

**CITY OF IRVINE**



**CEQA MANUAL**

**Volume 1: Procedures and Process**

**May 2012**

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## **SECTION 1: AUTHORITY AND SCOPE**

### **1.1 Authority**

These procedures, initially adopted by the City of Irvine (the “City”) City Council on June 28, 1980, were prepared pursuant to the California Environmental Quality Act (“CEQA”) of 1970, and specifically Division 13, Section 21082 of the Public Resources Code. These procedures are consistent with and supplement the State CEQA Guidelines, as adopted and amended by the California Resources Agency, found at Chapter 3, Division 6, Title 14, Section 15000 et seq. of the California Administrative Code and referred to herein as the “Guidelines.” The Guidelines have been developed by the Office of Planning and Research for adoption by the Secretary of the Resources Agency pursuant to authority granted in Public Resources Code section 21083. The Guidelines are hereby incorporated by reference, and a copy of said Guidelines is on file in the Department of Community Development.

### **1.2 Scope**

These procedures shall apply to the City and all departments and districts governed by the City Council of the City of Irvine.

### **1.3 Revision**

The Director of Community Development or designated representative may periodically revise the City CEQA Procedures when it is determined: (1) such revisions are necessitated by amendments to CEQA or the Guidelines, (2) such revisions are consistent with the policies, goals, and objectives of the City as declared by the City Council, and (3) such revisions are essentially technical and conforming in their nature and, thus, do not require processing through normal amendatory proceedings of the City. All other revisions of these procedures shall be approved by Resolution of the City Council.

#### **City Attorney - Comprehensive Review**

In addition to periodic revisions by the Director of Community Development or designated representative, the City CEQA Procedures, pursuant to the Director of Community Development, shall receive a comprehensive annual review by the City Attorney. The comprehensive review shall be conducted during the final quarter of each calendar year to ensure that any legislative updates effective at the beginning of the following year are adequately addressed in this document. This does not preclude City Attorney periodic reviews, in response to a request by the Director of Community Development, as needed to address specific issues or legislation.

#### **1.4 Coordination with City Records Division**

The City CEQA Procedures and all environmental forms, with form numbers in the lower right corner, must be on file with the Records Division of the City Clerk's Office. Each time the Procedures or an environmental form is revised an electronic copy, with the revision date in the lower right corner, it must be sent to Records.

## **SECTION 2: DEFINITIONS**

The following definitions are intended to clarify and supplement, but not to replace or negate the definitions contained in Article 20 of the CEQA Guidelines. In the event of inconsistency, the definition in the Guidelines shall prevail.

### **2.1 Approval** (Section 15352 is supplemented as follows)

For public projects, project approval usually occurs on the date when the public expenditures are authorized for acquisition of property. If no property acquisition is involved, approval occurs on the first date funds for the project are authorized. If no public funds are involved in the project, then approval occurs on the date when the City authorizes the project. For private development projects, approval occurs at the time the discretionary approval becomes valid (i.e.: when the appeal period, if there is one, expires).

Adoption of the City's annual budget does not constitute authorization for acquisition of property or authorization of public funds for projects, if later approval is to be considered as a part of a normal decision-making process.

### **2.2 Advisory Body**

Advisory body means public body or administrative official required by State law or City ordinance or resolution to consider and make recommendations on a specific type of project. City staff members do not constitute an advisory body.

### **2.3 City**

City means the City of Irvine acting by and through its officers, departments, and commissioners.

### **2.4 Council**

Council means the City Council of the City of Irvine.

### **2.5 County Clerk**

County Clerk means the County Clerk of the County of Orange. All filings and other duties as set forth in these procedures shall be performed by the County Clerk unless stated otherwise.

### **2.6 Decision-Making Body** (Section 15356 is amended as follows)

Any person or group of people within the City of Irvine permitted by law to approve or disapprove the project at issue.

## **2.7 Department**

Department means any agency of the City of Irvine, any division of an agency, any department of the City of Irvine not included within one of its agencies, or any special district governed by the Irvine City Council.

## **2.8 Director**

Director means Director of Community Development of the City of Irvine.

## **2.9 Manager**

Manager means the Deputy Director, Manager of Planning and/or Development Services, or Manager of Housing and Redevelopment, within the Community Development Department of the City of Irvine, or appointed designee.

**2.10 Ministerial Projects** Pursuant to Section 15268(c), Section 15369 is supplemented as follows:

The following City actions are hereby deemed to be ministerial in nature:

- Issuance of grading, building, and construction related permits
- Issuance of business licenses
- Approval of final subdivision maps
- Approval of individual utility service connections and disconnections
- Issuance of zoning compliance and use determination letters
- Issuance of landscape plan permit
- Issuance of a temporary or permanent address
- Corrections to approved tract and parcel maps
- Sign permits (excluding sign programs)
- Issuance of permits for sexually oriented businesses

## **2.11 Project Manager**

Project manager means the City designated staff member or consultant assigned to manage the project.

## **SECTION 3: APPLICATION PROCEDURES**

### **3.1 Applicability**

These application procedures apply to all projects, except ministerial projects, as defined by and discussed in Guidelines Section 15268 and Section 2.10 of these local procedures.

### **3.2 Pre-Application Consultation**

For large, complex, or environmentally sensitive projects, a meeting may be held at the City's discretion. The purpose of this meeting is to discuss, on a tentative basis, the scope of the environmental documentation needed for the project. Attendance should include City project staff, members of other appropriate City departments, the staff of any responsible or trustee agency, and the project representatives. Scheduling of this meeting shall be coordinated by the City's project manager. It should occur as early in the project planning process as possible, at a time and place convenient to the participants.

### **3.3 Application Requirements**

- A. Minimum requirements. A development case application submitted by the applicant shall also constitute an application under CEQA for all discretionary projects. If staff determines that an environmental impact report is required, the applicant is required to file an environmental review case application (PCLE case type) with deposit per the City Council fee resolution, as amended from time to time, before the City may deem the application complete.

### **3.4 Determining if Applications are Complete**

Within 30 calendar days of submittal of an application for a project, the project manager should make an assessment to determine the completeness of the overall application, based on the City's application submittal requirements. [Section 15060]. In addition, all documentation required from the applicant, in response to a pre-application meeting (if held) shall be included in the application.

- A. Projects shall be deemed received for filing on the date that an application requesting approval for the project is received and accepted as complete by the project manager, except as provided under Section 15111 of the CEQA Guidelines.
- B. If the project has been deemed incomplete by the project manager within the first 30-days after submittal, the project manager shall provide the applicant with the list of items necessary to deem the application complete. In such case, the project manager shall have an additional 30 days to review the application

for completeness upon submittal of the additional requested information from the applicant.

- C. Should the project manager deem incomplete additional information submitted by the applicant, the 30-day review process shall repeat upon each applicant resubmittal until the project manager deems the application complete.
- D. The environmental assessment shall be initiated as part of the initial 30-day application review, and the final environmental determination shall be made within 30 days after the application has been deemed complete by the project manager.

## **SECTION 4: EXEMPTION PROCESS**

### **4.1 Exemption Determination**

Once a project application is deemed complete, the project manager shall determine if the project is exempt from the provisions of CEQA. The determination shall be in accordance with the following provisions of the CEQA Guidelines:

- A. Projects with no possibility of significant effect - Section 15061(b)(3).
- B. Statutory Exemptions - Article 18 (Sections 15260 - 15285).

