Appendix H
Response to Comments

SECTION 1.0
Introduction

The National Environmental Policy Act (NEPA) requires the preparation of an Environmental Impact Statement (EIS) for major federal actions that may significantly affect the quality of the human environment. This Final EIS has been prepared by the City and County of San Francisco's Mayor's Office of Housing (MOH) in cooperation with the City and County of San Francisco through its Redevelopment Division as the Successor Agency to the San Francisco Redevelopment Agency (Successor Agency) for the Proposed Action, which is the approval of funding and development agreements by the U.S. Department of Housing and Urban Development (HUD) for the redevelopment of the 34-acre "Project Site" in the City of San Francisco, California. The Project Site includes the Alice Griffith public housing site owned by the San Francisco Housing Authority and three adjacent parcels owned by other entities. The Proposed Action would include the redevelopment of the Project Site with up to 1,200 new dwelling units, space for potential neighborhood serving retail development, open space, and associated infrastructure. MOH has been designated as the Responsible Entity by HUD for assumption of its NEPA authority and NEPA lead agency responsibility. Additional detail regarding the Project Site, Proposed Action and alternatives can be found in the Draft EIS.

This Final EIS has been prepared in accordance with NEPA (42 USC §4321 et seq.), the Council on Environmental Quality (CEQ) Regulations for Implementing NEPA (40 CFR Parts 1500-1508) and HUD regulations for Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities (24 CFR Part 58).

1.2 Overview of the NEPA Process

The Notice of Availability of the Draft EIS for the Alice Griffith Redevelopment Project was distributed to federal, state, and local agencies and other interested parties. The notice was published in the San Francisco Examiner on December 16, 2011 with a comment and review period ending on February 1, 2012. A notice was published in the San Francisco Examiner on January 22, 2012 extending the comment period to March 13, 2011. Notification of the filing of the Draft EIS with EPA and extension of the comment period was also published in the Federal Register on December 30, 2011 and February 3, 2012 respectively. Overall the review and comment period included approximately 88 days. The Draft EIS was made available to the public throughout the comment period and following the comment period at MOH's Office and on the MOH Notices website page.[1]

[1] Mayor's Office of Housing, 2011. Public Notices. Available online at: sf-moh.org/index.aspx?page=155.

1.3 Changes Following Publication of the Draft EIS

Section 2.0 of this Appendix H to the Final EIS addresses the comments on the Draft EIS and the responses of MOH to these comments. In some cases revisions were made to the text of the EIS. Comments note where revisions have been made to the text since the publication of the Draft EIS.

Since the release of the Draft EIS, the State Historic Preservation officer signed a Programmatic Agreement for redevelopment of the Project Site, which replaces **Appendix G**.

SECTION 2.0
Response to Comments

Seven letters were received by the Mayor's Office of Housing during the Draft EIS comment period as summarized in **Table 2-1**. Each comment letter is included within this section and is immediately followed by MOH's responses. The responses below note where changes have been made to the text of the Final EIS in underline (additions) and ~~strikeout~~ (deletions) format.

TABLE 2-1
DRAFT EIS COMMENT LETTERS

Comment Letter #	Agency/Organization	Signature	Date
1	Federal Emergency Management Agency	Gregor Blackburn	12/22/2011
2	U.S. Department of the Interior	Patricia Sanderson Port	02/10/2012
3	Bayview Hunters Point Citizens 4 Action	Diane Wesley Smith	03/08/2012
4	San Francisco Public Utilities Commission	Irina Torrey	03/12/2012
5	U.S. Environmental Protection Agency, Region IX	Ann McPherson for Kathleen Goforth	03/13/2012
6	Lippe Gaffney Wagner LLP, representing Arc Ecology	Cathy D. Lee	03/13/2012
7	Arc Ecology	Saul Bloom	03/13/2012

U.S. Department of Homeland Security
FEMA Region IX
1111 Broadway, Suite 1200
Oakland, CA. 94607-4052

FEMA

December 22, 2011

Eugene Flannery
Environmental Compliance Manager
Mayor's Office of Housing
1 South Van Ness Avenue, 5th Floor
San Francisco, California 94103

Dear Mr. Flannery:

This is in response to your request for comments on the Notice of Availability of Draft Environmental Impact Statement for the Alice Griffith Public Housing Redevelopment project in the City of San Francisco, California.

Please note that the City of San Francisco is a participant in the National Flood Insurance Program (NFIP), the Flood Insurance Rate Maps for the City are not yet effective. The City is using Preliminary Maps, however, to guide land use and development. The minimum, basic NFIP floodplain management building requirements are described in Vol. 44 Code of Federal Regulations (44 CFR), Sections 59 through 65.

A summary of these NFIP floodplain management building requirements are as follows:

1-1

- All buildings constructed within a riverine floodplain, (i.e., Flood Zones A, AO, AH, AE, and A1 through A30 as delineated on the FIRM), must be elevated so that the lowest floor is at or above the Base Flood Elevation level in accordance with the effective Flood Insurance Rate Map.

- If the area of construction is located within a Regulatory Floodway as delineated on the FIRM, any ***development*** must not increase base flood elevation levels. **The term *development* means any man-made change to improved or unimproved real estate, including but not limited to buildings, other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, and storage of equipment or materials.** A hydrologic and hydraulic analysis must be performed *prior* to the start of development, and must demonstrate that the development would not cause any rise in base flood levels. No rise is permitted within regulatory floodways.

- All buildings constructed within a coastal high hazard area, (any of the "V" Flood Zones as delineated on the FIRM), must be elevated on pilings and columns, so that the lowest horizontal structural member, (excluding the pilings and columns), is elevated to or above the base flood elevation level. In addition, the posts and pilings foundation and the structure attached thereto, is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components.

- Upon completion of any development that changes existing Special Flood Hazard Areas, the NFIP directs all participating communities to submit the appropriate hydrologic and hydraulic data to FEMA for a FIRM revision. In accordance with 44 CFR, Section 65.3, as soon as practicable, but not later than six months after such data becomes available, a community shall notify FEMA of the changes by submitting technical data for a flood map revision. To obtain copies of FEMA's Flood Map Revision Application Packages, please refer to the FEMA website at http://www.fema.gov/business/nfip/forms.shtm.

1-1 Con't

Please Note:

Many NFIP participating communities have adopted floodplain management building requirements which are more restrictive than the minimum federal standards described in 44 CFR. Please contact the local community's floodplain manager for more information on local floodplain management building requirements. The San Francisco City and County floodplain manager can be reached by calling Linda Yeung, Deputy City Administrator, at (415) 554-7127.

1-2

If you have any questions or concerns, please do not hesitate to call me at (510) 627-7186.

Sincerely,

Gregor Blackburn, CFM, Branch Chief
Floodplain Management and Insurance Branch

cc:
Linda Yeung, Deputy City Administrator, City and County of San Francisco
Ray Lee, WREA, State of California, Department of Water Resources, North Central Region Office
Gregor Blackburn, CFM, Branch Chief Floodplain Management and Insurance Branch, DHS/FEMA Region IX
Alessandro Amaglio, Environmental Officer, DHS/FEMA Region IX

Comment Letter 1 – Federal Emergency Management Agency

1-1 As discussed in **Section 3.10.3**, the Project Site is not located within a Special Flood Hazard Area (SFHA; area subject to flooding during a 100-year flood event) on either the Federal Emergency Management Agency (FEMA) preliminary Flood Insurance Rating Map (FIRM) or the City's Interim Floodplain Maps. The Project Site is located in Zone X of the FEMA preliminary FIRM, which is defined as areas outside of the 0.2% annual chance of flooding.[1] Zone X is not a riverine floodplain, regulatory floodway or coastal high hazard area and thus the National Flood Insurance Program floodplain management building requirements listed in the comment letter would not apply. While SFHAs have not been formally adopted, the Proposed Action and alternatives are not proposed to alter a proposed SFHA.

1-2 Comment noted. As the Project Site is not located within a floodplain it would not be subject to local floodplain management requirements.

[1] FEMA, 2007. Preliminary FIRM Map Number 06075C0235A, dated September 21, 2007.

United States Department of the Interior

OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
Pacific Southwest Region
333 Bush Street, Suite 515
San Francisco, CA 94104

IN REPLY REFER TO:
(ER 11/1189)

Filed Electronically

10 February 2012

Eugene Flannery
Environmental Compliance Manager
Mayor's Office of Housing
1 South Van Ness Avenue, 5th Floor
San Francisco, CA 94103

Subject: Notice of Availability of a Draft Environmental Impact Statement (DEIS), Housing and Urban Development (HUD) Alice Griffith Redevelopment Project, Redevelopment of the #4-Arce "Project Site" for 1,200 New Dwelling Units, Retail Development, Open Space and Associated Infrastructure, City and County of San Francisco, CA

Dear Mr. Flannery:

The Department of the Interior has received and reviewed the subject document and has no comments to offer.

Thank you for the opportunity to review this project.

Sincerely,

Patricia Sanderson Port
Regional Environmental Officer

cc:
Director, OEPC

Comment Letter 2 – U.S. Department of the Interior

The letter states that no comments are offered and is noted.

SUMMARY OF DRAFT ALICE GRIFFITH REDEVELOPMENT PROJECT
By Bayview Hunters Point Citizens 4 Action!

CRITCAL REVIEW OF THE DRAFT ENVIRONMENTAL IMPACT STUDY (EIS) FOR ALICE GRIFFITH REDEVELOPMENT PROJECT

As community leaders it is our responsibility to point out that the Draft EIS falls short of its task to develop an Environmental Impact Statement that addresses how major federal actions significantly affect the quality of the human environment in the Alice Griffith housing project.

CRITICAL ISSUES OVERLOOKED IN DRAFT EIS

ES.1 –Paragraph #3 = The (APN 4884-27) cited in the (EIS) as being owned by the San Francisco Redevelopment Agency (SFRA) does not specify the funding as being from the Low Moderate Income Housing Fund (LMIHF) that has to be used in a specific way mandated by Section 33334.16 of the California Redevelopment Law – Health Safety Code (CRL-HSC). That would have an impact on the housing environment for the residents in the Alice Griffith Redevelopment Project which relates to affordable housing for the extremely low and very low income residents in the developed area.

1.3.2 Planning Background; pg. 1-7, paragraph 1 in the (EIR) does not address the requirement mandated in the (CRL-HSC) for affordable housing related to the long term impact on the housing environment for the extremely low and very low income residents of Alice Griffith project, such as:

1) Sec. 33413 Replacement and inclusionary requirements.
2) Sec. 33334.3 Affordability covenants and notice of affordability restrictions.
3) Sec. 33418 Monitoring of the affordable housing update annually.

