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Greenaction for Health and Environmental Justice Comments on DEIR for Proposed India Basin Mixed Use Project

On behalf of our members and constituents in Bayview Hunters Point, San Francisco, we submit the following comments on the Draft Environmental Impact Report for the proposed India Basin Mixed Use Project. Greenaction For Health and Environmental Justice is a multiracial grassroots organization that works with low-income and working class urban, rural, and indigenous communities to fight environmental racism and build a clean, healthy and just future for all. Greenaction has been involved in environmental health and justice advocacy in Bayview Hunters Point since we were founded in 1997. This low-income community of color continues to be negatively and disproportionately impacted by pollution, gentrification, health disparities, and other forms of environmental, social, economic injustice.

I. San Francisco Planning Department's Denial of Language Access and Violation of Civil Rights of Limited and Non-English Speaking Residents:

The San Francisco Planning Department's refusal to translate the Scoping Notice for this proposed project and failure to provide even executive summaries of key project documents has denied residents who are limited or non-English speaking from meaningful civic engagement in this environmental review process. As the City and County of San Francisco are recipients of state and federal funding, it must comply with state and federal civil rights laws (California Government Code 11135 and Title VI of the United States Civil Rights Act). These civil rights laws explicitly prohibit recipients of state and/or federal funding from taking actions that have a disparate, discriminatory impact on people of color and non-English speaking people.

The first civil rights violation occurred when the Planning Department failed to translate the Scoping Notice and refused to remedy that failure. Thus, the ongoing failure to provide language

access, and the subsequent refusal to remedy the problem, constitutes a violation of state and federal civil rights laws. No permit can be issued based on a process that clearly violated the civil rights of residents potentially impacted by the proposed project.

In addition, the Planning Department's translation of the "Notice of Public Hearing and Availability of A Draft Environmental Impact Report" in no ways complies with language access requirements as the limited and non-English speaking residents who may see that Notice in a language they understand would still not be able to read a single word of the DEIR document.

We attach documentation of the civil rights and language access violations, and incorporate those documents into our comments.

II. Greenaction does not oppose the Recreation and Parks Department component of the project, except all toxic contamination must be remediated and the project must not contribute to gentrification:

The people of Bayview Hunters Point deserve more open space and parks, but the open space and parks must be safe and free of toxic contamination.

The San Francisco Recreation and Parks Department has been responsive to input and concerns about toxic contamination at the site, and it appears they are addressing the contamination issue.

However, we remain concerned with the plans in the RPD component of the project that would result in increased subsistence fishing and consumption by low-income people and their families and friends of toxic-contaminated fish from the Bay. This concern can be partially remedied by the placing of multilingual fish advisory signs along the waterfront, and a Healthy Subsistence Fishing community education project such as the pilot project currently being conducted by Greenaction in partnership with RPD.

In addition, plans to promote kayaking at the site will directly contribute to the gentrification threatening to displace long time people of color residents from their community.

III. Greenaction agrees with the conclusion reached by the Planning Department's Draft EIR which "finds that implementation of the proposed project would lead to significant unavoidable project-level or cumulative impacts related to cultural resources, transportation and circulation, noise, air quality, and wind."

However, the DEIR underestimated a number of other key significant aspects of the proposed project that would also have significant unavoidable and negative impacts on the environment, community and public health.

Therefore, due to the significant unavoidable negative impacts, the Planning Department must deny permits for the proposed project.

IV. Planning Department Must Not Use a Statement of Overriding Consideration to Approve this Project Despite Significant Unavoidable Negative Impacts:

It would be completely improper, and a violation of civil rights of people of color residents of Bayview Hunters Point, if the Planning Department decides to circumvent EIR findings of significant unavoidable impacts by using a Statement of Overriding Consideration exemption under CEQA.

Use of a Statement of Overriding Consideration to approve an upscale mega-development project that would contribute to pollution and gentrification of the already polluted, heavily impacted people of color community would be a major violation of civil rights and would be challenged successfully.

