that these lists must be consistent with both the letter and the intent expressed in the classes. Public agencies may omit from their implementing procedures classes and examples that do not apply to their activities, but they may not require EIRs for projects described in the classes and examples in this article except under the provisions of Section 15300.2.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15301. Existing Facilities

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

Examples include but are not limited to:

- (a) Interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances;
- (b) Existing facilities of both investor and publicly-owned utilities used to provide electric power, natural gas, sewerage, or other public utility services;
- (c) Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purpose of public safety).
- (d) Restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety, unless it is determined that the damage was substantial and resulted from an environmental hazard such as earthquake, landslide, or flood;
- (e) Additions to existing structures provided that the addition will not result in an increase of more than:
 - (1) 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less; or
 - (2) 10,000 square feet if:
 - (A) The project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and
 - (B) The area in which the project is located is not environmentally sensitive.
- (f) Addition of safety or health protection devices for use during construction of or in conjunction with existing structures, facilities, or mechanical equipment, or topographical features including navigational devices;
- (g) New copy on existing on and off-premise signs;
- (h) Maintenance of existing landscaping, native growth, and water supply reservoirs (excluding the use of economic poisons, as defined in Division 7, Chapter 2, California Agricultural Code);
- (i) Maintenance of fish screens, fish ladders, wildlife habitat areas, artificial wildlife waterway devices, streamflows, springs and waterholes, and stream channels (clearing of debris) to protect fish and wildlife resources;
- (j) Fish stocking by the California Department of Fish and Game;
- (k) Division of existing multiple family or single-family residences into common-interest ownership and subdivision of existing commercial or industrial buildings, where no physical changes occur which are not otherwise exempt;
- (l) Demolition and removal of individual small structures listed in this subsection;
 - (1) One single-family residence. In urbanized areas, up to three single-family residences may be demolished under this exemption.
 - (2) A duplex or similar multifamily residential structure. In urbanized areas, this exemption applies to duplexes and similar structures where not more than six dwelling units will be demolished.
 - (3) A store, motel, office, restaurant, or similar small commercial structure if designed for an occupant load of 30 persons or less. In urbanized areas, the exemption also applies to the demolition of up to three such commercial buildings on sites zoned for such use.
 - (4) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.
- (m) Minor repairs and alterations to existing dams and appurtenant structures under the supervision of the Department of Water Resources.
- (n) Conversion of a single family residence to office use.
- (o) Installation, in an existing facility occupied by a medical waste generator, of a steam sterilization unit for the treatment of medical waste generated by that facility provided that the unit is installed and operated in accordance with the Medical Waste Management Act (Section 117600, et seq., of the Health and Safety Code) and accepts no offsite waste.

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(p) Use of a single-family residence as a small family day care home, as defined in Section 1596.78 of the Health and Safety Code.

Note: Authority cited: Section 21083, Public Resources Code; References: Sections 21084, Public Resources Code; Bloom v. McGurk (1994) 26 Cal.App.4th 1307.

15302. Replacement or Reconstruction

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

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

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15303. New Construction or Conversion of Small Structures

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include, but are not limited to:

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

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21084, Public Resources Code.

15304. Minor Alterations to Land

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

- (a) Grading on land with a slope of less than 10 percent, except that grading shall not be exempt in a waterway, in any wetland, in an officially designated (by federal, state, or local government action) scenic area, or in officially mapped areas of severe geologic hazard such as an Alquist-Priolo Earthquake Fault Zone or within an official Seismic Hazard Zone, as delineated by the State Geologist.
- (b) New gardening or landscaping, including the replacement of existing conventional landscaping with water efficient or fire resistant landscaping.
- (c) Filling of earth into previously excavated land with material compatible with the natural features of the site;
- (d) Minor alterations in land, water, and vegetation on existing officially designated wildlife management areas or

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fish production facilities which result in improvement of habitat for fish and wildlife resources or greater fish production;

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

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15305. Minor Alterations in Land Use Limitations

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

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

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15306. Information Collection

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

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15307. Actions by Regulatory Agencies for Protection of Natural Resources

Class 7 consists of actions taken by regulatory agencies as authorized by state law or local ordinance to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment. Examples include but are not limited to wildlife preservation activities of the State Department of Fish and Game. Construction activities are not included in this exemption.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15308. Actions by Regulatory Agencies for Protection of the Environment

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

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code; International Longshoremen's and Warehousemen's Union v. Board of Supervisors, (1981) 116 Cal. App. 3d 265.

15309. Inspections

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

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15310. Loans

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

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following examples:

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

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15311. Accessory Structures

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

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

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15312. Surplus Government Property Sales

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

- (a) The property does not have significant values for wildlife habitat or other environmental purposes, and
- (b) Any of the following conditions exist:
 - (1) The property is of such size, shape, or inaccessibility that it is incapable of independent development or use; or
 - (2) The property to be sold would qualify for an exemption under any other class of categorical exemption in these Guidelines; or
 - (3) The use of the property and adjacent property has not changed since the time of purchase by the public agency.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15313. Acquisition of Lands for Wildlife Conservation Purposes

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

Note: Authority cited: Sections 21083 and 21087, Public Resources Code; Reference: Section 21084, Public Resources Code.

15314. Minor Additions to Schools

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

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15315. Minor Land Divisions

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

Note: Authority cited: Sections Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15316. Transfer of Ownership of Land in Order to Create Parks

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

- (a) The management plan for the park has not been prepared, or

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- (b) The management plan proposes to keep the area in a natural condition or preserve the historic or archaeological resources. CEQA will apply when a management plan is proposed that will change the area from its natural condition or cause substantial adverse change in the significance of the historic or archaeological resource.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21084, 21083.2, and 21084.1, Public Resources Code.

15317. Open Space Contracts or Easements

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

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15318. Designation of Wilderness Areas

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

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15319. Annexations of Existing Facilities and Lots for Exempt Facilities

Class 19 consists of only the following annexations:

- (a) Annexations to a city or special district of areas containing existing public or private structures developed to the density allowed by the current zoning or pre-zoning of either the gaining or losing environmental agency whichever is more restrictive, provided, however, that the extension of utility services to the existing facilities would have a capacity to serve only the existing facilities.
- (b) Annexations of individual small parcels of the minimum size for facilities exempted by Section 15303, New Construction or Conversion of Small Structures.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15320. Changes in Organization of Local Agencies

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

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

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15321. Enforcement Actions by Regulatory Agencies

Class 21 consists of:

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

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15322. Educational or Training Programs Involving No Physical Changes

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

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

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15323. Normal Operations of Facilities for Public Gatherings

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

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15324. Regulations of Working Conditions

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

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

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15325. Transfers of Ownership of Interest In Land to Preserve Existing Natural Conditions and Historical Resources

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

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

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15326. Acquisition of Housing for Housing Assistance Programs

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

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15327. Leasing New Facilities

- (a) **Class 27** consists of the leasing of a newly constructed or previously unoccupied privately owned facility by a local or state agency where the local governing authority determined that the building was exempt from CEQA. To be exempt under this section, the proposed use of the facility:
 - (1) Shall be in conformance with existing state plans and policies and with general, community, and specific plans for which an EIR or Negative Declaration has been prepared;
 - (2) Shall be substantially the same as that originally proposed at the time the building permit was issued;
 - (3) Shall not result in a traffic increase of greater than 10% of front access road capacity; and
 - (4) Shall include the provision of adequate employee and visitor parking facilities.
- (b) Examples of **Class 27** include, but are not limited to:
 - (1) Leasing of administrative offices in newly constructed office space;
 - (2) Leasing of client service offices in newly constructed retail space;
 - (3) Leasing of administrative and/or client service offices in newly constructed industrial parks.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

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15328. Small Hydroelectric Projects at Existing Facilities

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

- (a) The capacity of the generating facilities is 5 megawatts or less;
- (b) Operation of the generating facilities will not change the flow regime in the affected stream, canal, or pipeline including but not limited to:
 - (1) Rate and volume of flow;
 - (2) Temperature;
 - (3) Amounts of dissolved oxygen to a degree that could adversely affect aquatic life; and
 - (4) Timing of release.
- (c) New power lines to connect the generating facilities to existing power lines will not exceed one mile in length if located on a new right of way and will not be located adjacent to a wild or scenic river;
- (d) Repair or reconstruction of the diversion structure will not raise the normal maximum surface elevation of the impoundment;
- (e) There will be no significant upstream or downstream passage of fish affected by the project;
- (f) The discharge from the power house will not be located more than 300 feet from the toe of the diversion structure;
- (g) The project will not cause violations of applicable state or federal water quality standards;
- (h) The project will not entail any construction on or alteration of a site included in or eligible for inclusion in the National Register of Historic Places; and
- (i) Construction will not occur in the vicinity of any endangered, rare, or threatened species.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15329. Cogeneration Projects at Existing Facilities

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

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

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15330. Minor Actions to Prevent, Minimize, Stabilize, Mitigate or Eliminate the Release or Threat of Release of Hazardous Waste or Hazardous Substances.

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

- (a) Removal of sealed, non-leaking drums or barrels of hazardous waste or substances that have been stabilized, containerized and are designated for a lawfully permitted destination;
- (b) Maintenance or stabilization of berms, dikes, or surface impoundments;
- (c) Construction or maintenance of interim or temporary surface caps;
- (d) Onsite treatment of contaminated soils or sludges provided treatment system meets Title 22 requirements and

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local air district requirements;

- (e) Excavation and/or offsite disposal of contaminated soils or sludges in regulated units;
- (f) Application of dust suppressants or dust binders to surface soils;
- (g) Controls for surface water run-on and run-off that meets seismic safety standards;
- (h) Pumping of leaking ponds into an enclosed container;
- (i) Construction of interim or emergency ground water treatment systems;
- (j) Posting of warning signs and fencing for a hazardous waste or substance site that meets legal requirements for protection of wildlife.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15331. Historical Resource Restoration/Rehabilitation.

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

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15332. In-Fill Development Projects.

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

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- (c) The project site has no value as habitat for endangered, rare or threatened species.
- (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- (e) The site can be adequately served by all required utilities and public services.

Note: Authority cited: Section 21083, Public Resources Code. Reference: Section 21084, Public Resources Code.

15333. SMALL HABITAT RESTORATION PROJECTS.

Class 33 consists of projects not to exceed five acres in size to assure the maintenance, restoration, enhancement, or protection of habitat for fish, plants, or wildlife provided that:

- (a) There would be no significant adverse impact on endangered, rare or threatened species or their habitat pursuant to section 15065,
- (b) There are no hazardous materials at or around the project site that may be disturbed or removed, and
- (c) The project will not result in impacts that are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.
- (d) Examples of small restoration projects may include, but are not limited to:
 - (1) revegetation of disturbed areas with native plant species;
 - (2) wetland restoration, the primary purpose of which is to improve conditions for waterfowl or other species that rely on wetland habitat;
 - (3) stream or river bank revegetation, the primary purpose of which is to improve habitat for amphibians or native fish;
 - (4) projects to restore or enhance habitat that are carried out principally with hand labor and not mechanized equipment.
 - (5) stream or river bank stabilization with native vegetation or other bioengineering techniques, the primary purpose of which is to reduce or eliminate erosion and sedimentation; and
 - (6) culvert replacement conducted in accordance with published guidelines of the Department of Fish and Game or NOAA Fisheries, the primary purpose of which is to improve habitat or reduce sedimentation.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

Appendix B ***Special Situations CEQA Exceptions***

Special CEQA Situation Review Exemptions (Article 12 and 12.5 of the CEQA Guidelines)

The California Environmental Quality Act, as implemented with the CEQA Guidelines, contain special provisions and exemptions. These are identified as “Special Situations” (*CEQA Guidelines §15180 to 15190.5*) and Exemptions for Agricultural Housing, Affordable Housing, and Residential Infill Projects (*CEQA Guidelines §15191 to 15196*)

Article 12 Special Situations (*CEQA Guidelines §15180, to §15190.5*)

CEQA identifies certain project types that are subject to special review procedures. These “Special Situation” provisions are as follows:

Article 12 Special Situations:

- 15180. Redevelopment Projects
- 15182. Residential Projects Pursuant to a Specific Plan
- 15183. Projects Consistent with a Community Plan or Zoning
- 15183.5. Tiering and Streamlining the Analysis of Greenhouse Gas Emissions.
- 15184. State Mandated Local Projects
- 15185. Administrative Appeals
- 15186. School Facilities
- 15187. Environmental Review of New Rules and Regulations
- 15188. Focused EIR for Pollution Control Equipment
- 15189. Compliance with Performance Standards or Treatment Requirement Rule or Regulation.
- 15190. Deadlines for Compliance with Sections 15188 and 15189
- 15190.5. Department of Defense Notification Requirement

Where a project involves one of the “Special Situations” listed above, the relevant CEQA Guideline provisions should be reviewed prior to initiating the CEQA review process.

