

INSTRUCTIONS FOR THE PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT

The following instructions explain the required process and format for preparing an Environmental Impact Report (EIR) for the City of San Jose. This document contains a set of formatting standards for EIR's and reflects the information contained within Title 21 of the San Jose Municipal Code (Environmental Clearance Ordinance). Copies of this Ordinance are available for purchase in the Department of Planning, Building & Code Enforcement or can be viewed online at: http://www.amlegal.com/sanjose_ca/.

This document is divided into two sections. The first section explains the EIR preparation and certification process and the responsibilities of the Environmental Consultant. The second section contains the required format for all EIR's submitted to the City of San Jose. Specific questions regarding EIR preparation may be directed to the City of San Jose Environmental Team at (408) 535-3555.

I. EIR PREPARATION PROCESS

Administrative Draft EIR

Prior to submittal of an Administrative Draft EIR, the applicant shall first complete the following three actions:

1. *Consultation with the Planning Department's Environmental Team:* This consultation will be used to determine the scope and content necessary for the EIR by discussing potential significant impacts, possible mitigation measures, alternatives, and projects to include within a cumulative impacts analysis.
2. *Submittal of a copy of the Scope of Work Contract for the EIR.*
3. *Submittal of a Draft Notice of Preparation:* The applicant / consultant shall submit to the Environmental Team a draft Notice of Preparation (NOP) for the EIR. The NOP shall include, at minimum, a brief description of the project, its location, and probable environmental effects as required by the California Environmental Quality Act (CEQA). In addition, the NOP shall include two location maps, showing the project site within a regional and local context, respectively.

The Consultant shall be prepared to submit at least **15 (fifteen)** copies of the 1st Administrative Draft EIR (ADEIR) and the appropriate EIR fees (Please contact your Environmental Project Manager for the exact number of copies). A Draft EIR will not be reviewed and/or circulated for Public Review until all necessary fees are paid. A list of these fees can be obtained in the Planning Department's Fee Schedule - <http://www.sanjoseca.gov/planning/pdf/05-06%20Fee.pdf>

An EIR is by law a City document; the City is entirely responsible for its contents. No EIR will be circulated by the Planning Department that does not reflect the City's policies or which contains unsubstantiated factual information. The purpose of the Administrative Draft EIR is to allow City Departments to review and analyze information submitted by the Consultant so that the EIR will reflect the independent judgement and analysis of the City. Should the Director of Planning, Building, & Code Enforcement find the Administrative Draft incomplete, the applicant must submit revisions addressing the issues raised. Review of the first Administrative Draft EIR will generally take four weeks. If significant changes are necessary or relevant information is omitted, an additional ADEIR will be required. If requested, the consultant must submit both hard copies and an electronic format of the Administrative Draft EIR for final editing.

Draft EIR

Upon satisfactory completion of the Draft EIR, the Director of Planning, Building, & Code Enforcement shall send copies for review and comment to the Planning Commission, City Council, and public and private agencies having jurisdiction or interest in the project. The referral and response period shall not be less than 30 days. As most EIRs are sent to the State Clearinghouse for review, a 45 day response period is usually mandated. For the release of a Draft EIR, the consultant is responsible for:

1. *Submittal of Draft EIR's:* This shall include both the requested number of Draft EIR copies and an electronic version. The electronic version of the EIR must be in PDF ML format with tables and graphics in PDF. Specific requirements regarding electronic submittal format are attached. The Environmental Project Manager shall supply the consultant with a Draft EIR cover letter to be incorporated into the Draft EIR document.
2. *Sending 15 copies of the Draft EIR & Notice of Completion to the State Clearinghouse:* The NOC form will be supplied by the Environmental Project Manager to the consultant. Please note – the State Clearinghouse will accept 15 paper copies of the Executive Summary and 15 copies of all other information on CD (body of EIR and Appendices).

First Amendment

Following conclusion of the public review period, your Environmental Project Manager shall forward all comments received on the EIR to the consultant. The consultant shall prepare draft responses to comments, constituting the First Amendment to the EIR. The First Amendment shall include:

- (1) An Introduction to the document describing CEQA requirements of a Final EIR.
- (2) A matrix / list showing the comments received on the Draft EIR. This shall identify (1) the person or organization submitting comments, (2) date of letter, (3) date received and (4) if a response is required.
- (3) Comments received & responses
- (4) Copies of comment letters
- (5) Any revisions to the EIR document.
- (6) The Draft EIR Distribution List.

The responses to comments shall discuss any environmental issues that are raised and if they should require any revisions to the EIR. There must be good faith and well reasoned analysis in all responses. The administrative draft First Amendment must be submitted both in hard copy and electronic format (preferably a Word document) to the City.

Once the First Amendment is ready for public distribution, the consultant must supply both the requested number of First Amendment / Final EIR documents and an electronic version of the document (in PDF format).