3-1

There are no clear provisions to allow current residents to live in a mixed housing community because there are no clear plans for genuine employment of residents. Currently only 61 are employed out of over 600 residents.

3-2

One-for-one unit replacement does not address the right of the original tenant to return to their home.

No clear definition of “eligible” resident’s right to return.

3-3

No Mitigation Measures for:

1. Air Pollutants
2. Fugitive Dust Emissions from construction.
3. Carbon monoxide concentrations during operations.
4. Exposure to odor emissions.
5. Potential release of hazardous materials during routine; use, storage, transport or disposal.

3-4

6. Background noise levels or increase in noise levels.
7. Displacement and return of existing residents.
8. Reduced neighborhood access.
9. Effect on water supply.
10. Access to police, fire protection or emergency services.
11. Effect on students/parents access to school.
12. Impact on pedestrian and bicyclists' right-of-way.
13. Intersection traffic impacts.
14. Run-off drainage – modification of site drainage pattern.
15. Flooding risks.
16. Resident parking.
17. Slope failure.
18. Toxic air contaminants.

3-4 Con't

HOUSING GOAL

To establish Genuine Employment for the current residents in order they may participate in the rebuilding of Alice Griffith. One-for-one replacement for current residents as the criteria, not one-for-one replacement based on income level; this does not guarantee current residents right to return.

Alice Griffith housing residents have the opportunity to move into the new, upgraded units without having to relocate to any other area.

The terms "targeted income levels" with reference to one-for-one unit replacement; and "eligible" to return to Alice Griffith reflect a lack of commitment and sensitivity toward current residents.

3-5

C ONCLUSION

There is a real lack of citizen participation. This is reflected in the lack of attention to the effect this major federal action will significantly affect the quality of the human environment. Further, issues that have failed to be addressed calls for a series of meetings with all stakeholders, especially the residents whose needs have failed to be addressed in all significant areas of the human quality of life in the Alice Griffith Housing Project.

As community leaders, we call for a meeting immediately to develop a comprehensive Draft Environmental Impact Statement (DEIS), that will truly address the impact on the residents of Alice Griffith and their right to Genuine Employment opportunities, housing for low and very low income and improved quality of life.

3-6

COORDINATION AND LIST OF PREPARES

ORGANIZATIONS

1. **Bayview Hunters Point Citizens 4 Action!**
2. **BVHP Real Estate Professionals**

Mail correspondence to : Diane Wesley Smith, MBA
6283 Third Street
San Francisco, CA 94124

Email: bvhprealtors@comcast.net

Cc: Mayor's Office of Housing
Eugene Flannery, Environmental Compliance Manager

San Francisco CAC

Supervisor Malia Cohen

Comment Letter 3 – Bayview Hunters Point Citizens 4 Action

3-1 The comment is noted. Executive Summary paragraph 3 is a physical description of the Project Site and not a discussion of the California Redevelopment Law. In addition, the Proposed Action and alternatives are in compliance with all applicable sections of the California Redevelopment Law. Redevelopment of the Project Site would be consistent with the cited regulations in the California Health and Safety Code. Compliance with these regulations would not alter the physical environment for residents beyond what was discussed in the Draft EIS. As required by Section 33413, under all development alternatives there would be one-for-one replacement of existing housing. Development would be phased so that residents would transition from existing units to newly development units at the Project Site. As required by Section 33418 annual monitoring of affordable housing units at Alice Griffith would continue.

3-2 The provisions which allow existing tenants to remain at Alice Griffith and to transfer to the new Alice Griffith public housing are found in the San Francisco Housing Authority's (SFHA's) Admissions and Continued Occupancy Policy (ACOP) document[2] and the terms of the tenants' lease.

The SFHA ACOP has been adopted pursuant to Housing and Urban Development regulations at 24 CFR Part 906 Subpart C, which require the adoption of admission and occupancy policies by public housing authorities. Section 10.1 of the ACOP specifies that residents in good standing (i.e. without outstanding lease violations) are eligible for transfer. All households are recertified annually and must meet the criteria for continued occupancy found in Section 11.3 of the ACOP.[3]

The terms of the lease for existing tenants are regulated by 24 CFR Part 966. The lease shall have a twelve month term and be automatically renewed for the same period with limited exceptions. Exceptions can be found in 24 CFR Part 966 and the ACOP Section 12 Lease Termination Procedures. Section 12.3 of the ACOP specifies that SFHA may terminate the tenancy only for serious or repeated violation of material terms of the lease, such as, failure to make payments, failure to fulfill household obligations and other good cause.

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[2] SFHA, 2011. Admissions and Continued Occupancy Policy, revised June 2011.

[3] Section 11.3 of the ACOP states "Households that meet the following criteria will be eligible for continued occupancy:

1) Qualify as a family as defined in section 15 of this policy.
2) Are in full compliance with the resident obligations and responsibilities as described in the *Residential Lease Agreement and Contract.*
3) All family members, age 6 and older, each have Social Security numbers or have certifications on file indicating they have no Social Security number. (See Section 2.3 and Appendix A.)
4) All members receiving housing assistance are citizens or have eligible immigration status or a mixed family (having at least one family member that has citizenship or eligible immigration status). Every member of a resident family has submitted either a signed declaration of citizenship or evidence eligible immigration status as required by or a certification of non-contending status. (see Appendix A.) **[24 CFR 5.508 b.]**"

Regarding plans for employment of residents, HOPE SF in partnership with other agencies offers multiple job training and employment opportunities, including CityBuild Academy, Reconnecting All through Multiple Pathways (RAMP) and Jobs Now.[4]

3-3 See Response to Comment 3-2 regarding eligibility and continued occupancy and transfer procedures.

3-4 The commenter states that there are no mitigation measures for 18 specific issues. The Draft EIS included analysis of the 18 issues with respect to stated significance criteria. For 16 of the issues listed within the comment, the effects were determined to be less than significant or regulatory mechanisms are in place to ensure that the effects would be less than significant; thus, no mitigation was needed for these issue areas. For two of the issues listed within the comment, drainage and toxic air contaminants, specific mitigation was included in the Draft EIS to further reduce impacts to a less-than-significant level.

1. Air Pollutants: The evaluation of air pollutants is fully described in **Section 4.2** of the Draft EIS, Impacts 2.1, 2.2, and 2.6. In summary, an air quality assessment of construction and operation emissions from the Proposed Action and alternatives was conducted and emissions were compared to federal and local thresholds for air pollutants. The Proposed Action and alternatives would not exceed the federal general conformity analysis thresholds for applicable criteria pollutants or Bay Area Air Quality Management District (BAAQMD) thresholds for criteria pollutants and PM2.5 concentrations. As there were no exceedances of the established thresholds, impacts were determined to be less than significant and no mitigation was needed.

2. Fugitive Dust Emissions from Construction: The evaluation of fugitive dust emissions is fully described in **Section 4.2** of the Draft EIS, Impact 2.3. The City's Dust Control Ordinance requires implementation of a dust control plan and specific BMPs which would reduce the generation of fugitive dust under the Proposed Action or alternatives to a less-than-significant level. No mitigation was needed. The potential for disturbance of soils containing naturally occurring asbestos is discussed in **Section 4.3**, Impact 3.1. The Final EIS adds Mitigation Measure 3.3b requiring preparation of an Asbestos Dust Mitigation Plan, if naturally occurring asbestos is determined to be present. Response to Comment 6-18 discusses Mitigation Measure 3.3b further.

3. Carbon Monoxide Concentrations during Operations – The evaluation of carbon monoxide during operation is fully described in **Section 4.2** of the Draft EIS, Impact 2.4. Concentrations of carbon monoxide were calculated at the intersection of Gilman Avenue and Arelious Walker Drive, the intersection nearest to the Project Site where the greatest change in traffic levels is expected, and thus the greatest increase in carbon monoxide concentrations. As there was no exceedance of the established BAAQMD threshold for carbon monoxide, impacts were determined to be less than significant and no mitigation

[4] Hope SF, 2012. Work: Job Training information. Available online at: http://hope-sf.org/job-training.php, accessed August 5, 2012.

was needed.

4. Exposure to Odor Emissions – As discussed in Impact 2.7, no significant odors during construction or operation are anticipated and thus impacts related to this issue would be less than significant. No mitigation was needed.

5. Potential Release of Hazardous Materials During Routine Use, Storage, Transport or Disposal – The evaluation of this issue is fully described in **Section 4.3** of the Draft EIS, Impact 3.4. The regulatory discussion regarding this issue has been expanded in the Final EIS and is summarized in the following text. There are strict federal regulations in place for transportation of hazardous materials (Hazardous Materials Transportation Act, 49 U.S.C. § 5101 et seq.) which require transporters to register annually and prepare an emergency response plan. At the state-level, the California Department of Toxic Substances Control has adopted extensive regulations governing the generation, transportation, treatment, and disposal of hazardous wastes. The state requirements for hazardous waste management are specified in the California Health and Safety Code, Chapter 6.5, Article 2. See Response to Comment 6-14 regarding the site-specific Health and Safety Plan which must be prepared to protect workers from exposure to potential hazards pursuant to federal and state regulations. The San Francisco Department of Public Health Hazardous Materials Unified Program Agency (HMUPA) enforces Cal/EPA regulations under the Unified Hazardous Waste and Hazardous Materials Management Regulatory Program (Unified Program). The risk management and prevention program element of the Unified Program is referred to as the California Accidental Release Prevention ("CalARP") program. CalARP is intended to prevent the catastrophic release of hazardous substances that could cause immediate harm to the public and environment, and applies to any business in possession of more than a threshold quantity of regulated hazardous materials. Compliance requirements with the program include preparation of a Risk Management Plan, which is a highly technical engineering study that includes safety information, hazard review, operating procedures, training, maintenance, compliance audits, and incident investigation. At the local level, SFDPH administers the Program under Chapters 6.11 and 6.95 of the Health and Safety Code and San Francisco Health Code Article 21A. As there is an existing regulatory system that effectively reduces the risk of potential releases from entities which routinely use, store, transport and/or dispose of hazardous materials, and requires emergency response plans in the event of an accidental release, the impact of the Proposed Action and alternatives are anticipated to be less than significant. No additional mitigation was needed.

6. Background Noise Levels or Increase in Noise Levels – Impacts to noise levels during construction and operation were fully evaluated in Draft EIS **Section 4.5**, Impacts 5.1 through 5.3. As construction noise has the potential to exceed the daytime noise standard, Mitigation Measure 5.2 was included to reduce these effects. After construction the analysis compared increased noise levels to applicable federal criteria. The Proposed Action and alternatives would not exceed the federal criteria and thus the impact was

determined to be less than significant. No additional mitigation was needed.

