

TO: James L. App, City Manager

FROM: Ed Gallagher, Community Development Director

SUBJECT: 2014 Update to the City's Rules and Regulations for Implementing CEQA (City-Initiated)

DATE: January 21, 2014

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Needs: For the City Council to consider and approve the draft 2014 Update to the City's Rules and Regulations for Implementing the California Environmental Quality Act (CEQA).

Facts:

1. The California Environmental Quality Act (CEQA) is embodied in the California Public Resources Code Sections 21000 et seq. Section 21082 requires the City to adopt "objectives, criteria, and procedures for the evaluation of projects and the preparation of environmental impact reports and negative declarations".
2. Pursuant to Section 21082, the City has adopted and updated its "Rules and Procedures for Implementing CEQA" (Rules and Procedures) to address the most common situations faced by the City on a day-to-day basis in complying with CEQA.
3. Pursuant to Section 21083, the State has adopted detailed Guidelines for the implementation of CEQA. Where there are situations that are not addressed by the City's Rules and Procedures, or if any portion of the City's Rules and Procedures conflicts with any provision of, or amendment to, CEQA or the State's Guidelines, the provisions of CEQA and the Guidelines control.
4. CEQA requires that the analysis of environmental impacts from proposed projects include an evaluation of impacts on water supply and groundwater resources.
5. In 2010, the City adopted an Urban Water Management Plan (UWMP) that set forth measures to provide potable water for the General Plan's build-out population of 44,000.
6. In 2012 and 2013, four applications for general plan amendments and/or annexations were filed with the City. Environmental documents for these applications are in various stages of preparation.

7. The 2010 UWMP did not evaluate the effects on water supply and groundwater resources that pertain to the four applications for general plan amendments and annexations, or for any other such applications that could be filed in the future.
8. The 2014 Update to the Rules and Regulations proposes to add a section to Chapter 5, Initial Study Process, to require that applications for certain general plan amendments (discussed below in Analysis and Conclusion) and annexations include an independent evaluation of the project's water supply needs and impacts on the City's water supply as set forth in the City's current UWMP.
9. On January 14, 2014, the Planning Commission is scheduled to consider and make a recommendation to the City Council on the draft 2014 Update to the City's Rules and Regulations. The recommendation of the Planning Commission will be verbally reported to the Council at its meeting of January 21.

#### Analysis and

Conclusion: Applications for: (1) general plan amendments that would increase residential density or commercial/industrial intensity, (2) general plan amendments that would increase demand for water and, (3) annexations have potential for impacting the City's ability to provide potable water service and, in some cases, for impacting groundwater supplies.

Given the present debate over the condition of the Paso Robles Groundwater Basin, the evaluation of impacts on water supply and groundwater resources for such applications is critical. The proposed amendment provides that the water supply evaluation may be required to include analysis of the project's impacts on regional water supplies in the case of proposed non-potable water demand. The proposed update would provide that this evaluation be prepared by a consultant of the City's choice who has demonstrated competence in water supply evaluation and familiarity with the City's UWMP. The cost of the evaluation will be borne by the applicants. The City will determine the scope of work for said evaluation, which may include any or all elements specified in California Water Code Sections 10910 et seq. Finally, the proposed update provides that this requirement will apply to all applications for such general plan amendments and/or annexations that have not been approved by the City Council as of January 1, 2014.

#### Fiscal

Impact: No fiscal impacts are anticipated in conjunction with the adoption of the 2014 CEQA Update.

Options: After consideration of all public testimony, that the City Council considers the following options:

- a. Adopt the attached resolution approving the 2014 Update to the Rules and Regulations for Implementation of CEQA;
- b. Amend, modify or reject the foregoing option.

Exhibits:

- 1. Resolution Approving the 2014 Update to the Rules and Regulations for Implementation of CEQA
- 2. Public Hearing Notice

RESOLUTION NO. 14-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES  
APPROVING THE 2014 UPDATE TO THE CITY'S RULES AND REGULATIONS FOR  
IMPLEMENTING CEQA

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WHEREAS the City has received several requests for property annexations to the City and for amendments to the City's General Plan; and

WHEREAS, such requests are generally submitted in conjunction with proposals for development of property not presently contemplated or comprehensively analyzed in the General Plan or other resource planning documents; and

WHEREAS, there is currently considerable debate within San Luis Obispo County regarding the condition and use of the Paso Robles Groundwater Basin (the "Basin"), which is one of the three sources of water for the City; and

WHEREAS, the 2012 and 2013 were very dry years, with insufficient rainfall to fully replenish the Basin's aquifers; and

WHEREAS, the City is a participant in the Nacimiento Water Project, which, upon completion of the City's potable water treatment plant, will provide an additional source of water and help reduce reliance upon the Basin; and

