



## Legislation Details (With Text)

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**File created:** 1/30/2018      **In control:** Board of Supervisors

**On agenda:** 6/5/2018      **Final action:** 6/5/2018

**Title:** Community Development Services, Department of Transportation, recommending the Board adopt a new policy, A-8, Payment or Reimbursement to Consulting Parties on County Projects, formalizing the position of El Dorado County on providing payment or reimbursement to interested third parties requesting consultation prior to and during review under the California Environmental Quality Act (AB 52) and National Environmental Policy Act, for projects in the County.

FUNDING: N/A

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A - Approved CRS, 2. B - Policy A-8, 3. Public Comment Rcvd 6-4-18 BOS 6-5-18, 4. Public Comment Rcvd 6-4-18 BOS 6-5-18

Date	Ver.	Action By	Action	Result
6/5/2018	1	Board of Supervisors	Approved	Pass

Community Development Services, Department of Transportation, recommending the Board adopt a new policy, A-8, Payment or Reimbursement to Consulting Parties on County Projects, formalizing the position of El Dorado County on providing payment or reimbursement to interested third parties requesting consultation prior to and during review under the California Environmental Quality Act (AB 52) and National Environmental Policy Act, for projects in the County.

**FUNDING:** N/A

### DEPARTMENT RECOMMENDATION

Community Development Services, Department of Transportation (Transportation), recommending the Board consider adopting the proposed policy formalizing the County’s position in regard to providing payment or reimbursement to interested third parties requesting consultation prior to and during preparation and review of California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) for County projects.

### DISCUSSION / BACKGROUND

In 2014 the State of California enacted Assembly Bill 52 (AB52), Chapter 532 of the California Public Resources Code, which establishes a formal consultation process for California tribes as part of CEQA which equates significant environmental impacts on “tribal cultural resources” (TCRs). AB52 recognizes tribes may have expertise in tribal history and “tribal knowledge about land and TCRs at issue should be included in environmental assessments for projects that may have a significant impact on those resources.” CEQA analysis must consider tribal resources, including “the tribal cultural values in addition to scientific and archaeological values when determining impacts and mitigation.”

This consultation requirement applies to all County projects and those development proposals submitted to the County for review and approval. The proposed policy is intended to apply to County projects whether they are sponsored by Transportation, Facilities, Parks and Trails, or any other department. The Planning and Building Department has adopted procedures relative to processing of development procedures.

In 2016, Transportation received letters from local tribes requesting payment to provide information on County project sites while consulting under CEQA. Transportation staff conferred with Caltrans District 3 Local Programs on the matter who responded that there is no legal requirement for Caltrans or FHWA to pay for consultation under Section 106 and CEQA and they would not reimburse the County for costs if the County did choose to pay for consulting.

Subsequently, Transportation discussed the issue with other County departments and a decision was made that adoption of a formal County policy would clarify the County's position and ensure consistent application by County departments.

### **ALTERNATIVES**

The Board could direct staff to make revisions to the proposed policy and return for approval; however, the County may receive requests for payment or reimbursement and be forced to make a decision that sets precedent on this matter before a policy has been adopted.

### **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

The proposed policy was distributed to the Chief Administrative Office, including Facilities, County Counsel, and the Planning and Building Department for review prior to submittal of this agenda item.

### **CAO RECOMMENDATION / COMMENTS**

It is recommended that the Board approve this item.

### **FINANCIAL IMPACT**

There is no fiscal impact or change to Net County Cost associated with this agenda item.

### **CLERK OF THE BOARD FOLLOW UP ACTIONS**

The Clerk of the Board will publish the adopted Policy on the Board of Supervisors Policy Manual webpage.

### **STRATEGIC PLAN COMPONENT**

Infrastructure, Good Governance

### **CONTACT**

Rafael Martinez, Director  
Community Development Services, Department of Transportation