OCII
office of
COMMUNITY INVESTMENT
and INFRASTRUCTURE

DATE: November 2, 2015

TO: Tiffany Bohee, OCH Executive Director

FROM: Chris Kern, City Planning Department
Sally Oerth, OCII Staff

SUBJECT: Event Center and Mixed Use Development at Mission Bay Blocks 29-32
Late Comments and Responses on SEIR

The Responses to Comments document published on October 23, 2015 responds to all comments received during the June 30 Draft SEIR hearing and all written comments received during the 52-day public comment period, which ended on July 27th. In addition, the Responses to Comments includes responses to comments received after the close of the Draft SEIR public comment period, including a comment letter from the Mission Bay Alliance dated October 7th, 2015, concerning U.S. Army Corps of Engineers jurisdiction.

In addition, the following letters that were received too late to be included in the Reponses to Comments document along with responses to these comments are attached to this memorandum:

- October 13, 2015, letter from the Mission Bay Alliance concerning the SEIR alternatives analysis
- October 20, 2015, letter from the Mission Bay Alliance concerning hazardous materials
- November 2, 2015, letter from the Bay Area Air Quality Management District concerning the amount of the ozone precursor offset mitigation fee
- November 2, 2015, letter from John Templeton regarding environmental justice
- November 2, 2015, letter from Caltrans concerning certain assumptions used in the SEIR transportation analysis

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October 13, 2015

Tiffany Bohee, OCII Executive Director
c/o Brett Bollinger, San Francisco Planning Department
via email warriors@sfgov.org

Subject: Pier 80 Alternate Site for Warriors Event Center
OCII: ER 2014-919-97 Planning Dept.: 2014.1441E

Dear Ms. Bohee and Mr. Bollinger:

The Mission Bay Alliance submitted extensive comments on the Draft Subsequent EIR ('DSEIR') in late July and is looking forward to the OCII's responses. In the meantime, I write on behalf of the Alliance to present a solution to a key inadequacy of the DSEIR: the failure to analyze a potentially-feasible alternate site.

The Alliance informally disclosed its identification of Pier 80 as a feasible alternate project site to representatives of the City and the Warriors last month, and now formally requests that the OCII revise the DSEIR to analyze that site and recirculate for public and agency comment, as required when "significant new information" emerges. (Pub. Resources Code, § 21092.1; Guidelines, § 15088.5.) While Mayor Ed Lee's response to discovery of a feasible project venue at Pier 80 has been to accuse the Alliance of being unreasonable and, further, to announce that the City has already "reached a consensus" with the Warriors and UCSF regarding the Mission Bay site (see attached press), the Alliance looks to the OCII and the City to fully explore the Pier 80 site in a revised DSEIR as mandated by state law.

As you know, the DSEIR concludes that locating the Warriors Event Center in Mission Bay would create significant environmental impacts. The impacts were

recently underscored by a prominent group of UCSF faculty who are also members of the US National Academy of Sciences. Their letter to Mayor Lee (attached) expresses grave concern that because of traffic gridlock adjacent to UCSF Medical Center, "it is absolutely clear to us that the planned new Golden State Warriors Arena and Events Center in Mission Bay would severely degrade the environment for the many thousands of researchers and private sector biomedical scientists who come to work at Mission Bay each day."

In light of project impacts, the City and OCII cannot approve the Event Center at Mission Bay if there is a feasible alternate site that would accomplish most project objectives and substantially reduce environmental problems:

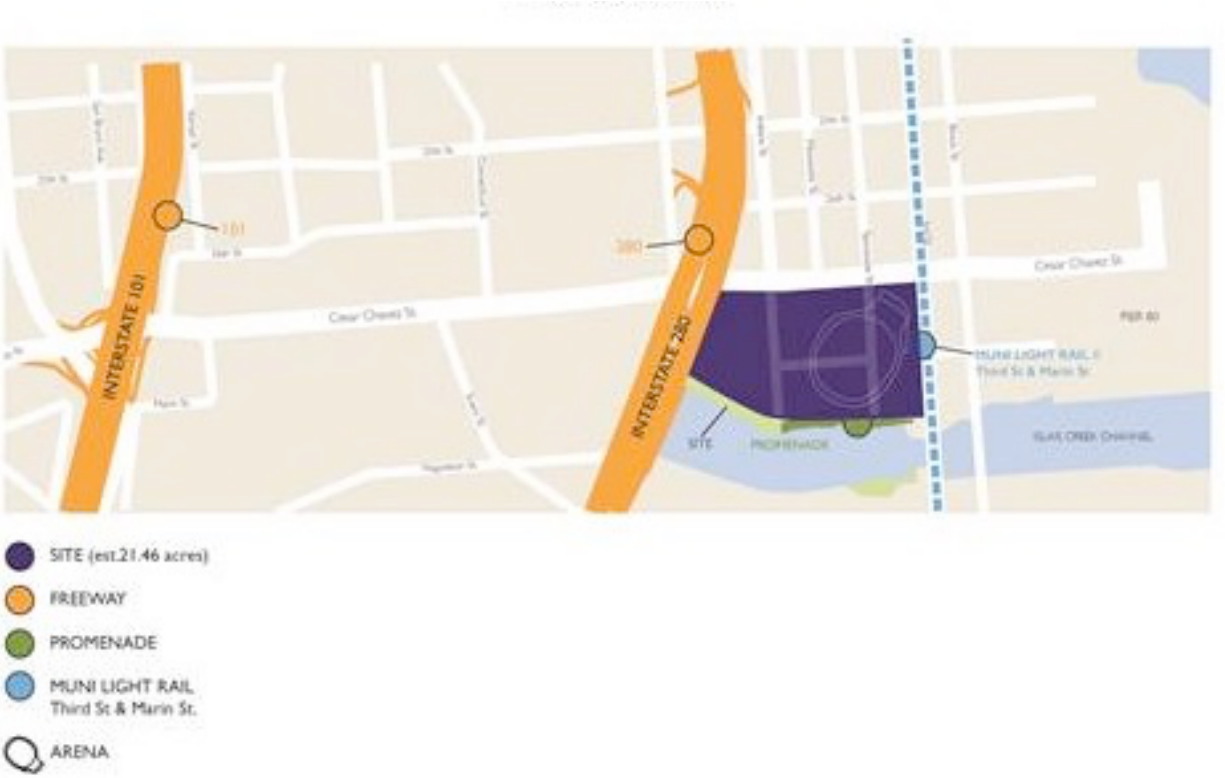
> Public agencies should not approve projects as proposed if there are feasible alternatives … available which would substantially lessen the significant environmental effects of such projects.

(Pub. Resources Code, §§ 21002, 21081.)

Although the Alliance had no obligation to do so, it took the practical step of searching for a better site for the Event Center when the EIR consultants did not. Its efforts culminated in success. The Alliance discovered that a site located near San Francisco's Pier 80 would both meet fundamental project objectives and substantially reduce environmental impacts. A potentially-feasible site that avoids or substantially lessens significant impacts of a project must be analyzed in an EIR even if it "could impede to some degree the attainment of the project objectives, or would be more costly…" (Guidelines, § 15126.6, subd. (b)). Here, the Pier 80 site in fact would not impede the project objectives nor be more costly.

As explained previously, the DSEIR failed to analyze a potentially-feasible off-site alternative as required by CEQA Guidelines section 15126.6. (*See* my comment letter submitted on behalf of the Alliance on July 26, 2015, pp. 8-11.)

The Pier 80 Site.



Located 11 blocks from the Mission Bay site, on 21+ acres well-served by transportation corridors, light rail, and buses, Pier 80's advantages include:

- The arena requires less than 7 acres and could be sited in at least three possible footprints on the 3-times-larger Pier 80 site. (One possible footprint is depicted on the site map above.)

- At the south end of the City, the site provides easy access from all directions, including the southern peninsula. The Highway 280 offramp ends at the site, and Highway 101 is 1/3 mile away. Adjacent Cesar Chavez is a major thoroughfare heavily serviced by muni buses. The Marin Street light rail abuts the site's southern boundary. There is ample access to parking.

- The Pier 80 site's internal streets are in an "H" configuration and only serve tenants of those sites. The streets within the site could easily be abandoned. No through traffic would be impacted by the arena.

- Buildings now on site, including warehouses and lumberyards, are blighted.

- The site's size and location are conducive to ancillary revitalizing development of retail, restaurants, and housing of all market types.

Consistency with Project Objectives. The California Supreme Court mandates that environmental impact reports analyze potentially-feasible alternatives that meet 'fundamental' objectives. (*In re Bay Delta* (2008) 43 Cal.4th 1143, pp. 1165-1166.) Project *objectives* differ from a project's *description* and are not dependent on the currently-proposed Mission Bay site. Fundamental objectives of the Warriors Event Center as recited in the DSEIR will be met at the Pier 80 site:

- Construct a state-of-the-art multi-purpose event center in San Francisco that meets NBA requirements for sports facilities, can be used year-round for sporting events and entertainment and convention purposes with events ranging in capacity from approximately 3,000-18,500, and expands opportunities for the City's tourist, hotel and convention business.

- Provide sufficient complementary mixed-use development, including office and retail uses, to create a lively local and regional visitor serving destination that is active year-round, promotes visitor activity and interest during times when the event center is not in use, provides amenities to visitors of the event center as well as the surrounding neighborhood, and allows for a financially feasible project.

- Develop a project that meets high-quality urban design and high-level sustainability standards.

- Optimize public transit, pedestrian and bicycle access to the site by locating the project within walking distance to local and regional transit hubs, and adjacent to routes that provide safe and convenient access for pedestrians and bicycles.

- Provide adequate parking and vehicular access that meets NBA and project sponsor's reasonable needs for the event center and serves the needs of project visitors and employees, while encouraging the use of transit, bicycle, and other alternative modes of transportation.

- Provide the City with a world class performing arts venue of sufficient size to attract those events which currently bypass San Francisco due to lack of a world class 3,000-4,000 seat facility.

- Develop a project that promotes environmental sustainability, transportation efficiency, greenhouse gas reduction, stormwater management using green technology, and job creation consistent with the objectives of the California Jobs and Economic Improvement Through Environmental Leadership Act (AB 900), as amended.

(DSEIR, pp. 3-5 to 3-6.) While the DSEIR also lists ancillary objectives solely relevant to the deeply-flawed Mission Bay site, they are not fundamental to the arena project. Only the objectives listed above are fundamental to the project, as they have been constant since the Warriors' prior selection of the now-abandoned Piers 30-32 site.

Reduced Impacts at Pier 80 Site. The key question and first step in DSEIR analysis of the Pier 80 site must be "whether any of the significant effects of the project would be avoided or substantially lessened" at that location. (*See* Pub. Resources Code, §§ 21002, 21081.) A wide range of significant impacts of the Warriors' Event Center will be eliminated or reduced at the ample Pier 80 site, without compromising any fundamental project objectives.

For example:

- Project-induced increases in traffic impacts would not combine with the San Francisco Giants' baseball game traffic to the same extreme extent.
- Event Center traffic would not interfere with patients' emergency access to UCSF Medical Center.
- Land use impacts due to the Event Center's incompatibility with long-standing plans for Mission Bay as a hub for biosciences would be avoided.
- Vibrations affecting sensitive research equipment at UCSF would be avoided.

As repeatedly held by the California Supreme Court, project alternatives form the core of every EIR. Objective analysis of the feasibility of siting the Warriors Event Center near Pier 80 must now occur in CEQA's prescribed public process to foster informed decision-making and public participation. Otherwise, the DSEIR will not yet have provided a good-faith effort at full disclosure of a range of reasonable project alternatives, as mandated by CEQA Guidelines section 15126.6, subd.(a) and interpreted by a substantial body of case law.

Thank you for your attention to this request. Please advise whether the OCII will agree to revise and recirculate the DSEIR to study the Pier 80 site.

Sincerely yours,

Susan Brandt-Hawley
for the Mission Bay Alliance

1. ***Opponents of Warriors arena in Mission Bay want project moved south***
   By Laura Dudnick, SF Examiner – September 28, 2015

2. ***Bay Bridge builder in black despite penalties***
   By Martier & Ross, San Francisco Chronicle – September 25, 2015

1. ***Opponents of Warriors arena in Mission Bay want project moved south***
   By Laura Dudnick, SF Examiner – September 28, 2015

Opponents of a plan to build a Golden State Warriors arena in Mission Bay have identified an alternative location for the project and are urging city and team leaders to consider the site.
The 21-acre site near Pier 80 in the Bayview has been proposed by the Mission Bay Alliance, a group led by former UC San Francisco officials who argue the arena in Mission Bay will create detrimental traffic congestion and permanently scar the neighborhood.

The suggested site, more than half of which is owned by The City, is 11 blocks south of where the arena is currently planned on about 11 acres of waterfront land at Third and 16th streets, across from UCSF's new hospitals and research centers.

It marks the first specific alternative site proposed by the Mission Bay Alliance, the primary opposition to the project in Mission Bay. UCSF nurses have also expressed concerns with building an arena adjacent to the new hospitals, but UCSF leaders announced support for the project over the summer, contingent on a plan for managing traffic in the long term.

In the draft environmental report, city planners outlined nearly $40 million in transit improvements slated for Mission Bay that are aimed to curb traffic congestion created in part by the proposed arena. That includes purchasing new Muni light-rail vehicles, allowing crossover tracks for the vehicles to pass on the T-Third Street line, and extending the adjacent Muni platform near the arena.

But the alliance remains vehemently against the arena in Mission Bay and noted numerous "fatal flaws" in building a multi-use facility across from UCSF Medical Center, including noise, air pollution and traffic.

The alliance met with the Warriors on Sept. 22 and Mayor Ed Lee the previous week to share the proposed alternative, said Sam Singer, a spokesman for the alliance.

"They listened politely and with interest to the information we provided them about the alternative location near Pier 80," Singer said.

However, it appears that Lee still favors the Mission Bay site.

"The mayor is focused on the site that has been discussed with the community for more than a year and he joins many, many others in strong support for an arena in Mission Bay, where it will be a great neighbor and partner to UCSF and a great asset to the community," Christine Falvey, the mayor's spokeswoman, wrote in an email to the San Francisco Examiner.

PJ Johnston, a spokesman for the Warriors, declined to comment on any location other than the current site in Mission Bay, but said that spot has been thoroughly vetted.

"The opponents want the Mission Bay property for themselves, but just because they have a lot of money doesn't mean they can grab the land or highjack the public process," Johnston wrote in an email to the San Francisco Examiner.

"The Warriors, The City and the community have been engaged in a public planning process for more than a year on the Mission Bay location. San Franciscans are overwhelming supportive of the plan," he added.

The Mission Bay Alliance plans to formally submit its proposed Bayview site to The City as part of the environmental impact review process, Singer said. The draft EIR was released in June, and a final draft is expected this fall.

"The Warriors were in a rush to find a new site when they realized…The Embarcadero wasn't going to work out. They grabbed the first piece of property without doing the appropriate due diligence," said Singer, referring to the previous controversial effort to build the arena at Piers 30-32 before the Warriors purchased the current Mission Bay plot from Salesforce.com.

Singer touted advantages of the site near Pier 80, including additional and less expensive parking. The site borders Interstate Highway 280 and is just off the Third Street Muni lightrail route. There are parcels on the site – mostly warehouses and for industrial uses – that are privately owned, but Singer said the owners contacted by a real estate representative of the alliance have indicated they might be interested in selling their property.

"You couldn't ask for a better location if you were the Warriors," Singer said.

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2. ***Bay Bridge builder in black despite penalties***
By Martier & Ross, San Francisco Chronicle – September 25, 2015

Even after being penalized millions of dollars for problem-plagued work, the lead builder of the new Bay Bridge eastern span is walking away a financial winner — thanks to its rush job to get the bridge open by Labor Day weekend in 2013.

The Bay Bridge project's oversight committee decided last week that the lead contractor, the joint venture American Bridge/Fluor, was partly to blame for the construction fiasco that resulted in 32 high-strength steel rods snapping on the span's seismic stabilizers. Throw in a few bucks for the continuing troubles with rods at the base of the signature tower, and American Bridge/Fluor was docked a cool $11 million.

But don't feel too bad — when the bridge opened to traffic on time in September 2013, thanks to a last-minute sprint, American Bridge/Fluor was rewarded with almost $49 million in bonuses.

By our math, even with the penalties, that still puts the bridge's builder ahead by $38 million.

"The incentive was to get the bridge built by Labor Day — that was the deal written into the contract, and they met it," said Randy Rentschler, spokesman for the Metropolitan Transportation Commission.

"The question of construction defects became a separate issue," he said, "and now that subject has been dealt with — like it or not."

Arena buzz: The group opposing the Golden State Warriors' planned Mission Bay arena is pushing the team to consider yet another site — an industrial patchwork 11 blocks south of the current proposed spot.

The Warriors already shifted plans once, transplanting their dreams from Piers 30-32 to a spot next to UCSF's Mission Bay medical center. Now the Mission Bay Alliance — a group of deep-pocketed UCSF donors who want the proposed arena site set aside for the medical center's expansion — says there's a much better spot.

It's a 20-acre mix of warehouses, lumberyards and empty lots off Cesar Chavez Street, some of which is already owned by the city. It's next to Muni's Third Street light-rail line and Interstate 280, and about a third of a mile from Highway 101.

"It's tailor-made for the Warriors, right on a Muni rail line, and there is ample parking," said Mission Bay Alliance spokesman Sam Singer.

The group has met privately with both Mayor Ed Lee and the Warriors' lawyers to discuss the idea. We're told the alliance members — led by mega-rich UCSF donors Bill Oberndorf and Sandy Robertson — even offered to help finance the land purchase.

The Warriors, however, are showing little interest.

"The Warriors are focused on the site in Mission Bay," said team spokesman P.J. Johnston. "The public clearly supports this location."

He also accused the alliance of playing politics.

"The oldest play in the book is to say, 'We love a project — we just want it at a different location,'" Johnston said.

Lee's office was equally blunt, sending us a statement Friday saying alliance members "have no interest in being reasonable or working with the city to resolve what they say their concerns are."

The group's strategy, the statement said, is "to bring in the high-priced lawyers and litigate."

A-ticket: Leading the minority in the House may not be a dream job, but there was one major perk last week: the number of tickets available to hand out for Pope Francis' speech to Congress.

While most lawmakers had one prized ticket to give out, Rep. Nancy Pelosi, D-San Francisco, had at least eight.

Her guests included such heavyweights as:
•Salesforce chief and big-time charity and political donor Marc Benioff and his wife, Lynne. Benioff is active in San Francisco's Catholic community and a close friend of Archbishop Salvatore Cordileone, whose anti-same-sex marriage campaigning has raised hackles among liberal parishioners.

•Megabucks environmentalist and possible gubernatorial contender Tom Steyer and his wife, Kat Taylor.

•Service Employees International Union president Mary Kay Henry, whose union represents 1.5 million public employees and health care workers nationwide.

•Matilda Cuomo, widow of New York Gov. Mario Cuomo.

•Plus Pelosi's brother, former Baltimore Mayor Thomas D'Alesandro III, and the congresswoman's husband, Paul Pelosi.

Sen. Dianne Feinstein gave her ticket to Democratic donor Elizabeth Bagley, who is active in children's issues.

Oakland Democratic Rep. Barbara Lee's ticket went to the Rev. Jay Matthews, rector at the Cathedral of Christ the Light in Oakland, while Rep. Mark DeSaulnier, D-Concord, gave his to St. Mary's College President James Donahue.

Rep. Jackie Speier, D-Hillsborough, brought her son's godmother, Katy Lawson, to the event and rounded up about 120 tickets for congressional janitors, police officers and other support staff.

Deja vu: The design hasn't change much, but George Lucas is scaling back the Chicago version of his Museum of Narrative Art.

Chicago Tribune architecture critic Blair Kamin is calling it "the Weight Watchers version of Jabba the Hutt."

UCSF
University of California
San Francisco

September 22, 2015

The Honorable Edwin M. Lee
City Hall, Room 200
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Golden State Warriors Arena and Events Center in Mission Bay

Dear Mayor Lee,

We write as faculty members at UCSF who are also members of the US National Academy of Sciences. Many of us either are, or have previously been, leaders on this Campus. We have seen this University rise to true excellence over the course of the past 40 years, and we look forward to an even greater future for UCSF and the exciting private biotech and medical organizations that it has attracted to Mission Bay. But we are seriously concerned that this future is threatened by the plan to construct a very large sports, entertainment, and event arena in our midst.

As you know, the plan for Mission Bay approved by the Board of Supervisors (October 1998) states, as one of the major objectives of this visionary project:

> Facilitating emerging commercial and industrial sectors including those expected to emerge or expand due to the proximity to the new UCSF site, such as research and development, bio-technical research, telecommunications, business service, multi-media services, and related light industrial…

And indeed, Mission Bay has rapidly become one of the most prominent academic-industry biotechnology/medical complexes in the world. But we cannot stop here: we face increasing competition from other rapidly growing complexes of this type, both in the US and abroad. It will be critical to keep moving aggressively forward, if we are to continue to attract the very best talent – both academic and private sector – to San Francisco.

It is absolutely clear to us that the planned new Golden State Warriors Arena and Events Center in Mission Bay would severely degrade the environment for the many thousands of researchers and private sector biomedical scientists who come to work at Mission Bay each day. It would also curtail the beehive-like, daily exchanges of personnel – from the South Bay and elsewhere – on which the success of the Mission Bay biomedical complex depends. Our major fear is that the Mission Bay site will lose its appeal – not only for the new biomedical enterprises that the city would like to attract here, but also for most of its current occupants. The result could critically harm not only UCSF, but also the enormously promising, larger set of biomedical enterprises that currently promises to make San Francisco the envy of the world.

Much attention has been properly focused on how traffic gridlock caused by the new stadium would affect access to the three new UCSF hospitals that are immediately adjacent to the site, one of which houses one of only two Children's Emergency

rooms in San Francisco. It is unavoidable that terrible, and possibly even life-threatening, traffic congestion will be associated with the planned complex, given that it is intended to be the site of some 220 events per year, held both in the evening and during the day (*New York Times*, September 6, 2015; business section, pages 1, 4 and 5). Many of us have experienced the hours-long gridlock that paralyzes all Mission Bay streets before and after San Francisco Giants home games. The absolute paralysis that it creates is already a non-trivial problem, which the planned stadium promises to both greatly expand and intensify.

The presence of the 41,000-seat AT&T Park less than a mile (a 15-minute walk) from UCSF Mission Bay has not been sufficiently factored into the plans to build the Warriors' huge new sports/entertainment complex. The ballpark already significantly impacts life and work at Mission Bay, with nearly 50 San Francisco Giants home weekday games per season. Due to these events, it can take cars and UCSF shuttle buses over an hour to exit from the UCSF parking lot onto the streets, and a 20-minute trip may require two hours.