Examples include the following: Ministerial Projects, Section 15268; Emergency projects, Section 15269; and State and Regional Transportation Improvement Programs, Section 15276.

- C. Categorical Exemptions - Article 19 (Section 15300 - 15333).

### **4.2 Completing the Notice of Exemption Form**

After finding a project exempt, the project manager shall complete the Notice of Exemption (NOE) form, to be reviewed and signed by the designated Manager or Principal Planner. Electronic NOE template forms are available in the Citywide shared file "CEQA Forms" folder. However, the project manager's failure to complete an NOE or to list all possible exemptions in an NOE shall in no way alter or impact the City's exemption determination.

### **4.3 Public Notice**

Distribution of the NOE includes the applicant, City posting boards located at Irvine City Hall and in various shopping centers around the City, the staff report, and the project files. When prepared in conjunction with a project for City Council review, the City Clerk receives and posts all NOEs scheduled for City Council public hearings. The EIR will be reviewed during the public hearing process, in conjunction with the project report, and in accordance with Section 15202.

All public agencies are encouraged to post environmental exemptions, pursuant to Section 15062 of the Guidelines, in an electronic format available on the Internet. Electronic postings are in addition, not as an alternative, to the procedures required by the CEQA Guidelines and the Public Resources Code.

### **4.4 County Clerk Filing**

Within five working days\* of project approval by the decision-making body, the project manager may file the NOE with the County Clerk of Orange County (Section 15062).\*\*

Filing the NOE with the County Clerk starts a 35-day statute of limitations period on legal challenges to the agency's (the City's) decision that the project is exempt from CEQA. If an NOE is not filed with the County, a 180-day statute of limitations will apply. If these applicable statutes of limitation are changed by State law and these procedures are inconsistent with those changes, State law shall prevail.

- \* Based on the City's work week, the days that City Hall is closed are excluded from "working days" for the purpose of this provision.
- \*\* In addition to the NOE, the filing should also include two other documents: the Fish and Game (CDFG) "CEQA Filing Fee Determination of No Effect" and "CDFG Environmental Document Filing Fee." All of these documents are located on the City shared "N" Drive.

#### **4.5 *Projects that are Disapproved***

CEQA does not apply to projects that are disapproved or denied by the approval body, see Guidelines Section 15270. An example is a proposed master plan denied by the Planning Commission.

## **SECTION 5: INITIAL STUDY PROCEDURES**

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

Staff shall complete an initial study for all projects that are not exempt from CEQA according to Section 4 of these City CEQA Procedures. The initial study shall be conducted in accordance with Section 15063 et seq. of the Guidelines. To electronically access authorized public notice templates, see the Citywide shared file "CEQA Forms and Docs" on the "N" drive.

As discussed in CEQA Guidelines Section 15063(f), Guidelines Appendices G and H include the suggested format for the applicant's project description.

### **5.2 Consultation**

At the earliest stages of the initial study, staff shall consult with all responsible and trustee agencies, as required by Sections 15063(g) and 15083 of the Guidelines. For most projects, this consultation can adequately be satisfied by a telephone call to the appropriate member of the agency's staff. The comments of the responsible agency shall be reflected in the initial study.

### **5.3 Evaluating Projects**

- A. Projects shall be evaluated for their effect on the environment as follows:
  - 1. For projects with previous environmental documents, the analysis should consider the criteria contained in Section 15152, 15153, 15162, 15163, 15164, 15166, 15168 or 15182 as appropriate.
  - 2. For projects with no previous environmental documents or documents found to be inadequate under A1 above, the analysis shall focus on identification of significant effects according to Sections 15064, 15065, and Appendix G of the Guidelines.
- B. After a preliminary determination that a proposed project may have a significant effect upon the environment, staff should meet with the applicant in an attempt to reach agreement on acceptable mitigation measures, project design features, and/or project alternatives that would avoid the significant effects identified in the initial study.
- C. On the basis of the environmental analysis and other data contained in the initial study, the project manager shall make one of the following preliminary determinations no later than 30 days after accepting an application as complete, and proceed with the appropriate processing. The 30-day period

may be extended 15 days upon the consent of the City and the project applicant.

1. That the proposed project could not have a significant effect on the environment. Proceed to Section 7 “Negative Declaration Process.”
2. 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. Proceed to Section 7, “Negative Declaration Process.”
3. That, pursuant to Section 15153 of the Guidelines, an environmental document has already been prepared and no additional document need be prepared. Proceed to Section 6, “Previous Environmental Document Process.”
4. That, pursuant to Section 15152, 15153, 15162, 15163, 15164, 15168, or 15182 of the Guidelines, an EIR has already been prepared and only minor additions or changes (if any) would be necessary to make the previous EIR adequately apply to the project in the changed situation. The following authorized forms and environmental documents are electronically available:
  - Notice of Determination: Subsequent Activity Under a Program EIR
  - Environmental Evaluations and Mitigation Measures for Subsequent Activity Under a Program EIR for the following Planning Areas: 1, 5, 5A, 6, 8, 8A, 9, 18, 26, 30, 33, 34, 39, 40, and 51

To electronically access authorized templates and selected EIR documents, see the City-wide shared file “N” Drive.

5. That the proposed project may have a significant effect on the environment. Proceed to Section 8, “EIR Process.”

## **SECTION 6: PREVIOUS ENVIRONMENTAL DOCUMENT PROCESS**

### **6.1 Determining if the Previous Environmental Document is Adequate**

The project manager shall use the Previous Environmental Document Review determination form (located on the City "N" Drive") to determine if a previous environmental document is adequate based upon the criteria in Sections 15153 and/or 15162 et seq. of the CEQA Guidelines, and the initial study analysis.

### **6.2 Public Notice and Review**

- A. Public notice of the previous environmental document shall be as provided in Sections 15153 (b)(2) and 15087 (a)(2) by posting the form on and off site where the project would be located and on the City posting boards located at Irvine City Hall and in various shopping centers around the City, or as otherwise authorized by the Guidelines.
- B. Public review of the previous environmental document shall not be less than 30 days nor longer than 60 days. Where State review is required, the review period shall be 45 days unless a shorter period (not less than 30 days) is approved by the State Clearinghouse (Sections 15087 (e) and 15105 (a)).

When the project is an addendum to a Negative Declaration, the public review period shall not be less than 20 days, or where State review is required not less than 30 days unless a shorter period (not less than 20 days) is approved by the State Clearinghouse.

- C. At the discretion of the project manager, additional notice may be provided through distribution of the completed draft Previous Environmental Document Review determination form to advisory and decision-making bodies, responsible and trustee agencies, any person who has requested such information in writing *or* by e-mail,\* and the applicant, and including a copy for the project files.

Only the previous environmental documentation form (i.e. *Notice of Determination*) shall be routinely distributed. Exceptions are as follows: 1) the project manager may at his or her discretion forward additional supporting information if it facilitates review of the environmental determination, 2) the project manager shall provide supporting information to anyone making a written or e-mail\* request for such information, 3) the project manager shall provide supporting analysis and technical studies, as appropriate, to responsible and trustee agencies.

