

CHAPTER 1 INTRODUCTION

1.1 PURPOSE OF THE ENVIRONMENTAL IMPACT REPORT

This Draft Environmental Impact Report (EIR) has been prepared for the West Valley-Mission Community College District (WVMCCD or District) in compliance with the California Environmental Quality Act (CEQA) requirements. CEQA requires the preparation of a full disclosure document to inform the public, West Valley College Board of Trustees, and Responsible/Trustee Agencies of the direct and reasonably foreseeable indirect environmental effects of the proposed project on the local and regional environment. This document provides a program-level assessment of the potential environmental consequences of adoption and implementation of the proposed Mission College Facilities Master Plan (Master Plan) for Mission College. The West Valley-Mission Community College District is the Lead Agency for the project.

1.2 CEQA EIR PROCESS

This EIR assesses the environmental impacts on a “first tier” or “program” level that would be associated with implementing the proposed Master Plan. Consultation with the State Office of Planning and Research indicates that the preparation of a Program EIR is the most appropriate course of action for the evaluation of the Master Plan’s environmental impacts. (See also Public Resources Code, Sections 21080.09, subdivisions (b), (c) (approval of a long range development plan may be addressed in a “tiered environmental analysis”), 21093 (legislative policy favoring tiering), 21094 (mechanics of tiering); California Code of Regulations, Title 14, Division 6, Chapter 3 (“CEQA Guidelines”), Section 15168 (rules governing the use of program EIRs); *Sierra Club. v. County of Sonoma* (1992) 6 Cal.App.4th 1307, 1318-1321 (court treats program EIR as equivalent of first tier EIR).) The Program EIR provides the first tier of environmental analysis for the Master Plan and forms the basis for future evaluation of project elements at appropriate times. Section 15168(b) of the CEQA Guidelines encourages the use of Program EIRs, citing the following advantages:

- *Provision for a more exhaustive consideration of impacts and alternatives than would be practical in an individual EIR*
- *Focus on cumulative impacts that might be overlooked in case-by-case analysis*
- *Avoidance of continual reconsideration of recurring policy issues*
- *Consideration of broad policy alternatives and programmatic mitigation measures at an early stage*
- *Reduction of paperwork by encouraging the reuse of data (through tiering)*

The proposed Master Plan and this Program EIR provide a framework for the subsequent review of individual discretionary projects as they occur at Mission College. Each such project with the potential to

affect the physical environment will be assessed within this framework to determine the appropriate level of CEQA review. Whether such individual projects will require additional formal environmental analysis will be determined on a case-by-case basis. CEQA Guidelines Section 15168(c), provides that, where a lead agency is considering a “subsequent activity” consistent with an approved “program,” the agency shall examine the activity “in light of the program EIR to determine whether any additional environmental document must be prepared.” In general, two possible outcomes are possible. First, the agency, after preparing a “written checklist or similar device,” may determine that the environmental effects of the proposed activity “were covered in the program EIR.” In such an instance, because the activity is “within the scope of the project covered by the program EIR,” and because there are no “effects that were not examined in the program EIR,” “no new environmental document would be required.” Alternatively, if the activity “would have effects that were not examined in the program EIR, a new initial study would need to be prepared leading to either an EIR or a negative declaration.”

For this proposed Master Plan, it is anticipated that many projects will not require formal “second tier” review in the form of a new EIR, negative declaration, or mitigated negative declaration. The District reaches this conclusion for two reasons. First, most of the individual projects will be small in scale, and will have impacts generally confined to on-campus areas immediately adjacent to the buildings at issue (e.g., those requiring replacement or improvements). This EIR is intended to fully address such localized, and relatively small-scale impacts, and includes proposed mitigation measures that, when applied to such projects, will reduce their effects to less-than-significant levels. The District therefore anticipates being able to find that many such proposals are “within the scope” of this EIR and would not cause “effects that were not examined in the program EIR.”

Secondly, many such projects, when proposed individually, would qualify for various “categorical exemptions” obviating the need for a negative declaration, mitigated negative declaration, or EIR. Such exemptions exist, for example, for the following: “the operation, repair, maintenance, . . . or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features involving negligible or no expansion of use” (CEQA Guidelines, Section 15301); “replacement or reconstruction of existing structures or facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced” (*id.*, Section 15302); “construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure” (*id.*, Section 15303); “minor public or private alterations in the condition of land, water, and/or vegetation which do not involve the removal of healthy, mature, scenic trees except for forestry and agricultural purposes” (*id.*, Section 15304); “construction, or replacement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities” (*id.*, Section 15311); and “projects not to exceed five acres in size to assure the maintenance, restoration, enhancement, or protection of habitat for fish, plants, or wildlife” (*id.*, Section 15333). The fact that many likely future

activities within the proposed Master Plan, standing alone, would qualify for one or more of these exemptions is an indication of the small scale, localized nature of their adverse environmental effects.

