

## 4.A CEQA

The comments and corresponding responses in this section relate to general comments on the draft SEIR. The comments in this section include the following:

- Comment CEQA-1: Type of EIR, Tiering, and Focusing Second-Tier Review
- Comment CEQA-2: Existing Setting and Baseline
- Comment CEQA-3: Administrative Record

### *Comment CEQA-1: Type of EIR, Tiering, and Focusing Second-Tier Review*

This response addresses comments from the commenter listed below; each comment on this topic is quoted in full below this list:

I-BARISH3-5	I-BIERINGER3-1	I-HEGGIE2-3
I-BARISH3-20	I-E.HANSON-2	I-JA6-1
I-BARISH3-33	I-HANSON2-1	I-JA6-2
I-BERNSTEIN2-1		

#### “Effects Found Not to be Potentially Significant (p. B-10)

In some cases, the Initial Study identified mitigation measures in CEQA topic areas that would reduce potentially significant impacts to a less-than-significant level, supporting the conclusion that these topic areas do not need CEQA review under this SEIR.

The Initial Study found that the only effects found to be potentially significant in the Project were Transportation and Circulation; Noise; and Air Quality. All other potential individual and cumulative environmental effects considered in the PEIR were found to be either less than significant or would be reduced to a less-than-significant level through recommended mitigation measures in the DSEIR. These impacts that are not studied in this DSEIR are: Land use and land use planning; Population and housing; Cultural resources; Tribal cultural; resources; Greenhouse gas emissions; Wind; Shadow; Utilities and service systems; Public services; Biological resources; Geology and soils; Hydrology and water quality; Hazards and hazardous materials; Mineral resources; Energy; Agricultural and forestry resources; Wildfire.

However, for the reasons set forth below, the basis for these determinations are flawed. The effects below should, in fact, be analyzed in this DSEIR.”

*(Jean B. Barish, Esq., MS, Letter, September 23, 2019 [I-BARISH3-5])*

“According to 2.D.1, the area plan PEIR estimated the area plan would result in a net increase of 1,780 residential units, and that as of Sept., 2018, 273 units have been built and excluding the Balboa Reservoir project, an addition 209 units are planned. (P. 2-6) Therefore, of the 1,780 total number of

units, 482 are already accounted for, leaving 1,295 units as the maximum number that could be built at the Balboa Reservoir and still comply with the PEIR. Yet the DSEIR considers one option that would have 1,550 units, 255 more than allowed in the PEIR. A Balboa Reservoir project with more than 1,298 units, therefore, would be inconsistent with the PEIR, and should not be permitted.”

*(Jean B. Barish, Esq., MS, Letter, September 23, 2019 [I-BARISH3-20])*

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**“The DSEIR must consider the impact of increasing the number of units from the original recommendation in the PEIR**

The Reservoir Project’s two options are for 1,100 units and for 1,550 units. The Balboa Park Station PEIR’s Housing option for the Reservoir referred to 425-500 units. From the 425-500 units indicated in the PEIR to the 1,100-1,550 units indicated in the Draft SEIR constitutes an increase of 109.9% to 264.7% over and above the Balboa Park Station PEIR. The increased number of units between the BPS Program EIR to the Reservoir Subsequent EIR constitutes ‘substantial unplanned growth.’”

*(Jean Barish, Letter, September 23, 2019 [I-BARISH3-33])*

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“Can you tell me, is this report going to be an original EIR or will it be based on some other EIR that’s been done elsewhere in the immediate area?”

*(Harry Bernstein, Email, August 11, 2019 [I-BERNSTEIN2-1])*

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“2) The notice did say a 'subsequent EIR'. What is it subsequent to? Does this current analysis take the place of a previous EIR? What is the relationship between the previous one and this subsequent one?”

*(Garry Bieringer, Email, August 16, 2019 [I-BIERINGER3-1])*

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“1. The very fact that this process utilizes a Subsequent EIR is obfuscation. If the project from day 1 started with an impact assessment of 1550 units of housing on such a small footprint of 17 acres than it would be clear that the surrounding environment and neighborhoods would be severely impacted, as it stands the original plan has been expanded within the existing process of a previous EIR as a means to mitigate public concern.”

*(Edward Simon Hanson, PhD, Email, September 23, 2019 [I-E.HANSON-2])*

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“Until the release of the draft SEIR we were told to expect a DEIR.

What is the difference and why has this difference been applied to the Balboa Reservoir project?”

*(Christine Hanson, Email, August 8, 2019 [I-HANSON2-1])*

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“Noise and vibration were not addressed in the PEIR, and we thank the Planning Department for recognizing that the earlier Balboa area plan offered a high level view, not a project view, anticipating that they could not take into account every change to the area before a project is ready for consideration. Since the time the PEIR was developed, many new buildings; educational, service-oriented, commercial and residential; have been constructed near and adjacent to the Balboa Reservoir. At the time of the PEIR, there was an expectation that no more than 500 housing units would be constructed in the Balboa Reservoir.”

*(Jennifer Heggie, Email, September 23, 2019 [I-HEGGIE2-3])*

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“The Initial Study discounts almost all environmental factors as needing assessment except for Transportation, Air Quality, and Noise.”

*(Alvin Ja, Email, August 30, 2019 [I-JA6-1])*

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“The Initial Study erroneously carries over the program-level determinations of the Balboa Park Station FEIR/PEIR to the project-level Balboa Reservoir SEIR.”

*(Alvin Ja, Email, August 30, 2019 [I-JA6-2])*

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### **Response CEQA-1: Type of EIR, Tiering, and Focusing Second-Tier Review**

Several comments request clarification regarding the difference between the Balboa Park Station Area Plan [Program] EIR (PEIR) and the proposed project’s subsequent EIR (SEIR). Other comments state that the use of a subsequent EIR is obfuscation, that the initial study erroneously carries over the program-level determinations from the PEIR to the project-level SEIR, and the topics in the initial study should be studied in the SEIR. One comment acknowledges that noise and vibration impacts were not addressed in the PEIR and that the PEIR offered a high-level review. One comment states that the SEIR must consider the impact of increasing the number of units from the original recommendation in the PEIR.

The response below describes the differences between a program-level and subsequent EIR, use of tiering, and focusing the second-tier review through an initial study.

#### *Program EIRs and Tiering*

Section 1.B, Type of EIR, in the SEIR discusses the relationship between the project-level SEIR and the PEIR. As stated on SEIR pp. 1-2 and 1-3, the area plan PEIR is a program EIR under CEQA Guidelines section 15168. The PEIR provided a first-tier, plan-level analysis of the environmental impacts associated with the development program proposed for the entire plan area, including the project site. The Public Resources Code allows for the preparation of multiple types of EIRs, based primarily on the level of detail available about the project at the time of an agency’s first discretionary

decision on the project. 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 environmental consequences.”<sup>1</sup> At the same time, the level of detail in an EIR should “correspond” to the “degree of specificity involved in the underlying activity which is described in the EIR.”<sup>2</sup> Thus, an EIR for a construction project will necessarily be more detailed than an EIR prepared for a large-scale plan, “because the effects of the construction can be predicted with greater accuracy.”<sup>3</sup> As discussed in Section 1.C of the SEIR, the PEIR evaluated the potential environmental effects of development of the 210-acre plan area at a “program” level of detail, based on the plan information available at the time, and thus is described as a “program” EIR.

A program EIR is commonly used in conjunction with “tiering” – “the analysis of general matters contained in a broader EIR (such as one prepared for a general plan or policy statement) with later EIRs and negative declarations on narrower projects; incorporating by reference the general discussion from the broader EIR; and concentrating the later EIR or negative declaration solely on the issues specific to the later project.”<sup>4</sup> Tiering is appropriate where an EIR is completed for a large-scale plan at an early stage, and further analyses will be prepared at later stages as individual projects are proposed that implement the plan, enabling the agency to consider broad policy alternatives and cumulative impacts early in the process and to defer analysis of project-level details until specific projects are proposed.