The widespread traffic impact of AT&T Park games is noted on the website for the San Francisco Municipal Transportation Agency (SFMTA):

> "Motorists are advised to avoid the increased congestion in downtown San Francisco related to these special events and advises commuters to use transit, taxis, bicycles or walk and to avoid using the Bay Bridge in the two hours before or after these games. ... As a reminder to fans, in order to reduce congestion on city streets after all events at AT&T Park, the SFMTA will close eastbound King Street between 3rd and 2nd streets from the seventh inning until after the post-game traffic has died down. Additionally, the northbound portion of the 4th Street (Peter R. Maloney) Bridge will be closed to all traffic except streetcars, buses, taxis and bicycles during the post-game period. (https://www.sfmta.com/news/press-releases/sfmta-weekend-transit-and-traffic-advisory)

Adding an 18,500-seat Warriors complex on top of what is already a transportation mess is asking for disaster. We are highly skeptical of any plan that proposes to segment traffic by restricting 4th street and other routes for "UCSF business only," since those of us at Mission Bay have experienced the unruly behavior of frustrated drivers stuck for long times in traffic jams. In fact, there is no believable transportation solution for two very large complexes placed in such close proximity at Mission Bay.

Imagine dropping a 41,000-seat stadium anywhere within a 1-mile radius of San Francisco City Hall, and then tripling the capacity of Bill Graham Civic Auditorium. It would make no sense, for the same reason that it makes no sense to squeeze the planned Warriors facility into the Mission Bay neighborhood. The resulting perfect storm of traffic would make it miserable for both the existing neighborhood and for sports fans – in addition to threatening the entire future of UCSF as the center of a world-class academic/ biotech/medical complex.

In summary, we urge you and the city to reconsider the wisdom of proceeding with

current construction plans.

Sincerely yours,

Bruce Alberts, Chancellor's Leadership Chair in Biochemistry and Biophysics for Science and Education
Elizabeth Blackburn, Professor of Biochemistry and Biophysics, and Nobel laureate
James Cleaver, Professor of Dermatology and Pharmaceutical Chemistry
John A. Clements, Professor of Pediatrics and Julius H. Comroe Professor of Pulmonary Biology, Emeritus
Robert Fletterick, Professor of Biochemistry, Pharmaceutical Chemistry, and Cellular and Molecular Pharmacology
Carol Gross, Professor of Microbiology
Christine Guthrie, Professor of Biochemistry and Biophysics
Lily Jan, Professor of Physiology, Biochemistry and Biophysics
Yuh-Nung Jan, Professor of Physiology
Alexander Johnson, Professor of Microbiology and Immunology, and Biochemistry and Biophysics
Cynthia Kenyon, Emeritus Professor, UCSF, and Vice President, Aging Research, Calico Life Sciences
Gail Martin, Professor Emerita, Department of Anatomy
Frank McCormick, Professor Emeritus, UCSF Helen Diller Family Comprehensive Cancer Center**,** David A. Wood Distinguished Professorship of Tumor Biology and Cancer Research
Ira Mellman, Professor (Adjunct) of Biochemistry and Biophysics
William J. Rutter, Chairman Emeritus, Department of Biochemistry, and Chairman, Synergenics LLC
John Sedat, Professor Emeritus, Department of Biochemistry & Biophysics
Michael Stryker, William Francis Ganong Professor of Physiology
Peter Walter, Professor of Biochemistry and Biophysics
Arthur Weiss, Professor of Medicine, and of Microbiology and Immunology
Zena Werb, Professor of Anatomy

Cc: Tiffany Bohee

OCII
office of
COMMUNITY INVESTMENT
and INFRASTRUCTURE

INFORMATIONAL MEMORANDUM

126-0612015-001
October 27, 2015

To: Tiffany Bohee, Executive Director

From: Chris Kern, City Planning Department
Sally Oerth, OCII Staff

Subject: MBA Proposed New Alternative near Pier 80

You have asked the City Planning Department and the staff of the Office of Community Investment and Infrastructure (OCII) to provide OCII with information pertaining to an alternative site recently proposed by the Mission Bay Alliance (MBA) in a letter from the Brandt Hawley Group to you, dated October 13, 2015 (the "October 13 Letter"). This memorandum provides that information and is based on conversations with staff at the San Francisco Municipal Transportation Agency (SFMTA), OCII's transportation consultants, and other expert consultants who have contributed to the Final SEIR for the proposed Event Center and Mixed-Use Development at Mission Bay Blocks 29-32 (the "Proposed Project").

The October 13 Letter, among other things, proposes a new alternative for OCII's consideration. The October 13 Letter alleges that the Draft SEIR is inadequate because it did not analyze this proposed alternate site. Please note that the Draft SEIR does include a discussion of the Pier 80 or the India Basin Area in Table 7-28 in Chapter 7 in the discussion in Section 7.5.2 of "Alternatives Considered But Rejected". The new alternative proposed in the October 13 Letter appears to consist of approximately six or seven blocks, divided into about 12 lots, located across the street from Pier 80. These parcels are referred to in the October 13 Letter as the "Pier 80" site, but in light of the discussion in the Draft SEIR of an alternative called "Pier 80" that *was* considered but rejected, to avoid confusion, the MBA proposed alternate site will be referred to in this memo as the "MBA Alternative Site".

The range of alternatives considered in the SEIR includes two alternatives at the project site—the No Project Alternative as required by CEQA Guidelines Section 15126.6(e), and the Reduced Intensity Alternative—and one off-site alternative at Piers 30-32 and Seawall Lot 330. Together, OCII and Planning Department staff determined that the three identified alternatives present a reasonable range of alternatives adequate to inform decision makers.
Staff believes the SEIR presents and analyzes a reasonable range of alternatives, consistent with CEQA Guidelines Section 15126.6(a), which states:

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> An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible.

CEQA does not require analysis of "every imaginable alternative" but rather it gives agencies the flexibility to eliminate certain alternatives that either do not reduce environmental impacts or do not further the project's main objectives. (*Rio Vista Farm Bureau Center v. County of Solana* (1992) 5 Cal.App.4th 351, 376)

A lead agency may eliminate an alternative from detailed consideration in the EIR either because of its "inability to avoid significant environmental impacts" (CEQA Guidelines, § 15126.6, subd. (c)) or because it would not achieve primary project objectives. (See *Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1507-1508 [upholding the County's conclusion that the reduced density alternative was infeasible since it met some but not all of the project objectives].) See Section 13.24.2 of the Responses to Comments for further discussion of the alternatives selection process used in the SEIR. For the reasons discussed below, the MBA Alternative Site does not appear to be a feasible alternative and would not avoid significant impacts of the Proposed Project.

For purposes of alternatives analysis under CEQA, "feasibility" is defined as follows:

> Feasibility. Among other factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries (projects with a regionally significant impact should consider the regional context), and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site (or the site is already owned by the proponent).

The parcels located in the area shown on the diagram in the October 13 Letter as the MBA Alternative Site are governed by the provisions of the City Planning Code and are zoned PDR-2. Planning Code Section 210.3 describes PDR-2 as follows:

> **PDR 2 District: Core Production, Distribution, and Repair.** The Intent of this District is to encourage the introduction, intensification, and protection of a wide range of light and contemporary industrial activities. Thus, this District prohibits new housing, large office developments, large-scale retail, and the heaviest of industrial uses, such as incinerators. Generally, all other uses are permitted. The conservation of existing flexible industrial

> buildings is also encouraged. This District permits certain non-industrial non-residential uses, including small-scale Retail and Office, Entertainment, certain institutions, and similar uses that would not create conflicts with the primary industrial uses or are compatible with the operational characteristics of businesses in the area. Light Industrial uses in this District may be conducted entirely within an enclosed structure, partly within enclosed structures, or some functions may occur entirely in open areas. These uses may require trucking activity multiple times per day, including trucks with up to 18 wheels or more, and occurring at any time of the day or night. As part of their daily operations, PDR activities in these areas may emit noises, vibrations, odors, and other emissions, as permitted by law. Within the requirements of local, state, and federal health and safety regulations, and within the stipulation of this Code, which may impose additional use size maximums and minimum distance requirements on certain activities, raw materials used for production, manufacturing, repair, storage, research, and distribution may be stored on site and may Include chemical, biological, and other hazardous, explosive, or flammable materials. In considering any new land use not contemplated in this District, the Zoning Administrator shall take into account the intent of this District as expressed in this Section and in the General Plan.

While the Event Center component of the Proposed Project may be permitted under the existing zoning, the proposed new office components would not be permitted without a rezoning of the parcels in the MBA Alternative Site to a use district permitting office uses (Planning Code Section 210.3A). Any rezoning would require approval of an ordinance amending the Planning Code. The office component of the Proposed Project would also be required to seek and obtain a new office allocation for such uses in accordance with Proposition M and Planning Code Section 321. These sites would not have the benefit, under Section 321, of any priority treatment in seeking such office allocation that is currently provided under Section 304.11 of the Mission Bay South Redevelopment Plan.

The existing height limits applicable to the parcels in the MBA Alternative Site range from 40 feet to 68 feet. The proposed Event Center, in contrast, would be approximately 135 feet in height and the two proposed office towers of the Proposed Project are 160 feet each. Thus, the development would not be permitted without approval of an ordinance rezoning the height limits in the Planning Code and the Height Maps in order to accommodate the proposed Event Center and office buildings.

The allowable Floor Area Ratio (FAR) on the site ranges from 3:1 to 5:1. As you know, the calculation of floor area for purposes of determining the permitted FAR under the City Planning Code would include almost all gross floor area in the building.
Planning Code Section 102 defines gross floor area in part as:

> Floor Area, Gross. In Districts other than C-3, the sum a/the gross areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls or from the centerlines of walls separating two buildings. Where columns are outside and separated from an exterior wall (curtain wall) that encloses the building space or are otherwise so arranged that the curtain wall Is clearly separate from the structural members, the exterior face of the curtain wall shall be the line of measurement, and the area of the columns themselves at each floor shall also be counted.

Section 102 defines Floor Area Ratio as:

> Floor Area Ratio. The ratio of the Gross Floor Area of all the buildings on a lot to the area of the lot. In cases in which portions of the gross floor area of a building project horizontally beyond the lot lines, all such projecting gross floor area shall also be included in determining the floor area ratio.

Without access to lot sizes or more specific information regarding the parcels in the MBA Alternative Site, it is difficult to assess how the potential FAR calculation may compare to the existing FAR limitations on the site. However, it is possible that as a result of these limitations, the site might also require a rezoning of permitted FAR in order to accommodate the Proposed Project.

With the information provided to date by MBA, we have not been able to ascertain with certainty the identity or ownership of all the parcels included in the MBA Alternative Site. However, it appears that the property consists of approximately 12 separate lots, about half of which are owned by 3-4 different private parties. These privately owned parcels are occupied by several active businesses operating out of low-level industrial/warehouse buildings, and are not under the site control of the project sponsor. The other, larger lots are controlled by the City and the Port of San Francisco. The 1399 Marin Street property (at the southeast corner of Marin and Indiana Streets) is owned by the Port, but at less than four acres, is too small to accommodate even just the Event Center portion of the Proposed Project. This site would also be subject to the Proposition B height limit restriction, which would require voter approval to increase the allowable height. Pursuant to an MOU with the Port, the SFMTA currently uses 1399 Marin as a bus acceptance facility, where new vehicles are received and outfitted with necessary equipment (e.g., fare boxes) before they are integrated into SFMTA's fleet. In addition, SFMTA stores vehicles and other equipment at the property, due to the growth of its fleets and overcrowding at its other facilities. Thus, it is not feasible to expect that this property could be put to use for the project.

The 1301 Cesar Chavez property (at the southwest corner of Cesar Chavez and Indiana Streets) is the site of SFMTA's "Islais Creek Motor Coach Facility." SFMTA has been planning this project, and incrementally acquiring the properties at 1301 Cesar Chavez, since 1990. The site is now almost entirely owned by SFMTA, with the exception of two smaller lots under and adjacent to the

I-280 freeway, which are owned by Caltrans. SFMTA is still negotiating with Caltrans for the purchase and lease of these last lots. The $129 million project is being constructed in two phases: Phase I, which was completed in 2013, consisted of site preparation and construction of a new fuel and wash building, as well as bus parking facilities; Phase II, which recently broke ground at the southeast corner of the site, will include a maintenance and operations building with vehicle hoists to service buses, a brake shop, parts storeroom, administrative offices, and a community meeting space. Once complete, the Islais Creek facility will be among SFMTA's largest facilities, capable of storing and servicing at least 165 buses and facilitating 300 employees, with 24/7 operations. Because the Islais Creek facility will replace older, outdated, or temporary SFMTA facilities, and will accommodate such a significant portion of SFMTA's fleet, SFMTA considers these properties to be "critical" to its mission.

Thus, for the reasons stated above, the MBA Alternative Site does not appear to be a feasible alternative, as it could not be made available for this project within a reasonable period of time, taking into account economic factors, legal factors, and existing uses and development on the site. The Planning Code would need to be amended to allow this use and site assembly would be required. Voter approval of a height increase would be required to use the Port property for this project.

We also note that the location, while adjacent to the Third Street light rail, is in the same general vicinity as the Pier 80 alternative considered but rejected in the Draft SEIR. Both that alternative and the MBA Alternative Site are less well served by Muni and regional transit than the Proposed Project site, located further from locations accessible via bicycle and walk modes than the Proposed Project site, and thus, access to these alternative locations would be primarily via auto. The T Third light rail line is the primary Muni route that would serve the MBA Alternative Site since there are no Muni bus routes on Cesar Chavez Street in the project vicinity. The 19 Polk, with a connection at Evans/Connecticut Streets, runs north to Market Street and connects with the Civic Center BART station, but has limited service during the weekday and Saturday evening and late evening peak periods.

The closest BART station is at 24th Street and Mission Street, approximately two miles to the west. Due to the limited east-west street connections, special event shuttle bus service to/from the BART station would be needed, which would have to follow Cesar Chavez Street, overlapping with project vehicles.

The closest Caltrain station is at 22nd Street, under the I-280 freeway, approximately two thirds of a mile to the north. It offers less train service (i.e., fewer trains stop there) than the Caltrain station at Fourth/King Streets. The 22nd Street station is an intermediate station, as opposed to the line terminal at Fourth/King Streets, so the opportunities for providing special train service are limited. Special event shuttle bus service would have to travel on Pennsylvania and Indiana Streets, competing with project-related traffic.

Primary vehicular access would be via Cesar Chavez Street (from the northwest and west, including those traveling on U.S. 101 from the North Bay and East Bay areas), on Third Street (from the north and south, including those traveling north on U.S. 101 and exiting at the Third Street off-ramp near Candlestick), and on I-280 (mostly from the southwest and south, from the Peninsula and South Bay). The limited number of east-west and north-south streets connecting with the rest of the City and the freeway system would result in longer duration of congestion prior to and after an event.

Because more attendees would be expected to drive to the MBA Alternative Site due to the more limited transit options, the parking demand would be expected to exceed the demand of approximately 3,900 spaces for a sold out game or concert at the Event Center at the Proposed Project's site in Mission Bay. The MBA Alternative Site area lacks major off-street parking facilities capable of accommodating the estimated project demand. In addition to potential project-provided parking (which for purposes of a rough estimate is assumed to be about 900 spaces), only Pier 80 (about 800 spaces) and the 19th Street site at Illinois Street, south of Crane Cove Park (about 250 spaces) have been identified as a potential additional parking locations. These three facilities combined would provide about 1,950 parking spaces, and accommodate about half of the total parking demand. Because the parking demand for an event center at the MBA Alternative Site would be expected to exceed the Proposed Project's parking demand, more than 2,000 additional parking spaces would be needed to accommodate the expected demand at the MBA Alternative Site.

The Pier 80 site would have fewer local impacts during overlapping events with the SF Giants at AT&T Park; however, because more attendees would drive, locating the project at this site would result in increased congestion on regional facilities and Third Street prior to and after an event. Therefore, transportation and associated air quality and noise impacts would likely be the same or potentially more severe than those under the Proposed Project.

In addition, unlike the Proposed Project site, the MBA Alternative Site is located in an Air Pollution Exposure Zone. Consequently, locating the Proposed Project at the MBA Alternative Site would likely result in substantially more severe air quality health risk impacts than the Proposed Project.

The MBA Alternative Site is located directly adjacent to the Islais Creek Channel, and thus would have a greater potential to result in adverse impacts on water quality and aquatic resources due to stormwater runoff into the Bay during both project construction and operation.

Unlike the Proposed Project site, the MBA Alternative Site is located within the 100-year flood zone. As such, locating the Proposed Project at this site would expose people and structures to a greater risk of loss, injury or death due to flooding than the Proposed Project. Moreover, because it is directly adjacent to the Islais Creek Channel and is at a low elevation relative to sea level, the

MBA Alternative Site would be more vulnerable to flooding in the future due to sea level rise and is more vulnerable to tsunami risk than the Proposed Project site.

Thus, for the reasons stated above, the MBA Alternative Site would not avoid significant impacts of the Proposed Project, but would likely result in substantially more severe impacts.

In conclusion, OCII and Planning Department staff believes that the MBA Alternative Site should be rejected from further consideration because the site does not appear to be a feasible alternative and because locating the project at this site would likely result in new and substantially more severe significant impacts than the Proposed Project.

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October 20, 2015

SENT BY U.S. MAIL AND EMAIL (warriors@sfgov.org**)**

Tiffany Bohee
c/o Brett Bollinger
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

RE: Supplemental Comments on Environmental Review for Warriors Event Center and Mixed-Use Development at Mission Bay Blocks 29-32 – Updated Soil and Screening Levels

Dear Ms. Bohee:

This firm represents the Mission Bay Alliance ("MBA") with respect to the Warriors Event Center Project ("Project"). These comments supplement MBA's prior comments on the Draft Subsequent Environmental Impact Report for the Event Center and Mixed Use Development at Mission Bay Blocks 29-32 ("DSEIR") and associated environmental review for the Project.

As described in the July 26, 2015, comment letter submitted by this office regarding the DSEIR ("SM Law Comments"), hazards and hazardous materials associated with the Project site are inadequately analyzed in the 1998 Supplemental Environmental Impact Report prepared for the Mission Bay Redevelopment Plan ("1998 SEIR"). (See SM Law Comments, pp. 7-13 and BSK HazMat report, attached as Exhibit B to SM Law Comments.) In reliance on this flawed and outdated analysis, the DSEIR contains no analysis whatsoever of hazards. In addition, the 1999 Risk Management Plan, and the 2006 Revised Risk Management Plan for the site, referenced in the Initial Study prepared for the Project, also rely on outdated methodologies for identifying human health risks associated with exposure to hazards that could occur during construction and operation of the Project.

In order to demonstrate the inapplicability and ineffectiveness of the screening levels relied upon for the Project, the attached report prepared by Damian Applied Toxicology, LLC: (1) provides updated screening levels for the constituents at the site;

(2) provides newly applicable screening levels that did not exist at the time of the 1998 EIR; (3) compares the new and old screening levels; and (4) compares the updated screening levels to the most recent site investigation data from the Project site. The Damian Report shows that the prior screening levels are completely outdated and do not protect public health. Using updated screening levels that address a wide range of relevant potential receptors and exposure pathways, the Damian Report concludes that 19 chemicals (18 in soil and 1 in groundwater) that were detected in the 2015 Phase II investigation at the site exceed at least one screening level. Indeed, in some instances, sampled soil exceeded screening levels by more than 10 times.

As the DSEIR completely fails to address these potentially significant hazards and hazardous materials impacts, it must be revised and re-circulated for public review prior to any action being taken on the Project. Thank you for considering these supplemental comments. Please feel free to contact my office with any questions.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By: 
Osha R. Meserve

ORM/mre

Attachment: Sept. 28, 2015 Report prepared by Damian Applied Toxicology, LLC

DAMIAN APPLIED TOXICOLOGY, LLC
Advanced Assessment of Chemical Risks to Health and the Environment

www.appliedtox.com

Octoboer 20, 2015

Ms. Osha Meserve
Soluri Meserve
1010 F Street, Suite 100
Sacramento, California 95814

Subject: Updated Soil and Groundwater Screening Levels for the Golden State Warriors Arena Construction Project in the Mission Bay South Redevelopment Plan Area, San Francisco

Dear Ms. Meserve:

Your office requested that **Damian Applied Toxicology, LLC (DAT)** develop updated soil and groundwater screening levels for the Golden State Warriors Arena Construction Project and compare those values to both the previous screening levels and site investigation data presented in the *Phase II Environmental Site Assessment* (Phase II) (Langan Treadwell and Rollo [LTR], 2015).

Screening levels are levels of a chemical in environmental media, for example soil or groundwater, which are considered safe for long-term exposure. Screening levels are developed based on the environmental media of interest, the exposed population of interest (e.g. residents or commercial workers), and the relevant exposure pathway (e.g. drinking water for groundwater or dermal contact with soil). Screening levels may be developed to protect human health or ecological receptors (e.g. aquatic and terrestrial wildlife). In most cases, regulatory agencies have already developed screening levels for certain chemicals in soil or water. However, in some cases (e.g. construction workers) no such screening levels have been developed and a risk assessor must develop new screening levels using scientifically-defensible methods and assumptions. Typically, such methods and assumptions are obtained from the United States Environmental Protection Agency (USEPA), the state agency responsible for review of health risk assessments, or a combination of the two.

The previous screening levels were originally presented in the *Risk Management Plan, Mission Bay Area, San Francisco, California* (RMP) (ENVIRON, 1999), and were referenced without revision in the *Revised Risk Management Plan* (BBL, 2006). Risk-based screening levels change fairly rapidly over time due to new developments in the toxicological science underlying such levels, as well as state and federal risk assessment policy changes. In addition, in most cases, screening levels become more stringent over time, not less so. Thus, in the 16 years since the 1999 RMP was prepared many of the originally proposed screening levels have become obsolete and are no longer adequately protective. Finally, the original screening levels did not address construction workers, exposure of indoor workers to volatile chemicals via vapor intrusion, or ecological risks. The purposes of this report therefore, are: 1) to update the 1999 screening levels, 2) provide new screening levels to address ecorisk, construction workers and vapor intrusion, 3) compare the new screening levels to the previous screening levels, and 4) compare the new screening levels to the most recent site investigation data as presented in the Phase II report (LTR, 2015). The following sets of screening levels were therefore developed for all of the chemicals originally listed in the 1999 RMP (as shown in Appendices B and E from that report):

- Soil screening levels for off-site (nearby) residents and on-site commercial workers
- Soil screening levels for on-site construction workers

- Soil screening levels to protect ecological receptors (terrestrial wildlife)
- Groundwater screening levels for drinking water
- Groundwater screening levels to protect indoor workers from vapor intrusion
- Groundwater screening levels to protect aquatic life

Note that since no residential development is planned for the arena project site, screening levels were not developed for on-site residential use.

SCREENING LEVEL DEVELOPMENT

Details regarding the development of the screening levels are provided below.

Soil Screening Levels for Off-Site Residents and On-Site Commercial Workers

Off-site residents located close to the site were identified as a potential receptor population in the 1999 RMP. This receptor would not have direct contact with site soils by either inadvertent ingestion or dermal contact but may be exposed to chemicals released into the air either by resuspension of soil particulates (for non-volatile chemicals such as metals) or by volatilization (volatile chemicals such as benzene). On-site commercial workers, on the other hand, would be directly exposed to site soils by soil ingestion, dermal contact and inhalation.