7. Displacement and Return of Existing Residents – As discussed in Draft EIS Chapter 2.0, Project Description and **Section 4.6**, Impact 6.1, redevelopment of the Project Site would proceed in phases so that it would not displace existing residents. Thus the impact was determined to be less than significant and no mitigation was needed.

8. Reduced Neighborhood Access – As described in Draft EIS **Section 4.6**, Impact 6.2, the Proposed Action and alternatives would result in improved neighborhood access which is a beneficial impact, thus no mitigation was needed.

9. Effect on Water Supply – Impacts to public water supply were fully evaluated in Draft EIS **Section 4.8**, Impact 8.1. As the Proposed Action and alternatives would not exceed the existing or proposed capacity of public water service providers, this impact was determined to be less than significant. Under drought conditions the Retail Water Shortage Allocation Plan would provide adequate water supplies for anticipated demand. No mitigation was needed.

10. Access to Police, Fire Protection or Emergency Services – Impacts to these services were fully evaluated in Draft EIS **Section 4.8**, Impacts 8.5 and 8.6. As the Proposed Action and alternatives would not exceed the existing or proposed capacity of public service providers or result in the need for new/expanded facilities, this impact was determined to be less than significant. No mitigation was needed.

11. Effect on Students/Parents Access to School – Impacts to these public schools were fully evaluated in Draft EIS **Section 4.8**, Impact 8.7. New development, such as the Proposed Action, is required to pay school impact development fees which would go directly to the SFUSD to fund staffing and facilities and reduce the impacts of new development. Given the payment of school fees and the capacity within nearby schools, impacts to schools would be less than significant. No mitigation was needed.

12. Impact on Pedestrian and Bicyclists' Right-of-Way – Impacts to pedestrian and bicycle access were fully evaluated in Draft EIS **Section 4.11**, Impacts 11.4. The Proposed Action and alternatives would provide pedestrian and bicycle improvements which connect to the off-site travel network. As the Proposed Action and alternatives would not interfere with pedestrian or bicyclist access this impact was determined to be less than significant. No mitigation was needed.

13. Intersection Traffic Impacts – Impacts to intersection traffic were fully evaluated in Draft EIS **Section 4.11**, Impact 11.1. With the addition of traffic from the Proposed Action and alternatives, intersections would continue to operate at acceptable levels based on the local significance criteria applied throughout San Francisco. Thus, the impacts were considered less than significant and no mitigation was needed.

14. Run-off Drainage, Modification of Site Drainage Pattern – Impacts to surface water

quality from runoff drainage and modification of site drainage patterns were fully evaluated in Draft EIS **Section 4.10**, Impacts 10.1 and 10.3, respectively.

During construction activities, the potential for degradation of water quality was considered a significant and adverse impact. Implementation of Mitigation Measure 10.1a, 10.1b and 10.1c include development of Stormwater Pollution Prevention Plans and a stormwater control plan for the Project Site. The regulatory discussion for regulations related to stormwater treatment has been expanded in the Final EIS. The existing regulatory system in addition to the specific mitigation measures would effectively reduce the risk of impact of construction on surface water quality.

After construction, stormwater would be treated on the Project Site in compliance with the City's stormwater regulations and guidelines and diverted to a municipal separate system. The discussion of these regulations and guidelines has been expanded in the Final EIS. The existing regulatory requirements would effectively reduce the risk of impacts post-construction on surface water quality. No mitigation was needed.

Regarding modification of site drainage patterns, the Proposed Action and alternatives would not result in modifications to the predominant drainage pattern or affect natural watercourses; thus, this impact was considered less than significant and no mitigation was needed.

15. Flooding Risks – As described in Draft EIS **Section 3.10**, Impact 10.4 in **Section 4.10**; and Response to Comment 1-1, the Project Site is not located in a Special Flood Hazard Area (subject to inundation during a 100-year flood). Flooding risks were thus determined to be less than significant. No mitigation was needed.

16. Resident Parking – As described in Draft EIS **Section 4.11**, Impact 11.5, the Proposed Action and alternatives provide over one parking space per household. As the Proposed Action and alternative would not result in a parking deficiency this impact was determined to be less than significant. No mitigation was needed.

17. Slope Failure – Impacts related to slope failure were fully evaluated in Draft EIS **Section 4.12**, Impact 12.4. The Project Site does not contain slopes identified as susceptible to seismically-induced landslides based on California Division of Mines and Geology Seismic Hazard Zone maps. As the Proposed Action and alternatives would not expose people or structure to substantial threat of injury or damage from slope failure, this impact was determined to be less than significant. No mitigation was needed. It should be noted that for other seismic impacts, mitigation (Mitigation Measures 12.1a, 12.2a through 12.2c) includes a site-specific geotechnical report that will evaluate the suitability of the site with respect to ground-shaking and soils at the design level.

18. Toxic air contaminants (TACs) – Exposure to health risks including TACs was included in Draft EIS **Section 4.2**, Impact 2.5.

For construction, the air quality assessment estimated emissions from all phases of proposed construction. The chronic non-cancer hazard index would not exceed the BAAQMD threshold; however, the lifetime cancer risk (assuming a 70-year lifetime) for the maximally exposed individual on the Project Site would be 20 in a million, which exceeds the BAAQMD threshold of 10 in a million and therefore impacts were determined to be significant and adverse. Mitigation Measure 2.5 was included and would minimize health risks associated with construction activities by requiring that construction equipment used at the Project Site shall meet EPA Tier 2 standards[5] outfitted with CARB Level 3 Verified Diesel Emission Control Strategies[6] for particulate matter control (or equivalent) for the duration of construction. Emissions were estimated with the use of this mitigation, and implementation of this mitigation would reduce the lifetime cancer risk below the BAAQMD threshold.

For operation, the air quality assessment used BAAQMD screening criteria and significant thresholds to evaluate impacts. The level of traffic on roadways within 1,000 feet of the Project Site is below BAAQMD screening criteria requiring additional evaluation. Permitted stationary sources within 1,000 feet of the Project Site do not exceed the BAAQMD cancer risk and hazard index thresholds. As the Proposed Action and alternative would not expose sensitive receptors to pollutants above the applicable thresholds, this impact was determined to be less than significant. No mitigation was needed.

3-5 See Response to Comment 3-2 regarding eligibility and continued occupancy and transfer policies for existing residents, in addition to discussion of employment and job training opportunities available to existing residents.

3-6 Citizen participation throughout the NEPA process was discussed in Draft EIS **Section 1.5**, Overview of the NEPA Process, and Draft EIS **Section 3.7.3**, Outreach to Low-Income and Minority Communities. Existing Alice Griffith residents, neighbors within 500 feet, Bayview Hunters Point community organizations, news publications, regulatory agencies and other interested parties and organizations were sent notices regarding public meetings and comment periods for scoping and the Draft EIS. Prior to the start of the NEPA process, citizen participation was conducted for the Candlestick Point – Hunters Point Phase II Project (hereafter referred to as the CP-HPS Project) as described in Draft EIS **Section 1.3.2**, Planning Background.

The Draft EIS addressed the environmental impacts on the existing residents of Alice Griffith. The "right" to employment, affordable housing and improved quality of life as discussed by the commenter is not a NEPA issue; however, the physical effects on the human environment related to employment, housing and quality of life are relevant. The Draft EIS discussed physical effects to employment and housing in **Section 4.6**. The

5 EPA Final Rule, Control of Emissions of Air Pollution From Nonroad Diesel Engines, 40 CFR Parts 9, 86, and 89. Published in the Federal Register (Vol. 63, No. 205) on October 23, 1998.

6 CARB, Summary of Verified Diesel Emission Control Strategies. Available online at: http://www.arb.ca.gov/diesel/verdev/vt/cvt.htm, accessed August 27, 2012.

combination of various physical, environmental factors can affect quality of life, for example adverse aesthetics, pollution, traffic, and noise impacts can reduce quality of life. These issues were considered with respect to the existing residents throughout Chapter 4.0 of the Draft EIS.

San Francisco Water Power Sewer
Services of the San Francisco Public Utilities Commission

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March 12, 2012

Submitted by Electronic Mail

Eugene T. Flannery, Environmental Compliance Manager
Mayor's Office of Housing
1 South Van Ness Avenue, 5th Floor
San Francisco, CA 94103

Subject: Draft Environmental Impact Statement for the Alice Griffith Public Housing Redevelopment Project, San Francisco, CA

Dear Mr. Flannery:

Thank you for the opportunity to review and comment on the Draft Environmental Impact Statement (EIS) for the Alice Griffith Public Housing Redevelopment Project. The San Francisco Public Utilities Commission (SFPUC) staff have reviewed the document and submit the following comments.

Executive Summary, page ES-3. The following revision is suggested (deletion shown in ~~strikeout~~, addition shown with underline): 4-1

> Infrastructure improvements associated with the Proposed Action would include on-site stormwater ~~treatment~~ management facilities such as vegetated swales and rainwater cisterns….

Proposed Development - Wastewater, Section 2.2.2, page 2-5. The following comment is provided: 4-2

> Project design should consider the adjacent combined system and the potential for combined system overflows reaching the project proposed separated sewer system, where additional regulatory and public health concerns could be created. The project design may benefit from a flow barrier or similar flow control feature between the adjacent combined system and proposed separated sewer system.

Proposed Development - Green Building Concepts, Section 2.2.2, page 2-8, last bullet. The following revision is suggested (additions shown with underline): 4-3

> Progressive management to detain, retain, and/or treat stormwater on-site or in adjacent areas.

Proposed Development - Green Building Concepts, Section 2.2.2, page 2-8, 12th bullet. The following general comment is provided:

> The Draft EIS states, "Following the 2007 LEED Neighborhood Development Pilot Program rating system, the Proposed Action would incorporate strategies, including….efficient use of water and the potential use of recycled water for non-potable uses such, as irrigation, toilet flushing, and vehicle washing." There is no further discussion of the use of recycled water as part of the project. The Draft EIS should note whether this development will be dual-plumbed for future use of recycled water.

4-4

Water, Section 3.8.1, page 3.8-1. The following comment is provided:

> The Draft EIS states, "The Project Site does not currently have access to a recycled water system." Although this is presently the case, the SFPUC is working with the CP-HPS Task Force and the development team on planning for recycled water implementation, and it is assumed that recycled water will be supplied and used at the development. The SFPUC has included CP-HPS recycled water demands provided by the developer in support of planning activities for the Eastside Recycled Water Project. The developer has prepared a recycled water master plan document titled "Recycled Water Master Plan for the Candlestick Point Development - Winzler & Kelly, December 11, 2009".

