

# **ATTACHMENT A**

Law Offices of  
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June 18, 2020

To the Honorable President Yee and Members of the San Francisco Board of Supervisors

RE: APPEAL OF PLANNING COMMISSION CERTIFICATION OF FINAL  
SUBSEQUENT ENVIRONMENTAL IMPACT REPORT FOR BALBOA  
RESERVOIR PROJECT. (Case No. 2018-007883ENV)

I am an attorney representing Madeline Mueller, Alvin Ya, and Wynd Kaufmyn (hereinafter, "Appellants"). On behalf of the Appellants, and pursuant to San Francisco Administrative Code Section 31.16, I hereby appeal the Planning Commission's certification of the Final Subsequent Environmental Impact Report ("FSEIR") for the Balboa Reservoir Project ("Project") and its adoption of findings supporting that certification on May 28, 2020. All of the Appellants participated in the administrative process for the preparation and approval of the FSEIR, and all submitted both oral and written comments on the Draft SEIR during the public review period. Due to the unusual present circumstances, this appeal is being submitted both electronically via email and in "hard copy" via the U.S. Mail. A check for the \$640 appeal fee is being submitted with the hard copy of the appeal.

The reasons for the appeal are substantive and procedural violations of the California Environmental Quality Act in the preparation and certification of the Final EIR, inadequate findings adopted by the Planning Commission in support of that certification, and an inadequate statement of overriding considerations. Details of the bases for this appeal are laid out below and in the attached exhibits, which exhibits are incorporated into this appeal by this reference. I expect to submit further explanation and amplification on these points in subsequent submittals to the Board prior to the hearing on this appeal.

A. Substantive Violations of the California Environmental Quality Act ("CEQA")

CEQA contains numerous provisions about what is required to be contained in an EIR. The FSEIR for this project violated a number of these provisions, making its certification improper and a violation of CEQA.

1. The Description of the Project area and existing conditions is incomplete and inaccurate. While the EIR makes passing mention of the surrounding major uses in the Project, notably the Ocean Campus of City College of San Francisco ("CCSF"), Archbishop Riordan High School, and Lick Wilmerding High School, it does not provide adequate information on the extent and nature of those uses, both present and

reasonably foreseeable, and the way they would be affected by the proposed Project. Further, while the EIR does mention that CCSF is planning to expand its Ocean Campus, and that the expansion includes the addition of new buildings, including a Performing Arts Education Building (Diego Rivera Theater) and a STEAM (science, technology, engineering, arts, and mathematics) Building, it does not mention that these buildings, which have now been funded by a bond measure passed by San Francisco voters in March 2020, would occupy a good portion of the parking lot just to the east of the Project site, which the EIR relies upon to accommodate most of the student parking needs for CCSF. The tentative construction schedule for those buildings would overlap with construction of the Project, resulting in unanalyzed potentially significant cumulative construction impacts (see attached Exhibit A – CCSF Phasing Plan). Nor does it consider that the expansion of the CCSF Ocean Campus will increase the student enrollment at that campus, and can therefore be expected to further increase the need for space to accommodate parking for its entirely commuter San Francisco student population.

2. The project description is inaccurate and inconsistent. “An accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR.” (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 199.) The Project is described as including 1,100 residential housing units, half of which (550) would be market rate and half of which would be divided between units permanently affordable to low or moderate-income tenants. However, the description of the project actually states that “up to 50 percent” of the units would be designated as affordable units. (See, Notice of Preparation at p. 14.; DSEIR at p. 6-59.) Nowhere in the EIR does it disclose exactly what percentage of the project *will* be affordable units. In fact, the DEIR makes clear that it has not yet been determined, but would depend on future “market surveys, funding source restrictions and other stakeholder input on the affordable housing plan.” (DSEIR at p. 2-13.) Not only does this not comply with the requirements that the project description be stable, accurate, and finite, but it also implicates the Project’s impact analysis. It is well known that lower income households are more likely to use public transit for a higher percentage of their household trips than are upper income households of the type who would occupy market rate, or even moderate-income, units. Consequently, leaving the final percentage of affordable units, as well as their level of affordability, unspecified makes the analysis of vehicle miles traveled for the Project indeterminate and hence inaccurate. That, in turn, also affects the Project’s other impacts, including air quality, pedestrian and bicyclist safety, and transit delay impacts.
3. Failure to identify and mitigate significant impacts, including: 1) cumulative construction impacts (noise, air quality, transit delay, pedestrian and bicyclist safety) from construction of the Project and adjoining CCSF construction projects. 2) transportation (VMT) and air quality impacts due to cumulative parking shortage and resulting “cruising” by students and other searching for available on-street parking spaces.<sup>1</sup> 3) land use impacts, including not disclosing that the proposed project is

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<sup>1</sup> This impact was grossly underestimated, as the number of marking spaces available for CCSF students and faculty were grossly overestimated by not considering the increased parking demand

fundamentally inconsistent with priority policies adopted by the voters of San Francisco in Proposition M, specifically: Policy #2 – That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods, and Policy #7 – That our parks and open space and their access to sunlight and vistas be protected from development. Both of these policies were adopted to protect the environment. 4) Noise impacts on the adjoining CCSF Multi-Use Building, which houses childcare classes, as well as on other childcare facilities and schools in the vicinity of the Project site. The children in these childcare facilities and schools are sensitive receptors who will be especially harmed by construction and operational noise impacts. This impact was neither identified, nor was mitigation of the impact considered. In addition, the FSEIR erroneously identified the time of least noise sensitivity as between 9 AM and 4 PM. Yet this is the time when classes are being held at CCSF, and childcare facilities are in operation, including time for naps for very young children. These are NOT times on minimum sensitivity.

4. Failure to include a reasonable range of feasible alternatives, including specifically alternatives that would reduce significant impacts so as to allow all decision makers and the public to make reasoned choices. The FEIR, with no supporting evidence, asserts that an alternative that would construct a 100% affordable housing project is infeasible. As justification, the City asserts that a 100% affordable project would not meet the project objective of building “a mixed-income community with a high percentage of affordable units to provide housing options at a range of income levels.” However, a 100% affordable project could include both moderate and low-income units. If that was not a sufficient range, some very low-income units could be added. It should be noted that the area surrounding the project already includes significant amounts of moderate upper income households; so removing market rate units would still result in a mixed-income community.

The City also claims that SFPUC ratepayers need to be provided fair market value for the land PUC owns.<sup>2</sup> However, if the land remains in the hands of the City and County, there has been no change in ownership, so the ratepayers would not have been “short-changed.” Finally, the City claims that a 100% affordable project would be a different project. Of course, that is correct, but noting in CEQA requires that a project alternative be no more than a variant on the proposed project. A 100% affordable city-owned project is still an alternative that should have been given serious consideration. Not only would it have been a smaller project (with at roughly the same amount of affordable housing), and therefore have reduced transit delay, air quality, and construction noise impacts, but because it is well documented that lower income households use transit more, the transit delay impacts due to auto use in the Project would be further reduced. Further, if some of the low and moderate income units were dedicated to faculty at CCSF and other nearby schools and residents who

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from implementation of the CCSF Master Plan. (Compare Tables 13 and 14 in the attached traffic analysis (Exhibit B). The SEIR used Table 13 when Table 14 was the proper table.)

<sup>2</sup> It is highly questionable whether the price at which the property is being offered to the Project developers, \$11 million, represents the fair market value for this 17 acre parcel.



work nearby, those residents would walk to work, totally eliminating their impacts on transit. In short, a 100% affordable project was a feasible alternative with lower impacts that was unjustifiably excluded from consideration.

5. Ignoring the cumulative impacts of the Project, taken together with impacts associated with implementation of the City College of San Francisco Master Plan, and specifically the long-planned Diego Rivera Theater and STEAM Building, located directly adjacent to the Project site, and which will significantly exacerbate air quality, transit delay, and bicyclist safety impacts that have already been identified as significant and unavoidable.

B. Procedural violations of CEQA – failure to recirculate DSEIR based on changed circumstances and new information that will require substantial modifications to the EIR. (CEQA Guidelines § 15088.5; *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal. 4th 1112.)

The circulation of the DSEIR was completed on September 23, 2019. However, the Responses to Comments was not issued until April 29, 2020. During the intervening period, the COVID-19 pandemic began, resulting in a shelter-in-place order that has extended from March 2020 to the present. During that time, public transit availability and usage has dramatically decreased – by over 90%. Concomitantly, there has been a dramatic increase in the use of telecommuting by employees, both in San Francisco, the Bay Area, and throughout California. Further, the hiring of new employees in San Francisco had been reduced practically to zero, and the vacancy rate for rental housing has dramatically increase due to residents leaving the City because they no longer need to or want to continue living here. While one can expect to see some hiring/rehiring once the shelter in place order is lifted, and there will likely be some return to use of public transit, it is likely that many of the changes induced by the pandemic will result in permanent changes to San Francisco’s lifestyle, including less public transit use an far more telecommuting. All of these are facts of general knowledge that the Board of Supervisors, and the San Francisco Planning Department and well aware of.

Nevertheless, the Planning Department released a Response to Comments Document that totally ignored the circumstances of the COVID 19 pandemic and its implications for what makes sense for the use of this site. In essence, the San Francisco Planning Department has attempted to ignore the dramatically altered circumstances surrounding this project. Those circumstances make the analysis presented in the FSEIR essentially irrelevant. A new analysis taking into account these changes circumstances is needed before an informed decision can be made about whether this Project still makes sense.

C. Inadequate Findings to support certification of the FSEIR.

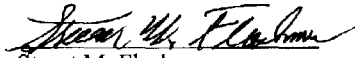
The findings made is support of the certification of the FSEIR, including the CEQA findings, are inadequate in that they do not adequately support the certification of the EIR and they are not supported by substantial evidence in the record. In addition, the Statement of Overriding Considerations approved in support of the EIR’s certification

and the Project's approval is invalid because it understates the Project's significant and unavoidable impacts, thus making any attempt to balance those impacts against the Project's putative benefits invalid. Further, many of the claimed benefits are not supported by substantial evidence in the record and the claim that any one of the claimed benefits would suffice to outweigh the Project's impacts is conclusory and unsupported by any explanation or justification, especially when several of the significant and unavoidable Project impacts would adversely affect human health and safety for inhabitants of the area surrounding the Project, including bicyclists, students, and young children.

Finally, I would like to request, as a matter of procedural fairness, the following when this matter is brought to hearing before the Board of Supervisors: 1) That the time allotted to City staff and the project proponent in opposing the appeal be equal to the amount of time allotted to the appellants to present their appeals; 2) that the appellants be allowed a reasonable amount of time for rebuttal of the arguments presented by staff and the project proponent; and 3) that the appeal be scheduled early enough in the day that members of the public who wish to speak on the appeal have a reasonable time available to make their comments without having the hearing run on until the early morning hours, when those with daytime jobs will have had to leave in order to get up for work the next morning.

We hope that the Board of Supervisors will give this appeal the serious attention and consideration that the many questions surrounding this large and impactful project deserve.

Respectfully Submitted:



Stuart M. Flashman  
Attorney for Appellants

Attachments:

Exhibits A & B  
Planning Commission Resolutions M-20730, M-20731  
Check for appeal fee

CC:

San Francisco Environmental Review Officer  
Ms. J. Poling, S.F. Planning Dept.  
San Francisco Public Utilities Commission

## **ATTACHMENT B**

## **ATTACHMENT C**



# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Motion No. 20730

HEARING DATE: MAY 28, 2020

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*Case No.:* 2018-007883ENV  
*Project Title:* **Balboa Reservoir Project**  
*Zoning:* P (Public)  
40-X and 65-X Height District  
Balboa Park Station Plan Area  
*Block/Lot:* Assessor's Block 3180/Lot 190  
*Project Sponsors:* Reservoir Community Partners, LLC  
Joe Kirchofer, Avalon Bay Communities  
(415) 284-9082 or [Joe\\_Kirchofer@avalonbay.com](mailto:Joe_Kirchofer@avalonbay.com)  
Brad Wiblin, Bridge Housing  
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**ADOPTING FINDINGS RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR THE PROPOSED BALBOA RESERVOIR PROJECT. THE SUBSEQUENT EIR EVALUATES TWO DIFFERENT OPTIONS FOR THE SITE'S RESIDENTIAL DENSITY: (1) THE DEVELOPER'S PROPOSED OPTION (1,100 DWELLING UNITS), PROPOSED BY RESERVOIR COMMUNITY PARTNERS LLC; AND (2) THE ADDITIONAL HOUSING OPTION (1,550 DWELLING UNITS), PROPOSED BY THE CITY. OVERALL, THE PROPOSED PROJECT WOULD CONSTRUCT UP TO APPROXIMATELY 1.8 MILLION GROSS SQUARE FEET OF USES, INCLUDING BETWEEN APPROXIMATELY 1.3 AND 1.5 MILLION GROSS SQUARE FEET OF RESIDENTIAL SPACE, APPROXIMATELY 10,000 GROSS SQUARE FEET OF COMMUNITY SPACE, APPROXIMATELY 7,500 GROSS SQUARE FEET OF RETAIL, UP TO 550 RESIDENTIAL PARKING SPACES AND 750 PUBLIC PARKING SPACES IN THE DEVELOPER'S PROPOSED OPTION, AND UP TO 650 RESIDENTIAL PARKING SPACES IN THE ADDITIONAL HOUSING OPTION. THE BUILDINGS WOULD RANGE IN HEIGHT FROM 25 TO 78 FEET IN THE DEVELOPER'S PROPOSED OPTION AND FROM 25 TO 88 FEET IN THE ADDITIONAL HOUSING OPTION.**

MOVED, that the San Francisco Planning Commission (hereinafter "Commission") hereby CERTIFIES the final subsequent environmental impact report identified as Case No. 2018-0078838ENV, the "Balboa Reservoir Project" (hereinafter "Project"), based upon the following findings:

1. The City and County of San Francisco, acting through the Planning Department (hereinafter "Department") fulfilled all procedural requirements of the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 *et seq.*, hereinafter "CEQA"), the State CEQA Guidelines (Cal. Admin.

Code Title 14, Section 15000 *et seq.*, (hereinafter “CEQA Guidelines”), and Chapter 31 of the San Francisco Administrative Code (hereinafter “Chapter 31”).

- A. The Department determined that an environmental impact report (hereinafter “EIR”) was required and provided public notice of that determination by publication in a newspaper of general circulation on October 10, 2018.
  - B. The Department held a public scoping meeting on October 30, 2018, in order to solicit public comment on the scope of the Project’s environmental review.
  - C. On August 7, 2019, the Department published the draft subsequent environmental impact report (hereinafter “DSEIR”) and provided public notice in a newspaper of general circulation of the availability of the DSEIR for public review and comment and of the date and time of the Planning Commission public hearing on the DSEIR; this notice was mailed to the Department’s list of persons requesting such notice.
  - D. Notices of availability of the DSEIR and of the date and time of the public hearing were posted near the project site on August 7, 2019.
  - E. On August 7, 2019, copies of the DSEIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list in the DSEIR, and to government agencies, the latter both directly and through the State Clearinghouse.
  - F. A Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on August 7, 2019.
- 2. The Commission held a duly advertised public hearing on said DSEIR on September 12, 2019, at which opportunity for public comment was given, and public comment was received on the DSEIR. The period for acceptance of written comments ended on September 23, 2019.
  - 3. The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the 47-day public review period for the DSEIR, prepared revisions to the text of the DSEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DSEIR. This material was presented in a responses to comments (RTC) document published on April 29, 2020 and distributed to the Commission; other boards, commissions and departments that will carry out or approve the project; and all parties who commented on the DSEIR. The RTC document was also made available to others upon request.
  - 4. A final subsequent environmental impact report (hereinafter “FSEIR”) has been prepared by the Department, consisting of the DSEIR, any consultations and comments received during the review process, any additional information that became available, and the RTC document, all as required by law.