Updated soil screening levels for these receptors were obtained primarily from the latest version of the United States Environmental Protection Agency (USEPA) Regional Screening Levels (RSLs) (USEPA, 2015). However, if a corresponding Department of Toxic Substance Control (DTSC) value was available for a particular chemical that value was used preferentially (DTSC, 2015). For the off-site resident, exposed only via inhalation, the Inhalation Screening Level was used. It is important to note that both children and adults are taken into consideration in the development of the residential screening levels and the most stringent value protective of both the adult and child was used. For the on-site commercial worker, the screening level reflecting all soil exposure pathways was used. For carcinogenic chemicals the lower of the cancer or non-cancer risk-based value was used. The resulting values for non-volatile chemicals are shown in Table 1. Table 1 shows that many of the updated screening levels (particularly for the on-site commercial worker) are well below (more stringent than) the older 1999 screening levels (as indicated in yellow highlight).

It should be noted that the screening level for arsenic (12 mg/kg) is not health risk-based. The value of 12 mg/kg is based on the upper bound of naturally occurring arsenic in California (Bradford et al., 1996). By convention in California, a background-based value for arsenic is normally used as the screening level for arsenic at contaminated sites instead of a health risk-based value (California Environmental Protection Agency [CalEPA], 2005). This is because a strictly health risk-based value would be well below naturally occurring background levels.

The screening level for lead for on-site commercial workers is the California Human Health Screening Level (CHHSL) of 320 mg/kg (Office of Environmental Health Hazard Assessment [OEHHA], 2009). The same value is also protective of off-site residents as the contribution of inhalation exposure to lead is negligible relative to soil ingestion (DTSC, 2011), and off-site residents would only be exposed via inhalation.

Updated screening levels for volatile chemicals in soil are shown in Table 2. Table 2 shows that virtually all of the updated screening levels for both off-site resident and on-site commercial worker are well below the older 1999 screening levels (as indicated in yellow highlight).

Soil Screening Levels for On-Site Construction Workers

The 1999 RMP did not address construction workers. However, construction workers have higher levels of exposure to soils than either residents or commercial workers. Therefore, screening levels for this receptor population are warranted.

Neither USEPA nor any California regulatory agency has developed risk-based screening levels for construction workers. However, USEPA has established calculation methods for developing such levels (USEPA, 2002 and 2015), and the California DTSC has established default exposure parameters for construction worker risk assessment that can be used in the USEPA equations. The soil construction worker equations presented in USEPA (2015) were used to calculate soil screening levels for the construction worker. Screening levels were calculated assuming worker exposure via soil ingestion, dermal contact with soil, and inhalation. The screening levels were calculated using the DTSC exposure parameters shown in Table 3. Toxicity criteria used in the calculations were obtained first from DTSC (2015), and if not available from DTSC (2015), from USEPA (2015). For carcinogenic chemicals the lower of the cancer or non-cancer risk-based value is shown as the final recommended screening value. The resulting screening levels for non-volatile chemicals are shown in Table 4. Note that the screening level for arsenic was assumed to be 12 mg/kg, as discussed previously. The screening level for lead for on-site construction workers was assumed to be the commercial/industrial worker CHHSL of 320 mg/kg (OEHHA, 2009). Screening levels for volatile chemicals are shown in Table 5.

Soil Screening Levels for Protection of Ecological Receptors

The 1999 RMP did not include any ecorisk-based soil screening levels, therefore, ecorisk-based soil screening levels for the protection of terrestrial wildlife were obtained from key USEPA references. Available screening levels for non-volatile chemicals and volatile chemicals are shown in Tables 6 and 7, respectively.

Groundwater Screening Levels Based on Drinking Water Exposure

Groundwater screening levels based on human drinking water exposure were considered to be the State of California enforceable drinking water standard, that is, the Maximum Contaminant Level (MCL) (CalEPA, 2015). However, if an MCL was not available for a particular chemical the USEPA RSL for tapwater ingestion was used (USEPA, 2015). The updated groundwater screening levels are shown in Table 8.

Groundwater Screening Levels to Protect Indoor Workers from Vapor Intrusion

The 1999 RMP did not include screening levels to protect indoor workers from vapor intrusion due to volatile chemicals in groundwater. The San Francisco Bay Regional Water Quality Control Board (SFBRWQCB), as part of its Environmental Screening Level (ESL) program, has developed groundwater screening levels to protect workers from this type of chemical exposure (SFBRWQCB, 2013). These values are shown in Table 9.

Groundwater Screening Levels for the Protection of Aquatic Life

The 1999 RMP also did not provide screening levels for the protection of aquatic life from contaminated groundwater. There is a potential for groundwater on the site to daylight or infiltrate into freshwater or estuarine wetlands. Therefore, groundwater screening levels protective of aquatic life were obtained for each of these aquatic habitat types from SFBRWQCB (2013). These values are shown in Table 10.

COMPARISON OF PHASE II DATA TO UPDATED SCREENING LEVELS

Table 11 compares the updated soil screening levels to the maximum soil concentration reported in the Phase II (LTR, 2015). In the Phase II, soils were analyzed in some cases to a maximum depth of 31 ft below ground surface (bgs), but in all cases to at least 10 ft. However, with the exception of barium, the maximum concentrations were all detected within 10 ft bgs. The maximum detected concentration of barium was found at 20 ft; however, this value did not exceed any screening level.

Only those chemicals exceeding at least one of the updated screening levels are shown. Table 11 shows that 18 chemicals exceed at least one of the new screening levels and many of these chemicals exceed more than one screening value. Chemicals exceeding at least two screening levels include arsenic, benzo(a)pyrene, cadmium, lead, and nickel. The greatest exceedances of a screening level were due to lead and nickel. Arsenic was only slightly exceeded (maximum of 13 mg/kg compared to a screening level of 12 mg/kg).

Table 12 shows those chemicals which exceed at least one of the updated groundwater screening levels. Based on the Phase II data, only benzene exceeded a groundwater screening level, and this was based on drinking water exposure.

In summary, using updated screening levels that address a wide range of relevant potential receptors and exposure pathways, 19 chemicals (18 in soil and 1 in groundwater) detected in the Phase II exceed at least one screening level. Of particular importance are lead and nickel due to the significant exceedances of these two chemicals.

CLOSING

Thank you for this opportunity to provide you with our services. Please don't hesitate to call or email should you have any questions or comments regarding this report.

Sincerely,

Paul Damian PhD, MPH, DABT
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Table 1

Updated and Previous Health Risk-Based Soil Screening Levels for the Off-Site Resident and On-Site Commercial Worker
Non-Volatile Chemicals

Chemical	Screening Level (mg/kg)			
	Off-Site (Nearby) Resident Updated[1]	Off-Site (Nearby) Resident Previous[2]	On-Site Commercial Worker Updated[1]	On-Site Commercial Worker Previous[2]
Polycyclic Aromatic Hydrocarbons				
Acenaphthene	NA	1,880,000	45,000	69,000
Acenaphthylene	NA	1,250,000	NA	46,000
Anthracene	NA	9,390,000	230,000	347,000
Benz(a)anthracene	41	3,448	2.9	27
Benzo(g,h,i)perylene	NA	1,250,000	NA	46,000
Benzo(a)pyrene	1,300	345	0.29	2.7
Benzo(b)fluoranthene	13,000	3,448	2.9	27
Benzo(k)fluoranthene[3]	34,700	3,448	1.3	27
Chrysene[3]	1,680	34,000	13	272
Dibenz(a,h)anthracene	1,100	328	0.29	7.9
Fluoranthene	NA	1,250,000	30,000	46,000
Fluorene	NA	1,250,000	30,000	46,000
Indeno(1,2,3-cd)pyrene	13,000	3,448	2.9	27
2-Methylnaphthalene	NA	1,250,000	3,000	46,000
Naphthalene	3.8	1,250,000	17	46,000
Phenanthrene	NA	9,390,000	NA	347,000
Pyrene	NA	939,000	23,000	35,000
Polychlorinated Biphenyls				
(as Aroclor 1254)	4.1	NA	0.97	NA
Petroleum Hydrocarbons[4]				
TPH-Gasoline	NA	1,720,000	500	74,000
TPH-Diesel	NA	16,000,000	110	686,000
TPH-Motor Oil	NA	126,000,000	500	5,420,000
Metals				
Antimony (as trioxide)	280,000	12,514	1,200,000	764
Arsenic[5]	1,160	112	12	29
Barium	710,000	4,380	220,000	12,949
Beryllium[3]	1,590	160	21	12
Cadmium[3]	909	90	5.7	191
Chromium (as trivalent)[3]	NA	31,285,714	270,000	1,910,423
Chromium (as hexavalent)	16	2.6	6.3	5.4
Cobalt	420	9,073	350	23,640
Copper	NA	1,157,571	47,000	70,686
Lead[5]	320	10,748	320	4,203
Mercury[3] (as elemental)	0.96	2,691	3.9	164
Molybdenum	NA	156,429	5,800	9,552
Nickel (as soluble salts)	14,700	1,478	1,500	3,145
Selenium	28,000,000	156,429	5,800	9,552
Silver	NA	156,429	5,800	9,552
Thallium (as soluble salts)	NA	2,503	12	153
Vanadium[3]	142,000	219,000	1,500	13,373
Zinc	NA	9,385,714	350,000	573,127

Notes:

[1]All values obtained from the USEPA Regional Screening Levels (USEPA, 2015) unless otherwise noted. Values for off-site resident reflect inhalation exposure only. Values for on-site commercial worker reflect exposure from soil ingestion, inhalation and dermal contact.

[2]Values obtained from ENVIRON (1999).

[3]Values obtained from DTSC (2015).

[4]Values are Environmental Screening Levels (ESLs) obtained from SFBRWQCB (2013).

[5]See text.

NA = Not available.

Yellow highlight indicates that the updated screening level is lower (more stringent) than the corresponding ENVIRON (1999) screening level.

Table 2

Updated and Previous Health Risk-Based Soil Screening Levels for the Off-Site Resident and On-Site Commercial Worker Volatile Chemicals

Chemical	Screening Level (mg/kg)			
	Off-Site (Nearby) Resident Updated[1]	Off-Site (Nearby) Resident Previous[2]	On-Site Commercial Worker Updated[1]	On-Site Commercial Worker Previous[2]
Acetone	440,000	71,000	670,000	330,000
Benzene[3]	0.35	63	1.4	77
2-Butanone (Methyl ethyl ketone)	64,000	180,000	190,000	800,000
Carbon disulfide	850	11,000	3,500	54,000
Chlorobenzene	340	1,100	1,300	5,600
Chloroform	0.32	340	1.4	410
1,1-Dichloroethane[3]	3.7	1,100	16	1,400
1,2-Dichloroethylene (cis)[3]	21	540	86	2,700
1,2-Dichloroethylene (trans)[3]	212	1,100	860	5,500
Ethylbenzene	6.4	16,000	25	78,000
2-Hexanone (Methyl butyl ketone)	420	370	1,300	1,800
Methylene chloride[3]	6.2	1,900	24	2,300
Styrene	9,700	19,000	35,000	81,000
Tetrachloroethene[3]	1.1	300	2.7	360
Toluene[3]	1,360	6,200	5,400	31,000
1,1,1-Trichloroethane[3]	1,740	15,000	7,300	77,000
1,1,2-Trichloro-1,2,2-trifluoroethane	NA	1,600,000	NA	8,000,000
Trichloroethylene	1.1	630	6.0	760
Trichlorofluoromethane	760	16,000	3,100	80,000
Vinyl chloride[3]	0.03	23	0.15	28
Xylenes	570	110,000	2,400	550,000

Notes:

[1]All values obtained from the USEPA Regional Screening Levels (USEPA, 2015) unless otherwise indicated. Values for off-site resident reflect inhalation exposure only. Values for on-site commercial worker reflect exposure from soil ingestion, inhalation and dermal contact.

[2]Values obtained from ENVIRON (1999).

[3]Updated values obtained from DTSC (2015).

Yellow highlight indicates that the updated screening level is lower (more stringent) than the corresponding ENVIRON (1999) screening level.

Table 3

Exposure Parameters Used to Calculate Soil Screening Levels for Construction Workers

Exposure Parameter	Value
Body weight (kg)	80
Exposure duration (years)	1
Averaging time (days)	
Non-carcinogenic chemicals	365
Carcinogenic chemicals	25,550
Exposure frequency (days/year)	250
Soil ingestion rate (mg/day)	330
Particulate emission factor (m^3/kg)	1.00E+06
Skin surface area (cm^2)	6,032
Soil adherence factor (mg/cm^2)	0.8

Source: DTSC (2014).

Table 4

Soil Screening Levels for the On-Site Construction Worker
Non-Volatile Chemicals

Chemical	Non-Cancer Toxicity Criteria[1]		Cancer Toxicity Criteria[1]		ABS_{GI} (unitless)	ABS_D (unitless)	Non-Cancer Screening Level (mg/kg)	Cancer Screening Level (mg/kg)	Final (Lowest) Screening Level (mg/kg)
	RfD_o (mg/kg-day)	RfC (mg/m^3)	CSF_o $(mg/kg\text{-}day)^{-1}$	IUR $(\mu g/m^3)^{-1}$					
Polycyclic Aromatic Hydrocarbons									
Acenaphthene	6.0E-02	NA	NA	NA	1	0.13	7.3E+03	NA	7.3E+03
Acenaphthylene	NA	NA	NA	NA	1	0.13	NA	NA	NA
Anthracene	3.0E-01	NA	NA	NA	1	0.13	3.7E+04	NA	3.7E+04
Benz(a)anthracene	NA	NA	7.3E-01	1.1E-04	1	0.13	NA	1.2E+01	1.2E+01
Benzo(g,h,i)perylene	NA	NA	NA	NA	1	0.13	NA	NA	NA
Benzo(a)pyrene	NA	NA	7.3E+00	1.1E-03	1	0.13	NA	1.2E+00	1.2E+00
Benzo(b)fluoranthene	NA	NA	7.3E-01	1.1E-04	1	0.13	NA	1.2E+01	1.2E+01
Benzo(k)fluoranthene[2]	NA	NA	1.2E+00	1.1E-04	1	0.13	NA	7.1E+00	7.1E+00
Chrysene[2]	NA	NA	1.2E-01	1.1E-05	1	0.13	NA	7.1E+01	7.1E+01
Dibenz(a,h)anthracene	NA	NA	7.3E+00	1.2E-03	1	0.13	NA	1.2E+00	1.2E+00
Fluoranthene	4.0E-02	NA	NA	NA	1	0.13	4.9E+03	NA	4.9E+03
Fluorene	4.0E-02	NA	NA	NA	1	0.13	4.9E+03	NA	4.9E+03
Indeno(1,2,3-cd)pyrene	NA	NA	7.3E-01	1.1E-04	1	0.13	NA	1.2E+01	1.2E+01
2-Methylnaphthalene	4.0E-03	NA	NA	NA	1	0.13	4.9E+02	NA	4.9E+02
Naphthalene	2.0E-02	3.0E-03	NA	3.4E-05	1	0.13	2.1E+03	9.0E+06	2.1E+03
Phenanthrene	NA	NA	NA	NA	1	0.13	NA	NA	NA
Pyrene	3.0E-02	NA	NA	NA	1	0.13	3.7E+03	NA	3.7E+03
Polychlorinated Biphenyls									
(as Aroclor 1254)	2.0E-05	NA	2.00E+00	5.70E-04	1	0.14	2.3E+00	4.1E+00	2.3E+00
Metals									
Antimony (as trioxide)	4.0E-04	2.0E-04	NC	NC	0.15	0.01	6.6E+01	NC	6.6E+01
Arsenic[3]									1.2E+01
Barium	2.0E-01	5.0E-04	NC	NC	0.07	0.01	2.0E+03	NC	2.0E+03
Beryllium[2]	2.0E-04	7.0E-06	NC	2.4E-03	0.007	0.01	2.9E+00	1.3E+05	2.9E+00
Cadmium[2]	6.3E-06	1.0E-05	NC	4.2E-03	0.025	0.001	1.4E+00	7.3E+04	1.4E+00
Chromium (trivalent)[2]	1.5E+00	NA	NC	NC	0.013	0.01	4.3E+04	NC	4.3E+04
Chromium (hexavalent)[2]	3.0E-03	1.0E-04	5.0E-01	1.5E-01	0.025	0.01	1.1E+02	4.8E+01	4.8E+01
Cobalt	3.0E-04	6.0E-06	NC	9.0E-03	1.00	0.01	2.0E+01	3.4E+04	2.0E+01
Copper	4.0E-02	NA	NC	NC	1.00	0.01	1.2E+04	NC	1.2E+04
Lead[3]									3.2E+02
Mercury[2] (as elemental)	1.6E-04	3.0E-05	NC	NC	1.00	0.01	3.6E+01	NC	3.6E+01
Molybdenum	5.0E-03	NA	NC	NC	1.00	0.01	1.5E+03	NC	1.5E+03
Nickel (as soluble salts)[2]	1.1E-02	1.4E-05	NC	2.6E-04	0.04	0.01	5.7E+01	1.2E+06	5.7E+01
Selenium	5.0E-03	2.0E-02	NC	NC	1.00	0.01	1.5E+03	NC	1.5E+03
Silver	5.0E-03	NA	NC	NC	0.04	0.01	3.8E+02	NC	3.8E+02
Thallium (as soluble salts)	1.0E-05	NA	NC	NC	1.00	0.01	3.1E+00	NC	3.1E+00
Vanadium[2]	5.0E-03	1.0E-04	NC	NC	0.03	0.01	1.7E+02	NC	1.7E+02
Zinc	3.0E-01	NA	NC	NC	1.00	0.01	9.3E+04	NC	9.3E+04

Notes:
[1]Toxicity criteria obtained from DTSC (2015) first and USEPA (2015) if not available from DTSC (2015).
[2]Toxicity criteria obtained from DTSC (2015).
[3]See text.
RfD_o = Reference Dose for ingestion exposure, RfC = Reference Concentration for inhalation exposure, CSF_o = Cancer Slope Factor for ingestion exposure to carcinogens, IUR = Inhalation Unit Risk for inhalation exposure to carcinogens

ABS_{GI} = Gastrointestinal absorption efficiency. Obtained from USEPA (2015).

ABS_D = Dermal absorption efficiency. Obtained from USEPA (2015) (PAHs) and DTSC (2013) (metals).

NC = Not carcinogenic.
NA = Not available.

Table 5

Soil Screening Levels for the On-Site Construction Worker
Volatile Chemicals

Chemical	Non-Cancer Toxicity Criteria[1]		Cancer Toxicity Criteria[1]		Volatilization Factor[3] (m^3/kg)	Non-Cancer Screening Level (mg/kg)	Cancer Screening Level (mg/kg)	Final (Lowest) Screening Level (mg/kg)
	RfD_o (mg/kg-day)	RfC (mg/m^3)	CSF_o (mg/kg-day)$^{-1}$	IUR (µg/m^3)$^{-1}$				
Acetone	9.0E-01	3.1E+01	NC	NC	1.4E+04	2.7E+05	NC	2.7E+05
Benzene[2]	4.0E-03	3.0E-03	1.0E-01	2.9E-05	3.5E+03	4.5E+01	2.5E+02	4.5E+01
2-Butanone (Methyl ethyl ketone)	6.0E-01	5.0E+00	NC	NC	1.2E+04	1.2E+05	NC	1.2E+05
Carbon disulfide	1.0E-01	7.0E-01	NC	NC	1.2E+03	3.3E+03	NC	3.3E+03
Chlorobenzene	2.0E-02	5.0E-02	NC	NC	6.5E+03	1.2E+03	NC	1.2E+03
Chloroform	1.0E-02	9.8E-02	3.1E-02	2.3E-05	2.6E+03	8.5E+02	7.8E+02	7.8E+02
1,1-Dichloroethane[2]	2.0E-01	8.0E-01	5.7E-03	1.6E-06	2.1E+03	6.7E+03	4.3E+03	4.3E+03
1,2-Dichloroethylene (cis)[2]	2.0E-03	8.0E-03	NC	NC	2.5E+03	7.8E+01	NC	7.8E+01
1,2-Dichloroethylene (trans)[2]	2.0E-02	8.0E-02	NC	NC	1.7E+03	5.5E+02	NC	5.5E+02
Ethylbenzene	1.0E-01	1.0E+00	1.1E-02	2.5E-06	5.7E+03	1.5E+04	2.2E+03	2.2E+03
2-Hexanone (Methyl butyl ketone)	5.0E-03	3.0E-02	NC	NC	NA	NA	NA	NA
Methylene chloride[2]	6.0E-03	4.0E-01	1.4E-02	1.0E-06	2.2E+03	1.4E+03	1.8E+03	1.4E+03
Styrene	2.0E-01	1.0E+00	NC	NC	9.4E+03	2.6E+04	NC	2.6E+04
Tetrachloroethene[2]	6.0E-03	3.5E-02	5.4E-01	5.9E-06	2.4E+03	3.1E+02	4.6E+01	4.6E+01
Toluene[2]	8.0E-02	3.0E-01	NC	NC	4.3E+03	4.7E+03	NC	4.7E+03
1,1,1-Trichloroethane[2]	2.0E+00	1.0E+00	NC	NC	1.7E+03	7.4E+03	NC	7.4E+03
1,1,2-Trichloro-1,2,2-trifluoroethane	NA	NA	NA	NA	NA	NA	NA	NA
Trichloroethylene	5.0E-04	2.0E-03	4.6E-02	4.1E-06	2.2E+03	1.7E+01	5.4E+02	1.7E+01
Trichlorofluoromethane	3.0E-01	7.0E-01	NC	NC	1.0E+03	3.0E+03	NC	3.0E+03
Vinyl chloride[2]	3.0E-03	1.0E-01	2.7E-01	7.8E-05	9.6E+02	3.0E+02	9.0E+01	9.0E+01
Xylenes	2.0E-01	1.0E-01	NC	NC	6.5E+03	2.7E+03	NC	2.7E+03

Notes:

[1]Toxicity criteria obtained from DTSC (2015) first and USEPA (2015) if not available from DTSC (2015)

[2]Toxicity criteria obtained from DTSC (2015).

[3]Volatilization factors obtained from USEPA (2015).

RfD_o = Reference Dose for ingestion exposure, RfC = Reference Concentration for inhalation exposure, CSF_o = Cancer Slope Factor for ingestion exposure to carcinogens, IUR = Inhalation Unit Risk for inhalation exposure to carcinogens

NC = Not carcinogenic.

NA = Not available.