Where the District concludes that a particular proposed activity is *not* “within the scope of the project covered by the program EIR,” the District may consider whether, under CEQA’s “tiering” principles, any further CEQA analysis may be abbreviated in reliance on the the “first tier” program EIR. Public Resources Code section 21068.5 defines “tiering” as “the coverage of general matters and environmental effects in an environmental impact report prepared for a policy, plan, program or ordinance followed by narrower or site-specific environmental impact reports which incorporate by reference the discussion in any prior environmental impact report and which concentrate on the environmental effects which (a) are capable of being mitigated, or (b) were not analyzed as significant effects on the environment in the prior environmental impact report.” (See also CEQA Guidelines, §§ 15385, subd. (a).)

CEQA Guidelines section 15152(b) set forth principles for a lead agency considering a “later project” in light of a previously certified first tier EIR. The agency “should limit the EIR or negative declaration on the later project to effects which: (1) [w]ere not examined as significant effects on the environment in the prior EIR; or (2) [a]re susceptible to substantial reduction or avoidance by the choice of specific revisions in the project, by the imposition of conditions, or other means.” (Paragraph breaks omitted.)

Before deciding that tiering may be used with respect to a later project, the lead agency must prepare an “initial study or other analysis” to assist it in determining whether the project may cause any significant impacts that were not “adequately addressed” in a prior EIR. (CEQA Guidelines, § 15152(f); Pub. Resources Code, § 21094(c).) Where this analysis finds that such significant impacts may occur, an EIR is required for the later project. (CEQA Guidelines, § 15152(f).) In contrast, “[a] negative declaration or mitigated negative declaration shall be required” where there is no substantial evidence that the project may have significant impacts not adequately addressed in the prior EIR, or where project revisions accepted by the proponent avoid any such new significant effects or mitigate them “to a point where clearly” they are not significant.

“A later EIR shall be required when... [a] later project may cause significant effects on the environment that were not adequately addressed in the prior EIR.” “Cumulative effects” are among the “significant effects” covered by this formulation. “Where a lead agency determines that a cumulative effect has been adequately addressed in the prior EIR, the effect is not treated as significant for purposes of the later EIR or negative declaration, and need not be discussed in detail.” In general, “[s]ignificant environmental effects have been ‘adequately addressed’ if the lead agency determines that: (A) [t]hey have been mitigated or avoided as a result of the prior [EIR] and findings adopted in connection with that prior [EIR]; or (B) [t]hey have been examined at a sufficient level of detail in the prior [EIR] to enable those effects to be mitigated or avoided by site specific revisions, the imposition of conditions, or by other means in connection with the approval of the later project.” (Paragraph breaks omitted.)

Once CEQA review, if any is required, has been completed for each individual project, each project must then be approved by the WVMCCD Board of Trustees, depending on the scope and nature of the project.

1.2.1 Initial Study and Notice of Preparation

In accordance with Sections 15063 and 15082 of the CEQA Guidelines, the WVMCCD, as Lead Agency, prepared an Initial Study and Notice of Preparation (NOP) for the proposed Master Plan. The NOP for this EIR was issued on May 28, 2008. The Initial Study and NOP are included as Appendix A. The NOP and Initial Study were circulated to local, state, and federal agencies and other interested parties. The distribution list is included as Appendix B. The Initial Study determined that the project could result in significant impacts on the environment, although some of the project's potential impacts were determined to be less than significant. The Initial Study required preparation of an EIR, and focused the EIR on the following issues:

- Land Use, Plans, and Policies
- Biological Resources
- Hazards and Hazardous Materials
- Traffic and Circulation
- Air Quality
- Noise
- Cultural Resources
- Public Services and Utilities
- Growth-Inducing Impacts (Population)
- Cumulative Impacts

As part of the scoping process, the Initial Study determined that the proposed project would have less-than-significant impacts on the following types of resources:

- Aesthetics
- Agriculture Resources
- Mineral Resources
- Housing
- Recreation

The Initial Study also identified potentially significant impacts related to the following topics, but provided mitigation measures that would reduce these potential impacts to a less-than-significant level:

- Geology and Soils
- Hydrology and Water Quality

These mitigation measures are listed in the in Chapter 5, Section 5.1, Effects Found Not to be Significant, of this EIR. Since these measures are now part of the proposed Master Plan, and therefore will be required as part of Plan implementation if the Master Plan is approved, no further analysis of these topics is required in this Program EIR. This section (1.2.1), section 5.1, and the Initial Study, taken together, satisfy the requirement of CEQA Guidelines section 15128, which provides that “[a]n EIR shall contain a statement briefly indicating the reasons that various possible significant effects were determined not to be

significant and were therefore not discussed in the EIR. Such a statement may be contained in an attached copy of an initial study.”