Redevelopment Projects (CEQA Guidelines §15180)

All public and private activities or undertakings pursuant to or in furtherance of a redevelopment plan constitute a single project, which shall be deemed approved at the time of adoption of the redevelopment plan by the legislative body. The EIR in connection with the redevelopment plan shall be submitted in accordance with Section 33352 of Health and Safety Code

Housing or Neighborhood Commercial Projects (CEQA Guidelines §15182)

Where the City of Waterford has prepared an EIR on a specific plan after January 1, 1980, no EIR or negative declaration need be prepared for a residential project undertaken pursuant to and in conformity to that specific plan if the project meets the requirements of CEQA as follows:

- A. ***Scope.*** Residential projects covered by this section include but are not limited to land subdivisions, zoning changes, and residential planned unit developments.

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- B. **Limitation.** This section is subject to the limitation that if after the adoption of the specific plan, an event described in CEQA Guideline Section 15162 should occur, this exemption shall not apply until the city or county which adopted the specific plan completes a subsequent EIR or a supplement to an EIR on the specific plan. The exemption provided by this section shall again be available to residential projects after the Lead Agency has filed a Notice of Determination on the specific plan as reconsidered by the subsequent EIR or supplement to the EIR.
- C. **Alternative.** This section provides an alternative to the procedure described in CEQA Guideline Section 15181.
- D. **Fees.** The Lead Agency has authority to charge fees to applicants for projects that benefit from this section. The fees shall be calculated in the aggregate to defray but not to exceed the cost of developing and adopting the specific plan including the cost of preparing the EIR.
- E. **Statute of Limitations.** A court action challenging the approval of a project under this section for failure to prepare a supplemental EIR shall be commenced within 30 days after the Lead Agency's decision to carry out or approve the project in accordance with the specific plan.

Projects Consistent with a Community Plan or Zone (CEQA Guidelines §15183)

Projects that are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. This streamlines the review of such projects and reduces the need to prepare repetitive environmental studies.

- A. In approving a project meeting the requirements of this section, a public agency shall limit its examination of environmental effects to those which the agency determines, in an initial study or other analysis:
 - 1. Are peculiar to the project or the parcel on which the project would be located,
 - 2. Were not analyzed as significant effects in a prior EIR on the zoning action, general plan, or community plan, with which the project is consistent,
 - 3. Are potentially significant off-site impacts and cumulative impacts which were not discussed in the prior EIR prepared for the general plan, community plan or zoning action, or
 - 4. Are previously identified significant effects which, as a result of substantial new information which was not known at the time the EIR was certified, are determined to have a more severe adverse impact than discussed in the prior EIR.
- B. If an impact is not peculiar to the parcel or to the project, has been addressed as a significant effect in the prior EIR, or can be substantially mitigated by the imposition of uniformly applied development policies or standards, then an additional EIR need not be prepared for the project solely on the basis of that impact.

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- C. This section shall apply only to projects which meet the following conditions:
1. The project is consistent with:
 - (a) A community plan adopted as part of a general plan,
 - (b) A zoning action which zoned or designated the parcel on which the project would be located to accommodate a particular density of development, or
 - (c) A general plan of a local agency.
 2. An EIR was certified by the City for the zoning action, the community plan, or the general plan.
- D. This section shall limit the analysis of only those significant environmental effects for which:
1. The City, with authority to mitigate any of the significant effects on the environment identified in the planning or zoning action, undertakes or requires others to undertake mitigation measures specified in the EIR which the City found to be feasible, and
 2. The City makes a finding at a public hearing as to whether the feasible mitigation measures will be undertaken.

Projects Mandated or Ordered by a State Agency (CEQA Guidelines §15184)

Whenever a state agency issues an order which requires a local agency to carry out a project subject to CEQA, the following rules apply:

1. If an EIR is prepared for the project, the local agency shall limit the EIR to considering those factors and alternatives that will not conflict with the order.
2. If the City of Waterford undertakes a project to implement a rule or regulation imposed by a certified state environmental regulatory program listed in Section 15251 of the CEQA Guidelines, the project shall be exempt from CEQA with regard to the significant effects analyzed in the document prepared by the state agency as a substitute for an EIR. The City shall comply with CEQA with regard to any site-specific effect of the project that was not analyzed by the certified state agency as a significant effect on the environment. The City need not re-examine the general environmental effects of the state rule or regulation.

Article 12.5 Special Status Exemptions (CEQA Guidelines §15191, to §15196)

“Special Status Exemption” CEQA Guidelines Article 12.5 provides an Exemption for CEQA for qualifying Agricultural Housing, Affordable Housing and Residential Infill projects.

Agricultural Housing, Affordable Housing and Residential Infill projects, as defined in §15191 of the California CEQA Guidelines, are Exempt from CEQA provided that the project can meet the Threshold Requirements set forth in §15192 of the California CEQA Guidelines. Specific Standards for projects are set forth in §15193 for Agricultural Housing projects, §15194 for Affordable Housing projects, and §15195 for Residential Infill projects. Preliminary project review shall examine the circumstances of the project to determine if these Exemptions apply to a specific project and a Notice of Exemption, in accordance with §15196 of the CEQA Guidelines shall be filed.

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“Agricultural Housing Exemption” (CEQA Guidelines §15193) projects
CEQA does not apply to any development project that meets the following criteria.

- (a) The project meets the threshold criteria set forth in section 15192.
- (b) The project site meets the following size criteria:
 - (1) The project site is located in an area with a population density of at least 1,000 persons mile square mile and is two acres or less in area; or
 - (2) The project site is located in an area with a population density of less than 1,000 persons per square mile and is five acres or less in area.
- (c) The project meets the following requirements regarding location and number of units.
 - (1) If the proposed development project is located on a project site within city limits or in a census-defined place, it must meet the following requirements:
 - (A) The proposed project location must be within one of the following:
 - 1. Incorporated city limits; or
 - 2. A census defined place with a minimum population density of at least 5,000 persons per; or
 - 3. A census-defined place with a minimum population density of at least 1,000 per square persons per square mile, unless a public agency that is carrying out or approving the project determines that there is a reasonable possibility that the project, if completed, would have a significant effect on the environment due to unusual circumstances or that the cumulative impacts of successive projects of the same type in the same area, over time, would be significant.
 - (B) The proposed development project must be located on a project site that is adjacent, on at least two sides, to land that has been developed.
 - (C) The proposed development project must meet either of the following requirements:
 - 1. Consist of not more than 45 units, or
 - 2. Consist of housing for a total of 45 or fewer agricultural employees if the housing consists of dormitories, barracks, or other group living facilities.
 - (2) If the proposed development project is located on a project site zoned for general agricultural use, it must meet either of the following requirements:
 - (A) Consist of not more than 20 units,
 - (B) Consist of housing for a total of 20 or fewer agricultural employees if the housing consists of dormitories, barracks, or other group living facilities.
- (d) The project meets the following requirements regarding provision of housing for agricultural employees:
 - (1) The project must consist of the construction, conversion, or use of residential housing for agricultural employees.
 - (2) If the project lacks public financial assistance, then:
 - (A) The project must be affordable to lower income households; and
 - (B) The developer of the development project must provide sufficient and legal commitments to the appropriate local agency to ensure the continued availability and

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use of the housing units for lower income households for a period of at least 15 years.

- (3) If public financial assistance exists for the project, then:
 - (A) The project must be affordable to lower income households; and
 - (B) The developer of the development project must provide sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for low- and moderate-income households for a period of at least 15 years.

Note: Authority cited: Section 21083, Public Resources Code. Reference: Section 21159.22, Public Resources Code.

“Affordable Housing Exemption” (CEQA Guidelines §15194) projects
CEQA does not apply to any development project that meets the following criteria:

- (a) The project meets the threshold criteria set forth in section 15192.
- (b) The project meets the following size criteria: the project site is not more than five acres in area.
- (c) The project meets both of the following requirements regarding location:
 - (1) The project meets one of the following location requirements relating to population density:
 - (A) The project site is located within an urbanized area or within a census-defined place with a population density of at least 5,000 persons per square mile.
 - (B) If the project consists of 50 or fewer units, the project site is located within an incorporated city with a population density of at least 2,500 persons per square mile and a total population of at least 25,000 persons.
 - (C) The project is located within either an incorporated city or a census defined place with a population density of at least 1,000 persons per square mile and there is no reasonable possibility that the project would have a significant effect on the environment or the residents of the project due to unusual circumstances or due to the related or cumulative impacts of reasonably foreseeable projects in the vicinity of the project.
 - (2) The project meets one of the following site-specific location requirements:
 - (A) The project site has been previously developed for qualified urban uses; or
 - (B) The parcels immediately adjacent to the project site are developed with qualified urban
 - (C) Site has not been developed for urban uses and all of the following conditions are met:
 - 1. No parcel within the site has been created within 10 years prior to the proposed development of the site.
 - 2. At least 75 percent of the perimeter of the site adjoins parcels that are developed with qualified urban uses.
 - 3. The existing remaining 25 percent of the perimeter of the site adjoins parcels that have previously been developed for qualified urban uses.
- (d) The project meets both of the following requirements regarding provision of affordable

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housing.

- (1) The project consists of the construction, conversion, or use of residential housing consisting of 100 or fewer units that are affordable to low-income households.
- (2) The developer of the project provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for lower income households for a period of at least 30 years, at monthly housing costs deemed to be “affordable rent” for lower income, very low income, and extremely low income households, as determined pursuant to Section 50053 of the Health and Safety Code.

Note: Authority cited: Section 21083, Public Resources Code. Reference: Section 21159.23, Public Resources Code.

“Residential Infill Exemption” (CEQA Guidelines §15195) projects

(a) Except as set forth in subdivision (b), CEQA does not apply to any development project that meets the following criteria:

- (1) The project meets the threshold criteria set forth in section 15192; provided that with respect to the requirement in section 15192(b) regarding community-level environmental review, such review must be certified or adopted within five years of the date that the lead agency deems the application for the project to be complete pursuant to Section 65943 of the Government Code.
- (2) The project meets both of the following size criteria:
 - (A) The site of the project is not more than four acres in total area.
 - (B) The project does not include any single level building that exceeds 100,000 square feet.
- (3) The project meets both of the following requirements regarding location:
 - (A) The project is a residential project on an infill site.
 - (B) The project is within one-half mile of a major transit stop.
- (4) The project meets both of the following requirements regarding number of units:
 - (A) The project does not contain more than 100 residential units.
 - (B) The project promotes higher density infill housing. The lead agency may establish its own criteria for determining whether the project promotes higher density infill housing except in either of the following two circumstances:
 1. A project with a density of at least 20 units per acre is conclusively presumed to promote higher density infill housing.
 2. A project with a density of at least 10 units per acre and a density greater than the average density of the residential properties within 1,500 feet shall be presumed to promote higher density infill housing unless the preponderance of the evidence demonstrates otherwise.
- (5) The project meets the following requirements regarding availability of affordable housing:

The project would result in housing units being made available to moderate, low or very low income families as set forth in either A or B below:

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(A) The project meets one of the following criteria, and the project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units as set forth below at monthly housing costs determined pursuant to paragraph (3) of subdivision (h) of Section 65589.5 of the Government Code.

- (1) At least 10 percent of the housing is sold to families of moderate income, or
- (2) Not less than 10 percent of the housing is rented to families of low income, or
- (3) Not less than 5 percent of the housing is rented to families of very low income.

(B) If the project does not result in housing units being available as set forth in subdivision (A) above, then the project developer has paid or will pay in-lieu fees pursuant to a local ordinance in an amount sufficient to result in the development of an equivalent number of units that would otherwise be required pursuant to subparagraph (A).

- (b) A project that otherwise meets the criteria set forth in subdivision (a) is not exempt from CEQA if any of the following occur:
1. There is a reasonable possibility that the project will have a project-specific, significant effect on the environment due to unusual circumstances.
 2. Substantial changes with respect to the circumstances under which the project is being undertaken that are related to the project have occurred since community-level environmental review was certified or adopted.
 3. New information becomes available regarding the circumstances under which the project is being undertaken and that is related to the project that was not known, and could not have been known at the time that community-level environmental review was certified or adopted.

If a project is not exempt from CEQA due to subdivision (b), the analysis of the environmental effects of the project covered in the EIR or the negative declaration shall be limited to an analysis of the project-specific effect of the projects and any effects identified pursuant to subdivisions (b)(2) and (3).