4-5

Wastewater, Section 3.8.2, and Surface Hydrology and Drainage, Section 3.10.1. The following comment is provided:

> The limits of the proposed Alice Griffith Redevelopment Project are currently within the combined storm sewer system with exception of a small portion of the project area which is routed to the separate sewer system. The SFPUC understands that the Candlestick Point-Hunters Point Shipyard (CP-HPS) development, including the Alice Griffith project area, includes the proposed routing of stormwater runoff to a new separate storm management system with outfall to San Francisco Bay. The SFPUC is analyzing the benefits and challenges associated with future operation of separate storm water management systems adjacent to combined storm sewer system areas. One potential outcome of this analysis may be suggested requirements for areas within the current combined storm sewer system to remain part of the combined system. The SFPUC, in the development of this analysis, will involve and inform stakeholders, such as the public, applicable agencies, and other entities.

4-6

Energy, Section 3.8.4, page 3.8-4. The following comments are provided:

> The Draft EIS states that Pacific Gas and Electric Co. (PG&E) provides electricity to the project site and vicinity. The electricity for Alice Griffith housing complex is provided by the SFPUC almost entirely from hydro-electric facilities on the Hetch Hetchy system, and delivered to the site by PG&E under the terms of an interconnection agreement between the SFPUC and PG&E.
>
> In addition, pursuant to a memorandum of understanding, the SFPUC provides operation and maintenance (O&M) and emergency services for the power distribution system owned by the San Francisco Housing Authority within the existing Alice Griffith Housing Development. The street lights at the location are owned and maintained by the SFPUC.

4-7

Air Quality, Section 4.2, Regulatory Context – Local, page 4.2-3. The following comment is provided:

> Non-potable water must be used for soil compaction and dust control activities during project construction as required by CCSF Ordinance 175-91. The SFPUC operates a recycled water truck-fill station at the Southeast Water Pollution Control Plant that provides recycled water for these activities at no charge. For more information please contact (415) 695-7358.

4-8

Alternative A – Proposed Action, Section 4.4.2.2, page 4.4-5. The following revision is suggested (deletion shown in ~~strikeout~~, addition shown with <u>underline</u>):

> Additionally, the Proposed Action would be implemented consistent with the sustainability requirements in the Infrastructure Plan and Sustainability Plan, which would include, among others, provisions for low impact stormwater ~~treatment~~ <u>management</u> measures.…

4-9

Regulatory Context - Water, Section 4.8.2, page 4.8-1. The following comment is provided:

> The Draft EIS notes the Urban Water Management Plan which was issued in 2005. The Urban Water Management Plan which was issued in June 2011 can be located at the follow web address: http://sfwater.org/Modules/ShowDocument.aspx?documentID=1055

4-10

Regulatory Context - Water, Section 4.8.2, page 4.8-1, and Alternative A – Proposed Action, Section 4.8.3.2, page 4.8-4. The following comment is provided:

> Current water supply and demand information is summarized and presented in Draft Environmental Impact Report for the 34th America's Cup, pages 5.12-1 to -3 (http://sfmea.sfplanning.org/2010.0493E_ DEIR2.pdf).

4-11

Regulatory Context - Energy, Section 4.8.2, page 4.8-2. The following comments are provided:

> Relevant elements from San Francisco Administrative Code, Chapter 99, should be noted. Chapter 99 states, "the City should consider the feasibility of supplying electricity to all new City developments, including, without limitation, military base reuse projects, redevelopment projects and other City projects." In addition to noting the need for the required feasibility analysis, the Draft EIS should identify the project's anticipated consistency with the requirement.

4-12

> The following text is presented in this section of the Draft EIS, "The California Public Utilities Commission regulates electric and gas service providers throughout the state." The CPUC regulates investor-owned utilities, such as PG&E, but does not regulate municipal or publicly-owned utilities, such as SFPUC. Please update the text accordingly.

4-13

Alternative A – Proposed Action, Section 4.8.3.2, page 4.8-5. The following revision is suggested (deletion shown in ~~strikeout~~, addition shown with underline):

> Parks and open space water use was excluded from this number as it is primarily associated with irrigation which would either percolate into the ground or flow to the ~~separate~~ adjacent stormwater system.

4-14

Alternative B – Housing Replacement Alternative, Section 4.8.3.3, page 4.8-12. The following revision is suggested (deletion shown in ~~strikeout~~, addition shown with underline):

> Parks and open space water use was excluded from this number as it is primarily associated with irrigation which would either percolate into the ground or flow to the ~~separate~~ adjacent stormwater system.

4-15

Alternative C – Reduced Development Alternative, Section 4.8.3.4, page 4.8-14. The following revision is suggested (deletion shown in ~~strikeout~~, addition shown with underline):

> Parks and open space water use was excluded from this number as it is primarily associated with irrigation which would either percolate into the ground or flow to the ~~separate~~ adjacent stormwater system.

4-16

Regulatory Context, Section 4.10.1, page 4.10-3. The following revision is suggested (deletions shown in ~~strikeout~~, additions shown with underline):

> These guidelines apply to all developments greater than 5,000 square feet and are subject to the policies in the city's ~~Green Building~~Stormwater Management Ordinance.

4-17

Regulatory Context, Section 4.10.1, page 4.10-3. The following revision is suggested (deletions shown in ~~strikeout~~, additions shown with underline):

> The guidelines require project applicants to prepare a stormwater control plan that demonstrates how the project will ~~capture and treat rainfall depth and intensity, using both volume and flow-based BMPs~~will manage rainfall according to SFPUC stormwater requirements.

4-18

Alternative A – Proposed Action, Section 4.10.2.2, page 4.10-4. The following revision is suggested (deletion shown in ~~strikeout~~, addition shown with underline):

> Development of stormwater ~~treatment~~management systems in compliance with the City's stormwater regulations and guidelines would minimize impacts after construction of the development.

4-19

Alternative A – Proposed Action, Section 4.10.2.2, page 4.10-5. The following revision is suggested (deletions shown in ~~strikeout~~):

> Stormwater would be routed to either the combined sewer stormwater system or a municipal separate system, depending on the location and phase of construction~~, as all stormwater would eventually be diverted to a separate system~~.

4-20

Climate Change, Section 5.2.1, page 5-2. The following comment is provided:

> In follow-up to the comment provided above under Energy – Section 3.8.4, SFPUC power is largely generated at hydro-electric facilities, thus minimizing generation of greenhouse gases (GHG). The Draft EIS analysis does not indicate whether the power source for the

4-21

proposed project will remain as in the baseline or alternate supply is proposed with a resulting change in GHG emissions.

4-21 Con't

Public Services and Utilities - Energy (Criterion 4), Section 5.2.8, page 5-14. The following comment is provided:

> The Draft EIS states, "Energy is provided on a first-come, first served basis and energy providers are continuing to increase supplies in coordination with the growth projections of local jurisdictions throughout California." Please note that energy providers are considered default providers and must provide service to all customers in a non-discriminatory manner. While energy providers are increasing and changing their resource portfolios to meet the projected demands of energy, existing customers are served in the same manner as new customers. Please update the text accordingly.

4-22

Appendix B - Design for Development Document, Section E – Roofs, Solar Energy, page 126, and Section G – Sustainable Features, Solar Ready, page 140. The following comment is provided:

> As briefly outlined in this appendix to the Draft EIS, the proposed action presents an opportunity for integrating solar photovoltaic (PV) into the project at the most cost effective stage: during initial construction (as opposed to after completion). Rooftop PV can supply energy to both the common load areas of the development, and to individual metered accounts of the housing tenants.

4-23

Appendix B - Design for Development Document, Streetscape – Street Lighting, Section 4.5.1, page 154. The following comment is provided:

> In the chapter, “Land Use, Design Standards and Guidelines”, the following guidance is proposed, " Elements and furnishings such as… lighting are encouraged to be customized". Under the City Administrative Code provisions adopted in 1939, the SFPUC was given the responsibility to "determine the intensity of illumination, number and spacing of lighting facilities and other details necessary to secure satisfactory street lighting" (Admin. Code Section 25.6.). Subsequent code provisions required the Director of Public Works, in approving plans for new street openings and improvements to "include provisions satisfactory to the SFPUC” (Admin. Code Section 25.2). Under a charter amendment adopted in November 2002, the SFPUC was granted "exclusive charge of the construction, management, supervision, maintenance, extension, expansion, operation, use and control of all water, clean water and energy supplies and utilities of the City..." (Charter 8B.121.). It is expected that the SFPUC would own and

4-24

maintain the street lights at the location of the proposed project. The SFPUC is currently developing a street light and pedestrian light catalog, which aims to control the aesthetics, light quality and color, long-term maintenance, and energy efficiency of future street light and pedestrian light fixtures, by defining a standard palette of street and pedestrian lights. The SFPUC strongly discourages customizing street and pedestrian lights as it increases the SFPUC's maintenance costs and creates difficulties with storage and provision of spare parts and poles. Approval from SFPUC Commission would be required for adoption of any new customized street light plan.

4-24 Con't

The SFPUC appreciates the opportunity to comment on the Draft EIS for the Alice Griffith Public Housing Redevelopment Project. If you have questions regarding our comments, please contact Craig Freeman at 415-934-5740.

Sincerely,

Irina Torrey, AICP, Manager
SFPUC Bureau of Environmental Management

Comment Letter 4 – San Francisco Public Utilities Commission

4-1 Substitution of the word "management" for "~~treatment~~" is made as requested.

4-2 The commenter correctly states that the Proposed Action would include separated sanitary sewer and storm drain systems. Separating sewer and stormwater systems will reduce the potential for combined sewer overflow (CSO) events.[7] The Draft EIS (Page 4.8-6) states that due to the low volume of flows from the Proposed Action and the additional capacity from diversion of Project Site storm water from the combined sewer system, *the Proposed Action is not anticipated to contribute to a violation of current wastewater treatment and discharge requirements.* This conclusion is supported by the cumulative analysis performed for the CP-HPS Project Final EIR by Hydroconsultant Engineers.[8] Hydroconsultant Engineers determined that future sanitary sewer flows from Candlestick Point to the City's combined sewer system would increase slightly, by 0.518 mgd, as a result of the new development; however, due to the removal of approximately 108-acres of stormwater runoff from the combined sewer system, the proposed separated wastewater and storm water systems will result in a substantial *decrease* in CSO volume, frequency, and duration, in the Yosemite Basin (CP-HPS Project Final EIR, page III.Q-31).