5. Project EIR files have been made available for review by the Commission and the public. These files are available for public review at <http://ab900balboa.com/>, and are part of the record before the Commission.
6. On May 28, 2020, the Commission reviewed and considered the information contained in the FSEIR and hereby does find that the contents of said report and the procedures through which the FSEIR was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.
7. The Planning Commission hereby does find that the FSEIR concerning File No. 2018-007883ENV reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate, and objective, and that the RTC document contains no significant revisions to the DSEIR that would require recirculation of the document pursuant to CEQA Guideline section 15088.5, and hereby does CERTIFY THE COMPLETION of said FSEIR in compliance with CEQA, the CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code.
8. The Commission, in certifying the completion of said FSEIR, hereby does find that the Project described in the FSEIR would have the following significant unavoidable environmental impacts, which cannot be mitigated to a level of insignificance:
  - A. **TR-6b:** Operation of the proposed project, including proposed street network changes, would impact existing passenger and freight loading zones along Lee Avenue between Ocean Avenue and the project site, and may create potentially hazardous conditions for people bicycling and may substantially delay public transit.
  - B. **C-TR-4:** The proposed project, in combination with reasonably foreseeable future projects, may result in a potentially significant cumulative impact related to public transit delay and the project could contribute considerably.
  - C. **C-TR-6b:** Operation of the proposed project, including proposed street network changes, in combination with reasonably foreseeable future projects, would impact existing passenger and freight loading zones along Lee Avenue between Ocean Avenue and the project site, and may create potentially hazardous conditions for people bicycling and may substantially delay public transit.
  - D. **NO-1:** Project construction would cause a substantial temporary or periodic increase in ambient noise levels at noise-sensitive receptors above levels existing without the project.
  - E. **C-NO-1:** Cumulative construction of the proposed project, in combination with construction of reasonably foreseeable future projects, could cause a substantial temporary or periodic increase in ambient noise levels.
  - F. **AQ-2a:** During construction, the proposed project would generate criteria air pollutants which would violate an air quality standard, contribute substantially to an existing or projected air quality violation, or result in a cumulatively considerable net increase in criteria air pollutants.

- G. **AQ-4:** Construction and operation of the proposed project would generate toxic air contaminants, including DPM, which could expose sensitive receptors to substantial pollutant concentrations.
  - H. **C-AQ-1:** The proposed project, in combination with reasonably foreseeable future projects, would contribute to cumulative regional air quality
  - I. **C-AQ-2:** The proposed project, in combination with reasonably foreseeable future projects, could contribute to cumulative health risk impacts on sensitive receptors.
9. The Commission reviewed and considered the information contained in the FSEIR prior to approving the Project.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting May 28, 2020.



Jonas P. Ionin  
Commission Secretary

AYES: Koppel, Moore, Chan, Diamond, Fung, Imperial, Johnson  
NOES: None  
ABSENT: None  
ADOPTED: May 28, 2020



## **ATTACHMENT D**



# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Motion No. 20731

HEARING DATE: MAY 28, 2020

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*Case No.:* 2018-007883ENV  
*Project Title:* **Balboa Reservoir Project**  
*Zoning:* P (Public)  
40-X and 65-X Height District  
Balboa Park Station Plan Area  
*Block/Lot:* Assessor's Block 3180/Lot 190  
*Project Sponsors:* Reservoir Community Partners, LLC  
Joe Kirchofer, Avalon Bay Communities  
(415) 284-9082 or Joe\_Kirchofer@avalonbay.com  
Brad Wiblin, Bridge Housing  
(415) 321-3565 or bwiblin@bridgehousing.com  
*Staff Contact:* Seung Yen Hong  
(415) 575-9026 or seungyen.hong@sfgov.org

**ADOPTING FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT ("CEQA") AND THE CEQA GUIDELINES INCLUDING FINDINGS OF FACT, FINDINGS REGARDING SIGNIFICANT AND UNAVOIDABLE IMPACTS, EVALUATION OF MITIGATION MEASURES AND ALTERNATIVES, THE ADOPTION OF A MITIGATION, MONITORING AND REPORTING PROGRAM AND THE ADOPTION OF A STATEMENT OF OVERRIDING CONSIDERATIONS IN CONNECTION WITH APPROVALS FOR THE BALBOA RESERVOIR PROJECT.**

### PREAMBLE

The Balboa Reservoir project site is a 17.6-acre rectangular parcel and encompasses Assessor's Block 3180/Lot 190. The site is bounded by City College to the east, Archbishop Riordan High School to the north, the Westwood Park neighborhood to the west, and mixed-use multifamily residential development along Ocean Avenue to the south. The site is less than 0.25 mile north of Ocean Avenue, the primary retail corridor in the Ingleside-Westwood Park neighborhood. The project site is within a P (Public) District and located in 40-X and 65-A Height and Bulk Districts. The project site is within the central portion of the Balboa Park Station Plan Area. The City adopted the area plan in 2009, but the City did not rezone the site as part of plan adoption.

The project site is bounded on three sides by sloping western, northern, and eastern edges that surround a sunken paved surface at the center. It is bounded on the southern side by mixed-use development along Ocean Avenue. An approximately 30-foot-tall earthen berm is located at the western edge of the property. The asphalt-paved surface is relatively level with a slope of 0 to 5 percent, sloping gently up from west to east. There is an approximately 18- and 30-foot increase in elevation between the project site bottom and the top of the eastern and northern slopes, respectively. Along the southern boundary of the site is an 80-foot-wide section of the parcel where a high-pressure underground pipeline maintained by the SFPUC is located

(SFPUC right-of-way). The site does not contain any permanent structures and currently contains 1,007 surface vehicular parking spaces. The lot provides overflow vehicular parking for City College students, faculty, and staff. A cargo storage container is located on the west side of the site, at the foot of the berm slope. The parking lot is entirely paved with no vegetation. The western and northern slopes contain scattered trees and shrubs, with paved pathways along the tops of these slopes. Paved walkways, stairs, vegetation, and lighting are located on the eastern slope, providing pedestrian connections between the project site and adjacent City College property containing parking and the College's Multi-Use Building.

The Project is analyzed as the "Developer's Proposed Option" in the Balboa Reservoir Final Subsequent Environmental Impact Report (hereafter, "FSEIR"), except that the height limit of the easternmost 58 feet of Blocks TH1, TH2 and H is 48 feet, as analyzed in the Additional Housing Option in the FSEIR, rather than 35 feet as analyzed in the Developer's Proposed Option. There would be no additional units associated with this change in height limit. The Project would rezone the site and establish development controls for the development of mixed-income housing, open space, community facilities, small retail, parking, streets, and other infrastructure. The project would include amendments to the General Plan and the Planning Code, and would create a new Balboa Reservoir Special Use District ("SUD"). The special use district would establish land use zoning controls and incorporate design standards and guidelines for the site. The Zoning Map would be amended to show changes from the current use district (P [Public]) to the proposed special use district, except for the SFPUC Right-of-Way which would remain in the P district. The existing height limits of 40 to 65 feet would be modified to varying heights up to 78 feet, as measured by the Planning Code. The Project would include new publicly accessible open space, transportation and circulation changes, and new utilities and other infrastructure. Transportation and circulation changes would include the extension of the existing north-south Lee Avenue across the site and a new internal street network. The project would include a roadway network to be accessible for people walking, including people with disabilities, bicycling, and driving.

The Project would include up to 1.64 million gross square feet in new construction on 10 Blocks and provide approximately 1,100 residential units totaling about 1.3 million gross square feet. A total of up to 50 percent of the new units would be designated affordable to low- and moderate-income households and would include up to 150 units restricted to occupancy by educator households. The Project would contain approximately 10,000 gross square feet of childcare and community space, approximately 7,500 gross square feet of retail space, approximately 550 off-street residential parking spaces and up to 450 off-street public parking spaces for use by the public.

The Planning Department determined that a subsequent environmental impact report (hereinafter "SEIR") was required and provided public notice of that determination by publication in a newspaper of general circulation on October 10, 2018.

The Department held a public scoping meeting on October 30, 2018, in order to solicit public comment on the scope of the Project's environmental review.

On August 7, 2019, the Department published the draft subsequent environmental impact report (hereinafter "DSEIR") and provided public notice in a newspaper of general circulation of the availability

of the DSEIR for public review and comment and of the date and time of the Planning Commission public hearing on the DSEIR; this notice was mailed to the Department's list of persons requesting such notice.

Notices of availability of the DSEIR and of the date and time of the public hearing were posted near the project site on August 7, 2019.

On August 7, 2019, copies of the DSEIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list in the DSEIR, and to government agencies, the latter both directly and through the State Clearinghouse.

A Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on August 7, 2019.

The Commission held a duly advertised public hearing on said DSEIR on September 12, 2019, at which opportunity for public comment was given, and public comment was received on the DSEIR. The period for acceptance of written comments ended on September 23, 2019.

The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the 47-day public review period for the DSEIR, prepared revisions to the text of the DSEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DSEIR. This material was presented in a responses to comments (RTC) document published on April 29, 2020, and distributed to the Commission, other boards, commissions, and departments that will carry out or approve the project, and all parties who commented on the DSEIR. The RTC document was also made available to others upon request.

A FSEIR has been prepared by the Department, consisting of the DSEIR, any consultations and comments received during the review process, any additional information that became available, and the RTC document, all as required by law.

Project SEIR files have been made available for review by the Commission and the public. These files are available for public review at <http://ab900balboa.com>, and are part of the record before the Commission.

The Commission reviewed and considered the FSEIR for the Project and found the contents of said report and the procedures through which the FSEIR was prepared, publicized, and reviewed complied with the California Environmental Quality Act (Public Resources Code sections 21000 et seq.), the CEQA Guidelines (14 Cal. Code Reg. sections 15000 et seq.), and Chapter 31 of the San Francisco Administrative Code.

The Commission found the FSEIR was adequate, accurate and objective, reflected the independent analysis and judgment of the Department and the Planning Commission, and that the summary of comments and responses contained no significant revisions to the DEIR, and certified the FSEIR for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31 by its Motion No. 20730.

The Commission, in certifying the completion of said FSEIR, found that the Project described in the FSEIR would have the following significant unavoidable environmental impacts that cannot be mitigated to a level of insignificance:



- A. **TR-6b:** Operation of the proposed project, including proposed street network changes, would impact existing passenger and freight loading zones along Lee Avenue between Ocean Avenue and the project site, and may create potentially hazardous conditions for people bicycling and may substantially delay public transit.
- B. **C-TR-4:** The proposed project, in combination with reasonably foreseeable future projects, may result in a potentially significant cumulative impact related to public transit delay and the project could contribute considerably.
- C. **C-TR-6b:** Operation of the proposed project, including proposed street network changes, in combination with reasonably foreseeable future projects, would impact existing passenger and freight loading zones along Lee Avenue between Ocean Avenue and the project site, and may create potentially hazardous conditions for people bicycling and may substantially delay public transit.
- D. **NO-1:** Project construction would cause a substantial temporary or periodic increase in ambient noise levels at noise-sensitive receptors above levels existing without the project.
- E. **C-NO-1:** Cumulative construction of the proposed project, in combination with construction of reasonably foreseeable future projects, could cause a substantial temporary or periodic increase in ambient noise levels.
- F. **AQ-2a:** During construction, the proposed project would generate criteria air pollutants which would violate an air quality standard, contribute substantially to an existing or projected air quality violation, or result in a cumulatively considerable net increase in criteria air pollutants.
- G. **AQ-4:** Construction and operation of the proposed project would generate toxic air contaminants, including DPM, which could expose sensitive receptors to substantial pollutant concentrations.
- H. **C-AQ-1:** The proposed project, in combination with reasonably foreseeable future projects, would contribute to cumulative regional air quality
- I. **C-AQ-2:** The proposed project, in combination with reasonably foreseeable future projects, could contribute to cumulative health risk impacts on sensitive receptors.

The Commission reviewed and considered the information contained in the FSEIR prior to approving the Project.

The Commission Secretary is the Custodian of Records for the Planning Department materials, located in the File for Case No. 2018-007883ENV. Such records are available at the Planning Department, 1650 Mission Street, Suite 400, San Francisco, CA 94103.

On May 28, 2020, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Case No. 2018-007883ENV to consider the approval of the Project. The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written

materials and oral testimony presented on behalf of the Project, the Planning Department staff, expert consultants and other interested parties.

The Commission has reviewed the entire record of this proceeding, the CEQA Findings, attached to this Motion as Attachment A and incorporated fully by this reference, regarding the rejection of alternatives, mitigation measures, environmental impacts analyzed in the FSEIR and overriding considerations for approving the Project, and the proposed Mitigation Monitoring and Reporting Program ("MMRP") attached as Attachment B and incorporated fully by this reference. These material were made available to the public as part of the records on file with the Commission Secretary.

MOVED, That the Commission finds that the FSEIR addressed the full scope of the Project under consideration and hereby adopts these findings under CEQA, including rejecting alternatives as infeasible and adopting a Statement of Overriding Considerations, as further set forth in Attachment A hereto, and adopts the MMRP attached as Attachment B, based on substantial evidence in the entire record of this proceeding.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting May 28, 2020.



Jonas P. Ionin  
Commission Secretary

AYES: Chan, Diamond, Fung, Imperial, Johnson, Koppel, Moore  
NOES: None  
ABSENT: None  
ADOPTED: May 28, 2020

## Attachment A

# California Environmental Quality Act Findings

### PREAMBLE

In determining to approve the Balboa Reservoir project described in Section I below (the "Project"), the San Francisco Planning Commission (the "Commission") makes and adopts the following findings of fact and decisions regarding the Project description and objectives, significant impacts, significant and unavoidable impacts, mitigation measures and alternatives, and a statement of overriding considerations, based on substantial evidence in the whole record of this proceeding and pursuant to the California Environmental Quality Act, California Public Resources Code Sections 21000 et seq. ("CEQA"), particularly Section 21081 and 21081.5, the Guidelines for Implementation of CEQA, 14 California Code of Regulations Sections 15000 et seq. ("CEQA Guidelines"), in particular Sections 15091 through 15093, and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"). The Commission adopts these findings in conjunction with the Approval Actions described in Section I(c), below, as required by CEQA, separate and apart from the Commission's certification of the Project's final subsequent environmental impact report ("FEIR"), which the Commission certified prior to adopting these CEQA findings.

These findings are organized as follows:

**Section I** provides a description of the proposed Balboa Reservoir Project, the environmental review process for the Project, the City approval actions to be taken, and the location and custodian of the record.

**Section II** lists the Project's less-than-significant impacts that do not require mitigation.

**Section III** identifies potentially significant impacts that can be avoided or reduced to less-than-significant levels through mitigation and describes the disposition of the mitigation measures.

**Section IV** identifies significant project-specific or cumulative impacts that would not be eliminated or reduced to a less-than-significant level and describes any applicable mitigation measures as well as the disposition of the mitigation measures. The FEIR identified mitigation measures to address these impacts, but implementation of the mitigation measures will not reduce the impacts to a less than significant level.

Sections III and IV set forth findings as to the mitigation measures proposed in the FEIR. (The draft subsequent EIR ("DEIR") and the comments and responses document together comprise the FEIR.) Attachment B to the Planning Commission Motion contains the mitigation monitoring and reporting program ("MMRP"), which provides a table setting forth each mitigation measure listed in the FEIR that is required to reduce a significant adverse impact.

**Section V** identifies the project alternatives that were analyzed in the DEIR and discusses the reasons for their rejection.

**Section VI** sets forth the Planning Commission's Statement of Overriding Considerations pursuant to CEQA Guidelines Section 15093.

The MMRP for the mitigation measures that have been proposed for adoption is attached with these findings as **Attachment B** to this Motion. The MMRP is required by CEQA Section 21081.6 and CEQA Guidelines Section 15091. Attachment B provides a table setting forth each mitigation measure listed in the FEIR that is required to reduce a significant adverse impact. Attachment B also specifies the agency responsible for implementation of each measure and establishes monitoring actions and a monitoring schedule. The full text of the mitigation measures is set forth in Attachment B.

These findings are based upon substantial evidence in the entire record before the Commission. The references set forth in these findings to certain pages or sections of the DEIR or the responses to comments document, with together comprise the FEIR, are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these findings.