Note: Authority cited: Section 21083, Public Resources Code. Reference: Section 21159.24, Public Resources Code.

Appendix C – CEQA Review Application/Information



**CITY OF WATERFORD
PLANNING DEPARTMENT**

101 'E' STREET
WATERFORD, CALIFORNIA 95386
TELEPHONE (AREA CODE 209) 874-2328
FAX (209) 874-9656

**CEQA Review Application/Information
ENVIRONMENTAL QUESTIONNAIRE**

**(Long Form-For Large Development Projects as Determined by the Planning Department)
(To be completed by Applicant)**

This document will assist the Planning Department in evaluating the proposed project and its potential environmental impacts. Complete and accurate information will facilitate the environmental assessment and review, and will minimize future requests for additional information. Please contact the Planning Department, City of Waterford, 101 "E" Street, Waterford, CA 95386 (209) 874-2328 if there are any questions concerning environmental issues or zoning.

APPLICANT'S STATEMENT OF INTENT (DESCRIBE THE PROPOSED PROJECT):

Note: The Statement of Project Intent is important for the purpose of CEQA analysis.

SUBDIVISION NAME OR PROPOSED COMMON NAME OF PROJECT:

PROPERTY OWNER'S NAME:

Mailing Address: _____

Telephone: Business _____ Home _____

APPLICANT'S NAME (If Different from Property Owner):

Phone (____) _____ - _____

Mailing Address: _____

PROJECT SITE INFORMATION:

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Property Address or Location: _____

Property Assessor's Parcel Number: _____

Property Dimensions: _____

Property Area: Square Footage _____ or Acreage _____

If developed, give building(s) square footage _____

Proposed Zoning (if applicable) _____

Proposed General Plan Designation (If applicable) _____

DESCRIBE ADJACENT ZONING AND EXISTING LAND USE WITHIN 300 FEET OF PROJECT SITE:

	Existing Land Use	General Plan Land Use	Zoning
On-Site	_____	_____	_____
North	_____	_____	_____
East	_____	_____	_____
South	_____	_____	_____
West	_____	_____	_____

PROJECT CHARACTERISTICS

Site Conditions

Describe the project site as it exists before the project, including information on topography, soil stability, plants and animals, and any cultural, historical or scenic aspects (if applicable):

Are there any trees, bushes or shrubs on the project site? (yes/no)_____ Are any to be

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removed? (yes/no)_____. If yes, attach site plan indicating location, size and type of all trees, bushes and shrubs on the site that are proposed for removal.

Will the project change water body or ground water quality or quantity, or alter existing drainage patterns? (yes/no)_____. If yes, explain:_____

If there are structures on the project site, attach site plan indicating location of structures and provide the following information:

Present Use of Existing Structure(s)_____

Proposed Use of Existing Structure(s)_____

Are any structures to be moved or demolished? _____ If yes, indicate on site plan which structures are proposed to be moved or demolished. _____

Describe Age, Condition; Size, and Architectural Style of all existing on-site structures (You may include photos.)

Proposed Building Characteristics

Size of New Structure(s) or Building Addition(s) in gross sq. ft._____.

Building Height in feet (measured from ground to highest point):_____.

Height of other appurtenances, excluding buildings, measured from ground to highest point (i.e. antennas, mechanical equipment, light poles, etc.):_____.

Project Site Coverage:	Building Coverage:	Sq.Ft._____
	Landscaped Area:	Sq.Ft._____
	Paved Surface Area:	Sq.Ft._____
	Total:	Sq.Ft._____ 100%

Exterior Building Materials: _____

Exterior Building Colors: _____

Roof Materials: _____

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Total Number of Off-Street Parking Spaces Provided: _____
 (If not on the project site, attach a Signed Lease Agreement or Letter of Agency)

Describe the type of exterior lighting proposed for the project (height, intensity):

Building: _____

Parking: _____

Est. Construction Starting Date _____ Est. Completion Date _____

If the proposal is a component of an overall larger project describe the phases and show them on the site plan:

Residential Projects

(As applicable to proposal)

Total Lots _____ Total Dwelling Units _____ Total Acreage _____

Net Density/Acre _____ Gross Density/Acre _____

	Single Family	Two Family Duplex	Multi-Family Apartment	Multi-Family Condominium
Number of Units	_____	_____	_____	_____
Acreage	_____	_____	_____	_____
Square Feet/unit	_____	_____	_____	_____
For Sale or Rent	_____	_____	_____	_____
Type of Unit:				
Studio	_____	_____	_____	_____
1 Bedroom	_____	_____	_____	_____
2 Bedroom	_____	_____	_____	_____
3 Bedroom	_____	_____	_____	_____
4+Bedroom	_____	_____	_____	_____

Commercial. Industrial. Manufacturing or Other Project
(Complete as Applicable to the Proposal)

Type of Use(s) _____

Expected Influence: Regional _____ Citywide _____ Neighborhood _____

Days and Hours of Operation: _____

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Total Occupancy/Capacity of Building(s): _____

Total Number of Fixed Seats: _____ Total Number of Employees: _____

Anticipated Number of Employees Per Shift: _____

Square Footage of: Office Area _____ Warehouse Area _____

Sales Area _____ Storage Area _____ Loading Area _____

Total Number of Visitors/Customers on site at any one time: _____

Other Occupants (If Applicable) _____

Will the proposed use involve any toxic or hazardous materials or waste? (Explain): _____

List any permits or approvals required for the project by state or federal agencies:

PROJECT IMPACTS

Traffic

Estimated Traffic/ Vehicle Trips/Day: _____

What are the nearest major streets? _____

Distance from Project? _____

Amount of off-street parking provided: _____

If new paved surfaces are involved, describe _____

amount of square feet involved: _____

Water

Estimated gallons per day: _____

Source of Water: _____

Sewage

Estimate the amount (gallons/day) sewage to be generated _____

Describe the type of sewage to be generated: _____

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Will any special or unique sewage wastes be generated by this development? _____

Solid Waste

Type: _____ Amount: _____

NOTE: If the project site is on or near a Historical Site, Archaeological Site, Hazard Site, River, or Floodplain, then specific technical studies may be required. Applicants are encouraged to contact the Planning Department at the Earliest Possible Opportunity to determine the possible need and scope of such studies.

As the applicant/agent for this proposal, I hereby state that, to the best of my knowledge, the above answers and statements are true and complete.

Signature of Applicant/Agent

Date

Print or Type *Name* and Title of Applicant/Agent

Appendix D – Initial Study/Environmental Checklist Form

Addendum

The following “Applicant’s Statement and Agreement to Mitigation” shall be added to all Waterford Initial Studies and Mitigated Negative Declarations.

Section 5
Applicant’s Statement of Project Modification
And
Agreement to Mitigation

On behalf of the project applicant, I ____ agree to the following project plan additions and modifications to avoid potential adverse physical effects of the project as identified in this study:

List:

Mitigation Measure 1: _____

Mitigation Measure 2: _____

Mitigation Measure 3: _____

Mitigation Measure 4: _____

Add additional mitigation measures as necessary

By: Applicant _____

Date: _____

Title: _____

Signature

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Appendix E – Notice of Intent to Adopt

**CITY OF WATERFORD
PLANNING DEPARTMENT
101 'E' STREET**

**City of Waterford
Notice of Intent to Adopt a Negative Declaration/Mitigated Negative Declaration
and Availability of Environmental Documents**

Notice Is Hereby Given that the City of Waterford's Planning Department intends to prepare a Negative Declaration pursuant to the California Environmental Quality Act for the following project.

Project Title: _____.

Project Location: _____. *County of:* Stanislaus

Brief Project Description: _____.

Lead Agency: City of Waterford **Contact Person:** (Name) _____ **Phone:** (209) 874-2328

An Initial Study Has Been Prepared Yes X No __. **and the Document is Attached** Yes __ No __.

Address Where Document May Be Obtained if Not Attached:

City of Waterford Planning Department
Waterford City Hall
320 "E" Street (P.O. Box 199)
Waterford, CA 95386

Public Review Period Begins: X/X/20XX **and Ends** X/X/20XX (30 Calendar Days)

A Public Hearing Will ____ **Will Not** ____ **Be Held on The Project:**

(Describe nature of meeting where decision will be made on the project.)

Important! Comments are welcome regarding this anticipated action and will be reviewed by decision-makers prior to any formal action regarding the Environmental Determination and the Project itself. **Your written comments will need to be available prior to the close of the public review period to assure that they are considered as part of the environmental and project review process.** Verbal and written comments will be accepted at any scheduled public hearing on the environmental determination. Please be advised that upon the close of the formal public review/comment period for the environmental document, your ability to challenge environmental determinations regarding the project may be limited. It is important that you review the available information and forward any comments, of an environmental nature, within the identified time limits. Thank you for your interest in this project and if you have any questions, please feel free to contact the Waterford City Planning Department.

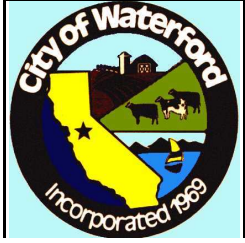
Signature: _____ **Date:** _____

(Name)

Planning Director

Date of Posting: _____

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Appendix F
Tiered EIR/ND Section 15152 Findings

CITY OF WATERFORD
PLANNING DEPARTMENT
101 'E' STREET

The California Environmental Quality Act
(CEQA)Section 15152 Findings:

Application:

Assessor Parcel Number or Location:

Previous Initial Study/EIR Reference:

Original Project Date:

An EIR has been prepared and certified for a program, plan, policy, or ordinance consistent with the requirements of CEQA, and the City of Waterford is reviewing a subsequent project pursuant to or consistent with the program, plan, policy, or ordinance.

1. Subsequent project impacts have been mitigated or avoided as a result of the prior environmental impact report and findings adopted in connection with that prior environmental impact report?

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

Comment/Finding: The.....

2. Subsequent project impacts have been examined at a sufficient level of detail in the prior environmental impact report to enable those effects to be mitigated or avoided by site specific revisions, the imposition of conditions, or by other means in connection with the approval of the later project?

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

Comment/Finding: The.....

3. Subsequent project impacts cannot be mitigated to avoid or substantially lessen the significant impacts despite the projects proponent's willingness to accept all feasible mitigation measures, and the only purpose of including analysis of such effects in another environmental impact report would be to put the agency in a position to adopt a statement of overriding considerations with respect to the effects?

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

Comment/Finding: The.....

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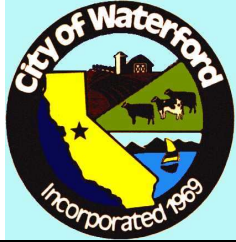
On the basis of this evaluation, in accordance with the requirements of Section 15152 of the CEQA Guidelines:

- 1. It is found that subsequent negative declaration will need to be prepared and the environmental analysis will focus on the following issues: _____
_____.
- 2. It is found that an addendum Negative Declaration will need to be prepared and the environmental analysis will focus on the following issues: _____
_____..
- 3. That a subsequent EIR will need to be prepared and the environmental analysis will focus on the following issues: _____
_____..
- 4. All significant effects on the environment were examined in a previous EIR and none of these effects are susceptible to substantial reduction or avoidance by the choice of specific revisions in the project, by the imposition of conditions or by other means. No further documentation is required.

Date: _

Prepared By:

Appendix G - Mitigation Monitoring & Reporting Form



Project Title
Mitigation Monitoring & Reporting Program

Environmental Issue	Proposed Mitigation	Mitigation Monitoring Reporting Responsibility	Mitigation Reporting and/or Monitoring Program <i>(Including timing in which mitigation measure should be implemented)</i>

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Appendix H

City of Waterford

Greenhouse Gas Impact Assessment Guidance

Introduction

The City of Waterford initiated a comprehensive update to its development guides/regulations beginning with the comprehensive update to its General Plan, (Waterford Vision 2020 General Plan) in 2005. Since the adoption of the City’s General Plan Update, the City has adopted several other “implementation” policies and codes (the Subdivision Code, Zoning Ordinance, Urban Forest Plan, etc.) that have implemented the City’s General Plan vision for a “Sustainable” community and reducing the City’s Greenhouse Gas “footprint”. Many of these policies, programs and standards provide the means by which public and private development projects can meet state guidelines with respect to reducing Greenhouse Gas emissions. The following document provides the framework for complying with the requirements of SB 97 and other requirements of State Law regarding the mandated need for Waterford to reduce its Greenhouse Gas emissions.

Governor’s Office of Planning and Research (OPR)

CEQA and Climate Change

The accumulation of greenhouse gases in the atmosphere over time is likely to lead to dangerous climate change in the coming decades. Since a key purpose of CEQA is to maintain the quality of California’s environment, both now and into the future, reducing the risk of dangerous climate change is an important objective under CEQA. This page provides links to valuable resources and guidance addressing climate change and CEQA.