In the vicinity of the Project Site, the combined stormwater and sanitary system lies under Gilman Avenue between Hawes Street and Arelious Walker Drive, and connects to the combined sewer system under Arelious Walker Drive that runs to the Yosemite Slough before turning west toward Hawes Street. The outfall serving this combined system is located near the northern end of Hawes Street and drains to Yosemite Slough. The combined system is not expected to breach the surface of Gilman Avenue, or Arelious Walker Drive within the Project Site during a combined sewer overflow event (CSO), creating potential regulatory and health concerns, because these streets are approximately five to six feet above Hawes Street and the CSO outfall. Any overflow volume in the combined system will exit through the CSO outfall before day-lighting at the surface of Arelious Walker Drive and/or Gilman Streets. Therefore, the CSO will not be able to enter into the separate storm water system constructed by the Proposed Action or alternatives.[9]

It is possible that a temporary increase in CSO volume could occur during wet weather if Project Site structures are occupied and contribute wastewater prior to completion of

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7 Combined sewer overflows (CSOs) are discharges of untreated sewage and storm water from municipal sewer systems or treatment plants when the volume of wastewater exceeds the system's capacity due to periods of heavy rainfall.

8 San Francisco Redevelopment Agency and City and County of San Francisco Planning Department, Candlestick Point–Hunters Point Shipyard Phase II Development Plan Project Final Environmental Impact Report, certified on June 3, 2010, Appendix Q 3 Hydroconsultant Engineers Hydrologic Modeling To Determine Potential Water Quality Impacts dated October 19, 2009. The Final EIR is hereafter referred to in footnotes as the CP-HPS Project Final EIR.

9 BKF Engineers, 2012. Letter to Therese Brekke (Lennar Urban) from Todd Adair (BKF Engineers), June 25, 2012.

the Project Site's separated storm water and wastewater infrastructure. To reduce this potential impact to less than significant, the CP-HPS Project Final EIR includes Mitigation Measure MM UT-3a:

> *MM UT-3a Wet-Weather Wastewater Handling. Prior to approval of the Project's wastewater infrastructure construction documents for any new development, the Project Applicant shall demonstrate to the San Francisco Public Utilities Commission (SF PUC), in writing, that there will be no net increase in wastewater discharges during wet –weather conditions from within the Project Area Boundary to the Bayside System compared to pre-Project Discharges. This may be accomplished through a variety of means, including but not limited to:*
>
> - *Temporary on-site retention or detention of flows to the system*
> - *Separation of all or a portion of the storm water and wastewater systems at Candlestick Point*

To further clarify the proposed separated stormwater and sanitary system, Final EIS, page 2-5, has been refined as follows:

Wastewater

> "… The Proposed Action would include a separated sanitary sewer system, which would convey wastewater by gravity flow to the ~~Gilman Avenue~~ Arelious Walker Drive combined sewer, which flows to the Southeast Water Pollution Control Plant."

Drainage

> "… On-site treatment would handle most of the stormwater generated by typical precipitation (0.20 inches/hour) ~~1.17-year storm~~. Examples of on-site treatment are vegetated swales, flow-through planter boxes, permeable pavement, green rooftops, and rainwater cisterns. Treatment for the street right of ways and other public spaces ~~Larger rainfall events, up to a five-year storm,~~ would be handled within the rights-of-way of ~~every~~ streets in the Project Site. Examples of these stormwater treatment facilities are vegetated buffer strips, flow-through planter boxes, bioretention facilities, pervious surfaces, and subsurface detention vaults. Bioretention basins would also be constructed in parks and open space~~. Most stormwater runoff from up to a five-year storm would be treated before it enters the drains, allowing the system to discharge directly to San Francisco Bay without further management.~~ Larger rainfall events, up to a five year storm, would be conveyed through the new stormwater pipe network out to the bay. Stormwater from storms larger than five year events may ~~storms would~~ be routed to the bay by overland flow along a network of street gutters and roadways. The overland flow stormwater system would fully contain a 100-year storm."

4-3 The last bullet point of Green Building Concepts, **Section 2.2.2** on page 2-8 of the Final EIS, is revised to read:

> "Progressive management to detain, retain, and/or treat stormwater onsite or in adjacent areas."

4-4 Dual plumbing for indoor use is not proposed. To clarify, the 12th bullet point of **Section 2.2.2**, page 2-8 of the Final EIS, is revised to read:

> "Efficient use of water and the potential use of recycled water for non-potable uses such, as irrigation, ~~toilet flushing~~ and vehicle washing; and…"

The Proposed Action and alternatives include dual plumbing to support the use of recycled water for outdoor use. Dual plumbing is "… to be charged with low-pressure water unless and until the SFPUC provides water to the Project site, (the timing of which shall be at the SFPUC's sole discretion)…"[10]

Footnote 3 has been added to Table 4.8-1, Page 4.8-5 of the Final EIS:

> "The Proposed Action Water Demand includes the use of potable water for outdoor uses including irrigation. A recycled water system to serve outdoor uses is included in the Proposed Action. However, since the City currently does not have an operational recycled water source, the Proposed Action recycled water system will be supplied by the City's potable water distribution system until a recycled water supply is developed by the City."

4-5 Comment noted. No response is required.

4-6 The Project Applicant will construct sewer and stormwater systems in accordance with the sewer and stormwater systems defined in the CP-HPS Phase 2 Development Infrastructure Plan, approved by the SFPUC on June 8, 2010 (Resolution No. 10-0092), and approved by the Board of Supervisors August 3, 2010 (Ordinance Nos. 210 and 211-10).

4-7 Energy **Section 3.8.4**, page 3.8-4 of the Final EIS is revised as follows:

> "Electricity to the Project Site is provided by the SFPUC, almost entirely from hydro-electric facilities on the Hetch Hetchy system, and delivered to the Project Site by Pacific Gas & Electric (PG&E) under the terms of an interconnection agreement between SFPUC and PG&E. ~~Pacific Gas & Electric (PG&E) provides electricity to the Project Site and vicinity.~~ The electrical distribution and transmission lines are overhead in this area. The Project Site and vicinity are

[10] San Francisco Public Utilities Commission, 2010. Consent to Infrastructure Plan and ICA [Interagency Cooperation Agreement], San Francisco Public Utilities Commission Resolution No. 10-0092, approved June 8, 2010.

connected via a 12 kilovolt (kV) electrical connection to the PG&E grid.

Pursuant to a memorandum of understanding, the SFPUC provides operation and maintenance (O&M) and emergency services for the power distribution system owned by the San Francisco Housing Authority within the existing Alice Griffith Housing Development. The street lights at the site are owned and maintained by SFPUC."

4-8 The following is added as a fourth paragraph to Water **Section 4.8.2**, Page 4.8-1 of the Final EIS:

"City Ordinance 175-91 requires the use of non-potable water for soil compaction and dust control activities during construction activities. The SFPUC operates a water-truck fill station at the Southeast Water Pollution Control Plant to supply non-potable water."

4-9 Substitution of the word "management" for "treatment" in this statement is declined. In this statement, stormwater "treatment" is made in specific reference to low impact development and other sustainable design features. Further, Draft EIS Mitigation Measure 10.1c: Regulatory Stormwater Requirements [Final EIR Mitigation Measure MM HY6a.1] reads in part, "In accordance with the San Francisco Stormwater Design Guidelines, the project sponsor shall submit a stormwater control plan to the SFPUC, as part of the development application submitted for approval. The plan shall demonstrate how the following measures would be incorporated into the project: Low impact development site design principles (e.g., preserving natural drainage channels and treating stormwater runoff at its source rather than in downstream centralized controls) …"

4-10 Regulatory Context, Water, **Section 4.8.2**, Page 4.8-1 of the Final EIS (last sentence of first paragraph) is revised to read:

"San Francisco Public Utilities Commission (SFPUC) prepared and adopted the ~~current~~ 2010 Urban Water Management Plan (UWMP) in ~~December 2005~~ June 2011."[11]

Section 4.8.3.2, Alternative A-Proposed Action on page 4.8-5 of the Final EIS (first sentence of the first full paragraph) is revised to read:

"Future retail demands are estimated in the Water Supply Availability Study (WSAS) developed by SFPUC in 2009[4], the most recent retail water demand figures available at the time the Draft EIS was prepared. [2] ~~which updates the Urban Water Management Plan (last updated in 2005).~~ Demand estimates include ~~1) more current population and employment estimates and 2)~~ major development

[11] SFPUC, *2010 Urban Water Management Plan for the City and County of San Francisco*, June 2011.

proposals in San Francisco, based on information provided by project proponents, including Lennar Urban for the Proposed Action. The total retail demand estimates in the WSAS, including the Proposed Action, were estimated at 91.81 for 2010, 91.69 for 2015, 91.87 for 2025 and 93.42 for 2030."[5]

Footnote 4 in the above paragraph is revised to read:

"Ibid. Appendix D."

Footnote 5 in the above paragraph is revised to read:

"~~Ibid. Appendix D.~~ The 2010 UWMP reports that 2010 water demand was 77.7 mgd. Retail demand is estimated to increase to 80.7 mgd in 2015 and 80.9 mgd in 2035. SFPUC, *2010 Urban Water Management Plan for the City and County of San Francisco*, p.67, June 2011."

Water demand estimates have changed since the preparation of the Draft EIS; however, the conclusions in the analysis remain correct. Impacts are less than significant. The 2010 UWMP reports that 2010 water demand was 77.7 mgd. Retail demand is estimated to increase to 80.7 mgd in 2015 and 80.9 mgd in 2035. Since the preparation of the 2009 Water Supply Assessment, the SFPUC updated key assumptions, resulting in *lower* projected water demands. Updated assumptions include population and employment forecasts from the Bay Area Association of Governments, water savings from conservation measures and new technologies, and reduced irrigation demands from the City. Based on the most recent forecast, the SFPUC can still meet the current and future demand in years of average or above-average precipitation. However, during a multiple-dry-year event, it is possible that the SFPUC would not be able to meet 100 percent of demand and would therefore have to impose reductions on its supply. Under the Water Shortage Allocation Plan, retail allocations would be reduced to 98.1 percent of normal year supply during a prolonged drought.

4-11 Comment noted. The cited reference was reviewed and found consistent with the Response to Comment 4-10.

4-12 Energy **Section 4.8.2**, Page 4.8-2 of the Final EIS is revised as follows:

"The California Public Utilities Commission regulates investor-owned electric and gas service providers throughout the state but does not regulate municipal or publicly owned utilities, such as SFPUC. The SFPUC prepared a study confirming the feasibility of providing electric service to Hunters Point Shipyard in accordance with San Francisco Administrative Code, Chapter 99. Prior to the approval of the first Major Phase application for the Proposed Action, this study shall be updated and include the Project Site, and, at the request of the SFPUC,

include an analysis of the feasibility of providing natural gas to the Project Site.[1]"

The following footnote reference is added for the paragraph above:

"Interagency Cooperation Agreement (Candlestick Point and Phase 2 of the Hunters Point Shipyard), SFPUC Resolution No. 10-0092, Approved June 8, 2010."