## **I. PROJECT DESCRIPTION AND PROCEDURAL BACKGROUND**

### **A. Project Description**

The project site is a 17.6-acre rectangular parcel and encompasses Assessor's Block 3180/Lot 190. The site is bounded by City College to the east, Archbishop Riordan High School to the north, the Westwood Park neighborhood to the west, and mixed-use multifamily residential development along Ocean Avenue to the south. The site is less than 0.25 mile north of Ocean Avenue, the primary retail corridor in the Ingleside-Westwood Park neighborhood. The project site is within a P (Public) District and located in 40-X and 65-A Height and Bulk Districts. The project site is within the Balboa Park Station Plan Area. The City adopted the area plan in 2009, but the City did not rezone the site as part of plan adoption.

The project site is bounded on three sides by sloping western, northern, and eastern edges that surround a sunken paved surface at the center. It is bounded on the southern side by mixed-use development along Ocean Avenue. An approximately 30-foot-tall earthen berm is located at the western edge of the property. The asphalt-paved surface is relatively level with a slope of 0 to 5 percent, sloping gently up from west to east. There is an approximately 18- and 30-foot increase in elevation between the project site bottom and the top of the eastern and northern slopes, respectively. Along the southern boundary of the site is an 80-foot-wide section of the parcel where a high-pressure underground pipeline maintained by the SFPUC is located (SFPUC right-of-way). The site does not contain any permanent structures and currently contains 1,007 surface vehicular parking spaces. The lot provides overflow vehicular parking for City College students, faculty, and staff. A cargo storage container is located on the west side of the site, at the foot of the berm slope. The parking lot is entirely paved with no vegetation. The western and northern slopes contain scattered trees and shrubs, with paved pathways along the tops of these slopes. Paved walkways, stairs, vegetation, and lighting are located on the eastern slope, providing pedestrian connections between the project site and adjacent City College property containing parking and the college's four-story Multi-Use Building.

The Project would include up to 1.64 million gross square feet in new construction on 10 blocks and would provide approximately 1,100 residential units totaling about 1.3 million gross square feet. A total of up to 50 percent of the new units would be designated affordable to persons earning between 55 and 120 percent of the area median income and would include up to 150 units restricted to occupancy by educator



households with an average income of 100 percent of the area median income. The Project would contain approximately 10,000 gross square feet of childcare and community space, approximately 7,500 gross square feet of retail space, approximately 550 off-street residential parking spaces and up to 450 off-street public parking spaces for use by the public. Maximum heights of new buildings would range between 25 feet and 78 feet. The Project is analyzed as the “Developer’s Proposed Option” in the FEIR, except that the height limit of the easternmost 58 feet of Blocks TH1, TH2 and H is 48 feet. The 48-foot height on these blocks is consistent with the analysis for the Additional Housing Option in the FEIR, rather than 35 feet as analyzed in the Developer’s Proposed Option in the FEIR. There would be no additional units in the Project associated with this change in height limit. On December 30, 2019, the Project was certified as an eligible project under the Jobs and Economic Improvement Through Environmental Leadership Act of 2011.

The Project would rezone the site and establish development controls for the development of mixed-income housing, open space, community facilities, small retail, parking, streets, and other infrastructure. The project would include amendments to the General Plan and the Planning Code and would create a new Balboa Reservoir Special Use District (“SUD”). The special use district would establish land use zoning controls and incorporate design standards and guidelines for the site. The Zoning Map would be amended to show changes from the current use district (P [Public]) to the proposed special use district, except for the SFPUC right-of-way, which would remain in the P district. The existing height limits of 40 to 65 feet would be modified to varying heights up to 78 feet, as measured by the Planning Code. The Project would include new publicly accessible open space, transportation and circulation changes, and new utilities and other infrastructure. Transportation and circulation changes would include the extension of the existing north-south Lee Avenue across the site and a new internal street network. The project would include a roadway network to be accessible for people walking, including people with disabilities, bicycling, and driving.

## **B. Project Objectives**

The City and County of San Francisco and the SFPUC, as the current owner of the project site, and be BHC Balboa Builders LLC, the project sponsor, seek to fulfill the following shared objectives associated with the Balboa Reservoir project:

- Implement the goals of the City’s 2014 Public Land for Housing program and the Surplus Public Lands Initiative (Proposition K), passed by the voters in November 2015, by replacing an underused surface parking lot located on surplus public land with a substantial amount of new housing, including a high percentage of affordable housing.
- Implement the objectives and goals of the General Plan Housing Element and of the 2009 Balboa Park Station Area Plan that calls for the development of a mixed-use residential neighborhood on the west reservoir to address the citywide demand for housing.
- Contribute to the City’s goal of creating 5,000 housing units each year on a site specifically identified in the General Plan for additional housing in close proximity to local and regional public transportation by maximizing the number of housing units in the project.
- Build a high-quality residential community with a wide range of building types and heights, and a range of dwelling unit type and tenure, which will provide new residents with the greatest variety of housing options.

- Build a mixed-income community with a high percentage of affordable units to provide housing options for households at a range of income levels, and by doing so facilitate a neighborhood that fosters personal connections across income ranges.
- Replace the reservoir's abandoned infrastructure with new infrastructure improvements, including new streets and sidewalks, bicycle and pedestrian amenities, pedestrian paseos and multiuse paths, water, sewer and gas/electric utilities, new fire hydrant infrastructure and an extension of the City's Auxiliary Water Supply System (AWSS), and community facilities including one new public park, another major open space, a community center, and a childcare facility.
- Establish pedestrian and bicycle connections from the project site to adjacent neighborhoods including City College of San Francisco, Ocean Avenue, Sunnyside and Westwood Park, and increase and improve pedestrian access to transit connections in the area including Bay Area Rapid Transit (BART), Municipal Railway (Muni) light-rail and bus lines, and Muni's City College Terminal.
- As stated in the City's Balboa Reservoir Request for Proposals, work with City College to address parking needs by identifying substitute parking and transportation solutions.
- Develop a project that is financially feasible and able to support the financial investment that will be required to realize it, including equity and debt return levels that will be required by investors and lenders to finance residential developments, as well as eligibility for required federal, state, regional, and local sources of subsidy for infrastructure and utility construction and affordable housing.

The City and SFPUC have the following additional objective:

- Provide SFPUC's water utility ratepayers with fair market value for this utility land asset as required by the city's charter and applicable law.

### **C. Project Approvals**

The Project requires the following public agency approvals:

#### **California Regional Water Quality Control Board – San Francisco Bay Region**

- Approval of Section 401 water quality certification
- Approval of General Construction Stormwater Permit

#### **Bay Area Air Quality Management District**

- Approval of any necessary air quality permits (e.g., Authority to Construct and Permit to Operate) for individual air pollution sources, such as emergency diesel generators

#### **San Francisco Community College District**

- Act as responsible agency under CEQA
- Approval of an amended easement and access agreement

#### **San Francisco Board of Supervisors**

- Adoption of CEQA findings

- Approval of General Plan amendments
- Approval of Planning Code amendments (SUD) and associated zoning map and height map amendments
- Approval of a development agreement
- Approval of dedications and easements for public improvements, and acceptance of public improvements, as necessary
- Approval of an amended easement and access agreement with the San Francisco Community College District for roadway access and any joint development of streets, if applicable
- Approval of a resolution(s) authorizing the sale of property under SFPUC jurisdiction and various license agreements for use, construction, and open space on SFPUC property

**San Francisco Planning Commission**

- Certification of the FEIR
- Adoption of CEQA findings
- Initiation and recommendation to the San Francisco Board of Supervisors to approve amendments to the General Plan
- Recommendation to the San Francisco Board of Supervisors to approve Planning Code amendments adopting an SUD and associated zoning map amendments
- Approval of Design Standards and Guidelines
- Approval of the Project as part of the development agreement and recommendation to the San Francisco Board of Supervisors to approve a development agreement

**San Francisco Public Utilities Commission or General Manager**

- Adoption of CEQA findings
- Actions and approvals related to a development agreement and an agreement for the sale of property under SFPUC jurisdiction, and various license agreements for use, construction, and open space on SFPUC property and other actions and approvals related to its jurisdictional authority
- Approval of an amended easement and access agreement with the San Francisco Community College District for roadway access and any joint development of streets, if applicable

**San Francisco Department of Public Works**

- Actions and approvals related to its jurisdictional authority

**San Francisco Municipal Transportation Agency**

- Actions and approvals related to a development agreement and approval of transit improvements, public improvements and infrastructure, including certain roadway improvements, stop controls, bicycle infrastructure and loading zones, to the extent included in the project

**San Francisco Fire Department**

- Actions and approvals related to its jurisdictional authority

**San Francisco Department of Building Inspection**

- Approval and issuance of demolition, grading, and site construction permits
- Nighttime construction permit, if required

**San Francisco Department of Public Health**

- Actions and approvals related to its jurisdictional authority

**D. Environmental Review**

The project sponsor filed an environmental evaluation application with the Planning Department on May 31, 2018. This filing initiated the environmental review process. The EIR process includes an opportunity for the public to review and comment on the Project's potential environmental effects and to further inform the environmental analysis.

On October 10, 2018, the Planning Department issued the notice of preparation (NOP) of an EIR on the proposed Balboa Reservoir project and made the NOP available on its website. The NOP was sent to governmental agencies, organizations, and persons interested in the Project, and publication of the NOP initiated the 30-day public scoping period for this DEIR, which started on October 10, 2018, and ended on November 12, 2018. The NOP included a description of the Project and a request for agencies and the public to submit comments on the scope of environmental issues.

The Planning Department held a public scoping meeting on Tuesday, October 30, 2018, at the Lick Wilmerding High School Cafeteria, 755 Ocean Avenue, San Francisco, to receive oral comments on the scope of the DEIR. During the scoping period, a total of 84 comment letters and emails were submitted to the Planning Department and 16 speakers provided oral comments at the public scoping session. The Planning Department considered all of these comments in preparing the FEIR for the Project.

On August 7, 2019, the Department published a draft environmental impact report (hereinafter "DEIR"), including an initial study, and provided public notice in a newspaper of general circulation of the availability of the DEIR for public review and comment and of the date and time of the Planning Commission public hearing on the DEIR; this notice was mailed to the Department's list of persons requesting such notice.

Notices of availability of the DEIR and of the date and time of the public hearing were posted near the Project site by the project sponsor on August 7, 2019.

On August 7, 2019, copies of the DEIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list in the DEIR, to adjacent property owners, and to government agencies, the latter both directly and through the State Clearinghouse.

A Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on August 7, 2019.

The Commission held a duly advertised public hearing on the DEIR on September 12, 2019, at which opportunity for public comment was given, and public comment was received on the DEIR. The period for commenting on the DEIR ended on September 23, 2019.

The Department prepared responses to comments on environmental issues received during the 47-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected clerical errors in the DEIR. This material was presented in a responses to comments document, published on April 29, 2020, distributed to the Commission and all parties who commented on the DEIR, to any board(s), commission(s) or department(s) that will carry out or approve the project, and made available to others upon request at the Department.

A final environmental impact report (hereinafter "FEIR") has been prepared by the Department, consisting of the DEIR, any consultations and comments received during the review process, any additional information that became available, and the responses to comments document all as required by law. The initial study is included as Appendix B to the DEIR and is incorporated by reference thereto.

Project FEIR files have been made available for review by the Commission and the public. These files are available for public review at <http://ab900balboa.com/> and are part of the record before the Commission.

On May 28, 2020, the Commission reviewed and considered the FEIR and found that the contents of said report and the procedures through which the FEIR was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code. The FEIR was certified by the Commission on May 28, 2020, by adoption of its Motion No. 20730.

## **E. Content and Location of Record**

The record upon which all findings and determinations related to the adoption of the Project are based include the following:

- The FEIR, and all documents referenced in or relied upon by the FEIR, including the initial study;
- All information (including written evidence and testimony) provided by City staff to the Planning Commission relating to the FEIR, the proposed approvals and entitlements, the Project, and the alternatives set forth in the FEIR;
- All information (including written evidence and testimony) presented to the Planning Commission by the environmental consultant and subconsultants who prepared the FEIR, or incorporated into reports presented to the Planning Commission;
- All information (including written evidence and testimony) presented to the City from other public agencies relating to the project or the FEIR;
- All applications, letters, testimony, and presentations presented to the City by the Project Sponsor and its consultants in connection with the Project;

- All information (including written evidence and testimony) presented at any public hearing or workshop related to the Project and the DEIR;
- The MMRP; and,
- All other documents comprising the record pursuant to Public Resources Code Section 21167.6(e).

The public hearing transcripts and audio files, a copy of all letters regarding the FEIR received during the public review period, the administrative record, and background documentation for the FEIR are available at <http://ab900balboa.com/>. The Planning Department, Jonas P. Ionin, is the custodian of these documents and materials.

## **F. Findings about Environmental Impacts and Mitigation Measures**

The following Sections II, III, and IV set forth the Commission's findings about the FEIR's determinations regarding significant environmental impacts and the mitigation measures proposed to address them. These findings provide the written analysis and conclusions of the Commission regarding the environmental impacts of the Project and the mitigation measures included as part of the FEIR and adopted by the Commission as part of the Project. To avoid duplication and redundancy, and because the Commission agrees with, and hereby adopts, the conclusions in the FEIR, these findings will not repeat the analysis and conclusions in the FEIR but instead incorporate them by reference and rely upon them as substantial evidence supporting these findings.

In making these findings, the Commission has considered the opinions of staff and experts, other agencies, and members of the public. The Commission finds that (i) the determination of significance is a judgment decision within the discretion of the City and County of San Francisco; (ii) the significance determinations used in the FEIR are supported by substantial evidence in the record, including the expert opinion of the FEIR preparers and City staff; and (iii) the significance determinations used in the FEIR provide reasonable and appropriate means of assessing the significance of the adverse environmental effects of the Project. Thus, although, as a legal matter, the Commission is not bound by the significance determinations in the FEIR (see Public Resources Code, Section 21082.2, subdivision (e)), the Commission finds them persuasive and hereby adopts them as its own.

These findings do not attempt to describe the full analysis of each environmental impact contained in the FEIR. Instead, a full explanation of these environmental findings and conclusions can be found in the FEIR, and these findings hereby incorporate by reference the discussion and analysis in the FEIR supporting the determination regarding the project impact and mitigation measures designed to address those impacts. In making these findings, the Commission ratifies, adopts and incorporates in these findings the determinations and conclusions of the FEIR relating to environmental impacts and mitigation measures, except to the extent any such determinations and conclusions are specifically and expressly modified by these findings, and relies upon them as substantial evidence supporting these findings.

As set forth below, the Commission adopts and incorporates the mitigation measures set forth in the FEIR, which are set forth in the attached MMRP, to reduce the significant and unavoidable impacts of the Project. The Commission intends to adopt the mitigation measures proposed in the FEIR. Accordingly, in the event a mitigation measure recommended in the FEIR has inadvertently been omitted in these findings or the

MMRP, such mitigation measure is hereby adopted and incorporated in the findings below by reference. In addition, in the event the language describing a mitigation measure set forth in these findings or the MMRP fails to accurately reflect the mitigation measures in the FEIR due to a clerical error, the language of the policies and implementation measures as set forth in the FEIR shall control. The impact numbers and mitigation measure numbers used in these findings reflect the information contained in the FEIR.

In Sections II, III and IV below, the same findings are made for a category of environmental impacts and mitigation measures. Rather than repeat the identical finding to address each and every significant effect and mitigation measure, the initial finding obviates the need for such repetition because in no instance is the Commission rejecting the conclusions of the FEIR or the mitigation measures recommended in the FEIR for the Project.

These findings are based upon substantial evidence in the entire record before the Planning Commission. The references set forth in these findings to certain pages or sections of the DEIR or responses to comments in the FFEIR are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these findings.

## **II. LESS-THAN-SIGNIFICANT IMPACTS**

The FEIR finds that implementation of the Project would result in less-than-significant impacts in the following environmental topic areas: Land Use and Land Use Planning, Population and Housing, Greenhouse Gas Emissions, Wind, Shadow, Recreation, Utilities and Services Systems, Public Services, Biological Resources, Hydrology and Water Quality, Hazards and Hazardous Materials, Energy, Mineral Resources, Agriculture and Forestry Resources, and Wildfire.

