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To: [Board of Supervisors, \(BOS\)](#); [Lew, Lisa \(BOS\)](#); [Wong, Jocelyn \(BOS\)](#)
Cc: [Peskin, Aaron \(BOS\)](#); [Safai, Ahsha \(BOS\)](#); [Stefani, Catherine \(BOS\)](#); [PrestonStaff \(BOS\)](#); [Preston, Dean \(BOS\)](#); [Mar, Gordon \(BOS\)](#); [RonenStaff \(BOS\)](#); [Haney, Matt \(BOS\)](#); [Yee, Norman \(BOS\)](#); [MandelmanStaff, \(BOS\)](#); [Fewer, Sandra \(BOS\)](#); [Walton, Shamann \(BOS\)](#)
Subject: Planning Dept's 8/10 Response 11
Date: Monday, August 10, 2020 9:17:35 PM
Attachments: [8-10 Planning Response 11.docx](#)

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BOS:

Today, Planning Dept submitted Response 11 regarding Threshold of Significance for Transit Delay.

Attached is my rebuttal of their attempt to invalidate my analysis of Transit Delay Threshold of Significance. I have reproduced Response 11 without alteration in the attachment. My comments are contained within Response 11 in **red**.

In relation to Response 11, I would like to bring your attention to 14 CCR 15064 "Determining the Significance of the Environmental Effects Caused by a Project" which states:

15064 (b)(2)

*Thresholds of significance, as defined in Section 15064.7(a), may assist lead agencies in determining whether a project may cause a significant impact. When using a threshold, the lead agency should briefly explain how compliance with the threshold means that the project's impacts are less than significant. **Compliance with the threshold does not relieve a lead agency of the obligation to consider substantial evidence indicating that the project's environmental effects may still be significant.***

In your quasi-judicial role, please make your decisions based on impartiality and merit, and not on politics. I thank you for doing so in advance.

Sincerely,
Alvin Ja, appellant

8/10/2020 PLANNING DEPT RESPONSE TO MY COMMENTS

p.5 ff-- Planning Dept Response 11:

Planning Dept's response is reproduced in its entirety, without alteration, in black. My rebuttal is in **red**.

Response 11: The SEIR transit delay impact analysis is supported by substantial evidence (continued numbering after response 10 in the department's August 3, 2020 appeal response).

The appellant contends that the justification for the use of a four-minute delay as a CEQA threshold of significance for transit delay does not constitute substantial evidence. The appellant also states the SEIR changed transit analysis with more favorable data that was collected during City College finals week (December 17-18, 2019).

RTC Response TR-4, Transit Significance Criteria Used in the Transit Delay Analysis, (p. 4.C-33), thoroughly responds to and explains that the transit significance criterion used in the transit delay analysis, and the threshold of significance used to evaluate that criterion, is based on substantial evidence. The criterion and threshold are consistent with the guidance in the San Francisco Planning Department's Transportation Impact Analysis (TIA) Guidelines for Environmental Review. The department led a several-year process to update its guidelines, including consulting with transit agencies and the Planning Commission, and completed the comprehensive update in 2019. The SEIR relies on the 2019 TIA Guidelines as a starting point for the more detailed scope and analysis therein.

As explained in RTC Response TR-4, a project would have a significant effect on the environment if it would substantially delay public transit. In particular, the project *could* have a significant transit impact if transit travel time increases on a specific route would be greater than, or equal to, four minutes or half of the existing headway [or frequency] for Muni service, whichever is less (the threshold of significance).

Substantial evidence for the criterion and threshold of significance is provided in Appendix I of the 2019 TIA Guidelines (p. I-26) and in a July 20, 2018 memorandum from the SFMTA included as RTC Attachment 5. As stated in the SFMTA memorandum, "transit delays of four minutes or more contribute to a decline in OTP [on-time performance] and should be considered an indicator of a potential significant impact, regardless of the scheduled headway. If a delay greater than or equal to four minutes or one-half headway, whichever is less, that is attributable to the proposed project is identified, this delay should be evaluated for significance on the basis of the type of route affected."

The four-minute threshold of significance is based on the adopted City Charter section 8A.103(c)1, which establishes an 85 percent on-time performance service standard for Muni. Muni considers vehicles to be late if they arrive more than four minutes beyond a published schedule time. **I had raised repeatedly that 8.A.103 (c)1 is a Muni Railway scheduled timepoint to timepoint performance standard. 8.A.103 (c)1 does not authorize a non-MUNI entity or project to add an additional 4 minutes of lateness to SFMTA's late criterion of 4 minutes at a scheduled timepoint.**

The 2019 TIA Guidelines, the SFMTA memorandum, and the SEIR acknowledge that delay by itself may not lead to physical environmental impacts. Instead, the delay could lead to a physical environmental impact if that delay leads transit riders to switch to automobile-based modes. The SFMTA memorandum

cites research and local experience to support the relationship between transit ridership and transit travel time (delay).