V. Population and Housing: Section 3.3

The DEIR's conclusion in Section 3.3 that "The proposed project or variant would not induce substantial population growth in an area..." and thus have a "Less than significant" impact is contradicted by the facts of the project proposal. The project proposes to build either 1240 dwelling units or 500 – which clearly would involve thousands of new residents in the area.

The conclusion that "The proposed project or variant, in combination with past, present, and reasonably foreseeable future projects in the vicinity of the project site, would not substantially contribute to cumulative impacts related to population and housing" is also factually incorrect. The BUILD LLC project at India Basin, combined with the even larger Lennar/Five Points SF Shipyard project, would result in many thousands of new dwelling units and tens of thousands of new residents. In addition, as these projects are targeting a higher income level than that of most Bayview Hunters Point residents, these projects will have a major, significant and unavoidable negative impact including gentrification and the ultimate displacement of long time people of color and low income residents of the community.

These impacts are significant, negative, and unavoidable if the project is approved.

VI. Cultural Resources: Section 3.4

Greenaction agrees with the DEIR's conclusion that "Construction under the proposed project or variant would disturb human remains, including those interred outside of formal cemeteries."

This area of Bayview Hunters Point is known to have been occupied the Ohlone people. Any project that would disturb, remove or desecrate human remains of the original inhabitants of this

land is unacceptable. These remains should be respected and not be removed from their resting place. This would be a significant negative impact that is unavoidable and cannot be mitigated.

VII. Transportation and Circulation: Section 3.5

The DEIR's conclusion in Section 3.5 that "The proposed project or variant would not cause substantial additional VMT or substantially induce automobile travel" and that the impact would be "Less than significant" is clearly incorrect. The impact will be significant and unavoidable as the India Basin project would bring thousands of people to the residential and commercial developments on a daily basis – and a large number of these individuals will travel by automobile. No amount of traffic control, shuttles, or even public transportation improvements will be able to reduce this impact to less than significant.

VIII. Noise: Section 3.6

We agree that many of the noise impacts would be significant and unavoidable.

IX. Air Quality: Section 3.7

We agree with the DEIR's assessment that this project will have significant and cumulative negative health impacts on air quality that cannot be mitigated and are unavoidable. Moreover, these impacts will exacerbate health impacts in an already heavy polluted and highly vulnerable low income community of color. In light of these facts, the proposed project cannot and must not be approved.

The CEQA analysis should include environmental, health, air quality and cumulative impact information from the California Environmental Protection Agency and the Bay Area Air Quality Management District (BAAQMD) – both of whom have documented that Bayview Hunters Point is a community highly at risk from pollution.

In 2004 BAAQMD initiated the Community Air Risk Evaluation (CARE) program to identify areas with high concentrations of air pollution and populations most vulnerable to air pollution's health impacts. The Bayview Hunters Point community was designated by BAAQMD as a CARE community. In Bayview Hunters Point, the intersection of ports, railways, municipal vehicle yards, concrete batch plants, freeways, and a large waste water treatment facility has contributed to high rates of air pollution and asthma hospitalizations. According to the Bay Area Air Quality Management District (BAAQMD), despite tremendous strides in air pollution reduction, communities such as Bayview Hunters Point, experience higher pollution levels, and more adverse health effects, compared to their counterparts in other parts of the region (http://www.baaqmd.gov/~media/Files/Planning%20and%20Research/CARE%20Program/Documents/CARE_Retrospective_April2014.ashx). Additionally, according to a report by the Bay Area Regional Health Inequities Initiative (a collaboration of senior officials, managers and staff from eight health departments in the Bay Area), where a person lives helps determine his or her

health outcomes: Bayview/Hunters Point residents are expected to live 14 years less than those living in Russian Hill (http://barhii.org/wp-content/uploads/2015/09/barhii_hiba.pdf).