1.2.2 Scoping

Subsequent to circulation of the Initial Study and NOP, four responses to the NOP were received, raising the following concerns:

- **City of Santa Clara.** The City of Santa Clara Planning and Traffic Engineering divisions provided comments for consideration in the EIR. The Planning Division listed the following comments:
 - **Project Description:** The amount of net square footage to be added to the Mission College campus is unclear. Staff requests that the EIR include a break down of buildings to be demolished and square footage to be constructed.
 - **Lighting and Glare:** Initial Study Mitigation Measure 3 states that lighting levels should be allowed to exceed standards set by the Illuminating Engineering Society of North America (IESNA). Staff requests an explanation of why exceeding the standards is allowed and possible mitigation to avoid exceeding standards.
 - **Parking:** Staff requests an evaluation of proposed parking and how this meets the parking need of new square footage of buildings.
 - **Plan Sets:** This comment requests a master plan diagram showing locations of existing and proposed buildings, parking lots, and other facilities.
 - **Additional Analysis:** Staff requests that the DEIR acknowledge Global Climate Change and describe how the proposed projects can mediate potential impacts. (The commenter may have meant “mitigate” rather than “mediate.”)

The Traffic Engineering Division provided the following comment:

- It appears that the Master Plan will create significant impact to the City’s intersections. Staff requests that the District submit the scope of work of the consulting traffic engineer for traffic analysis to the City for review and comment.
- **California Department of Toxic Substance Control.** The Department of Toxic Substance Control (DTSC) strongly recommends an investigation into current and historical uses of the campus property, and that site assessments be completed to determine whether hazardous substances need to be addressed (i.e. testing for pesticides if historical usage of the property included agricultural usage). The Agency further recommends that where concerns are identified, sampling should be conducted to determine whether there is an issue that will need to be addressed in the CEQA compliance document. If hazardous substances are expected on the campus, they will need to be addressed as part of this project. The comments also identify specific topics that should be addressed in the EIR, such as an assessment of air and health impacts associated with excavation activities; identification of applicable local standards which may be exceeded by excavation activities, including dust and noise;

transportation impacts from removal and remediation activities; and risk of public upset in the event of an accident at the site.

- **California Department of Transportation.** CalTrans indicates that WVMCCD is responsible for all future project mitigation, including any needed improvements to state highways. The project's fair share contributions, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures. A traffic impact analysis is recommended and it should include: the project's trip generation, distribution, assignment; average daily traffic (ADT) as well as AM and PM peak hour volumes at all significantly affected streets, highway segments, intersections, and ramps; evaluation of existing, existing + project, and cumulative conditions at these intersections; calculation of cumulative traffic volumes based on all existing and future traffic-generating developments with the potential to affect State Highway facilities; and mitigation measures considering highway and non-highway improvements (including financing, scheduling, implementation responsibilities, and lead agency monitoring), with particular attention to solutions that do not rely on increased highway construction.
- **Valley Transportation Authority (VTA).** VTA maintains bus stops and a transit center at the Mission College campus. VTA staff support the update of the Master Plan and look forward to working with the College on the development of transit improvements for the college entrance area. The VTA staff also requests the opportunity to review plans for the initial phase of development and participate in the development of a bus facility that provides safe operation and convenient passenger access and amenities.

These issues as well as those already identified in the Initial Study (Appendix A) as needing further evaluation are addressed in this EIR.

1.2.3 Draft EIR

This document constitutes the Draft EIR. It contains a description of the project, description of the environmental setting (existing conditions), identification of project impacts (including cumulative impacts) and proposed mitigation measures for impacts found to be significant or potentially significant, and an analysis of project alternatives. This EIR addresses the issues that were identified by the Initial Study as potentially significant environmental impacts of the project as well as issues that were raised in the responses to the Notice of Preparation.

Significance criteria vary for each environmental issue analyzed in this EIR and are defined at the beginning of each impact analysis section. Impacts are categorized as follows:

- Significant and Unavoidable (no feasible mitigation measures exist or any feasible mitigation would not reduce impact to a less-than-significant level)
- Potentially Significant (impacts that could be significant or potentially significant in the absence of mitigation, but that would be less-than-significant level after the adoption of recommended mitigation measures)
- Less than Significant (no mitigation required under CEQA, but may be recommended)

Significance is the basis for determining whether or not the EIR must propose potentially feasible mitigation measures for potential project impacts. The existence of significant impacts, moreover, triggers certain mandatory legal procedures and duties at the time of action on a project, as discussed in Section 1.2.5 below.