The area plan itself does not place a cap on the number of housing units within the plan area or the project site. The PEIR acknowledges that aside from the project-level analysis for the Phelan Loop Site and Kragen Auto Parts Site (which are now built as 1100 and 1150 Ocean Avenue), the other sites identified for the plan area including the Balboa Reservoir site, are “part of the reasonably foreseeable development program for the Area Plan; however, they will be analyzed at a program level of detail because no specific development proposals have been presented.”<sup>5</sup> In order to conduct a program-level analysis, development assumptions are made. The PEIR analyzed a development program of 500 residential units and 100,000 square feet of open space for the Balboa Reservoir site.<sup>6</sup>

The purpose of the initial study and SEIR are to provide project-level environmental review and analyze whether the proposed development at the project site compared to the 500 residential units and 100,000 square feet of open space assumed in the PEIR would be within the scope of the program-level analysis or if the project would result in new significant impacts or substantially more severe significant impacts identified in the PEIR. The use of the PEIR and initial study to focus the second-tier review, and applicable principles in the CEQA Guidelines are explained below.

Regarding the comment that states that increase in units at the project site between the PEIR and the SEIR constitutes substantial unplanned growth, see Response PH-1, Population Growth, on RTC p. **Error! Bookmark not defined.**

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<sup>1</sup> CCR Title 14 Section 15151

<sup>2</sup> CCR Title 14 Section 15146

<sup>3</sup> CCR Title 14 Section 15146

<sup>4</sup> CCR Title 14 Section 15152(a)

<sup>5</sup> City and County of San Francisco Planning, *Balboa Park Station Area Plan Final Environmental Impact Report*, Planning Department File No. 2004.1059E, certified December 4, 2008.

<sup>6</sup> Ibid. pages 100, 107.

### *Use of Program EIR for Purposes of Focusing Second-Tier Review*

The CEQA Guidelines address how a lead agency is to use a certified first-tier EIR when analyzing a specific development proposal within the area covered by the plan. CEQA Guidelines section 15152 provides general guidance regarding tiering. Section 15152 states in pertinent part:

- d) Where an EIR has been prepared and certified for a program, plan, policy, or ordinance consistent with the requirements of this section, any lead agency for a later project pursuant to or consistent with the program, plan, policy, or ordinance should limit the EIR or negative declaration on the later project to effects which:
  - (1) Were not examined as significant effects on the environment in the prior EIR; or
  - (2) Are susceptible to substantial reduction or avoidance by the choice of specific revisions in the project, by the imposition of conditions, or other means.
- e) Tiering under this section shall be limited to situations where the project is consistent with the general plan and zoning of the city or county in which the project is located, except that a project requiring a rezone to achieve or maintain conformity with a general plan may be subject to tiering.
- f) A later EIR shall be required when the initial study or other analysis finds that the later project may cause significant effects on the environment that were not adequately addressed in the prior EIR. A negative declaration shall be required when the provisions of Section 15070 are met.
  - (1) Where a lead agency determines that a cumulative effect has been adequately addressed in the prior EIR, that effect is not treated as significant for purposes of the later EIR or negative declaration, and need not be discussed in detail.
  - (2) When assessing whether there is a new significant cumulative effect, the lead agency shall consider whether the incremental effects of the project would be considerable when viewed in the context of past, present, and probable future projects. At this point, the question is not whether there is a significant cumulative impact, but whether the effects of the project are cumulatively considerable. For a discussion on how to assess whether project impacts are cumulatively considerable, see Section 15064(i).
  - (3) Significant environmental effects have been “adequately addressed” if the lead agency determines that:
    - (A) they have been mitigated or avoided as a result of the prior environmental impact report and findings adopted in connection with that prior environmental report; or
    - (B) they have been examined at a sufficient level of detail in the prior environmental impact report to enable those effects to be mitigated or avoided by site specific revisions, the imposition of conditions, or by other means in connection with the approval of the later project.

CEQA Guidelines section 15168 provides similar guidance regarding the use of a program EIR to focus analysis of a later project carried out under the plan for which the program EIR was prepared. Section 15168 states:

- c) Use with Later Activities. Later activities in the program must be examined in the light of the program EIR to determine whether an additional environmental document must be prepared.
  - 1) If a later activity would have effects that were not examined in the program EIR, a new Initial Study would need to be prepared leading to either an EIR or a Negative Declaration. That later analysis may tier from the program EIR as provided in Section 15152.
  - 2) If the agency finds that pursuant to Section 15162, subsequent EIR would be required, the agency can approve the activity as being within the scope of the project covered by the program EIR, and no new environmental document would be required. Whether a later activity is within the scope of a program EIR is a factual question that the lead agency determines based on substantial evidence in the record. Factors that an agency may consider in making that determination include, but are not limited to, consistency of the later activity with the type of allowable land use, overall planned density and building intensity, geographic area analyzed for environmental impacts, and covered infrastructure, as described in the program EIR.
  - 3) An agency shall incorporate feasible mitigation measures and alternatives developed in the program EIR into later activities in the program.
  - 4) Where the later activities involve site specific operations, the agency should use a written checklist or similar device to document the evaluation of the site and the activity to determine whether the environmental effects of the operation were within the scope of the program EIR.
  - 5) A program EIR will be most helpful in dealing with later activities if it provides a description of planned activities that would implement the program and deals with the effects of the program as specifically and comprehensively as possible. With a good and detailed project description and analysis of the program, many later activities could be found to be within the scope of the project described in the program EIR, and no further environmental documents would be required.
- d) Use with Subsequent EIRs and Negative Declarations. A program EIR can be used to simplify the task of preparing environmental documents on later activities in the program. The program EIR can:
  - 1) Provide the basis in an Initial Study for determining whether the later activity may have any significant effects.
  - 2) Be incorporated by reference to deal with regional influences, secondary effects, cumulative impacts, broad alternatives, and other factors that apply to the program as a whole.
  - 3) Focus an EIR on a later activity to permit discussion solely of new effects which had not been considered before.

In response to comments that question the use of a subsequent EIR or claim that the topics in the initial study should be studied in the SEIR, all lead agencies may, prior to preparing any type of EIR, prepare an initial study to “[a]ssist in the preparation of an EIR, if one is required, by... [f]ocusing the EIR on the effects determined to be significant ... [and] [e]xplaining the reasons for determining that potentially significant effects would not be significant...” (CEQA Guidelines, section 15063 subds. (c)(3)(A), (C).) Thereafter, CEQA only requires the EIR to “contain a statement

briefly indicating the reasons that various possible significant effects of a project were determined not to be significant and were therefore not discussed in detail in the EIR. Such a statement may be contained in an attached copy of an Initial Study.” (CEQA Guidelines section 15128)

A later EIR is required when the initial study or other analysis finds that the later project may cause significant effects on the environment that were not adequately addressed in the prior EIR (CEQA Guidelines section 15152(f)). In other words, topics found to have less than significant or less than significant impacts with mitigation do not need to be carried forward into the EIR. In determining the categories of environmental impacts to address in the SEIR, the planning department relied on processes and principles drawn from section 15152, section 15168, and section 15180 of the CEQA Guidelines, with the goal of determining whether the proposed project could cause potentially significant effects not adequately addressed in the PEIR. This process is documented in the initial study prepared for the proposed project (Appendix B of the SEIR).

For each resource topic area, the initial study explains why the PEIR provides an adequate analysis of these issues. In the language of the CEQA Guidelines, second-tier, project-specific review should focus on those impacts that were not “adequately addressed” in the first-tier document (CEQA Guidelines section 15152(f)) or “not examined in the program EIR” (CEQA Guidelines section 15168). The initial study addresses each resource area, and examines whether the PEIR provides an adequate analysis of the project’s impact on that resource area. Where the project might have significant impacts that have not been adequately addressed in the PEIR, either due to the nature of the project, or due to new information that was not previously available, those issues were carried forward for detailed analysis. Where the PEIR provided adequate analysis of a particular resource or the initial study determined that the impacts would be less than significant (with or without mitigation), those issues were “scoped out” from analysis in the SEIR. That is generally consistent with the scoping process (whether or not the EIR tiers from prior EIRs), and with the approach called for under CEQA Guidelines sections 15152 and 15168.

In the initial study, the analysis focuses on whether the prior analysis remains valid and whether the proposed project would cause site-specific impacts not anticipated by the previously prepared programmatic analysis in the PEIR. To the extent that the prior “first-tier” analysis (e.g., of the general consequences of developing the overall area plan) remains valid, the planning department concludes that there was no need for additional, duplicative analysis. Where existing analyses or existing standards or mitigation requirements were insufficient to ensure the avoidance of significant effects or the mitigation of such effects to less than significant levels, the planning department address the topics in further detail in the draft SEIR.

