

1 Introduction

This Environmental Impact Report (EIR) examines the potential environmental effects of proposed 2040 Union City General Plan Update, defined as the proposed project or as the 2040 General Plan for purposes of this environmental review. The environmental review process for the proposed project, and legal basis for preparing an EIR under the California Environmental Quality Act (CEQA), are described below.

1.1 Environmental Impact Report Background

This document is an EIR that evaluates the potential environmental impacts associated with implementation of the 2040 General Plan. The General Plan establishes the community's vision for the future development of the Union City and provides comprehensive polices for the entire city relating to land use, economic development, community design, mobility, safety, public facilities and services, resource conservation, and housing. The 2040 General Plan also provides comprehensive polices for distinctive areas of Union City, including key infill areas and areas with important existing features that require special attention to preserve and protect.

This section of the EIR:

1. Provides an overview of the background behind the 2040 General Plan
2. Describes the purpose of and legal authority of the EIR
3. Summarizes the scope and content of the EIR
4. Lists lead, responsible, and trustee agencies for the EIR
5. Describes the intended uses of the EIR
6. Provides a synopsis of the environmental review process required under CEQA

The contents of other EIR sections are as follows:

- Section 2, *Project Description*, provides a detailed discussion of the proposed project.
- Section 3, *Environmental Setting*, describes the general environmental setting for Union City.
- Section 4, *Environmental Impact Analysis*, describes the potential environmental effects associated with development facilitated by the proposed project.
- Section 5, *Other CEQA Required Sections*, discusses issues such as growth inducement and significant irreversible environmental effects.
- Section 6, *Alternatives*, discusses alternatives to the proposed project, including the CEQA-required "no project" alternative.
- Section 7, *References and Report Preparers*, lists informational sources for the EIR and persons involved in the preparation of the document.

1.2 Overview of the 2040 Union City General Plan

State law (Government Code Section 65300) requires that each city and county adopt a comprehensive general plan. The existing City of Union City 2002 General Plan was adopted by the City Council on February 12, 2002. The 2040 General Plan builds on the current 2002 General Plan, but also is a comprehensive effort to update the current General Plan. The update is to respond the current needs, values, and preferences of the community, as well as changes in State law that may not have been in effect when the current General Plan was last updated.

The 2040 General Plan has been organized into ten elements: Land Use; Economic Development; Community Design; Health and Quality of Life; Mobility; Safety; Public Facilities and Services; Resource Conservation; Special Areas; and Housing. The General Plan Housing Element was last updated in January 2015, covering the period from January 2015 through January 2023, and was subject to a separate environmental review process. The 2040 General Plan incorporates the adopted 2015 Housing Element. No substantive changes are being proposed to the Housing Element as part of its incorporation into the 2040 General Plan. Together these ten elements cover all of the topics that are required to be included in a General Plan under State law, which are Land Use, Open Space, Conservation, Housing, Circulation, Safety, Environmental Justice, and Noise.

The 2040 General Plan defines the policy framework by which the City's physical and economic resources are to be managed and used through the planning horizon year, which is 2040. City decision-makers will use the 2040 General Plan as a blueprint for:

- Choices about the use of land
- Protection of environmental resources
- Conservation and development of housing
- Provision of supporting infrastructure and public and human services
- Protection of people and property from natural and man-made hazards

The 2040 General Plan clarifies and articulates the City's intentions with respect to the rights and expectations of various community stakeholders, including residents, property owners, and business owners. Through the General Plan, the City informs these groups of its goals, policies, and standards, and thereby communicates expectations of the public and private sectors for meeting community objectives.

Because the 2040 General Plan serves as a constitution for future development in Union City, decisions by the City affecting land use and development must be consistent with the General Plan. This includes development projects that may be proposed in the future. An action, program, or project would be considered consistent with the General Plan if, considering all of its aspects, it will further the objectives and policies of the General Plan or not obstruct their attainment.

The 2040 General Plan contains goals, policies, and implementation programs to implement the City's overarching objectives. Goals are statements that provide direction and state the desired end condition. Policies establish basic courses of action to achieve these goals, and directly guide the response of elected and appointed officials development proposals and related community actions. Implementation programs are specific actions, procedures, standards or techniques that the City must take to help achieve a specified goal or implement an adopted policy.

1.3 Purpose and Legal Authority

This EIR has been prepared in accordance with CEQA and the *State CEQA Guidelines*. In accordance with Section 15121 (a) of the *State CEQA Guidelines* (California Code of Regulations, Title 14, Division 6, Chapter 3), the purpose of an EIR is to:

Inform public agency decision-makers and the public generally of the significant environmental effects of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project.