CEQA Guidelines

By enacting SB 97 in 2007, California’s lawmakers expressly recognized the need to analyze greenhouse gas emissions as a part of the CEQA process. SB 97 required OPR to develop, and the Natural Resources Agency to adopt, amendments to the CEQA Guidelines addressing the analysis and mitigation of greenhouse gas emissions. Those CEQA Guidelines amendments clarified several points, including the following:

Lead agencies must analyze the greenhouse gas emissions of proposed projects, and must reach a conclusion regarding the significance of those emissions. (See CEQA Guidelines § 15064.4.) When a project’s greenhouse gas emissions may be significant, lead agencies must consider a range of potential mitigation measures to reduce those emissions. (See CEQA Guidelines § 15126.4(c).)

Lead agencies must analyze potentially significant impacts associated with placing projects in hazardous locations, including locations potentially affected by climate change. (See CEQA Guidelines § 15126.2(a).)

Lead agencies may significantly streamline the analysis of greenhouse gases on a project level by using a programmatic greenhouse gas emissions reduction plan meeting certain criteria. (See CEQA Guidelines § 15183.5(b).)

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CEQA mandates analysis of a proposed project’s potential energy use (including transportation-related energy), sources of energy supply, and ways to reduce energy demand, including through the use of efficient transportation alternatives. (See CEQA Guidelines, Appendix F.)

As part of the administrative rulemaking process, the Natural Resources Agency developed a Final Statement of Reasons explaining the legal and factual bases, intent, and purpose of the CEQA Guidelines amendments. Other rulemaking documents can be accessed on the Natural Resources Agency’s rulemaking website. The amendments to the CEQA Guidelines implementing SB 97 became effective on March 18, 2010.

OPR’S TECHNICAL ADVISORIES ON CLIMATE CHANGE AND CLIMATE ACTION PLANNING

Prior to enactment of the amendments to the CEQA Guidelines described above, OPR developed a Technical Advisory suggesting relevant ways to address climate change in CEQA analyses. It also lists potential mitigation measures, describes useful computer models, and points to other important resources.

OPR is currently developing a Technical Advisory that will provide guidance on specific topics related climate action planning and the use of plans for the reduction of greenhouse gases in a CEQA analysis. While that Technical Advisory is under development, readers may be interested in a presentation that OPR provided during its June 20, 2011, Local Government Roundtable regarding climate action planning, as well as questions and responses associated with that presentation.

OTHER RESOURCES

Beyond the guidance documents referred to above, several other agencies and organizations have developed resources for CEQA practitioners.

The Office of the Attorney General, for example, has created a website that links to its fact sheet on mitigation measures, CEQA comment letters, settlement agreements, and resources designed for local governments.

The California Air Pollution Control Officers Association (CAPCOA) has pioneered several important guides, including *CEQA & Climate Change*, which includes options for quantifying and evaluating the significance of greenhouse gas emissions, *Model Policies for Greenhouse Gas Emissions in General Plans*, and *Quantifying Greenhouse Gas Mitigation Measures*.

The Bay Area Air Quality Management District recently adopted an update to its *BAAQMD CEQA Guidelines*, which includes numeric thresholds for greenhouse gas emissions and guidance on qualified climate action plans. The BAAQMD also provides numerous tools and other resources.

Waterford GHG Inventory

The City of Waterford participated in a comprehensive Stanislaus Countywide Regional Greenhouse Gas Inventory project, funded by a grant from Proposition 84 Sustainable

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Communities project administered by the Strategic Growth Council. The Inventory was prepared by ICF International of San Francisco, California. The report contains detailed GHG data for the County and all of its cities. The study provides a comprehensive GHG baseline inventory for the year 2005 to serve as the foundation for GHG reduction planning in Stanislaus County.

The Study provides an inventory of 2005 GHG by Sector. This level of analysis permits local jurisdictions to focus their Greenhouse Gas reduction strategies on measures that best reduce future emission as required by State Law.

Within the City of Waterford, total 2005 GHG emissions were 54,194 million tons (MT) CO₂e. City of Waterford GHG emissions inventory is shown in Figure 3-17 and 3-18 and reported in Table 3-10. The primary sources of Greenhouse Gas (GHG) emissions in Waterford are building electricity (45%), on-road transportation (32%), and building natural gas (9%).

Total per capita and per service population emissions are 6.6 MT CO₂e/person and 6.3 MT CO₂e/SP, respectively. Residential per capita GHG emissions for Waterford are consistent across the building energy (1.8 MT CO₂e/person) and waste generation sectors (0.02 MT CO₂e/person) when compared to average values for the region as a whole (1.5 MT CO₂e/person and 0.02 MT CO₂e/person).

Table 3-10.
2005 GHG Emissions Inventory for the City of Waterford (MT CO₂e)

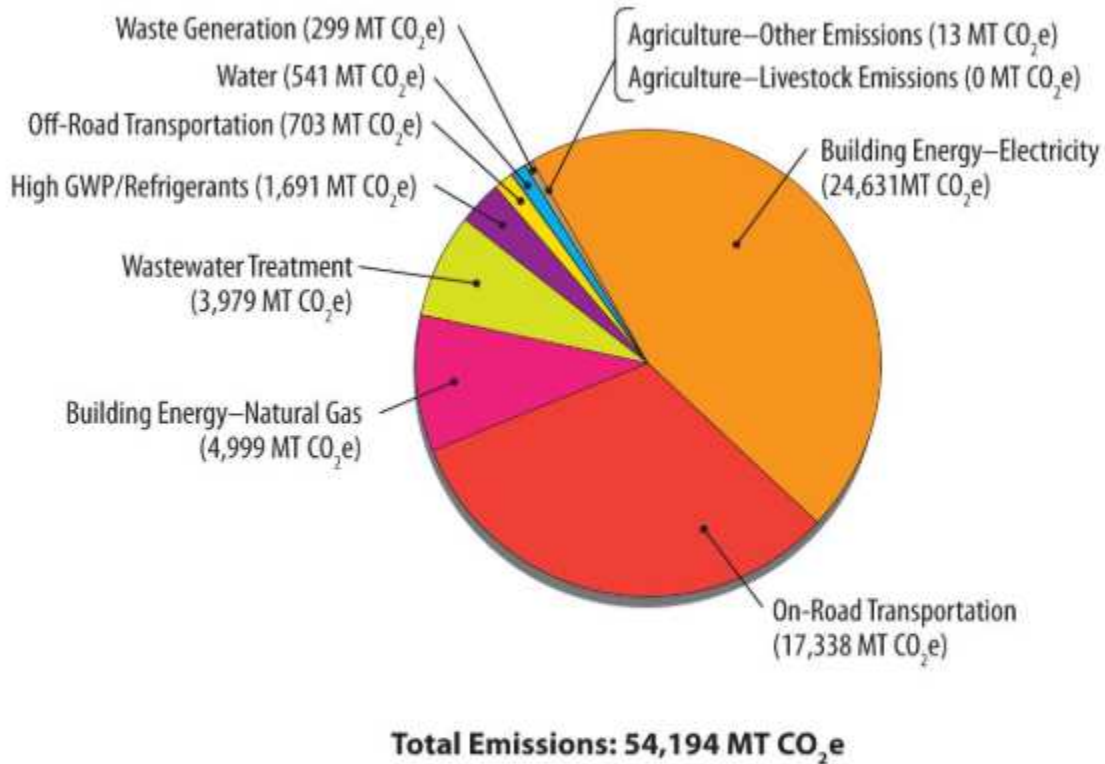
Sector	Emissions	Percent
Agriculture—Livestock Emissions	N/A	N/A
Agriculture—Other Emissions	13	0.02%
Building Energy—Natural Gas	4,999	9.22%
Off-Road Transportation	703	1.30%
On-Road Transportation	17,338	31.99%
High GWP/Refrigerants	1,691	3.12%
Building Energy—Electricity	24,631	45.45%
Waste Generation	299	0.55%
Wastewater Treatment	3,979	7.34%
Water	541	1.00%
Scope 1 & 2 Total	54,194	100.00%
Scope 5		
Stationary Sources	1	
Waste Landfill	N/A	

- a. **Scope 1** emissions are emissions that physically occur within the City boundary; see Chapter 1 for detail.
- b. **Scope 2** emissions are due to activity that occurs within the City boundary although the GHG emission may happen outside the City boundary; see Chapter 1 for detail.
- c. **Scope 3** emissions are all other emissions not covered in Scope 2, such as emissions resulting

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from the extraction and production of purchased materials and fuels, outsourced activities, waste disposal sites, or other sources not under the control of the local jurisdiction, etc.

**Figure 3-17.
2005 GHG Emissions Inventory for the City of Waterford (MT CO₂e)—Sector View**

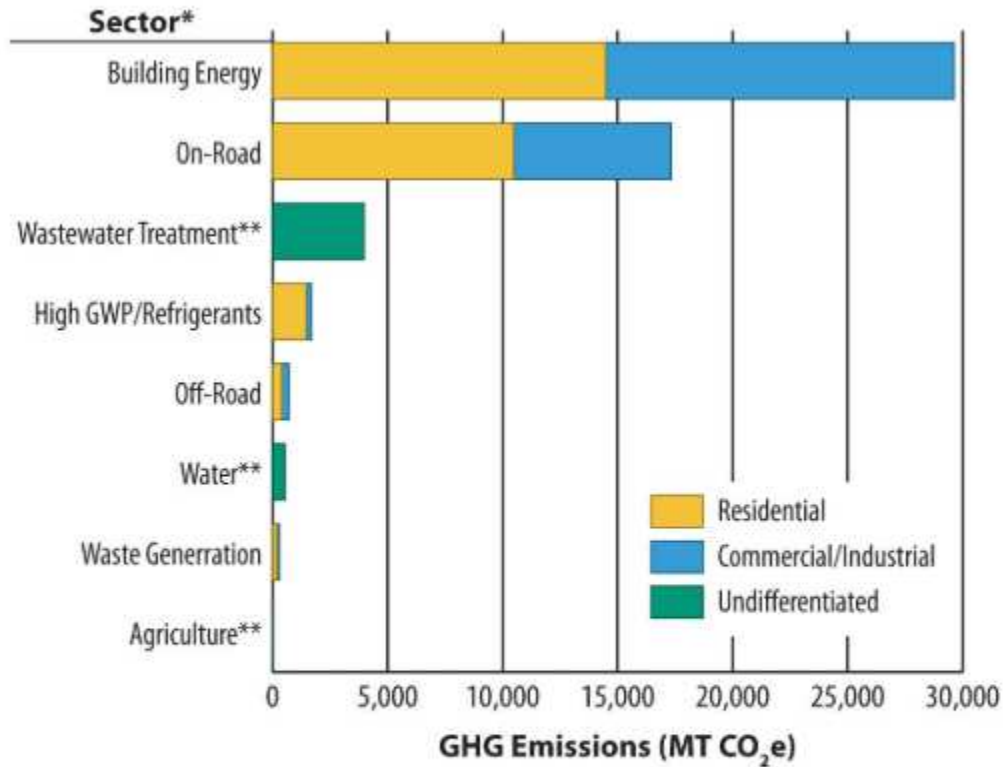


Note:
Emissions sectors not included in this chart:
Landfill Sites (0 MT CO₂e)
Stationary Sources (1 MT CO₂e)

Based on this Inventory Data, the most effective GHG reduction strategy would necessarily focus of “Building Energy-Electricity” emissions (45.45% of total Waterford GHG emissions) “On-Road Transportation” emissions (31.99% of total Waterford GHG emissions) and “Building Energy-Natural Gas” emissions (9.22% of total Waterford GHG emissions). These three sources account for over 86.6% of the total GHG emissions from the City of Waterford and 66.0% of the GHG emissions from all sources in Stanislaus County during the base-line (2005) study period.

**Figure 3-18.
2005 GHG Emissions Inventory for the City of Waterford (MT CO₂e)—End Use and Sector View**

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Notes:
 * Emissions sectors not included in this chart:
 Landfill Sites (0 MT CO₂e)
 Stationary Sources (1 MT CO₂e)
 **Emissions could not be apportioned by end-user. Includes residential, commercial and industrial emissions.