\* *Note: AB 1545 in 2003 amended Public Resources Code Sections 21091 and 21092.2 to require a lead agency to accept comments on a proposed negative declaration, notice of preparation, or draft EIR received by e-mail and to treat e-mail comments as the equivalent to written comments.*

### **6.3 Accepting the Previous Environmental Document as Complete**

- A. If no comments are received during the review period, the previous environmental document shall automatically be accepted as complete at the conclusion of the review period.
- B. The project manager shall respond to all comments received during the review period. After due consideration, the project manager shall make one of the following determinations:
  1. An additional environmental document should be prepared because the comments make a fair argument on the basis of substantial evidence that the previous environmental document does not satisfy the criteria of Section 15153. In this case, the project manager shall review the initial study and comments, and determine to prepare either an additional EIR (Section 8) or to prepare a supplement to the original EIR (Section 8).
  2. A new environmental document does not need to be prepared because the comments do not demonstrate that all or a combination of the criteria set forth in Sections 15162, 15163, 15164 have been satisfied. In this case, staff may revise the initial study, based upon any comments received, prior to accepting the previous environmental documentation as complete.

### **6.4 Certification of the Previous Environmental Document**

In conjunction with the project review and approval, the decision-making body shall also review and certify the previous environmental documentation as adequate.

In certifying the previously approved environmental documents as adequate, if the original EIR being used made findings as provided in Sections 15091 and 15093, these same findings, as modified for the project being approved, shall be made and incorporated into the resolution approving the project. The project manager shall file a notice of determination, as specified in Section 4.4 of this manual.

For further information, please refer to the State CEQA Guidelines for the following topics:

- Previous environmental document is the use of an EIR from an earlier project, Section 15153;
- Subsequent EIR and Negative Declaration, Section 15162;
- Supplement to an EIR, Section 15163;
- Addendum to an EIR or Negative Declaration, Section 15164;
- Staged EIR, Section 15167

- Program EIR, Section 15168;
- Master EIR, Section 15175; and
- Subsequent project within the scope of an MEIR, Section 15177.

## **6.5 The Three Standards Test for Subsequent EIR's and Negative Declarations**

This test has been established in the State CEQA Guidelines Section 15162. Subsequent EIRs and Negative Declarations.

- 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 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 a 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 the 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 previous EIR was certified as complete or the Negative Declaration was adopted, shows 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;
    - 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 measure or alternative.

- B. If changes to a project or its circumstances occur or new information becomes available after adoption of a negative declaration, the lead agency shall prepare a subsequent EIR if required under subsection (a). Otherwise the lead agency shall determine whether to prepare a subsequent negative declaration, an addendum, or no further documentation.
- C. Once a project has been approved, the lead agency's role in project approval is completed, unless further discretionary approval on that project is required. Information appearing after an approval does not require reopening of that approval. If after the project is approved, any of the conditions described in subsection (a) occurs, a subsequent EIR or negative declaration shall only be prepared by the public agency which grants the next discretionary approval for the project, if any. In this situation no other responsible agency shall grant an approval for the project until the subsequent EIR has been certified or subsequent negative declaration adopted.
- D. A subsequent EIR or subsequent negative declaration shall be given the same notice and public review as required under Section 15087 or Section 15072. A subsequent EIR or negative declaration shall state where the previous document is available and can be reviewed.

## **SECTION 7: NEGATIVE DECLARATION PROCESS**

### **7.1 Preparation of the Draft Negative Declaration**

Once it has been determined (see Section 15070) that a project will not have a significant effect on the environment, the project manager shall prepare a draft Negative Declaration in accordance with Section 15071. To electronically access authorized public notice templates and selected Negative Declaration documents, see the Citywide shared file "CEQA Forms and Docs" on the "N" drive.

### **7.2 Public Notice and Review**

- A. Public notice and review of the draft Negative Declaration shall be for not less than 20 days (30 days if State Clearinghouse review required) as provided by Sections 15105, 15072, and 15073. In accordance with Section 15072, posting shall be at the project site, and City posting boards located at Irvine City Hall and in various shopping centers around the City. The City shall also mail notice to all organizations and individuals who have previously requested such notice in writing (see Section 15072(b)).

Notice Of Intent To Adopt A Negative Declaration shall be filed by the project manager or his/her designee with the Orange County Clerk-Recorder at 12 Civic Center Plaza Rooms 101/106, Santa Ana, CA 92701.

- B. Additional notification may be provided through distribution of the draft Negative Declaration at the outset of the review period. Based on the scope and sensitivity of the project, staff may distribute notices to one or more of the following: all community associations adjacent to the project site, responsible and trustee agencies, other public agencies having jurisdiction by law, adjacent municipalities, any person who has requested such information, persons with special expertise, the applicant, and project files. The project manager shall also distribute the draft negative declaration to the State and local Clearinghouses when their review is required under Sections 15206 and 15207. State Clearinghouse submittals shall be transmitted on a diskette or by electronic mail in addition to the hard copy.

Examples of local clearinghouses include: AQMD, the Orange County Flood Control District, The South Central Coastal Information Center of the Historical Resources File System at UCLA (archaeological and historical resources) and the Orange County Natural History Association (paleontological resources).

Staff shall routinely only distribute the Negative Declaration form (with initial study). Exceptions: 1) the project manager may forward additional supporting information if it would facilitate review of the environmental determination, 2) the project manager shall provide supporting information to anyone making a written or e-

mail\* request for such information, 3) the project manager shall provide supporting analysis and technical studies, as appropriate, to responsible and trustee agencies.

- C. Public Hearings. The draft Negative Declaration shall be reviewed at a public hearing in conjunction with review of the related project.

### **7.3 *Completing the Negative Declaration***

- A. If no comments are received during the review period, the Negative Declaration shall automatically be accepted as complete.
- B. If comments are received, the project manager shall, within seven days, review the comments and after giving them due consideration, make one of the determinations listed below: (Note: the seven-day period may be extended to 30 days if the project manager determines that additional technical studies will be required to properly evaluate the environmental issues raised by the comments).
1. That a Mitigated Negative Declaration will adequately address the impacts identified.
  2. That an EIR should be prepared because the comments present a fair argument that on the basis of substantial evidence, the project may have a significant effect on the environment.
- C. Changes to the project or mitigation measures shall be agreed to in writing by the applicant and documented in the Negative Declaration, unless such changes are found to increase the level of significance of an identified impact or the intent of a mitigation measure, in which case the Draft EIR shall be recirculated pursuant to CEQA Guidelines Section 15088.5

### **7.4 *Adoption of the Negative Declaration***

In conjunction with approving the project for which the Negative Declaration was prepared, the decision-making body shall review, consider, and adopt the Negative Declaration. A notice of determination shall be filed within 5 working days after approval (Section 15075).

## **7.5 Timely Compliance**

A Negative Declaration shall be completed within 180 days after accepting an application as complete, Section 15107; exceptions provided in Sections 15109 and 15110.

## **SECTION 8: EIR PROCESS**

### **8.1 Applicant Notification - EIR Determination**

Based upon the initial study findings that an EIR, or supplement to an EIR, is required, the project manager shall notify the applicant in writing. A copy of the initial study and a preliminary request for any additional information needed for the preparation of the EIR shall also be forwarded to the applicant.

### **8.2 Early Public Consultation**

When the applicant is notified, the Notice of Preparation may also be distributed and consultations may begin as provided by Section 15083 and 15086. To electronically access authorized public notice templates and selected EIR documents, see the Citywide shared CEQA file folder on the "N" drive. In addition, copies of the Notice of Preparation may be distributed to all adjacent homeowner associations and neighboring jurisdictions, if applicable.

