

Executive Office  
County of Riverside



Larry Parrish  
County Executive Officer

Honorable Board of Supervisors  
County of Riverside  
Robert T. Andersen Administrative Center  
4080 Lemon Street, 5<sup>th</sup> Floor  
Riverside, California 92501-3651

March 9, 2004

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Subject: Environmental Impact Report (EIR) Consultant Selection and Hiring Practices

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Board Members:

On January 27, 2004, your Board continued the Environmental Impact Report (EIR) Consultant Selection and Hiring Practices item 45 days to provide the opportunity for the First District and Executive Office staff to meet with developers. Representatives from Albert A. Webb Associates attended the meeting, convened by the First District, on February 11, 2004. Staff recommendations resulting from that meeting have been incorporated into the Memorandum of Understanding (highlighted).

IT IS RECOMMENDED that the Board of Supervisors approve the Revised Memorandum of Understanding (MOU) for the preparation and handling of Environmental Impact Reports (EIR) and direct staff to report back in 60 days on implementation efforts.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Larry Parrish", written over a horizontal line.

LARRY PARRISH  
County Executive Officer

Revised

**MEMORANDUM OF UNDERSTANDING**  
ENVIRONMENTAL IMPACT REPORT  
PREPARATION AND HANDLING OF  
(PROJECT # / PROJECT ADDRESS / "PROJECT NAME")

THIS AGREEMENT, hereinafter referred to as the "MOU," is made and entered into, by and between the **County of Riverside**, hereinafter referred to as the "COUNTY," and \_\_\_\_\_ (**APPLICANT'S NAME or APPLICANT'S REPRESENTATIVE'S NAME**), or applicant's successor in interest, hereinafter referred to collectively as "APPLICANT," and \_\_\_\_\_ (**EIR CONSULTANT'S NAME**), hereinafter referred to as "EIR CONSULTANT," for the purpose of establishing rights and responsibilities of all undersigned parties hereto in relation to the preparation and handling of an ENVIRONMENTAL IMPACT REPORT for the above-referenced project.

The COUNTY, APPLICANT, and EIR CONSULTANT do hereby agree as follows:

I. GENERAL TERMS

- a. The COUNTY is the Lead Agency with land use and planning jurisdiction in the above-referenced project area of unincorporated Riverside County, as it pertains to the CALIFORNIA ENVIRONMENTAL QUALITY ACT, hereinafter referred to as "CEQA."
- b. The APPLICANT has submitted an application for development of the above-referenced Project. The COUNTY has determined that the above referenced Project has the potential to cause major environmental impacts, necessitating the preparation of an ENVIRONMENTAL IMPACT REPORT, hereinafter referred to as "EIR."
- c. The EIR CONSULTANT is a professional environmental consultant or consulting firm included on the County's official EIR Consultant List.
- d. The APPLICANT and EIR CONSULTANT shall be responsible to ensure that all SUB-CONTRACTED CONSULTANT(S) comply with all terms and conditions set forth in the MOU.

- e. After January 1, 2006, the EIR CONSULTANT and all SUB-CONTRACTED CONSULTANT(S) shall not be a subsidiary or division of the APPLICANT.
- f. The APPLICANT shall be responsible for one-hundred percent (100%) of EIR preparation, review, and distribution costs incurred by the COUNTY and the EIR CONSULTANT.
- g. The APPLICANT shall be responsible for one-hundred percent (100%) of the cost incurred by the COUNTY for a third-party review of any portion of the EIR, when such a review is deemed necessary by the COUNTY.
- h. By signing this MOU, the EIR CONSULTANT and its SUB-CONTRACTED CONSULTANT(S) certify that all pertinent environmental information has been disclosed to the COUNTY, and that no pertinent information has been omitted or deliberately withheld from the COUNTY, at the request of the APPLICANT or any other party.
- i. The APPLICANT and the EIR CONSULTANT/SUB-CONTRACTED CONSULTANT(S) shall not enter into any form of confidentiality agreement that prohibits disclosure of information to the COUNTY or other public agencies.