The SEIR uses the threshold of significance to indicate if the project could substantially delay public transit. As explained in RTC Response TR-4, the department applies the transit delay threshold of significance within the study area boundaries. The transit delay analysis for the 43 Masonic line is clarified on RTC p. 4.C-35, which includes the segment between the City College Bookstore and Geneva Avenue/Howth Street to capture the geographic extent of project-related transit delays to the 43 line. **Excuse me, but CCSF Bookstore to Howth is just one block! The SB 43 scheduled timepoints in the Reservoir Area is from Monterey/Gennessee to Balboa Park Station which has a running time of 7 minutes.** The transit lines analyzed in the SEIR (K/T Third/Ingleside, 29 Sunset, 43 Masonic, and 49 Van Ness/Mission) have headways ranging between 9 to 12 minutes (see SEIR Appendix C4, Transit Delay Analysis and Capital Improvement Memorandum, included in RTC Chapter 5). The threshold is “a delay greater than or equal to four minutes or one-half headway, whichever is less,” as described above. One-half headway for these lines would be four and a half minutes to six minutes. Therefore, the four-minute threshold of significance for transit delay is appropriate for those routes. **4 minutes of Reservoir-related delay out of a 7-minute running time segment between Monterey/Gennessee and Balboa Park Station is insignificant? I don't think so! Critically, CCR 15064 (b)(2) states: “Thresholds of significance, as defined in Section 15064.7(a), may assist lead agencies in determining whether a project may cause a significant impact. When using a threshold, the lead agency should briefly explain how compliance with the threshold means that the project's impacts are less than significant. Compliance with the threshold does not relieve a lead agency of the obligation to consider substantial evidence indicating that the project's environmental effects may still be significant.” My analyses of transit delay for the 43 using the original, unexpurgated Kittelson data and official MUNI schedules provides more substantial evidence than the one-line assertion of Planning Dept's “For individual Muni routes, if the project would result in transit delay greater than equal to four minutes, then it might result in a significant impact” contained in the TIA Guidelines and/or the SFMTA Planner's (not Operations's) Staff memo's “transit delays of four minutes or more contribute to a decline in OTP [on-time performance] and should be considered an indicator of a potential significant impact, regardless of the scheduled headway. If a delay greater than or equal to four minutes or one-half headway, whichever is less, that is attributable to the proposed project is identified, this delay should be evaluated for significance on the basis of the type of route affected.” “ Both of the Planner's citations are mere assertions containing no supporting evidence.**

If a Muni line runs more frequently than every eight minutes, then the threshold of significance would be less than four minutes. As demonstrated in Table 3.B-18 (RTC p. 4.C-41 to 42), the Developer's Proposed Option would add a maximum of 1 minute and 40 seconds of delay to any transit route in any direction during existing plus project conditions. Thus, an affected transit route would need to operate at headways approximately every 3.5 minutes for the Developer's Proposed Option to potentially result in a significant impact. Such frequency doesn't exist in study area transit routes.

Under cumulative conditions, the department used the same threshold of significance to evaluate the potential for a significant cumulative transit delay impact. However, the department applied a more stringent threshold of significance to the project to identify if the project could result in cumulatively considerable contributions to a significant cumulative impact: two minutes of delay.

As explained in RTC Response TR-4, the SEIR conservatively identifies a significant cumulative transit delay impact due to the unknown transit delay impacts from cumulative projects, including City College projects. The SEIR also conservatively identifies a cumulatively considerable contribution from the

project due to the exponential nature of delay. The SEIR identifies potential capital improvements to reduce the project's contribution to the cumulative transit delay below the two-minute threshold, and those improvements are included as Mitigation Measure M-C-TR-4. However, given the uncertainty of SFMTA approval of these capital improvement measures (or other similar measures), the SEIR identifies the transit delay impact as significant and unavoidable with mitigation. **Again, Planning Dept doesn't address the reversal of cause and effect. The Project will bring in about 3000 adult residents, yet Planning has determined that there is no significant impact on transit delay. Yet, when City College builds replacement facilities (Diego Rivera Theatre and STEAM) which would not appreciably increase enrollment, Planning Dept all of sudden finds Cumulative Transit Delay to be significant and unavoidable.**