## **III. FINDINGS OF SIGNIFICANT IMPACTS THAT CAN BE AVOIDED OR REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL THROUGH MITIGATION AND THE DISPOSITION OF THE MITIGATION MEASURES**

CEQA requires agencies to adopt mitigation measures that would avoid or substantially lessen a project's identified significant impacts or potential significant impacts if such measures are feasible. The findings in this section concern eight impacts and nine mitigation measures identified in the FEIR. These mitigation measures are in the MMRP, which is included as Attachment B to the Planning Commission Motion adopting these findings.

The project sponsor has agreed to implement the following mitigation measures to address the potential noise, air quality, cultural resources, tribal cultural resources, and geology and soils identified in the FEIR. As authorized by CEQA Section 21081 and CEQA Guidelines Section 15091, 15092, and 15093, based on substantial evidence in the whole record of this proceeding, the Planning Commission finds that, unless otherwise stated, the Project will be required to incorporate mitigation measures identified in the FEIR into the Project to mitigate or to avoid significant or potentially significant environmental impacts. Except as otherwise noted, these mitigation measures will reduce or avoid the potentially significant impacts described in the FEIR, and the Commission finds that these mitigation measures are feasible to implement and are within the responsibility and jurisdiction of the City and County of San Francisco to implement or enforce.

Additionally, the required mitigation measures are included as conditions of project approval and will be enforced through conditions of approval in any building permits issued for the Project by the San Francisco Department of Building Inspection. With the required mitigation measures, these impacts would be avoided or reduced to a less-than-significant level:

### **Noise Impacts**

**Impact NO-3:** Operation of the fixed mechanical equipment on the project site could result in a substantial permanent increase in ambient noise levels in the immediate project vicinity, and permanently expose noise-sensitive receptors to noise levels in excess of standards in the San Francisco Noise Ordinance. However, implementation of the following mitigation measure would reduce operational noise impacts to less than significant for the reasons cited on DEIR pages 3.C-35 through 3.C-36. :

*M-NO-3: Fixed Mechanical Equipment Noise Controls*

**Impact C-NO-3:** Cumulative mechanical equipment noise of the proposed project, in combination with reasonably foreseeable future projects, could cause a substantial permanent increase in ambient noise levels in the project vicinity; however, the proposed project would not contribute considerably with implementation of the following mitigation measure for the reasons cited on DEIR pages 3.C-41 through 3.C-42:

*M-NO-3: Fixed Mechanical Equipment Noise Controls*

### **Impacts to Air Quality**

**Impact AQ-2b:** During construction phases that overlap with project operations, the proposed project would generate criteria air pollutants which would violate an air quality standard, contribute substantially to an existing or projected air quality violation, or result in a cumulatively considerable net increase in criteria air pollutants. However, this impact would be reduced to less than significant with the following mitigation measures for the reasons cited on DEIR pages 3.D-61 through 3.D-62:

*M-AQ-2a: Construction Emissions Minimization*

*M-AQ-2b: Low-VOC Architectural Coatings*

**Impact AQ-5:** The Project could conflict with implementation of the Bay Area 2017 Clean Air Plan; however, this impact would be reduced to a less-than-significant level with the following mitigation measures for the reasons cited on DEIR page 3.D-86:

*M-AQ-2a: Construction Emissions Minimization*

*M-AQ-2b: Low-VOC Architectural Coatings*

*M-AQ-4a: Diesel Backup Generator Specifications*

*M-AQ-4b: Install MERV 13 Filters at the Daycare Facility*

### **Impacts to Cultural Resources**

**Impact CR-2:** The Project could cause a substantial adverse change in the significance of an archeological resource pursuant to CEQA Guidelines Section 15064.5(f); however, for the reasons cited on DEIR page B-29, this impact would be reduced to a less-than-significant level with the following mitigation measure:

*M-CR-2: Accidental Discovery of Archeological Resources*



**Impact CR-3:** The Project may disturb human remains, including those interred outside of formal cemeteries. However, for the reasons cited on DEIR page B-30, this impact would be reduced to less than significant with the following mitigation measure:

*M-CR-3: Accidental Discovery of Human Remains and of Associated or Unassociated Funerary Objects*

#### **Tribal Cultural Resource Impacts**

**Impact TC-1:** The Project may result in a substantial adverse change in the significance of a tribal cultural resource as defined in Public Resources Code section 21074. However, for the reasons stated on DEIR page B-34, this impact would be reduced to less than significant with the following mitigation measure:

*M-TC-1: Tribal Cultural Resources Interpretive Program*

#### **Impacts to Geology and Soils**

**Impact GE-6:** The Project could directly or indirectly destroy a unique paleontological resource or site. However, for the reasons stated on DEIR page B-105, this impact would be reduced to less than significant with the following mitigation measure:

*M-GE-6: Inadvertent Discovery of Paleontological Resources*

### **IV. SIGNIFICANT IMPACTS THAT CANNOT BE AVOIDED OR REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL**

Based on substantial evidence in the whole record of these proceedings, the Planning Commission finds that there are nine significant project-specific and cumulative impacts that would not be eliminated or reduced to an insignificant level by the mitigation measures listed in the MMRP. The FEIR identified three significant and unavoidable impacts on transportation and circulation, two significant and unavoidable impacts on noise, and four significant and unavoidable impacts on air quality.

The Planning Commission further finds based on the analysis contained within the FEIR, other considerations in the record, and the significance criteria identified in the FEIR, that feasible mitigation measures are not available to reduce the significant Project impacts to less-than-significant levels, and thus those impacts remain significant and unavoidable. The Commission also finds that, although measures were considered in the FEIR that could reduce some significant impacts, certain measures, as described in this Section IV below, are infeasible for reasons set forth below, and therefore those impacts remain significant and unavoidable or potentially significant and unavoidable.

Thus, the following significant impacts on the environment, as reflected in the FEIR, are unavoidable. But, as more fully explained in Section VI, below, under Public Resources Code Section 21081(a)(3) and (b), and CEQA Guidelines 15091(a)(3), 15092(b)(2)(B), and 15093, the Planning Commission finds that these impacts are acceptable for the legal, environmental, economic, social, technological and other benefits of the Project. This finding is supported by substantial evidence in the record of this proceeding.

The FEIR identifies the following impacts for which no feasible mitigation measures were identified that would reduce these impacts to a less than significant level:

### Impacts to Transportation and Circulation

**Impact TR-6b:** Operation of the Project, including proposed street network changes, would impact existing passenger and freight loading zones along Lee Avenue between Ocean Avenue and the Project site, and may create potentially hazardous conditions for people bicycling and may substantially delay public transit. No feasible mitigation measures were identified that would reduce this impact to a less than significant after consideration of several potential mitigation measures. The Commission finds that, for the reasons set forth in the FEIR, this impact would remain significant and unavoidable.

**Impact C-TR-4:** The Project, in combination with reasonably foreseeable future projects, may result in a potentially significant cumulative impact related to public transit delay and the project could contribute considerably. No feasible mitigation measures were identified that would reduce this impact to a less than significant level after the City considered several potential mitigation measures. The project sponsor has agreed to implement the following mitigation measure:

- *Mitigation Measure M-C-TR-4: Implement Measures to Reduce Transit Delay*

Implementation of these measures would reduce transit delay for the identified segments of the K/T Third/Ingle side, 29 Sunset, and 43 Masonic. However, given the uncertainty of SFMTA approval of these measures, and because SFMTA cannot commit funding to these capital improvements, the impact of the proposed project options would remain significant and unavoidable with mitigation, even with implementation of Mitigation Measure M-C-TR-4.

**Impact C-TR-6b:** Operation of the Project, including proposed street network changes, in combination with reasonably foreseeable future projects, would impact existing passenger and freight loading zones along Lee Avenue between Ocean Avenue and the project site, and may create potentially hazardous conditions for people bicycling and may substantially delay public transit. No feasible mitigation measures were identified that would reduce this impact to a less than significant after the City considered several potential mitigation measures. The Commission finds that, for the reasons set forth on pages 3.b-100 through 3.B-101 of the FEIR, this impact would remain significant and unavoidable.

### Impacts to Noise

**Impact NO-1:** Project construction would cause a substantial temporary or periodic increase in ambient noise levels at noise-sensitive receptors above levels existing without the project. No feasible mitigation measures were identified that would reduce this impact to a less-than-significant level after consideration of several potential mitigation measures. The project sponsor has agreed to implement the following mitigation measure; ; however, as cited on page 3.C-40 of the DEIR, the mitigation measure would reduce the impact but not to a less-than-significant level:

- *Mitigation Measure M-NO-1: Construction Noise Control Measures*

**Impact C-NO-1:** Cumulative construction of the Project, in combination with construction of reasonably foreseeable future projects, could cause a substantial temporary or periodic increase in ambient noise levels. No feasible mitigation measures were identified that would reduce this impact to a less-than-significant level after consideration of several potential mitigation measures. The project sponsor has agreed to implement the following mitigation measure; however, as cited on page 3.C-31 of the DEIR, the mitigation measure would reduce the impact but not to a less-than-significant level:

- *Mitigation Measure M-NO-1: Construction Noise Control Measures*

#### **FEIR Impact to Air Quality**

**Impact AQ-2a:** During construction, the Project would generate criteria air pollutants that would violate an air quality standard, contribute substantially to an existing or projected air quality violation, or result in a cumulatively considerable net increase in criteria air pollutants). No feasible mitigation measures were identified that would reduce this impact to a less than significant level after consideration of several potential mitigation measures. The project sponsor has agreed to implement the following mitigation measures that, for the reasons stated on DEIR page 3.D-54, would reduce impacts but not to a less-than-significant level:

- *Mitigation Measure M-AQ-2a: Construction Emissions Minimization*
- *Mitigation Measure M-AQ-2b: Low-VOC Architectural Coatings*
- *Mitigation Measure M-AQ-2c: On-Road Truck Emissions Minimization for the Compressed Construction Schedule*
- *Mitigation Measure M-AQ-2d: Offset Construction Emissions for the Compressed Schedule*

**Impact AQ-4:** Construction and operation of the Project would generate toxic air contaminants, including DPM, which could expose sensitive receptors to substantial pollutant concentrations. No feasible mitigation measures were identified that would reduce this impact to a less -than -significant level after consideration of several potential mitigation measures. The project sponsor has agreed to implement the following mitigation measures; however, for the reasons stated on DEIR pages 3.D-71 through 3.D-78, these mitigation measures would reduce impacts but not to a less-than-significant level:

- *Mitigation Measure M-AQ-2a: Construction Emissions Minimization*
- *Mitigation Measure M-AQ-4a: Diesel Backup Generator Specifications*
- *Mitigation Measure M-AQ-4b: Install MERV 23 Filters at the Daycare Facility*

**Impact C-AQ-1:** The Project, in combination with reasonably foreseeable future projects, would contribute to cumulative regional air quality impacts. No feasible mitigation measures were identified that would reduce this impact to a less-than-significant level after consideration of several potential mitigation measures. The project sponsor has agreed to implement the following mitigation measures; however, for the reasons cited on DEIR page 3.D-90, these mitigation measures would not reduce the impact to a less-than-significant level:

- *Mitigation Measure M-AQ-2a: Construction Emissions Minimization*
- *Mitigation Measure M-AQ-2b: Low-VOC Architectural Coatings*
- *Mitigation Measure M-AQ-2c: On-Road Truck Emissions Minimization for the Compressed Construction Schedule*
- *Mitigation Measure M-AQ-2d: Offset Construction Emissions for the Compressed Schedule*
- *Mitigation Measure M-AQ-4a: Diesel Backup Generator Specifications*

**Impact C-AQ-2:** The Project, in combination with reasonably foreseeable future projects, could contribute to cumulative health risk impacts on sensitive receptors. No feasible mitigation measures were identified that would reduce this impact to a less-than-significant level after consideration of several potential mitigation measures. The project sponsor has agreed to implement the following mitigation

measures; however, for the reasons cited on DEIR pages 3.d-91 through 3.D-92, these mitigation measures would reduce impacts but not to a less-than-significant level:

- *Mitigation Measure M-AQ-2a: Construction Emissions Minimization*
- *Mitigation Measure M-AQ-4a: Diesel Backup Generator Specifications*
- *Mitigation Measure M-AQ-4b: Install MERV 13 Filters at the Daycare Facility*

## **V. EVALUATION OF PROJECT ALTERNATIVES**

### **A. Alternatives Analyzed in the FEIR**

This section describes the alternatives analyzed in the Project FEIR and the reasons for rejecting the alternatives as infeasible. CEQA mandates that an EIR evaluate a reasonable range of alternatives to the project or the project location that generally reduce or avoid potentially significant impacts of the Project. CEQA requires that every EIR also evaluate a “No Project” alternative. Alternatives provide a basis of comparison to the Project in terms of their significant impacts and their ability to meet project objectives. This comparative analysis is used to consider reasonable, potentially feasible options for minimizing environmental consequences of the Project.

The Planning Department considered a range of alternatives in Chapter 6 of the FEIR. The FEIR analyzed the No Project Alternative, the Reduced Density Alternative, the San Ramon Way Passenger Vehicle Access Alternative, and the Six-Year Construction Schedule Alternative. Each alternative is discussed and analyzed in these findings, in addition to being analyzed in the FEIR, including Chapter 6. The Planning Commission certifies that it has independently reviewed and considered the information on the alternatives provided in the FEIR and in the record. The FEIR reflects the Planning Commission’s and the City’s independent judgment as to the alternatives. The Planning Commission finds that the Project provides the best balance between satisfaction of project objectives and mitigation of environmental impacts to the extent feasible, as described and analyzed in the FEIR.

### **B. Reasons for Approving the Project**

- To implement the goals of the City’s 2014 Public Land for Housing program and the Surplus Public Lands Initiative (Proposition K), passed by the voters in November 2015, by replacing an underused surface parking lot located on surplus public land with a substantial amount of new housing, including a high percentage of affordable housing.
- To implement the objectives and goals of the General Plan Housing Element and of the 2009 Balboa Park Station Area Plan that calls for the development of a mixed-use residential neighborhood on the west reservoir to address the citywide demand for housing.
- To contribute to the City’s goal of creating 5,000 housing units each year on a site specifically identified in the General Plan for additional housing in close proximity to local and regional public transportation by maximizing the number of housing units in the project.
- To build a high-quality residential community with a wide range of building types and heights, and a range of dwelling unit type and tenure, which will provide new residents with the greatest variety of housing options.
- To build a mixed-income community with a high percentage of affordable units to provide housing options for households at a range of income levels, and by doing so facilitate a neighborhood that fosters personal connections across income ranges.

- To replace the reservoir's abandoned infrastructure with new infrastructure improvements, including new streets and sidewalks, bicycle and pedestrian amenities, pedestrian paseos and multiuse paths, water, sewer and gas/electric utilities, new fire hydrant infrastructure and an extension of the City's Auxiliary Water Supply System (AWSS), and community facilities including one new public park, another major open space, a community center, and a childcare facility.
- To establish pedestrian and bicycle connections from the project site to adjacent neighborhoods including City College of San Francisco, Ocean Avenue, Sunnyside and Westwood Park, and increase and improve pedestrian access to transit connections in the area including Bay Area Rapid Transit (BART), Municipal Railway (Muni) light-rail and bus lines, and Muni's City College Terminal.<sup>1</sup>
- As stated in the City's Balboa Reservoir Request for Proposals, to work with City College to address parking needs by identifying substitute parking and transportation solutions.
- To develop a project that is financially feasible and able to support the financial investment that will be required to realize it, including equity and debt return levels that will be required by investors and lenders to finance residential developments, as well as eligibility for required federal, state, regional, and local sources of subsidy for infrastructure and utility construction and affordable housing.
- To provide SFPUC's water utility ratepayers with fair market value for this utility land asset as required by the city's charter and applicable law.