As stated on SEIR p. 1-3, the planning department determined that one or more of the conditions for a subsequent EIR were met for the proposed project, and that a SEIR is therefore warranted, including the fact that the proposed project would result in new significant impacts and substantially more-severe significant impacts than previously identified in the PEIR for transportation and circulation, air quality, and noise.

The initial study, which is part of the SEIR, determined that the proposed project options would have no new significant impacts or no substantially more severe significant impacts than those

previously identified in the PEIR on the following resources: Land Use and Land Use Planning (initial study Section E.1); Aesthetics (initial study Section E.2); Population and Housing (initial study Section E.3); Cultural Resources (initial study Section E.4); Greenhouse Gas Emissions (initial study Section E.9); Wind (initial study Section E.10); Shadow (initial study Section E.11); Recreation (initial study Section E.12); Utilities and Service Systems (initial study Section E.13); Public Services (initial study Section E.14); Biological Resources (initial study Section E.15); Geology and Soils (initial study Section E.16); Hydrology and Water Quality (initial study Section E.17); and Hazards and Hazardous Materials (initial study Section E.18).

The PEIR did not specifically address impacts associated with tribal cultural resources, mineral resources, agriculture and forest resources, and wildfire, which are included in the planning department's current checklist. The initial study determined that the proposed project would result in either no impact, less-than significant impact, or less-than-significant impact with mitigation on these resources: Tribal Cultural Resources (initial study Section E.5); Mineral Resources (initial study Section E.19); Energy (initial study Section E.20); Agriculture and Forest Resources (initial study Section E.21); and Wildfire (initial study Section E.22).

In each of these sections, the initial study properly explains why the project would not have new significant impacts or substantially more severe significant impacts than those previously identified in the PEIR. The SEIR (page 1-3) acknowledges the conclusions of the initial study and refers to the initial study, included as Appendix B, for further details.

The planning department finds that the proposed project constitutes a later project within the scope of the PEIR. However, the planning department did not rely on this conclusion to avoid preparing a project-specific EIR for the proposed project or to scope out any impact that remained potentially significant after mitigation identified in the initial study or the PEIR. The preparation of the SEIR, including the initial study fully complies with CEQA, the CEQA Guidelines, and chapter 31 of the San Francisco Administrative Code.

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### ***Comment CEQA-2: Existing Setting and Baseline***

This response addresses comments from the commenter listed below; each comment on this topic is quoted in full below this list:

I-BARISH3-15	I-E.HANSON-5	I-RHINE-1
I-BARISH3-21	I-E.HANSON-8	I-SIMON-1
I-BELBIN-1	I-HANSON4-2	I-SIMON-5
I-BELBIN-4	I-JA1-2	I-TARQUINO-3
I-BERNSTEIN1-2	I-JA11-2	I-TIMA-2
I-BERNSTEIN1-4	I-JA12-1	I-VESSELENYI-1
I-BERNSTEIN3-1	I-JA14-1	I-WILENSKY-1
I-BERNSTEIN4-3	I-JA4-1	I-WORLEY-1
I-BERNSTEIN5-2	I-KOPP-3	O-WPA3-4
I-E.HANSON-4		

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"Current Reservoir student parking is an existing physical condition. This physical reality cannot be ignored. Removal of student parking will have significant impact on student enrollment and attendance."

*(Jean B. Barish, Esq., MS, Letter, September 23, 2019 [I-BARISH3-15])*

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"Project Overview, 2.A

The DSEIR does not conform to California Code of Regulations, Title 14, 15125 (a) and (c).

According to the DSEIR, p. 2-1: The proposed Balboa Reservoir Project is located on a 17.6-acre site in the West of Twin Peaks area of south central San Francisco (see Figure 2-1, Location Map). The site is north of the Ocean Avenue commercial district, west of the City College of San Francisco Ocean Campus, east of the Westwood Park neighborhood, and south of Archbishop Riordan High School. The project site is owned by the City and County of San Francisco (City) under the jurisdiction of the San Francisco Public Utilities Commission (SFPUC).

This Project Overview is inadequate, and does not conform to California Code of Regulations, Title 14, 15125 (a) which states: An EIR must include a description of the physical environmental conditions in the vicinity of the project. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant. . . . The purpose of this requirement is to give the public and decision makers the most accurate and understandable picture practically possible of the project's likely near-term and long-term impacts.

City College, Archbishop Riordan High School, and Lick Wilmerding High School are all large institutions in the vicinity of the Project. But the DSEIR does not always consider impacts of the Project on these institutions. Accordingly, the DSEIR is inadequate and must be revised to comprehensively review all the environmental impacts on these locations.

*(Jean B. Barish, Esq., MS, Letter, September 23, 2019 [I-BARISH3-21])*

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"An EIR is supposed to give a description of the existing vicinity. Yet the Reservoir EIR Project SEIR's (Subsequent EIR) description limits it to the Reservoir lot/site itself.

This failure to place CCSF in the description will undermine CCSF's future.

Once the Reservoir Project gets built, the City and developers will establish the Project to be the "baseline existing condition." And at that point any future CCSF FMP projects will have to answer for CCSF's adverse impacts on the Reservoir Project.

BOT and Administration need to change its stance of being antagonistic to students, while being servile to the Reservoir Project. BOT and Administration need step up to defend CCSF interests, instead.

During the accreditation crisis many of us fought diligently to restore the BOT to power. Please don't continue to disappoint us.

To address the deliberate exclusion of CCSF from the description of the "Existing Setting", I have submitted the attached written comment. Here are excerpts:

#### INADEQUACY OF DESCRIPTION OF BASELINE EXISTING SETTING

I had raised the issue of the inadequacy of the Initial Study/SEIR's description of the Reservoir Project's baseline existing condition at the 9/12/2019 Planning Commission meeting. Here, I wish to expand on my allegation.

In an earlier written comment, I had already stated the following:

The Initial Study's B. PROJECT SETTING states: The project setting and existing site land use characteristics are provided in SEIR Chapter 2, Project Description.

Going to the referred Ch.2 Project Description produces this:

The Initial Study's B. PROJECT SETTING states: The project setting and existing site land use characteristics are provided in SEIR Chapter 2, Project Description.

Going to the referred Ch.2 Project Description produces this:

#### Project Description

##### 2.A Project Overview

The proposed Balboa Reservoir Project is located on a 17.6-acre site in the West of Twin Peaks area of south central San Francisco (see Figure 2-1, Location Map). The site is north of the Ocean Avenue commercial district, west of the City College of San Francisco Ocean Campus, east of the Westwood Park neighborhood, and south of Archbishop Riordan High School. The project site is owned by the City and County of San Francisco (City) under the jurisdiction of the San Francisco Public Utilities Commission (SFPUC).

This constitutes the entire description of the Project Setting's baseline existing condition for the Initial Study/SEIR.

#### California Code of Regulations Title 14 Section 15125

California Code of Regulations Title 14 Section 15125 contains the requirements for a description of the existing Environmental Setting in an EIR:

§ 15125 (a) An EIR must include a description of the physical environmental conditions in the vicinity of the project. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant. The description of the environmental setting shall be no longer than is necessary to provide an understanding of the

significant effects of the proposed project and its alternatives. The purpose of this requirement is to give the public and decision makers the most accurate and understandable picture practically possible of the project's likely near-term and long-term impacts.

In order for the public and decision-makers to acquire the “most accurate and understandable picture possible of the project’s impacts”, we are left with the SEIR’s 2.A Project Overview contained in Chapter 2, Project Description. Contrary to § 15125’s requirement for a description of the existing condition “in the vicinity of the project”, SEIR 2.A only provides a description of the project site:

The proposed Balboa Reservoir Project is located on a 17.6-acre site in the West of Twin Peaks area of south central San Francisco (see Figure 2-1, Location Map). The site is north of the Ocean Avenue commercial district, west of the City College of San Francisco Ocean Campus, east of the Westwood Park neighborhood, and south of Archbishop Riordan High School. The project site is owned by the City and County of San Francisco (City) under the jurisdiction of the San Francisco Public Utilities Commission (SFPUC).

