

RESOLUTION NO. 14-006

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

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 "in 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 6-0 vote (with one abstention), recommended that the City Council *not* approve the proposed amendment to the Rules and Regulations, based on its belief that the proposed amendment was not needed as the 2010 Urban Water Management Plan contains sufficient information to address all current applications for general plan amendments; 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 21st Day of January, 2014 by the following vote:

AYES: Steinbeck, Hamon, Martin, Strong, Picanco
NOES:
ABSENT:
ABSTAIN:

ATTEST:


Caryn Jackson, Deputy City Clerk


Duane Picanco, Mayor

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 appropriate scope of work for said evaluation, which may include guidance from 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.

E. 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.

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.