### C. Evaluation of Project Alternatives

CEQA provides that alternatives analyzed in an EIR may be rejected if "specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible . . . the project alternatives identified in the EIR." (CEQA Guidelines § 15091(a)(3).) The Commission has reviewed each of the alternatives to the Project as described in the FEIR that would reduce or avoid the impacts of the Project and finds that there is substantial evidence of specific economic, legal, social, technological and other considerations that make these Alternatives infeasible, for the reasons set forth below.

In making these determinations, the Planning Commission is aware that CEQA defines "feasibility" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors." The Commission is also aware that under CEQA case law the concept of "feasibility" encompasses (i) the question of whether a particular alternative promotes the underlying goals and objectives of a project, and (ii) the question of whether an alternative is "desirable" from a policy standpoint to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors.

Five additional alternatives were considered as part of the FEIR's overall alternatives analysis but were rejected from detailed analysis for the following reasons:

**Alternative Location.** CEQA Guidelines section 15126.6(f)(2) states that alternative locations should be considered if they would avoid or substantially lessen any of the significant effects of a project. While an alternative location might lessen or avoid the operational impacts associated with transportation and

circulation and construction impacts associated with noise and air quality, it was rejected from further consideration because the project objectives are specific to the Balboa Reservoir site, based on policy considerations evaluated by the city. Construction noise and air quality impacts would occur regardless of the site of the project, and no alternative location would eliminate these effects. These impacts are associated with any project that involves demolition, grading, excavation, and/or building construction activities. For this reason, an alternative location for the same number of dwelling units would likely result in the same potential noise and air quality impacts and require the same mitigation measures if demolition, grading, and excavation were required, and because the same number of units would be built. Moreover, no feasible alternative locations within the Balboa Park Station Area Plan area exist for an equivalent or similar level of housing development, including affordable housing. No comparable parcel of land is available within the plan area that the project sponsor could reasonably acquire, control, or otherwise have access. An alternative location, if one were available, would not be consistent with the project objectives related to developing the reservoir site with a mixed-use residential neighborhood, including a substantial number of affordable housing units, site infrastructure, and bicycle and pedestrian connections. Furthermore, an alternative location would not meet the project objective related to developing an underutilized site under the Public Land for Housing program.

One site identified under the Public Land for Housing in the plan area was the 2-acre site at 2340 San Jose Avenue, known as the Upper Yard. A developer for the Upper Yard was selected in 2016 and a building permit was issued in 2018 for the construction of 131 residential units; thus, the Upper Yard location, which is an order of magnitude smaller than the Project, is not available to the project sponsor for development. For these reasons, an alternative location was rejected from further consideration.

**Higher Density Alternative.** Variations of a higher density alternative (greater than 1,550 units) were raised during the scoping process for this DEIR. A higher density alternative could meet all project objectives; however, this alternative would not address any of the significant and unavoidable environmental impacts. Therefore, this alternative was rejected from further consideration.

**Lee Avenue Exit Only Alternative.** This alternative would allow southbound egress from the project site onto Ocean Avenue via Lee Avenue and prohibit northbound ingress to the site from Ocean Avenue via Lee Avenue. Two-way operations of Lee Avenue between Ocean Avenue and the project site would be maintained only for delivery vehicles that require access to the Whole Foods off-street loading dock. This alternative would reduce the number of project-generated vehicles on Ocean Avenue, thereby reducing transit delay along the corridor; however, it would limit access to the project site and add vehicle traffic to Frida Kahlo Way and, potentially, to San Ramon Way, if the San Ramon Way Passenger Vehicle Access Alternative were selected. The westbound right-turn lane at Ocean Avenue/Frida Kahlo Way/Geneva Avenue and the northbound left-turn lane at Frida Kahlo Way/North Access Road currently operate near or over capacity during the peak hours, and the additional vehicle traffic under this alternative could cause spillover into the through lanes, which would cause delays to transit on Ocean Avenue and Frida Kahlo Way.

The alternative would not reduce conflicts between people bicycling southbound on Lee Avenue and loading vehicles accessing the loading dock or conducting curbside loading on Lee Avenue. Additionally, people unfamiliar with the site access and circulation may attempt to enter the site from northbound Lee Avenue and would either: (1) complete a U-turn maneuver and continue to the Frida Kahlo Way/North Access Road

entrance or (2) ignore the one-way operations and continue north to enter the site. These actions would result in potentially hazardous conditions and conflicts between vehicles making a U-turn and vehicles exiting the Whole Foods driveway or accessing the loading dock and between vehicles continuing north on Lee Avenue and oncoming southbound traffic.

For these reasons, southbound exit-only operations on Lee Avenue was rejected from further consideration.

**Open Space Only Alternative.** This alternative would develop the project site with only open space uses, and no residential uses. The Open Space Only Alternative was rejected from further consideration because it would not meet any of the key project objectives related to providing housing to address citywide demand for housing and building a mixed-income community including affordable units.

**Fully Affordable Housing Alternative.** FEIR A Fully Affordable Housing Alternative would include 100 percent affordable housing at the project site. A 100 percent affordable housing alternative would not meet the project objective to build “a mixed-income community with a high percentage of affordable units to provide housing options for households at a range of income levels.” This alternative also would potentially fail to meet, or at least fully meet, the following project objective:

- Develop a project that is financially feasible and able to support the financial investment that will be required to realize it, including equity and debt return levels that will be required by investors and lenders to finance residential developments, as well as eligibility for required federal, state, regional, and local sources of subsidy for infrastructure and utility construction and affordable housing.
- Provide SFPUC’s water utility ratepayers with fair market value for this utility land asset as required by the city’s charter and applicable law.

This alternative would be a fundamentally different project given the request for qualifications process that occurred for the project site. As noted on DEIR, 100 percent affordable housing developments in San Francisco are typically sponsored by the Mayor’s Office of Housing and Community Development, which provides substantial financial support for such projects and which typically seeks out not-for-profit developers who specialize in the production of fully affordable residential projects. Accordingly, it has never been the case that the planning for this project assumed or required a 100 percent affordable housing development, which would require a substantially different financial structure and City development partner(s).

Finally, this alternative would not eliminate or substantially lessen the project’s significant, unavoidable impacts because it would contain the same amount of development as the Project. For these reasons, fully affordable housing alternative was rejected from further consideration.

The following alternatives and option were fully considered and compared in the FEIR:

### **1. No Project Alternative (Alternative A)**

Under Alternative A, the Balboa Reservoir site would not be developed with the Project. Under Alternative A, there would be no change to the existing site circulation. The surface parking lot would not be altered, and the existing 1,007 surface vehicular parking spaces would remain. The project site would be

accessed from the North Access Road as under existing conditions. In addition, the Lee Avenue extension, new infrastructure, and streetscape and open space improvements would not be constructed.

The existing development controls on the project site would continue to govern site development and would not be changed. There would be no amendments to the General Plan, Planning Code, or zoning map. No changes related to a new Balboa Reservoir Special Use District or design standards and guidelines would occur. The project site would remain under the existing P (Public) District and the 40-X and 65-A Height and Bulk Districts. Any specific detail about the characteristics of future development under the No Project Alternative would be speculative.

The Planning Commission rejects the No Project Alternative as infeasible because it would fail to meet the project objectives for the following reasons:

- 1) The No Project Alternative would not meet any of the project objectives;
- 2) The No Project Alternative would not implement the goals of the City's 2014 Public Land for Housing program and the Surplus Public Lands Initiative by replacing an underused surface parking lot located on surplus public land with a substantial amount of new housing, including a high percentage of affordable housing.
- 3) The No Project Alternative would not implement the objectives and goals of the General Plan Housing Element and of the 2009 Balboa Park Station Area Plan that calls for the development of a mixed-use residential neighborhood on the west reservoir to address the citywide demand for housing.
- 4) The No Project Objective would not contribute to the City's goal of creating 5,000 housing units each year on a site specifically identified in the General Plan for additional housing in close proximity to local and regional public transportation by maximizing the number of housing units in the project, would not build a high-quality residential community with a wide range of building types and heights, and a range of dwelling unit type and tenure, with a high percentage of affordable units..
- 5) The No Project Objective would not replace the reservoir's abandoned infrastructure with new infrastructure improvements and community facilities including one new public park, another major open space, a community center, and a childcare facility, nor establish pedestrian and bicycle connections from the project site to adjacent

For the foregoing reasons, the Planning Commission rejects the No Project Alternative as infeasible.

## **2. Reduced Density Alternative (Alternative B)**

Alternative B would be identical to the Project options with respect to the types of land uses, street configurations, and site plan block configurations. Under Alternative B, the site would be developed with approximately 936,590 gross square feet of residential uses (800 dwelling units). This alternative would include 7,500 gross square feet of retail space and 10,000 gross square feet of childcare and community space. Alternative B would not include a public parking garage. There would be approximately 143,930 gross square feet of parking, providing 400 residential parking spaces. The total building area would be about 66 percent of the Project. Building heights on Blocks A through G would be reduced by one story compared to the project. Blocks TH1, TH2, and H would remain the same as under the Developer's



Proposed Option, with building heights up to 35 feet. The building heights for Blocks A through G for Alternative B would range in height from 25 to 68 feet.

Similar to the Project, this alternative would include approximately 4 acres of open space. The open spaces and parks would be connected by new internal networks such as pedestrian passages, sidewalks, and roadways. The SFPUC would retain ownership of an 80-foot-wide strip of land located along the southern edge of the site where an underground water transmission pipeline is located.

The transportation and circulation improvements under Alternative B would be identical to those under the Project, including the Lee Avenue extension, interior streets, streetscape improvements, bicycle facilities, and Ocean Avenue streetscape modifications.

Operations of the retail, childcare and community facilities space under Alternative B would be the same as that for the Project. The reduction in the number of residential units under Alternative B would also reduce the number of vehicle, pedestrian, and bicycle trips compared to the Project.

Construction of Alternative B would be similar to the Project, though reduced in both magnitude and duration. In general, the same types of construction activities and equipment would be required. It is anticipated that construction would start in 2021 and be completed in 2027. The initial phase (Phase 0) for Alternative B would include demolition of the west side berm and north and east embankments, followed by grading, excavation, and construction of site infrastructure over 12 months from 2021 to 2022. Two phases of vertical construction would follow, each lasting approximately 24 to 30 months. The construction activities during Phases 1 and 2 would include, but not be limited to, finish grading, excavation for subgrade parking, construction of building foundations, building construction, architectural coatings, and paving. Construction of Phase 1 (400 units) would occur from 2022 to 2024. Construction of Phase 2 (400 units) would occur from 2024 to 2027, after Phase 1 is complete. Buildings constructed in Phase 1 would be occupied during construction of Phase 2. Like the Project, the phasing of project implementation would be subject to changes due to market conditions and other unanticipated factors. Therefore, construction could be accelerated and complete as early as 2023 or extend beyond 2027.

The Planning Commission rejects the Reduced Density Alternative as infeasible because it would not eliminate any of the significant unavoidable individual impacts of the Project and it would not meet the project objectives as well as the Project for reasons including, but not limited to, the following:

- 1) The Reduced Density Alternative would limit the Project to 800 dwelling units; whereas the Project would add 1,100 units to the City's housing stock and maximize the creation of new residential units. The City's important policy objective as expressed in Policy 1.1 of the Housing Element of the General Plan is to increase the housing stock whenever possible to address a shortage of housing in the City.
- 2) The Reduced Density Alternative would also limit the Project to 400 total affordable units; whereas the Project would add approximately 550 affordable units to the City's stock of affordable housing. The City's important policy objective as expressed in Policy 1.1 of the Housing Element of the General Plan is to increase the affordable housing stock whenever possible to address a shortage of housing in the City.

- 3) The subsidy required to build each affordable dwelling unit in the Reduced Density Alternative would be higher than for the Proposed Project because the scale of the affordable housing buildings in the Reduced Density Alternative would be less efficient than the affordable housing buildings in the Project.
- 4) The Reduced Density Alternative would not further the City's housing policies to create more housing, particularly affordable housing opportunities as well as the Project does.
- 5) The Reduced Density Preservation Alternative would create a project with fewer housing units in an area well-served by transit, services and shopping, which would then push demand for residential development to other sites in the City or the Bay Area. This would result in the Reduced Density Alternative not meeting, to the same degree as the Project, the City's *Strategies to Address Greenhouse Gas Emissions* or the Bay Area Air Quality Management District's ("BAAQMD") requirements for GHG reductions, by not maximizing housing development in an area with abundant local and region-serving transit options.
- 6) The Reduced Density Alternative would not implement as well as the Project the goals of the City's 2014 Public Land for Housing program and the Surplus Public Lands Initiative by replacing an underused surface parking lot located on surplus public land with a substantial amount of new housing, including a high percentage of affordable housing.
- 7) The Reduced Density Alternative would not implement as well as the Project the objectives and goals of the General Plan Housing Element and of the 2009 Balboa Park Station Area Plan that calls for the development of a mixed-use residential neighborhood on the west reservoir to address the citywide demand for housing.
- 8) The Reduced Density Alternative would not contribute as well as the Project to the City's goal of creating 5,000 housing units each year on a site specifically identified in the General Plan for additional housing in close proximity to local and regional public transportation by maximizing the number of housing units in the project.
- 9) The Reduced Density Alternative is economically infeasible. The Developer retained Economic and Planning Systems, Inc. (EPS), a qualified real estate economics firm, to evaluate the financial feasibility of the Reduced Density Alternative, compared to the Project. In a memorandum dated May 12, 2020, which is included in the record and is incorporated herein by reference, EPS concluded that the Reduced Density Alternative is not financially feasible for the following reasons.

The project sponsor is evaluating the types of outside funding sources that may be appropriate to help fund the horizontal improvements required to support the Project, including the state's Infill Infrastructure Grant (IIG), a state Park Grant, the California Housing and Community Development's Affordable Housing and Sustainable Communities Program (AHSC), as well as the subsidies required from the City to achieve an affordable housing goal of 50 percent. Eligibility criteria and competitiveness for many of these sources is tied to project density, and the Project Sponsor estimates the Proposed Project is optimizing competitiveness in this regard and at the limit of the potential grant and subsidy amounts that may be awarded.

The reduction in the number of units occurs by reducing the density of each pad (through reduced building heights) rather than by concentrating development on fewer pads. With the reduction in the number of residential units, the number of parking spaces is reduced to 400 spaces that would serve the residential uses only. The remainder of the program, including leasable space for commercial and nonprofit uses and parks and open space remains the same.

The expected land cost is estimated at approximately \$11.2 million. SFPUC requires the land payment for the site to reflect fair market value. In this case the fair market value will be determined through an appraisal process; however, it is not expected that SFPUC would accept less than \$11.2 million for the land under a reduced development scenario. The site-wide infrastructure costs (e.g., utility infrastructure, roads/curbs/gutters, earthwork and grading, and parks and open space) are estimated at approximately \$43.6 million in Phases 0 and 1 and \$4.7 million in Phase 2, for a total of \$48.3 million (in uninflated 2019 dollars). Unless development is reduced to the point that not all pads are developed, this investment in horizontal infrastructure is relatively fixed. The “per door” infrastructure cost is \$45,000 per door for the Proposed Project and \$60,000 per door for Reduced Density Alternative, a 33 percent increase. This additional cost burden (on a per door basis) would be in addition to vertical development costs that already cannot be supported by project revenues alone (see next finding).

Since, development fees (including profits) are included as a use of funds, a “Net Surplus/Deficit” of \$0 or greater represents a feasible project, while a negative number represents a project deficit and an infeasible project. The Reduced Density Alternative is \$26.7 million short of feasibility. This deficit is significantly larger than the \$11.2 million land acquisition cost, so, even if the SFPUC were willing to accept a reduced land payment, no amount of reduction in land cost would result in feasibility.

As the development program is reduced, many sources are subject to decreases. Reducing the number of units reduces the amount of outside funding that can be reasonably expected, as it is anticipated that the reduced density project may not compete as well for the grant funding as the Project.