THIS FAILS § 15125’s REQUIREMENT FOR A DESCRIPTION OF THE AFFECTED VICINITY.  
requirement

14 CCR 15125 also has another relevant requirement. It has a requirement that an EIR adequately investigate environmental resources that are unique and would be affected:

§ 15125 (c) Knowledge of the regional setting is critical to the assessment of environmental impacts. Special emphasis should be placed on environmental resources that are rare or unique to that region and would be affected by the project. The EIR must demonstrate that the significant environmental impacts of the proposed project were adequately investigated and discussed and it must permit the significant effects of the project to be considered in the full environmental context.”

*(Charles Belbin, Email, September 22, 2019 [I-BELBIN-1])*

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“THE DSEIR FAILS TO ADEQUATELY EXAMINE IMPACTS ON CITY COLLEGE AND OTHER SCHOOLS, IN VIOLATION OF § 15125 (c).”

*(Charles Belbin, Email, September 22, 2019 [I-BELBIN-4])*

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“A separate topic. The description of the project setting baseline existing condition is inadequate. The primary use of the lower reservoir, since 1946, has been parking. Today, it’s spillover student parking. Except for the years 1946 to 1954 and that was the time that the college, itself, occupied the entire Balboa Reservoir site.”

*(Harry Bernstein, CPC Hearing, September 12, 2019 [I-BERNSTEIN1-2])*

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"I'm sorry there was an oversight for my comments. You have an empty lot on the cover of this SEIR. I'd like to give this, copies of this for the record and for the members. If there a possibility to do that?"

*(Harry Bernstein, CPC Hearing, September 12, 2019 [I-BERNSTEIN1-4])*

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"The cover image for the Draft SEIR of the Balboa Reservoir Project, case no. 12018-007883ENV, shows a large and nearly empty lot and thus does not fairly represent the actual usage of the Lower Reservoir site when City College is in session.

To support this contention, I append the following newspaper story from the Guardsman newspaper (CCSF) from September 13, 2017 titled "Parking crisis raises Balboa Reservoir Project concerns." The story was written by Bethaney Lee; photo credits for Otto Pippenger.

*(Harry Bernstein, Email, September 23, 2019 [I-BERNSTEIN3-1])*

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"One of the greatest inadequacies of the Draft SEIR is that it is obligated to define existing conditions, not only at the site of the proposed development but also in the vicinity. The description is limited to the physical location and the perimeters of the lower Balboa Reservoir lot. It fails to mention that except for the approximately two years when the Reservoir site was excavated for the purpose of creating a possible reservoir (1956-1958), the land was used by City College since 1946—

From September 13, 1946 to 1954, the College occupied for the site, taking over the former WAVES barracks—this was called West Campus. After being evicted over the years 1954-55, enabling a move to the newly built classroom, Cloud Hall, the existing facilities were razed and the Reservoir site was prepared. Parking was made available to City College again starting in 1958, first in one of the two Reservoir basins and later in both. City College spent considerable money raising the level of what is today the upper Reservoir site and eventually secured ownership of its 10+ acres in a land swap from the Public Utilities Commission. So this historic use of the site, and the impact of its loss should not be ignored in this planning process. More on this further below."

*(Harry Bernstein, Email, September 23, 2019 [I-BERNSTEIN4-3])*

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"2) recognition of the College's long-term use of the lower Balboa Reservoir—the proposed development site—since 1946, as either part of the campus ("West Campus") and the 60+ years that the Lower Reservoir site has been used by students as a parking lot. Other factors are impacts on air quality and more pollution during construction."

*(Harry Bernstein, Email, September 23, 2019 [I-BERNSTEIN5-2])*

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“The existing condition of the 17 acre PUC owned land is that it is not only surrounded on two sides by educational institutions with more schools located in close proximity, its current use is by City College and has been so since the 1940’s. Historically the college has always used this public space and this fact is downplayed in the SEIR restricting the impact on the college to “Areas of Known Controversy and Issues to be Resolved”. The historical uses of the site have not been documented in the SEIR in context of historical significance of the site and to the civic functions of the City have been minimized.”

*(Edward Simon Hanson, PhD, Email, September 23, 2019 [I-E.HANSON-4])*

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“3. The SEIR does not clearly document the existing conditions of parcel sharing between the PUC and CCSF, or the lengthy agreements that went into place to split the lot when CCSF decided to build upon its half of the shared parcel. If the plan is to complete the lot split when the land is transferred to a private developer, then this should be documented with clear reference to the sharing of the parcel in its existing condition, and spell out the consequences of a potential lot split as it constitutes transfer of lands from public to private ownership. In this context there is no analysis of the amount of public lands or other public land projects in the SEIR. Land being something of very limited supply on the peninsula the impacts of public vs. private ownership is of relevance to future potential projects and civic developments.”

*(Edward Simon Hanson, PhD, Email, September 23, 2019 [I-E.HANSON-5])*

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“6. To be more specific: The law states (a) An EIR must include a description of the physical environmental conditions in the vicinity of the project. The current SIER does not do this choosing instead to substitute an analysis restricted to the “project site” this substitution invalidates the impact analysis.”

*(Edward Simon Hanson, PhD, Email, September 23, 2019 [I-E.HANSON-8])*

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“The SEIR also fails to account for the existing conditions.”

*(Christine Hanson, Email, September 23, 2019 [I-HANSON4-2])*

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“Okay, so I’ll go to two specifics. One is the environmental setting. Okay, that’s critical for CEQA, setting up the environmental baseline setting. The description that’s given in the SEIR basically just talks about the plot itself. But CEQA, in terms of the Code of California Regulations, says you have to talk about the vicinity, not just the plot, itself. So, that, already, right there is in violation of CCR 15125. You can look it up, okay.”

*(Alvin Ja, CPC Hearing, September 12, 2019 [I-JA1-2])*

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**“COMMENT ON INITIAL STUDY:**

**LAND USE**

The Initial Study’s B. PROJECT SETTING states: *The project setting and existing site land use characteristics are provided in SEIR Chapter 2, Project Description.*

Going to the referred Ch.2 Project Description produces this:

Project Description

**2.A Project Overview**

*The proposed Balboa Reservoir Project is located on a 17.6-acre site in the West of Twin Peaks area of south central San Francisco (see **Figure 2-1, Location Map**). The site is north of the Ocean Avenue commercial district, west of the City College of San Francisco Ocean Campus, east of the Westwood Park neighborhood, and south of Archbishop Riordan High School. The project site is owned by the City and County of San Francisco (City) under the jurisdiction of the San Francisco Public Utilities Commission (SFPUC).*

This constitutes the entire description of the Project Setting’s baseline existing condition for the Initial Study/SEIR.

This fails to acknowledge that schools are central feature in the immediate vicinity of the Reservoir: City College, Riordan, Lick Wilmerding.

The Reservoir site has historically been used by City College for decades. The Initial Study/SEIR fail to acknowledge this fact.

City College is the main educational, economic, cultural feature of the immediate Reservoir vicinity. The Initial Study/SEIR fail to acknowledge this fact.

City College, Riordan, Lick Wilmerding are the main target destinations for the immediate Reservoir vicinity. The Initial Study/SEIR fail to acknowledge this fact.

I contend that these facts have been deliberately omitted from the description of the baseline existing condition because it is an inconvenient truth. These facts are inconvenient truths that would inhibit the privatization of public assets (though disguised misleadingly as an affordable housing project).

CEQA requires a baseline determination of existing conditions upon which environmental impact of a project will be assessed.

From the Association of Environmental Professional's (AEP) CEQA Portal:

*What Are Baseline and Environmental Setting?*

*Under CEQA, the impacts of a proposed project must be evaluated by comparing expected environmental conditions after project implementation to conditions at a point in time referred to as the baseline. The changes in environmental conditions between those two scenarios represent the environmental impacts of the proposed project. The description of the environmental conditions in the project study area under baseline conditions is referred to as the environmental setting.*

#### *Why Is Baseline Important?*

*Establishing an appropriate baseline is essential, because an inappropriately defined baseline can cause the impacts of the project either to be under-reported or over-reported. A considerable number of CEQA documents have been litigated over the choice of a baseline for a given project, and many CEQA documents have been invalidated for the use of an inappropriate baseline (see Important Cases below).*

From 14 CCR 15125:

*(a) An EIR must include a description of the physical environmental conditions in the vicinity of the project. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant.*

**The draft SEIR/Initial Study is fundamentally defective because it fails to recognize the baseline condition of City College’s prominence and importance in the immediate vicinity of the Reservoir.”**

*(Alvin Ja, Email, September 11, 2019 [I-JA11-2])*

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#### **“INADEQUACY OF DESCRIPTION OF BASELINE EXISTING SETTING**

I had raised the issue of the inadequacy of the Initial Study/SEIR’s description of the Reservoir Project’s baseline existing condition at the 9/12/2019 Planning Commission meeting. Here, I wish to expand on my allegation.

