

**SANTA BARBARA COUNTY  
BOARD AGENDA LETTER**



Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

**Agenda Number:**  
**Prepared on:** 07/11/05  
**Department Name:** CEO  
**Department No.:** 012  
**Agenda Date:** 07/19/05  
**Placement:** Departmental  
**Estimate Time:** 1 HR  
**Continued Item:** YES  
**If Yes, date from:** 06/21/05

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**TO:** Board of Supervisors

**FROM:** Michael F. Brown  
County Executive Officer

**STAFF CONTACTS:** Ron Cortez  
Deputy County Executive Officer

John McInnes – 568-3552  
Project Manager

**SUBJECT:** EIR Contract Procedures Review

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**Recommendation(s):**

That the Board of Supervisors:

- a) Consider recommendations regarding the County’s Environmental Impact Report contract procedures;
- b) Approve the Planning Commission’s recommendations for changes to the County’s Environmental Impact Report contract procedures with modifications identified in the attached process diagram entitled “Revised Procedures for Preparing an Administrative Draft EIR – 7/19/05”; and
- c) Direct County Counsel and Planning & Development to prepare and present a Resolution to the Board of Supervisors for consideration that will provide for the necessary revisions to the “County of Santa Barbara Guidelines for the Implementation of the California Environmental Quality Act of 1970, As Amended.”

**Alignment with Board Strategic Plan:**

This recommendation is primarily aligned with Goal No. 1, An efficient Government Able to Respond Effectively to the Needs of the Community.

**Executive Summary and Discussion:**

On June 21, 2005, your Board considered recommendations regarding the County's Environmental Impact Report Contract Procedures and continued the item until July 19, 2005. Specifically, the County Executive Officer's (CEO) office, County Planning Commission and the Montecito Planning Commission recommended that EIR Development Procedures for *private projects* be modified to:

1. Reflect the processes described as Option No. 4 entitled "Lead Agency Contracted or In-House Procedures" (see Attachment 1); and
2. All communications between the consultant and either the applicant or county staff shall be with the applicant and county staff both participating, and that any communications between the consultant, either county staff or the applicant that results in a change in the administrative draft, shall be memorialized in writing and be made part of the public record.

Further, it was recommended that EIR Development Procedures for *public projects* be modified to:

1. Include a mandatory policy specifying that the development of all EIRs for programs or plans (not physical developments) be directed by a department different from that which developed the program or plan; and
2. The CEO shall appoint an Environmental Coordinator responsible for:
  - a) ensuring that the preparation of the public plan or program EIR by the department that has the principle authority for the project complies with the requirements of CEQA and the County's CEQA Guidelines; and
  - b) fulfilling the duties of the hearing officer for the respective project.

The Environmental Coordinator shall not be an employee or officer of the department that is charged with the preparation of the public plan or program EIR.

Finally, the CEO and planning commissions recommended that:

1. EIR Procedures be reviewed regularly by the Board of Supervisors, the first review occurring not later than two years from the date in which they are implemented to determine their effectiveness.

The majority of public testimony and discussion concerning the above recommendations focused on the procedures related to the development of Administrative Draft EIRs for private projects. Supervisor Firestone requested that an option be presented that would provide for revision of the County's CEQA Guidelines to clarify that full communication between the applicant, staff and consultant regarding the contents of the Administrative Draft EIR may occur, but not require disclosure of the Administrative Draft EIR to the applicant and public. Additionally, David C. Fainer, Jr. submitted a letter dated July 9, 2005, which recommends such procedural modifications (see Attachment 3).

Accordingly, staff developed the attached flow chart in response to Supervisor Firestone's request and Mr. Fainer's recommended procedural modifications (see Attachment 2). This option provides applicants with the opportunity to 1) discuss the contents of Administrative Draft EIRs with the Planning & Development Department and

2) determine whether to receive a copy of the document for comment. If the applicant elects to receive a copy of the document, it would be made available to the public upon request.

Finally, on June 21, 2005, your Board requested that Ron Cortez's closing statements be summarized and forwarded for further consideration (see Attachment 4). Mr. Cortez's statements focused on staff's adherence to your Board's initial direction on January 18, 2005 and the basis of staff's recommended procedural modifications presented on June 21, 2005. Although these statements were in reference to the process and procedures discussed at your last hearing, they are consistent with the recommendations above.

**Mandates and Service Levels:**

No mandates or service levels are affected by this action.

**Fiscal and Facilities Impacts:**

None.

**Special Instructions:**

None.