Source: Stanislaus County Greenhouse Gas Inventory, November 2012

CEQA Project Analysis Levels

The San Joaquin Valley Air Pollution Control District (SJVAPCD) recommends a three-tiered approach to the CEQA analysis of general **air quality emissions**, based on project size, to allow quick screening of most projects for significant impacts. Note that this analysis does not apply to Greenhouse Gas Emissions. GHG Emission review will be discussed further on in this Appendix. Other Air quality emission review will be conducted in accordance with the following standards:

- Small Project Analysis Level
- Cursory Analysis Level
- Full Analysis Level

Small Project Analysis Level (SPAL)

The Small Project Analysis Level (SPAL) is the screening level. Projects under this level require no further analysis in order to make a finding of less than significant air quality impacts. The “Levels of Analysis suggested by the SJVAPCD is described as follows:

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Verify project size or trip volume is less than pre-calculated amounts in the SJVAPCD's Greenhouse Gas Emissions Impact Assessment Guidance (GAMAQI) Table 5-2 or 5-3

Verify that project is not a source or near a source of hazardous air pollutants or odors

If demolition or renovation of existing buildings, contact the District for asbestos requirements

Mitigate cumulative impacts with measures appropriate for the site.

The GAMACI document and standards are discussed further on in this Appendix.

Cursory Analysis Level (CAL)

The CAL is used to determine if significance thresholds have been exceeded on projects not meeting the SPAL criteria.

Estimate mobile and area source emissions using *California Emissions Estimator Model* (CalEEMod).

Screen for CO impact/use CO Protocol or CALINE4 dispersion model if needed.

If source of hazardous air pollutants or odors or is near such a source, contact the SJVUAPCD

If demolition or renovation of existing buildings, contact the District for asbestos requirements

Identify feasible mitigation measures and quantify benefit using *California Emissions Estimator Model* (CalEEMod)

If impacts are identified as significant and cannot be mitigated to less than significant prepare an EIR with full analysis.

Full Analysis Level (FAL)

The Full Analysis Level (FAL) is the level of analysis usually required for an EIR. It requires all the elements of the previous two levels and an air quality report that fully describes the air quality impacts to the public.

Estimate mobile and area source emissions with *California Emissions Estimator Model* (CalEEMod). For general plans and large specific/community plans use DTIM2 if transportation demand model available, otherwise use MVEI7G (BURDEN7G).

Screen project for CO impacts, use CO Protocol or CALINE 4 if needed.

If source of hazardous air pollutants or odors, or is near such a source, contact the SJVUAPCD.

If SJVUAPCD identifies as potentially significant source of hazardous air pollutants, a health risk assessment will be required.

Prepare an air quality report containing:

existing air quality conditions;

analysis of project air quality impacts;

mitigation measures; and

results of modeling as technical appendices

San Joaquin Valley Air Pollution Control District Recommended Thresholds of "Significant Impact". <http://www.valleyair.org/transportation/ceqaanalysislevels.htm#top>

Ozone Precursor Emissions

Reactive Organic Gases (ROG) 10 tons/year Oxides of Nitrogen (NOx) 10 tons/year

PM-10 Emissions

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Complying with SJVAPCD Regulation VIII reduces to less than significant. Large or high intensity construction projects near sensitive receptors may require mitigation beyond Regulation VIII. (See GAMAQI Table 6-3.)

CO Emissions

Project causes or contributes to an exceedance of state or federal ambient CO standards. Determined by screening or modeling.

Hazardous Air Pollutant Emissions

Based on potential to increase cancer risk for the person with maximum exposure potential by 10 in one million. Non-cancer Hazard Index > 1. Determined by screening or modeling.

Odor Impacts

Based on distance of odor source from people and complaint record for facility or similar facility. More than one confirmed complaint per year averaged over a three-year period, or three unconfirmed complaints per year averaged over a three-year period. (See GAMAQI Table 4-2)

Construction Emissions

Same thresholds as above, but apply only during construction period. Ozone precursors calculated on an annual basis

GREENHOUSE GAS EMISSION IMPACT ASSESSMENT GUIDANCE

It should be noted that the above processes do not, necessarily, apply to the CEQA evaluation of GHG project impacts. GHG have been deemed “cumulatively significant” and, as a result, there are no “small project exemptions” to an identified impact.

Climate change is a term that refers to the variation of Earth’s climate over time, whether due to natural variability or as a result of human activities. Certain gases, such as carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), and ozone (O₃), absorb and emit infrared radiation and therefore have an effect on climate. These are greenhouse gases (GHGs), and while they comprise less than 0.1 percent of the total volume mixing ratio in dry air, they play an essential role in influencing climate (IPCC 2001). Table 3.7-1 lists the GHGs and their relative Global Warming Potential (GWP) compared to CO₂.

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Table P-1
Greenhouse Gases and Their Relative Global Warming Potential Compared to CO₂

Greenhouse Gas (GHG)	Atmospheric Lifetime (years)	Global Warming Potential Relative to CO₁
Carbon Dioxide (CO ₂)	50 to 200	1
Methane (CH ₄)	12 (±3)	21
Nitrous Oxide (N ₂ O)	120	310
Hydrofluorocarbons:		
HFC-23	264	11,700
HFC-32	5.6	650
HFC-125	32.6	2,800
HFC-134a	14.6	1,300
HFC-143a	48.3	3,800
HFC-152a	1.5	140
HFC-227ea	36.5	2,900
HFC-236fa	209	6,300
HFC-4310mee	17.1	1,300
Perfluoromethane: CF ₄	50,000	6,500
Perfluoroethane: C ₂ F ₆	10,000	9,200
Perfluorobutane: C ₄ F ₁₀	2,600	7,000
Perfluoro-2-methylpentane: C ₆ F ₁₄	3,200	7,400
Sulfur Hexafluoride (SF ₆)	3,200	23,900

Source: USEPA.

Based on 100-Year Time Horizon of the Global Warming Potential (GWP) of the air pollutant relative to CO₂.

The methane GWP includes the direct effects and those indirect effects due to the tropospheric ozone and production of stratospheric water vapor. The indirect effect due to the production of CO₂ is not included.

The SJV Air Pollution Control District Best Performance Standards

The San Joaquin Valley Air Pollution Control District (SJVAPCD), of which Stanislaus County is part of, adopted its CEQA guidance for analysis of GHGs in December 2009. The District's approach focuses on compliance with performance standards to reduce GHGs rather than emissions quantification and mitigation for individual projects. SJVAPCD is developing Best Performance Standards (BPS see attached) that uses a quantified GHG reduction percentage.

This approach, for example, assumes that application of a BPS in a project will result in a percentage reduction in project GHG emissions. Performance Standards include measures for Bicycle, Pedestrian and Transit Mitigation measures, Parking Measures, Site Design measures, Mixed Use applications, Building measures, etc. For example:

If a Mixed-Use development project results in the creation of a project that results more than 1.5 but less than 2.0 jobs to housing unit balance, an estimated CO₂ equivalent point reduction can be applied. In a similar manner, a residential development project of 21 to 30 dwelling units per acre, located within ¼ mile of a planned bus rapid transit facility would qualify for a 5.25 CO₂ equivalent point reduction.

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Project GHG emissions will be less than significant under CEQA if the project incorporates BPS that equals a 29 percent reduction in CO₂ emissions. The use of this BPS mitigation approach provides a mechanism for finding GHG emissions less than significant under CEQA based on project design and/or mitigation. However, if BPS is not incorporated, then quantification of Project GHG emissions is required and the impact is only less than significant if mitigations reduce project emissions by 29 percent from "business as usual" (BAU) emissions measured from a 2002-2004 baseline.

BAU is determined by measuring the GHG emissions by the proposed project with GHG reduction measures in place in 2002-2004. SJVAPCD is also developing a program for Voluntary GHG Mitigation Agreements which would allow projects to reduce GHG emissions by paying a fee used to fund implementation of GHG reduction measures. Consistent with the state guidelines, SJVAPCD recognizes that CEQA GHG analysis may be based on a project's consistency with an adopted local GHG reduction plan or CAP.

DETERMINING PROJECT SIGNIFICANCE

CEQA requires lead agencies to establish specific procedures for administering its responsibilities under CEQA, including orderly evaluation of projects and preparation of environmental documents. Each lead agency is encouraged to develop and publish thresholds of significance for use in determining the significance of environmental effects. The San Joaquin Valley Air Pollution Control District proposes the following process (Figure 1 below) for determining the cumulative significance of project specific GHG emissions on global climate change when issuing permits for stationary source projects:

Process for Evaluating GHG Significance

Projects determined to be exempt from the requirements of CEQA would be determined to have a less than significant individual and cumulative impact for GHG emissions and would not require further environmental review, including analysis of project specific GHG emissions. Projects exempt under CEQA would be evaluated consistent with established rules and regulations governing project approval and would not be required to implement BPS.

Projects complying with an approved GHG emission reduction plan or GHG mitigation program which avoids or substantially reduces GHG emissions within the geographic area in which the project is located would be determined to have a less than significant individual and cumulative impact for GHG emissions. Such plans or programs must be specified in law or approved by the lead agency with jurisdiction over the affected resource and supported by a CEQA compliant environmental review document adopted by the lead agency. Projects complying with an approved GHG emission reduction plan or GHG mitigation program would not be required to implement BPS.

Projects implementing Best Performance Standards would not require quantification of project specific GHG emissions. Consistent with CEQA Guideline, such projects would be determined to have a less than significant individual and cumulative impact for GHG emissions.

Projects not implementing Best Performance Standards would require quantification of project

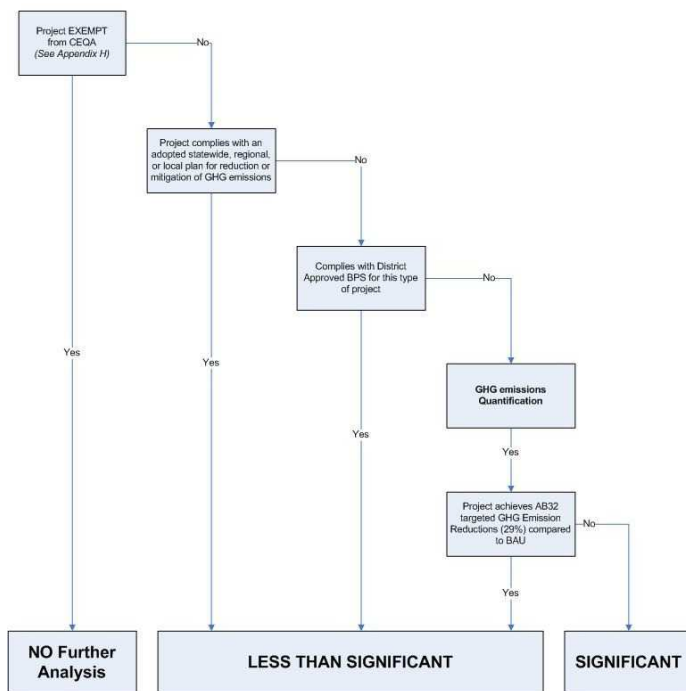
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specific GHG emissions and demonstration that project specific GHG emissions would be reduced or mitigated by at least 29%, compared to BAU, including GHG emission reductions achieved since the 2002-2004 baseline period, consistent with GHG emission reduction targets established in ARB’s AB 32 Scoping Plan. Projects achieving at least a 29% GHG emission reduction compared to BAU would be determined to have a less than significant individual and cumulative impact for GHG.

Projects requiring preparation of an Environmental Impact Report would require quantification of project specific GHG emissions. Projects implementing BPS or achieving at least a 29% GHG emission reduction compared to BAU would be determined to have a less than significant individual and cumulative impact for GHG.

Source: SJVAPCD December 17, 2009 District Policy – Addressing GHG Emission Impacts for Stationary Source Projects Under CEQA When Serving as the Lead Agency

Figure 1: Stationary Source Projects with GHG Emissions



Note: This Table is from the a SJVAPCD policy document and makes reference to Appendix “H” with respect to projects that are exempt from CEQA. The user of these Policies and Procedures Guidelines are referred to Appendix “A” and (Exemptions) and Appendix “B” (Exceptions) with respect to the applicability of these “Exempt from CEQA” determination.