## II. EIR PREPARATION AND SUBMITTAL

- a. The EIR CONSULTANT shall draft the EIR in accordance with CEQA, the CEQA Guidelines, and direction from COUNTY staff regarding its form and content.
- b. The APPLICANT and EIR CONSULTANT shall ensure that the EIR and all related documents are prepared utilizing accurate and verifiable field techniques and professional work performance standards, and are prepared in conformance with all applicable CEQA requirements, and other County, State, and Federal rules, regulations, and laws.
- c. The EIR CONSULTANT shall verify that all EIR documents represent their complete and independent judgment and analysis of the Project-specific environmental setting, issues, potential impacts, and mitigation measures associated with the above-referenced Project. The Final EIR shall reflect the independent judgment of the County. Special studies shall be certified/signed as true and accurate by CONSULTANT.

- d. The EIR CONSULTANT shall submit the initial Draft EIR to the COUNTY a minimum of two (2) weeks prior to submitting it to the APPLICANT. The COUNTY shall monitor and review any subsequent changes to the Draft EIR before the APPLICANT/EIR CONSULTANT resubmits the Draft EIR for formal review through COUNTY screen check and public review processes. This does not preclude the APPLICANT from commenting on the contents of the environmental document.
- e. The EIR CONSULTANT shall submit the Final EIR to the COUNTY a minimum of two (2) weeks prior to submitting it to the APPLICANT. The EIR CONSULTANT may provide postage-paid copies at the time of submittal for the COUNTY to distribute upon acceptance of the document.
- f. The COUNTY retains the right to attend any and all meetings between the APPLICANT and the EIR CONSULTANT and/or its SUB-CONTRACTED CONSULTANT(S). It is the responsibility of the APPLICANT to provide the COUNTY a minimum of one (1) week prior notice of any and all such meetings.
- g. Upon request, copies of all correspondence and draft technical reports generated by the EIR CONSULTANT/SUB-CONTRACTED CONSULTANT(S) shall be submitted to the COUNTY a minimum of two (2) weeks prior to submittal to the APPLICANT. Copies of any such correspondence and reports pertaining to the EIR generated by the APPLICANT for the EIR CONSULTANT shall also be provided to the COUNTY, upon request, a minimum of two (2) weeks prior to submittal to the EIR CONSULTANT.
- h. Upon request, the EIR CONSULTANT/SUB-CONTRACTED CONSULTANT(S) shall submit to the COUNTY all field notes, resource documents, and supplemental technical studies used in the preparation of the EIR.

### III. INDEMNIFICATION

The APPLICANT shall defend, indemnify, and hold harmless the COUNTY, its agents, officers, and employees from any claim, action, or proceeding against the COUNTY or its agents, officers, or employees to attack, set aside, void, or annul certification of the EIR and/or approval of the above-referenced project. The COUNTY shall notify the APPLICANT of any such claim, action, or proceeding and the COUNTY shall

reasonably cooperate in the defense. The legal counsel selected by the APPLICANT shall be acceptable to the COUNTY.

IN WITNESS WHEREOF, the COUNTY, the APPLICANT, and the EIR CONSULTANT have caused this agreement to be executed. Furthermore, under the penalty of perjury, the APPLICANT and EIR CONSULTANT do agree that all documents submitted to the COUNTY are in conformance with all requirements set forth in the MOU.

ATTESTED:

**COUNTY OF RIVERSIDE**

**APPLICANT**

\_\_\_\_\_  
Chairman, Board of Supervisors

\_\_\_\_\_  
Principal

Dated: \_\_\_\_\_

\_\_\_\_\_  
Company Name

Dated: \_\_\_\_\_

**EIR CONSULTANT**

\_\_\_\_\_  
Principal

\_\_\_\_\_  
Company Name

Dated: \_\_\_\_\_

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

862



**FROM:** Executive Office

**SUBMITTAL DATE:**  
January 22, 2004

**SUBJECT:** Environmental Impact Report (EIR) Consultant Selection and Hiring Practices

**RECOMMENDED MOTION:** That the Board of Supervisors approve the Memorandum of Understanding (MOU) for the preparation and handling of Environmental Impact Reports (EIR) and direct staff to report back in 60 days on implementation efforts.