Table 6

Ecorisk-Based Soil Screening Levels (Protection of Terrestrial Wildlife)
Non-Volatile Chemicals

Chemical	Soil Screening Level (mg/kg)	Reference
Polycyclic Aromatic Hydrocarbons		
Acenaphthene	20	USEPA (2001)
Acenaphthylene	NA	
Anthracene	0.1	USEPA (2001)
Benz(a)anthracene	NA	
Benzo(g,h,i)perylene	NA	
Benzo(a)pyrene	0.1	USEPA (2001)
Benzo(b)fluoranthene	NA	
Benzo(k)fluoranthene	NA	
Chrysene	NA	
Dibenz(a,h)anthracene	NA	
Fluoranthene	0.1	USEPA (2001)
Fluorene	NA	
Indeno(1,2,3-cd)pyrene	NA	
2-Methylnaphthalene	NA	
Naphthalene	0.1	USEPA (2001)
Phenanthrene	0.1	USEPA (2001)
Pyrene	0.1	USEPA (2001)
Metals		
Antimony	0.27	USEPA (2005a)
Arsenic	43	USEPA (2005b)
Barium	2000	USEPA (2005c)
Beryllium	21	USEPA (2005d)
Cadmium	0.36	USEPA (2005e)
Chromium (trivalent)	26	USEPA (2005f)
Chromium (hexavalent)	130	USEPA (2005f)
Cobalt	120	USEPA (2005g)
Copper	28	USEPA(2007a)
Lead	11	USEPA (2005h)
Mercury	NA	
Molybdenum	NA	
Nickel	130	USEPA (2007b)
Selenium	0.63	USEPA (2007c)
Silver	4.2	USEPA (2006)
Thallium	NA	
Vanadium	7.8	USEPA (2005i)
Zinc	46	USEPA (2007d)
Polychlorinated Biphenyls		
(as total)	0.02	USEPA (2001)
Petroleum Hydrocarbons		
TPH-Gasoline	20	USEPA (2001)
TPH-Diesel	NA	
TPH-Motor Oil	NA	

Notes:
NA = Not available.

Table 7

Ecorisk-Based Soil Screening Levels (Protection of Terrestrial Wildlife)
Volatile Chemicals

Chemical	Soil Screening Level (mg/kg)	Reference
Acetone	NA	
Benzene	0.05	USEPA (2001)
2-Butanone (Methyl ethyl ketone)	NA	
Carbon disulfide	NA	
Chlorobenzene	0.05	USEPA (2001)
Chloroform	0.001	USEPA (2001)
1,1-Dichloroethane	NA	
1,2-Dichloroethylene (cis)	NA	
1,2-Dichloroethylene (trans)	NA	
Ethylbenzene	0.05	USEPA (2001)
2-Hexanone (Methyl butyl ketone)	NA	
Methylene chloride	2	USEPA (2001)
Styrene	0.1	USEPA (2001)
Tetrachloroethene	0.01	USEPA (2001)
Toluene	0.05	USEPA (2001)
1,1,1-Trichloroethane	NA	
1,1,2-Trichloro-1,2,2-trifluoroethane	NA	
Trichloroethylene	0.001	USEPA (2001)
Trichlorofluoromethane	NA	
Vinyl chloride	0.01	USEPA (2001)
Xylenes	0.05	USEPA (2001)

Notes:
NA = Not available.

Table 8

Human Health-Based Groundwater Screening Levels[1]

Chemical	Groundwater Screening Level (µg/L)	Basis	Reference
Acetone	14,000	USEPA RSL	USEPA (2015)
Benzene	1	CA MCL	CalEPA (2015)
2-Butanone (Methyl ethyl ketone)	5,600	USEPA RSL	USEPA (2015)
Carbon disulfide	810	USEPA RSL	USEPA (2015)
Chlorobenzene	70	CA MCL	CalEPA (2015)
Chloroform	0.22	USEPA RSL	USEPA (2015)
1,1-Dichloroethane	5	CA MCL	CalEPA (2015)
1,2-Dichloroethylene (cis)	6	CA MCL	CalEPA (2015)
1,2-Dichloroethylene (trans)	10	CA MCL	CalEPA (2015)
Ethylbenzene	300	CA MCL	CalEPA (2015)
2-Hexanone (Methyl butyl ketone)	38	USEPA RSL	USEPA (2015)
Methylene chloride	5	CA MCL	CalEPA (2015)
Styrene	100	CA MCL	CalEPA (2015)
Tetrachloroethene	5	CA MCL	CalEPA (2015)
Toluene	150	CA MCL	CalEPA (2015)
1,1,1-Trichloroethane	200	CA MCL	CalEPA (2015)
1,1,2-Trichloro-1,2,2-trifluoroethane	1,200	CA MCL	CalEPA (2015)
Trichloroethylene	5	CA MCL	CalEPA (2015)
Trichlorofluoromethane	150	CA MCL	CalEPA (2015)
Vinyl chloride	0.5	CA MCL	CalEPA (2015)
Xylenes	1,750	CA MCL	CalEPA (2015)

Notes:

[1]Based on drinking water ingestion.

USEPA RSL = USEPA Regional Screening Level for tapwater ingestion.

CA MCL = California Maximum Contaminant Level (drinking water standard).

NA = Not available.

Table 9

Groundwater Screening Levels to Protect Indoor Workers from Vapor Intrusion

Chemical	Screening Level (µg/L)[1]
Acetone	NA
Benzene	270
2-Butanone (Methyl ethyl ketone)	200,000,000
Carbon disulfide	NA
Chlorobenzene	NA
Chloroform	1,700
1,1-Dichloroethane	NA
1,2-Dichloroethylene (cis)	26,000
1,2-Dichloroethylene (trans)	120,000
Ethylbenzene	3,100
2-Hexanone (Methyl butyl ketone)	NA
Methylene chloride	26,000
Styrene	NA
Tetrachloroethene	640
Toluene	NA
1,1,1-Trichloroethane	NA
1,1,2-Trichloro-1,2,2-trifluoroethane	NA
Trichloroethylene	1,300
Trichlorofluoromethane	NA
Vinyl chloride	18
Xylenes	NA

[1]Values are Environmental Screening Levels (ESLs) from SFBRWQCB (2013) for fine-coarse mix soil types, commercial/industrial land use.
NA = Not available.

Table 10

Ecorisk-Based Groundwater Screening Levels (Protection of Aquatic Life)[1]

Chemical	Groundwater Screening Level[2] (µg/L)	
	Freshwater Habitat	Estuary Habitat
Acetone	1,500	1,500
Benzene	46	46
2-Butanone (Methyl ethyl ketone)	14,000	14,000
Carbon disulfide	NA	NA
Chlorobenzene	25	25
Chloroform	620	620
1,1-Dichloroethane	47	47
1,2-Dichloroethylene (cis)	590	590
1,2-Dichloroethylene (trans)	590	590
Ethylbenzene	290	43
2-Hexanone (Methyl butyl ketone)	NA	NA
Methylene chloride	2,200	2,200
Styrene	100	100
Tetrachloroethene	120	120
Toluene	130	130
1,1,1-Trichloroethane	62	62
1,1,2-Trichloro-1,2,2-trifluoroethane	NA	NA
Trichloroethylene	360	360
Trichlorofluoromethane	NA	NA
Vinyl chloride	780	780
Xylenes	100	100

Notes:

[1]Groundwater screening levels assume groundwater daylights in either freshwater or estuarine wetlands.

[2]Values shown are Environmental Screening Levels (ESLs) from SFRWQCB (2013).

NA = Not available.

Table 11

Comparison of Updated Soil Screening Levels to Maximum Soil Concentrations Reported in the June 2015 Phase II Environmental Site Assessment

Chemical	Maximum Concentration at Any Soil Depth[2] (mg/kg)	Screening Level Exceeded[1]			
		Off-Site (Nearby) Resident	On-Site Commercial Worker	Construction Worker	Ecorisk (Terrestrial Wildlife)
Polycyclic Aromatic Hydrocarbons					
Anthracene	0.14				X (0.1)
Benzo(a)pyrene	2.1		X (0.29)	X (1.2)	X (0.1)
Fluoranthene	0.72				X (0.1)
Naphthalene	0.74				X (0.1)
Phenanthrene	0.39				X (0.1)
Pyrene	0.9				X (0.1)
Metals					
Antimony	4.1				X (0.27)
Arsenic	13		X (12)	X (12)	
Cadmium	1.7			X (1.4)	X (0.36)
Chromium (as trivalent)[3]	1,800				X (26)
Cobalt	93			X (20)	
Copper	110				X (28)
Lead	1,500		X (320)	X (320)	X (11)
Nickel	2,400		X (1,500)	X (57)	X (130)
Vanadium	50				X (7.8)
Zinc	420				X (46)
Petroleum Hydrocarbons					
TPH-Diesel	1,300		X (110)		
TPH- Motor oil	1,800		X (500)		

[1]Screening level shown in parenthesis.

[2]See text.

[3]Assumed to be trivalent chromium.

Table 12

Comparison of Updated Groundwater Screening Levels to Maximum Groundwater Concentrations Reported in the June 2015 Phase II Environmental Site Assessment

Chemical	Maximum Groundwater Concentration (µg/L)	Screening Level Exceeded[1]		
		Drinking Water Groundwater Screening Level	Vapor Intrusion - Commercial Worker	Ecorisk Screening Level (Protection of Aquatic Life)
Benzene	4.4	X (1)		

[1]Screening level shown in parenthesis.

OCII
office of
COMMUNITY INVESTMENT
and INFRASTRUCTURE

DATE: November 2, 2015

TO: Tiffany Bohee, OCH Executive Director

FROM: Chris Kern, City Planning Department
Sally Oerth, OCII Staff

SUBJECT: Mission Bay Alliance October 20, 2015 letter re Hazardous Materials

The City Planning Department and the staff of the Office of Community Investment and Infrastructure (OCII) have reviewed the October 20, 2015 letter from Soluri Meserve regarding the Warriors Event Center and Mixed Use Development Subsequent Environmental Impact Report (SEIR), along with the attached September 28, 2015 letter from Damian Applied Toxicology, LLC. The letter claims that impacts related to hazards and hazardous materials are inadequately addressed in the Initial Study for the Event Center and Mixed Use Development because the analysis relies on the 1998 FSEIR for the Mission Bay Redevelopment Plan and the risk management plan prepared in accordance with the FSEIR relies on outdated methodologies for assessing human health and environmental risks during construction and operation of the project. The letter provides updated environmental screening levels for the evaluation of chemical concentrations in the soil and groundwater and notes that some constituents identified during the 2015 Phase II Environmental Site Assessment exceed at least one screening level. The letter identifies updated environmental screening levels for on-site construction workers, off-site (nearby) residents, on-site commercial workers, ecological receptors (terrestrial wildlife), drinking water, vapor intrusion into the building, and protection of aquatic life.

OCII acknowledges that the environmental screening levels have been updated since preparation of the 1999 Risk Management Plan (RMP) for the Mission Bay Plan Area. However, as explained in more detail below, the comment letter conflates this screening level information with thresholds of potentially significant hazards and hazardous materials impact. Further, because of the RMP's requirements, including implementation of San Francisco Health Code Article 22A, and the construction requirements of the project, a change in screening levels does not affect the conclusions reached in the Initial Study (pp. 106 to 122) as augmented and clarified in the Responses to Comments document (Section 13.22).

As a preliminary matter, implementation of the RMP does not rely on outdated standards and procedures, as alleged in the comment. Rather, the RMP ensures compliance with the current regulatory requirements through implementation of Article 22A of the San Francisco Health Code, as discussed in Response HAZ-1 and HAZ-3 (see Sections 13.22.2 and 13.22.4, respectively, of the Responses to Comments document). Article 22A, which was updated in 2013, authorizes the San Francisco Department of Health (DPH) to implement state regulations with respect to hazardous substances in

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soil and groundwater. Among the requirements are risk management measures specific to construction, such as dust control measures, soil management protocols, stormwater pollution plan requirements, worker health and safety planning requirements, contingency requirements in the event that previously unidentified underground structures or contamination are identified, protocols for dewatering activities, and a framework for complying with the requirements of Article 22A. Known as the "Maher Ordinance," Article 22A requires analyses of hazardous substances including, but not limited to: metals, volatile organic compounds (VOC), total petroleum hydrocarbons, semi-volatile organic compounds (SVOC), PCBs, pH levels, cyanides, methane and other flammable gases, and naturally occurring asbestos. Sampling of soil and groundwater contamination must be in accordance with procedures approved by the California Department of Toxic Substances Control or the State Water Resources Control Board and the San Francisco Bay Regional Water Quality Control Board. Likewise, testing of samples must be analyzed by a certified laboratory in accordance with methods approved by these agencies. The analysis of soil and groundwater must disclose the presence of a hazardous substance and, for each, the level detected and the State and federal minimum standards for public health risks, if any. Article 22A requires a Site Mitigation Plan (SMP), describing the procedures, methods, and devices to mitigate or remove contaminated soil, groundwater, and soil vapor, and upon completion, a Certified Final Project Report, each subject to approval by DPH. Here, DPH has approved a SMP [1] and conditionally approved a Dust Management Plan [2] for construction of the project. Thus, while there is a standing RMP for the project site, the RMP's implementation of Article 22A (in addition to the other measures required by the RMP), ensure that remediation of the soil and groundwater meet current health risk standards, and that the public is not exposed to unacceptable levels of site contaminants during construction, as concluded on p. 118 of the Initial Study. (See *City of Maywood v. Los Angeles Unified School Dist.* (2012) 208 Cal.App.4th 362, 409-413 (holding the lead agency properly determined the environmental impact of construction of a school on a site with potential soil contamination was less than significant in consideration of applicable regulations governing further investigation and cleanup of the site prior to construction of the school).)

In addition, the RMP requires implementation of risk management measures specific to post- development conditions. These measures are intended to manage risks to site occupants and ensure that they would have no contact with site soils and groundwater as well as risks to maintenance and utility workers that may contact soil left in place during their normal work activities. They include the following: covering of exposed areas; limiting future residential development within the Mission Bay Plan area to preclude single family homes with private front or back yards; restricting the future use of groundwater for domestic, industrial, or irrigation purposes; providing protocols for

[1] City and County of San Francisco, Department of Public Health, Environmental Health. Site Mitigation Plan
Approval, Golden State Warriors Arena, Blocks 29-32, San Francisco, CA 94158, June 17, 2015.
[2] City and County of San Francisco, Department of Public Health, Environmental Health. Dust Monitoring Plan
Conditional Approval, Golden State Warriors Arena, Blocks 29-32, San Francisco, CA 94158, September 15, 2015.

future subsurface activities; and implementing a long-term groundwater monitoring program. Implementation of these measures would ensure that site occupants and the public are not exposed to unacceptable levels of site contaminants once the project is constructed as concluded on p. 118 of the Initial Study.

Regardless of screening levels, the project would not expose off-site residents or on-site commercial workers to unacceptable levels of volatile or non-volatile chemicals. (See Tables 1, 2 in comment letter.) Once the project is constructed, site occupants, commercial workers, and visitors, as well as adjacent property owners, visitors and residents, would not be exposed to chemicals in the soil. Site excavation would remove soil to a minimum depth of 12 feet as part of the site development, and clean engineered backfill would be used where needed. The site would be occupied by buildings or paved, and none of the existing soil on the site would be exposed at grade, as discussed in Responses HAZ-1 and HAZ-3 of the Responses to Comments document (Sections 13.22.2 and 13.22.4, respectively). All landscaped areas on the site would be above structures, and clean soil would be brought in for all landscaped areas on the project site. (See also *Parker Shattuck Neighbors v. Berkeley City Council* (2013) 222 Cal.App.4th 768, 786 786, fn. 14 (explaining existing soil contamination did not even constitute "a fair argument of a significant effect on the environment… [in part because of] uncontroverted evidence that 26,000 cubic yards of soil will be excavated from… [the project site] before construction and that underground parking and the ground floor will separate residential units from any… [contaminated soil]").) Moreover, the project would not include any residential or other uses that could include backyard gardens or other activities that could involve growing of food crops.

Similarly, the project would not expose people or the environment to risks related to contaminated groundwater (see Table 12 in comment letter) because the project is deed restricted from using groundwater for drinking water, irrigation, or any other purposes. There would be no substantial risk related to vapor intrusion because, as discussed in Response HAZ-3, only low levels of volatile organics have been identified in the soil and groundwater, based on recent testing in 2015. Indeed, as demonstrated in Tables 9 and 12 of the comment letter, none of the volatile organic concentrations exceed the updated environmental screening levels for vapor intrusion.

On-site construction workers could be exposed to chemicals in the soil and groundwater during initial phases of construction (i.e., excavation of and removal of soil from the site). However, risks to construction workers would be adequately addressed by the site specific health and safety plan required under Article 22A of the San Francisco Health Code (implemented in accordance with the 1999 Mission Bay RMP), as discussed in Response HAZ-3 of the Responses to Comments document (Section 13.22.4). The construction contractor would be required to implement health and safety requirements in accordance with the site specific health and safety plan. The health and safety plan, which is kept on-site and updated as necessary, establishes procedures for entering the project site, emergency response procedures, training requirements (i.e., training in accordance with Section 1910.120 of 29 Code of Federal Regulations, known as "HAZWOPER training"), specific personal hygiene requirements, and the use of monitoring equipment specifically to protect construction workers. A health and safety officer will be on site at all times during excavation to ensure that all health and safety

measures are maintained and, if necessary, to direct and stop all construction activities in order to ensure compliance with the health and safety plan. Compliance with the health and safety plan will ensure that construction worker exposures to hazardous materials remain within acceptable levels. During construction, the public (including off-site, nearby residents) would not be exposed to hazardous materials in dust emanating from construction activities because no visible dust would be allowed to cross the property boundaries in accordance with the Dust Monitoring Plan approved by the San Francisco Department of Public Health, which incorporates the requirements of Article 38 of the San Francisco Health Code as also discussed in Response HAZ-3.

Potential impacts of the project on biological resources, including impacts associated with exposure to contaminated soils and groundwater, are addressed in the Initial Study (pp. 76 to 84) as augmented and clarified in the Responses to Comments document (Section 13.19). The proposed project was determined to have a less-than-significant impact on special status species and sensitive natural communities, both terrestrial and aquatic. No special status species or sensitive natural communities are present on the site, and during construction, implementation of required stormwater controls and dust monitoring would ensure that no contaminated materials would be transported off-site through runoff or wind deposition. As stated above, during operation of the project, there would be no exposure of terrestrial wildlife and aquatic life to contaminated soils. Any ecological risk exposures to aquatic life associated with contact with groundwater are an existing condition that is not a result of the proposed project. That is, to the extent if any that aquatic life could be exposed to hazardous substances currently existing in the groundwater beneath the site, the project is not the cause of that exposure.

Finally, updates to the screening levels do not warrant an updated human health or ecological risk assessment, particularly in light of the recent site-specific investigations and requirement for compliance with current regulatory standards. As explained in *Parker Shattuck Neighbors*, *supra*, 222 Cal.App.4th at 786, statements that soil on a project site exceed screening levels for certain hazardous substances coupled with a recommendation for further studies to be conducted "is not evidence, much less substantial evidence, of an adverse impact." Rather, environmental screening levels are used to evaluate whether there could be health or environmental risks associated with exposure to chemicals in the soil and groundwater that warrant further investigation. In accordance with U.S. EPA guidance:

> "The [screening level's] role in site "screening" is to help identify areas, contaminants, and conditions that require further federal attention at a particular site. Generally, at sites where contaminant concentrations fall below SLs, no further action or study is warranted under the Superfund program, so long as the exposure assumptions at a site match those taken into account by the SL calculations. Chemical concentrations above the SL would not automatically designate a site as "dirty" or trigger a response action; however, exceeding a SL

> suggests that further evaluation of the potential risks by site contaminants is appropriate."[3]

Thus, the updates to the screening levels cited in the comment letter could be useful to identify potential risks from soil and groundwater contamination that an environmental review concluded, based on outdated screening levels, required no further evaluation; in other words, risks that had been "screened out" from further hazardous materials investigation. This however is not the case here.

As discussed in the Initial Study, the 1998 FSEIR, and the Responses to Comments Document, the project site has been the subject of extensive hazardous materials investigations beginning in 2001 and continuing through 2015. Soil and groundwater remediation has been conducted under the regulatory supervision of the San Francisco Bay Regional Water Quality Control Board (RWQCB) in response to documented soil and groundwater contamination. A detailed discussion of the site investigation and remediation activities conducted at the project site is provided on pages 115-118 of the Initial Study. The most recent investigation is the 2015 Phase II Environmental Site Assessment completed in support if the proposed project, as described in Response HAZ-3 (Section 13.22.4 of the Responses to Comments document). The analytical results of this investigation are representative of current site conditions. Thus, the environmental review for the proposed project fully discloses the presence of hazardous materials in soil and groundwater on the project site in compliance with current regulatory standards.

Based on the site investigation and characterization described above, the next step in the environmental review process is to evaluate potential risks to human and environmental receptors from exposure to contaminated soil and groundwater. But here, for the reasons already discussed, there is no health or environmental risk of exposure to chemicals currently present in soil and groundwater at the project site.

For the reasons more fully discussed above, an updated human health or ecological risk assessment using updated environmental screening levels is not necessary to support the conclusions reached in the Initial Study. Impacts related to hazardous materials in soil and groundwater are less than significant with mitigation. The comment letter does not identify any significant new information that would warrant recirculation of the SEIR.

[3] USEPA Regional Screening Table Frequently asked Question (June 2015), http://www2.epa.gov/risk/regional-screening-table-frequent-questions-june-2015#FQ1, accessed 10/28/15

T'eedUP: Technical Fouls Make GSW Arena Bad for Environmental Justice Nov. 1, 2015

EXECUTIVE SUMMARY

A critical race theory analysis of the proposed Golden State Warriors Event Center in Mission Bay indicates that the Subsequent Environmental Impact Report falls short of the standards on the California Environmental Protection Act and the Executive Order 12898 because:

1. It does not address the cumulative effects of a Superfund site, proximity to a highway with more than 200,000 vehicles per day, two power plants and an open air waste water treatment plant and decades of governmental disinvestment on the largest concentration of affordable family housing in the nation's most expensive city for housing.
2. It breaks promises made to African-Americans throughout the city and Bayview-Hunters Point specifically about the T-Line being the artery to enhance access to the city' s economy.
3. It values wealth and race in land use decision-making to the financial, health and civic detriment of African-American, Latino and Chinese citizens.
4. It does not supply the stated objective of the General Plan to provide middle class jobs to a community which has 43 percent of the city median income.
5. Technically, it makes assertions that fly in the face of reality about transit. Narrative testimony from young people throughout the city describe a segregated transit system in which race and income determine how quickly one moves across the city.
    a. This project would block for more than 200 days per year the primary artery from Bayview-Hunters Point during peak hours.
    b. MUNI has a history of missing construction deadlines. The T-Line was 18 months late. The Central Subway was planned to open in 2009.
    c. This project would endanger children forced to use the Muni system to attend public schools and foster truancy or inability to participate in afterschool events.
    d. Utilization of the 22-Fillmore would impact African-American and Latino transit riders.
6. The Subsequent Environmental Impact Statement fails to include any consideration of Environmental Justice nor does it include an Equity Analysis.
7. Expert opinion indicates that it would be easier for most San Franciscans and other citizens throughout the Bay Area to reach the current location (a 15 minute BART trip) than to reach the new facility.
8. The Event Center will raise housing prices, increase real estate speculation, short-term leasing activity and displace minority home owners already having faced the most severe predatory lending activity in the country.
9. A much more effective use of the land would be the development of research and development geared to addressing health disparities, particularly in honor of the late Dr. B. Nathaniel Burbridge.