4-13 See Response to Comment 4-12.

4-14 As discussed in Response to Comment 4-6, the Project Applicant will construct sewer and stormwater systems in accordance with the sewer and stormwater systems defined in the CP-HPS Phase 2 Development Infrastructure Plan, which is consistent with the EIS reference to a "separate stormwater system". Therefore, substitution of the word "adjacent" for the word "separate" is not warranted.

4-15 See Response to Comment 4-14. Substitution of the word "adjacent" for the word "separate" is not warranted.

4-16 See Response to Comment 4-14. Substitution of the word "adjacent" for the word "separate" is not warranted.

4-17 A revision is made to Regulatory Context, San Francisco Stormwater Guidelines, **Section 4.10.1**, Page 4.10-8 of the Final EIS:

"These guidelines apply to all developments greater than 5,000 square feet and are subject to the policies in the City's ~~Green Building~~ Stormwater Management Ordinance.[4]"

Footnote 4 at the end of the above sentence has been added to the Final EIS with the following text:

City and County of San Francisco Ordinance No. 83-10, Requiring the Development and Maintenance of Stormwater Management Controls, effective May 22, 2010.

4-18 A revision is made to Regulatory Context, San Francisco Stormwater Guidelines, **Section 4.10.1**, Page 4.10-8 of the Final EIS:

"The guidelines require project applicants to prepare a stormwater control plan that demonstrates how the project will ~~capture and treat rainfall depth and intensity, using both volume and flow-based BMPs~~ manage rainfall according to SFPUC stormwater requirements.

4-19 Inclusion of the word "management" has been made to Alternative A, Proposed

Action, **Section 4.10.2.2**, page 4.10-11 in the Final EIS. The statement now reads:

> "Development of stormwater <u>management and</u> treatment systems in compliance with the City's stormwater regulations and guidelines would minimize impacts after construction of the development."

4-20 Suggestion to strike the phrase, "as all stormwater would eventually be diverted to a separate system" is declined. See Response to Comment 4-6.

4-21 The Proposed Action and alternatives do not propose to change the power supply. In addition, see Response to Comment 4-7.

4-22 A revision is made to the 2nd sentence in the third paragraph under Energy, **Section 5.2.8** of the Final EIS:

> "Energy ~~is provided on a first-come, first served basis and energy~~ providers are continuing to increase supplies in coordination with the growth projections of local jurisdictions throughout California."

4-23 The comment on Appendix B, Design for Development is noted. This is not a direct comment on the environmental issues or the content or adequacy of the Draft EIS.

4-24 The comment on Appendix B, Design for Development is noted. This is not a direct comment on the environmental issues or the content or adequacy of the Draft EIS.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

March 13, 2012

Eugene Flannery
Environmental Compliance Manager
Mayor's Office of Housing
1 South Van Ness Avenue, 5th Floor
San Francisco, CA 94103

Subject: Draft Environmental Impact Statement for the Alice Griffith Redevelopment Project, San Francisco, California (CEQ #20110430)

Dear Mr. Flannery:

The Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act.

We commend the Mayor's Office of Housing for seeking to improve housing conditions for low-income residents, and to improve interconnectedness with the surrounding community and encourage retail and recreational opportunities for residents. We have rated this Draft Environmental Impact Statement (DEIS) as LO, *Lack of Objections*. Please see the attached *Summary of EPA Rating Definitions* for a description of our rating system.

We support the following features of the proposed action, as described in the DEIS:

- Onsite stormwater treatment facilities such as vegetate swales and rainwater cisterns;
- Green building features, such as energy-efficient lighting, daylighting, and natural ventilation; and
- Mitigation to minimize health risks associated with construction emissions.

We appreciate the opportunity to review the DEIS. When the Final EIS is released for public review, please send one CD copy to the address above (mail code: CED-2). If you have any questions, please contact Carolyn Mulvihill, the lead reviewer for this project, at 415-947-3554 or mulvihill.carolyn@epa.gov.

Sincerely,

Ann McPherson for

Kathleen Martyn Goforth, Manager
Environmental Review Office

SUMMARY OF EPA RATING DEFINITIONS*

This rating system was developed as a means to summarize the U.S. Environmental Protection Agency's (EPA) level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the Environmental Impact Statement (EIS).

ENVIRONMENTAL IMPACT OF THE ACTION

"LO" (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

"EO" (Environmental Objections)

The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

ADEQUACY OF THE IMPACT STATEMENT

"Category 1" (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

"Category 2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

"Category 3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640, Policy and Procedures for the Review of Federal Actions Impacting the Environment.

Comment Letter 5 – U.S. Environmental Protection Agency, Region IX

The comment letter notes that EPA has rated the Draft EIS as LO, Lack of Objections. The EPA EIS rating system defines the LO rating applicable to projects where "EPA review has not identified any potentially environmental impacts requiring substantive changes to the proposal." This comment letter is noted.

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Thomas N. Lippe
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Cathy D. Lee

FACSIMILE TRANSMISSION

Date: March 13, 2012

From: Cathy Lee

To: Mr. Eugene T. Flannery **Fax Number:** (415) 701-5501

Re: Alice Griffith

NUMBER OF PAGES INCLUDING THIS SHEET: 17

Comments: Comments of Arc Ecology regarding Draft Environmental Impact Statement - Alice Griffith Redevelopment Project (without Exhibit).

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Via Facsimile, E-Mail and U.S. Mail

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Re: Comments of Arc Ecology regarding Draft Environmental Impact Statement - Alice Griffith Redevelopment Project

Dear Mr. Flannery:

This office represents Arc Ecology with respect to the proposed Alice Griffith Redevelopment Project ("Project"). Arc Ecology is a non-profit, public interest organization with the goal of an environmentally sustainable, socially just society. I am writing on Arc Ecology's behalf to comment on the proposed Draft Environmental Impact Statement ("DEIS") for the Project. The comments reflect Arc Ecology's concerns regarding the DEIS's compliance with the National Environmental Policy Act ("NEPA").

I. Summary of Comments

For the reasons explained further below, Arc Ecology requests that the Mayor's Office of Housing revise the DEIS prior to considering the proposed Project. The DEIS suffers from a number of fundamental deficiencies:

The DEIS fails to adequately describe the affected environment, or environmental setting, of the Project. 6-1

The DEIS fails to adequately discuss the direct and indirect impacts of the Project.

The DEIS fails to take the requisite hard look at the proposed mitigation measures. The DEIS discussion of mitigation measures is flawed in the following sections: (1) Mitigation Measure 2.5 (Implement Accelerated Emission Control Device Installation on Construction Equipment used for Alice Griffith Parcels); (2) Mitigation Measure 3.1a (Article 22A Site Mitigation Plan); (3) Mitigation Measure 3.1b (Unknown Contaminant Contingency Plan); 4) Mitigation Measure 3.1c (Site Specific Health & Safety Plans); (5) Mitigation Measure 3.3 (Asbestos Identification and Abatement Mitigation); (6) Mitigation Measure 10.1a (Stormwater Pollution Prevention Plan); (7)

Mitigation Measure 10.1b (Stormwater Pollution Prevention Plan: Separate Storm Sewer System); and (8) Mitigation Measures 12.2a, 12.2b, 12.2c (Site-Specific Geotechnical Investigations).

The analysis of the cumulative impacts is also inadequate. Although there are two contaminated sites slated for remediation near the Project Site with the potential to impact the environment, the DEIS entirely ignores them in its cumulative impacts analyses without any explanation. Additionally, the DEIS fails to provide quantified or detailed information about the possible effects of the Project in combination with other proposed projects, including the CP-HPS Project and the Executive Park development. The following sections of the DEIS fail to adequately analyze cumulative impacts: (1) Climate Change; (2) Fugitive Dust Emissions for Construction (Criterion 3); (3) Exposure to Hazardous Fill Material (Criterion 1); (4) Proximity to a Potentially Hazardous Site (Criterion 2); (5) Release of Hazardous Substances (Criterion 3), (6) Potential Release of Hazardous Materials During Routine Use, Storage, Transport, and Disposal (Criterion 4); (7) Local Standards for Construction Noise (Criterion 2); (8) Hydrology, Flooding and Water Quality; (9) Destabilization of Geologic Conditions (Criterion 3); (10) Substantial Adverse Effect on Special Status Species and Other Legally Protected Species (Criterion 1). 6-1 Con't

II. The DEIS Fails to Adequately Describe the Environmental Settings of the Project.

As an initial matter, NEPA requires an EIS to "describe the environment of the area(s) to be affected or created by the alternatives under consideration." 40 C.F.R. § 1502.15. The depth of the discussion must be commensurate with the importance of the impacts of the alternatives on various aspects of the environment. *Id.* "Environment" is interpreted comprehensively to include both the natural and physical environment as well as the relationship of humans to the environment. *Id.* at § 1508.14. 6-2

The "Affected Environment" Section of the DEIS purports to describe the environmental setting of the area affected by the Project. *See* DEIS Section 3.0. However, the Section fails to provide sufficient description of the potential hazards in and around the Project Site. First, the DEIS recognizes that the Project Site has been filled more than once and the source of the fill is unknown. DEIS at pg. 3.3-1. The DEIS then admits that the Project Site has historically been used for various industrial purposes, is in proximity to a landfill, and is located only 0.41 mile south of the Bayview Plume Study Area, where elevated concentrations of a variety of hazardous substances (tetrachloroethene, benzene, ethylbenzene, toluene, and xylene) have been found. *Id.* at pgs. 3.3-1 - 3.3-2. The substances found in the Bayview Plume Study Area are very water soluble and commonly known to migrate beyond the area of original release. *Id.* Based on these the historical uses of the Project Site, the DEIS recognizes the potential health hazards that can occur through soil gas vapor intrusion into structures that lie above the plume. *Id.* 6-3

Despite the high likelihood of the presence of hazardous materials in and near the Project Site and a general acknowledgment that this poses a potential health risk for construction workers, residents in the Project Site, and people in the surrounding area, the DEIS fails to sufficiently detail or otherwise quantify these hazards and risks. The DEIS feigns ignorance of the quantity and the 6-4

type of hazardous materials that could be present at the Project Site, which is a crucial preliminary step in assessing (1) the extent of potential health risks to people in and around the Project Site and (2) what kind of mitigation measures could effectively address those risks. A site investigation to characterize the fill material and the "unknown contaminant which may occur" will not even be conducted after the DEIS is approved. *Id.* at pgs. 4.3-8 - 4.3-9. In sum, the description of the affected environment lacks sufficient depth to enable the DEIS to meaningfully assess the direct and indirect impacts, mitigation measures, and the cumulative impacts of the Project. 6-4 Con't

III. The DEIS Fails to Adequately Discuss Direct and Indirect Impacts of the Project.

NEPA regulations require an EIS to "provide a full and fair discussion of significant environmental impacts" of the proposed action, as well as each alternative. 40 C.F.R. §§ 1502.1, 1502.14, 1502.16(d). In addition to cumulative impacts, this discussion must address the direct and indirect impacts of the project. 40 C.F.R. § 1502.16(a), (b). "Direct effects" are those which are immediately caused by the action; indirect effects are those which will be caused by the action at a later time, but which are nevertheless reasonably foreseeable. 40 C.F.R. § 1508.8. The discussion of environmental impacts must satisfy a "rule of reason" which requires a "reasonably thorough" discussion of impacts and mitigation measures. *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 352 (1989). 6-5

Hazardous fill materials likely to be found on the site. (*See* DEIS pg. 4.3-5; *see also* Exhibit to Griffith DEIS comments submitted herewith.) By omitting any characterization of the likely fill materials from the DEIS, the DEIS violates NEPA's requirement that Project direct and indirect impacts be discussed fully and with reasonable thoroughness. 6-6

IV. The DEIS Fails to Take the Requisite Hard Look at Proposed Mitigation Measures.

The DEIS fails to adequately discuss mitigation measures proposed to address the significant, adverse environmental impacts from the Project.

