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Letter to the City of San Francisco Concerning Hunters Point Candlestick Park Implosion

Environmental Law and Justice Clinic, Golden Gate University School of Law

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Environmental Law and Justice Clinic

November 18, 2014

Sarah Jones
Joy Navarette
Senior Environmental Planner
San Francisco Planning Department/
Office of Community Investment & Infrastructure
1650 Mission Street, Suite 400
San Francisco, CA 94105

Re: Case No. 2007.946E, Candlestick Point-Hunters Point Shipyard Phase II,
Addendum 3 to EIR

Dear Ms. Navarette and Ms. Jones:

On behalf of Community First Coalition Education Fund and Greenaction for Health and Environmental Justice, we write to request that the San Francisco Planning Department decertify Addendum 3 to the Environmental Impact Report for the Candlestick Point-Hunters Point Shipyard Phase II; and engage the residents in the Bayview-Hunters Point community to arrive at a sound decision on an alternative that has the least air quality impacts on this vulnerable community. It is not enough to revise the Addendum, which is what we understand the Planning Department is intending to do.¹

We make this request because the Addendum fails to identify and analyze in an adequate manner the air quality impacts of imploding Candlestick Park stadium; the Addendum's conclusion that further environmental assessment is not required – beyond the assessment contained in the Addendum – is unsupported by substantial evidence; the mitigation measures for implosion-related impacts are vague and do not meaningfully address impacts; and just as important as the other points, the Bayview-Hunters Point community, which has been identified as a vulnerable community by both the State of California and the Bay Area Air Quality Management District, must be engaged in this process to have a say in how the demolition of the stadium is performed. Because of the grave potential for health impacts on this community that already has the

¹ We use the following abbreviations:

Addendum: Addendum 3 to the Environmental Impact Report

BAAQMD: Bay Area Air Quality Management District

BVHP: Bayview-Hunters Point

CARE: Community Air Risk Evaluation

FEIR: Final Environmental Impact Report

Greenaction: Greenaction for Health and Environmental Justice

PM: particulate matter

SFDPH: San Francisco Department of Public Health

highest rate of diseases associated with particulate matter, it is imperative for this community to be involved before Planning makes its decision.

I. The Community and Environmental Setting

The Bayview-Hunters Point neighborhood is home to a greater proportion of African American and, increasingly, Latino residents than other neighborhoods in the City of San Francisco.² Many of these residents are homeowners.³ BVHP's public housing also has greater percentages of African American and Latino residents than the City as a whole.⁴ The residents of BVHP appreciate the geographic beauty of their neighborhood and its place in San Francisco history. Despite the positive aspects of BVHP's diversity and bayside location, the neighborhood's environmental contamination and socio-economic vulnerabilities have been a well-documented part of its challenges.

In certain parts of BVHP, for example, the median household income is as low as \$19,704, as compared to \$70,040 for the city as a whole,⁵ with many of them living 200% below the federal poverty level in this famously expensive city.⁶ A lower percentage of adults 25 years and older in BVHP has a high school degree or more.⁷ A larger percentage of BVHP households have children under 18 than other parts of the city.⁸

Residents of this area have long borne the burden of a disproportionate share of environmental hazards. The City's General Plan acknowledges that BVHP "has been the focus of some of the city's most noxious and unhealthy heavy industries, including steel manufacturing, ship repair, junkyards, and auto wrecking."⁹ The area still hosts the largest percentage of industrial sites, brownfields, leaking underground fuel tanks, and a Superfund site when compared to the same conditions for residents throughout the city.¹⁰ Particular to PM pollution, sources abound in BVHP: major roadways such as U.S. Highway 101, Interstate 280, and Third Street crisscross the area; the Port of San Francisco is a known air pollution source,¹¹ where

² SF Environment et al., San Francisco Healthy Homes Project: Community Health Status Assessment 15 (undated), available at

http://www.sfenvironment.org/sites/default/files/fliers/files/sfe_ej_sfhh_community_health_status_assessment.pdf.