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Table 1

GREENHOUSE GAS (GHG) EMISSION REDUCTION MEASURES						
MEASURE #	MASURE MAME	COMMERCIAL	MIXED-USE	RESIDENTIAL	ESTIMATED CO2 EQUIVALENT POINT	MEASURE DESCRIPTION
Bicycle/Pedestrian/Transit Measures						
1	<i>Bike parking</i>	C	M	-	0.625	<i>Non-residential projects provide plentiful short-term and long-term bicycle parking facilities to meet peak season maximum demand. Short term facilities are provided at a minimum ratio of one bike rack space per 20 vehicle spaces. Long-term facilities provide a minimum ratio of one long-term bicycle storage space per 20 employee parking spaces</i>
2	End of trip facilities	C	M	-	0.625	Non-residential projects provide "end-of-trip" facilities including showers, lockers, and changing space. Facilities shall be provided in the following ratio: four clothes lockers and one shower provided for every 80 employee parking spaces. For projects with 160 or more employee parking spaces, separate facilities are required for each gender
3	Bike parking at multi-unit residential	-	-	R	0.625	Long-term bicycle parking is provided at apartment complexes or condominiums without garages. Project provides one long-term bicycle parking space for each unit without a garage. Long-term facilities shall consist of one of the following: a bicycle locker, a locked room with standard racks and access limited to bicyclists only or a standard rack in a location that is staffed and/or monitored by video surveillance 24 hours per day.
4	Proximity to bike path/bike lanes	C	M	R	0.625	Entire project is located within 1/2 mile of an existing Class I or Class II bike lane and project design includes a comparable network that connects the project uses to the existing offsite facility. Existing facilities are defined as those facilities that are physically constructed and ready for use prior to the first 20% of the projects occupancy permits being granted. Project design includes a designated bicycle route connecting all units, on-site bicycle parking facilities, offsite bicycle facilities, site entrances, and primary building entrances to existing Class I or Class II bike lane(s) within 1/2 mile. Bicycle route connects to all streets contiguous with project site. Bicycle route has minimum conflicts with automobile parking and circulation facilities. All streets internal to the project wider than 75 feet have class II bicycle lanes on both sides.

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MEASURE #	MASURE NAME	COMMERCIAL	MIXED-USE	RESIDENTIAL	ESTIMATED CO2 EQUIVALENT POINT	MEASURE DESCRIPTION
5	Pedestrian network	C	M	R	1	The project provides a pedestrian access network that internally links all uses and connects to existing external streets and pedestrian facilities. Existing facilities are defined as those facilities that are physically constructed and ready for use prior to the first 20% of the projects occupancy permits being granted
5a	Pedestrian Network	C	M	R	0.5	The project provides a pedestrian access network that internally links all uses for connecting to planned external streets and pedestrian facilities (facilities must be included pedestrian master plan or equivalent)
6	Pedestrian barriers minimized	C	M	R	1	Site design and building placement minimize barriers to pedestrian access and interconnectivity. Physical barriers such as walls, berms, landscaping, and slopes between residential and non-residential uses that impede bicycle or pedestrian circulation are eliminated. Barriers to pedestrian access of neighboring facilities and sites are minimized. This measure is not meant to prevent the limited use of barriers to ensure public safety by prohibiting access to hazardous areas, etc...
7	Bus shelter for existing transit service	C	M	R	0.5	Bus or Streetcar service provides headways of one hour or less for stops within 1/4 mile; project provides safe and convenient bicycle/pedestrian access to transit stop(s) and provides essential transit stop improvements (i.e., shelters, route information, benches, and lighting).
8	Bus shelter for planned transit service	C	M	R	0.25	Project provides transit stops with safe and convenient bicycle/pedestrian access. Project provides essential transit stop improvements (i.e., shelters, route information, benches, and lighting) in anticipation of future transit service. If measure 7 is selected, it excludes this measure

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MEASURE #	MASURE NAME	COMMERCIAL	MIXED-USE	RESIDENTIAL	ESTIMATED CO2 EQUIVALENT POINT	MEASURE DESCRIPTION																				
9	Traffic calming	C	M	R	See Table in Measure Description	<p><i>Project design includes pedestrian/bicycle safety and traffic calming measures in excess of jurisdiction requirements. Roadways are designed to reduce motor vehicle speeds and encourage pedestrian and bicycle trips by featuring traffic calming measures. Traffic calming measures include: bike lanes, center islands, closures (cul-de-sacs) ,diverters ,education , forced turn lanes, roundabouts, speed humps, etc. Percent of Streets with Improvements.</i></p> <table border="1"> <tr> <td></td> <td>25%</td> <td>50%</td> <td>75%</td> <td>100%</td> </tr> <tr> <td>Percent of Intersections</td> <td>0.25</td> <td>0.25</td> <td>0.5</td> <td>0.5</td> </tr> <tr> <td>With</td> <td>0.25</td> <td>0.5</td> <td>0.5</td> <td>0.75</td> </tr> <tr> <td>Improvements</td> <td>0.5</td> <td>0.75</td> <td>0.75</td> <td>1.0</td> </tr> </table>		25%	50%	75%	100%	Percent of Intersections	0.25	0.25	0.5	0.5	With	0.25	0.5	0.5	0.75	Improvements	0.5	0.75	0.75	1.0
	25%	50%	75%	100%																						
Percent of Intersections	0.25	0.25	0.5	0.5																						
With	0.25	0.5	0.5	0.75																						
Improvements	0.5	0.75	0.75	1.0																						
Parking Measures																										
10	Paid parking	C	M	R	see below	Employee and/or customer paid parking system																				
10a	Paid Parking- Urban site within 1/4 mile from transit stop	C	M	R	5	Employee and/or customer paid parking system. Daily charge for parking must be equal to or greater than the cost of a local transit pass + 20%. Monthly charge for parking must be equal to or greater than the cost of a local monthly transit pass, plus 20%.																				

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MEASURE #	MASURE NAME	COMMERCIAL	MIXED-USE	RESIDENTIAL	ESTIMATED CO2 EQUIVALENT POINT	MEASURE DESCRIPTION
10b	Paid Parking-Urban site greater than 1/4 mile from transit stop	C	M	R	1.50	Employee and/or customer paid parking system. Daily charge for parking must be equal to or greater than the cost of a local transit pass + 20%. Monthly charge for parking must be equal to or greater than the cost of a local monthly transit pass, plus 20%.
10c	Paid Parking-Suburban site with in 1/4 mile of transit stop	C	M	R	2	Employee and/or customer paid parking system. Daily charge for parking must be equal to or greater than the cost of a local transit pass + 20%. Monthly charge for parking must be equal to or greater than the cost of a local monthly transit pass, plus 20%.
10d	Paid Parking-Suburban site greater than 1/4 mile from transit stop	C	M	R	1	Employee and/or customer paid parking system. Daily charge for parking must be equal to or greater than the cost of a local transit pass + 20%. Monthly charge for parking must be equal to or greater than the cost of a local monthly transit pass, plus 20%.
10e	Parking cash out	C	M	-	0.6	Employer provides employees with a choice of forgoing subsidized parking for a cash payment equivalent to the cost of the parking space to the employer.

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MEASURE #	MASURE MAME	COMMERCIAL	MIXED-USE	RESIDENTIAL	ESTIMATED CO2 EQUIVALENT POINT	MEASURE DESCRIPTION
11	Minimum parking	C	M	R	3	Provide minimum amount of parking required. Special review of parking required. If zoning codes in the San Joaquin Valley area have provisions that allow a project to build less than the typically mandated amount of parking if the development features design elements that reduce the need for automobile use. This measure recognizes the air quality benefit that results when facilities minimize parking needs, and grants mitigation value to project that implement all available parking reductions. Once land uses are determined the trip reduction factor associated with this measure can be determined by utilizing the Institute of Transportation Engineers (ITE) Parking generation publication. The reduction in trips can be computed as shown below by the ratio of the difference of minimum parking required by code and ITE peak parking demand to ITE peak parking demand for the land uses multiplied by 50%. The maximum achievable trip reduction is 6%. For projects where retail space occupies 50% or more of the total built space, do not use December specific parking generation rates (from ITE). Percent Trip Reduction = $50 * [(min\ parking\ required\ by\ code - ITE\ peak\ parking\ demand) / (ITE\ peak\ parking\ demand)]$.
12	Parking reduction beyond code	C	M	R	6	Provide parking reduction less than code. Special review of parking required. Recommend a Shared Parking strategy. Trip reductions associated with parking reductions beyond code shall be computed in the same manner as described under measure 11, as the same methodology applies. The maximum achievable trip reduction is 12%. This measure can be readily implemented through a Shared Parking strategy, wherein parking is utilized jointly among different land uses, buildings, and facilities in an area that experience peak parking needs at different times of day and day of the week. For example, residential uses and/or restaurant/retail uses, which experience peak parking demand during the evening/night and on the weekends, arrange to share parking facilities with office and/or educational uses, which experience peak demand during business hours and during the week.
13	Pedestrian pathway through parking	C	M	R	0.5	Provide a parking lot design that includes clearly marked and shaded pedestrian pathways between transit facilities and building entrances. Pathway must connect to all transit facilities internal or adjacent to project site. Site plan should demonstrate how the pathways are clearly marked, shaded, and are placed between transit facilities and building entrances.

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MEASURE #	MASURE NAME	COMMERCIAL	MIXED-USE	RESIDENTIAL	ESTIMATED CO2 EQUIVALENT POINT	MEASURE DESCRIPTION
14	Off street parking	C	M	R	see below	Parking facilities are not adjacent to street frontage
14a	Off street parking	C	M	R	1.5	For 15% reduction, parking facilities shall not be sited adjacent to public roads contiguous with project site. Functioning pedestrian entrances to major site uses are located along street frontage. Parking facilities do not restrict pedestrian, bicycle or transit access from adjoining uses. Proponent shall provide information demonstrating compliance with measure requirements including, but not limited to, a description of where parking is located relative to the buildings on the site, site plans, maps, or other graphics, which demonstrate the placement of parking facilities behind on-site buildings relative to streets contiguous with the project site. Surrounding uses should be high density or mixed-use, there shall be other adjoining pedestrian and bicycle connections, such as wide sidewalks and bike lanes, and surrounding uses shall also implement measure 15.
14b	Off-street parking	C	M	R	1	For 1.0% reduction, (parking structures only) proponent must show that parking facilities that face street frontage feature ground floor retail along street frontage. Proponent shall provide information demonstrating compliance with measure requirements including, but not limited to a written description I of the parking facility and the amount of retail space on the ground floor, site plans, maps , or other graphics demonstrating the placement of retail/commercial space along all street fronts contiguous with parking structure.
14c	Offstreet parking	C	M	-	0.1	For 0.1% reduction, the project is not among high-density or mixed uses, is not connected to pedestrian I or bicycle access ways, or is among uses that do not also hide parking. This point value is reflective of the importance that other pedestrian and density measures be in place in order for this measure to be effective.

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MEASURE #	MASURE NAME	COMMERCIAL	MIXED-USE	RESIDENTIAL	ESTIMATED CO2 EQUIVALENT POINT	MEASURE DESCRIPTION
Site Design Measures						
15	Office/ Mixed-use proximate to transit	C	M	-	see below	Mitigation value is based on project density and proximity to transit. Planned transit must be in MTP or RT Master Plan. To count as "existing transit" service must be fully operational prior to the first 20% of the projects occupancy permits being granted. Project must provide safe and convenient pedestrian and bicycle access to all transit stops within 1/4 mile. Proponent shall provide information demonstrating compliance with measure requirements including, but not limited to a written description of how the project complies with the measure, a map or graphic depicting the location of the project in relation to the transit stop. Graphic should demonstrate a 1/4 mile radius arc, from transit and planned pathways and linkages to the transit stop. Proponent shall also provide graphics depicting the size and layout of the building as well as the calculations demonstrating the FAR (floor to area ratio).
15a	Office/ Mixed Use proximate to <u>Planned Light Rail Transit</u>	C	M	-	0.4 0.5 0.75	0.75-1.5 FAR (Floor to Area Ratio) 1.5-2.25 FAR (Floor to Area Ratio) 2.25 or greater FAR (Floor to Area Ratio)
15b	Office/ Mixed-use proximate to <u>Planned Bus Rapid Transit</u>	C	M	-	0.2 0.25 0.3	0.75-1.5 FAR (Floor to Area Ratio) 1.5-2.25 FAR (Floor to Area Ratio) 2.25 or greater FAR (Floor to Area Ratio)
15c	Office/ Mixed-use proximate to <u>Existing Light Rail</u>	C	M	-	0.75 1 1.5	0.75-1.5 FAR (Floor to Area Ratio) 1.5-2.25 FAR (Floor to Area Ratio) 2.25 or greater FAR (Floor to Area Ratio)

