



June 15, 2020

Marilou Ayupan, P.E.
Interim Public Works Director
City of Union City
34009 Alvarado-Niles Rd.
Union City, CA 94587

RE: Quarry Lakes Parkway, Transportation Memorandum, May 2020

Ms. Ayupan:

I have reviewed the Quarry Lakes Parkway (QLP) Transportation Memorandum (Transportation Memo, June 2020) as to whether any information contained in the memo would indicate the need for supplemental CEQA review for the QLP project beyond the 2009 certified EIR for the East-West Corridor (EWC) project prepared by the former Alameda County Transportation Improvement Authority (ACTIA). In our opinion, based on the information in the Transportation Memo, supplemental environmental review under CEQA for the EWC EIR is not required.¹

CEQA REQUIREMENTS RELATED TO SUPPLEMENTAL/SUBSEQUENT REVIEW

CEQA Guidelines 15162 states the following:

(a) When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

(1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

(2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

(3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:

¹ Please note that ICF is not a legal firm and the review below is based on my professional judgment and does not constitute legal advice. The City should consult legal counsel prior to making any decisions as to legal requirements under CEQA.

(A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;

(B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;

(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

...

(c) Once a project has been approved, the lead agency's role in project approval is completed, unless further discretionary approval on that project is required. Information appearing after an approval does not require reopening of that approval. If after the project is approved, any of the conditions described in subdivision (a) occurs, a subsequent EIR or negative declaration shall only be prepared by the public agency which grants the next discretionary approval for the project, if any. In this situation no other responsible agency shall grant an approval for the project until the subsequent EIR has been certified or subsequent negative declaration adopted.

PROJECT REVIEW

Union City appears to have completed its discretionary approvals for the QLP project. If there is no City discretionary approval for the QLP project, the need for CEQA review would not be triggered. If the City were to have future discretionary approvals, I have provided a review of potential triggers for supplemental CEQA review below based on the information in the Transportation Memo.

In addition to a discretionary approval, there needs to be a substantial change to the Project described in the EWC EIR to trigger subsequent environmental review. Based on the description in the Transportation Memo, there are no substantive changes included in the QLP project relative to the project description in the EWC EIR. The Transportation memo shows some changes in widths for travel lanes, bike lanes, and multi-use paths, but does not include a change in the number of or location of travel lanes, bike lanes or multi-use paths and the overall cross-sections are not wider than in the project description in the EWC EIR. As such, the footprint of the QLP projects does not appear to encroach on different areas than the EWC project and would not constitute a substantial change in the Project. The Transportation Memo also references additional transit signal priority and queue jump lanes along existing Decoto Road, but it is unclear if these are part of the project or part of other separate projects. If they are part of the project, the transit signal priority would not be a substantial change in the Project. Even if arguably they were considered a substantial Project change, they would not appear to result in new significant impacts under CEQA based on the information in the Transportation Memo. If the jump queue lanes are included in the project, it should be confirmed that they do not result in any new footprint and if they do whether any new significant impacts would result. If they are within the EIR footprint, it would not appear that they would result in any new significant impacts.

Separate from the consideration of project changes, the evaluation of the potential for supplemental review must also focus on whether there are "substantial changes" in circumstances or "new information of

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substantial importance” as defined above. The Transportation Memo describes minor difference between the current growth forecasts for 2040 and those used in the EIR for 2035. One would expect 2040 growth levels to be slightly higher than 2035, so this is not necessarily a changed condition. Furthermore, the Transportation Memo shows that the QLP project will not result in significant impacts on safety, vehicle delay or VMT. The Project would improve safety for vehicles, bicyclists and pedestrians by providing an alternative route with reduced collision risk from existing conditions. The Project will result in an overall reduction in vehicle hours traveled (VHT) and an associated reduction in vehicle hours of delay (VHD) compared to 2040 forecasts without the QLP. VMT would be slightly reduced compared to 2040 without project conditions. The QLP project also is consistent with local and regional transportation plans. It will provide benefits of accommodating planned transit-oriented, infill growth, promoting multi-modal transportation including transit, bicycles and pedestrian, improving transportation system connectivity (specially to transit) and providing system redundancy.

Based on the above review, the minor changes in the project described in the Transportation Memo, provided they stay in the same alignment and footprint as described in the project description in the EWC EIR would not appear to result in new significant impacts or substantially more severe impacts compared to those in the EWC EIR. Similarly, the changes in growth forecasts and associated traffic volumes would not appear to result in new significant impacts or substantially more severe impacts. As such, if future additional discretionary approvals are necessary for the QLP project, the above changes would appear to be addressed through preparation of an addendum to the prior EIR and a supplemental negative declaration or supplemental EIR would not be required. As noted above, the City is advised to consult legal counsel on all decisions relative to legal requirements under CEQA.

If you have any questions or concerns, please contact me at 510-290-1860 or via email at rich.walter@icf.com.

Sincerely,

A handwritten signature in black ink that reads "Rich Walter". The signature is written in a cursive style and is followed by a long horizontal line that extends to the right.

Rich Walter, ICF

CC: Mark Evanoff, Union City
Carmela Campbell, Union City
Farooq Azim, Union City
Joan Malloy, Union City

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