#### **A. Scoping Meeting**

Public Resources Code Section 21083.9 requires that a lead agency call at least one scoping meeting for a project that may affect highways or other facilities under the jurisdiction of the State Department of Transportation, or a project of statewide, regional, or area-wide significance. Further, the measure requires the lead agency to provide notice of such a project, which may be satisfied by including the scoping meeting in the public notice, to all of the following:

- Any county or city that borders on a county or city within which the project is located unless otherwise designated annually by agreement between the lead agency and the county or city.
- Any responsible agency.
- Any public agency that has jurisdiction by law with respect to the project.
- Any transportation planning agency or public agency required to be consulted pursuant to Section 21092.4.
- Any organization or individual who has filed a written or e-mail request for the notice.

### **8.3 Preparation of Draft or Supplemental EIR**

All environmental documents shall be prepared in accordance with the applicable provisions of CEQA.

A. Method of Preparation

1. The preferred method of preparing a draft or supplemental EIR is by assigning the project to a consultant currently under contract to the City and selected from the City's certified EIR Consultant list. Additional outside consultants shall be used only when existing resources are not available to commit to the project, where studies of a technical nature are required, or where independent analysis is needed. The project manager, in consultation with the Principal Planner, has the authority to determine which method of preparation will be used.
2. Where additional outside consultants will be needed to prepare environmental documents for private projects, the Director or Planning Manager shall have the authority to select the consultant and sign the contract in accordance with other provisions of the City's Resolution on Consultant Services. Consultants for City-funded environmental documents shall be selected in strict accordance with the aforementioned Resolution and the City's certified list of consultants.
3. The project manager shall confer with the applicant, if the applicant so requests, prior to retention of an additional outside consultant for the preparation of a draft or supplemental EIR.

B. Notifying the Office of Planning and Research, and State Department of Transportation

Public Resources Code Sections 21080.4 and 21081.7: (1) requires all notices of preparation of environmental impact reports to be filed with the Office of Planning and Research; and (2) requires transportation information resulting from a reporting or monitoring program if a project is of statewide, regional, or area wide significance, which is already required to be sent to the applicable regional transportation planning agency, to be also sent to the State Department of Transportation.

C. Costs of Preparation

Costs associated with the preparation of any type of EIR for developer-initiated projects shall be paid by the applicant.

D. Contents

The draft or supplemental EIR shall be prepared utilizing acceptable information provided by the applicant and shall contain the elements specified in Appendix A of this City CEQA Procedures or Sections 15120 et

seq., 15162, 15163, and 15164 for subsequent, supplement, and addendum's to EIRs.

#### **8.4 Processing the Draft or Supplemental EIR**

- A. Notice of Completion. Upon completion of an approved draft EIR and in conjunction with the distribution of the document, a Notice of Completion shall be in the form required by and filed in accordance with Section 15085 (either a printed hard copy, on diskette, or by electronic mail).
- B. Public Notice. The project manager shall provide public notice of the completion of a draft EIR in accordance with Section 15087 and Public Resources Code Section 21092 at the same time that the Notice of Completion is filed. When practical, the preferable method, in addition to other methods of sending notices as required by law, is by posting the Notice of Completion on- and off-site in the area where the project is located. A Notice of Completion shall also be posted on the City posting boards located at Irvine City Hall and in various shopping centers around the City, and distributed to each community association affected by the proposed project.
- C. Distribution. The project manager shall distribute the draft EIR as soon as it is complete and shall request written comments during the review period. Distribution shall include the following:
  - 1. Copies shall be provided to responsible agencies, adjacent jurisdictions, other public agencies having jurisdiction by law, and persons or agencies having special expertise in accordance with Section 15086. The project manager shall compile a distribution list of such agencies and persons in accordance with Section 15087(h).
  - 2. Where a project is of statewide, regional, or area-wide significance under the criteria set forth in Section 15206, the EIR shall be sent to the State Clearinghouse and SCAG (Public Resources Code Section 21091(a)).
  - 3. EIRs prepared for a general plan element or amendment thereto, and EIRs prepared pursuant to NEPA shall be distributed to the State Clearinghouse.
  - 4. Distribution to State agencies, if required, shall be through the State Clearinghouse and to local agencies through SCAG in accordance with Section 15087(f). EIRs forwarded to the Clearinghouse shall include copies of the Appendixes (Section 15147).

5. Copies shall also be transmitted to members of the advisory and decision-making bodies, the City Manager, Directors of appropriate City Departments, City project staff, and the applicant.
  6. Copies of the EIR shall be made available for review at public library branches within the City including the UCI library, and at the Department where loan copies shall be available (Section 15087(g)). Any person wishing a personal copy of the EIR shall be charged a fee not to exceed the actual cost of reproduction (Section 15045(b)).
- D. Review. The applicable review period shall be the minimum time permitted by Sections 15082, 15087, and 15105 of the CEQA Guidelines unless the project manager determines that a longer period is justified.
  - E. Public Meetings. The EIR will be reviewed during the public hearing process, in conjunction with the project report, and in accordance with Section 15202.
  - F. Evaluation of Comments and Preparation of Responses. As comments are received, the project manager shall evaluate the comments and prepare responses when appropriate. Comments and responses to comments shall be included in the final EIR (Sections 15088 and 15132).

Response to comments from public agencies shall be made pursuant to Public Resources Code Section 21092.5.

- G. Changes to the project or mitigation measures shall be agreed to in writing by the applicant and documented in the Final EIR, unless such changes are found to increase the level of significance of an identified impact or the intent of a mitigation measure, in which case the Draft EIR shall be recirculated pursuant to CEQA Guidelines Section 15088.5

## **8.5 Preparation and Processing Final EIR**

- A. Preparation. A proposed final EIR shall be prepared by City staff and/or a consultant retained by the City. Costs of preparation shall be borne by the applicant.
- B. Contents. The contents of the proposed final EIR shall be as specified by Section 15132 and Appendix A of this City of Irvine CEQA Procedures.
- C. Distribution. The Community Development staff shall distribute the proposed final EIR as soon as complete to the advisory or decision-making body holding meetings on the project. The proposed final EIR shall also be forwarded to recipients of the draft EIR, as appropriate.

## **SECTION 9: PROJECT REVIEW PROCESS**

### **9.1 General**

To the extent possible, continued project processing activities by staff, advisory, and decision-making bodies, short of formal project approval by the decision-making body, shall continue during the preparation and review of environmental documents (Sections 15080 and 15100(b)).

### **9.2 Public Notices**

All public notices that are normally used as a part of the project decision-making process shall note the existence of an environmental document and shall state where the document is available for public inspection. For projects that will rely on a program EIR for CEQA compliance, notice will include the statements required under Section 15168(e). To electronically access authorized public notice templates and selected environmental documents, see the Citywide shared file CEQA file folder on the “N” drive.

### **9.3 Consideration of Environmental Documents by Advisory Bodies**

The role of members of an advisory body in the City’s CEQA process is, as appropriate, to provide comments to staff during the public review period. Prior to making its recommendation to the decision-making body, the members of the advisory body shall consider any proposed Negative Declaration or Mitigated Negative Declaration (Section 15074(a) of the CEQA Guidelines). These comments may become part of the final environmental document to be considered by the decision-making body. Significant environmental issues raised by the advisory body require that the project manager provide appropriate responses for that body’s review and consideration. In no case, however, shall a project determination or recommendation required by law be made until the body making such determination or recommendation has before it the environmental documentation (Section 15025(b) of the CEQA Guidelines).