T'eedUP

Profound Environmental Justice Issues with the Golden State Warriors Event Center EIR

- The T-Line currently is on time less than half of its scheduled runs; compared to the predecessor 15 bus line, it carries 20 percent more passengers, but operates 60 percent slower.
- GSW Event Center worsens the race and poverty related stress factors for the highest concentration of affordable housing in the City.
- The City and County of San Francisco has denied southeast San Francisco needed investment for 60 years, according to a 2004 civil grand jury report.
- The Draft Subsequent EIR contradicts the General Plan and the 1998 EIR for the Third Street Light Rail by ignoring the negative impact on Bayview-Hunters Point.
- The 30-Stockton line serving Chinatown is a proxy for the expected demand along the Central Subway. It also fails to achieve on-time operation half of the time. The proposed arena is right at the choking point where the current T-Line and additional Central Subway riders would intersect.
- A critical race theory analysis of the proposal indicates a long history of sports owners using African-American communities to gain public benefits but giving little in return in the Bay Area
- Open air waste treatment in Bayview Hunters Point would lift the smells from 18,000 event center patrons using the toilet into the homes of Bayview-Hunters Point residents, undoing gains in air pollution from closure of power plants.

John William Templeton

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*By John William Templeton**

DEFINING ENVIRONMENTAL JUSTICE

Attorney General Kamala D. Harris defines environmental justice as "…the fair treatment of people of all races, cultures and incomes with respect to the development, adoption, implementation and enforcement of environmental laws, regulations and policies," in an advisory for local and regional governments.[1]

The U.S. Department of Transportation requires that its grantees:

"avoid, minimize or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations;
"ensure the full and fair participation by all potentially affected communities in the transportation decision-making process;
"prevent the denial of, reduction in or significant delay in the receipt of benefits by minority and low-income populations.."[2]

***Templeton is co-founder of National Black Business Month and architect of Our10Plan, the African-American economic fairness plan. Given a lifetime achievement award in February 2015 by the S.F. Public Utilities Commission Celebrating Black Achievement program, he served six years on the board of the Friends of the San Francisco Public Library and was active in the Excelsior and Bayview branch campaigns. Author of context statements on African-American history in San Francisco and San Jose, he is creator of the California African-American Freedom Trail. He has presented on environmental justice to Region 9 of the Environmental Protection Agency, the National Park Service, California Historical Resources Commission and U.S. Army Corps of Engineers, Sacramento district. Conservator of the 20,000 image Clarence Gatson Collection and the Wesley Johnson Collection, he convenes the annual Preserving California Black Heritage conference.**

[1] Harris, The Honorable Kamala D. "Environmental Justice at the Local and Regional Level Legal Background, Department of Justice, State of California, (p. 1) 2012
[2] Transportation, U.S. Dept. of "Revised DOT EJ Strategy, March 2012 http://www.fhwa.dot.gov/environment/environmental_justice

In a 2012 regional videoconference[3] to Region 9 of the Environmental Protection Agency, this writer described southeastern San Francisco as a bellwether for the practice of environmental justice. Community members began addressing a variety of health and environmental factors in the 1940s, soon after World War II, and became famous in 1968 for sitting in at the office of the Secretary of the new Department of Housing and Urban Development until it received $50 million as one for the first two Model Cities initiatives.[4]

[3] Templeton, John William "The History of Environmental Justice," video conference, Region 9, Environmental Protection Agency, San Francisco, February 2012

[4] Templeton*, op. cit. Come to the Water: Sharing the Rich Black Experience in San Francisco, (ASPIRE SAN FRANCISCO) 2010*

CRITICAL RACE THEORY AND ENVIRONMENTAL JUSTICE

Critical race theory emerged as a scholarly field from the recognition that embedded practices in society lead to disparate outcomes. Foster[5] wrote:

> "Consider the problem of environmental racism, understood as the disproportionate distribution of environmentally harmful substances (such as lead) and land uses (such as hazardous waste facilities) in communities of color. As with most adverse racially disparate outcomes across a spectrum of social contexts and goods, there is no clear perpetrator or encompassing theory of causation that explains these outcomes. Indeed, as I have argued, these outcomes are best understood as yet another manifestation of the racism and discrimination that exists throughout our social structure-in housing discrimination, political disenfranchisement, and lack of access to health care and other social amenities."

Decisions for public infrastructure, in this analysis, can have long-lasting generational impacts such as the decision by the New Deal-era Federal Housing Agency to insist on racial covenants as a condition for federal mortgage insurance[6]. It took a 1946 Supreme Court decision to overturn the rule, but the effects for residential segregation have endured for more than 70 years.[7]

When the Bay Area attracted major league sports franchises in the 1950s and 1960s, it located all the facilities in African-American neighborhoods of San Francisco or Oakland.[8] Through the 1990s, all the major league teams played in Bayview Hunters Point or East Oakland, with combined football/baseball stadiums and basketball arenas attracting more than 150 events per year.

In the same year that Willie Mays arrived from New York with the San Francisco Giants, Roy Clay Sr. arrived in the Bay Area as a computer programmer on the most advanced such device in the world, at the Lawrence Radiation Lab in Livermore.[9] His contributions to programming

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[5] Foster, Sheila D. "Critical Race Lawyering: Foreword," 73 Fordham L. Rev. 2027 (2005). Available at: http://ir.lawnet.fordham.edu/flr/vol73/iss5/1

[6] Fair Housing and Equal Opportunity, National Commission on "The Future of Fair Housing" http://www.civilrights.org/publications/reports/fairhousing/historical.html

[7] Ibid.

[8] Candlestick Stadium, Oakland/Alameda County Stadium and Coliseum, Cow Palace for the San Francisco Giants, Oakland A's, Oakland Raiders, San Francisco 49ers and Golden State (San Francisco) Warriors

[9] Clay, Roy, Sr. interviewee "Freedom Riders of the Cutting Edge," documentary, producers William Hammond and John William Templeton, Feb. 2009, KMTP-32 San Francisco

and technology led to his naming as a Silicon Valley Engineering Hall of Fame member in 2002.

Also in 1957, the Santa Clara County Board of Supervisors, in a racially-motivated decision, chose not to join the Bay Area Rapid Transit District (BART), choosing instead to spend its transportation resources on highway construction.[10]

That decision would increase pollution to the north along US. 101 and I-280, built through the same neighborhoods as Candlestick Park and make lucrative defense contractor jobs relatively inaccessible to thousands of African-Americans who had worked in defense industries in the East Bay and southeastern San Francisco since World War II.

In 2015, the ramifications which those decisions set in motion have created a community severely impacted by a variety of air and ground pollutants without the employment base to maintain middle class communities.

A critical race theory analysis of environmental justice must address the long-standing inequities that go beyond the project in question. Although the project sponsors are ignorant of these inequities and may claim no role in causing them, they are the beneficiaries of these decisions and should be held accountable for not worsening already dire circumstances.

The question San Francisco decision-makers should ask is "*Why take the risk of increasing pollution to the most severely impacted community in the city and worsening transit access in order to move a sports arena away from another low-income, minority community?*"

In another decision of regional, long-lasting importance, the City and County of San Francisco now encourages, if not requires, its homeless or poverty-stricken African-American residents to use housing choice vouchers outside the city as far away as Fresno and Bakersfield, moving them even further away from opportunity.[11]

The consequences of its land use decisions must also take the same regional approach. A critical race theory approach is called upon to examine why the Subsequent Environmental Impact Report ("EIR") completely ignored the Bayview-Hunters Point General Plan, the Environmental Impact Report for the Third Street Light Rail and a long history of environmental racism towards the residents of southeastern San Francisco.

For example, the Subsequent EIR acknowledges:

> "significant and unavoidable impacts in the areas of transportation and circulation (traffic impacts at multiple intersections and freeway ramps, and transit demand on regional transit providers exceeding capacity), noise (substantial permanent

[10] Templeton, *op. cit.* "Historical Resource Evaluation," African-American Service Center development, San Jose for Stevens and Associates Architects 2010

[11] Morenek, Toshio "Affordable Housing Programs Affordable Only to the Affluent" http://america.aljazeera.com/articles/2015/2/3/san-francisco-affordable-housing-is-unaffordable.html

increase in roadway noise and crowd noise affecting sensitive receptors); air quality (construction and operational emissions or ozone precursors exceeding thresholds) wind, (substantial increase in wind hazard hours at off site public areas and utilities (construction of new or upgrader wastewater facilities and determination by the San Francisco Public Utilities Commission that it currently has inadequate capacity to serve the project's wastewater demand."

For the City and County of San Francisco to accept such outcomes is an act of environmental racism comparable to the restrictive covenants of the New Deal federal housing agency and the Santa Clara County supervisors who rejected BART (only to welcome it in 2015 at a much higher cost).

Ironically, the Santa Clara County employers who turned their back on workers from the East Bay and San Francisco have now gained approval to have their private shuttle buses stop at public transit stops, blocking the regular MUNI lines for a minimal fee without seeking any remediation for the impact on the 60 percent of MUNI riders who are minorities.

For the second time in 50 years, a county government is using transit infrastructure to promote employment segregation. As Goldman writes:

"Lower-income people should not bear the brunt of the negative externalities of economic development. "[12]

The disparity in the response to the concerns of the affluent and powerful neighbors of Mission Bay speaks volumes in contrast to the complete avoidance of the environmental injustice to be heaped on the long-suffering residents of Bayview-Hunters Point.

See these comments by Planning Commissioner Michael Antonini:[13]

*Tech and Airbnb have saved San Francisco.

"Their effect has bought many new residents to San Francisco and helped to provide vitality to many of our neighborhoods that were heretofore economically depressed, unsafe, dirty areas of San Francisco to which few would travel to shop, dine and - much less-live... The population of the neighborhoods have changed dramatically. "

*Airbnb is better than... brothels?

"It's better to have short term renters sharing homes with owners, even in RH1 and RH2 neighborhoods, than to have multiple families living in a single family home or for such homes to be used for illegal criminal activities, often pretending to be message [sic] establishments."

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[12] Goldman, Alexandra "The Google Shuttle Effect: Gentrification and San Francisco's Dot Com Boom 2.0" submitted in satisfaction of masters in city planning, UC-Berkeley, Spring 2013 p. 3

[13] Roberts, Chris, "Socialists," "Racism," And "The American Way": Planning Commissioner Has Hot Takes On Election " San Francisco Weekly, Oct. 29, 2015 http://m.sfweekly.com/thesnitch/2015/10/29/socialists-racism-and-the-american-way-planning-commissioner-has-hot-takes-on-election

Critical race theory highlights the importance of narratives to balance numerical processes which focus on the minutiae of individual projects without understanding how they affect people in the real world.

Talking to people in their own environment produces insights not available from outside "experts" with no cultural competency and different from what can be gathered through the typical public hearing format, with time limits on comments.

A process which says that notice was given in the legally proscribed way without any specific outreach into a community which has 43 percent of the median income of the city in general does not take into account financial and transportation pressures which can preclude participation in meetings, and the community's lack of resources to analyze massive amounts of data.

San Francisco's activists were legendary as relatively uneducated persons to take the time to study land use documents during the 1940s through the 1990s as the likes of Geraldine Johnson, Dr. Hannibal Williams and Mary Helen Rogers became more expert that the city officials they tormented.

A generation of health practitioners and scholars such as Dr. Arthur Coleman, a joint J.D./M.D. and Dr. Carlton B. Goodlett, an M.D. and Ph.D and dentists like Drs. Dan Collins and Zuretti Goosby also gave the community the capability to speak authoritatively to the powerful.

Just recently, residents near Candlestick stopped the plan to implode the stadium to prevent dust pollution.[14]

Fortunately, the activists group POWER has created an excellent narrative summary of the impact of race, poverty and transportation in San Francisco. Alicia Garza, the catalyst behind the Black Lives Matter movement, was co-director of POWER.

The new generation of activists also includes the web site Color of Change, founded by Van Jones.

With such visible activists and the history of public involvement, it is quite inconceivable that an Environmental Impact Statement affecting Bayview-Hunters Point and secondarily, the Mission, Chinatown and the Western Addition would omit the issue of environmental justice.

However, the Candlestick implosion idea was handled in the same backdoor fashion until the community found out about it.

Additionally, this writer has conducted more than 400 oral history interviews of African-Americans in San Francisco since 2003 and catalogued the artifact collections of Dr. Carlton B. Goodlett, former publisher of the San Francisco Sun Reporter; Clarence Gatson, photo editor of the Sun Reporter and Wesley Johnson Sr., and Dr. Wesley Johnson III, owners of nightclubs and pharmacies from the 1940s through the 1970s.

For the past nine years, the community has been encouraged to tell their stories through the Preserving California Black Heritage conference each September. The 2015 conference led to

[14] NBC Bay Area "Developers Don't Live Here: Bayview Resident says" Jan. 5, 2015 http://www.nbcbayarea.com/news/local/Developers-Ddont-Live-Here-SF-Resident-on-Demolition-of-Candlestick-Park-287552431.html

coverage by CNN, KGO and KPIX along with a Datebook article in the San Francisco Chronicle by uncovering an abandoned Sargent Johnson carving in the Western Addition neighborhood.

While raising funds for the Excelsior and Bayview branch library campaigns over the past ten years, this writer has had extensive experience catching public transit in the southeast part of the city after late night meetings. It has been apparent that there was a segregated transit system at work in the city, with different reliability standards based on the racial makeup of the neighborhood.

Reading about the proposed transit improvements offered to the basketball team caused him to explore the hypothesis in more detail.

Since 80 acres of Bayview were dedicated to slaughterhouses in the late 1880s, the community has borne the brunt of the city's progress, without sharing in it.

The customized treatment of the Event Arena is comparable to the difference between the city's two waste water treatment plants. The one in southeast San Francisco has been open air for 50 years, with smells apparent for miles and homes just feet away, contributing in no small way to profound health disparities and abridged mental health. The one at the Great Highway is completely contained with no smells.

Antonini's slip of the email, like the video of Donald Sterling and the memo from the Atlanta Hawks owner, are just glimpses into the mindset behind the policy decisions at work for professional athletics.

Critical race theory is designed to ferret out those ramifications without such clear-cut instances. It doesn't take a police shooting to determine whether "Black Lives Matter." The choices that governments and businesses make are even clearer indicators.

CRITICAL RACE THEORY AND SPORTS

It is not an accident that the most visible breakthroughs to end segregation in American society in the early and middle 20th century first came in sports. The Olympic victories of Jesse Owens and Joe Louis in the 1936 Berlin Olympics and the successful entry of Jack Roosevelt Robinson as the first black player in major league baseball were pivotal, according to UC-Santa Cruz sociologist Anthony Pratkanis.[15]

San Francisco was pivotal to the integration of sports because of breakthroughs dating back to the 1890s. In the field of horse racing, Alonzo Clayton won the California Derby at Ingleside Race Track and later won the Kentucky Derby.[16] Rube Foster brought the Chicago American Giants beginning in 1908 to play in the Pacific Winter League, the first integrated professional baseball league, a decade before he started the Negro National League in 1929.[17]

The University of San Francisco's first black athlete, Earl Booker, won the intercollegiate boxing championship in 1934. By 1951, Ollie Matson and Burl Toler led the team to an undefeated record and a Cotton Bowl berth[18]. Their teammates turned down the bid when informed that the black players could not compete, leading to a reputation as the "greatest college football team in history" with four future NFL Hall of Famers.

William Felton Russell and K.C. Jones, both graduates of McClymonds High School in Oakland, led USF basketball to consecutive NCAA championships along with an Olympic gold medal performance in 1956. Russell and Jones would continue their championship run for ten seasons in the National Basketball Association as part of the most successful franchise ever, helping to enhance the popularity of the sport and attract television viewers.

Major league sports, particularly football and basketball, have an important responsibility to protect the historic character of the neighborhoods which sacrificed years of pollution, disruption and slow growth to help those leagues achieve their current financial success through the help of public assets, in the long view of the critical race theory perspective.

The relevant question to answer is whether there is a corresponding benefit to the people of southeast San Francisco, who have already hosted the Warriors for almost a decade at the Cow Palace in the 1970s and hosted the Giants and 49ers for 50 years at Candlestick.

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[15] Pratkanis, Anthony and Turner, Marlene "The Year Cool Papa Bell Lost the Battling Title: Branch Rickey and the First Affirmative Action Program," Chap. 22 in Our Roots Run Deep: the Black Experience in California, Vol. 2, 1900-1950 (ed.) Templeton, John William (ASPIRE SAN FRANCISCO)

[16] Templeton, op. cit. *Come to the Water,*

[17] Ibid. p.

[18] Ibid. p.

No evidence is offered to suggest that the arena would have any benefit to this community, such temporary event jobs have been available for decades. Any such jobs would be simply transferred from the East Bay into San Francisco with no net gain in opportunity.

Would Bayview-Hunters Point residents get to enjoy the facility as fans? POWER indicates that the most likely result is that San Francisco Police Department would step up enforcement of fare violations to actually discourage its residents from mingling with event center riders[19]. They note the shooting of a young man on the T-Line platform by two officers seeking to cite him for fare evasion

It is also noteworthy that two NBA owners lost their teams in the last year, in Los Angeles and Atlanta, for suggesting that their games attracted too many African-Americans (even if they were rich former NBA players).

It is profound evidence that the specter of race is at the heart of the decision-making to leave what BART director and transit expert Tom Radulovich calls the optimum transit location in its current site.[20]

Sports sociologist Harry Edwards suggests that a sports facility is the absolute worst investment to make near an impacted community:

> "…there is no option but to recognize that for increasing legions of black youths, the issue is neither textbooks nor playbooks—the issue is survival, finding a source of hope, encouragement, and support in developing lives and building legitimate careers and futures.
>
> Without question, the ultimate resolution to this situation must be the overall institutional development of black communities and the creation of greater opportunity for black youths in the broader society.

The current Warriors owners join a long array of sports entrepreneurs—Bob Lurie, Al Davis, Eddie DeBartolo, Larry Ellison, Lew Wolff and Jed York—who have played sports monopoly with Bay Area governments. In every case, the owners win.

[19] Bialick, Aaron, "Warriors Arena Moving to Mission Bay: A Win for Transit Accessibility?" SFStreetsblog, April 23, 2014

[20] Edwards, Harry "Crisis of Black Athletes on the Eve of the 21st Century," from Society, March/April pp. 9–13. Copyright © 2000 by Springer-Verlag New York Inc.

THE PROJECT

The Office of Community Infrastructure and Investment has prepared an EIR[21] on the plan by GSW Arena LLC, an affiliate of the National Basketball Association team Golden State Warriors, to build an 18,000 seat arena, two office buildings, retail and parking spaces on an 11-acre parcel across from the UCSF Mission Bay campus.[22]

Moved from an initial proposal to site the arena on Pier 32, the project takes the current strategy for sports facility development of relying on additional real estate properties to help underwrite the cost. It was also calculated to attempt to avoid the potential for a voter referendum on projects which exceeded height limits on the waterfront.

In addition to the 41 home games, the facility would be in use for as many as 200 events throughout the year, becoming an adjunct to existing convention venues. A memorandum of understanding between the chancellor of UCSF and the Warriors has been touted to address concerns that the arena would hamper traffic to the three new adjacent hospitals.[23]

If completed, the facility would move the franchise from the Oracle Arena in Oakland, which has nearby access to Oakland International Airport, a BART and Amtrak station, a bus yard and Interstates 580 and 880, in addition to parking for the adjacent baseball and football stadium.

The new site would be accessible directly by a station on the Muni T-Line as well as surface streets.

The proposed arena is an addition to expanded use of the T-Line resulting from current construction of the Central Subway to North Beach. [25] This subway, using $1 billion in federal transit funds, will stop at Union Square, and the Moscone Center with an anticipated 20,000 new riders.

Before voters on Nov. 3 is a proposal to create Mission Rock[26], a mixed use housing and retail development on the site of the Giants parking lot. More than 6,500 units of housing has been

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[21] Planning, Dept. of "Draft Subsequent Environmental Impact Report", Volume 1, p 1-1
[22] Ibid.
[23] Golden State Warriors-UCSF Memorandum of Understanding 10-7-2015
[25] Planning, Dept. of "Draft Environmental Impact Statement Third Street Light Rail April 3, 1998 p. S-1
[26] "Mission Rock Affordable Housing, Jobs and Historic Preservation Initiative," ballot argument for Nov. 3 election
http://sfgov2.org/ftp/uploadedfiles/elections/candidates/Nov2015/MissionRock_Text.pdf

built at Mission Bay adjacent to the UCSF campus.[27] Long-awaited plans for the development of Pier 70 with three million square feet of commercial space are in motion. [28] Sixteen hundred housing units are set for the former Schlage Lock site in Visitacion Valley[29] and the first homes are occupied of an eventual 10,500 (twice the current number of units in Mission Bay) in the Shipyard development on the former Hunters Point Naval Shipyard.[30]

[27] Dineen, J.K. "Last part of Mission Bay North gets under way," *San Francisco Chronicle* May, 24, 2015 http://www.sfchronicle.com/bayarea/article/Last-part-of-Mission-Bay-North-housing-6284483.php

[28] Port of San Francisco, Pier 70 Preferred Master Plan, p. 1

[29] Planning, Dept. of Schlage Lock Project Fact Sheet, Public Benefits and Features

[30] Fimrite, Peter, "Housing blooms at last at once toxic Hunters Point shipyard site," June 8, 2015 *San Francisco Chronicle*

TECHNICAL FOULS IN THE ENVIRONMENTAL IMPACT PROCESS

The proposed Warriors event center would strangle the only transit lifeline for the largest concentration of affordable housing in San Francisco, increase pollution from waste water and auto emissions and drive up housing costs.

POWER's *Next Stop: Justice: Race and Environment at the Center of Transit Planning* report found:

"Bus riders in the core communities of color in San Francisco are impacted by long waits and overcrowded buses. Comparing the MTA's data on the core lines that POWER members ride with the MTA's recorded system average we found that overwhelmingly, the on-time performance on each of these lines in southeast San Francisco is significantly worse than the system average."