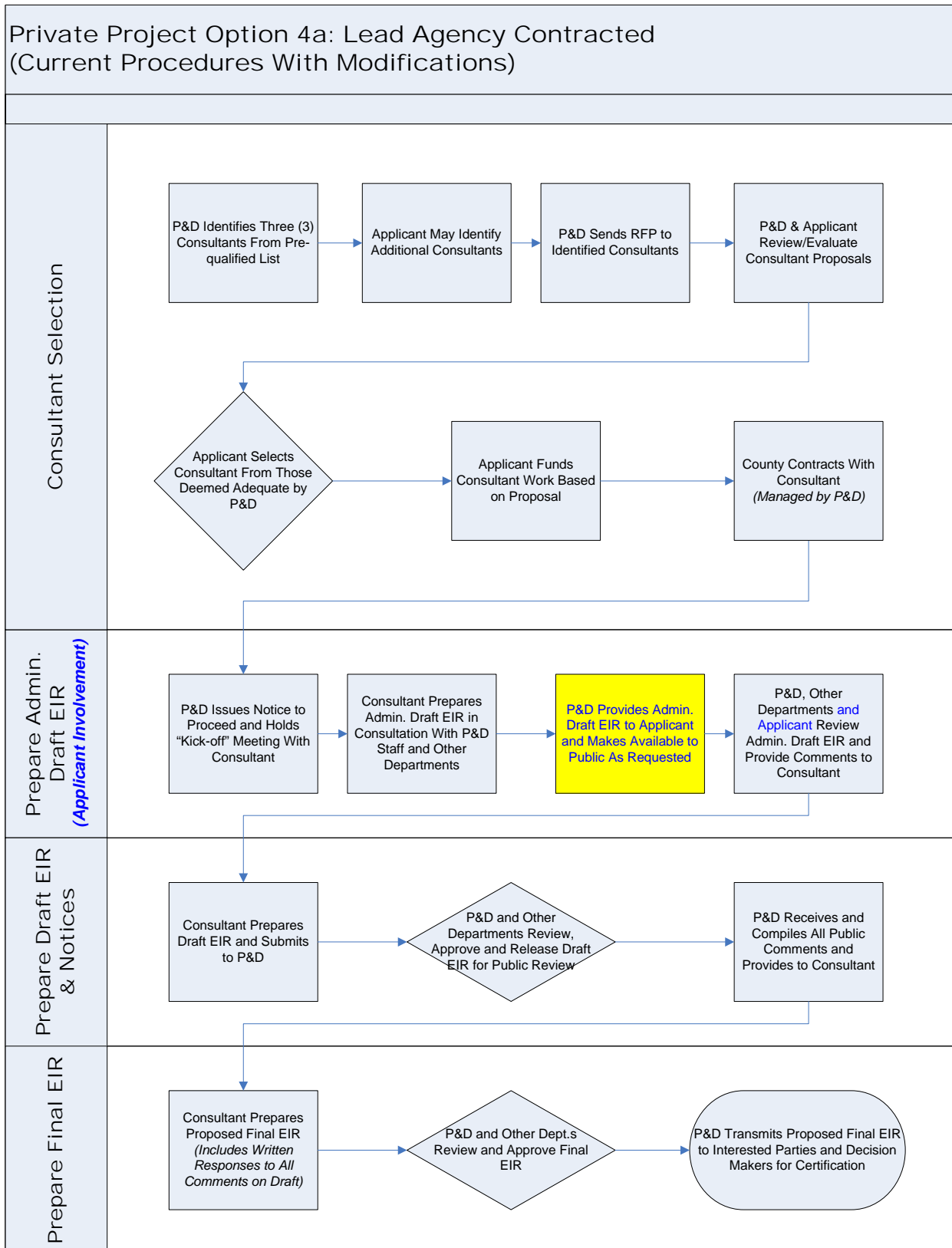
**Concurrence:**

1. County Counsel
2. Planning and Development Department

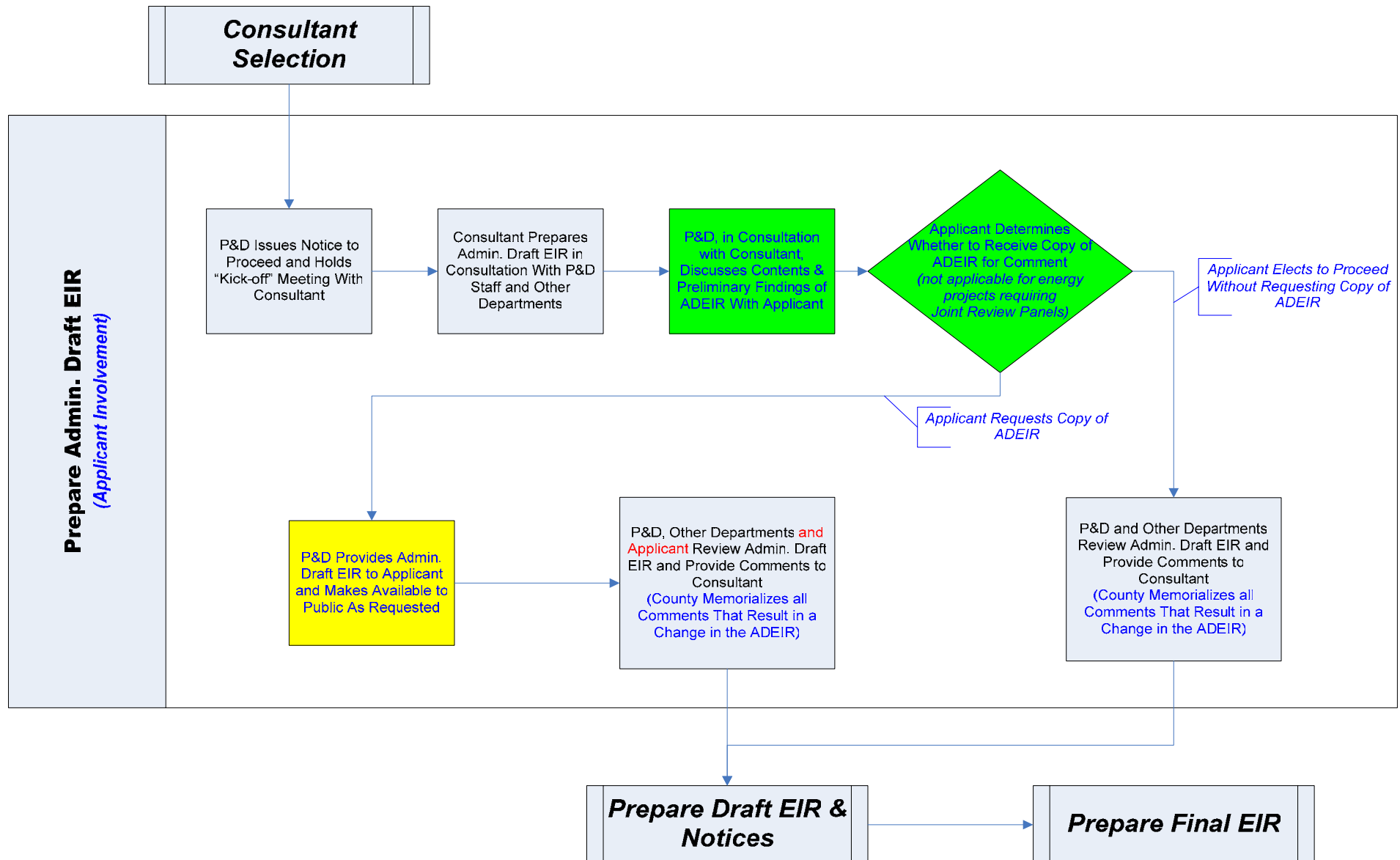
**Enclosures:**

1. CEO, County Planning Commission and Montecito Planning Commission  
Recommended EIR Development Procedural Option for Private Projects
2. Process diagram entitled "Revised Procedures for Preparing an Administrative Draft EIR – 7/19/05"
3. David C. Fainer, Jr. letter dated July 9, 2005
4. Summary of Statements Made by Ron Cortez, Deputy County Executive Officer, at the Board of Supervisors Hearing on June 21, 2005 Regarding EIR Contract Procedures Review

**CEO, County Planning Commission and Montecito Planning Commission  
 Recommended EIR Development Procedural Option for Private Projects**



# Revised Procedures for Preparing an Administrative Draft EIR – 7/19/05



## Summary of Statements Made by Ron Cortez, Deputy County Executive Officer at the Board of Supervisors Hearing on June 21, 2005 Regarding EIR Contract Procedures Review

### **Board Direction**

On January 18, 2005, your Board directed the Planning Commission to review the County's EIR contract procedures and return to the Board within 90 days. Based on this direction, staff examined the specific procedures governing the development of EIR's and presented comprehensive and concise procedural options (including status quo) to the Planning Commissions for consideration. The review did not include procedures for preparing Negative Declarations or other related documents as it was not included in your Board's direction January 18, 2005.

Both Planning Commission's considered the procedural options and, after four hearings and substantial public testimony, voted unanimously to approve and forward the County Executive Officer's recommendations to your Board for approval. Therefore, the CEO's office, County Planning Commission and Montecito Planning Commission followed your Board's direction by carefully reviewing the process and making recommendations accordingly.