In an earlier written comment, I had already written the following:

The Initial Study’s B. PROJECT SETTING states: *The project setting and existing site land use characteristics are provided in SEIR Chapter 2, Project Description.*

Going to the referred Ch.2 Project Description produces this:

The Initial Study’s B. PROJECT SETTING states: *The project setting and existing site land use characteristics are provided in SEIR Chapter 2, Project Description.*

Going to the referred Ch.2 Project Description produces this:

Project Description

2.A Project Overview

*The proposed Balboa Reservoir Project is located on a 17.6-acre site in the West of Twin Peaks area of south central San Francisco (see **Figure 2-1, Location Map**). The site is north of the Ocean Avenue*

*commercial district, west of the City College of San Francisco Ocean Campus, east of the Westwood Park neighborhood, and south of Archbishop Riordan High School. The project site is owned by the City and County of San Francisco (City) under the jurisdiction of the San Francisco Public Utilities Commission (SFPUC).*

This constitutes the entire description of the Project Setting's baseline existing condition for the Initial Study/SEIR.

Chapter 3 is entitled "Environmental Setting, Impacts, and Mitigation Measures." It states: "Sections 3.B through 3.D each includes descriptions of the environmental setting and regulatory framework."

In a careful search for descriptions of the environmental setting within Sections 3.B, 3.C, and 3.D, here are the descriptions provided:

**3.B.4 Existing Conditions:**

*The project site is a 17.6-acre rectangular parcel and encompasses Assessor's Block 3180/Lot 190 in San Francisco's West of Twin Peaks neighborhood. The project location and site characteristics are described in SEIR Section 2.A, Project Overview, p. 2-1, and Section 2.D.2, Project Site, p. 2-7. The existing land use setting is described in Appendix B, Initial Study, Section E.1, Land Use and Land Use Planning, p. B-12.*

**3.C.3: Summary of BPS Area Plan PEIR Noise Section:**

**Balboa Park Station Area Plan PEIR Setting**

*The noise setting for the Balboa Park Station Area Plan (area plan) discussed in the Balboa Park Station Area Plan [Program] Environmental Impact Report (PEIR) differs from the existing setting today primarily in terms of the increase in traffic volumes resulting from overall employment growth in the San Francisco area and number of noise sources that exist in the area. However, there was a decrease in annual enrollment at the adjacent City College Ocean Campus of nearly 25 percent between 2008–2009 and 2017–2018, the most recent year for which data are available.<sup>151</sup> In addition, since the December 2008 certification of the PEIR, development has occurred adjacent to the project site. City College filled the east basin of the reservoir site and raised its grade to match surrounding terrain to the east, and constructed the Multi-Use Building.*

**3.C.4 Environmental Setting:**

3.C.4 contains technical information regarding noise. There is no content describing the overall existing setting.

**3.D.3 Summary of BPS Area Plan Quality Section:**

**Balboa Park Station Area Plan PEIR Setting**

*The air quality setting for the Balboa Park Station Area Plan (area plan) discussed in the Balboa Park Station Area Plan Program EIR (area plan PEIR, or PEIR) differs from the existing setting today in terms of air quality conditions, the regulatory environment, and in the level of available information with respect to health risks and hazards. Specifically, at the time of the PEIR, localized concentrations of criteria air pollutants were higher than what are monitored today as many of the regulatory improvements implemented since then have improved air quality conditions. As an example, the PEIR reported that particulate emission standards were regularly exceeded in San Francisco. Since 2007, the*



*effect of regulatory changes has resulted in a reduction in the number of violations of the particulate matter standard despite subsequent strengthening (i.e., more health protective) of the ambient particulate standards.*

#### 3.D.4 Environmental Setting:

3.D.4 Environmental Setting contains information regarding climate and meteorology, and pollutants. There is no content describing the overall existing setting.

### California Code of Regulations Title 14 Section 15125

California Code of Regulations Title 14 Section 15125 contains the requirements for a description of the existing Environmental Setting in an EIR:

*§ 15125 (a) An EIR must include a description of the physical environmental conditions in the vicinity of the project. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant. The description of the environmental setting shall be no longer than is necessary to provide an understanding of the significant effects of the proposed project and its alternatives. The purpose of this requirement is to give the public and decision makers the most accurate and understandable picture practically possible of the project's likely near-term and long-term impacts.*

The descriptions of the physical environmental setting in 3.B, 3.C, and 3.D are limited to descriptions involving transportation, noise, and air quality.

Thus, in order for the public and decision-makers to acquire the “most accurate and understandable picture possible of the project’s impacts”, we are left with the SEIR’s 2.A Project Overview contained in Chapter 2, Project Description.

Contrary to § 15125’s requirement for a description of the existing condition “in the vicinity of the project”, SEIR 2.A only provides a description of the project site:

*The proposed Balboa Reservoir Project is located on a 17.6-acre site in the West of Twin Peaks area of south central San Francisco (see **Figure 2-1, Location Map**). The site is north of the Ocean Avenue commercial district, west of the City College of San Francisco Ocean Campus, east of the Westwood Park neighborhood, and south of Archbishop Riordan High School. The project site is owned by the City and County of San Francisco (City) under the jurisdiction of the San Francisco Public Utilities Commission (SFPUC).*

### **THIS FAILS § 15125’s REQUIREMENT FOR A DESCRIPTION OF THE AFFECTED VICINITY.**

14 CCR 15125 also has another relevant requirement. It has a requirement that an EIR adequately investigate environmental resources that are unique and would be affected:

*§ 15125 (c) Knowledge of the regional setting is critical to the assessment of environmental impacts. Special emphasis should be placed on environmental resources that are rare or unique to that region and would be affected by the project. The EIR must demonstrate that the significant environmental impacts of the proposed project were adequately investigated and discussed and it must permit the significant effects of the project to be considered in the full environmental context.*

City College is a universally recognized and unique treasure of the San Francisco Bay Area. It is an Appendix G CEQA Environmental Checklist Environmental Factor in the category of Public Services. And although having been repeatedly brought up by the public throughout the “public engagement process”, the SEIR fails to adequately address impacts on CCSF and other schools in the “full environmental context.”

I have attached a 2015 submission by the Save CCSF Coalition to the City Team (OEWD/Planning) and Reservoir CAC. Excerpt

**Subject:** Input for planning – CCSF must be considered

**Comments:**

**CCSF is the central educational, economic, cultural focus of the neighborhood. Any planning and development at the PUC's west reservoir site cannot be allowed to impact CCSF negatively, whether it's in relation to the need for parking for students, faculty and staff; or the needs of PAEC.**

**Current Balboa Reservoir planning is focused on discouraging private auto use by making parking difficult and more expensive. This goal has the side effect of discouraging enrollment and attendance. Such a policy would only result in shifting car usage to other schools where parking is easier, or causing students to drop out!**

**Planning documents presented to date make inadequate evaluation of cumulative impacts and fail to account for past, present and reasonably foreseeable projects by completely ignoring the PAEC!**

**THE DSEIR FAILS TO ADEQUATELY EXAMINE IMPACTS ON CITY COLLEGE AND OTHER SCHOOLS, IN VIOLATION OF § 15125 (c)."**

*(Alvin Ja, Email, September 14, 2019 [I-JA12-1])*

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“The draft EIR for the Reservoir Project provides an example of the deliberate downplaying of City College's position in the vicinity of the Project.

The SEIR's description of the baseline environmental omits any mention of City College. In doing so, the SEIR violates the requirements of 14 CCR 15125 (a).

