

NORTH SANTA CLARA RCD - CEQA LIABILITY POLICY

SCOPE OF SERVICES

Minimum Coverage:

1. Policy Limits & Deductibles: We don't know what is standard for this type of policy, but we would want to make sure limits are sufficient to cover potential CEQA litigation, which we know can be lengthy and costly. Willing to consider higher deductibles.
2. CEQA Legal Defense Costs: Specific coverage for legal defense costs for any lawsuits brought against the agency due to CEQA compliance issues, including:
 - a. Failure to conduct appropriate environmental reviews (e.g., failure to prepare an Environmental Impact Report (EIR) or a Negative Declaration).
 - b. Challenges to the adequacy of an EIR or Mitigated Negative Declaration (MND).
 - c. Issues arising from project approvals that are contested on environmental grounds.
3. Third-Party Claims: Coverage for claims made by third parties, such as environmental groups or residents, challenging the adequacy of the environmental review process or decisions made under CEQA, if additional coverage is needed for this beyond 1a.
4. No Professional Services Exclusion: We do not want an exclusion for liability related professional services (such as environmental consulting) that we rely on for CEQA compliance.
5. Cross-Liability: Our agency often partners with other entities and we want to ensure CEQA-related claims against one entity do not affect the overall policy.

Optional Coverage (to be considered if offered; dependent on cost of coverage):

6. Mitigation Measure Failures: Coverage for lawsuits stemming from failure to implement CEQA-mandated mitigation measures or failure to comply with other conditions outlined in the environmental documents.
7. Project Delay Costs: Coverage for damages resulting from project delays caused by CEQA-related legal challenges, especially if these delays cause increased project costs.
8. Environmental Harm: Coverage for potential liability arising from actual environmental harm or degradation linked to the project, including soil, water, or air pollution claims resulting from activities approved under CEQA.
9. Retroactive Coverage: Coverage in case claims are made for projects approved before the current policy was put in place, but which are subject to CEQA challenges after the policy's effective date. (May be needed for an agreement we are currently negotiating.)