WHEREAS, the third source of water for the City is river underflow from the Salinas River, for which the City has a State permit to use a maximum of 4,600 acre- feet per year; and

WHEREAS, the City's Urban Water Management Plan ("UWMP") states that "[i]n order to limit reliance on the highly-stressed groundwater basin, new development – per City policy – is required to be served with surface and recycled water;" and

WHEREAS, the UWMP set forth measures to provide potable water for the land uses and population projections contained in the City's 2003 General Plan; and

WHEREAS, the City has implemented a successful water conservation program which has resulted in a reduction of City water use from the Basin from 2007 levels; and

WHEREAS, the State Guidelines for the California Environmental Quality Act ("CEQA Guidelines") require each public agency to adopt its own objectives, criteria and specific procedures consistent with the CEQA Guidelines for administering its responsibilities under CEQA; and

WHEREAS, Section 15126.2 of the CEQA Guidelines provides, among other things, that in considering the significant environmental effects of a proposed project an environmental impact report "should include relevant specifics of the area, the resources involved, physical changes, alterations to ecological systems, and changes induced in population distribution, population concentration, the human use of the land (including commercial and residential development), health and safety problems caused by the physical changes, and *other aspects of the resource base such as water*, historical resources, scenic quality and public services" (emphasis added); and

WHEREAS, the City believes it is in the best interests of the public health, safety and welfare to ensure that all proposals for the annexation of property to the City or for an amendment to the City's General Plan for a

use that would increase the demand for water should be required as part of the CEQA review process to prepare a thorough evaluation and assessment of the project's water supply needs and potential impacts on the City's water resources and identify the source(s) of water available to serve such development; and

WHEREAS, at its meeting of January 14, 2014, the Planning Commission conducted a public hearing on the proposed amendment to the City's Rules and Regulations for the Implementation of CEQA ("Rules and Regulations") and took the following actions:

- a. Considered the facts and analysis, as presented in the staff report prepared for the proposed amendment;
- b. Conducted a public hearing to obtain public testimony on the proposed amendment; and
- c. On a \_\_\_\_\_ vote, recommended that the City Council approve the proposed amendment to the Rules and Regulations; and

WHEREAS, at its meeting of January 21, 2014, the City Council conducted a public hearing on the proposed amendment to the Rules and Regulations and took the following action:

- a. Considered the facts and analysis, as presented in the staff report on the proposed amendment, including the recommendation of the Planning Commission;
- b. Conducted a public hearing to obtain public testimony on the proposed amendment to the Rules and Regulations; and

WHEREAS, the City Council desires to update the City's Rules and Regulations for Implementing the California Environmental Quality Act by adding a new subsection D. to Section 5.3 of the Rules and Regulations;

NOW THEREFORE BE IT RESOLVED by the City Council of the City of El Paso de Robles, as follows:

Section 1. The above recitals are true and correct and incorporated herein by reference.

Section 2. The City Council hereby approves and adopts the revised "Section 5 – Initial Study Process" of the City's Rules and Regulations for Implementing the California Environmental Quality Act," attached hereto as Exhibit A and incorporated herein by reference.

Section 3. This Resolution shall become effective upon its adoption.

**PASSED AND ADOPTED** at a regular meeting of the City of El Paso de Robles on the 21<sup>st</sup> day of January, 2014, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

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Duane Picanco, Mayor

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Caryn Jackson, Deputy City Clerk

## **Exhibit A**

### **5. INITIAL STUDY PROCESS**

**"Initial Study"** means a preliminary analysis prepared by the Lead Agency to determine the type of environmental document to process (e.g. EIR, Negative Declaration, or Mitigated Negative Declaration). It is also used to identify the significant environmental effects to be analyzed in an EIR. Use of the Initial Study is discussed in the Guidelines Article 5, commencing with §15060.

#### **5.1 Conduct of the Initial Study**

An initial study shall be prepared for all public and private projects once they are determined that an activity is subject to CEQA and no statutory or categorical exemptions apply, unless it has been determined that an EIR will be required and the applicant agrees. All initial studies shall be conducted in accordance with §15063 of the Guidelines.

#### **5.2 Consultation**

As soon as the determination to prepare an Initial Study has been made, Planning staff shall consult informally with, and solicit recommendations from, all Responsible and Trustee agencies (see §15063(g) of the Guidelines), and City departments. Appendix D lists reviewing agencies with special expertise in various subject areas which may be used to solicit comments in the review of environmental documents. For most projects, this consultation can be adequately satisfied by a telephone call to the appropriate member of the agency's staff. A written record of the phone call (e.g. memo to file or a funning phone log) shall be placed in the project file. The comments and recommendations of the Responsible or Trustee agency and City Departments shall be reflected in the Initial Study.