### **9.4 Consideration of Environmental Documents by Decision-Making Bodies**

- A. General. The decision-making body, having final approval authority over the project, shall review and consider the information contained in the final environmental document together with any comments received during the public review process prior to approval or disapproval of the project (Section 15074 for Negative Declarations and Section 15090 for EIRs).
- B. Exempt Projects
  1. For projects that are exempt from CEQA, the decision-making body shall make the following finding as part of any resolution approving the project: “That the project is exempt from CEQA in that (basis for exception including reference to the Guidelines section or statute that

provides the exemption) and therefore, no environmental documents are required.” However, the decision-making body’s failure make the stated finding shall in no way alter or impact the applicability of any pertinent exemption. When making this finding, the following should be considered: (1) Article 20 of the State CEQA Guidelines; (2) Section 15378 to define a project; and (3) Articles 18 (Section 15260 et. seq.) and 19 (Section 15300 et. seq.) to identify the applicable type of exemption.

2. The decision-making body may, by a majority vote, conclude that an exemption is not supported by the facts and disapprove it. In such cases, the project manager shall immediately proceed with an initial study for the project (see Section 5 of this City CEQA Procedures).

C. Projects subject to Negative Declaration

1. For projects subject to a Negative Declaration, the decision-making body shall make a finding for and adopt either a Negative Declaration or a Mitigated Negative Declaration. The language for said findings is located in Appendix B of the City CEQA Procedures, entitled “Appropriate Wording For Environmental Determinations,” Section II, items No. 5, 6, and 7 (see CEQA Guidelines Sections 15081 and 15074).
2. The decision-making body may, by a majority vote, conclude that the Negative Declaration is not supported by the facts or that there is serious public controversy concerning the environmental effects of the project, and, therefore, disapprove it. In such an event, the project manager shall immediately proceed with the preparation of an EIR (see Section 8 of the City CEQA Procedures).

D. Projects subject to Previous Environmental Document(s)

1. For projects subject to a previous environmental document(s), the decision-making body shall make the appropriate findings in accordance with Sections 15153, 15162, 15163, 15164, or 15168, depending on the document type. Also, see Appendix B of this City CEQA Procedures, entitled “Appropriate Wording For Environmental Determinations,” Section II, items No. 8 or 9.
2. The decision-making body may, by a majority vote, conclude that the previous environmental document is not adequate for the project under the criteria of the above mentioned Sections. In such an event, a majority of the decision-making body shall also determine whether a Negative Declaration or additional EIR shall be prepared.

E. Projects subject to Final, Supplemental, or Subsequent EIR

1. No proposed final, supplemental or subsequent EIR shall be considered for certification by a decision-making body unless consideration of the document has been properly placed on the regular agenda of the decision-making body and the review period has ended (Section 15090 of the CEQA Guidelines).
2. The decision-making body shall solicit public testimony regarding any EIR, Supplemental EIR, or Subsequent EIR on its agenda. Significant environmental issues raised during these meetings and responses shall be considered within the final or supplemental EIR.
3. The decision-making body may conduct a public hearing on the EIR, Supplemental EIR, or Subsequent EIR in accordance with Section 15087 (i).
4. Findings
  - A. For all projects with a Final, Supplemental, or Subsequent EIR, the decision-making body shall make the following findings as part of any resolution approving the project and in accordance with Sections 15090, 15091, and 15093 of the CEQA Guidelines:

SECTION 1

“In accordance with the City of Irvine CEQA procedures and Article 7 of the CEQA Guidelines, the (approval body), after receiving and considering comments from the (advisory body if applicable) and other interested parties, finds that the Final (Program, Supplemental, or Subsequent) EIR has been completed in compliance with CEQA, the State Guidelines, and the City’s CEQA procedures. The (approval body), having final approval authority over the project, certifies as complete and adequate the Final (Program, Supplemental, or Subsequent) EIR for (title of project and file number). The (approval body) finds that the Final (Program) EIR reflects the independent judgment of the City.

SECTION 2

“The Final (Program, Supplemental, or Subsequent) EIR identifies significant effects that would result if the project is approved, however, based on substantial evidence in the record all environmental effects can feasibly be avoided or mitigated and will be avoided or mitigated by the imposition of the mitigation measures in the Final EIR incorporated herein by this reference as if set forth in full and as described in the statement of Findings and Facts attached hereto as Exhibit A and incorporated herein by this reference, (or

changes or alterations which would reduce the projects impacts to a level of insignificance are within the responsibility of another public agency and have been adopted by that other agency or can and should be adopted by that other agency.

### SECTION 3

Potential mitigation measures and project alternatives not incorporated into the project were rejected as infeasible, based upon specific economic, social, or other considerations as set forth in the Statement of Findings and Facts in support thereof attached hereto as Exhibit A and incorporated herein by reference.

- B. For projects with one or more significant effects which cannot be mitigated to a level of insignificance, the decision-making body shall also make the findings required under Section 15091(a) (3) of the CEQA Guidelines.

#### 5. Statement of Overriding Consideration

Where the decision-making body allows the occurrence of significant effects, which are identified in the final, supplemental, or subsequent EIR, but are not mitigated, the decision-making body must adopt a statement of overriding consideration in accordance with Section 15093 of the CEQA Guidelines.

#### F. Projects with an Addendum to an EIR or Negative Declaration

1. The lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary, but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.
2. An addendum to an adopted negative declaration may be prepared if only minor technical changes or additions are necessary or none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.
3. An addendum need not be circulated for public review, but can be included in or attached to the final EIR or adopted negative declaration.
4. The decision making body shall consider the addendum with the final EIR or adopted negative declaration prior to making a decision on the project.
4. A brief explanation of the decision not to prepare a subsequent EIR pursuant to Section 15162 should be included in an addendum to an EIR, the lead

agency's findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence.

## 5. Findings

- A. For all projects with an Addendum to a previously approved Final EIR, the decision-making body shall make the following findings as part of any resolution approving the project and in accordance with Section 15153 of the CEQA Guidelines:

### SECTION 1

"Pursuant to Section 15153 of the State CEQA Guidelines, this project is within the scope of the project described by the (previously approved Final EIR). An addendum has been prepared in conjunction with the proposed adoption of the (project). This addendum to the previously adopted FEIR has been prepared pursuant to Section 15164 of the State of California Environmental Guidelines and concluded that the proposed project is not anticipated to have any significant effect on the environment. The addendum to the FEIR has been prepared in accordance with the requirements of CEQA. The addendum is, therefore recommended to be adopted by the (approval body) as an appropriate amendment to the FEIR, which as amended, serves as the EIR for the project and satisfies all requirements of CEQA."

### SECTION 2

"All applicable mitigation measures identified in the FEIR have been incorporated into the project or identified as requirements of the project. These measures propose to mitigate any potential significant environmental effects thereof."