³ 2010 Census data accessible from <http://www.census.gov/censusexplorer/censusexplorer.html> for census tracts 231.03, 232, and 234.

⁴ *Id.*

⁵ 2010 Census data accessible from <http://www.census.gov/censusexplorer/censusexplorer.html> for census tract 231.03; SF Environment et al., *supra* note 2, at 15.

⁶ SF Environment et al., *supra* note 2, at 15.

⁷ *Id.* at 16.

⁸ *Id.* at 14.

⁹ Bayview Hunters Point Area Plan, San Francisco Planning Department, http://www.sf-planning.org/ftp/general_plan/Bayview_Hunters_Point.htm (last visited Nov. 18, 2014).

¹⁰ SF Environment et al., *supra* note 2, at 17-18; San Francisco Redevelopment Agency & San Francisco Planning Department, Candlestick Point-Hunters Point Shipyard Phase II Development Plan Project: Comments and Responses, at C&R-73, t. C&R-5 (May 13, 2010) ["FEIR Comments & Responses"], available at http://www.sf-planning.org/ftp/files/MEA/2007.0946E_Candlestick_CR_1a.pdf.

¹¹ See, e.g., SF Environment et al., *supra* note 2, at 17-18.

cement manufacturing and aggregate operations have been increasing.¹² The area is also near large bus yards and packing and shipping distribution centers.¹³ Construction also has increased in the area with the implementation of this Project and others in the area, which has resulted in more PM and traffic-related air pollution impacts. To sum it up in the City's own words, "development of Bayview Hunters Point as a predominantly industrial and residential area was thereby achieved at extensive costs to environmental health."¹⁴

Not surprisingly, the Final Environmental Impact Report for the Project acknowledges BVHP's challenges – that "it is well established that residents of BVHP have poorer health outcomes than San Francisco as a whole."¹⁵ It notes that "BVHP residents have substantially higher rates of hospitalizations and emergency room visits" for asthma and congestive heart failure.¹⁶ The FEIR also concludes that "asthma and lung cancer are major health issues in BVHP."¹⁷

Diseases that cause the most deaths for BVHP residents are ischemic heart disease, tracheal, bronchial, and lung cancer.¹⁸ The latest data show that African Americans in San Francisco suffer almost the double the rate of ischemic heart disease than all of the city residents.¹⁹ The FEIR acknowledges that "[r]esidents of BVHP live fewer years than residents in most other neighborhood."²⁰ As the City's own Community Health Status Assessment describes in more disturbing terms, "on average, residents of BVHP can expect to live 14 years less than their counterparts in the Russian Hill neighborhood."²¹

¹² Memorandum from Monique Moyer, Executive Director, to Members of the San Francisco Port Commission (Jan. 18, 2013) (in fiscal 2011-2012, 40% increase over the previous year of tons of cargo handled at the port), *available at*, <http://www.sf-port.org/modules/showdocument.aspx?documentid=5293>.

¹³ SF Environment et al., *supra* note 2, at 58. As to air pollution, where this report concluded that BVHP did not disproportionately suffer from air pollution as compared to the rest of the City, the report appears to have assessed limited data such as daily traffic-related PM 2.5, *id.* at 18 (citing to Map 10, which relates only to traffic), and the results of monitoring reported in 2006 from measurements made at one site, *id.* at 18 n. 19 (appears to cite to FEIR Comments & Responses, *supra* note 10, at C&R-72). The monitoring reported in 2006 by its very nature does not capture the increase in PM from construction activities and increased activities at the port since that time. Since then, other reports point to hot spots of toxic pollution.

¹⁴ Bayview Hunters Point Area Plan, San Francisco Planning Department, http://www.sf-planning.org/ftp/general_plan/Bayview_Hunters_Point.htm (last visited Nov. 18, 2014).

¹⁵ FEIR Comments & Responses, *supra* note 10, at C&R-69 (citing health studies).

¹⁶ *Id.*

¹⁷ *Id.* at 71.

¹⁸ *Id.* at 70-71.