#### **5.3 Evaluating Projects**

**A.** Planning staff shall evaluate projects for their effect on the environment by using the Environmental Checklist Form (Appendix E), Environmental Information Form (Appendix C), and by calling upon various sources of information, including the General Plan, previously completed EIRs and other environmental studies, and make a written recommendation to the Coordinator which is supported by factual evidence.

1. For projects with no previous environmental documents, or previously prepared documents found to be inadequate because changes have been made to the project, the project setting, or because of the length of time since the original preparation date, the analysis shall focus on the identification of significant effects according to sections 15064 and 15065 of the Guidelines. These sections describe the criteria and mandatory findings for establishing whether a project may have a significant adverse effect on the environment.
2. When a project being analyzed is a change to, or further approval for, a project for which an environmental document was previously certified or adopted, provisions of sections 15162 (Subsequent EIRs and Negative Declarations), 15163 (Supplement to an EIR or Negative Declaration), and 15164 (Addendum to an EIR) of the Guidelines will apply. Guidelines §15064(f)(7)

**B.** If additional outside review is required to determine the potential significant effects of a project, (e.g., a study of potential traffic impacts) it should be determined at this point, or earlier in the process if possible, by City staff. Any fees for this study shall be borne by the applicant.

**C. Determining the Significance of Impacts from Greenhouse Gas Emissions**

1. The determination of the significance of greenhouse gas emissions calls for a careful judgment by the lead agency consistent with the provisions in CEQA Guidelines, Section 15064. A lead agency should make a good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate or estimate the amount of greenhouse gas emissions resulting from a project. A lead agency shall have the discretion to determine, in the context of a particular project, whether to:
  - a. Use a model or methodology to quantify greenhouse gas emissions resulting from a project, and which model or methodology to use. The lead agency has discretion to select the model or methodology it considers most appropriate provided it supports its decision with substantial evidence. The lead agency should explain the limitations of the particular model or methodology selected for use; and/or
  - b. Rely on a qualitative analysis or performance based standards.
2. A lead agency should consider the following factor, among others, when assessing the significance of impacts from greenhouse gas emissions on the environment:
  - a. The extent to which the project may increase or reduce greenhouse gas emissions as compared to the existing environmental setting;
  - b. Whether the project emissions exceed a threshold of significance that the lead agency determines applies to the project.
  - c. The extent to which the project complies with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions. Such requirements must be adopted by the relevant public agency through a public review process and must reduce or mitigate the project's incremental contribution of greenhouse gas emissions. If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding compliance with the adopted regulations or requirements, an EIR must be prepared for the project.
3. Mitigation Measures Related to Greenhouse Gas Emissions.

Consistent with CEQA Guidelines section 15126.4(a), lead agencies shall consider all feasible means, supported by substantial evidence and subject to monitoring or reporting, of mitigating the significant effects of greenhouse gas emission. Measures to mitigate the significant effects of greenhouse gas emission may include, among others:

- a. Measures in an existing plan or mitigation program for the reduction of emissions that are required as part of the lead agency's decision;



- b. Reductions in emissions resulting from a project through implementation of project features, project design, or other measures, such as those described in Appendix F;
- c. Off-site measures, including offsets that are not otherwise required, to mitigate a project's emissions;
- d. Measures that sequester greenhouse gases;
- e. In the case of the adoption of a plan, such as a general plan, long range development plan, or plans for the reduction of greenhouse gas emissions, mitigation may include the identification of specific measures that may be implemented on a project-by-project basis. Mitigation may also include the incorporation of specific measures or policies found in an adopted ordinance or regulation that reduces the cumulative effect of emissions.

**D. Water Supply Evaluation for Proposed General Plan Amendments and Annexations:**

All CEQA documents for any proposed (1) general plan amendment that would increase residential density or commercial/industrial intensity, (2) general plan amendment that would increase demand for water, or (3) annexation shall be informed by an independent evaluation of the project's water supply needs and impacts on the City's water supply as set forth in the City's current Urban Water Management Plan (UWMP). The water supply evaluation may be required to include analysis of the project's impacts on regional water supplies in the case of proposed non-potable water demand. Said evaluation shall be prepared by a consultant of the City's choice who shall have demonstrated competence in water supply evaluation and familiarity with the City's UWMP. The cost of said evaluation shall be borne by the applicant(s), who shall be required to deposit with the City, in advance, sufficient funds to cover the cost of such evaluation. The City will determine the scope of work for said evaluation, which may include any or all elements specified in California Water Code Sections 10910 et seq. This requirement shall apply to all applications for such general plan amendments and/or annexations that have not been approved by the City Council as of January 1, 2014.

**DE.** Upon completion of the Initial Study, Planning staff shall transmit it along with their preliminary determination to the Coordinator. If it is found that insufficient information exists to determine whether a project will have a significant effect on the environment, additional information from the applicant or one or more focused studies (e.g., traffic, biological, cultural, etc.) shall be required as appropriate to the nature of the project and/or the project site.