A. Applicable Law

NEPA requires that an agency take a "hard look" at mitigation measures which may offset any adverse environmental consequences of an agency's proposed action. See 40 C.F.R. § 1502.16. The agency must utilize the EIS to discuss such mitigation measures "in sufficient detail to ensure there has been a fair evaluation" of the consequences. *Robertson*, 490 U.S. at 352. An agency's compliance with this NEPA requirement is also analyzed under the "rule of reason" standard. *California v. Block*, 690 F.2d 753, 761 (9th Cir.1982). This standard of review "inquires whether an EIS contains a 'reasonably thorough discussion of the significant aspects of the probable environmental consequences.'" *Id.* 6-7

The level of detail required in each EIS depends on the objectives and scope of the proposed action. *Aberdeen & Rockfish R.R. Co. v. Students Challenging Regulatory Agency Procedures*, 422

U.S. 289, 322 (1975). Although the standard for evaluating the requisite "hard look" scope is fact-specific, the Ninth Circuit has established some bright-line rules. Most importantly, the EIS must provide easily-accessible detailed information about probable environmental consequences and potential mitigation measures. *Block,* 690 F.2d at 761. This information must be conveyed within the EIS in plain language so that the general public can "readily understand" the effects of the proposed plan. 40 C.F.R. § 1502.8.

6-7 Con't

The EIS cannot merely assert a perfunctory description of mitigating measures. *Neighbors of Cuddy Mountain v. U.S. Forest Service,* 137 F.3d 1372 at 1380. "A mere listing of mitigation measures is insufficient to qualify as the reasoned discussion required by NEPA." *Id.* (quoting *Northwest Indian Cemetery Protective Ass'n v. Peterson,* 795 F.2d 688, 697 (9th Cir.1986)). Rather, mitigation measures must be detailed with enough specificity to "ensure that environmental consequences have been fairly evaluated." *Carmel–By–the–Sea v. U.S. Dep't of Transp.*, 123 F.3d 1142, 1154 (9th Cir.1997).

Even though an agency need not actually mitigate the identified harms, it must perform some assessment of whether the mitigation measures would be effective. *Id.* at 727 ("An essential component of a reasonably complete mitigation discussion is an assessment of whether the proposed mitigation measures can be effective."). This assessment must include "an estimate of how effective mitigation measures would be if adopted" or a "reasoned explanation as to why such an estimate is not possible." *Neighbors of Cuddy Mountain,* 137 F.3d at 1381. The EIS must also provide supporting analytical data discussing the effectiveness of the relevant mitigation measure. See *Sierra Club v. Bosworth,* 510 F.3d 1016, 1027 (9th Cir.2007).

B. The DEIS Fails to Take a Hard Look at the Proposed Mitigation Measures.

The following mitigation measures fail to comply with NEPA's standards by failing to analyze the mitigation measures in sufficient detail and to assess how effective the proposed mitigation measures would be if adopted.

1. Mitigation Measure 2.5
Implement Accelerated Emission Control Device Installation on Construction Equipment used for Alice Griffith Parcels, DEIS at pg. 4.2-12.

6-8

The DEIS acknowledges that emissions during the construction phase of the Project would have significant and adverse impacts on air quality and human health. DEIS at pgs. 4.2-8 - 4.2-9. To address these impacts, the DEIS proposes Mitigation Measure 2.5 which requires that construction equipment used in the Alice Griffith Parcels of the Project to meet the EPA Tier 4 engine standards for particular matter control or an equivalent throughout the duration of construction activities on those parcels. *Id.* at pg. 4.2-12.

The DEIS, however, is devoid of any assessment as to *whether and to what extent* Mitigation Measure 2.5 will effectively decrease emission impacts during Project construction. The DEIS

concludes - without adequate analysis - that the implementation of Mitigation Measure 2.5 would render the emissions impacts less than significant. *Id.* at pgs. 4.3-8 – 4.3-9. Such analysis is not only required by NEPA, but was also specifically requested by the EPA. Appendix A of DEIS, at pg. 2-3. In its written comments for the EIS scoping process, the EPA stated that the DEIS must include an estimate of air quality benefits from each measure proposed to mitigate emissions. *Id.* In sum, the DEIS should have analyzed how effectively the use of EPA Tier 4 engine standard-compliant equipment will reduce the significant, adverse impacts of the Project on public health and the environment. 6-8 Con't

2. Mitigation Measure 3.1a
Article 22A Site Mitigation Plan, DEIS at pgs. 4.3-5, 4.3-8.

As discussed in the previous section on environmental setting, there is a high likelihood that the fill material underneath and around the Project Site contains hazardous materials. Based on the existing hazards at the Project Site, the DEIS concludes that the impacts to the health and the environment are significant and adverse. See Impacts 3.1, 3.2, 3.3 of the DEIS at pgs. 4-3.5 - 4-3.7. However, Mitigation Measure 3.1a defers preparation of a site mitigation plan until after the DEIS is approved. *Id.* at pg. 4.3-8. Therefore, the DEIS fails to take a hard look at Mitigation Measure 3.1a. 6-9

Furthermore, the DEIS fails to assess *whether and to what extent* the proposed mitigation measure will effectively offset the potential health risks of the hazards looming at the Project Site. In lieu of providing supporting analytical data discussing the effectiveness of this measure, the DEIS concludes - without adequate analysis - that the implementation of Mitigation Measure 3.1a would reduce the potential impacts of Impacts 3.1 and 3.2. *Id.* at pg. 4.3-5 - 4.3-6. In sum, the DEIS fails to provide any analysis as to how effectively the proposed site investigation and site mitigation plan will reduce the significant, adverse impacts of the Project on public health and the environment. 6-10

3. Mitigation Measure 3.1b
Unknown Contaminant Contingency Plan, DEIS at pgs. 4.3-8, 4.3-9.

Mitigation Measure 3.1b is deficient for similar reasons as Mitigation Measure 3.1a. In an attempt to counter the health risks from the unknown contaminants at or near the Project Site, Mitigation Measure 3.1b requires the project sponsor, prior to obtaining a building permit, to prepare a contingency plan to address unknown contaminants encountered in development. DEIS at pgs. 4.3-8 - 4.3-9. However, rather than taking a hard look at the type and quantity of these "unknown" contaminants, the DEIS turns a blind eye until after EIS certification. 6-11

As noted earlier, there is a high likelihood that hazardous materials in and near the Project Site. The DEIS acknowledges the potential health risks for construction workers, residents in the Project Site, and people in the surrounding area. *Id.* at pgs. 4.3-5 – 4.3-7. In spite of this acknowledgment, the DEIS fails to sufficiently detail or otherwise quantify these hazards and risks. Similar to Mitigation Measure 3.1a, these crucial steps are deferred until the DEIS is approved. 6-12

Thus, the DEIS is devoid of any mitigation plan to address these likely and significant impacts. 6-12 Con't

The DEIS also fails to assess *whether and to what extent* the proposed Measure 3.1b will effectively offset the potential health risks of the hazards looming at the Project Site. Instead of providing supporting analytical data discussing the effectiveness of this measure, the DEIS concludes summarily that the implementation of Mitigation Measure 3.1b would reduce the potential impacts of Impact 3.1. DEIS at pgs. 4.3-5 – 4.3-6. Therefore, the DEIS fails to provide any analysis as to how effectively the proposed contingency plan will reduce the significant and adverse impacts of the Project on public health and the environment. 6-13

4. Mitigation Measure 3.1c
Site Specific Health & Safety Plan, DEIS at pgs. 4.3-5, 4.3-6, 4.3-9.

The DEIS also fails to take a hard look at Mitigation Measure 3.1c, which requires the project sponsor to prepare and submit a Site-Specific Health and Safety Plan to the San Francisco Department of Public Health ("SFDPH"). DEIS at pgs. 4.3-8 - 4.3-9. Further, the DEIS states that the Health & Safety Plan will be in compliance with applicable federal and state OSHA requirements and other applicable laws, but fails to detail what federal, state and other laws will guide compliance. 6-14

This is not the "hard look" required by NEPA. Despite the high likelihood that hazardous materials are present in and near the Project Site and the acknowledgment of potential health risks for construction workers, residents in the Project Site, and people in the surrounding area, Mitigation Measure 3.1c contains insufficient detail to ensure that adverse environmental consequences have been fairly evaluated. The DEIS merely provides a perfunctory description of a site specific health and safety plan, which is not even required to be prepared until an unspecified, later date. There is a complete absence of a mitigation plan in the DEIS. 6-15

Additionally, the DEIS fails to assess how the proposed mitigation measure can be effective. In lieu of providing supporting analytical data discussing the effectiveness of this measure, it concludes without adequate analysis that implementation of Mitigation Measure 3.1c would reduce the potential impacts of Impacts 3.1 and 3.3. *Id.* at pg. 4.3-5 – 4.3-7. In sum, the DEIS fails to provide any analysis as to how effectively the Site-Specific Health and Safety Plan will reduce the significant and adverse impacts of the Project on public health and the environment. 6-16

5. Mitigation Measure 3.3
Asbestos Identification and Abatement Mitigation,
DEIS at pgs. 4.3-6, 4.3-7, 4.3-9.

Impact 3.3 recognizes the potential health risks to construction workers, residents on the Project Site and people in the surrounding area from asbestos, LBP and PCBs which could be released during construction. DEIS at pg. 4.3-6. In an attempt to counter such risks, Mitigation Measure 3.3 requires, among others, that Bay Area Air Quality Management District ("BAAQMD") be notified 10 days in advance of any proposed demolition or abatement work and sets forth the required notification details. *Id.* at pg. 4.3-9. 6-17