Quoting rider Lorren Dangerfield:

"The T-train at night usually means at least 20-30 minutes waiting. Then often when the train does come, it's only running from downtown to 23rd St. It turns around before it even gets to Bayview. The buses that affect the poorest communities are the ones that run the slowest and least often."[31]

The T-Line in 2012 was the city's second most used light rail line, according to Next Stop: Justice, with 30,033 daily riders. It was only on-time 58 percent of the time with headway adherence (scheduled time between trips) on 45.3 percent of trips. At peak evening hours, 17 percent of the trips were overcrowded.[32]

This compares with the performance of the 15-Third bus line that it replaced in 2007:

"15 - Third Street. This is MUNI's primary bus route in the Corridor. The route is operated using articulated motor coaches and serves City College of San Francisco, Downtown, Chinatown, North Beach and Fisherman's Wharf via Third Street, Kearny and Montgomery Streets, and Columbus Avenue. Within the Corridor, the route primarily follows Third Street and Geneva Avenue. It provides regional connections with the Caltrain Terminal at Fourth and Townsend Streets and comes within two blocks of Caltrain's station at Paul Avenue. The route also connects with the BART and MUNI Metro subway systems at both the Montgomery and Embarcadero BART Stations, as well as with BART's Balboa Park Station. The route operates every five minutes during the a.m. peak period, every six to seven minutes during the p.m. peakperiod, and every ten minutes between these periods. Approximately 33 percent of the route's 24,200 daily boardings occur north of Market Street. [33]

The inherent bias towards approval of projects once they reach the stage of Environmental Impact Statement is demonstrated by the No Action option in the 1998 EIR. The same objective of the Third Street Light Rail could have been met by purchasing 40 more articulated

[31] POWER "Next Stop: Justice: Race and Environment at the Center of Transportation Planning," 2012 p. 4

[32] Ibid. p. 6

[33] Planning, Op. cit. Third Street Light Rail p. 3-2

buses. Yet, as the civil grand jury notes, the Third Street Light Rail went forward despite costing ten times the originally budgeted amount. The cost overruns would compromise MUNI's ability to conduct scheduled maintenance on its fleet for a decade.

Like a trick shot in pool, it would also impact low-income communities in the Western Addition, Mission and Chinatown as the 22-Fillmore is anticipated to serve the arena and the current 30-Stockton would see its riders use the Central Subway. Additionally, once the Central Subway is completed in 2019, T-Line riders will no longer connect with Muni Metro.

In 2019, the T-Third/Central Subway will become an independent train system with no direct connection to the rest of Muni Metro, BART and the ferry system. [34]

The Memorandum of Understanding between UC-SF and the Warriors is only the latest instance of this project ignoring the principles of environmental justice. Repeatedly, the potential impacts on the people of southeast San Francisco are ignored at every stage of the process. Within more than 2,500 pages, the topic never comes up.[35]

In addition, the Arena's siting and proposed operation is likely to contribute to the dramatic outmigration of African-Americans from San Francisco. Studies of similar sports arenas using the real estate investment strategy show such an effect.[36]

The Failure of the T-Line

In 1998, a similar environmental impact statement described the T-Line as "a key infrastructure improvement to help support the economic and physical revitalization of the Bayview Hunters Point commercial core and the planned development in Mission Bay."[37]

The Bayview-Hunters Point general plan labels the T-Line as [38]

> ".. the nucleus for public transit improvements and socio-economic revitalization efforts in the corridor, and prioritize the efficient movement of the light rail by reducing conflicts with automobile and truck traffic."

In 2005, this writer presented an exhibition at the Bayview Branch Library called SFSoul: Taste the Excitement. It documented the role of the two dozen African-American nightclubs

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[34] Civil Grand Jury, Op. cit. p. 22

[35] Ibid. p. 6

[36] Messmer, Patrick D. "Inner Cities, Private to Private Eminent Domain Transfers and Public Financing of Stadiums, Seton Hall Law School http://scholarship.shu.edu/cgi/viewcontent.cgi?article=1269&context=student_scholarship

[37] Planning, Op. Cit. Draft Environmental Impact Statement, Third Street Light Rail, p. S-1

[38] Planning, Dept. of "San Francisco General Plan-Bayview-Hunters Point Policy 4.3 http://www.sf-planning.org/ftp/general_plan/Bayview_Hunters_Point.htm#BHP_TRA_4_3

between the 4000 and 6700 block of Third Street, the longest continuous black business district in California.[39]

Those clubs were bases for athletic leagues and charitable drives as the social centers of a majority African-American neighborhood.

The construction of the T-Line for three years created a significant hurdle for those businesses.

However, the benefit to the community was a link which would make the isolated community integrated with the city's main employment centers.

> "Buses caught in Corridor traffic often provide unreliable service south of Downtown. Currently, passengers may experience overcrowding and extended waiting times between buses, as well as slower operating times and increased travel times. This situation is projected to worsen as traffic in Downtown and along the Corridor increases to 2015 levels."[40]

In 2015, the Controller's Office found in its 2015 biennial survey of citizen satisfaction with city services that residents of Supervisorial District 10, which is bisected by the T-Line had the lowest satisfaction of any residents in the City with Muni services.[41]

[39] Johnson, Jason "New look at black restaurateurs: photo exhibit highlights diversity of cuisine, culture," *San Francisco Chronicle,* Aug. 13, 2005
[40] Planning, Op. Cit. Third Street Light Rail 1998 p. S-4
[41] Controller, City and County of San Francisco Biennial City Performance Survey http://sfcitysurvey.weebly.com/muni.html

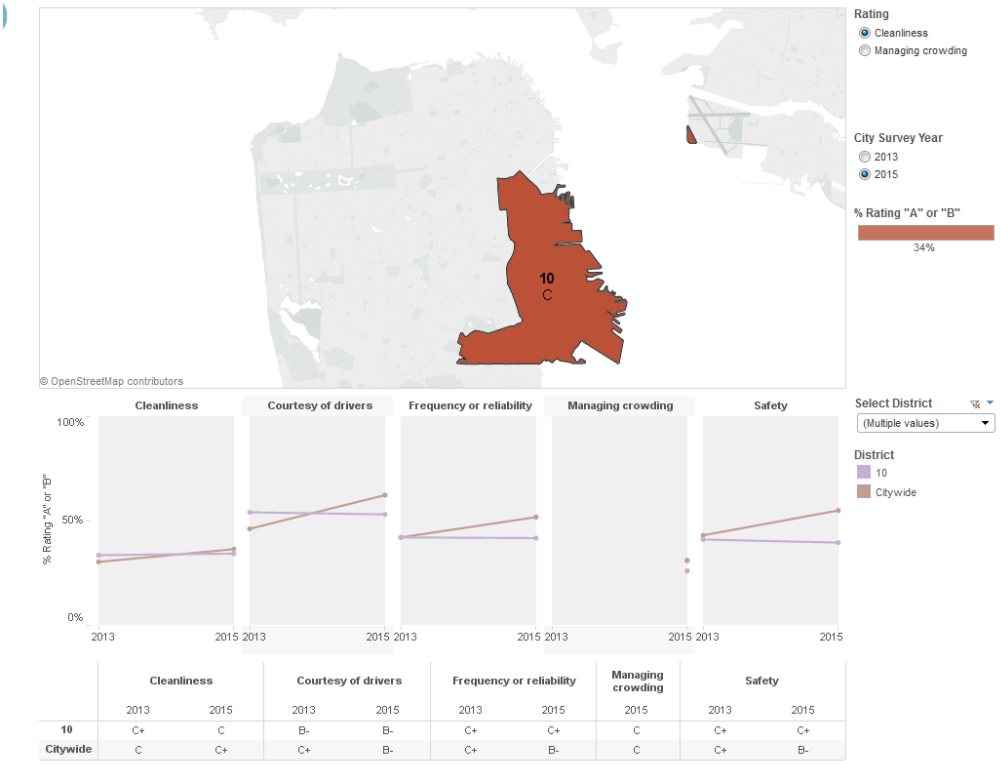

Figure 1. 2015 Citizen responses to question on Muni on-time performance in District 10. Source, Controller

The Controller's performance review of all city departments found that MUNI overall achieved less than 80 percent of the goal spelled out in the City Charter.[42]

The August 20 report from the Controller showed that citywide, MUNI reliability declined from the previous year.[43]

City and County of San Francisco
Controller's Office
Government Barometer
Quarter 4

Activity or Performance Measure	Rolling Yearly Average	Prior Period Average	Current Period Average	Period-to-Period % Change	Period-to-Period Trend	Year-to-Year % Change	Year-to-Year Trend
Public Transit							
Percentage of Muni buses and trains that adhere to posted schedules	57.5%	58.3%	**59.4%**	1.9%		2.3%	
Percentage of Muni buses and trains that adhere to posted schedules - Rapid Network	57.2%	58.9%	**59.9%**	1.8%		2.9%	

➔ Percentage of Muni buses and trains in the Rapid Network that adhere to posted schedules increased by 1.8% since the previous quarter and by 2.9% since the same quarter of the previous year. The initial round of Muni Forward service increases occurred in April 2015.

Figure 2. Muni performance on Charter goals April-June 2015 from Quarterly Government Barometer. Source, Controller City Services Auditor

[42] Controller, Quarterly Government Barometer, April-June 2015 http://sfcontroller.org/Modules/ShowDocument.aspx?documentid=6693

[43] Controller, *Ibid.*

The 1998 EIR for the Third Street light rail projected a 39 percent increase in corridor population and a 35 percent increase in corridor employment by 2015.[44]

> "As a result of the projected population and employment growth in the Corridor, traffic congestion on major highways and arterials, particularly Highway 101 and Third Street, is expected to increase substantially. Highway 101 at Cesar Chavez is expected to be Level of Service (LOS) F (excessive delays) and LOS E at intersections of Third and Cesar Chavez and at Bayshore and Arleta."

The first goal of the project was "Improve transit service to from and within the Corridor, thereby enhancing the mobility of Corridor residents, business people and visitors."[45]

In 1997-98, the 15 Line provided six minute schedules. The No Build alternative would have reduced its schedule to five minute increments. The promise that light rail would improve that performance has proven false. Only 34 percent of District 10 residents give MUNI an A or B grade for on-time performance, one in three.[46]

For the first EIR of the T-Line, the City and County of San Francisco underestimated the 2015 population of San Francisco by 40,000, with much of the unforeseen growth happening along the T-Line corridor.[47]

The Civil Grand Jury also noted that the T-Line Light Rail came in at $678 million for construction, overwhelming the $200 million bond passed to address the entire city's transportation needs.[48]

There is no reason to believe that a hastily done EIR for a second-choice site, without any of the four years of community input which the T-Line conducted from 1993-97, will address the serious issues raised by the original construction of the Third Street Light Rail Line.

> Anyone who was using Muni regularly around the time of the T-Third rollout should remember the process as being anything but smooth. One of the reasons cited for the bumpy rollout was the internal decision to use outdated ridership models. The original ridership models forecasted a 2005 opening for the line. However, the line did not open until 2007.[49]

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[44] Planning, Op. Cit. Third Street Light Rail 1998 p. S-2
[45] Planning. Ibid. p. S-2
[46] Controller, City Survey 2015, Muni http://sfcitysurvey.weebly.com/muni.html
[47] Planning, Op. Cit. Third Street Light Rail 1998 p. S-2
[48] Civil Grand Jury, Superior Court "Central Subway: Too Much Money for Too Little Benefit," 2010-2011 term.
[49] Ibid. p. 15

A Spur for Gentrification

Compared to the relative racetrack pace for the Warriors arena, it took from 1993 to 2007 for the merchants and residents of Third Street to finally see the light rail line which had been promised to them.[50]

> The five segments that make up the Corridor between Visitacion Valley and the Caltrain Terminal have a high proportion of minority residents. According to the 1990 Census, 50 percent of this portion of the Corridor is Black, 31 percent is Asian, 15 percent is White, and 10 percent is Hispanic. These proportions contrast with the racial distribution of San Francisco residents, who are less than 1 percent Black and 53.6 percent White. The highest proportion of Black residents is found in Segments 2 and 3 (58 and 67 percent, respectively), while most of the Hispanic population resides in Segments 1 and 2. Asians from the predominant population group in Segment 1; whereas, Segments 4 and 5 have mostly White populations. [51]

In 1992, the San Francisco Human Rights Commission published Unfinished Agenda, a report which described the unequal conditions of African-Americans in San Francisco, then still ten percent of the population of 750,000.[52]

In 1962, poet James Baldwin toured Bayview Hunters Point with a National Educational Television crew describing conditions not unlike Mississippi along the hillside.[53]

The next year, young people from the community launched the most successful civil rights campaign of the 1960s, the United San Francisco Freedom Movement. [54] Led by Bill Bradley Jr., a Marine veteran and law student; and Tracy Sims, a Berkeley High graduate, the

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[50] Polaris Research and Development "The Unfinished Agenda: The Economic Status of African-Americans in San Francisco, 1964-1990

[51] Planning, Op. cit. "Third Street Light Rail EIR," 4-26

[52] National Educational Television "Take This Hammer," featuring James Baldwin (1963) produced by KQED https://vimeo.com/13175192

[53] Ibid.

[54] Templeton, John William (curator) "Students and Scholars Marching for Civil Rights exhibition of the 50th anniversary of the United San Francisco Freedom Movement, San Francisco Fairmont, Civic Center Holiday Inn public program featuring Dr. Oba T'Shaka, emeritus professor of black studies, San Francisco State University (Bill Bradley Jr)

campaign married the resources of the Congress of Racial Equality, NAACP and the Crispus Attucks Clubs of Bayview-Hunters Point, led since 1948 by Mrs. Ardith Nichols.[55]

Highpoints included the Palace Hotel sit-in on March 5, 1964 and the Auto Row sit-ins in May of that year. Eventually, 375 companies signed employment agreements, including all of the Big Three automakers.

Lawyers for the movement, Terry Francois and Willie L. Brown Jr. were elected to the Board of Supervisors and California Assembly. Despite relocation from the building of U.S. 101 and redevelopment activities in South of Market, Western Addition and Hunters Point, the bulk of the black community settled into middle class enclaves of home ownership throughout Bayview and Ocean-Merced-Ingleside. Subsidized apartments in the Western Addition and Hunters Point provided affordable renter space.

As late as 2000, San Francisco had 35 percent of its black labor force in management and professional jobs, the highest percentage in the country.[56]

Disparate policies began to break apart a community that produced the likes of Maya Angelou, Johnny Mathis and Danny Glover in the 1960s. The extended denial of public transit coupled with pollution from U.S. 101 combined with the residue of the Hunters Point Shipyard to create some of the most toxic pollution in the country.

Despite the problems, isolation from the rest of the city allowed the workers from the Butchertown slaughterhouse district and longshoremen to live in stable middle class communities.

"Singing" Sam Jordan, "the mayor of Butchertown", used those workers as a power base to actually run for mayor of San Francisco in 1963. The former boxer opened his namesake club Sam Jordan's at 4004 Third Street in 1959.[57]

The Long Island Club became a magnet for entertainers and athletes as the highest paid professional players in baseball and basketball, Willie Mays and Wilt Chamberlain, both competed in San Francisco.

Presence of the Candlestick football and baseball stadium and Cow Palace basketball and boxing arena helped sustain the clubs and bars along Third Street.

However, a series of changes in the sports business would remove those amenities. Although a $100 million bond to refurbish Candlestick for the 49ers was passed in 1997, the team declined

[55] Bayview's Last Stand, third annual Preserving California Black Heritage conference at Southeast campus, City College, September 2009 featured community artifacts day at Sam Jordan's Bar
[56] Ibid.
[57] Ibid.

to take the offer.[58] As the Los Angeles Times noted, only ten percent of the 49ers fans actually lived in San Francisco.

The year before, the Giants followed in the wake of Baltimore's Camden Yards to build a stadium at Third and King Streets. With the presence of the California Institute for Regenerative Medicine, the stadium would spark a nearby real estate boom.[59]

Construction of the Third Street light rail line would not deliver the promised gains for the longtime residents of this area, but a source of construction dust and decay for the Bayview-Hunters Point business district.

When interviewed in 2005 for the SFSoul exhibition, long time owners said they were just barely hanging on with a fraction of their normal customers.[60]

Unlike the EIR for the GS Warriors Arena, the Third Street light rail EIR of 1998 contained a section of "Environmental Justice Considerations" citing Executive Order 12898, signed by President Bill Clinton in Feb. 1994. A memorandum issued with the order said that a National Environmental Protection Act (NEPA) analysis must include "effects on minority communities and low-income communities."[61]

For the purposes of the analysis, South Bayshore was 91 percent minority in 1998.

The example of the Barclays Center in Brooklyn, opened two years ago, indicates how the new model of sports facility, as a development spur instead of an event venue, worked against the interests of impacted communities.

Messmer analyzed its impact on the population of Brooklyn[62]:

> "While NYC as a whole saw a net loss of nonhispanic whites of -2.8, Brooklyn saw a 4.5 percent increase in the number of nonhispanic whites. "

The study also reported a 5.8 percent drop in Brooklyn's black population.

"As the Barclay Center drove up real estate values, it began pricing economically disadvantaged minorities out of the market," wrote Messmer.

Since 1992, the date of the Unfinished Agenda report, the black population of San Francisco has fallen from 10 percent to 5.8 percent in 2013.[63]

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[58] Simers, T.J. THE NFL / T.J. SIMERS : 'Ours' for the Taking? : If Stadium Referendum in San Francisco Fails Today, the L.A. 49ers Might Not Be as Crazy as It Sounds Los Angeles Times June 3, 1997 http://articles.latimes.com/1997-06-03/sports/sp-65243_1_san-francisco-49ers

[59] Dineen, Op. Cit. San Francisco Chronicle, May 24, 2015

[60] Johnson, Op. Cit., San Francisco Chronicle, Aug. 13, 2005

[61] Planning, Op. Cit. Third Street Light Rail EIR p. 5-13

[62] Messmer, Op. Cit.

[63] Census, U.S. American Community Survey 2015

An outmigration task force in 2010 produced a list of recommendations to address the decline, which were ignored.[64]

In 2014, the San Francisco African-American Chamber of Commerce issued a call for a tourism boycott of San Francisco's $9 billion industry. An agreement with city officials to remove that call has also been forgotten.[65]

The Golden State Warriors Arena would be the third attempt by Mayor Ed Lee to place a sweetheart deal in the hands of billionaires for the waterfront. The city lost $11 million on the America's Cup at the hands of Larry Ellison;[66] and the voters blocked the 8 Washington luxury development.

In contrast to the $11 million to Ellison and the $34 million in tax breaks to Uber, Twitter, et.al.[67] in Mid-Market, the city has spent less than $1 million with businesses on Third Street as three-fourths of the historic black restaurants present in 2005 are still in business despite decades of previous success.

The oldest black bookstore in the country, a landmark of black literary genius, was sold at auction because the City refused to extend $1 million in loans to the business.[68]

These incidents and many others speak to the continuing failure of the City and County of San Francisco to comply with community benefit agreements and to incorporate environmental justice into its land use decision making.

Community? What Community?

The precedent for environmental justice litigation rests with a train line which runs adjacent to the current site of the Golden State Warriors.

As Public Advocates describes[69]:

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[64] Human Rights Commission, "Report of the San Francisco Mayor's Task Force on African-American Outmigration" 2009

[65] O'Conner, Lydia "Black Business Leaders Call for Boycott of San Francisco Tourism," Huffington Post Dec. 23, 2013 http://www.huffingtonpost.com/2013/12/23/black-boycott-san-francisco-tourism_n_4494850.html

[66] Budget and Legislative Analyst, Board of Supervisors "Analysis of the Impact of the 34th America's Cup to the City" Feb. 10, 2014

[67] Lang, Marissa "Companies avoid $34 million in city taxes thanks to "Twitter tax break," San Francisco Chronicle Oct. 19, 2015

[68] Holloway, Lynette "Doors shuttered at Nation's Oldest Black Bookstore," The Root, May 11, 2014 http://www.theroot.com/articles/culture/2014/05/marcus_books_the_nation_s_oldest_black_bookstore_closes.html

"In September 2009, Public Advocates filed a successful civil rights administrative complaint with the Federal Transit Administration (FTA) on behalf of our partners Urban Habitat, Genesis, and TransForm. The complaint challenged Bay Area Rapid Transit's (BART's) controversial Oakland Airport Connector (OAC) project, alleging that in BART's rush to build the OAC, the agency violated federal rules implementing Title VI of the Civil Rights Act of 1964 — rules that require transit agencies to analyze whether their projects have a disproportionately negative impact on low-income and minority populations.

Why We Advocated Against the OAC

"The $492 million OAC was conceived as a three-mile elevated tramway connection from the BART Coliseum station to the Oakland International Airport, and would eliminate the existing cost-effective AirBART shuttle service.

"It would provide little, if any, transit mobility benefits to the area's overwhelmingly low-income and minority residents due to its prohibitive $12 roundtrip fare and its lack of intermediate stops along the job-rich Hegenberger corridor. BART's own analysis predicts that less than 3 percent of the OAC riders will come from the immediate East Oakland neighborhoods surrounding the project.

Victory! The FTA Acts to Enforce Civil Rights

"In response to our complaint, in October 2009 the FTA began conducting a sweeping on-site compliance review of BART, finding many civil rights deficiencies.

"Based on BART's failure to conduct an equity analysis of the OAC, in February 2010 the FTA pulled $70 million in American Recovery and Reinvestment Act funds from the project — the first action of its kind in the nation. The strong action underscored a promise made in President Obama's State of the Union address to continue "prosecuting civil rights violations."

"The federal stimulus funds were recaptured by Bay Area transit agencies, including AC Transit, and used to maintain existing transit service and jobs. To remedy the many civil rights deficiencies identified by the FTA, BART was also required to implement a corrective action plan, which we and our allies have been monitoring, and which we responded to in May 2010.

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[69] Public Advocates "BART/Oakland Airport Connector" Sept. 3, 2009 http://www.publicadvocates.org/bartoakland-airport-connector-oac

> Not only the City and County of San Francisco, but also the Warriors should have been aware of this precedent. Yet neither the EIR or MOU addresses the transit needs of the South Bayshore community, 91 percent minority in 1998.

According to the San Francisco Housing Element:

> Since 2010, the percentage of San Franciscans claiming white racial affiliation increased, totaling nearly 51% of the city's population according to the 2012 American Community Survey (ACS). San Francisco's African-American population continues to decline, dropping from 6.1% in 2010 to 6% in 2012. San Franciscans of Chinese origin declined from 21.4% of the total population in 2010 to 21.2% by 2012. The proportion of San Franciscans identifying with Hispanic origins (of any race) has increased from 14.1% in 2010 to 15.1% in 2012.

HACK THE IMPACTS

The Hack a Shack strategy in professional basketball slows down the pace by intentionally fouling a poor free throw shooter. The proposed Golden State Warriors Arena intentionally fouls a low-income, minority community by mischaracterizing impacts which were previously spelled out in the 1998 EIR.

The previous discussion shows that all three tenets of federal environmental justice policy are compromised. Below, impact determinations in the EIR for the project are shown to ignore impacts on low-income and minority communities.

Impact TR-4: The proposed project would not result in a substantial increase in transit demand that could not be accommodated by adjacent Muni transit capacity such that significant adverse impacts to Muni transit service would occur under Existing plus Project conditions without a SF Giants game at AT&T Park LS No mitigation required is described as less than significant effect with mediation when it should be correctly characterized as significant.

The service standards proposed in 1998 have not been met; residents of District 10, the poorest area of the city are dissatisfied with service. There is a significant case to be made that the current sports facility, AT&T Park, is the primary reason for poor service to the current population. This determination is not credible based on the current difficulties of the T-Line.

Two of the busiest transit lines in the city, both serving heavily minority populations, would be impacted. The T-Line only serves twenty percent more passengers than the previous 15 bus line, but provides 40 percent slower service. The 30-Stockton runs the same route as the Central Subway under construction. It's 33,000 passengers would be added to the load of the T-Line, which means that the subway would be at capacity with just current riders.[70]

Impact TR-13: The proposed project could result in a substantial increase in transit demand that could not be accommodated by adjacent Muni transit capacity such that significant adverse impacts to Muni transit service would occur under Existing plus Project conditions with an overlapping SF Giants evening game at AT&T Park.

