

CHAPTER 1

INTRODUCTION AND SCOPE OF THE EIR

The City of Merced (City) has prepared this Draft Environmental Impact Report (Draft EIR) to inform the general public, the local community, responsible agencies, trustee agencies, and other interested public agencies, and the City's decision-making bodies (Planning Commission and City Council) regarding the potential significant environmental effects that would result from implementation of the proposed Yosemite Avenue – Gardner Avenue to Hatch Road Annexation Project (proposed project). This Draft EIR includes mitigation measures to reduce, avoid, and/or compensate for significant effects and also includes analysis of alternatives to the proposed project. As discussed in Section 1.1, this EIR is both a Project EIR and a Program EIR in compliance with the California Environmental Quality Act (CEQA) (California Public Resources Code, Section 21000 et seq.), the CEQA Guidelines (14 CCR 15000 et seq.), and the City's procedures for implementing CEQA. This EIR focuses on the changes in the environment that would result from implementation of the project, including construction and operation.

As described in CEQA Guidelines Section 15121(a), an EIR is an informational document that assesses potential environmental impacts of a proposed project, as well as identifies mitigation measures and alternatives to a proposed project that could reduce or avoid adverse environmental impacts. As the CEQA lead agency for this project, the City is required to consider the information in the EIR along with any other available information in deciding whether to approve the requested project entitlements. The basic requirements for an EIR include providing information that establishes the existing conditions/environmental setting (or project baseline), and identifying environmental impacts, mitigation measures, project alternatives, growth inducing impacts, and cumulative impacts. An EIR, as an informational document, provides the City, applicant, public, and other public agencies an opportunity to collectively review and evaluate baseline conditions and project impacts through a process of full disclosure. This EIR also provides the primary source of environmental information for the lead agency to consider when reviewing the project and requested project entitlements. It is not the intent of an EIR to recommend either approval or denial of a project.

1.1 Type of EIR

This EIR is both a "Project EIR," pursuant to Section 15161 of the CEQA Guidelines and "Program EIR," per CEQA Guidelines Section 15168. A Project EIR examines the environmental impacts of a specific project. This type of EIR focuses on the changes in the environment that would result from implementation of the project, including construction and operation. In contrast, a Program EIR is an EIR that may be prepared on a series of actions that are either related geographically or are logical parts in a chain of contemplated actions (CEQA Guidelines Section 15168).

Typically, a program EIR is followed by later, project-specific EIRs or negative declarations providing more detailed analysis than presented in the program EIR.

As described in Chapter 2, Project Description, the proposed project includes two major components – The Crossings component would annex approximately 28.4 acres to the City and construct a mixture of commercial and multifamily residential uses, and the Remainder Area, which consists of approximate 40.2 acres that are proposed to be annexed to the City and zoned Urban Transition but for which no specific development is proposed. This Draft EIR evaluates the direct and indirect project impacts and cumulative impacts of construction and operation of The Crossings on a project-specific level and evaluates the Remainder Area at a program level.

1.2 Lead, Responsible, and Trustee Agencies

In accordance with CEQA Guidelines Sections 15050 and 15367, the City of Merced has been designated the “lead agency,” which is defined as the “public agency which has the principal responsibility for carrying out or disapproving a project.” The lead agency is also responsible for determining the scope of the environmental analysis, preparing the EIR, and responding to comments received on the Draft EIR. Prior to making a decision to approve a project, the lead agency is required to certify that the EIR has been completed in compliance with CEQA, that the decision-making body has reviewed and considered the information in the EIR, and that the EIR reflects the independent judgment of the City.

Responsible Agencies

Responsible agencies are state and local public agencies, other than the lead agency, that have some authority to carry out or approve a project, and/or are required to approve a portion of the project or approve a permit for which a lead agency is preparing, and/or has prepared an EIR or Initial Study/Negative Declaration (CEQA Guidelines Section 15813). The following agencies would potentially act as responsible agencies for this project:

- **Merced County Local Agency Formation Commission.** Oversees the annexation of land from the County to the City’s jurisdiction.
- **Central Valley Regional Water Quality Board (CVRWQCB).** Ensures compliance with the City’s National Pollutant Discharge Elimination System (NPDES) Permit for any stormwater discharge associated with construction activity.
- **San Joaquin Valley Air Pollution Control District (SJVAPCD).** Oversees air quality and has the authority to require mitigation fees.

Trustee Agencies

Trustee agencies are designated public agencies with legal jurisdiction over natural resources that are held in trust for the people of California and that would be affected by a project, whether or not the agencies have authority to approve or implement the project (CEQA Guidelines Section 15386). The California Department of Fish and Wildlife (CDFW) would be a trustee agency with jurisdiction over the proposed project.