## 9.5 **Filing Notices**

- A. Notice of Completion. Pursuant to Section 15085 of the CEQA Guidelines, a Notice of Completion must be filed with State Office of Planning and Research as soon as the draft EIR is completed. To electronically access authorized public notice templates see the Citywide shared CEQA file folder on the "N" drive.
- B. Notice of Exemption. Following approval of a project for which an exemption has been certified by the decision-making body, a Notice of Exemption shall be filed as follows: project manager should file a Notice of Exemption in accordance with Sections 15061(d) and 15062 of the CEQA Guidelines. To electronically access authorized public notice templates see the Citywide shared CEQA file folder on the

“N” drive. However, the project manager’s failure to complete an NOE or to list all possible exemptions in an NOE shall in no way alter or impact the City’s exemption determination

- C. Notice of Determination. After the decision-making body has made a decision to carry out or approve a project for which a Negative Declaration, EIR, supplemental EIR, subsequent EIR, or previous environmental document has been certified, the project manager shall, as soon as possible, but not later than 5 working days following approval of the project, file a Notice of Determination in accordance with Section 15075 (negative declarations) or 15094 (EIRs) of the CEQA Guidelines. Failure to file the notice within the time constraints herein provided shall in no way be construed to invalidate or set aside the action taken by the decision-making body (also see Section 15094(f) of the CEQA Guidelines). Furthermore, public agencies are encouraged to make said notices electronically available on their Web site.

For adoption of ordinances, a second Notice of Determination shall be posted after the second reading by the City Council, under the same timelines and provisions noted in the section.

In addition, a Notice of Determination shall be filed whenever the Planning Commission approves a residential tract map.

## **9.6 Preparation of File Documents**

Once certified, the final EIR will also include all staff reports, minutes of advisory and decision-making bodies, findings, statements, and resolutions. The project file will be available for review in the Community Development Department for a minimum of one year. The hard copy EIR, and complete file with EIR will be available in the City’s Records system in perpetuity.

## **SECTION 10: PROCEDURES FOR THE CITY AS A RESPONSIBLE AGENCY**

### **10.1 General**

This section identifies the special duties of the City of Irvine when acting as a Responsible Agency under the provisions of Section 15096 of the CEQA Guidelines.

### **10.2 Response to Consultation**

The Director of Community Development or designated representative shall respond to consultation by a Lead Agency according to Section 15096(b) of the CEQA Guidelines.

### **10.3 Meetings**

The Director of Community Development or designated representative shall attend meetings requested by the Lead Agency as provided by Section 15096(c) of the CEQA Guidelines.

### **10.4 Comments on Draft EIRs and Negative Declarations**

The Director of Community Development or designated representative should review and comment on draft EIRs and Negative Declarations, as provided by Section 15096(d) of the CEQA Guidelines. When appropriate, the document or a summary thereof, or a prepared comment letter, may be placed on the agenda of the Planning Commission and/or City Council for public review and comment, or may be distributed to the members of these bodies to request their individual comments. Copies of the City's comments sent to the Lead Agency will be provided to the City Manager and appropriate City departments and bodies.

### **10.5 Notice of Determination**

This notice shall be filed by the project manager or his/her designee in the manner provided under Section 9.5 of the City of Irvine CEQA Procedures.

## **APPENDIX A - FORM AND CONTENTS OF EIRs**

### **A. General**

Environmental Impact Reports prepared for or by the City of Irvine shall contain the information, in form and length, specified by Sections 15120 through 15132 of the CEQA Guidelines and the provisions herein.

### **B. Tiering**

EIRs shall be tiered as required by Section 15385 and as is discussed by Section 15152 of the CEQA Guidelines.

### **C. Basic Outline**

1. Title Page: The title page shall include the dates of publication of the screen check, draft, final, and certified EIR, and State Clearinghouse number. The name and telephone number of the City's contact person shall also be noted. All reports shall contain an index or table of contents and a summary in accordance with Sections 15122 and 15123 of the CEQA Guidelines.
2. Section I - Description of the Project, in accordance with Section 15124 of the CEQA Guidelines.
3. Section II - Description of the Existing Environmental Setting, in accordance with Section 15125 of the CEQA Guidelines.
4. Section III - Significant Environmental Effects of the Proposed Project, in accordance with Section 15126 of the CEQA Guidelines.
5. Section IV - Mitigation Measures Proposed to Minimize the Significant Effects, in accordance with Sections 15126(e) and 15126.4 of the CEQA Guidelines.
6. Section V - Significant Environmental Effects That Cannot be Avoided if the Proposal is Implemented, in accordance with Section 15126(b) of the CEQA Guidelines. This section title may be abbreviated to read: "Significant Unavoidable Effects."
7. Section VI - Alternatives to the Proposed Project, in accordance with Sections 15126(f) and 15126.6 (CEQA Guidelines, October 1998).
8. Section VII - Significant Irreversible Environmental Changes That Would be Involved if the Proposed Action Should be Implemented, in accordance with Sections 15126(c) and 15126.2(c). This section is only required as provided

by Section 15127 of the CEQA Guidelines. The title may be shortened to read: "Significant Irreversible Changes."

9. Section VIII - Growth Inducing Impacts of the Proposed Actions, in accordance with Sections 15126(d) and 15126.2(d) of the CEQA Guidelines. This title may be shortened to read: "Growth Inducing Impacts."
10. Section IX - Cumulative Impacts of the Project, in accordance with Section 15130 of the CEQA Guidelines.
11. Section X - Comments and Responses (final EIR only), as required by Section 15132(a) through (e) of the CEQA Guidelines.
12. Appendices - The Appendices shall include a copy of the initial study with reasons why various effects not found significant were not discussed in detail in the EIR. (Section 15128 of the CEQA Guidelines). The appendix shall also include appropriate supporting technical studies and information, a list of persons consulted in the preparation of the EIR, a list of persons who prepared the EIR, responses to the Notice of Preparation, and other appropriate information and data. Once certified, the final EIR will also include all staff reports, minutes of advisory and decision-making bodies, findings, statements, and resolutions.

**D. Other Requirements**

1. To facilitate changes in the draft EIR, all pages must be easily separated and rebindable.
2. Each section shall begin on a separate page with divider pages between sections provided.
3. The use of pages larger than 8-1/2 x 11 inches should be kept to a minimum.

**APPENDIX B**  
**APPROPRIATE WORDING FOR**  
**ENVIRONMENTAL DETERMINATIONS**

**Section I: Staff Reports**

**Section II: Project Resolutions**

**SECTION I**

**PROJECT REPORTS:**

**APPROPRIATE WORDING FOR ENVIRONMENTAL FINDINGS**

1. Not a Project
2. Ministerial
3. Categorical Exemptions
4. Statutory Exemptions
5. Negative Declaration
6. Mitigated Negative Declaration
7. Program EIR
8. Previous Environmental Document
9. EIR - Advisory Commission
10. EIR - Approval Body
11. Addendum to FEIR

## **1. Not a Project**

In accordance with Section 15378 of the State CEQA Guidelines, the proposed (type of) activity is (deemed not to be a project as defined by CEQA) or (such that there is no possibility that the activity in question has a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment) and, therefore, is not subject to the CEQA provisions.

## **2. Ministerial**

In accordance with Section 15268 of the State CEQA Guidelines, the proposed project is deemed to be ministerial. Therefore, no environmental documentation is necessary.

## **3. Categorical Exemptions**

Pursuant to Article 19 of the State CEQA Guidelines, the proposed project has been found to be exempt from the requirement of CEQA under (Section - -), Class (No.) (Title) (explanation)

## **4. Statutory Exemptions**

Pursuant to Article 18 of the State CEQA Guidelines, the proposed project has been found to be exempt from the requirements of CEQA under (Section -- (name of exemption) (explanation).