¹⁹ San Francisco Department of Public Health, San Francisco Strategic Plan for Population Health 37 (June 2014), *available at*

<https://www.sfdph.org/dph/files/hc/HCCommPublHlth/Agendas/2014/May%2020/SF%20Strategic%20Plan%20Draft%20May%2015%202014-1.pdf>.

²⁰ FEIR Comments & Responses, *supra* note 10, at C&R-70.

²¹ SF Environment et al., *supra* note 2, at 34; *see also* Bay Area Air Quality Management District, Improving Air Quality & Health in Bay Area Communities: Community Air Risk Evaluation Program Retrospective & Path Forward 18 (Apr. 2014) [hereinafter CARE Retrospective], *available at* http://www.baaqmd.gov/~media/Files/Planning%20and%20Research/CARE%20Program/Documents/CARE_Retrospective_April2014.ashx.

Notably, BAAQMD designated BVHP as a Community Air Risk Evaluation (CARE) neighborhood deserving of special protection based on its socio-economic characteristics and toxic air contaminant releases.²² And, recently, the State of California designed the area as a disadvantaged community using a comprehensive tool called, CalEnviroScreen.²³

II. Serious Health Concerns of Particulate Matter Pollution

Of particular concern in the area surrounding the stadium is PM pollution. PM is a term used for the combination of small particles and aerosols suspended in the air that can be inhaled and absorbed directly into the body.²⁴ BAAQMD describes PM as “the air pollutant which imposes the greatest burden on public health, and . . . exposure to PM accounts for more than 90 percent of premature mortality related to air pollution in the Bay Area.”²⁵ BAAQMD warns that “[m]any scientific studies have linked short-term exposure to PM to a series of significant health problems,” including aggravated asthma, increases in respiratory symptoms like coughing and difficult or painful breathing, chronic bronchitis, decreased lung function, heart attack, and premature death.²⁶ The Centers for Disease Control and Prevention further identifies adverse birth outcomes such as low birth weight, worsening of asthma symptoms, decreased lung growth in children, and lung cancer.²⁷

PM is divided according to the size of the particle; PM₁₀ are particles less than 10 micrometers (µm) in diameter, and PM_{2.5}, less than 2.5 µm.²⁸ PM₁₀ particles generally stay suspended for up to a few hours and can travel as far as 30 miles.²⁹ In contrast, PM_{2.5} particles can remain suspended in the air for weeks and can travel hundreds of miles before settling.³⁰ PM_{2.5} is of particular concern because the finer particles penetrate deeper into the body and can cause more harmful health effects.³¹ A number of studies indicate “in comparison to other regulated air pollutants in the Bay Area, fine PM exposure likely causes the most harm to public health today.”³² Ischemic heart disease (also known as coronary artery disease) is the most

²² Improving Air Quality & Health in Bay Area Communities, Community Air Risk Evaluation Program Retrospective & Path Forward (2004-2013), at 92 (April 2014), *available at* <http://www.baaqmd.gov/Divisions/Planning-and-Research/CARE-Program.aspx>.

²³ California Environmental Protection Agency, Designation of Disadvantaged Communities Pursuant to Senate Bill 535 (De Leon), at 18 (Oct. 2014), *available at* <http://www.calepa.ca.gov/EnvJustice/GHGInvest/Documents/SB535Maps.pdf>.

²⁴ Particulate Matter, Bay Area Air Quality Management District, <http://www.baaqmd.gov/divisions/planning-and-research/particulate-matter.aspx> (last updated Sept. 29, 2014).

²⁵ *Id.*

²⁶ *Id.*

²⁷ Particulate Matter, Centers for Disease Control and Prevention, <http://ephtracking.cdc.gov/showAirHealth.action#ParticulateMatter> (last updated May 21, 2013).

²⁸ CARE Retrospective, *supra* note 20, at 15.

²⁹ Particulate Matter, Bay Area Air Quality Management District, <http://www.baaqmd.gov/divisions/planning-and-research/particulate-matter.aspx> (last updated Sept. 29, 2014).