**E.F** After a preliminary determination that a project may have a significant effect on the environment, the Coordinator should meet with the applicant in an attempt to reach agreement on acceptable mitigation measures and/or project alternatives which would lessen or avoid the significant effects outlined in the Initial Study. Where agreement is reached, the Coordinator shall revise the Initial Study to incorporate the changes, alternatives and/or mitigation. Changes to the project or mitigation measures shall be agreed to in writing by the applicant and documented in the Initial Study prior to the project being noticed and scheduled for a public hearing. Appendix F contains a sample Mitigation Agreement.



## **5.4 Preliminary Determinations**

The Coordinator, on the basis of the environmental analysis and other information contained in the Initial Study, shall make one of the preliminary determinations listed below no later than 30 calendar days after accepting the application as complete. (NOTE This deadline may be extended an additional 15 days upon the consent of both the Coordinator and the project applicant as provided in Section 15102 of the Guidelines.)

- A.** That there is no possibility that the proposed project may have a significant effect on the environment and prepare a Negative Declaration.

Proceed to Chapter 6, Process for Negative Declarations and Mitigated Negative Declarations.

- B.** That, although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because mitigation measures have been added to the project which lessen these potential impacts to acceptable levels and prepare a Mitigated Negative Declaration.

This determination should be made in cases where the mitigation measures are readily apparent and can be agreed to by the Coordinator and the applicant. The City shall prepare a reporting and monitoring program for any mitigation measures incorporated into the project to ensure compliance, as set forth in Chapter 13 of these rules and procedures.

Proceed to Chapter 6, Process for Negative Declarations and Mitigated Negative Declarations.

- C.** That the project may have a significant effect on the environment, pursuant to §15064 of the Guidelines and prepare an EIR.

Proceed to Chapter 7, EIR Process.

- D.** That, pursuant to §15153 of the Guidelines, an EIR has already been prepared which adequately evaluates the projects' potential effects, and no additional document is needed.

Proceed to Chapter 8, Previous EIR Process.

- E.** That an EIR has already been prepared, and either a supplement or an addendum is appropriate (only minor additional information or alterations would be necessary to make the previous EIR adequately apply to the project.)

Proceed to Chapter 9, Program EIR Process.

# THE Newspaper of the Central Coast TRIBUNE

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In The Superior Court of The State of California  
In and for the County of San Luis Obispo  
AFFIDAVIT OF PUBLICATION

AD # 7040024  
CITY OF PASO ROBLES

STATE OF CALIFORNIA

ss.

County of San Luis Obispo

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen and not interested in the above entitled matter; I am now, and at all times embraced in the publication herein mentioned was, the principal clerk of the printers and publishers of THE TRIBUNE, a newspaper of general Circulation, printed and published daily at the City of San Luis Obispo in the above named county and state; that notice at which the annexed clippings is a true copy, was published in the above-named newspaper and not in any supplement thereof – on the following dates to wit; JANUARY 3, 2014, that said newspaper was duly and regularly ascertained and established a newspaper of general circulation by Decree entered in the Superior Court of San Luis Obispo County, State of California, on June 9, 1952, Case #19139 under the Government Code of the State of California.

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

  
(Signature of Principal Clerk)

DATED: JANUARY 3, 2014  
AD COST: \$135.54

CITY OF EL PASO DE ROBLES  
NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN that the Planning Commission and City Council of the City of El Paso de Robles will hold Public Hearings to consider a proposed Update to the City's Rules and Regulations for Implementation of the California Environmental Quality Act (CEQA).

State law requires that the City establish procedures on how the City complies with CEQA. The proposed update would require preparation of independent evaluations of water supply as part of the analysis of environmental impacts in Environmental Impact Reports and Negative Declarations for (1) general plan amendments that propose to increase residential density or commercial/industrial intensity and/or (2) general plan amendments projected to increase demand for water and/or (3) for annexations.

The public hearings will take place in the City Council Chambers at Paso Robles Library/ City Hall, 1000 Spring Street, Paso Robles at 7:30 pm on the following dates:

Planning Commission..... Tuesday, January 14, 2014;  
City Council..... Tuesday, January 21, 2014.

All Interested parties may appear and be heard.

Comments on the proposed Update may be mailed to the Community Development Department, 1000 Spring Street, Paso Robles, CA 93446 or emailed to [planning@procity.com](mailto:planning@procity.com) provided that such comments are received prior to the time of the hearing. Should you have any questions regarding this application, please call Ed Gallagher at (805) 237-3970.

The Draft Update is available for review at the Community Development Department, 1000 Spring Street, Paso Robles, CA 93446.

If you challenge the proposed Update in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

Ed Gallagher, Community Development Director  
January 3, 2014

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