1.2.4 Public Review

The information in this report is subject to review by the Board of Trustees of WVMCCD, responsible agencies, trustee agencies, and other interested agencies, as well as the public, for a period of 45 days. Publication of this Draft EIR marks the beginning of the public review period, during which written comments will be received by the WVMCCD at the following address:

Mr. John E. Hendrickson, Chancellor
West Valley-Mission Community College District
14000 Fruitvale Avenue
Saratoga, CA 95070-5698

During this 45-day review period, persons are encouraged to comment on the contents of the Draft EIR in writing to the WVMCCD. On February 19, 2009, the WVMCCD Board of Trustees will hold a public hearing on the Draft EIR to receive oral public comments.

1.2.5 Final EIR, EIR Certification, and Project Approval

Following the close of the 45-day review period, all significant environmental issues raised in written and oral comments received on the Draft EIR will be responded to in writing in a Comments and Responses document. The Comments and Responses document, together with the Draft EIR, will constitute the Final EIR. After completion of the Final EIR on a date yet to be determined, the WVMCCD Board of Trustees (“Board”) will hold a public hearing on the Final EIR and the proposed Master Plan. At that time, the Board will consider whether to certify the Final EIR and whether to approve the proposed Master Plan or one of the alternatives proposed herein. Under CEQA, the certification of a Final EIR is a three-step finding. As the District’s decision-making body, the Board must certify that: (1) the document “has been completed in compliance with CEQA”; (2) the document was presented to the Board, which reviewed and considered the information contained therein; and (3) the document reflects the District’s “independent judgment” (CEQA Guidelines, Section 15090(a)).

Upon Final EIR certification, the Board may proceed, if it chooses, with project approval actions. Specifically, CEQA requires that, where a proposed project, as addressed in a certified EIR, could have significant environmental effects, a lead agency, in approving such a project, must adopt findings addressing each such potential significant effect. Such findings shall disclose whether: (i) the effect can be substantially lessened or avoided through the adoption of feasible mitigation measures or a feasible alternative; (ii) the effect can only be mitigated by an agency other than the agency making the findings;

or (iii) the effect cannot be substantially lessened or avoided because proposed mitigation measures or alternatives are infeasible (CEQA Guidelines, Section 15091(a); Pub. Resources Code, Section 21081(a).)

In addition, all adopted mitigation measures must be memorialized in a mitigation monitoring or reporting program intended to ensure implementation of the measures (Pub. Resources Code, Section 21081.6(a)(1); CEQA Guidelines, Section 15097). That program must be adopted concurrently with the findings described above.

Finally, where, even after the adoption of all feasible mitigation measures or a feasible alternative, there remains one or more effects that cannot be rendered less than significant, the lead agency, as part of its project approval, must also adopt a written “Statement of Overriding Considerations” setting forth the economic, social, or other benefits that, in the decision-makers’ judgment, render these significant effects acceptable (CEQA Guidelines, Section 15093).

1.3 EIR ORGANIZATION

The Draft EIR has been organized into the following sections:

Chapter 1, Introduction. This section describes the purpose of the EIR, the CEQA review and certification process, and organization of the EIR.

Chapter 2, Summary. This section summarizes the project description, significant environmental impacts that would result from project implementation, and alternatives and mitigation measures proposed as part of the project or recommended by the EIR to reduce or eliminate impacts, areas of controversy associated with the project, and any “issues to be resolved including the choice among alternatives and whether or how to mitigate the significant environmental effects.”

Chapter 3, Project Description. This section describes the project location and project sponsor’s objectives, as well as providing a detailed project description.

Chapter 4, Environmental Setting, Potential Impacts, and Mitigation Measures. These sections describe existing conditions in the vicinity of proposed facilities, discuss project consistency with relevant local plans and policies, identify the environmental impacts associated with project construction and operation, and present mitigation measures for the nine issue areas studied by this Draft EIR.

Chapter 5, Other CEQA Considerations. This section discusses several issues required by CEQA, including significant unavoidable impacts, growth inducing impacts, cumulative impacts, and alternatives to the project.

Chapter 6, Report Preparation and Persons/Agencies Consulted. This section lists the persons involved in preparation of this report, and summarizes all personal, telephone, and email communications identified in Chapters 1 through 5. Other references are listed at the end of each chapter.

Chapter 7, Appendices. The appendices provide relevant reference material and data that support discussions in the EIR. In addition, the appendices contain the Initial Study, NOP, and distribution list.