³⁰ *Id.*

³¹ *Id.*

³² CARE Retrospective, *supra* note 20, at 16.

common heart problem related to long-term exposure to fine PM.³³ Communities with demographic profiles similar to BVHP (high rates of poverty, factory emissions, high percentage of young children) “may be more at risk for heart and lung problems related to air pollution.”³⁴

Of further concern, “compelling evidence” exists that “fine particle concentrations well below the national standard are harmful to the cardiovascular and respiratory health of our elderly citizens.”³⁵ “Lowering PM levels . . . prevent[s] deaths, mostly from heart attacks and heart disease. Studies have shown a 15% decrease in the risk of heart disease deaths with every PM_{2.5} decrease of 10µg/m³ (micrograms per cubic meter).”³⁶

III. Preliminary Concerns with the Addendum and the Lack of Public Involvement

On October 23, we sent a request for information to the Planning Department and have not yet received a response. This letter therefore identifies our preliminary concerns about the Addendum and that the Addendum was issued without any community input.

The proposed demolition that is the subject of the Addendum appears to involve hundreds of thousands of tons of debris.³⁷ Although the city has not provided information on the tonnage of concrete that would be imploded, the buildings at Candlestick Point that will eventually be demolished involve over 200,000 tons of concrete, and thus the volume involved in an implosion must be quite significant. In addition, up to one-third of the dust from the stadium demolition would occur at once following an implosion, producing a phenomenal amount of PM.³⁸

The Addendum nevertheless concludes that “the demolition by implosion would result in no new significant impacts.”³⁹ This conclusion rests on faulty assumptions that are unsupported by substantial evidence. First, the Addendum rests on the assumption that “implosion would produce the same amount of dust as mechanical demolition.”⁴⁰ This assumption is not supported with any credible technical analysis. The addendum fails to identify the amount of concrete and other material that would be imploded; fails to characterize the kind and amount of PM matter

³³ Outdoor Air, Centers for Disease Control and Prevention, <http://ephtracking.cdc.gov/showAirHealth.action> (last updated May 21, 2013).

³⁴ *Id.*

³⁵ Press Release, National Institute of Environmental Health Sciences, Elderly Have Higher Risk for Cardiovascular, Respiratory Disease From Fine Particle Pollution (Mar. 8, 2006), *available at* <http://www.nih.gov/news/pr/mar2006/niehs-08.htm> (referring to Francesca Dominici et al., Fine Particulate Air Pollution and Hospital Admissions for Cardiovascular and Respiratory Diseases, 295 J. of American Med. Ass’n 1127 (Mar.8, 2006)).

³⁶ Health Impacts of Fine Particles in Air, Centers for Disease Control and Prevention, <http://ephtracking.cdc.gov/showAirHIA.action> (last updated Dec. 17, 2013).

³⁷ San Francisco Planning Department, Addendum 3 to Environmental Impact Report 15 (Sept. 19, 2014), *available at* http://sfmea.sfplanning.org/2007.0946E_Add3.pdf *Id.* at 5.

³⁸ *Id.* at 12.

³⁹ *Id.* at 15.

⁴⁰ *Id.* at 12.

that implosion would generate; the extent to which different kind of PM would disperse under wind conditions relevant to where the stadium is located.

While the Addendum rests on the assumption that implosion-related dust would be addressed through dust mitigation measures,⁴¹ the Addendum itself contradicts that critical assumption when it acknowledges that, “[d]epending on wind velocity, the wind would disperse the remaining fine dust out over a larger area.”⁴² In other words, mitigation measures are not intended to address fine dust in windy conditions; and, even according to the limited analysis in the Addendum, if prevailing winds do not cooperate to push the PM out to the bay and beyond, PM will spread to residential areas. Dispersal of concrete dust is a given. Residents report that a wind tunnel in BVHP traps PM in the area because of its particular geography; and wind is known to be variable and intense in BVHP.⁴³

To put it simply, nothing will be done to prevent residents from breathing in dust beyond asking them to stay indoors if the winds do not cooperate. Asking residents to stay indoors at the time harmful PM is in the air cannot seriously be considered a mitigation measure.