The Office of Economic and Workforce Development engaged Century Urban, a qualified real estate economics firm, to independently review the EPS analysis of the financial feasibility of the Reduced Density Alternatives on behalf of the City. Century Urban produced a memorandum entitled “Financial Feasibility of Balboa Reservoir Project Alternative B,” dated May 12, 2020, which is included in the record and is incorporated herein by reference. Century Urban verified that the methodology and assumptions used by EPS were reasonable and verified the conclusion of the EPS analysis that the Reduced Density Alternative is financially infeasible.

- 10) The Reduced Density Alternative would not avoid or substantially lessen any of the significant and unavoidable impacts of the Project.

For the foregoing reasons, the Planning Commission rejects the Reduced Density Alternative as infeasible.

### **3. San Ramon Way Passenger Vehicular Access Alternative (Alternative C)**

The San Ramon Way Passenger Vehicle Access Alternative would provide access for light vehicles (i.e., passenger cars and vans, but not heavy trucks) to the project site from the west. Alternative C would have the same mix of land uses, site plans, building footprints, building heights, square footages, and construction characteristics as the Project. Vehicle, bicycle, and pedestrian circulation to and from the site from the south and east would not change. However, instead of bicycle and pedestrian-only access at San Ramon Way, Alternative C would also include vehicular (non-truck) access, providing access to and from the west.

San Ramon Way currently terminates just west of the project site; it does not extend all the way to the project site boundary, as the Westwood Park Association (homeowners' association for the Westwood Park neighborhood that is west of the project site) owns an approximately 10-foot-wide parcel between the end of the San Ramon Way and the Project site.

San Ramon Way is approximately 26 feet wide with a 6-foot-wide sidewalk on the north side and a 7- to 10-foot-wide sidewalk on the south side. Parking is currently allowed on both sides of the street. Under Alternative C, the current dimensions of San Ramon Way would be retained and extended through the project site, ending at West Street. Given the San Francisco Fire Department requirement<sup>2</sup> for a 26-foot-wide clear path of travel, the need to accommodate two-way vehicle traffic and increase in vehicle traffic along San Ramon Way associated with Alternative C, six on-street parking spaces each on the north and south sides of San Ramon Way (a total of 12) would be removed under this alternative. San Ramon Way would have a 13-foot-wide single lane of travel in each direction, a 6-foot-wide sidewalk on the north side, and a 7- to 10-foot-wide sidewalk on the south side. San Ramon Way from West Street to Plymouth Avenue would be a shared roadway that would include class III bicycle facilities (sharrows) within the vehicular lanes.

Alternative C would have the same land uses as the Project. Therefore, this alternative would provide 1,100 residential units, 7,500 square feet of commercial space, and 10,000 square feet of community space, along with between off-street parking spaces in buildings up to 78 feet in height.

The Planning Commission rejects the San Ramon Way Passenger Vehicle Access Alternative as infeasible because it would not eliminate any of the significant unavoidable impacts of the Project and for the following reasons:

- 1) Plymouth Avenue is 24-feet wide. Between Ocean and Greenwood avenues (just north of Archbishop Riordan campus), Plymouth Avenue includes approximately 118 on-street parking spaces along both sides of the street. The FEIR estimated that under this alternative, 31 vehicles (approximately 12 percent of Project-generated vehicle trips) would utilize the San Ramon Way access during the weekday a.m. peak hour and 48 vehicles (15 percent of Project-generated vehicle trips) would utilize the San Ramon Way access during the weekday p.m. peak hour. The FEIR also noted that it's possible that this alternative could encourage some existing drivers to use this new connection to avoid traveling on portions of Ocean Avenue. The addition

of project-generated vehicle traffic and redirected existing traffic to the surrounding streets, including Plymouth Avenue, Southwood Drive, and San Ramon Way west of Plymouth Avenue, would increase instances of oncoming traffic and locations where there is not space for vehicles to pass side-by-side. While Alternative C would not eliminate any of the significant unavoidable impacts of the Project nor cause any significant impacts itself, the additional traffic under this alternative could cause inconvenience to drivers and cyclists using these streets.

- 2) The Planning Department received a comment letter on the DEIR from the Westwood Park Association concerning this alternative. The association stated they object this alternative and will not sell the 10-foot-wide parcel to make this alternative feasible. The Planning Department received other comment letters also opposing this alternative.
- 3) The cost of acquiring the 10-foot-wide parcel between the end of San Ramon Street and the Project site from the Westwood Park Association is not part of the Project budget and Development Agreement components. This additional cost burden and the owner of the parcel's opposition to selling it could make the project infeasible in light of the other Project Sponsor commitments under the Development Agreement.

For the foregoing reasons, the Planning Commission rejects the San Ramon Way Passenger Vehicle Access Alternative as infeasible.

#### **4. Six Year Construction Alternative (Alternative D)**

The Six Year Construction Alternative would have the same mix of land uses, site plans, circulation, building footprints, building heights, square footages, and construction characteristics as the Project. This alternative would not allow a compressed construction schedule. Therefore, under Alternative D, construction phasing for the Project would be phased under the six-year construction schedule. The initial phase (Phase 0) would include demolition of the parking lot, west side berm, and north and east embankments, followed by grading, excavation, and construction of site infrastructure over 12 months from 2021 to 2022. After Phase 0 is complete, construction of Phase 1 would occur from 2022 to 2024. Construction of Phase 2 would occur from 2024 to 2027, after Phase 1 is complete. Alternative D could be combined with the Project options, variants, and Alternatives B and C. Thus, under Alternative D, there would be no compressed construction schedule scenario and Phases 1 and 2 would not be constructed concurrently.

The Planning Commission rejects the Six Year Construction Alternative as infeasible because it would reduce the project's flexibility to schedule construction phases in less than six years in response to market conditions and the availability of public subsidies for affordable housing and infrastructure improvements.

For the foregoing reason, the Planning Commission rejects the Six Year Construction Alternative as infeasible.

## **VI. STATEMENT OF OVERRIDING CONSIDERATIONS**

The Planning Commission finds that, notwithstanding the imposition of all feasible mitigation measures, impacts related to transportation and circulation, construction noise and construction air quality will remain significant and unavoidable. Pursuant to CEQA section 21081 and CEQA Guideline Section 15093, the Planning Commission hereby finds, after consideration of the FEIR and the evidence in the record, that each of the specific overriding economic, legal, social, technological and other benefits of the Project as set forth below independently and collectively outweighs these significant and unavoidable impacts and is an overriding consideration warranting approval of the Project. Any one of the reasons for approval cited below is sufficient to justify approval of the Project. Thus, even if a court were to conclude that not every reason is supported by substantial evidence, the Commission will stand by its determination that each individual reason is sufficient. The substantial evidence supporting the various benefits can be found in the preceding findings regarding the rejection of alternatives, which are incorporated by reference into this Section, and in the documents found in the record, as defined in Section I.

On the basis of the above findings and the substantial evidence in the whole record of this proceeding, the Planning Commission specifically finds that there are significant benefits of the Project to support approval of the Project in spite of the unavoidable significant impacts, and therefore makes this Statement of Overriding Considerations. The Commission further finds that, as part of the process of obtaining Project approvals, significant effects on the environment from implementation of the Project have been eliminated or substantially lessened where feasible. All mitigation measures in the FEIR and MMRP are adopted as part of the Approval Actions described in Section I, above.

The Commission has determined that any remaining significant effects on the environment found to be unavoidable are acceptable due to the following specific overriding economic, technological, legal, social and other considerations.

The Project will have the following benefits:

1. The Project implements the goals of the City's 2014 Public Land for Housing program and the Surplus Public Lands Initiative (Proposition K), passed by the voters in November 2015, by replacing an underused surface parking lot located on surplus public land with 1,100 new dwelling units, including a high percentage of affordable housing
2. The Project contributes to the City's goal of creating 5,000 housing units each year on a site specifically identified in the General Plan for additional housing in close proximity to local and regional public transportation.
3. The Project implements the City's important policy objective as expressed in Policy 1.1 of the Housing Element of the General Plan to increase the housing stock whenever possible to address a shortage of housing in the City.
4. The Project would increase the stock of permanently affordable housing by creating approximately 550 dwelling units affordable to low-income and moderate -income households, including units targeted to educators employed by City College of San Francisco and the San Francisco Unified School District.

5. The subsidy required to build each affordable dwelling unit is low relative to the average subsidy required for other buildings in the Mayor's Office of Housing and Community Development's affordable housing portfolio because the Project's affordable housing buildings are of a scale that provides greater building efficiency than other smaller affordable housing buildings in the City.
6. The Project provides extensive open space, including the 4-acre Reservoir Park and other active and passive open space amenities, all accessible to the public.
7. The Project provides community facilities, including an on-site childcare facility and an on-site community room.
8. The Project replaces the reservoir's abandoned infrastructure with new infrastructure improvements, including new streets and sidewalks, bicycle and pedestrian amenities, pedestrian paseos and multiuse paths, water, sewer and gas/electric utilities, new fire hydrant infrastructure and an extension of the City's Auxiliary Water Supply System (AWSS).
9. The Project establishes pedestrian and bicycle connections from the project site to adjacent neighborhoods including City College of San Francisco, Ocean Avenue, Sunnyside and Westwood Park, and increases and improves pedestrian access to transit connections in the area including Bay Area Rapid Transit (BART), Municipal Railway (Muni) light-rail and bus lines, and Muni's City College Terminal.
10. The Project is consistent with the City's Transit First Policy by limiting off-street residential parking to .5 space per unit, provides ample bicycle parking spaces, and will implement a Transportation Demand Management Program to reduce single-occupy vehicle trips.
11. The Project will assist City College accommodate the parking use of its faculty, staff and students.
12. The Project meets the City's *Strategies to Address Greenhouse Gas Emissions* and the BAAQMD requirements for a GHG reductions by maximizing development on an infill site that is well-served by transit, services and shopping and is suited for dense residential development, where residents can commute and satisfy convenience needs without frequent use of a private automobile, in an area with abundant local and region-serving transit options. The Project would leverage the site's location and proximity to transit by building a dense mixed-use project that allows people to live and work close to transit sources.
13. The Project is consistent with the implements numerous Balboa Park Station Area Plan Objectives and Policies, including the following: Objective 1.4 to develop the Balboa Reservoir in a manner that will best benefit the neighborhood, the city, and the region as a whole; Objective 2.4 to encourage walking, biking, and public transit as the primary means of transportation; Policy 2.4.2 to improve and expand bicycle connections throughout the plan area; Objective 3.1 to establish parking standards and controls that promote quality of place, affordable housing, and transit-oriented development; Policy 3.1.1 to provide flexibility for new residential development by eliminating minimum off-street parking requirements and establishing reasonable parking caps; Policy 3.1.3 to make parking costs visible to users by requiring parking to be rented, leased or sold separately from residential and commercial space for all new major development; Policy 3.2.3 to promote car-sharing programs as an important way to reduce parking needs while still providing

residents with access to an automobile when needed; Objective 4.1 to maximize opportunities for residential infill throughout the plan area; Policy 4.1.2 to eliminate dwelling unit density maximums; Objective 4.3 to establish an active, mixed-use neighborhood around the Balboa Park transit station that emphasizes the development of housing; Objective 4.4 to consider housing as a primary component to any development on the Balboa Reservoir; Policy 4.4.1 to develop housing on the West basin of the reservoir if it is not needed for water storage; Objective 4.5 to provide increased housing opportunities affordable to a mix of households at varying income levels; Policy 4.5.1 to give first consideration to the development of affordable housing on publicly-owned sites; Objective 5.1 to create a system of public parks, plazas and open spaces in the plan area; Objective 5.2 to create open space within new development that contributes to the open space system; Policy 5.2.1 to require good quality public open space as part of major new developments; Objective 5.3 to promote an urban form and architectural character that supports walking and sustains a diverse, active and safe public realm; Objective 5.4 to create an space system that both beautifies the neighborhood and strengthens the environment; Objective 6.2 to knit together isolated sections of the plan area with new mixed-use infill buildings; Objective 6.4 to respect and build from the successful established patterns and traditions of building massing, articulation, and architectural character of the area and the city; Policy 6.4.1 to create urban design guidelines that ensure that new development contributes to and enhances the best characteristics of the plan area; Policy 6.4.2 that new buildings should epitomize the best in contemporary architecture, but should do so with full awareness of the older buildings that surround them; Policy 6.4.4 that height and bulk controls should maximize opportunities for housing development while ensuring that new development is appropriately scaled for the neighborhood; Objective 6.5 to promote the environmental sustainability, ecological function and the overall quality of the natural environment in the plan area; Policy 6.5.1 that the connection between building form and ecological sustainability should be enhanced by promoting use of renewable energy, energy-efficient building envelopes, passive heating and cooling, and sustainable materials; and Policy 6.5.2 that new buildings should comply with strict environmental efficiency standards.

14. The Project is consistent with and implements numerous objectives and policies of the General Plan, particularly the Housing Element, including the following Housing Element objectives and policies: Objective 1 to identify and make available for development adequate sites to meet the city's housing needs, especially permanently affordable housing; Policy 1.1 to plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing; Policy 1.8 to promote mixed use development, and include housing, particularly permanently affordable housing, in new commercial, institutional or other single use development projects; Policy 1.10 to support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking and bicycling for the majority of daily trips; Objective 12 to balance housing growth with adequate infrastructure that serves the city's growing population; Policy 12.1 to encourage new housing that relies on transit use and environmentally sustainable patterns of movement; Policy 12.2 to consider the proximity of quality of life elements, such as open space, child care, and neighborhood services, when developing new housing units; Policy 12.3 to ensure new housing is sustainably supported by the City's public infrastructure systems; Objective 13 to prioritize sustainable development in planning for and constructing new housing; and Policy 13.3 to promote sustainable land use patterns that integrate housing with transportation in order to increase transit, pedestrian, and bicycle mode share.



15. The MMRP imposes all feasible mitigation measures that would mitigate the Project's potentially significant impacts to less-than-significant levels, except for a limited number of impacts on transportation and circulation, construction noise and construction air quality.

Having considered the above, the Planning Commission finds that the benefits of the Project outweigh the unavoidable adverse environmental effects identified in the FEIR, and that those adverse environmental effects are therefore acceptable.