This EIR fulfills the requirements for a Program EIR. Although the legally required contents of a Program EIR are the same as those of a Project EIR, Program EIRs are by necessity more conceptual and may contain a more general discussion of impacts, alternatives, and mitigation measures than a Project EIR. As provided in Section 15168 of the *State CEQA Guidelines*, a Program EIR may be prepared on a series of actions that may be characterized as one large project. Use of a Program EIR provides Union City (City), as Lead Agency, the opportunity to consider broad policy alternatives and program-wide mitigation measures and provides the City with greater flexibility to address environmental issues and/or cumulative impacts on a comprehensive basis. Agencies generally prepare Program EIRs for programs or a series of related actions that are linked geographically, are logical parts of a chain of contemplated events, rules, regulations, or plans that govern the conduct of a continuing program, or are individual activities carried out under the same authority and having generally similar environmental effects that can be mitigated in similar ways. By its nature, a Program EIR considers the broad effects associated with implementing a program (such as a General Plan or Specific Plan) and does not, and is not intended to, examine the specific environmental effects associated with specific projects that may be accommodated by the provisions of General or Specific Plans.

Once a Program EIR has been prepared, subsequent activities within the program must be evaluated to determine what, if any, additional CEQA documentation needs to be prepared. If the Program EIR addresses the program's effects as specifically and comprehensively as possible, many subsequent activities could be found to be within the Program EIR scope and additional environmental documentation may not be required (*State CEQA Guidelines* Section 15168(c)). When a Lead Agency relies on a Program EIR for a subsequent activity, it must incorporate applicable mitigation measures and alternatives developed in the Program EIR into the subsequent activities (*State CEQA Guidelines* Section 15168(c)(3)). If a subsequent activity would have effects not contemplated or not within the scope of the Program EIR, the Lead Agency must prepare a new Initial Study leading to a Negative Declaration, Mitigated Negative Declaration, or a project-level EIR. In this case, the Program EIR still serves a valuable purpose as the first-tier environmental analysis. Section 15168(b) of the *State CEQA Guidelines* encourages the use of Program EIRs, citing five advantages:

1. Provision of a more exhaustive consideration of impacts and alternatives than would be practical in an individual EIR.
2. Focus on cumulative impacts that might be slighted in a case-by-case analysis.
3. Avoidance of continual reconsideration of recurring policy issues.
4. Consideration of broad policy alternatives and programmatic mitigation measures at an early stage when the agency has greater flexibility to deal with them.
5. Reduction of paperwork by encouraging the reuse of data (through tiering).

As a wide-ranging environmental document, the Program EIR uses expansive thresholds as compared to the project-level thresholds that might be used for an EIR on a specific development project. It should not be assumed that impacts determined not to be significant at a program level would not be significant at a project level. In other words, determination that implementation of the proposed project as a program would not have a significant environmental effect does not necessarily mean that an individual project would not have significant effects based on project-level CEQA thresholds, even if the project is consistent with the 2040 General Plan.

This EIR has been prepared to analyze potentially significant environmental impacts associated with future development resulting from implementation of the 2040 General Plan, and also addresses appropriate and feasible mitigation measures or project alternatives that would minimize or eliminate these impacts. Additionally, this EIR will provide the primary source of environmental information for Union City, which is the Lead Agency, to use when considering the proposed project.

This EIR is intended to provide decision-makers and the public with information that enables intelligent consideration of the environmental consequences of the proposed project. This EIR identifies significant or potentially significant environmental effects, as well as ways in which those impacts can be reduced to less-than-significant levels, whether through the imposition of mitigation measures or through the implementation of specific alternatives to the proposed project. In a practical sense, this document functions as a tool for fact-finding, allowing concerned citizens and City staff an opportunity to collectively review and evaluate baseline conditions and project impacts through a process of full disclosure.

1.4 Scope and Content

In accordance with the *State CEQA Guidelines*, a Notice of Preparation (NOP) of a Draft EIR was circulated to potentially interested parties on October 22, 2018. The NOP, included in Appendix A, indicated that the EIR would evaluate potential impacts in each of the following resources and issue areas:

- Aesthetics
- Agricultural and Forest Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Energy
- Geology and Soils
- Greenhouse Gas Emissions/Climate Change
- Hazards/Hazardous Materials
- Hydrology/Water Quality
- Land Use and Planning
- Mineral Resources
- Noise
- Population/Housing
- Public Services
- Recreation
- Transportation/Circulation
- Tribal Cultural Resources
- Utilities/Service Systems
- Wildfire