1.3 EIR Process

In accordance with CEQA Guidelines Section 15082, a Notice of Preparation (NOP) was circulated for public and agency review from December 9, 2016 through January 9, 2017. The purpose of the NOP was to provide notification that an EIR for the proposed project was being prepared and to solicit guidance on the scope and content of the document. Pursuant to CEQA Guidelines Section 15082, the lead agency held a public scoping meeting on December 15, 2016. Responsible agencies and members of the public were invited to attend and provide input on the scope of the EIR. After circulation of the NOP in 2016, the applicant revised the proposed project description and site plans. To inform the public and other public agencies of these updates, a revised NOP was issued and circulated for local public and agency review between May 14, 2020 and June 15, 2020, and circulated to state agencies through the State Clearinghouse for review between May 29 and June 29, 2020. As the project location, land uses, and general scope has not substantially changed, the City did not hold another public scoping meeting. A summary of the comments received on both NOP documents is included in Section ES, Executive Summary, as well as in the introduction of each technical analysis section (Sections 3.1 through 3.10). Both NOP documents and the comments received in response to both are included in Appendix A.

Draft EIR Public Review/Comment Period

This Draft EIR is being circulated for public review and comment, as required by CEQA. During this period, the general public, organizations, and public agencies can submit comments to the City regarding the Draft EIR's accuracy and completeness. Release of this Draft EIR marks the beginning of a 45-day public review period pursuant to CEQA Guidelines Section 15105. The 45-day public review period for the Draft EIR will be from September 2, 2021, through October 18, 2021. The public can review the Draft EIR at the following address or on the City's website at <http://www.cityofmerced.org>.

City of Merced Planning Department
678 W. 18th Street Merced, CA 95340
Hours: Monday–Friday: 10 a.m.-12 p.m.; 1 p.m.–5 p.m.

The City encourages all comments on the Draft EIR be submitted in writing. All comments or questions regarding the Draft EIR should be addressed to:

Ms. Julie Nelson, Associate Planner
City of Merced Planning Department
678 W. 18th Street Merced, CA 95340
Phone: (209) 385-6967 Fax: (209) 388-7314
Email: NelsonJ@cityofmerced.org

Final EIR and EIR Certification

Upon completion of the Draft EIR public review period, a Final EIR will be prepared that will include all written comments on the Draft EIR received during the public review period and the City's responses to those comments. Comments received and the responses to comments will be included as part of the record for consideration by decision makers for the project.

Responses to comments received from public agencies will be provided to those agencies a minimum of 10 days prior to the public hearing before the Merced City Council. The Final EIR will also include the Mitigation Monitoring Program (MMP) prepared in accordance with Section 21081.6 of the Public Resource Code. The Final EIR will address any revisions to the Draft EIR made in response to agency or public comments. The Draft EIR and Final EIR together will comprise the EIR for the proposed project. Before the City can approve the project, it must first certify that the EIR has been completed in compliance with CEQA, that the City Council has reviewed and considered the information in the EIR, and that the EIR reflects the independent judgment of the City. The City Council also would be required to adopt Findings of Fact and a Statement of Overriding Considerations. Because the proposed project would result in one significant and unavoidable impact related to the loss of Prime Farmland and Unique Farmland, the City Council would also be required to adopt a Statement of Overriding Considerations if it approves the proposed project (See also Public Resources Code Section 21081).

EIR Adequacy

The level of detail contained throughout this EIR is consistent with Section 15151 of the CEQA Guidelines, which states the following:

An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of the environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR

should summarize the main points of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure.

1.4 Use of Previously Prepared Environmental Documentation

CEQA allows for incorporation by reference of “all or portions of another document which is a matter of public record or is generally available to the public” (Guidelines Section 15150). Incorporation by reference is used principally as a means of reducing the size of EIRs. This Draft EIR relies in part on data, environmental evaluations, mitigation measures, and other components of EIRs and plans prepared by the City for areas within the project vicinity. These documents are listed here and used as source documents for this EIR. All documents are available for public review during normal business hours (Monday through Friday, 8 a.m. to 4 p.m.) at the City of Merced (address listed above) and on the City’s website at <http://www.cityofmerced.org>.

- City of Merced 2030 General Plan, adopted January 3, 2012
- Draft and Final 2030 General Plan EIR, City of Merced (SCH No. 2008071069), certified January 3, 2012
- The 2018 Regional Transportation Plan (RTP) and Sustainable Communities Strategy (SCS), San Joaquin Council of Governments, adopted June 2018
- Merced Municipal Code, updated through July 2020, including the City of Merced Zoning Code, City of Merced, adopted October 19, 2016.

1.5 Scope of the Draft EIR

Environmental Resource Areas Evaluated

Based on a review of the project, comments received during the NOP public review period, and the environmental analysis conducted in the course of preparing this EIR, the City determined that this EIR must address the following technical issue areas, which are addressed in each of the technical sections presented in Chapter 3:

- Aesthetics (Section 3.1)
- Agricultural Resources (Section 3.2)
- Air Quality (Section 3.3)
- Biological Resources (Section 3.4)
- Cultural Resources and Tribal Cultural Resources (Section 3.5)
- Energy Consumption (Section 3.6)

- Greenhouse Gas Emissions (Section 3.7)
- Hydrology, Water Quality, and Drainage (Section 3.8)
- Land Use and Planning (Section 3.9)
- Noise (Section 3.10)
- Public Services and Utilities (Section 3.11)
- Transportation and Circulation (Section 3.12)

This EIR evaluates the direct impacts, reasonably foreseeable indirect impacts, and cumulative impacts resulting from planning, construction, and operation of the proposed project using the most current information available and in accordance with the provisions set forth in CEQA and the CEQA Guidelines. In addition, the EIR recommends mitigation measures to reduce, avoid, or compensate for significant impacts, where possible, and evaluates potentially feasible project alternatives that would reduce or eliminate significant adverse environmental effects.