## **5. Negative Declaration**

Pursuant to Article 6 of the State CEQA Guidelines, it has been determined that after reviewing the entire project record, there is no substantial evidence in light of the whole record that the project will have a significant effect on the environment and a Negative Declaration has been prepared. This conclusion is based upon the initial study that is attached as part of this report and the entire record. A draft Negative Declaration was prepared, in accordance with CEQA, and posted for public review from [ \_\_\_\_\_ to \_\_\_\_\_]. A copy of the initial study for the project is attached for review and consideration (PC Attachment --).

## **6. Mitigated Negative Declaration**

After having reviewed the proposed Project, staff believes that pursuant to the California Environmental Quality Act ("CEQA") and the State CEQA Guidelines, no fair argument can be made that the Project may have a significant impact on the environment based on the revisions to the Project plans or proposals made by or agreed to by the Applicant before the proposed Negative Declaration was released for

public review. These mitigation measures would avoid and/or mitigate any of the environmental effects of the Project to a point where clearly no significant effects would occur. This conclusion is based upon the Initial Study, comments received during the public review process, and the entire record. A draft Mitigated Negative Declaration was prepared, in accordance with CEQA, and posted for public review from \_\_\_\_\_ to \_\_\_\_\_. A copy of the initial study for the project is attached for review and consideration (PC Attachment --).

## **7. Program EIR**

Pursuant to Section 15168 of the State CEQA Guidelines, this project is within the scope of the project covered by a previously certified Program EIR (title and State Clearinghouse #). There is no public review period required. The effects of the project were examined in the Program EIR and all feasible mitigation measures and alternatives developed in the Program EIR are incorporated into the resolution approving the project.

## **8. Previous Environmental Document**

### Negative Declaration

Pursuant to Section 15162 of the State CEQA Guidelines, this project is within the scope of the project previously approved by Resolution No. [ ] and the negative declaration approved and adopted therein. An initial study has been prepared for this project which revealed that the previously prepared negative declaration adequately described the project's environmental setting, impacts, and mitigation measures related to each impact. There are no substantial changes proposed by this project. There are no substantial changes with respect to circumstances under which the project is undertaken that will require major revisions to the negative declaration. There is no new information of substantial importance. All environmental impacts associated with this project were considered and evaluated by the negative declaration approved and adopted by Resolution No. [ ]. There is no new information of substantial importance. There are no new environmental impacts or mitigation measures needed. The initial study and previously prepared negative declaration were available for public review from \_\_\_\_\_ to \_\_\_\_\_. All applicable mitigation measures applied to Resolution No. [ ] will be applied to this project.

### EIR

Pursuant to Section 15153 of the State CEQA Guidelines, this project is within the scope of the project covered by a previously certified EIR (title and SCH #). An initial study has been prepared for this project which revealed that the previously prepared EIR adequately described the project's environmental setting, significant impacts and alternatives, and mitigation measures related to each impact. There are no

substantial changes proposed by this project. There are no substantial changes with respect to circumstances under which the project is undertaken that will require major revisions to the negative EIR. There is no new information of substantial importance. There are no new environmental impacts or mitigation measures needed. The initial study and previously prepared EIR were available for public review from \_\_\_\_\_ to \_\_\_\_\_. All applicable mitigation measures applied to the previously prepared EIR will be applied to this project.

**9. EIR Document - Advisory Commission**

In accordance with the City of Irvine CEQA procedures and pursuant to Article 7 of the State CEQA Guidelines, a draft EIR has been prepared which adequately addresses the general environmental setting of the proposed project, its significant environmental impacts, alternatives, and mitigation measures related to each significant impact. The draft EIR was circulated for public comment from \_\_\_\_\_ to \_\_\_\_\_ and is available for review and consideration.

**10. EIR - Approval Body**

In accordance with the City of Irvine CEQA procedures and pursuant to Article 7 of the State CEQA Guidelines, a draft EIR has been prepared which adequately addresses the general environmental impacts, alternatives, and mitigation measures related to each significant impact. The draft EIR was circulated for public comment from \_\_\_\_\_ to \_\_\_\_\_. The draft EIR, including all supporting documentation, is attached. (Supporting documentation may include: Comments and Responses Thereto, Findings and Facts in Support of Findings of Significant Effects of the Project, Mitigation Monitoring, and Statement of Overriding Considerations, if necessary.)

**11. Addendum to FEIR**

The project is within the general scope of the project described by previously certified FEIR (State Clearinghouse Number # \_\_\_\_). The State CEQA Guidelines, Section 15164, provides that an addendum may be prepared to a previously approved EIR when there are minor changes made to the project which do not trigger the conditions for a supplemental EIR as provided in Section 15162. Staff has determined that the changes proposed in this action do not involve new significant environmental effects or increase the severity of previously identified impacts (Section 15162). The FEIR as amended by the addendum is, therefore, determined to be adequate to serve as the CEQA compliance document for the project. A copy of the addendum is attached for review and consideration (Attachment \_\_\_\_).

## **SECTION II**

### **PROJECT RESOLUTIONS:**

### **APPROPRIATE WORDING FOR ENVIRONMENTAL FINDINGS**

1. Not a Project
2. Ministerial
3. Categorical Exemptions
4. Statutory Exemptions
5. Negative Declaration
6. Mitigated Negative Declaration
7. Mitigated Negative Declaration (Advisory Body Review)
8. Final or Supplemental EIR
9. Subsequent Project Under a Program EIR
10. Previous Environmental Document
11. With Findings of De Minimus Impact on Wildlife
12. General Plan Amendments and Zone Changes with EIRs
13. Addendum to an EIR or Negative Declaration
14. Filing the Notice of Determination

Apply the following appropriate finding as a separate section to the project resolution:

**1. Not a Project**

In accordance with Section 15378 of the State CEQA Guidelines, the proposed (type of) activity is deemed not to be a project as defined by CEQA or deemed that there is no possibility that the activity in question may have a significant effect on the environment and, therefore, not subject to CEQA; no environmental documentation is necessary.

**2. Ministerial**

In accordance with Section 15268 of the State CEQA Guidelines, the proposed project is deemed to be ministerial and no environmental documentation is necessary.

**3. Categorical Exemptions**

Pursuant to Article 19 of the State CEQA Guidelines, the proposed project has been found to be categorically exempt from the requirements of CEQA under State Guideline (Section - -), Class (No.) (title) because Class (No.) “consists of...” (complete the definition) and, therefore, the (approval body) directs staff to file the notice of exemption.

**4. Statutory Exemptions**

Pursuant to Article 18 of the State CEQA Guidelines, the proposed project has been found to be exempt from the requirements of CEQA because (Class (No.) “consists of...” (complete the definition) and, therefore, the (approval body) directs staff to file the notice of exemption.

**5. Negative Declarations**

SECTION 1. The [approval body] finds that there is no substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment. The Negative Declaration is hereby adopted. The [approval body] hereby finds that the Negative Declaration reflects the independent judgment of the City as the lead agency. Prior to approving the project, the [approval body] has reviewed and considered the Negative Declaration, together with any and all comments received during the public review and the responses to such comments. The City Clerk is the custodian of records for documents comprising the record of the proceedings upon which its decision is based. These documents are maintained at City Hall. for documents comprising

the record of the proceedings upon which its decision is based. These documents are maintained at City Hall.