The City staff circulated the NOP of this EIR and received six written comments. The comments, included in Appendix A, are addressed, as appropriate, in the analysis contained in the various subsections of Section 4, *Environmental Impact Analysis*. The City staff also conducted an EIR scoping meeting on November 8, 2018, at the Mark Green Sports Center in Union City with a

number of members of the public in attendance. A summary of the comments received at this meeting is included at the end of Appendix A. Copies of the written comments received in response to the NOP are also included at the end of Appendix A. Section 4.18, *Effects Found Not to be Significant*, includes a brief description of agriculture, mineral, and recreation impacts that were determined not to have a significant environmental impact and are therefore not discussed in detail in the EIR.

The focus of this EIR is to:

- Provide information about the 2040 General Plan for consideration by the City Council in its selection of the proposed project, an alternative to the proposed project, or a combination of various elements from the proposed project and its alternatives, for approval
- Review and evaluate the potentially significant environmental impacts that could occur as a result of the growth and development envisioned in the 2040 General Plan
- Identify feasible mitigation measures that may be incorporated into the 2040 General Plan in order to reduce or eliminate potentially significant effects
- Disclose any potential growth-inducing and/or cumulative impacts associated with the proposed project
- Examine a reasonable range of alternative growth scenarios, including growth according to the existing General Plan, reduced growth, and increased employment growth that could feasibly attain the basic objectives of the proposed project, while eliminating and/or reducing some or all of its potentially significant adverse environmental effects

1.5 Intended Uses of the EIR

This EIR is as an informational document for use in the City's review and consideration of the proposed 2040 General Plan. This document is a Program EIR. Section 15168(a) of the *State CEQA Guidelines* states that:

A Program EIR is an EIR which may be prepared on a series of actions that can be characterized as one large project and are related either: (1) geographically; (2) as logical parts in a chain of contemplated actions; (3) in connection with issuance of rules, regulations, plans, or other general criteria, to govern the conduct of a continuing program; or (4) as individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways.

As a programmatic document, this EIR presents and discloses a region-wide assessment of the environmental impacts of the 2040 General Plan. The information and analysis in this EIR will be used by the Union City Planning Commission and City Council, trustee agencies, and the general public.

The 2040 General Plan will guide subsequent actions taken by the City in its review of new development projects and the establishment of new and/or revised City-wide or area-specific programs. This Program EIR serves as a first-tier environmental document under CEQA, supporting second-tier environmental documents for projects with detailed designs that have been developed for implementation within the City. Analysis of site-specific impacts of individual projects is not the intended use of a Program EIR. Many specific projects are not currently defined to the level that would allow for such an analysis at this time. Individual and specific environmental analysis of each project will be undertaken as necessary in the future by the City prior to each project being

considered for approval. Therefore, the City, acting as the Lead Agency, would be able to prepare subsequent environmental documents that incorporate by reference the appropriate information from this Program EIR regarding secondary effects, cumulative impacts, broad alternatives, and other relevant factors. If the City finds that implementation of a later activity would have no new effects and that no new mitigation measures would be required, that activity would require no additional CEQA review. Where subsequent environmental review is required, such review would focus on significant effects specific to the project, or its site that have not been considered in this Program EIR.

1.6 Lead, Responsible, and Trustee Agencies

The City of Union City is the Lead Agency under CEQA for this EIR because it has primary discretionary authority to determine whether or how to approve the proposed project.

Section 15381 of the *State CEQA Guidelines* defines responsible agencies as other public agencies that are responsible for carrying out/implementing a specific component of a proposed project or for approving a project that implements the goals and policies of a General Plan. There are no responsible agencies for the proposed project.

Although responsible agencies under CEQA, several other agencies have review authority over aspects of the proposed project or approval authority over projects that could potentially be implemented in accordance with various objectives and policies included in the 2040 General Plan. These agencies and their roles are listed below.

- The California Department of Transportation (Caltrans) has responsibility for approving future improvements to the state highway system, including Interstate 880 and State Route 238.
- The California Department of Fish and Wildlife (CDFW) has responsibility for issuing take permits and streambed alteration agreements for any projects with the potential to affect plant or animal species listed by the State of California as rare, threatened, or endangered or that would disturb waters of the State.
- Other public agencies which may own land within City boundaries.