Certification of Final EIR

The Environmental Consultant is required to attend the Planning Commission EIR Certification hearing and City Council appeal hearing, if applicable, and be available to answer any questions from the Planning Commission / City Council or attending public.

Decision on Project

After Certification of the EIR, the Consultant shall prepare drafts and submit the three documents below:

- (1) *Resolution of Findings*: Per CEQA, the Findings shall make conclusions regarding each significant impact that was identified within the EIR. This must include discussion of the feasibility of mitigation measures and alternatives, and if the proposed mitigation is fully enforceable.
- (2) *Mitigation Monitoring & Reporting Program (MMRP)*: This shall include the outline of a program, shown in matrix form, showing how required mitigation for significant impacts will be implemented and monitored.
- (3) *Statement of Overriding Considerations*: If the EIR has identified Significant Unavoidable Impacts from the project, the consultant and project proponent shall prepare a statement explaining the benefits of the project and how they outweigh the unavoidable environmental impacts identified in the EIR.

Examples showing the format required for each of these documents are available on the Planning Division's website – <http://www.sanjoseca.gov/planning/eir/eir.asp>

Integrated Final EIR.

Following the final decision on the project, the project proponent / consultant shall submit up to **5 (five)** copies of a fully integrated Final EIR. The integrated FEIR shall include (1) The Resolutions for certification of the EIR and approval of the project, (2) The First Amendment to the Draft EIR, and (3) The Draft EIR. Any text changes from the First Amendment shall be reflected in the body of the Draft EIR. Copies of the resolutions shall be supplied by the Environmental Project Manager.

II. ENVIRONMENTAL IMPACT REPORT FORMAT

The following instructions are an explanation of the required format and content of Environmental Impact Reports for the City of San Jose.

COVER

The cover shall identify (1) the title of the project, (2) the project file number, (3) the State Clearinghouse Number, and (4) The City of San Jose. The cover shall not contain any consultant's identification or logos.

Note – The second page of the document shall be a black and white version of the cover, for future imaging purposes.

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SUMMARY

The summary shall include:

- (1) A brief description of the project
- (2) A summarized list of environmental impacts, mitigation measures, and a final significance conclusion for identified impacts. This should be shown in a matrix format.
- (3) Summary of alternatives.
- (4) Summary of cumulative impacts.
- (5) Discussion of areas of controversy, if known.

The pages of the summary section should be of a different color than the remainder of the text of the EIR.

Note – To aide in review of the entire document, the summary shall not be included in the first Admin Draft of the EIR.

Note - All text shall be left justified for easier review by Staff and the public

I. PROJECT DESCRIPTION

This shall include:

- (1) *Project Background & Objectives*: The overall purpose of the project, clearly stating its goals and objectives.
- (2) *Project Location*: This shall include both a written description and maps, demonstrating the specific location and boundaries. Maps shall include, at minimum, both regional and local maps, Assessor parcel maps, view of the site from a few vantage points, and a recent aerial photo.
- (3) *Project Description*: This shall be a narrative of the project concept, including all proposed uses, buildings, supporting public services, necessary land use entitlements, and construction activities. This shall include diagrams and drawings showing the project. Discussion shall address all “reasonably foreseeable future phases of the project.”
- (4) *Uses of the EIR*: Identify all anticipated permits required of the project and the Lead, Responsible, and Trustee agencies that will administer these permits. This includes both local land use entitlements and permits necessary from state and federal agencies. If the EIR shall be a program EIR for use in “tiering,” discuss how the EIR will be used for anticipated future projects.
- (5) *Consistency with Relevant Plans & Policies*: This section should describe the project’s consistency with both local plans (General & Specific Plans) as well as any applicable regional plans (Clean Air Plan, San Francisco Bay Region Water Quality Control Plan).
- (6) *Public Outreach*: This section shall describe any community meetings that were held for the project, and what issues were discussed at the meeting(s).
- (7) *Maps and Photos*: As noted above, the document shall contain the following figures; Regional Map, Vicinity Map, Assessor’s Parcel Map, Aerial Vicinity Map, Aerial Photo of the Site, View of the Site from a few vantage points, General Development Plan and/or Conceptual Site Plan

II. ENVIRONMENTAL SETTING, IMPACTS & MITIGATION

The EIR shall include, at minimum, the following categories in discussing the environmental setting and impacts: Aesthetics, Agricultural Resources, Air Quality, Biological Resources, Cultural Resources, Energy, Geology & Soils, Hazards & Hazardous Materials, Hydrology & Water Quality, Land Use, Mineral Resources, Noise, Public Services, Recreation, and Transportation / Traffic. Discussion of the environmental setting, impacts, and mitigation within each category shall have the following format (the applicable CEQA guidelines section is noted):

- (1) *Environmental Setting*: Describe the existing baseline physical conditions, identifying existing hazards, resources, and special characteristics of the project site. The environmental setting includes not only the project site itself, but also its surroundings.