CalEnviroScreen 3.0 is a screening tool that ranks California communities based on potential exposures to pollutants, adverse environmental conditions, socioeconomic factors and prevalence of certain health conditions. CalEnviroScreen 3.0 ranks Bayview Hunters Point in the 90th percentile. This percentile means that Bayview Hunters Point has a higher pollution burden and pollution vulnerability than 90% of California (CalEnviroScreen 3.0 Data Map, <https://arcgis.com/qim5X>).

More specifically, CalEnviroScreen ranks Bayview Hunters Point in the 99th percentile for diesel particulate, 98th percentile for groundwater threats, 98th percentile for asthma, 99th percentile for low birth weight, and 86th percentile for hazardous waste. The community's vulnerability to pollution is amplified by socioeconomic factors such as poverty, unemployment, and housing affordability. CalEnviroScreen ranks Bayview Hunters Point in the 87th percentile for poverty, 84th percentile in unemployment, and 91st percentile in housing affordability (residents of low-income households with high housing costs may suffer adverse health impacts).

X. Greenhouse Gas Emissions: Section 3.8

The DEIR incorrectly concludes in Section 3.8 that “The proposed project or variant would generate greenhouse gas emissions, but not at levels that would result in a significant impact on the environment or conflict with any policy, plan, or regulation adopted for the purpose of reducing greenhouse gas emissions.”

Greenhouse gas emissions from construction and the vehicular and truck traffic associated with constructed and using the proposed project residential and commercial components would add to the unacceptable level of air pollution impacting Bayview Hunters Point and its residents. Any increase of emissions into the air of this community which both the Bay Area Air Quality Management District's CARE program and the California EPA's CalEnviroScreen will further threaten the health of residents already at risk and highly vulnerable.

XI. Utilities and Service Systems: Section 3.12

The DEIR failed to consider that the addition of thousands of new residents and workers whose homes and workplaces would add to the Southeast wastewater treatment facility's load. The sewage treatment plant in Bayview Hunters Point already handles most of the City's sewage as well as other that from other locations, and adding to this burden would have a significant unavoidable impact.

XII. Public Services: Section 3.13

The DEIR's conclusion that the proposed project or variants would not increase demand for fire, police, library, school services is incorrect. Clearly, the addition of thousands of new residents and office/commercial workers in hundreds of new dwelling and commercial units would have a significant impact on limited city services.

XIII. Hazards and Hazardous Materials: Section 3.16 – and Toxic and Potentially Radioactive Contamination at the Site:

Due to the close proximity of the proposed project to the radioactive contaminated Hunters Point Naval Shipyard Superfund site, and in light of information provided by community elders and whistleblowers regarding testing, handling and disposal of radioactive wastes at the Shipyard, this project must include a thorough testing, analysis and summary of potentially radioactive and toxic contaminants before any use of this site. While Recreation and Parks has done testing for toxic contaminants and is planning extensive remediation, we are not aware of test results from the BUILD LLC project component. This information is also vitally important to include in the CEQA/EIR process in light of the certainty of rising sea levels and potential storm surges.

XIV. Impact of Sea Level Rise:

The DEIR fails to discuss or evaluate the impact sea level rise will have on the proposed project, including homes, businesses, infrastructure, and the hazardous waste contamination that may be left at the site.

The DEIR states “The project site is subject to flooding from sea-level rise, but the proposed project or variant would not exacerbate the frequency or severity of flooding or cause flooding in areas otherwise would not be subject to flooding without the project.” This proposed project may or may not “exacerbate the frequency or severity flooding,” but will be impacted by rising sea levels and storm surges associated with climate change.

The San Francisco Bay Conservation and Development Commission and the San Francisco Department of the Environment are predicting a sea level rise of 11 to 19 inches by 2050 and 30 to 55 inches by 2100. An increase of sea level will cause coastal flooding, storm surges, coastal erosion/shoreline retreat, rising groundwater and wetland loss. Communities living near San Francisco Bay, such as Bayview Hunters Point, are extremely vulnerable to flooding from sea level rise – and this includes the proposed India Basin project site.

Submitted,

Sincerely,

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