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MITIGATION MONITORING AND REPORTING PROGRAM FOR BALBOA RESERVOIR PROJECT

Measures Adopted as Conditions of Approval	Implementation Responsibility	Mitigation Schedule	Monitoring/Reporting Responsibility	Monitoring Actions/Schedule and Verification of Compliance
<b>MITIGATION MEASURES FOR THE BALBOA RESERVOIR PROJECT</b>				
<b>Transportation and Circulation Mitigation Measures</b>				
<p><b>Mitigation Measure M-C-TR-4: Implement Measures to Reduce Transit Delay.</b> The project sponsor, under either project option, shall implement feasible measures (as developed in consultation with SFMTA) to reduce transit delay for the identified segments of the K/T Third/Ingleside, 29 Sunset, and 43 Masonic.</p> <p><b>Routes and Study Segments.</b> The following routes and study segments would most likely experience cumulative transit delay impact to which the project would have a considerable cumulative contribution:</p> <ul style="list-style-type: none"> <li>• K/T Third/Ingleside (outbound): Jules Avenue/Ocean Avenue to Balboa Park Bay Area Rapid Transit (BART)</li> <li>• K/T Third/Ingleside (inbound): San Jose Avenue/Geneva Avenue to Dorado Terrace/Ocean Avenue</li> <li>• 29 Sunset (outbound): Plymouth Avenue/Ocean Avenue to Mission St/Persia Avenue</li> <li>• 29 Sunset (inbound): Mission St/Persia Avenue to Plymouth Avenue/Ocean Avenue</li> <li>• 43 Masonic (outbound): Gennessee Street/Monterey Boulevard to Geneva Avenue/Howth Street</li> <li>• 43 Masonic (inbound): Geneva Avenue/Howth Street to Foerster Street/Monterey Boulevard</li> </ul> <p><b>Implement Capital Improvement Measures.</b> The project sponsor shall contribute funds for the following capital improvement measures that reduce transit travel times:</p> <ol style="list-style-type: none"> <li>1. <b>Signal Timing Modifications at Ocean Avenue/Brighton Avenue.</b> The project sponsor shall fund the design and construction of signal timing modifications and restriping, as needed, at the Ocean Avenue/Brighton Avenue intersection. The existing traffic signal shall be modified to prohibit eastbound left turns and provide a protected green arrow signal phase for westbound left turns.</li> <li>2. <b>Signal Timing Modifications at Ocean Avenue/Plymouth Avenue.</b> The project sponsor shall fund the design and construction of signal timing modifications and restriping, as needed, at the Ocean Avenue/Plymouth Avenue intersection. The existing traffic signal shall be modified to prohibit eastbound left turns and provide a protected green arrow signal phase for westbound left turns.</li> <li>3. <b>Bus Boarding Island on Southbound Frida Kahlo Way.</b> The project sponsor shall fund the design and construction of a bus boarding island on southbound Frida Kahlo Way, north of the Frida Kahlo Way/Geneva Avenue/Ocean Avenue intersection, and restriping, as needed.</li> </ol> <p>The cost of these capital improvement measures is \$200,000 (in 2020 dollars; cost shall be escalated using consumer price index (CPI) to year of payment), and shall be considered the project's fair share toward mitigating this significant cumulative impact. The fair share contribution, as documented by SFMTA<sup>1</sup>, shall not exceed this amount (with CPI escalation) across both payment phases. The project sponsor shall pay \$110,000 (plus CPI escalation) to SFMTA prior to issuance of the first construction document for the first project building in phase 1, and \$90,000 (plus CPI escalation) to SFMTA prior to issuance of the first construction document for the first project building in phase 2.</p> <p>If SFMTA adopts a strategy to reduce transit travel times to the K/T Third/Ingleside, 29 Sunset, and 43 Masonic that does not involve signal timing modifications or bus boarding islands, the project's total contribution shall remain the same, and may be used for other transit travel time saving strategies on these routes, as deemed appropriate by the SFMTA.</p> <p>The schedule for implementing capital improvement measures shall be at the discretion of SFMTA, as designated in the SFMTA's capital improvements plan.</p>	Project sponsor	Project sponsor shall submit the \$110,000 (plus CPI escalation) payment prior to issuance of the first construction document for the first project building in Phase 1. The project sponsor shall submit the \$90,000 (plus CPI escalation) payment prior to issuance of the first construction document for the first project building in Phase 2.	SFMTA	<p>Documentation of compliance.</p> <p>Considered complete when the project sponsor has contributed \$200,000 (plus CPI escalation) to fund the SFMTA capital improvement measures.</p>
<b>Noise Mitigation Measures</b>				
<p><b>Mitigation Measure M-NO-1: Construction Noise Control Measures.</b></p> <p>The project sponsor shall implement a project-specific noise control plan that has been prepared by a qualified acoustical consultant and approved by the planning department. The noise control plan may include, but not limited to, the following construction noise control measures:</p> <ul style="list-style-type: none"> <li>• To the extent that it does not extend the overall schedule, conduct demolition of the parking lot at the northern portion of the project site during periods when Archbishop Riordan High School is not in session.</li> <li>• Require the general contractor to ensure that equipment and trucks used for project construction utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds).</li> <li>• Require the general contractor to locate stationary noise sources (such as the rock/concrete crusher, or compressors) as far from adjacent or nearby sensitive receptors as possible, to muffle such noise sources, and/or to construct barriers around such sources.</li> </ul>	Project sponsor and contractor	<p>Draft noise control plan submittal to Planning Department: prior to issuance of the first demolition or site permit.</p> <p>Draft construction noise monitoring program submittal to Planning Department: prior to start of excavation of all construction phases.</p> <p>Implementation of measures: throughout construction period.</p>	<p>San Francisco Department of Building Inspection (DBI), Planning Department, Department of Public Health (on complaint basis), Police Department (on complaint basis).</p> <p>Planning Department to review and approve noise control plan and construction noise monitoring programs.</p> <p>Project sponsor, qualified consultant, and/or construction contractor(s) to prepare a weekly noise monitoring log which shall be</p>	<p>Considered complete at the completion of construction for each subsequent phase of the project and submittal of final noise monitoring report.</p>

<sup>1</sup> Henderson, Tony, SFMTA, e-mail communication to Elizabeth White, San Francisco Planning Department, and Leigh Lutenski, Office of Economic and Workforce Development on March 30, 2020.

MITIGATION MONITORING AND REPORTING PROGRAM FOR BALBOA RESERVOIR PROJECT

Measures Adopted as Conditions of Approval	Implementation Responsibility	Mitigation Schedule	Monitoring/Reporting Responsibility	Monitoring Actions/Schedule and Verification of Compliance
<p>and/or the construction site, which could reduce construction noise by as much as 5 dBA. To further reduce noise, the contractor shall locate stationary equipment in pit areas or excavated areas, to the maximum extent practicable.</p> <ul style="list-style-type: none"> <li>Require the general contractor to use impact tools (e.g., jackhammers and pavement breakers) that are hydraulically or electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. Where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used, along with external noise jackets on the tools, which would reduce noise levels by as much as 10 dBA.</li> <li>Include noise control requirements for construction equipment and tools, including specifically concrete saws, in specifications provided to construction contractors. Such requirements could include, but are not limited to, erecting temporary plywood noise barriers around a construction site, particularly where a site adjoins noise-sensitive uses; utilizing noise control blankets on a building structure as the building is erected to reduce noise levels emanating from the construction site; performing all work in a manner that minimizes noise; and using equipment with effective mufflers. Moveable sound barrier curtains can provide up to 15 dBA of sound attenuation.</li> <li>Undertake the noisiest activities (e.g., demolition using hoe rams) during the hours of 9 a.m. to 4 p.m.; and select or construct haul routes that avoid the North Access Road and the adjacent Archbishop Riordan High School and residential uses along Plymouth Avenue and Lee Avenue, such as the temporary or permanent relocation of North Street.</li> <li>Postpone demolition of the west side berm to the end of Phase 0, to the extent that it does not extend the overall schedule, so that it may serve as a noise attenuation barrier for the receptors to the west for earlier Phase 0 demolition and construction activities.</li> <li>Notify the planning department's development performance coordinator at the time that night noise permits are requested or as soon as possible after emergency/unanticipated activity causing noise with the potential to exceed noise standards has occurred.</li> </ul> <p>The general contractor or other designated person(s) shall prepare a weekly noise monitoring log report that shall be made available to the planning department upon request. The log shall include any noise complaints received, whether in connection with an exceedance or not, as well as any noise complaints received through calls to 311 or DBI if the contractor is made aware of them (for example, via a DBI notice, inspection, or investigation). Any weekly report that includes an exceedance or for a period during which a complaint is received shall be submitted to the planning department within three business days following the week in which the exceedance or complaint occurred. A report also shall be submitted to the planning department at the completion of each construction phase. The report shall document noise levels, exceedances of threshold levels, if reported, and corrective action(s) taken.</p>			<p>made available to the Planning Department when requested. Any weekly report that includes an exceedance or for a period during which a complaint is received shall be submitted to the development performance coordinator within 3 business days following the week in which the exceedance or complaint occurred.</p> <p>Project sponsor, qualified consultant, and/or construction contractor(s) to submit final noise monitoring report to the Planning Department development performance coordinator at the completion of each construction phase.</p>	
<p><b>Mitigation Measure M-NO-3: Fixed Mechanical Equipment Noise Controls.</b></p> <p>Noise attenuation measures shall be incorporated into all fixed mechanical equipment (including HVAC equipment) installed on all buildings that include such equipment as necessary to meet noise limits specified in Police Code section 2909. Interior noise limits shall be met under both existing and future noise conditions.</p> <p>Noise attenuation measures could include provision of sound enclosures/barriers, addition of roof parapets to block noise, increasing setback distances from sensitive receptors, provision of louvered vent openings, location of vent openings away from adjacent residential uses, and restriction of generator testing to the daytime hours.</p> <p>After completing installation of the HVAC equipment but before receipt of the Certificate of Occupancy for each building, the project sponsor shall conduct noise measurements to ensure that the noise generated by fixed mechanical equipment complies with section 2909(a) and (d) of the San Francisco Noise Ordinance. No Final Certificate of Occupancy shall be issued for any building until the standards in the Noise Ordinance are shown to be met for that building.</p>	Project sponsor	Prior to receipt of any certificate of final occupancy for each building.	San Francisco Department of Building Inspection (DBI). Project sponsor to provide copies of project construction plans to the Planning Department that show incorporation of noise attenuation measures.	Considered complete upon DBI review and issuance of final certificate of occupancy.
<b>Air Quality Mitigation Measures</b>				
<p><b>Mitigation Measure M-AQ-2a: Construction Emissions Minimization.</b></p> <p>The project sponsor or the project sponsor's contractor shall comply with the following:</p> <p><b>A. Engine Requirements</b></p> <ol style="list-style-type: none"> <li>All off-road equipment greater than 25 horsepower shall have engines that meet Tier 4 Final off-road emission standards.</li> <li>Since grid power will be available, portable diesel engines shall be prohibited.</li> <li>Renewable diesel shall be used to fuel all diesel engines unless it can be demonstrated to the Environmental Review Officer (ERO) that such fuel is not compatible with on-road or off-road engines and that emissions of ROG and NOx from the transport of fuel to the project site will offset its NOx reduction potential.</li> <li>Diesel engines, whether for off-road or on-road equipment, shall not be left idling for more than two minutes, at any location, except as provided in exceptions to the applicable state regulations regarding idling for off-road and on-road equipment (e.g., traffic conditions, safe operating conditions). The contractor shall post legible and visible signs in English, Spanish, and Chinese, in designated queuing areas and at the construction site to remind operators of the two-minute idling limit.</li> <li>The contractor shall instruct construction workers and equipment operators on the maintenance and tuning of construction equipment, and require that such workers and operators properly maintain and tune equipment in accordance with manufacturer specifications.</li> </ol> <p><b>B. Waivers.</b> The ERO may waive the equipment requirements of subsection (A)(1) if: a particular piece of off-road equipment is technically not feasible; the equipment would not produce desired emissions reduction due to expected operating modes; installation of the</p>	Project sponsor and project sponsor's construction contractor	<p>Submit construction emissions minimization plan to Planning Department prior to issuance of construction site permit.</p> <p>Implement plan throughout construction period.</p> <p>Submit final plan after completion of construction activities and prior to receiving a final certificate of occupancy.</p>	<p>Planning Department (ERO) or their designee must review draft construction emissions minimization plan prior to issuance of first demolition or construction permit and approve final plan prior to the start of demolition or construction.</p> <p>ERO to review quarterly and final monitoring reports.</p>	Considered complete upon Planning Department review and approval of documentation and completion of construction.

MITIGATION MONITORING AND REPORTING PROGRAM FOR BALBOA RESERVOIR PROJECT

Measures Adopted as Conditions of Approval	Implementation Responsibility	Mitigation Schedule	Monitoring/Reporting Responsibility	Monitoring Actions/Schedule and Verification of Compliance
<p>equipment would create a safety hazard or impaired visibility for the operator; or, there is a compelling emergency need to use other off-road equipment. If the ERO grants the waiver, the contractor must use the next cleanest piece of off-road equipment, according to the table below.</p> <p>The ERO may waive the equipment requirements of Item A.1 if: a particular piece of off-road equipment with an engine meeting Tier 4 Final emission standards is not regionally available to the satisfaction of the ERO. If seeking a waiver from this requirement, the project sponsor must demonstrate to the satisfaction of the ERO that the health risks from existing sources, project construction and operation, and cumulative sources do not exceed a total of 10 µg/m3 or 100 excess cancer risks for any onsite or offsite receptor.</p> <p>The ERO may waive the equipment requirements of Item A.2 if: an application has been submitted to initiate onsite electrical power, portable diesel engines may be temporarily operated for a period of up to three weeks until onsite electrical power can be initiated or, there is a compelling emergency.</p> <p>C. <i>Construction Emissions Minimization Plan.</i> Before starting onsite ground disturbing, demolition, or construction activities, the contractor shall submit a Construction Emissions Minimization Plan to the ERO for review and approval. The plan shall state, in reasonable detail, how the contractor will meet the requirements of Section A, Engine Requirements.</p> <ol style="list-style-type: none"> <li>The Construction Emissions Minimization Plan shall include estimates of the construction timeline by phase, with a description of each piece of off-road equipment required for every construction phase. The description may include, but is not limited to: equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, engine serial number, and expected fuel usage and hours of operation. For off-road equipment using alternative fuels, the description shall also specify the type of alternative fuel being used.</li> <li>The project sponsor shall ensure that all applicable requirements of the Construction Emissions Minimization Plan have been incorporated into the contract specifications. The plan shall include a certification statement that the contractor agrees to comply fully with the plan.</li> <li>The contractor shall make the Construction Emissions Minimization Plan available to the public for review onsite during working hours. The contractor shall post at the construction site a legible and visible sign summarizing the plan. The sign shall also state that the public may ask to inspect the plan for the project at any time during working hours and shall explain how to request to inspect the plan. The contractor shall post at least one copy of the sign in a visible location on each side of the construction site facing a public right-of-way.</li> </ol> <p>D. <i>Monitoring.</i> After start of construction activities, the contractor shall submit quarterly reports to the ERO documenting compliance with the Construction Emissions Minimization Plan. After completion of construction activities and prior to receiving a final certificate of occupancy, the project sponsor shall submit to the ERO a final report summarizing construction activities, including the start and end dates and duration of each construction phase, and the specific information required in the plan.</p>				
<p><b>Mitigation Measure M-AQ-2b: Low-VOC Architectural Coatings.</b></p> <p>The project sponsor shall use low- and super-compliant VOC architectural coatings during construction. "Low-VOC" refers to paints that meet the more stringent regulatory limits in South Coast Air Quality Management District rule 1113; however, many manufacturers have reformulated to levels well below these limits. These are referred to as "Super-Compliant" architectural coatings.</p>	Project sponsor	During construction	Planning Department (ERO)	Considered complete upon Planning Department review and approval of documentation of compliance
<p><b>Mitigation Measure M-AQ-2c: On-Road Truck Emissions Minimization for the Compressed Construction Schedule.</b> Under the compressed three-year construction schedule for either the Developer's Proposed Option or the Additional Housing Option, the project sponsor or the project sponsor's contractor shall comply with the following:</p> <p>A. <i>Engine Requirements.</i> The project sponsor shall ensure that all on-road heavy-duty diesel trucks with a gross vehicle weight rating of 19,500 pounds or greater used at the project site (such as haul trucks, water trucks, dump trucks, concrete trucks, and vendor trucks) be model year 2014 or newer.</p> <p>B. <i>Waivers.</i> The ERO may waive the engine year requirements of Subsection (A)(1) for on-road heavy duty diesel vendor trucks delivering materials to the project site, which could include window, door, cabinet, or elevator equipment if each vendor truck entering the project site is used only once for a single delivery of equipment or material. If the ERO grants the waiver, the contractor must demonstrate that that vendor truck would only be used once for a single delivery to the project site.</p> <p>Waivers to the engine year requirements of Subsection (A)(1) shall not be included for vendor trucks that import or off-haul soil, transport heavy earthmoving equipment, or ready-mix concrete, or deliver lumber.</p> <p>C. <i>Construction Emissions Minimization Plan.</i> The construction minimization requirements of Mitigation Measure M-AQ-2a item (C).</p> <p>D. <i>Monitoring.</i> The monitoring requirements of Mitigation Measure M-AQ-2a item (D).</p>	Project sponsor and contractor	Implement prior to and during construction activities for the compressed construction schedule	Planning Department (ERO). ERO to review draft construction emissions minimization plan prior to issuance of first demolition or construction permit and final plan at the start of demolition or construction.  ERO to review quarterly and final monitoring reports.	Considered complete upon Planning Department review and approval of documentation and completion of construction.
<p><b>Mitigation Measure M-AQ-2d: Offset Construction Emissions for the Compressed Schedule.</b></p> <p>Under the compressed three-year construction schedule for either the Developer's Proposed Option or the Additional Housing Option, the project sponsor shall implement this measure. Prior to issuance of the final certificate of occupancy for the final building associated with Phase 1, the project sponsor, with the oversight of the Environmental Review Officer (ERO), shall either:</p>	Project sponsor	<i>Offset program:</i> Prior to issuance of final certificate of occupancy for final building constructed, notify the ERO within six months of completion of the offset project(s)	<i>Offset program:</i> Planning Department (ERO)	<i>Offset program:</i> Considered complete upon approval of documentation of offset projects implemented