The only mitigation proposed is use of shared car services, which are much less likely to be available in low-income areas or to be accessible to low-income residents.

[70] POWER, Op. cit. Next Stop: Justice pg.8

MUNI demand peaks at 5 p.m. with increases of as much as 100 percent. A recent early evening game at the Levi's Stadium indicates the problems with placing a sports stadium in the midst of a busy commercial/industrial area.[71]

Impact TR 14: The proposed project would result in a substantial increase in transit demand that could not be accommodated by regional transit such that significant adverse impacts to regional transit service would occur under Existing plus Project conditions with an overlapping SF Giants evening game at AT&T Park. SUM

Paradoxically, the EIR admits that the regional transit system can be overwhelmed but asserts that MUNI, with a fraction of the capacity currently servicing the basketball arena, would not be.

The Dept. of Public Health's Climate Action and Health Co-Benefits report states:

> *In order to balance the burdens of our transportation system with the benefits placed on certain communities, special efforts should be made to target service improvements to particularly benefit low income residents, communities of colors, the elderly, and neighborhoods that have a historical legacy of dealing with higher levels of environmental exposures.*

Impact TR20: Without implementation of the Muni Special Event Transit Service Plan, the proposed project would result in a substantial increase in transit demand that could not be accommodated by adjacent Muni transit capacity such that significant adverse impacts to Muni transit service would occur under Existing plus Project conditions. SUM

The design of the T-Line took multiple lanes away from Third Street, reducing the capacity for additional transit service without blocking throughput to other areas. The level of MUNI service traditionally available to 49ers games at Candlestick would be compressed into a much smaller area.

Impact TR-21: Without implementation of the Muni Special Event Transit Service Plan, the proposed project would result in a substantial increase in transit demand that could not be accommodated by regional transit capacity such that significant adverse impacts to regional transit service would occur under Existing plus Project conditions.

The additional auto traffic on U.S. 101 from the gridlock from events would bring additional sources of pollution into an area which already has to suffer from the city's wastewater treatment plant and dust from Shipyard construction.[72]

Impact TR 22: Without implementation of the Muni Special Event Transit Service Plan, the proposed project could result in a substantial overcrowding on public sidewalks, nor create potentially hazardous conditions for pedestrians, or otherwise interfere with pedestrian accessibility on the site and adjoining areas under Existing plus Project conditions.

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[71] Evangelista, Benny "Tech employees work from home to avoid 49ers-Seahawk traffic," *San Francisco Chronicle*, Oct. 22, 2015 http://www.sfgate.com/business/article/Tech-employees-work-from-home-to-avoid-6585010.php

[72] Ibid.

Congestion would make it difficult for residents of Bayview-Hunters Point to walk or ride to downtown amenities, the complete opposite of the goals of the T-Line.[73]

Impact PH-1: Construction of the proposed project would not induce substantial growth in the area, either directly (for example, by constructing new homes or businesses)) or indirectly (for example, through extension of roads or other infrastructure).LS No mitigation required

San Francisco has the highest rental costs in the nation.[74] *This arena would not create any additional jobs, but would attract absentee residents to bid up nearby properties so that they could be near the arena, a trend already seen in the city.*[75] *It would also reduce the supply of housing due to services like AirBnb renting spaces near the arena for 200 days of events.*[76] *Google's shuttle bus service grew from 155 passengers at two stops in 2004 to 100 buses daily with 10,000 passengers.*

Impact PH -2: Construction of the proposed project not displace existing housing units or create substantial demand for additional housing LS No mitigation required

The City and County of San Francisco is 7,000 units short of replacing housing removed by redevelopment activity according to the Housing Element. Section 8 applicants are currently referred to sites outside the city and homeless African-American women are given tickets to leave the area in return for assistance.[77]

Impact PH-4: Operation of the proposed project would not induce substantial population growth in the area, either directly (for example, by constructing new homes or businesses) or indirectly (for example, through extension of roads or other infrastructure) LS No mitigation required.

Not a credible statement given the rapid growth of Mission Bay. The 1998 Third Street Light Rail EIR underestimated the city's population by 40,000, more than its daily passenger load.[78]

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[73] Ibid.

[74] Zumper National Rent Report San Francisco remained the most expensive market in the United States for the ninth straight month, with median 1-bedroom rents rising to $3,460, the highest ever recorded. The gain was particularly notable considering that NYC, the second most expensive market, saw rents plateau in February, even after a slight drop of 3.2% https://www.zumper.com/blog/2015/03/zumper-us-rent-report-february-2015/

[75] Dai, Danielle, Weinzimmer, David "Riding First Class: Impacts of Silicon Valley Shuttles on Commute and Residential Location Choice" working paper, UC-Berkeley Department of City Planning

[76] Said, Carolyn "The AirBnb Effect" *San Francisco Chronicle* July 12, 2015 http://www.sfchronicle.com/airbnb-impact-san-francisco-2015/#1

[77] Phelan, Sarah "Saving the southeast" *San Francisco Bay Guardian* May 13, 2009

[78] Planning, *Op. cit*. "Third Street Light Rail EIR, p. S-3

Environmental Justice Legal Issues

The proposed MUNI service changes would fly in the face of decades of case law and regulations for environmental justice. For instance, BART is currently conducting an analysis of its new extension in Fremont.

> "Federal Transit Administration (FTA) Title VI Circular (Circular) 4702.1B, Title VI Requirements and Guidelines for Federal Transit Administration Recipients(October 1, 2012), the District is required to conduct a Title VI Service and Fare Equity Analysis" [79]

This has not occurred for the proposed transit changes. The BART report had to make the following determination:

> "The travel assessment compares the estimated travel time for riders affected by the service change before and after the new service. The results of the travel time assessment found that the Project would benefit all populations, including minority and low-income, within the Project Catchment area. With project service, all populations are expected to experience the same time savings of 11.85 Minutes between Warm Springs and the Fremont Station, a 55.8% reduction in travel time. [80]

"With the exception of Option 3, staff also found that travel times are not expected to change for riders of existing stations, as a result of the proposed options. As proposed in the FY2016 Preliminary Budget, additional cars would be added to the Green and Blue lines, which will lessen peak period crowding. As a result, the study found that minority populations will not experience a disparate impact and low -income populations will not experience a disproportionate burden on their travel times with the new service." [81]

In the courts, the aforementioned BART connector case set a precedent by showing that the Metropolitan Transportation Commission spent $9 for every $0.50 spent on buses for low-income persons.[82] The service designed specifically for an arena to a high-income arena flies in the face of that precedent.

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[79] BART "Warm Springs Extension Title VI Equity Analysis and Public Participation Report" May 7, 2015 p. 5
[80] Ibid.
[81] Ibid.
[82] Public Advocates, *Op. cit.*

In San Diego, Atty. Gen. Harris vision of environmental justice was upheld when a court found that cumulative effects must be considered. A petition to intervene in the case Cleveland National Forest Foundation vs. San Diego Association of Governments in 2012 insisted that government agencies consider environmental justice.[83]

The attorney general warned the regional body in a comment letter that it failed to study the impact of increased pollution on minority communities.

"…the Attorney General is effectively putting lead agencies across the state on notice that a failure to address EJ considerations in the implementation of climate change policies will risk challenges to the legal sufficiency of their environmental impact documents."

The legislative foundation for environmental justice comes from AB32 in 2006, which established an advisory committee on the issue.[84]

There is also an emerging standard on community participation.

> "According to the EPA, "meaningful involvement" in environmental decision making means that: "(1) potentially affected community residents have an appropriate opportunity to participate in decisions about a proposed activity that will affect their environment and/or health; (2) the public's contribution can influence the regulatory agency's decision; (3) the concerns of all participants involved will be considered in the decision making process; and (4) the decision makers seek out and facilitate the involvement of those potentially affected." However, members of affected communities may lack the technical resources, English language proficiency, access to quality legal representation, or simply the time to participate effectively."

Similar standards have been enacted by the California Air Resources Board.[85] Its 2001 document asserts:

> Local land-use agencies are directly responsible for the siting of new air pollution sources, and local air districts also play an important role by issuing permits for new sources of air pollution. We are committed to working as partners with these agencies to improve the available information that local agencies use to make planning and permitting decisions. [86]

The Air Resources Board also addresses cumulative impacts:

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[83] Hsiao, Peter, et.al. "Environmental Justice as Environmental Impact: the Intersection of Environmental Justice, Climate Change and the California Environmental Quality Act" Bloomberg BNA World Climate Change Report Vol. 2012 No. 48 March 12, 2012 p.

[84] Bonoris, Steven (ed.) *Environmental Justice for All: A Fifty State Survey of Legislation, Policies and Cases (fourth ed.)* American Bar Association 2010 p. iv

[85] Air Resources Board, California "Policies and Actions for Environmental Justice" 2001

[86] Ibid. p. 1

> It shall be the ARB's policy to work with local land-use agencies, transportation agencies, and air districts to develop ways to assess, consider, and reduce cumulative emissions, exposures, and health risks from air pollution through general plans, permitting, and other local actions.[87]

The landmark global warming act and subsequent legislation, plus legal opinions from the attorney general and court cases all underscore the importance of addressing potential impacts from the prism of environmental justice.

A DOT Title VI analysis of BART in 2009 found deficiencies in its environmental justice performance.

> "FTA recipients should seek out and consider the viewpoints of minority, low-income, and LEP populations in the course of conducting public outreach and involvement activities. An agency's public participation strategy shall offer early and continuous opportunities for the public to be involved in the identification of social, economic, and environmental impacts of proposed transportation decisions."[88]

Based on those state and federal standards, the failure to address environmental justice in the Subsequent Environmental Impact Statement is problematic.

[87] Ibid. p. 10

[88] Federal Transit Administration "BART Title VI Final Draft 2009" 2009

The Demographics of the Impacted Area

Activist Marie Harrison described Bayview Hunters Point as the epicenter for environmental injustice in a 2003 report:

> "The neighborhood is home to approximately 34,800 people, and more than 500 heavy and light industrial companies, retail stores, and commercial establishments. According to U.S. 2000 census data, approximately 48% of residents in Bayview Hunters Point are African American, 1.3% American Indian, 23% are Asian and Pacific Islanders, 17% are Hispanic and 10% are White. Income levels are significantly lower, and unemployment rates significantly higher for this small community, than for San Francisco as a whole: Nearly 40% of Bayview Hunters Point residents have annual incomes below $15,000, while only 20% of the City's population as a whole have income that low, and the unemployment rate is 13% in Bayview Hunters Point, more than twice as high as the City as a whole."

Community victories to close the Hunters Point power plant have had the effect of opening up the area for new migrants. The African-American population of the neighborhood has dropped by 50 percent since 2000.

S**tress Factors Based on Race, Income and Unequal Opportunity.** For the purposes of the critical race theory analysis of environmental justice, the affected population must be viewed through the lens of the traumatic events which have occurred over the past 50 years. Each of these stress factors is known to, or reasonably should be expected to be known to the preparers of the Draft Subsequent Environmental Impact Statement. The civil grand jury wrote in 2004:

> "There are deeply rooted social problems that result in part from systematic negligence dating back to World War II. The City of San Francisco has failed to invest significantly in this community for over 60 years."

Loss of industry in Bayview-Hunters Point. The General Plan discusses the impact of the closure of the Hunters Point Shipyard, but does not mention the decision to move to containerized shipping, which reduced jobs in the commercial maritime industry. There is a significant history of biomedical innovation in the black community. Dr. Nathaniel Burbridge was a pharmacologist and professor at UCSF, but became known for leading the NAACP during the United San Francisco Freedom Movement.

Eric Williams, the son of Ruth Williams, the namesake for the Ruth Williams Memorial Theater in the Bayview Opera House, holds 20 patents for cardiac stents. A proposal to mark the 50th anniversary of the United Freedom Movement with a Nathaniel Burbridge Center for Innovation and Diversity located in the India Basin area has been ignored by city officials despite the evidence from the similar Impact Hub in Oakland, which has spawned close to 1,000 businesses in two years.

Kevin Epps, producer of the documentary Straight Outta Hunters Point, was also unable to gain city support for an incubator to develop media and online businesses. Other entrepreneurs seeking to provide clean renewable power have had a lack of interest from city officials.

The biggest need is to provide 5,000 industrial/assembly/distribution/construction jobs for residents of the area, not temporary event positions.

Health Disparities

Blackwell wrote:

> "Health surveys have shown that Bayview Hunters Point residents suffer from rates of cervical and breast cancer that are double those found in the other parts of the Bay Area, an asthma rate that is three times higher than in the rest of the state, and rates of hospitalization for congestive heart failure, hypertension, diabetes and emphysema that have been determined to be more than three times the statewide average. In addition, children living in the Bayview are far more likely to contract illnesses than children in the rest of the city, and infants are more likely to die.[89]

Income inequality is a significant factor for those health disparities, according to the San Francisco Dept. of Public Health's Community Health Assessment.

> "Although the median household income in San Francisco seems relatively high at $70,040, San Francisco has the largest income inequality of the nine Bay Area counties... Income inequality is directly related to health inequality, with higher income linked to better health: the greater the gap between the richest and poorest people, the greater the differences in health."

[89] Blackwell, Savannah Environmental Justice "Real World" Pathfinder: Bayview Hunters Point, San Francisco UC-Berkeley School of Law Jan. 26, 2009 savannahblackwell.com

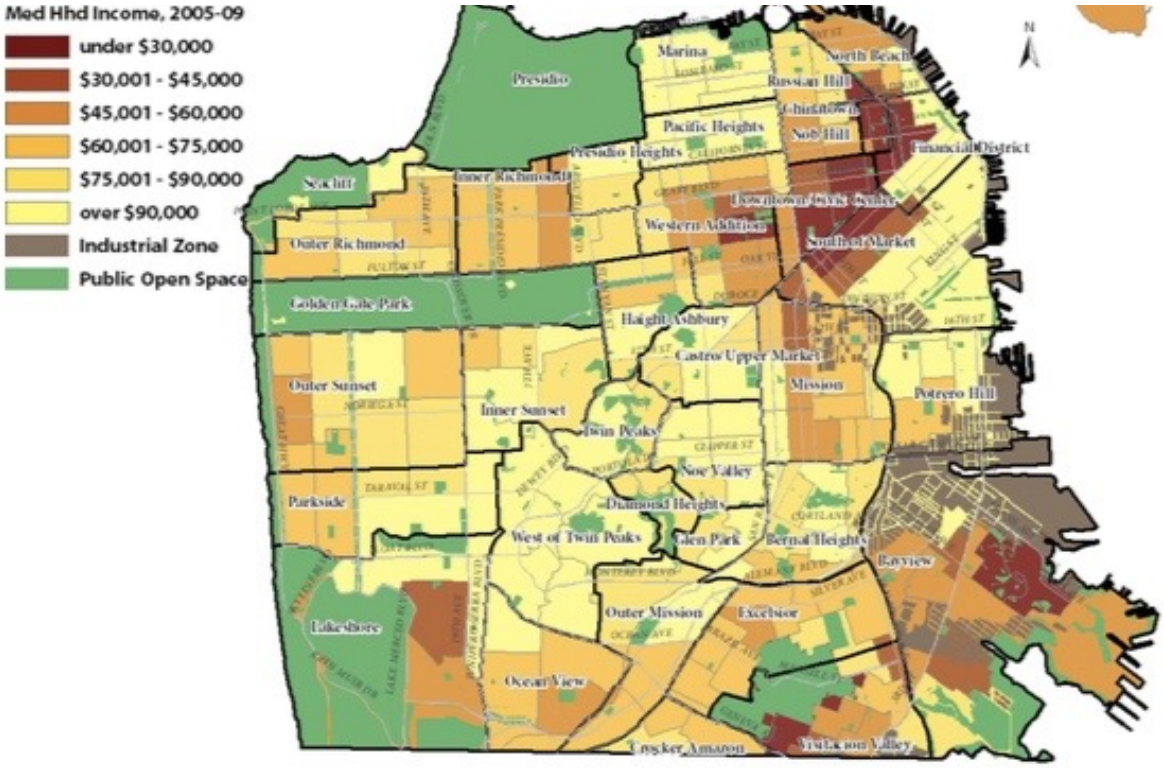

Figure 3 Income Inequality concentrated in District 10. Source San Francisco Dept. of Public Health

Reduction of Home Ownership.

According to Sen. Diane Feinstein, California had the highest rate of mortgage fraud in the nation, [90]and the problem was concentrated in the Bay Area, with southeast San Francisco, particularly targeted.

This is particularly problematic because the South Bayshore planning district has the third highest percentage of single family homes in the city, with 66 percent. By contrast, downtown has only two percent single family homes.

"Larger households of four or more persons are generally found in the south- eastern neighborhoods of the Mission, Bayview, Visitacion Valley, and the Excelsior where typical housing units have two or more bedrooms. "

According to the 2014 Housing Element, the City has a responsibility to create more affordable housing:

"San Francisco's share of the regional housing need for 2015 through 2022 has been pegged at 28,870 new units, with almost 60% to be affordable."

[90] Feinstein, Sen. Diane "Mortgage Fraud and America's Foreclosure Crisis" 2010 p. 7

However, the city's affordable housing policies are not as useful as one might think for African-Americans. The maximum income to qualify for low-income housing allotments in San Francisco at 70 percent of the median income is 50 percent higher than the median income for African-Americans.[91] That means African-Americans are outbid for subsidized housing because their income is significantly less on average than any other group. Developments actually constructed by African-American churches and lodges find themselves hard pressed to accommodate long-time black residents due to the intense competition.

Foul Air

In 1997, the asthma hospitalization rate for Bayview-Hunters Point African-American children was 820 per 10,000, the highest rate in California.

Air pollution has been linked to asthma, allergies, cardiovascular and respiratory diseases, cancer, neurological and reproductive disorders, and premature death (CARB 2009). In San Francisco, approximately 102,000 children and adults are currently diagnosed with asthma, with children and the elderly having significantly higher rates of asthma (CDPH 2011).[92]

The unavoidable impact of 18,000 persons using the toilet, along with potentially another 45,000 baseball fans smells to high heaven for the residents of southeast San Francisco.

> "Sophie Maxwell, the member of the San Francisco Board of Supervisor's whose district includes Bayview Hunters Point, lives within a few blocks of the Southeast sewage plant. In 2006, she told San Francisco Bay Guardian reporter Sarah Phelan that "every time [she] come[s] home and get[s] off the freeway, [she is] constantly reminded the plant is there."
>
> "You can smell it day and night," Maxwell told Phelan. "It's unacceptable."
>
> Originally constructed in 1952 with most of its operations placed outdoors, the plant was expanded in 1987 after a series of public hearings. To overcome residents' resistance to the plans, the city agreed to construct a community college campus in the neighborhood. In addition, officials promised that the facility's increased operations would not be noticeable and would result in "no odors." The fact that those promises have not been kept is impossible to ignore on hot days when the aroma of fecal matter becomes especially repugnant."

The Southeast Waste Treatment Plant uses 11 open air tanks and nine digesters compared to the Oceanside plant on the Great Highway, which is 1.5 miles from the nearest residence and uses an underground tunnel to send waste out into the ocean. Its operations can not be smelled outside

[91] Planning, Op. Cit. Housing Element

[92] Public Health, Dept. of "Climate Action and Health Co-Benefits"

Conclusion

During the first game of the 2015 NBA Finals, this writer visited restaurants featured in his 2005 exhibit to watch the series. Leaving Paul and San Carlos after the conclusion, he walked approximately 20 blocks to 4000 block of Third Street without having a single T-Line train pass.

After visiting at the historic Sam Jordan's, he then went to the Third and Evans station to wait for a train. It took 67 minutes to arrive, close to two hours without service.

It was consistent with his experience in the previous decade attending community meetings in the Excelsior district for the branch library campaign and in Bayview Hunters Point for the campaign for the brand new library opened last year. Like the young lady in the POWER report, waiting for the T-Line at Third and Revere always takes a lot of patience, particularly at night in the cold.

Since then, he has observed the patterns for other MUNI light rail lines, observing that they adhere to posted schedules. The T-Line is subject to switchback at Marin Street, dumping dozens of riders to a crowded sidewalk at the busy Cesar Chavez intersection.

A review of available evidence confirms the reasoned suspicion that the placement of an event arena and entertainment complex at Third and Sixteenth Street with a single MUNI stop serving it, not directly connected to the rest of the MUNI Metro system, would inexcusably impact a community which has traditionally caught the short end of City policy.

OCII
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COMMUNITY INVESTMENT
and INFRASTRUCTURE

DATE: November 3, 2015

TO: Tiffany Bohee, OCII Executive Director

FROM: Chris Kern, City Planning Department
Sally Oerth, OCII Staff

SUBJECT: Response to Letter and Email On "T'eed UP" from John William Templeton

The commenter states that the SEIR "falls short" of the standards on the "California Environmental Protection Act" (assumed to mean the California Environmental Quality Act or CEQA) and raises a range of environmental justice issues. The commenter also states that the project "falls short" of the standards of the Executive Order 12898 regarding environmental justice in minority and low-income populations, but this regulation is not applicable to the proposed project because it is not subject to federal approval actions or involve federal programs. The commenter also notes as a number of issues related to the Bayview-Hunters Point area, which are not applicable to the Mission Bay area. OCII acknowledges the commenters concerns, including those related to environmental justice, but for the reasons described below, this response focuses on those issues related to the proposed project with respect to compliance with CEQA and the adequacy of the SEIR.

The CEQA requires that if a proposed project could potentially result in adverse physical effects, than an environmental impact report must be prepared that fully describes the environmental effects of the project before the project can be approved. The SEIR on the Event Center and Mixed-Use Development at Mission Bay Blocks 29-32, including both the Draft SEIR and the Responses to Comments document, accomplishes this and complies with all applicable CEQA requirements by fully disclosing all adverse physical environmental effects of the proposed project. Under CEQA, economic or social effects are not treated as significant effects on the environment, unless an economic effect would itself result in an environmental impact, and CEQA states "the focus of the analysis shall be on the physical changes (CEQA Guidelines Section 15131). There are no economic or social effects identified in the SEIR that would result in a significant environmental impact. Consequently, no analysis of economic or social effects is presented in the SEIR. Environmental justice—defined as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies—is essentially an economic and social issue, rather than a physical environmental effect.

Therefore, with respect to the adequacy of the SEIR in fulfilling the requirements of CEQA, this response addresses only the specific issues raised by the commenter that relate to potential physical effects of the project and does not address comments regarding economic or social issues.

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Transit Impacts. The commenter raises several concerns regarding the impacts of the project on transit service, and specifically the T Third line.

The existing Muni service on the T Third and 22 Fillmore is described on SEIR pp. 5.2-16 – 5.2-19, and planned service to the project vicinity as part of the Central Subway project and Muni Forward are described on SEIR pp. 5.2-16 – 5.2-20. The Central Subway project includes a below-grade pedestrian connection between the Union Square/Market Street Central Subway station and the Powell Street Muni/BART station to allow for transfers between the Central Subway, other Muni light rail lines, and BART. It should be noted that the T-Third service to which the commenter refers to is only Phase 1 of the Central Subway. The ultimate service along the T Third will see greatly improved, more reliable, and higher capacity service along the entire length of Third Street and into Chinatown once the Central Subway is completed.