Lastly, the SEIR presented data in the RTC that was collected in December 2019 and January 2020. The purpose of the data collection was to identify and analyze existing sources of transit delays to inform the SEIR's Mitigation Measure M-C-TR-4: Monitor Cumulative Transit Travel Times and Implement Measures to Reduce Transit Delay. This data was used only to inform the refinements made to this mitigation; the data was not used alter the transit travel time data identified in the draft SEIR and clarified in RTC Response TR-4 (p. 4.C-33). The transit travel time data presented in the SEIR was collected on Wednesday, January 31, 2018 and Tuesday, August 28, 2018. **If the new data was only collected for the Mitigation Measures, why was the Project-related delay Table 3.B.18 'Transit Delay Analysis' removed and replaced with more favorable data?**

City College was in finals but held evening classes during the p.m. peak period data collection (5-7 p.m.) on Tuesday, December 17, 2019 and Wednesday, December 18, 2019. City College was in regular session during the p.m. peak period data collection on Thursday, January 16, 2020. City College was in regular session during Thursday, January 23, 2020, off-peak (8-11 p.m.) data collection but not during Thursday, January 9, 2020 off-peak data collection. Off-peak travel time runs were compared to historical data to check that they were representative.

The department adequately assessed transit delay impacts in accordance with the methodology presented in the 2019 TIA Guidelines and is supported by substantial evidence. For the reasons stated above in the SEIR, including but not limited to the responses identified above, the SEIR meets the standards of adequacy of an EIR, as set forth in CEQA Guidelines Section 15151.

BOS—

Planning's Response 11 says: *" RTC Response TR-4, Transit Significance Criteria Used in the Transit Delay Analysis, (p. 4.C-33), thoroughly responds to and explains that the transit significance criterion used in the transit delay analysis, and the threshold of significance used to evaluate that criterion, is based on substantial evidence."*

The statement is not accurate. My comments from my own Document 5, "INAPPROPRIATE SEIR DEFINITION OF TRANSIT DELAY", regarding RTC Response TR-4 have not been answered:

RESPONSE To COMMENT (quoted from RTC document in black):
In particular, the proposed project could have a significant transit impact if transit travel time increases on a specific route would be greater than, or equal to, four minutes...The threshold for transit impacts is based on the adopted City Charter section 8A.103 (c)1, which established an 85 percent on-time performance service standard for Muni,...The RTC fails to address

my comment that 8A.103(c) 1 is a MUNI performance standard for scheduled time points. Nowhere does 8A.103(c)1 authorized a non-MUNI entity or project to piggyback an additional 4 minutes of delay on top of SFMTA/City Charter's own performance standard for MUNI on-time performance. --aj

The 2019 TIA Guidelines indicate that a significant impact could occur if a project would result in transit delay greater than or equal to four minutes. This criterion is based on substantial evidence provided in Appendix I of the 2019 TIA Guidelines (p. I-26) and is explained in a July 20, 2018, SFMTA memorandum included as RTC Attachment 5. The RTC contends that its 4-minute Threshold of Significance for Transit Delay is supported by substantial evidence. This contention is false. The Final SEIR claims that substantial evidence for the 4-minute threshold of significance is contained in Planning Dept's "Transportation Impact Assessment Guidelines." Contrary to the claim of "substantial evidence", the 4-minute significance criterion contained in the TIA Guidelines is merely an assertion, without any evidence whatsoever. The "substantial evidence" for the 4-minute delay significance criterion consists of this one sentence: *"For individual Muni routes, if the project would result in transit delay greater than or equal to four minutes, then it might result in a significant impact."* This one sentence constitutes the entirety of the claimed "substantial evidence" in the TIA Guidelines. This one sentence appears in the body of the TIA Guidelines and, again, in the Appendix I "Public Transit Memorandum." However, repetition of a one-sentence assertion does not constitute "substantial evidence." The legal definition of "substantial evidence" refers *"to evidence that a reasonable mind could accept as adequate to support a conclusion."* The referenced 7/20/2018 SFMTA Memo only provides an assertion of a four-minute threshold of significance but fails to provide anything close to "substantial evidence." --aj

The commenters provide no substantial evidence to demonstrate that the information used to develop the criterion is flawed or inadequate. My comment provided an example of the SB 43 Masonic line which provided hard numbers. The Table provided shows that, using a 4-minute threshold of significance, the significance criterion allows for a 57.1% increase (from a scheduled 7 minutes to 11 minutes) in the time for a 43 bus to travel from Monterey/Gennessee to Balboa Park Station to be considered insignificant! In comparison to the RTC's "substantial evidence" that is in actuality just an assertion based on inappropriate interpretation of 8A.103(c)1, the official MUNI Rotations (schedules) provide hard evidence that a 4-minute delay caused by the Reservoir Project constitutes a significant real-world 57.1% transit delay for passengers and Operators. --aj

- The 4-minutes late significance threshold only serves as a "Get Out of Jail Free card" for the Project's real-world significant contribution to Transit Delay.--aj