### **Basis of Proposed Procedural Modifications**

#### *Private Projects*

Based on staff's review and the extensive public testimony provided at the Planning Commissions, it's clear that the current procedures prevent transparency in one of the first steps of the document preparation process; the development of the Administrative Draft EIR. Specifically, applicants are not privy to the environmental analysis section of the Administrative Draft EIR and, consequently, do not have an opportunity to modify their project description so as to avoid potentially significant impacts. The recommended procedural modifications would change this step in the process by allowing the applicant to participate in the review of the Administrative Draft EIR. To ensure that no single party (applicant or staff) unduly influences the document's findings, all communications leading to changes in the Administrative Draft EIR would be memorialized in writing and be included as part of the public record.

#### *Public Projects*

When public projects involve physical improvements and an EIR is required, the Planning & Development Department (P&D) reviews/approves the EIR's content throughout its various stages and serves as the independent hearing officer. These physical improvement projects originate from departments other than P&D; therefore, there is no perceived conflict of interest. The perceived problem arises when P&D reviews its own EIRs that originate from their own projects such as comprehensive plan amendments, community plans, etc. If the development of all public project EIRs were overseen by a department different from that which developed the project or program and corresponding EIR, there would be continuity in the procedures and the potential for conflicts of interest could be significantly reduced.