This telling concession – that residents will be exposed – is troubling because the wind is “robust . . . at and around the stadium,”⁴⁴ and that means that residents will most likely be exposed to severe PM. Within a quarter mile of the Near the Candlestick Point portion of the Project are Bret Harte Elementary School, Gilman Playground, Candlestick Point State Park Recreation Area, Bayview Park, a day care center in the Alice Griffith housing development, and the Alice Griffith housing development.⁴⁵ Those familiar with BVHP like Marie Harrison at Greenaction also report that a childcare center operates on Hollister St. behind the elementary school, and an afterschool program uses the public park.

Of note, a published study concluded as follows: “The difficulties in protecting public health in the large downwind geographic area affected by implosion dust clouds suggest that implosions in metropolitan areas should be prohibited.”⁴⁶

In addition to conceding in essence that air quality impacts are likely to be significant, the Addendum fails to propose mitigation measures that are designed to reduce PM. The Addendum proposes that Lennar Urban obtain permits to comply with existing laws governing asbestos and construction dust. Compliance with existing laws is a given. It is not a mitigation measure. Moreover, those laws govern “visible dust” and asbestos and do not by their terms mitigate all PM, only visible PM. PM that is a public threat is invisible.

⁴¹ *Id.* at 14-15.

⁴² *Id.* at 14.

⁴³ *See, e.g.*, Memorandum from Monique Moyer, Executive Director, to Members of the San Francisco Port Commission (Jan. 18, 2013); FEIR, at III.G-2.

⁴⁴ Sequence of Operations & Comparison of Methodologies for the Demolition of Candlestick Park, Controlled Demolition Inc. 2 (May 16, 2014).

⁴⁵ Geosyntec Consultants, Inc., Asbestos Dust Mitigation and Fugitive Dust Control Plan 9 (Apr. 28, 2014).

⁴⁶ Dennis Stefani, Dennis Wardman, & Timothy Lambert, *The Implosion of the Calgary General Hospital: Ambient Air Quality Issues*, 55 *J. of the Air & Waste Mgmt. Ass’n* 52, 59 (Jan. 2005).

Aside from these concerns about the Addendum's faulty analysis and proposed mitigation measures, the community groups are concerned that the residents were not engaged in the decision-making process approving the implosion, despite strong advice from the air quality regulator responsible for this jurisdiction that residents be consulted. At a meeting between BAAQMD and Lennar Urban, BAAQMD staff advised Lennar "to concentrate on a robust and transparent community outreach," and "to fully explain the implosion plan to the community."⁴⁷ The public outreach program as described in Appendix B of the Addendum, however, falls far short of a robust, transparent program which fully explains the implosion to the community. That the communication strategy rejects group meetings because Lennar Urban wants to "avoid a 'herd mentality'" is wholly offensive to sincere questions and concerns that are many informed community members can have.

When the residents in the surrounding area are highly vulnerable to asthma, other respiratory diseases, and ischemic heart disease, all of which are associated with PM levels, the decision-makers have a particular responsibility to do an adequate analysis to ensure that the Project impacts are truly mitigated to the extent feasible; and if not, alternative means (such as mechanical demolition) are employed to ensure that impacts indeed remain less than significant.

IV. Next Steps

Some of the groups represented here met with the Planning Department on October 16, where we were promised information and were encouraged that productive discussions could occur. We have not been contacted further about having additional discussions; and we have not yet been provided responses to the request of October 23, as earlier mentioned. Instead, there have been newspaper reports about impending demolitions as well as reports that decisions about the implosion would be made in the spring.

We sincerely hope that the Planning Department does not simply revise the Addendum; and we additionally hope that such a document is not issued around the Thanksgiving holidays, giving the groups no time to have any productive discussions with Planning. We look forward to discussing these issues with you after we receive your response to our information request.

Sincerely,

/s/

Helen H. Kang

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Joseph Baskin*

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⁴⁷ Electronic Communication from Mark Luckhardt, Construction Manager, to John Marvin, Air Quality Program Manager, Bay Area Air Quality Management District, Candlestick Stadium Implosion Meeting Follow Up (Aug. 26, 2014).

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