MITIGATION MONITORING AND REPORTING PROGRAM FOR BALBOA RESERVOIR PROJECT

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<p>1. Directly fund or implement a specific offset project within San Francisco if available to achieve the equivalent to a one-time reduction of 2.0 tons per year of ozone precursors for the Developer's Proposed Option or 3.2 tons per year of ozone precursors for the Additional Housing Option. To qualify under this mitigation measure, the specific emissions offset project must result in emission reductions within the San Francisco Bay Area Air Basin that would not otherwise be achieved through compliance with existing regulatory requirements. A preferred offset project would be one implemented locally within the City and County of San Francisco. Prior to implementing the offset project, it must be approved by the ERO. The project sponsor shall notify the ERO within six months of completion of the offset project for verification; or</p> <p>2. Pay mitigation offset fees to the Bay Area Air Quality Management District Bay Area Clean Air Foundation or other governmental entity or third party. The mitigation offset fee shall fund one or more emissions reduction projects within the San Francisco Bay Area Air Basin. The fee will be determined by the ERO, the project sponsor, and the governmental entity or third party responsible for administering the funds, and be based on the type of projects available at the time of the payment. This fee is intended to fund emissions reduction projects to achieve reductions of 2.0 tons per year of ozone precursors for the Developer's Proposed Option or 3.2 tons per year of ozone precursors for the Additional Housing Option, which is the amount required to reduce emissions below significance levels after implementation of other identified mitigation measures as currently calculated.</p> <p>The agreement that specifies fees and timing of payment shall be signed by the project sponsor, the governmental entity or third party responsible for administering the funds, and the ERO prior to issuance of the first site permit. This offset payment shall total the predicted 2.0 tons per year of ozone precursors for the Developer's Proposed Option or 3.2 tons per year of ozone precursors for the Additional Housing Option above the 10-ton-per-year threshold after implementation of Mitigation Measures M-AQ-2a, M-AQ-2b, and M-AQ-2c.</p> <p>The total emission offset amount presented above was calculated by summing the maximum daily construction of ROG and NOx (pounds/day), multiplying by 260 work days per year, and converting to tons. The amount represents the total estimated operational and construction-related ROG and NOx emissions offsets required. No reductions are needed for operations or overlapping construction and operations.</p>		<p>and/or</p> <p><i>Mitigation Fee:</i> Sign agreement prior to issuance of first site permit. Pay amount determined at time of impact.</p>	<p><i>Mitigation Fee:</i> BAAQMD or other governmental entity or third party</p>	<p><i>Mitigation Fee:</i> Considered complete upon BAAQMD/other governmental entity/third party confirmation of receipt of payment</p>
<p><b>Mitigation Measure M-AQ-4a: Diesel Backup Generator Specifications.</b></p> <p>To reduce ROG and NOx associated with operation of the proposed project, the project sponsor shall implement the following measures:</p> <p>A. All new diesel backup generators shall:</p> <ol style="list-style-type: none"> <li>Have engines that meet or exceed California Air Resources Board Tier 4 off-road emission standards which have the lowest NOx emissions of commercially available generators; and</li> <li>Be fueled with renewable diesel, if commercially available, which has been demonstrated to reduce NOx emissions by approximately 10 percent.</li> </ol> <p>B. All new diesel backup generators shall have an annual maintenance testing limit of 50 hours, subject to any further restrictions as may be imposed by the Bay Area Air Quality Management District in its permitting process.</p> <p>C. For each new diesel backup generator permit submitted to Bay Area Air Quality Management District for the project, the project sponsor shall submit the anticipated location and engine specifications to the San Francisco Planning Department ERO for review and approval prior to issuance of a permit for the generator from the San Francisco Department of Building Inspection. Once operational, all diesel backup generators shall be maintained in good working order for the life of the equipment and any future replacement of the diesel backup generators shall be required to be consistent with these emissions specifications. The operator of the facility at which the generator is located shall be required to maintain records of the testing schedule for each diesel backup generator for the life of that diesel backup generator and to provide this information for review to the planning department within three months of requesting such information.</p>	Project sponsor and facility operator, Planning Department.	<p>Prior to issuance of a permit for diesel backup generator specifications.</p> <p>Ongoing for maintenance, testing, and records keeping.</p>	Planning Department (ERO) and DBI	<p>Equipment specifications portion considered complete when equipment specifications approved by ERO.</p> <p>Maintenance portion is ongoing and records are subject to Planning Department review upon request.</p>
<p><b>Mitigation Measure M-AQ 4b: Install MERV 13 Filters at the Daycare Facility.</b></p> <p>If the daycare facility is constructed as part of Phase 1 and is operational while Phase 2 is under construction, the project sponsor shall install a mechanical ventilation system at the onsite daycare facility located in Block B capable of achieving the protection from particulate matter (PM2.5) equivalent to that associated with a Minimum Efficiency Reporting Value (MERV) 13 filtration (as defined by American Society of Heating, Refrigerating and Air-Conditioning Engineers [ASHRAE] standard 52.2). The system must meet the requirements of San Francisco Health Code article 38 and San Francisco Building Code section 1203.5.</p>	Project sponsor	Prior to issuance of final certificate of occupancy for building containing daycare.	Planning Department (ERO) and DBI.	Considered complete upon ERO and DBI acceptance of documentation of compliance prior to issuance of a certificate of occupancy.
<b>Cultural Resources (Archeological Resources) Mitigation Measures</b>				
<p><b>Mitigation Measure M-CR-2: Accidental Discovery of Archeological Resources (PER Mitigation Measure AM-1).</b></p> <p>The project sponsor shall distribute the planning department archeological resource "ALERT" sheet to the project prime contractor; to any project subcontractor (including demolition, excavation, grading, foundation, pile driving, etc. firms); or utilities firm involved in soils-disturbing activities within the project site. Prior to any soils-disturbing activities being undertaken each contractor is responsible for ensuring that the "ALERT" sheet is circulated to all field personnel including, machine operators, field crew, pile drivers, supervisory personnel, etc. The project</p>	Project sponsor, contractor, qualified archaeological consultant, and Planning Department (ERO).	During soil-disturbing activities.	Planning Department (ERO).	Considered complete upon ERO's approval of FARR.

MITIGATION MONITORING AND REPORTING PROGRAM FOR BALBOA RESERVOIR PROJECT

Measures Adopted as Conditions of Approval	Implementation Responsibility	Mitigation Schedule	Monitoring/Reporting Responsibility	Monitoring Actions/Schedule and Verification of Compliance
<p>sponsor shall provide the Environmental Review Officer (ERO) with a signed affidavit from the responsible parties (prime contractor, subcontractor(s), and utilities firm) to the ERO confirming that all field personnel have received copies of the Alert Sheet.</p> <p>Should any indication of an archeological resource be encountered during any soils-disturbing activity of the project, the project Head Foreman and/or project sponsor shall immediately notify the ERO and shall immediately suspend any soils-disturbing activities in the vicinity of the discovery until the ERO has determined what additional measures should be undertaken.</p> <p>If the ERO determines that an archeological resource may be present within the project area, the project sponsor shall retain the services of an archeological consultant from the pool of qualified archeological consultants maintained by the planning department archeologist. The archeological consultant shall advise the ERO as to whether the discovery is an archeological resource, retains sufficient integrity, and is of potential scientific/historical/cultural significance. If an archeological resource is present, the archeological consultant shall identify and evaluate the archeological resource. The archeological consultant shall make a recommendation as to what action, if any, is warranted. Based on this information, the ERO may require, if warranted, specific additional measures to be implemented by the project sponsor.</p> <p>Measures might include: preservation in situ of the archeological resource; an archeological monitoring program; or an archeological testing program. If an archeological monitoring program or archeological testing program is required, it shall be consistent with the Environmental Planning (EP) division guidelines for such programs. The ERO may also require that the project sponsor immediately implement a site security program if the archeological resource is at risk from vandalism, looting, or other damaging actions.</p> <p>The project archeological consultant shall submit a Final Archeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archeological resource and describing the archeological and historical research methods employed in the archeological monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the final report.</p> <p>Copies of the Draft FARR shall be sent to the ERO for review and approval. Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archeological Site Survey Northwest Information Center (NWIC) shall receive one copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Environmental Planning division of the Planning Department shall receive one bound copy, one unbound copy and one unlocked, searchable PDF copy on CD of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest or interpretive value, the ERO may require a different final report content, format, and distribution than that presented above.</p>				
<p><b>Mitigation Measure M-CR-3: Accidental Discovery of Human Remains.</b></p> <p>The treatment of human remains and of associated or unassociated funerary objects discovered during any soil-disturbing activity shall comply with all applicable state and federal laws. This shall include immediate notification of the Medical Examiner of the City and County of San Francisco and, in the event of the Medical Examiner's determination that the human remains are Native American remains, notification of the Native American Heritage Commission, which shall appoint a Most Likely Descendant (MLD). The MLD shall complete his or her inspection and make recommendations or preferences for treatment and disposition within 48 hours of being granted access to the site (Public Resources Code section 5097.98). The Environmental Review Officer (ERO) shall also be notified immediately upon discovery of human remains.</p> <p>The project sponsor and the ERO shall make all reasonable efforts to develop a Burial Agreement ("Agreement") with the MLD, as expeditiously as possible for the treatment and disposition, with appropriate dignity, of the human remains and associated or unassociated funerary objects (as detailed in CEQA Guidelines section 15064.5(d)). The Agreement shall take into consideration the appropriate excavation, removal, recordation, scientific analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects. If the MLD agrees to scientific analyses of the remains and/or associated or unassociated funerary objects, the archeological consultant shall retain possession of the remains and associated or unassociated funerary objects until completion of any such analyses, after which the remains and associated or unassociated funerary objects shall be reinterred or curated as specified in the Agreement.</p> <p>Nothing in existing state regulations or in this mitigation measure compels the project sponsor and the ERO to accept recommendations of an MLD. However, if the ERO, project sponsor, and MLD are unable to reach an agreement on scientific treatment of the remains and associated or unassociated funerary objects, the ERO, in cooperation with the project sponsor, shall ensure that the remains and associated or unassociated funerary objects are stored securely and respectfully until they can be reinterred on the property, with appropriate dignity, in a location not subject to further or future subsurface disturbance (Public Resources Code section 5097.98).</p> <p>Treatment of historic-period human remains and of associated or unassociated funerary objects discovered during soil-disturbing activity additionally shall follow protocols laid out in the project's archeological treatment documents, and any agreement established between the project sponsor, the Medical Examiner and the ERO.</p>	Project sponsor and contractor, archaeological consultant, ERO in consultation with the Coroner of the City and County of San Francisco, Native American Heritage Commission, and Most Likely Descendant.	In the event human remains and/or funerary objects are encountered, during soil-disturbing activity; immediately, upon each such discovery	Planning Department (ERO)	Considered complete on notification of the San Francisco County Coroner and ERO, and if Native American remains are discovered, then notification to NAHC, and MLD, and completion of treatment agreement and/or analysis and reporting.
<b>Tribal Cultural Resources Mitigation Measures</b>				
<p><b>Mitigation Measure M-TC-1: Tribal Cultural Resources Interpretive Program.</b></p> <p>If the Environmental Review Officer (ERO) determines that a significant archeological resource is present, and if in consultation with the affiliated Native American tribal representatives, the ERO determines that the resource constitutes a tribal cultural resource and that the</p>	Planning Department (ERO), Native American tribal representatives, archaeological consultant, project sponsor.	In the event tribal cultural resources are encountered during soil-disturbing activity.	Planning Department (ERO).	Considered complete if no Tribal Cultural Resource is discovered or Tribal Cultural Resource is discovered and either preserved in-



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<p>resource could be adversely affected by the proposed project, the proposed project shall be redesigned so as to avoid any adverse effect on the significant tribal cultural resource, if feasible.</p> <p>If the ERO determines that preservation-in-place of the tribal cultural resource is both feasible and effective, then the archeological consultant shall prepare an archeological resource preservation plan (ARPP). Implementation of the approved ARPP by the archeological consultant shall be required when feasible.</p> <p>If the ERO, in consultation with the affiliated Native American tribal representatives and the project sponsor, determines that preservation-in-place of the tribal cultural resources is not a sufficient or feasible option, the project sponsor shall implement an interpretive program of the tribal cultural resource in consultation with affiliated tribal representatives. An interpretive plan produced in consultation with the ERO and affiliated tribal representatives, at a minimum, and approved by the ERO would be required to guide the interpretive program. The plan shall identify, as appropriate, proposed locations for installations or displays, the proposed content and materials of those displays or installation, the producers or artists of the displays or installation, and a long-term maintenance program. The interpretive program may include artist installations, preferably by local Native American artists, oral histories with local Native Americans, artifacts displays and interpretation, and educational panels or other informational displays.</p>				<p>place or project effects to Tribal Cultural Resource are mitigated by implementation of Planning Department approved interpretive program.</p>
<b>Geology and Soils Mitigation Measures</b>				
<p><b>Mitigation Measure M-GE-6: Inadvertent Discovery of Paleontological Resources.</b></p> <p>Before the start of excavation activities, the project sponsor shall retain a qualified paleontologist, as defined by the Society of Vertebrate Paleontology, who is experienced in on-site construction worker training. The qualified paleontologist shall complete an institutional record and literature search and train all construction personnel who are involved with earthmoving activities, including the site superintendent, regarding the possibility of encountering fossils, the appearance and types of fossils that are likely to be seen during construction, the proper notification procedures should fossils be encountered, and the laws and regulations protecting paleontological resources. If potential vertebrate fossils are discovered by construction crews, all earthwork or other types of ground disturbance within 25 feet of the find shall stop immediately and the monitor shall notify the Environmental Review Officer. The fossil should be protected by an "exclusion zone" (an area approximately 5 feet around the discovery that is marked with caution tape to prevent damage to the fossil). Work shall not resume until a qualified professional paleontologist can assess the nature and importance of the find. Based on the scientific value or uniqueness of the find, the qualified paleontologist may record the find and allow work to continue, or recommend salvage and recovery of the fossil. The qualified paleontologist may also propose modifications to the stop-work radius and the monitoring level of effort based on the nature of the find, site geology, and the activities occurring on the site, and in consultation with the Environmental Review Officer. If treatment and salvage is required, recommendations shall be consistent with Society of Vertebrate Paleontology's 2010 Standard Procedures for the Assessment and Mitigation of Adverse Impacts to Paleontological Resources, and currently accepted scientific practice, and shall be subject to review and approval by the Environmental Review Officer. If required, treatment for fossil remains may include preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection (e.g., the University of California Museum of Paleontology), and may also include preparation of a report for publication describing the finds. Upon receipt of the fossil collection, a signed repository receipt form shall be obtained and provided to the planning department. The qualified paleontologist shall prepare a paleontological resources report documenting the treatment, salvage, and, if applicable, curation of the paleontological resources. The project sponsor shall be responsible for the costs necessary to prepare and identify collected fossils, and for any curation fees charged by the paleontological repository. The planning department shall ensure that information on the nature, location, and depth of all finds is readily available to the scientific community through university curation or other appropriate means.</p>	<p>Prior to excavation: project sponsor and qualified paleontological consultant</p> <p>During construction: project sponsor and contractor</p>	<p>Institutional record and literature search: before issuance of a demolition permit.</p> <p>Worker training: before the start of excavation activities</p> <p>During construction</p>	<p>Planning Department (ERO)</p> <p>Planning Department (ERO)</p>	<p>Considered complete upon ERO acceptance of documentation of compliance</p> <p>Considered complete upon ERO acceptance of documentation of compliance</p>

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