## **6. Mitigated Negative Declaration**

SECTION 1. The initial study prepared for the project identifies potentially significant effects on the environment, but (A) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed Negative Declaration and initial study were released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (B), there is no substantial evidence, in light of the whole record before the lead agency, that the project as reviewed may have a significant effect on the environment. The Negative Declaration is hereby adopted. The [approval body] hereby finds that the Negative Declaration reflects the independent judgment of the City as the lead agency. Prior to approving the project, the [approval body] has reviewed and considered the Negative Declaration, together with any and all comments received during the public review and the responses to such comments. The City Clerk is the custodian of records for documents comprising the record of the proceedings upon which its decision is based. These documents are maintained at City Hall.

SECTION 5 [or applicable number]. Based on the above findings, the Planning Commission of the City of Irvine DOES HEREBY ADOPT THE MITIGATED NEGATIVE DECLARATION, THE MITIGATION MONITORING PROGRAM ATTACHED THERETO, AND APPROVE [project title and number] subject to the following conditions:

## **7. Mitigated Negative Declaration (Advisory Body Review)**

SECTION 1. The initial study prepared for the project identifies potentially significant effects on the environment, but (A) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed Negative Declaration and initial study were released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (B), there is no substantial evidence, in light of the whole record before the lead agency, that the project as reviewed may have a significant effect on the environment. Based on public testimony and independent judgment the (advisory body) has reviewed and considered the comments received during the public review process and, therefore, recommends approval of the Negative Declaration. The City Clerk is the custodian of records for documents comprising the record of the proceedings upon which its decision is based. These documents are maintained at City Hall.

## **7.5 Changes to Proposed Mitigation Measures**

The new mitigation measure is equivalent or more effective in mitigating or avoiding-potentially significant effects and that in itself will not cause any potentially significant effect on the environment (source:} State CEQA Guidelines Section 15074.1)

## **8. Final or Supplemental EIR**

SECTION 1. In accordance with Article 7 of the State CEQA Guidelines, the City Council, after receiving and considering comments from the Planning Commission, (*and/or Community Services Commission as appropriate*), , and other interested parties, finds that the Final Program EIR has been completed in accordance with the State CEQA Guidelines, and the City's CEQA Procedures. The City Council, having final approval authority over the project, certifies as complete and adequate the Final Program EIR for [Planning Area and project title ]. The City Council finds that the Final Program EIR reflects the independent judgment of the City. “

SECTION 2. The Final Program EIR shall consist of the following:

- A. The Draft Environmental Impact Report (EIR)
- B. The Technical Appendices to the Draft EIR
- C. Comments and Responses Thereto
- D. Statement of Facts and Findings
- E. Statement of Overriding Considerations
- F. Mitigation Monitoring Program
- G. [project title] Staff Reports

## **9. Subsequent Project Under a Program EIR**

Pursuant to Section 15168 of the State CEQA Guidelines, this project is covered by a previously certified Program EIR, [for Planning Area - -and project title] which serves as a Program EIR for the proposed project [SCH #]. The effects of the project were examined in the Program EIR and all feasible mitigation measures and alternatives developed in the Program EIR are incorporated into this project. Based on public testimony and independent judgment, the [approval body] determines that no new mitigation measures are required. The Program EIR is, therefore, determined to be adequate to serve as the EIR for this project and satisfies all requirements of CEQA.

## **10. Previous Environment Document**

### Negative Declaration

Pursuant to Section 15162 of the State CEQA Guidelines, this project is within the scope of the project previously approved by Resolution No. [ ] and the negative declaration approved and adopted therein. The effects of the project are within the scope of analysis of the previous negative declaration and all environmental impacts associated with this project were considered and evaluated by the negative declaration approved and adopted by Resolution No. [ ]. The previously prepared negative declaration has been determined to be adequate to serve as the environmental document for this project and satisfies all requirements of CEQA.

### EIR

Pursuant to Section 15153 of the State CEQA Guidelines, this project is within the scope of the project covered by a previously certified EIR, (title and SCH#). The effects of the project are within the scope of analysis of the previous EIR and all feasible mitigation measures and alternatives developed in the previous EIR are incorporated into this project. The previously prepared EIR adequately describes the project's general environmental setting, significant environmental impacts and alternatives, and mitigation measures related to each significant impact. The previously prepared EIR was recirculated from \_\_\_\_\_ to \_\_\_\_\_ and has been determined to be adequate to serve as the environmental document for this project and satisfies all requirements of CEQA.

## **11. With Findings of Di Minimus Impact on Wildlife\***

Pursuant to Title 14, California Code of Regulation Section 753.5(c)(1), the (approval body) has determined that, after considering the record as a whole, there is no evidence that the proposed project will have the potential for any adverse effect on wildlife resources or the habitat upon which the wildlife depends. Furthermore, on the basis of substantial evidence, the (approval body) hereby finds that any presumption of adverse impact has adequately been rebutted. Therefore, pursuant to Fish and Game Code Section 711.2 and Title 14, California Code of Regulations Section 753.5(a)(3), payment of Fish and Game Department filing fees is not required in conjunction with this project.

\*Use only if the Initial Study / Environmental Evaluation, item No. IV (Biological Resources), questions A, B, C and E are "No." Also, Initial Study / Environmental Evaluation, item No. III (Air Quality), finding No. 1 must be "No."

## 12. **General Plan Amendments and Zone Changes subject to Program EIR's**

SECTION 1. That pursuant to Section 15168 of the CEQA Guidelines, the project is covered by a certified Program Environmental Impact Report (EIR) that serves as a program EIR for the proposed project. The effects of the project were examined as part of the Program EIR, and all feasible mitigation measures and alternatives developed in the Program EIR are incorporated into this project. City Council reviewed and considered the Program EIR, including the comments and responses thereto, prior to approving the project.

SECTION 2. Although the Final EIR identifies certain potentially significant environmental impacts of the project, potentially significant environmental impacts have been determined to be less than significant or mitigated to a level that is considered less than significant or changes have been required or incorporated into the project which avoid or substantially lessen the significant environmental effects, as set forth in the Statement of Facts and Findings attached hereto as Exhibit A and incorporated herein by reference.

SECTION 3. [If applicable] One effect(s) [identify effect(s)] will remain significant and unavoidable after mitigation. Based upon specific economic, social, technical or other considerations, this effect is considered acceptable as outlined in the Statement of Overriding Considerations incorporated herein as Exhibit A.

## 13. **Addendum to an EIR or Negative Declaration**

### Addendum to an EIR

In accordance with Section 15164 of the State CEQA Guidelines, the [approval body] finds that, based upon the substantial evidence in the entire record, an Addendum to the EIR [title and SCH #] is appropriate because some changes or additions are necessary [*briefly describe the minor changes or additions that trigger the need for an addendum*] and none of the conditions described in Section 15162 of the State CEQA Guidelines calling for preparation of a subsequent EIR or negative declaration have occurred with respect to the proposed [*type of activity*].

### Addendum to a Negative Declaration

In accordance with Section 15164 of the State CEQA Guidelines, the [approval body] finds that based upon the substantial evidence in the entire record, an Addendum to the Negative Declaration [title and SCH #] is appropriate because only minor technical changes or additions are necessary [*briefly describe the minor technical changes or additions that trigger the need for an addendum*] and none of the conditions described in Section 15162 of the State CEQA Guidelines calling

for preparation of a subsequent EIR or negative declaration have occurred with respect to the proposed [*type of*] activity.

**14. *Filing the Notice of Determination (NOD)***

Following the adoption of a Negative Declaration or Mitigated Negative Declaration, or certification of an EIR and following approval of the project, City staff is hereby directed and authorized to file a Notice of Determination with respect to the approval of the project.