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	Transit					
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MEASURE #	MASURE MAME	COMMERCIAL	MIXED-USE	RESIDENTIAL	ESTIMATED CO2 EQUIVALENT POINT	MEASURE DESCRIPTION
15d	Office/ Mixed-use proximate to <u>Existing</u> Bus Rapid Transit	C	M	-	0.4 0.5 0.75	0.75-1.5 FAR (Floor to Area Ratio) 1.5-2.25 FAR {Floor to Area Ratio) 2.25 or greater FAR (Floor to Area Ratio)
16	Orientation toward <u>existing</u> transit, bikeway, or pedestrian corridor	C	M	-	0.5	Project is oriented towards existing transit, bicycle, or pedestrian corridor. Setback distance is minimized. Setback distance between project and adjacent uses is reduced to the minimum allowed under jurisdiction code. Setback distance between different buildings on project site is reduced to the minimum allowed under jurisdiction code. Setbacks between project buildings and sidewalks is reduced to the minimum allowed under jurisdiction code. Buildings are oriented towards street frontage. Primary entrances to buildings are located along public street frontage. Project provides bicycle access to existing bicycle corridor. Project provides access to existing pedestrian corridor. (Cannot get points for both this measure and measure 17
17	Orientation toward <u>planned</u> transit, bikeway, or pedestrian corridor	C	M	-	0.25	Project is oriented towards planned transit, bicycle, or pedestrian corridor. Setback distance is minimized. Planned transit, bicycle or pedestrian corridor must be in the MTP, RT Master Plan, or Community Plan. Setback distance between project and existing or planned adjacent uses is Plan General minimized or non-existent. Setback distance between different buildings on project site is minimized. Setbacks between project buildings and planned or existing sidewalks are minimized. Buildings are oriented towards existing or planned street frontage. Primary entrances to buildings are located planned or existing public street frontage. Project provides bicycle access to any planned bicycle corridor(s). Project provides pedestrian access to any planned pedestrian corridor (s).
18	<u>Residential Density With No Transit</u>	-	-	R	see below	Project provides high-density residential development. Mitigation value is based on project density with no transit . Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area.
	3-6					Project provides high-density residential development. Mitigation value is based on project density with no transit . Density is calculated by determining the number of units per acre ("du/acre") within the

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MEASURE #	MEASURE NAME	COMMERCIAL	MIXED-USE	RESIDENTIAL	ESTIMATED CO2 EQUIVALENT POINT	MEASURE DESCRIPTION
	Du/acre	-	-	R	0	residential portion of the project's net lot area.
	7-10 Du/acre	-	-	R	1	Project provides high-density residential development. Mitigation value is based on project density with no transit . Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area.
	11-20 Du/acre	-	-	R	3	Project provides high-density residential development. Mitigation value is based on project density with no transit . Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area.
	21-30 Du/Acre	-	-	R	5	Project provides high-density residential development. Mitigation value is based on project density with no transit . Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area.
	31-40 Du/acre	-	-	R	6	Project provides high-density residential development. Mitigation value is based on project density with no transit . Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area.
	41-50 Du/acre	-	-	R	8	Project provides high-density residential development. Mitigation value is based on project density with no transit . Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area.
	50+ Du/acre	-	-	R	10	Project provides high-density residential development. Mitigation value is based on project density with no transit . Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area.
18a	Residential density With Planned Light Rail Transit	-	-	R	see below	Project provides high-density residential development. Mitigation value is based on project density and proximity to planned light rail transit. Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area. Transit facilities must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within 1/4 mile of project border. Planned transit must be in a MTP or RT Master Plan.
	3-6 Du/acre	-	-	R	0	Project provides high-density residential development. Mitigation value is based on project density and proximity to planned light rail transit. Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area. Transit facilities must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within 1/4 mile of project border. Planned transit must be in a MTP or RT Master Plan.

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MEASURE #	MASURE MAME	COMMERCIAL	MIXED-USE	RESIDENTIAL	ESTIMATED CO2 EQUIVALENT POINT	MEASURE DESCRIPTION
	7-10 Du/acre	-	-	R	1.75	Project provides high-density residential development. Mitigation value is based on project density and proximity to planned light rail transit. Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area. Transit facilities must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within 1/4 mile of project border. Planned transit must be in a MTP or RT Master Plan.
	11-20 Du/acre	-	-	R	3.75	Project provides high-density residential development. Mitigation value is based on project density and proximity to planned light rail transit. Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area. Transit facilities must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within 1/4 mile of project border. Planned transit must be in a MTP or RT Master Plan.
	21-30 Du/Acre	-	-	R	5.76	Project provides high-density residential development. Mitigation value is based on project density and proximity to planned light rail transit. Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area. Transit facilities must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within 1/4 mile of project border. Planned transit must be in a MTP or RT Master Plan.
	31-40 Du/acre	-	-	R	6.75	Project provides high-density residential development. Mitigation value is based on project density and proximity to planned light rail transit. Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area. Transit facilities must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within 1/4 mile of project border. Planned transit must be in a MTP or RT Master Plan.
	41-50 Du/acre	-	-	R	8.75	Project provides high-density residential development. Mitigation value is based on project density and proximity to planned light rail transit. Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area. Transit facilities must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within 1/4 mile of project border. Planned transit must be in a MTP or RT Master Plan.

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MEASURE #	MASURE NAME	COMMERCIAL	MIXED-USE	RESIDENTIAL	ESTIMATED CO2 EQUIVALENT POINT	MEASURE DESCRIPTION
	50+ Du/acre	-	-	R	10.75	Project provides high-density residential development. Mitigation value is based on project density and proximity to planned light rail transit. Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area. Transit facilities must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within 1/4 mile of project border. Planned transit must be in a MTP or RT Master Plan.
18b	Residential Density with Planned Bus Rapid Transit	-	-	R	see below	Project provides high-density residential development. Mitigation value is based on project density and proximity to planned bus rapid transit . Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area. Transit facilities must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within 1/4 mile of project border. Planned transit must be in a MTP or RT Master Plan.
	3-6 Du/acre	-	-	R	0	Project provides high-density residential development. Mitigation value is based on project density and proximity to planned bus rapid transit . Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area. Transit facilities must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within 1/4 mile of project border. Planned transit must be in a MTP or RT Master Plan.
	7-10 Du/acre	-	-	R	1.25	Project provides high-density residential development. Mitigation value is based on project density and proximity to planned bus rapid transit . Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area. Transit facilities must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within 1/4 mile of project border. Planned transit must be in a MTP or RT Master Plan.
	11-20 Du/acre	-	-	R	3.25	Project provides high-density residential development. Mitigation value is based on project density and proximity to planned bus rapid transit . Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area. Transit facilities must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within 1/4 mile of project border. Planned transit must be in a MTP or RT Master Plan.
	21-30 Du/Acre	-	-	R	5.25	Project provides high-density residential development. Mitigation value is based on project density and proximity to planned bus rapid transit . Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area. Transit facilities must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within 1/4 mile of project border. Planned transit must be in a MTP or RT Master Plan.

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MEASURE #	MASURE MAME	COMMERCIAL	MIXED-USE	RESIDENTIAL	ESTIMATED CO2 EQUIVALENT POINT	MEASURE DESCRIPTION
	31-40 Du/acre	-	-	R	6.25	Project provides high-density residential development. Mitigation value is based on project density and proximity to planned bus rapid transit. Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area. Transit facilities must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within 1/4 mile of project border. Planned transit must be in a MTP or RT Master Plan
	41-50 Du/acre	-	-	R	8.25	Project provides high-density residential development. Mitigation value is based on project density and proximity to planned bus rapid transit. Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area. Transit facilities must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within 1/4 mile of project border. Planned transit must be in a MTP or RT Master Plan.
	50+ Du/acre	-	-	R	10.25	Project provides high-density residential development. Mitigation value is based on project density and proximity to planned bus rapid transit. Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area. Transit facilities must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within 1/4 mile of project border. Planned transit must be in a MTP or RT Master Plan.
18c	Residenti al Density with Existing Light Rail Transit	-	-	R	see below	Project provides high-density residential development. Mitigation value is based on project density and proximity to existing light rail transit. Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area. Existing transit facilities must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within 1/4 mile of project border.
	3-6 Du/acre	-	-	R	0	Project provides high-density residential development. Mitigation value is based on project density and proximity to existing light rail transit. Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area. Existing transit facilities must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within 1/4 mile of project border.
	7-10 Du/acre	-	-	R	2.5	Project provides high-density residential development. Mitigation value is based on project density and proximity to existing light rail transit. Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area. Existing transit facilities must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within 1/4 mile of project border.

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MEASURE #	MASURE MAME	COMMERCIAL	MIXED-USE	RESIDENTIAL	ESTIMATED CO2 EQUIVALENT POINT	MEASURE DESCRIPTION
	11-20 Du/acre	-	-	R	4.5	Project provides high-density residential development. Mitigation value is based on project density and proximity to existing light rail transit. Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area. Existing transit facilities must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within 1/4 mile of project border.
	21-30 Du/Acre	-	-	R	6.5	Project provides high-density residential development. Mitigation value is based on project density and proximity to existing light rail transit. Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area. Existing transit facilities must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within 1/4 mile of project border.
	31-40 Du/acre	-	-	R	7.5	Project provides high-density residential development. Mitigation value is based on project density and proximity to existing light rail transit. Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area. Existing transit facilities must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within 1/4 mile of project border.
	41-50 Du/acre	-	-	R	9.5	Project provides high-density residential development. Mitigation value is based on project density and proximity to existing light rail transit. Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area. Existing transit facilities must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within 1/4 mile of project border.
	50+ Du/acre	-	-	R	11.5	Project provides high-density residential development. Mitigation value is based on project density and proximity to existing light rail transit. Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area. Existing transit facilities s must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within 1/4 mile of project border.

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MEASURE #	MASURE NAME	COMMERCIAL	MIXED-USE	RESIDENTIAL	ESTIMATED CO2 EQUIVALENT POINT	MEASURE DESCRIPTION
18d	Residential Density with Existing Bus Rapid Transit	-	-	R	see below	Project provides high-density residential development. Mitigation value is based on project density and proximity to existing bus rapid transit. Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area. Existing transit facilities must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within 1/4 mile of project border.
	3-6 Du/acre	-	-	R	0	Project provides high-density residential development. Mitigation value is based on project density and proximity to existing bus rapid transit. Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area. Existing transit facilities must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within 1/4 mile of project border.
	7-10 Du/acre	-	-	R	2	Project provides high-density residential development. Mitigation value is based on project density and proximity to existing bus rapid transit. Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area. Existing transit facilities must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within 1/4 mile of project border.
10e	11-20 Du/acre	-	-	R	4	<i>Project provides high-density residential development. Mitigation value is based on project density and proximity to existing bus rapid transit. Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area. Existing transit facilities must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within 1/4 mile of project border</i>
	21-30 Du/Acre	-	-	R	6	Project provides high-density residential development. Mitigation value is based on project density and proximity to existing bus rapid transit. Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area. Existing transit facilities must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within 1/4 mile of project border.
	31-40 Du/acre	-	-	R	7	Project provides high-density residential development. Mitigation value is based on project density and proximity to existing bus rapid transit. Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area. Existing transit facilities must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to

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MEASURE #	MASURE MAME	COMMERCIAL	MIXED-USE	RESIDENTIAL	ESTIMATED CO2 EQUIVALENT POINT	MEASURE DESCRIPTION
						all transit stop(s) within 1/4 mile of project border.
	41-50 Du/acre	-	-	R	9	<i>Project provides high-density residential development. Mitigation value is based on project density and proximity to existing bus rapid transit. Density is calculated by determining the number of units per acre ("du/acre") within the residential portion of the project's net lot area. Existing transit facilities must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within 1/4 mile of project border.</i>
	50+ Du/acre	-	-	R	11	Project provides high-density residential development. Mitigation value is based on project density and proximity to existing bus rapid transit. Density is calculated by determining the number of units per ("du/acre") within the residential portion of the project's net lot area. Existing transit facilities must be within 1/4 mile of project border. Project provides safe and convenient bicycle/pedestrian access to all transit stop(s) within 1/4 mile of project border
19	Street grid	C	M	R	1	Multiple and direct street routing (grid style). The measure applies to projects with an internal connectivity factor (CF) \geq 0.80, and average of 1/4 mile or less between external connections along perimeter of project. [CF=# of intersections / (# of cul-de-sacs + intersections)]
20	Neighborhood Electric Vehicle access	C	M	R	See Below	Make physical development consistent with requirements for neighborhood electric vehicles (NEV). Current studies show that for most trips, NEVs do not replace gas fueled vehicles as the primary vehicle. For the purpose of providing incentives for developers to promote NEV use, assume the percent reductions noted below.
20a	Neighborhood Electric Vehicle access	C	M	R	1.5	For 1.5% reduction, a neighborhood shall have internal NEV connections and connections to other existing NEV networks serving all other types of uses.