Trustee agencies have jurisdiction over certain resources held in trust for the people of California but do not have a legal authority over approving or carrying out the project. Section 15386 of the *State CEQA Guidelines* designates four agencies as trustee agencies: CDFW with regards to fish and wildlife, native plants designated as rare or endangered, game refuges, and ecological reserves; the State Lands Commission, with regard to state-owned "sovereign" lands, such as the beds of navigable waters and State school lands; the California Department of Parks and Recreation, with regard to units of the State park system; and, the University of California, with regard to sites within the Natural Land and Water Reserves System. The CDFW, due to the potential for rare or endangered species, is the only trustee agencies for the 2040 General Plan EIR.

1.7 Environmental Review Process

The environmental impact review process required under CEQA is summarized below. The steps appear in sequential order.

1. **Notice of Preparation Distributed.** Immediately after deciding that an EIR is required, the Lead Agency must file a NOP soliciting input on the EIR scope to "responsible," "trustee," and

involved federal agencies; to the State Clearinghouse, if one or more state agencies is a responsible or trustee agency; and to parties previously requesting notice in writing. The NOP must be posted in the County Clerk's office for 30 days. A scoping meeting to solicit public input on the issues to be assessed in the EIR is not required, but may be conducted by the Lead Agency. The NOP public comment period for the 2040 General Plan EIR was from October 22, 2018, to November 21, 2018, and a scoping meeting was held on November 8, 2018. Public comments were received in response to the NOP and scoping process.

2. **Draft EIR Prepared.** The Draft EIR must contain: a) table of contents or index; b) summary; c) project description; d) environmental setting; e) discussion of significant impacts, including direct, indirect, cumulative, growth-inducing and unavoidable impacts; f) a discussion of alternatives; g) mitigation measures; and h) discussion of irreversible changes.
3. **Public Notice and Review.** A Lead Agency must prepare a Public Notice of Availability of an EIR. The Notice must be placed in the County Clerk's office for 30 days (Public Resources Code Section 21092) and sent to anyone requesting it. Additionally, public notice of Draft EIR availability must be given through at least one of the following procedures: a) publication in a newspaper of general circulation; b) posting on and off the project site; and c) direct mailing to owners and occupants of contiguous properties. The Lead Agency must consult with and request comments on the Draft EIR from responsible and trustee agencies, and adjacent cities and counties. The minimum public review period for a Draft EIR is 30 days. When a Draft EIR is sent to the State Clearinghouse for review, the public review period must be 45 days, unless a shorter period is approved by the State Clearinghouse (Public Resources Code 21091). Distribution of the Draft EIR may be required through the State Clearinghouse. This EIR is being circulated for a 45-day public review and being sent to the State Clearinghouse with the required Notice of Completion (NOC).
4. **Final EIR.** A Final EIR must include: a) the Draft EIR; b) copies of comments received during public review; c) list of persons and entities commenting; and d) responses to comments.
5. **Certification of Final EIR.** Prior to making a decision on a proposed project, the Lead Agency must certify that: a) the Final EIR has been completed in compliance with CEQA; b) the Final EIR was presented to the decision-making body of the Lead Agency; and c) the decision making body reviewed and considered the information in the Final EIR prior to approving a project (*State CEQA Guidelines* Section 15090).
6. **Lead Agency Project Decision.** The Lead Agency may a) disapprove the project because of its significant environmental effects; b) require changes to the project to reduce or avoid significant environmental effects; or c) approve the project despite its significant environmental effects, if the proper findings and statement of overriding considerations are adopted (*State CEQA Guidelines* Sections 15042 and 15043).
7. **Findings/Statement of Overriding Considerations.** For each significant impact of the project identified in the EIR, the Lead Agency must find, based on substantial evidence, that either: a) the project has been changed to avoid or substantially reduce the magnitude of the impact; b) changes to the project are within another agency's jurisdiction and such changes have or should be adopted; or c) specific economic, social, or other considerations make the mitigation measures or project alternatives infeasible (*State CEQA Guidelines* Section 15091). If an agency approves a project with unavoidable significant environmental effects, it must prepare a written Statement of Overriding Considerations that sets forth the specific social, economic, or other reasons supporting the agency's decision.

8. **Mitigation Monitoring Reporting Program.** When the Lead Agency makes findings on significant effects identified in the EIR, it must adopt a reporting or monitoring program for mitigation measures that were adopted or made conditions of project approval to mitigate significant effects.
9. **Notice of Determination.** The Lead Agency must file a Notice of Determination (NOD) after deciding to approve a project for which an EIR is prepared (*State CEQA Guidelines* Section 15094). A local agency must file the NOD with the County Clerk. The NOD must be posted for 30 days and sent to anyone previously requesting notice. Posting of the NOD starts a 30 day statute of limitations on CEQA legal challenges (Public Resources Code Section 21167[c]).