**BACKGROUND:** On April 1, 2003, Supervisor Buster presented an item for Board consideration (Agenda Item 3.24) regarding the County selection and hiring of EIR Consultants. He reported that Assembly Bill 406, designed to ensure that an EIR consultant is not a subsidiary or division of a project applicant, was pending in the State legislature. In response, the Board of Supervisors directed the Planning Department, County Counsel, and the Executive Office to review the County's EIR consultant selection and hiring practices, seeking input from the Planning Commission, Building Industry Association (BIA), and environmental groups, and to submit a report back to the Board.

On November 25, 2003, Agenda Item 3.1, the Board was updated on the progress made on this item. Specifically, a draft MOU was developed, based on Los Angeles County's draft MOU, and circulated to stakeholders for their review and comment. Comments were due on December 5, 2003, and the County Working Group (comprised of County Counsel, Planning, Transportation, Executive Office, and Board Assistants) was scheduled to reconvene immediately thereafter.

Continued

*Jennifer Sargent*  
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Jennifer Sargent, Senior Management Analyst

|                       |                               |        |                         |
|-----------------------|-------------------------------|--------|-------------------------|
| <b>FINANCIAL DATA</b> | Current F.Y. Total Cost:      | \$ N/A | In Current Year Budget: |
|                       | Current F.Y. Net County Cost: | \$ N/A | Budget Adjustment:      |
|                       | Annual Net County Cost:       | \$ N/A | For Fiscal Year:        |

|                         |                                  |                          |
|-------------------------|----------------------------------|--------------------------|
| <b>SOURCE OF FUNDS:</b> | Positions To Be Deleted Per A-30 | <input type="checkbox"/> |
|                         | Requires 4/5 Vote                | <input type="checkbox"/> |

**C.E.O. RECOMMENDATION:** Approve

**County Executive Office Signature** *Barbara Sherman*

Dept't Recomm.:  Consent  Policy   
Per Exec. Ofc.:  Consent  Policy

Prev. Agn. Ref.: 3.24 on 4/1/03 | District: All | Agenda Number:

ATTACHMENTS FILED  
WITH THE CLERK OF THE BOARD

3.8

Five (5) stakeholders responded to the draft MOU: Building Industry Association, Albert A. Webb Associates, Mainiero, Smith and Associates, Center for Biological Diversity, and Endangered Habitats League. Although the comments were varied, many of them were incorporated into the final draft MOU (Attachment A). An area of particular concern, section I.e., addressed the relationship between the applicant and the EIR consultant/sub-contracted consultant(s).

The Working Group recommends a phased approach, by implementing the MOU, which strengthens the credibility of the EIR document with all stakeholders.

Phase I: Affirm the EIR consultant is working under the direction of the County and in accordance with CEQA laws and guidelines by requiring that the County receive all documents, correspondence, draft technical reports, and other information generated by the EIR consultant prior to submission to the Applicant.

The Planning Department, in coordination with the Purchasing Department, shall develop a process for maintaining and updating the Official County EIR Consultant List. Only consultants on the list may prepare an EIR on behalf of the County.

Phase II: Perform a formal review of the new procedures in one year and report back to the Board on the impact of the EIR development process and the effect on all stakeholders. At that time, the Board can reaffirm their desire to proceed with Phase III.

Phase III: After January 1, 2006, require that EIR consultant(s) and all sub-contracted consultant(s) shall not be a subsidiary or division of the applicant.

Phase IV: One year after the implementation of Phase III, conduct a review of the overall process and evaluate the impact on the development of EIR documents and the effect on all stakeholders and recommend any further changes.

The above approach is designed to eliminate any perceived conflicts of interest in the current process, as well as strengthen the credibility of EIRs prepared on behalf of the Board.