- (2) *Thresholds of Significance*: Thresholds referenced within CEQA shall be used in addition to those used by the City. Although the City does not have formally adopted thresholds, citywide standards are used and are available from Planning Staff.
- (3) *Environmental Impacts of the Proposed Project*: Describe both the direct and indirect impacts of the project on the environment, giving due consideration to both short-term and long-term effects. This shall include consideration of impacts from construction, long term buildout, operation, and closure of the project as well as possible impacts from granting all land use entitlements necessary for the project. While the EIR should discuss all anticipated environmental effects from the project, it shall focus on significant impacts. Discussion of each impact should conclude in a significance determination. This determination must be written out, (example: **Less than Significant Impact**) preferably in bold.
- (4) *Mitigation Measures Proposed to Minimize Significant Impacts*: For all identified potentially significant impacts, the EIR shall discuss all feasible mitigation to reduce these impacts. The EIR should include not only mitigation measures proposed by the applicant but any feasible mitigation measures that could reduce the significant impacts of the project. Description of mitigation should clearly explain how it will be implemented, who is responsible, and where and when it will occur. Proposed mitigation measures must also reflect legal and constitutional limitations and be fully enforceable.
- (5) *Conclusionary Statement*: Each impact should have a conclusionary statement regarding significance determination with proposed mitigation.

III. ALTERNATIVES

This section should first discuss the project's objectives and its identified significant impacts. Next, a reasonable range of alternatives should be discussed which may include alternative sites and project design. This should include not only a discussion of "feasible" alternatives, but may also include any other alternatives that were considered and declared infeasible. For each alternative, the analysis should make a clear conclusion regarding (a) if the alternative would eliminate or reduce significant impacts and (b) if the basic objectives of the project are met. The use of a matrix is encouraged, if feasible, when comparing the alternatives and the proposed project. As required by CEQA, the alternatives section must include, at minimum:

- (1) A "No Project" Alternative
- (2) An "Environmentally Superior" Alternative: If the "No Project" alternative is the environmentally superior alternative, another environmentally superior alternative must be discussed.

IV. CUMULATIVE IMPACTS

This section must discuss the cumulative impacts of the project when evaluated with other past, present, and reasonably foreseeable future projects. The projects to be included within this

analysis will be determined in consultation with Planning Staff. Cumulative impacts analysis must discuss the environmental impacts of other projects and evaluate if the project will contribute to identified cumulative impacts. The EIR may incorporate “First & Second Tier” EIR’s, such as those for General & Specific Plans in discussing cumulative impacts that may have been previously addressed.

The EIR must evaluate any feasible options for mitigating the project’s cumulative impacts. The cumulative impact section must make clear conclusions regarding the significance of any identified cumulative impacts.

V. GROWTH INDUCING IMPACTS

This section must discuss the ways in which the proposed project could foster economic or population growth, either directly or indirectly, in the surrounding environment. Included in this are projects which would remove obstacles to population growth (a major expansion of a wastewater treatment plant might, for example, allow for more construction in service areas). Increases in the population may further tax existing community service facilities so consideration must be given to this impact. Also discuss the characteristics of some projects which may encourage and facilitate other activities and that could significantly affect the environment, either individually or cumulatively. It must not be assumed that growth in any area is necessarily beneficial, detrimental or of little significance to the environment. This discussion may incorporate by reference any General Plan and Specific Plan EIR’s.

VI. SIGNIFICANT UNAVOIDABLE IMPACTS

Describe the kinds and magnitude of significant, adverse impacts which cannot be reduced in severity or which can be reduced but not to a less than significant level. For those impacts which cannot be reduced without considering an alternative project or project design, their implications and reasons why the project is being proposed notwithstanding their effect, shall be described in detail. This analysis shall detail significant impact on aesthetically or culturally valuable surroundings and human health.

VII. AREAS OF KNOWN CONTROVERSY

Discuss the known views of local groups concerning the proposed project or activity. Identify known or potential opposition groups and their views.

VIII. EIR AUTHOR AND CONSULTANTS

The author of all City EIR’s is the City of San Jose, Department of Planning, Building & Code Enforcement and its Staff. You must also identify all persons, firms, and agencies who contributed to the EIR. Include federal, state, and local agencies consulted as well as organizations and private individuals who were consulted in preparing the EIR. Projects which have been previously certified should identify the appropriate state or interstate agencies that

certified the water quality aspects of the project as being in compliance with applicable water quality standards.

IX. APPENDICIES

Discussion of the environmental setting and impacts within the EIR text should use simple language understandable by the reading public. Any technical documents and information used to prepare the EIR should be included within the appendices and referenced in each relevant section of the EIR. If these technical reports are of substantial length, they can be included as separate volumes of the EIR. If the appendices are included within a separate volume they shall include an index. The appendices shall be divided by title pages, of a different color than the text pages, identifying the appendix number and title. The Appendices shall include a copy of the NOP for the project and all comments received on the NOP.