**MISREPRESENTATION OF THE REQUIREMENTS OF 14CCR 15125(a)**

**The Planning Dept has made what I can only interpret to be a deliberate misrepresentation of the requirements of Title 14, Division 6, Chapter 3, Article 9, Section 15125, “Environmental Setting.”**

**The SEIR substitutes “project site” for “vicinity of the project” when it describes its proclaimed “consistency” with §15125(a).**

**A proclaimed consistency is not the same as compliance with a REQUIREMENT.**

**THE SEIR VIOLATES THE REQUIREMENTS OF §15125(a).**

The SEIR's 3.A.2, *Overall Approach to Impact Analysis* provides the following misrepresentation of §15125(a):

As described in SEIR Chapter 1, Introduction, this SEIR is a project-level EIR that is tiered from a previously certified program-level EIR, namely the PEIR. As a project-level EIR and consistent with CEQA Guidelines section 15125(a), the impact analysis is generally based on potential physical effects of the project compared to existing or baseline conditions of the physical environment at the project site at the time of publication of the NOP, which was in October 2018.

Comment:

- §15125(a) is not just a "CEQA Guideline"; it is the LAW.
- The language of the §15125(a) law uses the term "must", which is a REQUIREMENT.
- The law states: *(a) An EIR must include a description of the physical environmental conditions in the vicinity of the project.*
- The SEIR's substitution of "project site" in place of the required "in the vicinity of the project" invalidates the Balboa Reservoir Impact Analysis.

Here is §15125(a):

- a) *An EIR must include a description of the physical environmental conditions in the vicinity of the project. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant. The description of the environmental setting shall be no longer than is necessary to provide an understanding of the significant effects of the proposed project and its alternatives. The purpose of this requirement is to give the public and decision makers the most accurate and understandable picture practically possible of the project's likely near-term and long-term impacts.*

**FAIL AND FUBAR."**

*(Alvin Ja, Email, September 16, 2019 [I-JA14-1])*

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### "3.B.4 Existing Conditions [Transportation & Circulation]

*The project site is a 17.6-acre rectangular parcel and encompasses Assessor's Block 3180/Lot 190 in San Francisco's West of Twin Peaks neighborhood. The project location and site characteristics are described in SEIR Section 2.A, Project Overview, p. 2-1, and Section 2.D.2, Project Site, p. 2-7. The existing land use setting is described in Appendix B, Initial Study, Section E.1, Land Use and Land Use Planning, p. B-12.*

This description of the existing condition is less than adequate. This description avoids and evades the existing condition of the project site being a student parking lot that furthers a public purpose and benefit by providing physical access to a commuter school's educational public service.

Although 2.D.2, Project Site notes the site's use by CCSF stakeholders, it fails to acknowledge the reality that the current use of the Reservoir serves a public benefit in providing physical access to education.

CEQA requires a baseline determination of existing conditions upon which environmental impact of a project will be assessed.

From the Association of Environmental Professional's (AEP) CEQA Portal:

*What Are Baseline and Environmental Setting?*

*Under CEQA, the impacts of a proposed project must be evaluated by comparing expected environmental conditions after project implementation to conditions at a point in time referred to as the baseline. The changes in environmental conditions between those two scenarios represent the environmental impacts of the proposed project. The description of the environmental conditions in the project study area under baseline conditions is referred to as the environmental setting.*

*Why Is Baseline Important?*

*Establishing an appropriate baseline is essential, because an inappropriately defined baseline can cause the impacts of the project either to be under-reported or over-reported. A considerable number of CEQA documents have been litigated over the choice of a baseline for a given project, and many CEQA documents have been invalidated for the use of an inappropriate baseline (see Important Cases below).*

**The draft SEIR is inadequate because it fails to recognize the baseline condition of the Reservoir's current use by City College to serve a public benefit for its students."**

*(Alvin Ja, Email, August 26, 2019 [I-JA4-1])*

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"Moreover, if either of those two projects is built, that will constitute the "baseline existing condition". Any future City College facilities must not violate with adverse effect on the so-called reservoir project."

*(Quentin Kopp, Email, September 23, 2019 [I-KOPP-3])*

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"Hello. My name is Marcie Rhine. And I just wanted to say a couple quick things. I wasn't going to talk, but I was so moved by what the City College students had to offer that I wanted to just underscore that I think there is a very critical flaw in this draft EIR that it does not address City College either as a part of the overall setting, or as a vital public service."

*(Marcie Rhine, CPC Hearing, September 12, 2019 [I-RHINE-1])*

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"This letter is to describe an adverse impact on City College of San Francisco (CCSF) of the development in the Balboa Reservoir, which has NOT been addressed by the Draft Subsequent Environmental Impact Report (DSEIR). The Balboa Reservoir Project DSEIR fails to place CCSF as being the main feature of the vicinity's "existing or baseline conditions." Since CCSF is not made the main feature of the baseline condition, the Reservoir's impact on CCSF is discounted and minimized as "less than significant." This is an unacceptable and justifiably illegal consequence of the DSEIR."

*(Leslie Simon, Email, September 17, 2019 [I-SIMON-1])*

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“The description of the existing condition avoids identifying the project site as a student parking lot that furthers a public purpose and benefit by providing physical access to a commuter school's educational public service.

CEQA requires a baseline determination of existing conditions upon which environmental impact of a project will be assessed.”

*(Leslie Simon, Email, September 17, 2019 [I-SIMON-5])*

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**“The DRAFT SEIR is inadequate because it fails to recognize the baseline condition of the Reservoir's current use by City College to serve a public benefit for its students.”**

*(Eve Tarquino, Email, September 12, 2019 [I-TARQUINO-3])*

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“In regards to the history of this lot, I was really disenchanted that your SEIR was showing such a lousy picture to mislead everybody. That's a sales pitch. Can you imagine if you have 1,200 units right at the entrance of freeway 280, and that will not solve apartments for San Francisco. They will all go down to Silicon Valley.

I asked the developer, could he put restrictions on it and he denied my request. He said that would not be possible.”

*(Hedda Tima, CPC Hearing, September 12, 2019 [I-TIMA-2])*

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“The Draft Environmental Impact Report is not valid as it does not include City College as a primary feature of the neighborhood and does not consider the project's impact on student's access to City College.”

*(Hold Sall Vesselenyi, Email, September 23, 2019 [I-VESSELENYI-1])*

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“As a San Franciscan, I of course recognize the need for more housing, especially affordable housing. I am however very concerned about the housing project proposed for the Balboa Reservoir, especially its impact on City College and I am especially concerned that the Draft SEIR fails to recognize CCSF as the main feature of the vicinity's 'existing or baseline conditions'”

*(Debra Wilensky, Email, September 23, 2019 [I-WILENSKY-1])*

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“The DRAFT SEIR is inadequate because it fails to place CCSF as the main feature of the vicinity’s “existing or baseline conditions”

The DSEIR does not include CCSF as the main feature of the baseline conditions, despite the fact that CCSF abuts the parcel and has utilized it since 1946. CCSF is one of the most treasured institutions in San Francisco, offering higher public education to a wide range of communities, and a life line for many marginal and disenfranchised communities. Its value is incalculable. This omission means that, going forward, CCSF development priorities will become secondary to the interests of the Reservoir Project since the Reservoir Project will be considered the baseline condition.”

*(Jennifer Worley, President, AFT 2121, Email, September 23, 2019 [I-WORLEY-1])*

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“The number of vehicles that currently use the East Basin and West Basin parking lots are not accurately described in the DSEIR. In fact, on the very cover of the DSEIR is a picture of only the lower West Basin with only a few cars present. Attached as Exhibit 2 is an accurate picture of both the East Basin and West Basin taken at a peak period when student classes are in session. As you can see, the parking lots are full, with numerous cars parked in the CCSF parking spaces as well as in the parking lot which is the Project site.”

*(Michael Ahrens, President, Westwood Park Association, Letter, September 22, 2019 [O-WPA3-4])*

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## **Response CEQA-2: Existing Setting and Baseline**

Commenters state that the environmental setting and baseline descriptions in the SEIR are not consistent with requirements of CCR Title 14 Section 15125, and that the descriptions of the physical environmental setting in SEIR Sections 3.B, Transportation and Circulation, 3.C, Noise, and 3.D, Air Quality do not sufficiently describe the project site and its vicinity to provide an understanding of the significant effects of the proposed project and its alternatives.

Commenters state that the SEIR is inadequate because it does not acknowledge current use of the site for parking and does not recognize the City College as the main feature of the project vicinity’s existing and baseline conditions. Commenters also point to the “Project Setting” in SEIR Chapter 2 and state that this text is the only setting text provided in the SEIR. Commenters state that historical uses of the site have not been documented and that the SEIR does not clearly document existing conditions of parcel sharing or agreements that led to the split of the parcel. Commenters state the SEIR should evaluate impacts of splitting the parcel. Other commenters state that the use of the project site for student parking should be recognized in the existing conditions. In particular, commenters state that the SEIR does not acknowledge that schools (City College, Archbishop Riordan, and Lick Wilmerding) are a central feature in the immediate vicinity of the project site.