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MEASURE #	MASURE MAME	COMMERCIAL	MIXED - USE	RESIDENTIAL	ESTIMATED CO2 EQUIVALENT POINT	MEASURE DESCRIPTION
20b	Neighbor- hood Electric Vehicle access	C	M	R	1.5	For 1.0% reduction, a neighborhood shall have internal and external connections to surrounding neighborhoods.
20c	Neighbor- hood Electric Vehicle access	C	M	R	1	For 0.5% reduction, a neighborhood has internal connections only.
21	Affordable Housing Component			R	see below	Residential development projects of 5 or more dwelling units provide a deed-restricted low-income housing component on-site. [Developers who pay into In-Lieu Fee Programs are not considered eligible to receive credit for this measure]. Percent reductions shall be calculated according to the following formula: % reduction=% units deed-restricted below the market rate housing o.04
21 a	Affordable Housing Component			R	0.6 0.8 1.2 1.6 2 2.4 2.8 3.2 3.6 4	Reductions apply if 15% of units are deed- restricted below the market housing rate. Reductions apply if 20% of units are deed-restricted below the market housing rate Reductions apply if 30% of units are deed-restricted below the market housing rate. Reductions apply if 40% of units are deed-restricted below the market housing rate. Reductions apply if 50% of units are deed-restricted below the market housing rate. Reductions apply if 60% of units are deed-restricted below the market housing rate. Reductions apply if 70% of units are deed-restricted below the market housing rate. Reductions apply if 80% of units are deed-restricted below the market housing rate. Reductions apply if 90% of units are deed-restricted below the market housing rate. Reductions apply if 100% of units are deed-restricted below the market housing rate.

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MEASURE #	MEASURE NAME	COMMERCIAL	MIXED-USE	RESIDENTIAL	ESTIMATED CO2 EQUIVALENT POINT	MEASURE DESCRIPTION
Mixed Use Measures						
22	Urban Mixed-Use Measure	-	M	-	see below 0.6	Development of projects predominantly characterized by properties on which various uses such as office, commercial, institutional, and residential are combined in a single building or on a single site in an integrated development project with functional inter-relationships and a coherent physical design. Mitigation points for this measure depend on job to housing ratio.
		-	M	-	3 6.6 9 7.29 6 5 4.2	Reductions apply if the ratio (jobs: houses) is $.5 < 1.0$ Reductions apply if the ratio (jobs: houses) is $1 < 1.5$ Reductions apply if the ratio (jobs: houses) is $1.5 < 2.0$ Reductions apply if the ratio (jobs: houses) is $2.0 < 2.5$ Reductions apply if the ratio (jobs: houses) is $2.5 < 3.0$ Reductions apply if the ratio (jobs: houses) is $3.0 < 3.5$ Reductions apply if the ratio (jobs: houses) is $3.5 \leq 4.0$
23	Suburban mixed-use	C	M	R	3	Have at least three of the following on site and/or offsite within 1/4 mile: Residential Development, Retail Development, Park, Open Space, or Office.
24	Other mixed-use	-	M	R	1	All residential units are within 1/4 mile of parks, schools or other civic uses.

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MEASURE #	MEASURE NAME	COMMERCIAL	MIXED-USE	RESIDENTIAL	ESTIMATED CO2 EQUIVALENT POINT	MEASURE DESCRIPTION
Building Component Measures						
25	Energy Star roof	C	M	R	0.5	Install Energy Star labeled roof materials. Energy star qualified roof products reflect more of the sun's rays, decreasing the amount of heat transferred into a building.
26	Onsite renewable energy system	C	M	R	1	Project provides onsite renewable energy system(s).
27	Exceed title 24	C	M	R	1	Project Exceeds title 24 requirements by 20%
28	Solar orientation			R	0.5	Orient 75 or more percent of homes and/or buildings to face either north or south (within 30 degrees of North or South). Building design includes roof overhangs that are sufficient to block the high summer sun, but not the lower winter sun, from penetrating south facing windows. Trees, other landscaping features and other buildings are sited in such a way as to maximize shade in the summer and maximize solar access to walls and windows in the winter.
29	Non-Roof Surfaces	C	M	R	1	Provide shade (within 5 years) and/or use light-colored/high-albedo materials (reflectance of at least 0.3) and/or open grid pavement for at least 30% of the site's non-roof impervious surfaces, including parking lots, walkways, plazas, etc.; OR place a minimum of 50% of parking spaces underground or covered by structured parking; OR use an open-grid pavement system (less than 50% impervious) for a minimum of 50% of the parking lot area. Unshaded parking lot areas, driveways, fire lanes, and other paved areas have a minimum albedo of .3 or greater
30	Green Roof	C	M	R	0.5	Install a vegetated roof that covers at least 50% of roof area. Project should demonstrate detailed graphics depicting the planned roof, detailed information on maintenance requirements for the roof, and the facilities plan for maintaining the roof post construction.

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MEASURE #	MASURE MAME	COMMERCIAL	MIXED-USE	RESIDENTIAL	ESTIMATED CO2 EQUIVALENT POINT	MEASURE DESCRIPTION
TDM and Misc. Measures						
31	Electric lawn-mower	-	-	R	1	Provide a complimentary electric lawnmower to each residential buyer
Additional GHG Emission Reduction measures Requiring Additional Investigation						
1	Bike Lane Street					Incorporate bicycle lanes and routes into street systems, new subdivisions, and large developments.
2	Bike & pedestrian					Include pedestrian and bicycle-only streets and plazas within developments. Create travel routes that ensure that destinations may be reached conveniently by public transportation, bicycling or walking.
3	School					Site schools to increase the potential for students to walk and bike to school.
4	Transit street					The project will provide for on-site road and off-site bus turnouts, passenger benches, and shelters as demand and service routes warrant subject to review and approval by local transportation planning agencies
5	Site design measures					Site design to minimize th need for external trips by including services/facilities for day care, banking/ATM, restaurants, vehicle refueling, and shopping.
6	Other mixed- use					All residential units are within 1/4 mile of parks, schools or other civic uses.
7	Mixed-Use					Include mixed-use, infill, and higher density in development projects to support the reduction of vehicle trips, promote alternatives to individual vehicle travel, and promote efficient delivery of services and goods.

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8	Open Space					Preserve and create open space and parks. Preserve existing trees, and plant replacement trees at a set ratio.
MEASURE #	MEASURE NAME	COMMERCIAL	MIXED-USE	RESIDENTIAL	ESTIMATED CO2 EQUIVALENT POINT	MEASURE DESCRIPTION
9	Natural Gas Stove					Project features only natural gas or electric stoves in residences.
10	Solar Design					Incorporate appropriate passive solar design and solar heaters.
11	Vehicle Idling					Limit idling time for commercial vehicles, including delivery and construction vehicles.
12	Ride Sharing Programs					Create car sharing programs. Accommodations for such programs include providing parking spaces for the car share vehicles at convenient locations accessible by public transportation.
13	Shuttle Service					Provide shuttle service to public transit.
14	School Bus Services					Work with the school district to restore or expand school bus services.
15	Shuttle Bus Services					Operation of a shuttle bus to shopping health care, public services sites and other nearby trip attractors to reduce automobile use.
16	Energy efficient appliances					Install energy efficient heating and cooling systems, appliances and equipment, and control systems.
17	Renewable Energy Use					Install solar, wind, and geothermal power systems and solar hot water heaters. Educate consumers about existing incentives.
18	Solar Panels in Parking areas					Install solar panels on carports and over parking areas.

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MEASURE #	MASURE NAME	COMMERCIAL	MIXED-USE	RESIDENTIAL	ESTIMATED CO2 EQUIVALENT POINT	MEASURE DESCRIPTION
19	Photo-voltaic Roofing Tiles					Install Photovoltaic roofing tiles for solar power.
20	Tree Planting					Protect existing trees and encourage the planting of new trees. Adopt a tree protection and replacement ordinance, e.g., requiring that trees larger than a specified diameter that are removed to accommodate development must be replaced at a set ratio.
21	Local Farmer's Market					Project shall dedicate space in a centralized, accessible location for a weekly farmers' market.
22	Com-munity Gardens					Project shall dedicate space for community gardens.
23	Best manage-ment practices					Require best management practices in agriculture and animal operations to reduce emissions, conserve energy and water, and utilize alternative energy sources, including biogas, wind and solar.
24	Land Use Density					The project should provide densities of nine units per acre or greater, where allowed by the General Plan and/or Zone Plan along bus routes and at bus stops to encourage transit use, where feasible.
25	Zero Emission Infra-structure					Provide the necessary facilities and infrastructure to encourage the use of low or zero-emission vehicles (e.g., electric vehicle charging facilities and conveniently located alternative fueling stations).
26	Low carbon fuel Incentive program					Institute a low-carbon fuel vehicle incentive program.

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Appendix I
***Example Format of City Council Resolution: Findings of Significant
Effects and
Statement of Overriding Considerations***

BEFORE THE CITY COUNCIL OF THE CITY OF WATERFORD

**IN THE MATTER OF MAKING WRITTEN FINDINGS
FOR SIGNIFICANT ENVIRONMENTAL EFFECTS, A
STATEMENT OF OVERRIDING CONSIDERATIONS
FOR UNAVOIDABLE ENVIRONMENTAL EFFECTS,
AND APPROVING THE MITIGATION MONITORING
PROGRAM IN REGARDS TO THE ADOPTION AND
IMPLEMENTATION OF THE _____
RESOLUTION NO. __-_____**

WHEREAS, the City of Waterford, as Lead Agency, has certified as complete and adequate a Final Environmental Impact Report (FEIR) prepared for the project pursuant to the California Environmental Quality Act (CEQA) describing and analyzing the significant environmental effects of adopting and implementing the _____, including a discussion of ways to mitigate or avoid the significant effects as well as identifying those significant effects that cannot be avoided; and,

WHEREAS, the determinations and findings made herein by the City Council of the City of Waterford are supported by substantial evidence in the record including the policies and programs identified in the Draft EIR, all elements of the Final EIR including the Mitigation Measures and Mitigation Monitoring Program (P. _____ through _____), and the recommendations of the Planning Commission; and

WHEREAS, pursuant to CEQA and the CEQA Guidelines, prior to adopting and carrying out the project for which the EIR was completed identifies one or more significant environmental effects, the City must make written findings for each of those significant environmental effects, accompanied by a brief explanation of the rationale for each finding; and

WHEREAS, the City Council is required to balance the benefits of a proposed project, including its economic and social benefits to all City residents, against its unavoidable environmental risks in determining whether to approve the project, and if the project's benefits outweigh the unavoidable adverse environmental effects the adverse effects may be considered "acceptable" due to these overriding considerations.

NOW, THEREFORE BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF WATERFORD DOES HEREBY:

Section 1. Find that the Final EIR has shown that there would be no significant adverse environmental effects to *list* (earth/geology, water, vegetation and wildlife, land use, population,

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housing, visual impacts, and public services and utilities), from adoption and implementation of the _____.

Section 2. Finds that the Final EIR has identified those significant direct and indirect environmental effects of the adoption and implementation of the _____, including both project-level and cumulative impacts, and those significant effects are identified in Exhibit "A".

Section 3. Finds that the Final EIR has described reasonable alternatives to the project capable of either eliminating any significant environmental effects or reducing them to a level of insignificance and that these project alternatives have been reviewed and considered by the Council in regards to their feasibility of obtaining the basic objectives of the project.

Section 4. Finds that all feasible changes or alterations have been required in, or incorporated into, the project, including specific project standards, and specifications, which eliminate, avoid or substantially lessen the potential significant environmental effects that have been identified in the Final EIR.

Section 5. Finds that certain significant environmental effects identified in the Final EIR and listed in Final EIR (Table _____) have not been, or are unable to be, completely mitigated or eliminated and therefore require adoption of a Statement of Overriding Considerations by the Council.

Section 6. Finds that it is necessary to adopt a monitoring and reporting program for the mitigation measures that are proposed and adopted herein in order to mitigate or avoid significant effects on the environment during project implementation.

BE IT FURTHER RESOLVED THAT THE CITY COUNCIL:

Section 7. Hereby adopts one or more written findings for each of those potential significant effects identified in the Final EIR pursuant to the C.G.C. §21083 and that this information is contained in Exhibit "B".

Section 8. Hereby adopts a Statement of Overriding Considerations for those potential significant environmental effects that have been found to be unavoidable but are acceptable due to overriding concerns and that this information is contained in Exhibit "C".

Section 9. Hereby adopts a Mitigation Monitoring and Reporting Program for those mitigation measures and policies that have been identified and adopted in order to mitigate, lessen or avoid certain significant effects on the environment, as contained in Exhibit "D".

This Resolution shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED by the City Council of the City of Waterford at a special meeting on this ____ day of _____ by the following vote:

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AYES:

NOES:

ABSTAIN:

NOT PARTICIPATING:

ABSENT:

ATTEST:

_____, City Clerk City of Waterford
County of Stanislaus, State of California

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