The transit impact analysis for local Muni service presented in Impact TR-1 and Impact TR-13, for conditions without and with an overlapping SF Giants game at AT&T Park, assumed service levels that would be in place following completion of the Central Subway project, and assumed that additional transit service in the form of a system of transit shuttles and increased light rail service would be provided to supplement the T Third light rail line and the 22 Fillmore bus route that are the primary transit service in the area. The provision of the additional Muni service during events would not affect the existing T Third service south of the project site (i.e., to the Bayview).

The Muni Special Event Transit Service Plan, which would be provided as part of the proposed project, is intended to avoid the possibility that special events would overwhelm the existing transit system. It would do so by providing additional options to accommodate attendees traveling to and from the event center. The Muni Special Event Transit Service Plan is described in detail on SEIR pp. 5.2-53 - 5.2-55, where the additional light rail service and special event shuttles are described; Table 5.2-15 presents the proposed service levels for the various event sizes; and Figure 5.2-10 presents the routes proposed Muni Special Event Shuttles. The three primary components of the Muni Special Event Transit Services Plan are (i) the "Muni Special Event 16th Street BART Shuttle," which would run on 16th Street between the event center and the 16th Street BART station; (ii) the "Muni Special Event Van Ness Avenue Shuttle," which would run between the event center and Fort Mason; and (iii) the "Muni Special Event Transbay Terminal/Caltrain/Ferry Building Shuttle," which would loop between the event center, the new Transbay Terminal, and the Ferry Building via Fourth, King, Third, Folsom, Fremont, and Mission Streets.

Impacts of the proposed project on Muni transit is presented in Impact TR-4 for conditions without a SF Giants evening game at AT&T Park, and Impact TR-13 for conditions with a SF Giants game at AT&T Park. During overlapping events, Mitigation Measure M-TR-13 was identified to provide enhanced Muni Special Event Shuttles rather than additional light rail along The Embarcadero to serve the project site, as the additional light rail along The Embarcadero

would be used to accommodate the AT&T Park transit ridership. The SEIR does not propose increased use of shared car service, or assumes that existing riders on the T Third light rail line or the 22 Fillmore bus route would need to use such services. As noted above, the provision of the Muni Special Event Transit Service Plan during events would not affect the existing T Third service south of the project site.

The comment is correct in that the SEIR identified significant regional transit impacts in Impact TR-5 and Impact TR-14. The regional transit impact analysis did not assume any additional regional transit service would be provided for events at the event center.

Impacts TR-18 to TR-24 on SEIR pp. 5.2-190 – 5.2-208 present the potential impacts that could occur for the transportation topics if all or a portion of the Muni Special Event Transit Service Plan is not provided. Mitigation Measure M-TR-18: Auto Mode Share Performance Standard and Monitoring identifies measures that could be implemented by the project sponsor to meet specific performance standards. The purpose of this analysis was to identify the potential impacts if the project did not include the Muni Special Event Transit Service Plan and to establish performance standards that the project sponsor would be required to meet to reduce traffic, transit, and pedestrian impacts (i.e., Mitigation Measure M-TR-18 and Mitigation Measure M-TR-22). The analysis of traffic impacts assumes the existing traffic volumes and roadway network, which reflect changes to Third Street following implementation of the T Third light rail. Impacts of the proposed event center would occur primarily in the vicinity of the project site, and on the access routes to and from I-280 and I-80 freeway ramps north of Mariposa Street. The proposed project is not anticipated to result in a substantial increase in traffic volumes along Third Street south of Mariposa Street, and therefore would not be expected to substantially affect vehicular and pedestrian travel within or to and from the Bayview-Hunters Point area.

Odors and Wastewater. The comment describes odors from the existing wastewater treatment plant located in southeast San Francisco, the Southeast Water Pollution Control Plant. That issue is currently being addressed by the San Francisco Public Utilities Commission (SFPUC) as part of its Sewer System Improvement Program, which includes the Biosolids Digesters Facility Project. Completely unrelated to the proposed project, the Biosolids Digesters Facility Project would replace the aging solids treatment system at the Southeast Plant, a major source of odors, and is currently undergoing CEQA environmental review, with construction of the project scheduled to start in 2017.

The commenter states that the impact of toilet use by the 18,000 persons at the event center combined with 45,000 baseball fans would result in odor issues for residents of southeast San Francisco. The commenter is mistaken. As described in the SEIR, the proposed project would result in an increase in wastewater generation, but this increased wastewater volume is within the existing capacity of the City's wastewater treatment system and therefore would not result in physical changes to the existing conditions with respect to odors.

Historic Character of the Neighborhood. The commenter states that major league sports have a responsibility to protect the historic character of the neighborhoods. Historic resources were addressed as part of the 1998 Mission Bay Final Subsequent Environmental Impact Report, and the Initial Study for the proposed project determined that there were no historic architectural resources within or in proximity to the project site. Therefore, the project's impacts on historic resources were determined to be less than significant.

Air Pollutant Emissions. In response to comments received during the public review period, the Responses to Comments document includes a response to perceived environmental justice issues related to air quality impacts in Volume 4, Section 13.2, pp. 13.2-10 to 13.2-11. As stated in Response GEN-3 of the Responses to Comments document, EIR analyzes the potential for the project to result in localized impacts on air quality that would affect the local neighbors. The SEIR describes how the project would result in increased emissions of air pollutants during both construction and operations. The SEIR determined that increased emissions of certain air pollutants would result in significant, regional air quality impacts that would affect the entire San Francisco Bay Area Air Basin, because these pollutants are transported and diffused by wind concurrently with ozone production through photochemical reaction processes. Consequently, mitigation of this impact related to increased emissions of criteria air pollutants is identified on a region-wide or air basin wide scale, and not to the localized neighborhood or project vicinity.

However, the SEIR also analyzes the potential for the proposed project to generate toxic air contaminants that could expose sensitive receptors to substantial air pollutant concentrations. This analysis considers the air quality effects of the project on the local residents and includes a health risk assessment to assess both increased cancer risk and localized $PM_{2.5}$ concentrations from both construction and operational sources. This analysis accounts for the cumulative conditions of the localized air quality in the project area associated with other existing sources, such as proximity to vehicular traffic on the adjacent highways and roadways. The commenter mentions two power plants as a source of cumulative effects, but the Hunters Point and Potrero power plants formerly operated in the southeast part of the City, and no longer contribute to cumulative air quality impacts; the wastewater treatment plant mentioned by the commenter contributes to regional air quality conditions, but is too distant from the project site to contribute to localized air quality effects in the Mission Bay area. The analysis determined that with the project refinements, the project's impact on annual average $PM_{2.5}$ concentrations and lifetime excess cancer risk at the closest sensitive receptors (UCSF Hearst Tower and UCSF hospital) would not exceed the applicable significance thresholds, and this impact would be less than significant. See Sections 13.2 and 13.13 of the Responses to Comments document for further discussion.

Population/Housing/Jobs. The commenter asserts (page 15 of the attachment) that there is no evidence to suggest that the arena would have any benefit to the southeast San Francisco community, and that any such jobs would be simply transferred from the East Bay into San

Francisco with no net gain in opportunity. However, the Initial Study, Section 3, Population and Housing, states that the Golden State Warriors, and office and retail development would employ an estimated 2,728 full-time equivalent (FTE) workers at the project site, of which the great majority (2,578 FTE workers) would be employed at new jobs attributable to the project. In addition, the project would provide 1,000 day-of-game/event jobs to serve the event center. With respect to the day-of-game/event jobs, since Oracle Arena would continue to serve as an event venue, and simultaneous events would occur at Oracle Arena and the proposed new event center, many of the day-of-game/event at the event center would be considered new to the City.

The commenter cites (page 31 of the attachment) the impact statement from Initial Study Impact PH-1 [*Construction of the proposed project would not induce substantial growth in the area, either directly (for example, by constructing new homes or businesses) or indirectly (for example, through extension of roads or other infrastructure. (Less than Significant)*]. The commenter then asserts that the event center would not create any additional jobs, but would attract absentee residents to bid up nearby properties so that they could be near the arena; that the event center would reduce the supply of housing due to due to services like AirBnb; and references that the growth in commuter shuttle bus use. First, Impact PH-1 addresses project construction-related effects on growth; whereas the commenter's comments are related to potential effects post-construction. Secondly, as described above, the project would create additional new permanent FTE and day-of-game/event jobs. Third, the project description does not include any activities associated with purchasing or renting off-site residential uses near the event center, or with commuter shuttle bus use. In any case, as described above, assessment of economic or social effects is not within the purview of CEQA.

The commenter then cites the impact statement from Initial Study Impact PH-2 [*Construction of the proposed project would not displace existing housing units or create substantial demand for additional housing. (Less than Significant)*]. The commenter then asserts the City and County of San Francisco is 7,000 units short of replacing housing removed by redevelopment activity according to the Housing Element; and that Section 8 applicants are currently referred to sites outside the City and homeless African-American women are given tickets to leave the area in return for assistance. First, Impact PH-2 addresses potential project construction-related effects on displacement of housing; and as discussed in Impact PH-2, implementation of the Mission Bay plan did not displace any existing housing units on the project site, and the proposed project on Blocks 29-32 would not change that condition. Second, the project involves no elements that would affect the Section 8 housing process in the City. In any case, as described above, assessment of economic or social effects is not within the purview of CEQA.

The commenter then cites the impact statement from Initial Study Impact PH-4 [*Operation of the proposed project would not induce substantial population growth in the area, either directly (for example, by constructing new homes or businesses) or indirectly (for example, through extension of roads or other infrastructure). (Less than Significant)*]. The commenter then asserts that this is not a credible statement given the rapid growth of Mission Bay. As discussed in Impact PH-4, under project

operation, while the estimated jobs created by the project would incrementally further increase the jobs/housing imbalance that was described for the Mission Bay Plan Area in the 1998 Mission Bay FSEIR, the estimated slight increase in this offset created by the project would be accommodated by housing elsewhere in- and outside the City. Furthermore, since employment generated by the project could be met by the local and regional labor force, the project impact related to direct growth inducement would be less than significant. Lastly, project operation would not involve the extension of roads or other infrastructure except to the project site itself, at a location already well served by roads and other infrastructure, including previously approved improvements to roads and infrastructure associated with overall Mission Bay Plan development, and consequently, project indirect impacts on population growth of project operation would be less than significant.

Hazards. The commenter refers to the cumulative effects of a Superfund site. However, the project site is not located on or near a Superfund site, so there would be no cumulative effects. Nevertheless, the SEIR describes and analyzes the environmental impacts associated with hazardous materials in the SEIR Initial Study, Section E16 (pp. 106 to 122), as augmented by Responses to Comments, Section 13.22. As described in the SEIR, impacts related to hazardous materials, including those associated with contaminated soils and groundwater, were determined to be less than significant with implementation of identified mitigation measures and compliance with applicable regulations designed to protect the public and the environment from exposure to hazardous materials.

BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

November 2, 2015

Tiffany Bohee
Executive Director
Office of Community Investment and Infrastructure
One S. Van Ness Ave., 5th Floor
San Francisco, CA 94103

Subject: Response to Comments on the DSEIR for the Event Center & Mixed-Use Development at Mission Bay Blocks 29-32 (Project).

Dear Ms. Bohee:

The Bay Area Air Quality Management District (Air District) is willing to assist the City and County of San Francisco (City) by administering an off-site mitigation program to reduce this Project's significant air quality impacts to the extent feasible. As we have discussed extensively with City staff, the $321,646 identified in M-AQ-2b is not sufficient to achieve the 17 tons per year of ozone precursor emission reductions needed for this Project. Due to the nature of air quality impacts that need to be mitigated, comparison of the Air District off-site mitigation program identified for this Project to other air district programs is inappropriate and incorrect.

The amount of funds required to reduce 4.4 tons of reactive organic gases (ROG) and 12.6 tons of oxides of nitrogen (NOx), including a 5 percent administration fee, is $620,922. This amount is based on a study of the Air District's Vehicle Buy Back (VBB) program funds spent over the last 3 years and represents the average cost of reducing ROG and NOx during that three year period. Only through the VBB program can the Air District achieve the contemporaneous emission reductions and other conditions set forth in M-AQ-2b.

Air District staff continues to be willing to assist the City in implementing an off-site mitigation program. However, the Final Environmental Impact Report Response to Comments includes the following statement: "Acceptance of this fee by the BAAQMD shall serve as an acknowledgement and commitment by the BAAQMD to: (1) implement an emissions reduction project(s) within one year of receipt of the mitigation fee to achieve the emission reduction objectives specified above [i.e. 17 tons of ozone precursors per year]". Given this language, unless the City amends M-AQ-2b to fund this feasible mitigation measure at the $620,922 level previously discussed with City staff, the Air District will be unable to participate in offsetting this Project's air quality impacts.

If you have any questions, please contact Alison Kirk, Senior Environmental Planner, at (415) 749-5169 or akirk@baaqmd.gov.

Sincerely,

Jean Roggenkamp
Deputy Executive Officer

cc: BAAQMD Vice Chair Eric Mar
BAAQMD Director John Avalos
BAAQMD Director Edwin M. Lee

OCII
office of
COMMUNITY INVESTMENT
and INFRASTRUCTURE

DATE: November 2, 2015

TO: Tiffany Bohee, OCII Executive Director

FROM: Chris Kern, City Planning Department
Sally Oerth, OCII Staff

SUBJECT: BAAQMD November 2, 2015 letter re Ozone Precursors Offset Mitigation Fee

The City Planning Department and the staff of the Office of Community Investment and Infrastructure (OCII) have reviewed the November 2, 2015 letter from the Bay Area Air Quality Management District regarding the Warriors Event Center and Mixed Use Development Subsequent Environmental Impact Report (SEIR). The letter states that the $18,030 per weighted ton per year plus a 5% administrative fee mitigation fee identified in Mitigation Measure M-AQ-2b of the SEIR is insufficient to achieve the required reduction of 17.0 tons per year of ozone precursors. The letter proposes that the mitigation fee should be based on the BAAQMD's Vehicle Buy Back Program, at a cost of $620,922 (or approximately $36,525 per weighted ton per year) to achieve the required emissions reduction.

As discussed in the Draft SEIR (pages 5.4-41 through 5.4-42) and the Responses to Comments document (pages 13.13-65 through 13.13-69), the offset fee identified in Mitigation Measure M-AQ-2b is based on the California Air Resources Board (CARB) Carl Moyer program cost-effectiveness criteria. These criteria were developed by CARB to establish the upper limit for emissions offset projects eligible to receive funding through the Carl Moyer program.

Planning staff has been in communication with BAAQMD with regard to its suggestion that a higher fee may be warranted to offset project emissions to a less than significant level and found that BAAQMD could not establish that an increased rate beyond that of the Carl Moyer Program plus a five percent administrative fee could meet the "rough proportionality" standard required under CEQA. The Carl Moyer fee structure was reviewed and updated by CARB in March of 2015 and became fully implemented on July 1, 2015. The offset costs cited in Mitigation Measure M-AQ-2b Emission Offsets are consistent with those of the CARB and other operating California air districts. For example, in the Sacramento Metropolitan Air Quality Management District, the off-site construction mitigation fee rate is $18,030 per ton of excess NOx emissions as of July 1, 2015 (plus an administrative fee of 5 percent) and is based on the cost effectiveness formula established in California's Carl Moyer Incentive Program. In the San Joaquin Valley Air Pollution Control District, the Indirect Source Review (ISR) program requires that an offsite reduction fee of $9,350/ton plus a 4 percent administration fee be applied

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for NOx emission reductions that cannot be achieved through onsite emission reduction measures. Furthermore, the offset costs in Mitigation Measure M-AQ-2b is consistent or even higher than comparable offset programs in the SFBAAB.[1]

The BAAQMD's November 2, 2015, letter does not establish that the CARB cost-effectiveness criteria are inappropriate for determining the offset costs under Mitigation Measure M-AQ-2b. Based on the information and analysis presented in the Draft SEIR, the Responses to Comments and supporting technical analyses, Planning Department and OCII staffs continue to believe that the offset fee established in Mitigation Measure M-AQ-2b is sufficient to achieve the required emissions offsets. In addition, as discussed in the Responses to Comments document, Mitigation Measure M-AQ-2b has been revised since publication of the Draft SEIR to allow the project sponsor to directly implement an emissions offset project as an alternative to entering into an agreement with the BAAQMD.

Therefore, for the reasons summarized above and discussed in greater detail in the SEIR and Responses to Comments, the November 2, 2015, letter from the BAAQMD does not alter the analysis or conclusions reached in the SEIR.

[1] Keinath, Michael, Rambol Environ, 2015. Analysis of the Proposed Offset Program for the Golden State Warriors. October 19, 2015.

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Mr. Brett Bollinger
Planning Department
City and County of San Francisco
1650 Mission Street, Suite 400
San Francisco, CA 94103

Event Center & Mixed-Use Development at Mission Bay Blocks 29-32 – Final Responses to Comments on Draft Subsequent Environmental Impact Report

Dear Mr. Bollinger:

Thank you for continuing to include the California Department of Transportation (Caltrans) in the environmental review process for the project referenced above. Our comments seek to promote the State's smart mobility goals that support a vibrant economy and build active communities rather than sprawl. We have reviewed the Final Response to Comments on the Draft Subsequent Environmental Impact Report (RTC) and have the following comments to offer. Please refer to Caltrans' comment letter dated July 20, 2015, on the Draft Subsequent Environmental Impact Report.

Reply to Response TR-2a
Caltrans notes that the RTC Document addresses turning traffic volumes under 2015 Existing Plus Convention Event and 2015 Existing Plus Basketball Game. Yet, traffic analysis under Basketball Game Only and Convention Only Conditions are not provided. As mentioned in Caltrans' previous letter, we recommend the report include traffic turning movement per study intersection under Basketball Game Only and Convention Only Conditions separately for complete comparison review purposes.

Reply to Response TR-2d
Caltrans notes that the RTC Document justifies lower traffic volumes under Basketball Game Conditions in Figure 15a than No Event Conditions in Figure 13a (SEIR, Appendix TR, pgs. TR-156, TR-152). The RTC Document states that the likely arrival of the basketball attendees would be one hour prior to the game. Peak hour traffic volumes under 2040 Cumulative Conditions is assumed during 4pm-6pm. The Document estimates cumulative arrival attendees is five percent during the 4pm-6pm. Thus, the underlying assumptions and methodology may continuously lead to inconsistent traffic patterns of five study intersections (Study Intersections #9 to #13) that

surround the project site between Figure 15a and Figure 13a. For a conservative approach that resolves irregular traffic concerns expressed in our previous letter, Caltrans recommends the report include peak volume 2040 Cumulative Conditions during 6:30 to 7:30 pm as a worse scenario. The worse one-peak-hour cumulative arrival attendees during 6:30 to 7:30 would be 52% while worse one-peak-hour cumulative departure attendees during 9:30 to 10:30 pm would 70%.

Should you have any questions regarding this letter or require additional information, please contact Sherie George at (510) 286-5535 or sherie.george@dot.ca.gov.

Sincerely,

for

PATRICIA MAURICE
District Branch Chief
Local Development - Intergovernmental Review

c: State Clearinghouse

OCII
office of
COMMUNITY INVESTMENT
and INFRASTRUCTURE

DATE: November 3, 2015

TO: Tiffany Bohee, OCII Executive Director

FROM: Chris Kern, City Planning Department
Sally Oerth, OCII Staff

SUBJECT: Response to Letter from Caltrans, November 2, 2015

Caltrans indicates that they have reviewed the Responses to Comments document on the Draft SEIR and provided comments on Response TR-2a, Analysis Scenarios Methodology, and Response TR-2d, Trip Generation Methodology.

Reply to Response TR-2a
As discussed in Response TR-2a, Appendix TR Figures 6a and 6b present the existing plus project traffic volumes for the weekday p.m. peak hour for the Convention Event scenario, and Figures 7a and 7b present the existing plus project traffic volumes for the weekday p.m. peak hour for the Basketball Game scenario. As these figures show, the traffic volumes for the two scenarios are presented separately. The traffic impact analysis at these intersections are presented in Impact TR-4, and calculation sheets are provided in Appendix TR. While project-only volumes are not presented on separate figures, Appendix Figures 1 through 4 present the existing traffic volumes, and project volumes can be calculated by subtracting the existing plus project traffic volumes from the existing traffic volumes.

It is unclear what is meant by "Basketball Game Only and Convention Only Conditions" in the comment. Traffic analysis of only the vehicle trips generated by a basketball game or a convention without the background existing traffic volumes is not conducted, and a basketball game would never occur on a same day as a convention event.

Reply to Response TR-2d
The traffic analysis presented in the SEIR is internally consistent for existing plus project and cumulative conditions; there are no "inconsistent traffic patterns" or "irregular traffic" assumptions included in the analysis. Response TR-2d explained the perceived anomalies regarding lower traffic volumes in the immediate vicinity of the project site under the Basketball game scenario compared to the No Event condition. The Caltrans letter acknowledges and accepts the explanation.

The Caltrans letter indicates that for the Basketball game scenario, there would be more project-related traffic in the peak hour during the 6:00 to 8:00 p.m. or 9:00 to 11:00 p.m. periods than during the 4:00 to 6:00 p.m. period; this is correct. The Caltrans letter recommends that the SEIR include a 2040 cumulative analysis of the 6:30 to 7:30 p.m. period under the Basketball Game

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scenario as a it will have higher project traffic volumes than the peak hour than the 4:00 to 6:00 p.m. period. An additional cumulative analysis is not necessary because:

- The 6:30 to 7:30 p.m. period represents the end of the peak commute period and has lower background traffic volumes (non-project related) than the peak hour of the 4 and 6 p.m. period.
- Virtually all project traffic during the 6:30 to 7:30 p.m. period is inbound to the project site, generally operating in the non-commute direction as the majority of the traffic at that time is leaving the San Francisco downtown, SoMa and Mission Bay area.
- The SFCTA travel demand model on which the analysis of cumulative 2040 conditions has been based has a scenario that has been developed and validated over the years for the 7:00 to 9:00 a.m. and 4:00 to 6:00 p.m. periods. These scenarios, which are updated regularly by the SFCTA, have always been used in the cumulative analysis of many projects in San Francisco. No model scenario exists that has been developed or validated by the SFCTA for the 6:30 to 7:30 p.m. period.
- The purpose of the 2040 cumulative analysis under CEQA is to identify additional potential cumulative impacts beyond those already identified under the existing plus project conditions. Given that the majority of the project traffic would concentrate in the immediate vicinity of the site and represent almost the totality of the flow during the 6:30 to 7:30 p.m. period, those potential impacts would be identified in as part of the existing plus project conditions analysis. As noted in the SEIR, at intersections where project-specific significant impacts were identified for existing plus project conditions, the proposed project would also be considered to result in a cumulative impact under 2040 cumulative conditions.