As stated in the text from which the commenters quote, the SEIR must include a description of the physical environmental conditions in the vicinity of the project, and these conditions will normally constitute the baseline physical conditions by which a lead agency determines whether an impact

is significant. “Environment” in this context means the physical conditions which exist within the area which will be affected by a proposed project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historical or aesthetic significance.<sup>7</sup> A significant effect on the environment means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project. An economic or social change by itself shall not be considered a significant effect on the environment.<sup>8</sup> The SEIR evaluates impacts on the environment, including objects of historical or aesthetic significance.

CEQA Guidelines section 15125(a) states that an “EIR must include a description of the physical environmental conditions in the vicinity of the project ... Generally, the lead agency should describe physical environmental conditions as they exist at the time the notice of preparation is published.” Per CEQA Guidelines section 15125(a)(1), the physical conditions existing when the notice of preparation is published was used to establish the baseline for the project-level analysis in the SEIR and initial study. The existing setting in the SEIR and initial study is therefore reflective of the period on or after the October 10, 2018 notice of preparation publication date.

One commenter notes that any future City College projects will need to address impacts on the project site. As described on SEIR p. 3.A-10, City College would act as the CEQA lead agency to conduct the environmental review of the master plan projects. At that time, the City College facilities master plan CEQA process would be required to describe physical conditions existing when the notice of preparation is published, and to address cumulative conditions per CEQA Guidelines section 15130.

In addition to the adjacent land uses described on SEIR pp. 2-9 to 2-12, each SEIR section and initial study section describes the existing context of the project site and vicinity relevant to the topic’s impact discussions, consistent with CEQA Guidelines section 15125. **Table RTC-1, Location of Existing Setting Descriptions for Each Topic Area**, provides the location of existing setting discussion in each topic area in the SEIR and initial study and page numbers showing where the existing setting is described. The subsections following the table provides a description of the existing setting in response to the comments related to the project site, transportation and circulation, noise, and air quality. The existing setting and baseline conditions are adequately described in the SEIR and initial study per CEQA Guidelines section 15125.

### *Project Site*

The use of the project site as a parking lot is acknowledged under “Existing Uses” in SEIR Section 2.D.2, Project Site (SEIR p. 2-7) and as an existing land use on initial study p. B-13 under Impact LU-1. Impact PS-1 also includes a discussion of the loss of parking at the project site, starting on initial study pp. B-87 to B-90. Refer to Response TR-6, Parking, on RTC p. **Error! Bookmark not defined.** and Response PS-2, Public Services and Secondary Impacts, on RTC p. **Error! Bookmark not defined.** as it relates to City College.

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<sup>7</sup> Public Resources Code Section 21060.5

<sup>8</sup> Public Resources Code Section 21068, 21083, 21100, and 21151

**TABLE RTC-1**  
**LOCATION OF EXISTING SETTING DESCRIPTIONS FOR EACH TOPIC AREA**

<b>Topic</b>	<b>Location in Draft SEIR or Initial Study</b>
Transportation and Circulation	SEIR pp. 3.B-5 to 3.B-31
Noise	SEIR pp. 3.C-6 to 3.C-11
Air Quality	SEIR pp. 3.D-3 to 3.D-21
Land Use and Land Use Planning	Initial Study p. B-13
Aesthetics	Not Applicable. Public Resources Code section 21099(d) provides that aesthetic impacts of a residential mixed-use residential, or employment center project on an infill site located within a transit priority area shall not be considered significant impacts on the environment.
Population and Housing	Initial Study p. B-18 (construction jobs) Initial Study p. B-19 to B-21 for the Balboa Park Priority Development Area and citywide (population, housing, and employment)
Cultural Resources	Initial Study p. B-27 (site history and past reconfiguration) Initial Study p. B-28 (archeological resources)
Tribal Cultural Resources	Initial Study p. B-34
Greenhouse Gas Emissions	Initial Study pp. B-37 to B-28
Wind	Initial Study p. B-42
Shadow	Initial Study pp. B-46 to B-47
Recreation	Initial Study pp. B-52 to B-54
Utilities and Service Systems	Initial Study pp. B-59 to B-60 (water supply) Initial Study pp. B-73 to 75 (wastewater/stormwater collection and treatment) Initial Study pp. B-76 to B-77 (solid waste)
Public Services	Initial Study p. B-82 (fire protection services) Initial Study p. B-83 (police protection services) Initial Study p. B-85 to B-86 (public schools) Initial Study p. B-87 (public libraries) Initial Study pp. B-87 to B-89 (other public facilities – City College)
Biological Resources	Initial Study pp. B-93 to B-94
Geology and Soils	Initial Study pp. B-100 to B-101, B-104
Hydrology and Water Quality	Initial Study pp. B-108 to B-110
Hazards and Hazardous Materials	Initial Study pp. B-121 to B-123
Mineral resources	Not Applicable
Energy	Initial Study pp. B-126 to B-127
Agriculture and Forest Resources	Not Applicable
Wildfire	Not Applicable

### *Transportation and Circulation*

SEIR Section 3.B.4, Existing Conditions defines the study area and describes aspects of the transportation network relevant for the transportation analysis. SEIR pp. 3.B-5 to 3.B-31 describes regional roadways, local roadways, vehicular turning movement counts collected at the 23 study intersections (including five City College driveway locations), walking conditions, bicycle facilities and circulation, public transit conditions, emergency access conditions, vehicle miles traveled, and loading conditions.



### Noise

SEIR Section 3.C.4 describes existing noise sources, provides short- and long-term ambient noise measurements taken on the project site and vicinity, and describes existing and future sensitive receptors. As shown on SEIR pp. 3.C-8 and 3.C-9, seven noise measurements were taken at the project site and surrounding area including at the City College Multi-Use Building to characterize the background noise environment in the project vicinity.

### Air Quality

SEIR Section 3.D.4, Environmental Setting identifies the area relevant for impacts to air quality (the San Francisco Bay Area Air Basin) and describes ambient air quality, existing sources of pollution, and sensitive receptors (SEIR pp. 3.D-3 to 3.D-21). The section includes a description of sensitive receptors in the vicinity of the project site. As described on SEIR p. 3.D-20, the sensitive receptors evaluated in the SEIR include a representative sample of known residents (child and adult) in the surrounding neighborhood, and other sensitive receptors (school children, daycare facilities, etc.) located in the surrounding community and along the expected travel routes of the on-road delivery and haul trucks within the project vicinity [emphasis added].

### History of Project Site

The initial study describes the history of the project site, starting with purchase of the site by the City in 1930 under Impact CR-1 (Appendix B, p. B-27). As noted on initial study p. B-27, a historic resource evaluation for the project site was prepared in October 2018. The historic resource evaluation documents the history of the site focusing on SFPUC's use and ownership of the site (1930-present), including the various reconfigurations the site has undergone over the years. The evaluation and planning department concluded that based on the evaluation, the project site is not considered a historical resource for purposes of CEQA (initial study p. B-27). As discussed in Section E.4, Cultural Resources of the initial study (p. B-23), the City College campus was not evaluated for potential historic significance as part of the PEIR because City College of San Francisco is not under the jurisdiction of the City and County of San Francisco.<sup>9</sup> However, potential historic resources associated with City College are acknowledged on page B-32 of the initial study and notes that the Science Building and Cloud Hall are the only two individually significant historic architectural resources located on the City College Ocean Campus.<sup>10</sup> The nearest potential historic resource (due to the building's age) is the City College Creative Arts Extension building, which is approximately 600 feet away from the project site, which is too far away to have an indirect impact on the potential historic resource (refer to initial study p. B-32).

Impact CR-1 also acknowledges that the land has been leased to various tenants since the 1950s, including City College. The project site is now a single existing parcel. Previous actions that have been completed prior to the initiation of the environmental analysis are considered part of the environmental setting, and not required to be analyzed under CEQA.

<sup>9</sup> San Francisco Planning Department, *Balboa Park Station Area Plan Final Environmental Impact Report*, pp. 305-307, December 4, 2008.