Comments on the NOP also identified concerns about the population increase that could result from the project. Changes in population (and housing) in and of themselves are generally characterized as social and economic effects and are not considered physical effects on the environment. CEQA provides that economic or social effects are not considered significant effects on the environment unless the social and/or economic changes are connected to physical environmental effects. A social or economic change related to a physical change may be considered in determining whether the physical change is significant (CEQA Guidelines Section 15382). Thus, the issue of population growth is not directly addressed as an environmental effect in this section or elsewhere in the EIR; however, the environmental effects related to population growth, such as increased demand for public services, are addressed throughout the EIR. Concerns regarding compatibility with surrounding land uses are addressed in this section of the EIR.

Topics Focused Out of the EIR

Through circulation of a Notice of Preparation (NOP) for this EIR and completion of an Initial Study as part of preparation of the EIR, the City identified several resource areas or discrete impact considerations within specific resource areas where the project is not expected to result in any significant impacts. These are briefly summarized below and discussed in more detail in Chapter 5, CEQA Considerations. Both NOPs prepared for the project are provided in Appendix A and the Initial Study is provided in Appendix B.

- **Aesthetics** - Scenic vistas and scenic resources within a State scenic highway (refer to the Initial Study)

- **Agricultural and Forestry Resources** - Conflict with a Williamson Act contract and impacts to forest land, timberland, or timberland production (refer to the Initial Study)
- **Biological Resources** - Wildlife movement or nursery sites and Habitat Conservation Plan or Natural Community Conservation Plan (refer to the Initial Study)
- **Geology, Soils, and Seismicity** – All impacts would be less than significant (refer to the NOP)
- **Hazards and Hazardous Materials** – All impacts would be less than significant (refer to the NOP)
- **Hydrology, Drainage and Water Quality** - Flood hazards and inundation by seiche, tsunami or mudflow (refer to the Initial Study)
- **Land Use and Planning**. Divide an established community (refer to the Initial Study)
- **Mineral Resources** – All impacts would be less than significant (refer to the NOP)
- **Noise** Air traffic noise (refer to the Initial Study)
- **Population and Housing** - impacts would be less than significant (refer to the NOP)

Project Alternatives

The alternatives chapter of the EIR (Chapter 4, Project Alternatives) was prepared in accordance with Section 15126.6 of the CEQA Guidelines. CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environmental impacts that would otherwise occur. Project modification or alternatives are not required, however, where significant environmental impacts will not occur.

The EIR evaluates the following alternatives to the proposed project:

Alternative 1: No Project Alternative. This alternative assumes no development would occur, the site would remain in its current condition, and the site would not be annexed to the City.

Alternative 2: Agricultural Retention Alternative. This alternative would retain 9.77 acres of Prime Farmland in the northern portion of the project site and extend the residential development easterly into an approximately 5-acre portion of the proposed Remainder Area.

Alternative 3: Reduced Density Alternative. This alternative would develop 60 fewer residential units than the proposed project and include a 1.5-acre neighborhood park within the project site.

1.6 Organization of the Draft EIR

Chapter ES, Executive Summary — Summarizes the elements of the project including the environmental impacts that could result from implementation of the proposed project. A summary table is provided that lists impacts, describes proposed mitigation measures, and indicates the level of significance of impacts before and after mitigation

Chapter 1, Introduction and Scope of the Draft EIR — Provides an introduction and overview of the EIR process and describes the intended use of the EIR and the review process.

Chapter 2, Project Description — Provides a detailed description of the proposed project, including its location, background information, project history, project objectives, and technical characteristics.

Chapter 3, Environmental Impacts and Mitigation Measures — Describes the baseline environmental setting and provides an assessment of potential project impacts for each technical issue area presented. Each section is divided into four sub-sections: Introduction, Environmental Setting, Regulatory Setting, and Impacts and Mitigation Measures (project-specific and cumulative).

Chapter 4, Project Alternatives — Describes alternatives to the proposed project and compares the impacts of each alternative to the impacts of the proposed project.

Chapter 5, CEQA Considerations — Provides information required by CEQA regarding impacts that would result from the proposed project, including a summary of cumulative impacts, secondary impacts including potential impacts resulting from growth inducement, and significant irreversible changes to the environment.

Chapter 6, EIR Preparation — Lists report authors who provided technical assistance in the preparation and review of the EIR.

Appendices — Includes various documents and data that support the analysis presented in the EIR.