<sup>10</sup> City College of San Francisco, *CCSF Master Plan Draft EIR*, January 30, 2004.

### *Draft SEIR Cover*

Several commenters also state that the cover image does not fairly represent the existing land use because the parking lot in the image is empty. The images provided by the commenters show the parking conditions at the Balboa Reservoir site on August 28, 2017, at 9:30 a.m., 11:30 a.m., and 12:30 a.m. from different vantage points. These images are included in **Figure RTC-1, Parking Occupancy Photos Provided by Commenters**, for reference.<sup>11</sup> These photos were taken within the first week of instruction at City College.<sup>12</sup> It is acknowledged on initial study p. B-88 (SEIR Appendix B) that campus parking occupancy is highest during the first week of instruction in August and around 11 a.m., with an occupancy range of 78 to 90 percent during the limited peak period. Therefore, the images provided by the commenters are consistent the occupancy patterns during the first week of instruction. However, as noted on initial study p. B-89, campus parking occupancy during 10 a.m. to 4 p.m. is in the 50 to 60 percent range during other periods of the school year. The cover image is not relied upon for the environmental impact analysis and the comments on the cover image do not raise issues concerning the adequacy or accuracy of the SEIR's coverage of environmental impacts under CEQA. **Figure RTC-2, Parking Occupancy at the Project Site**, is provided for informational purposes to show the occupancy of the parking lot during other periods of the year.

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<sup>11</sup> The images provided in the commenters submittal appear to be a black and white scan of a printed article. Figure RTC-1 includes the same photos (in color) obtained from the same article available online.

<sup>12</sup> In 2017, fall instruction began on August 21. [https://www.ccsf.edu/en/educational-programs/class-schedule/fall\\_semester\\_calendar.html](https://www.ccsf.edu/en/educational-programs/class-schedule/fall_semester_calendar.html). Accessed December 22, 2019.

## Figure RTC-1 Parking Occupancy Photos Provided by Commenters

## Figure RTC-2 Parking Occupancy at the Project Site

### ***Comment CEQA-3: Administrative Record***

This response addresses comments from the commenter listed below; each comment on this topic is quoted in full below this list:

I-HANSON1-1  
I-HANSON5-1

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“Thank you for your time. My name’s Christine Hanson. And I don’t know if you can see this, but the cars in this lot -- I don’t think you’re showing the picture. I’ll just do my comment, then.

The administrative record and the draft SEIR has little information about the pressure that City agencies have exerted upon the creation of City College’s Facilities Master Plan. The meetings, ongoing today, began during the time of the state takeover of the school. City agencies began meeting then with the state-imposed administration. The administrative record in the draft SEIR makes a very slim mention of those meetings.

A public records search in 2017 showed that by then at least 17 of these private meetings had occurred, mostly at SF Planning. It was news to the board of trustees, and news to Trustee Davila, who sits on the Balboa Reservoir CAC, representing City College.

Kitchell, City College’s facility planners, whose work is included in this SEIR, answers to the question: What is the appropriate place for city agencies to address the Facilities Master Plan was; in public comment.

If you take the administrative record presented in the draft SEIR at face value, you would get the impression that this, indeed, has been the behavior of city agencies. But this is not what the collection of emails, agendas, meetings, and notes surrounding these meetings show. The agendas for those meetings are mostly similar, with the top item being the City College Facilities Master Plan.

Your planner, Jeremy Shaw, even attended one of the consultant job interviews on June 8th, 2015, with the blessing of a former state appointed facilities head at City College. The Facilities Master Plan has been upgraded twice and rebooted once. The intrusion of city agencies into a plan that should have been focused on the school’s Education Master Plan and focused on the needs of students has, instead, been formed around a private development that has literally cost the taxpayers millions in bond money.

The collection will be forwarded to you as written public comment. Thank you.”

*(Christine Hanson, CPC Meeting, September 12, 2019 [I-HANSON1-1])*

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“The Administrative record of the draft SEIR, is incomplete and misleading in regards to a portion of the communications between multiple City agencies and City College Administrative staff. The communications NOT INCLUDED in the draft SEIR were based on multiple subjects including the creation of the City College Facilities Master Plan (FMP), communications around transportation,

parking and the presentation of the City's Transportation Demand Management (TDM) plan. They show that the administrative interaction between City Agencies and City College Administrators has been about the exertion of control upon the school's sovereign process, focusing pressure and attention on a small minority of administrators— most of who were hired by the State imposed Trustee and NONE of whom had any experience or even operational knowledge of the school during its robust days before the accreditation crisis.

The entries INCLUDED in the Administrative record of the draft SEIR in regards to City College consist primarily of more recent communications between City agencies, City College Chancellor Mark Rocha, City College's Facilities planner Kitchell, and consultant Charmaine Curtis. The Facilities Master Planning process at City College which begun during the state takeover of the school, is barely noted in the DSEIR Administrative record even though many meetings were held at that time between City agencies and City College staff.

A public records search by City College Community members in August 2017 showed that by that time at least 17 of these earlier meetings had occurred at SF Planning offices or by phone. The Board of Trustees did not know of these meetings, including Trustee Davila who represents City College on the Balboa Reservoir CAC.

The use and frequent appearance of the City College Facilities Master Plan throughout the draft SEIR cannot be separated from the Administrative record, therefore the Administrative record of transactions between City Agencies and City College staff is INCOMPLETE. Even when considering all of the communications in this public comment the Administrative Record will still fall short of accurately depicting the depth of influence that San Francisco Planning, San Francisco Municipal Transportation Agency, SF Office of Employment and Workforce Development, and San Francisco Public Utilities Commission have inflicted upon the planning for City College in the interests of a private development, in the name of, but instead of, the educational planning needs of the school.

The bottom line is that most of the stakeholders at City College know very little about the true potential impact of this project and when the effects play out it will affect the overall health of the school and the people who support it. **For this reason, Planners evaluating this DSEIR must take a close and careful look at the administrative record and make inquiries into the process that has brought the DSEIR for Balboa Reservoir to this stage because the Administrative record that SF Planning staffers have submitted is incomplete."**

*(Christine Hanson, Letter, September 23, 2019 [I-HANSON5-1])*

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### **Response CEQA-3: Administrative Record**

The comments state that correspondence regarding development of the City College facilities master plan must be included in the administrative record of the proposed project because the use and frequent appearance of the facilities master plan throughout the draft SEIR cannot be separated from the administrative record. A comment also included correspondence related to the facilities master plan between the planning department and City College as part of the written public

comment. Copies of the correspondence are reproduced in RTC Attachment 2: Comment Letters and Emails on the Draft SEIR.

The commenter requests that additional correspondence and meeting materials relevant to a separate project, the City College facilities master plan, be included in the administrative record for the proposed project. Pursuant to Public Resources Code Section 21167.6(e), the record of proceedings consists of many project documents and materials including all written evidence or correspondence submitted to, or transferred from, the respondent public agency with respect to the proposed project, and any other written materials relevant to the respondent public agency's decision on the merits of the proposed project. The administrative record must contain the record of proceedings for a project from the time the project application was deemed complete by the planning department.

The Balboa Reservoir project's administrative record contains the draft SEIR and all other documents submitted to, directly cited or relied on by, the lead agency and its environmental consultants in the preparation of the draft SEIR and initial study following the project application being deemed complete (July 2018) and the notice of preparation publication (October 10, 2018). The relevant communications and reference materials included in the project's administrative record are therefore related to how the proposed project and the cumulative City College projects would interact. The planning department consulted with Rueben Smith of City College (Interim Vice Chancellor of Facilities, Planning, and Construction) and has included relevant communication with City College and information on its facilities master plan, as appropriate.

The additional correspondence submitted by the commenter are not part of the administrative record that must be posted online for the proposed project and do not represent materials relevant to the preparation of the draft SEIR. The correspondence and materials related to the facilities master plan date back to 2015 through 2017, and occur prior to the proposed project's environmental review. The facilities master plan is a separate project undertaken by a different lead agency (City College), and has independent utility to the proposed project. Therefore, the materials provided by the commenter are not part of the project's records. The planning department will continue to include all materials required under Public Resources Code Section 21165.6(e) in the record of proceedings that are relevant to the city's decision on the merits of the proposed project.

These comments do not raise significant environmental points or identify issues related to the adequacy or accuracy of the analysis contained in the SEIR.

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