However, the DEIS fails to take a hard look at Mitigation Measure 3.3. According to the Phase I Environmental Site Assessment, lead-based paint and asbestos containing materials occur at the Project Site. *Id.* at pg. 3.3-2 - 3.3-3. Despite this recognized risk, Mitigation Measure 3.3 contains insufficient details to ensure that environmental consequences have been fairly evaluated by the DEIS. The DEIS merely provides a perfunctory description of how the mitigation of asbestos will be carried out during construction. The DEIS does not detail what measures would be included in the asbestos dust mitigation plan ("ADMP") or what "specific dust control measures" would be implemented during the construction period. *Id.* at 4.3-7, 4.3-9. The mitigation plan is not required to be prepared until after DEIS approval. There is a complete absence of a mitigation plan in the DEIS. 6-18

Additionally, the DEIS fails to assess the effectiveness of the proposed measure in mitigating the significant health risks to the residents of Alice Griffith housing, construction workers, and people in the surrounding areas. Rather than providing supporting analytical data discussing the effectiveness of this measure, the DEIS concludes – without adequate analysis – that implementation of Mitigation Measure 3.3 would reduce the significant and adverse impacts of asbestos. *Id.* at pg. 4.3-6 – 4.3-7. In sum, the DEIS fails to provide any analysis as to how effectively the proposed mitigation measure will reduce the significant and adverse impacts of the Project on public health and the environment. 6-19

6. Mitigation Measure 10.1a
Stormwater Pollution Prevention Plan, DEIS at pgs. 4.10-6.

The DEIS recognizes that the lower bay of San Francisco Bay has been identified as an impaired water body by the State Water Resources Control Board (SWRCB) under various statutes including the Clean Water Act. DEIS at pg. 3.10-3. More specifically, Candlestick Cove, off Candlestick Point near the Project Site, has been identified as an impaired water body for indicator bacteria. *Id.*

Under Impact 10.1, the DEIS admits that the construction and development activities at the Project Site could lead to degradation of water quality from stormwater coming into contact with contaminated areas, which could then be transported off-site, thereby contaminating other water sources. *Id.* at 4.10-4. Under Impact 10.2, the DEIS also recognizes that the construction and development could result in the accidental release of potentially hazardous materials that could contaminate surface water sources, which could spread to groundwater through percolation. *Id.* at 4.10-4, 4.10-5. The DEIS then concludes that these impacts on surface water quality are significant and adverse. *Id.* 6-20

To address Impacts 10.1 and 10.2, Mitigation Measure 10.1a requires the project sponsor to submit a site-specific Stormwater Pollution Prevention Plan ("SWPPP") which incorporates certain BMPs. *Id.* at pgs. 4.10-6 - 4.10-7. However, the DEIS fails to take a hard look at Mitigation Measure 10.1a as it merely provides a perfunctory description of a SWPPP and BMPs to be prepared at a later

time. Thus, there is a complete absence of a mitigation plan in the DEIS.[1]

Additionally, the DEIS fails to assess *whether and to what extent* Mitigation Measure 10.1a can be effective. Instead of providing supporting analytical data, the DEIS concludes that the implementation of the SWPPP and BMPs will "minimize" or "reduce " impacts. *Id.* at pgs. 4.10-4, 4.10-6, 4.10-7. Thus, the DEIS fails to provide any analysis as to how effectively the SWPPP and BMPs will minimize or reduce the significant, adverse impacts to the already-impaired surface waters.

6-20 Con't

7. **Mitigation Measure 10.1b**
Stormwater Pollution Prevention Plan: Separate Storm Sewer System
DEIS at pgs. 4.10-7 - 4.10-10.

Mitigation Measure 10.1b is deficient for the same reasons that Mitigation Measure 10.1a is. As discussed in the preceding section on Mitigation Measure 10.1a, the DEIS concludes that the impacts of the Project on surface water quality are significant and adverse. *Id.* at 4.10-4, 4.10-5. In addressing these impacts, Mitigation Measure 10.1b requires the project sponsor to prepare, at a later date, a project-specific SWPPP and implement measures in the plan. *Id.* at pg. 4.10-7. The DEIS only provides a list of potential measures, but makes not attempt to suggest which measures would be appropriate for this Project to reduce impacts to insignificant. Thus, there is a complete absence of a mitigation plan in the DEIS.

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The DEIS recognizes that the affected environment, which includes the lower bay of San Francisco and Candlestick Cove, has been identified as an impaired water body under various statutory frameworks, primarily the Clean Water Act. *Id.* at pg. 3.10-3. Despite the recognition of the significant and adverse impacts on the currently impaired water body, Mitigation Measure 10.1b merely provides a perfunctory description of a project-specific SWPPP to be prepared after EIS approval.

Further, the DEIS fails to assess whether and to what extent the mitigation measure can be effective. Instead of providing supporting analytical data discussing the effectiveness of this measure, it merely concludes that the implementation of the project-specific SWPPP and BMPs will "minimize" or "reduce" the significant and adverse impacts. DEIS at pgs. 4.10-4, 4.10-7 – 4.10-10. Thus, the DEIS fails to provide any analysis as to how effectively the SWPPP and BMPs will

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[1] The absence of a detailed analysis of this mitigation is particularly troublesome because contaminated stormwater will be transported off-site (as noted above) and either (1) directed to the Southeast Water Pollution Control Plant which only provides secondary treatment and thereafter discharged to San Francisco Bay and/or Islais Creek (DEIS pg. 3-8.2), or, in the event of an average once a year overflow, will be discharged through CSOs to Candlestick Cove and/or Yosemite Slough (DEIS p. 3-8.2) – thus further contaminating the site which is undergoing a CERCLA remediation process.

minimize or reduce the significant and adverse impacts to the already-impaired surface waters. 6-21 Con't

8. Mitigation Measures 12.2a, 12.2b, 12.2c Site-Specific Geotechnical Investigations, DEIS at pgs. 4.12-7 - 4.12-9.

The DEIS admits that the Project Site is highly susceptible to liquefaction, requiring mitigation under Public Resource Code section 2693, subd. (c). DEIS at pg. 3.12-1 and Figure 3.12-3. Due to the geological vulnerability of the Project Site, the Project is expected to have significant and adverse impacts on the people who reside in and around the Project Site. These impacts include ground shaking, soil suitability issues, destabilization of geological conditions, and soil erosion. *Id.* at pgs. 4.12-1 - 4.12-4. 6-22

In an attempt to address these significant, adverse impacts, Mitigation Measures 12.2a, 12.2b and 12.2c require the applicant, at an unspecified time prior to obtaining a building permit, to prepare site-specific geotechnical investigations with analyses of liquefaction, lateral spreading and/or settlement, expansive soil analyses, and corrosive soils analyses. *Id.* at pgs. 4.12-7 - 9. Under all three measures, the DEIS contains insufficient detail to ensure that the environmental consequences of the Project have been fairly evaluated. The measures merely provide a perfunctory list of the site-specific geotechnical investigations, which are not required to be submitted until after EIS approval. *Id.* Thus, there is a complete absence of a mitigation plan in the DEIS. 6-23

Further, the DEIS fails to assess *whether and to what extent* the proposed mitigation measure can be effective. In lieu of providing supporting analytical data discussing the effectiveness of this measure, it concludes without adequate analysis that implementation of Mitigation Measures 12.1a, 12.2b and 12.2c would reduce the potential impacts of the Project. *Id.* at pgs. 4.12-1 - 4.12-4. In sum, the DEIS fails to provide any analysis as to how effectively the mitigation plan will reduce the significant, adverse impacts of the Project on public health and the environment. 6-24

V. The Cumulative Impacts Analysis is Deficient.

The DEIS also fails to adequately discuss the potential cumulative impacts of the Project when added to other past, present, and reasonably foreseeable future actions.

A. Applicable Law

Under NEPA, an EIS must analyze "cumulative actions, which when viewed together have cumulatively significant impacts." 40 C.F.R. § 1508.25(a)(2). Thus, "[w]here several foreseeable similar projects in a geographical region have a cumulative impact, they should be evaluated in a single EIS." *Resources Ltd. v. Robertson*, 35 F.3d 1300, 1306 (9th Cir.1993); see also 40 C.F.R. § 1508.25(a)(3). A cumulative impact is "the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions.... Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time." 40 C.F.R. §1508.7. 6-25

A proper consideration of the cumulative impacts of a project requires "some quantified or detailed information." *Klamath-Siskiyou Wildlands Ctr. v. Bureau of Land Management*, 387 F.3d 989, 993-94 (9th Cir.2004); *Neighbors of Cuddy Mountain*,137 F.3d at 1379-80. "General statements about possible effects and some risk do not constitute a hard look absent a justification regarding why more definitive information could not be provided." *Id.* Further, "the analysis must be more than perfunctory; it must provide a useful analysis of the cumulative impacts of past, present, and future projects." *Id.*

Further, it is not enough to focus on how the effects of the project's activities will be avoided or mitigated. *Te-Moak Tribe of Western Shoshone of Nevada v. United States Dep't of the Interior*, 608 F.3d 582, 603-604 (9th Cir. 2010). Instead, the impact statement needs to explain the nature of unmitigated impacts of the project with other existing, proposed, and reasonably foreseeable activities. *Id.* at 605.

For the reasons explained below, the DEIS's cumulative impact section does not provide the required quantified or detailed information and useful analysis of the cumulative impacts of past, present, and future projects. Additionally, the DEIS improperly relied on the Project's mitigation measures to conclude, without adequate analysis, that there would be no cumulative impacts.

6-25 Con't

B. The DEIS Fails to Include Proposed Remediation Actions in Yosemite Slough and Parcel F Shipyard in its Cumulative Impacts Analyses.

The DEIS ignores two proposed remediation actions in the Project's vicinity in its cumulative impacts analyses: Yosemite Slough and Parcel F of the Hunters Point Shipyard. Yosemite Slough, which is located to the north of the Project, is contaminated with various chemicals and is currently undergoing a remediation process under CERCLA. (*See* http://yosemite.epa.gov/r9/sfund/r9sfdocw.nsf/ViewByEPAID/CAN000908486 (last retrieved, Mar. 12, 2012)). EPA is currently developing a cleanup planning document called Engineering Evaluation/Cost Analysis ("EE/CA"). *Id.* Additionally, the Hunters Point Shipyard, which is also located north of the Project Site, is a Superfund site currently undergoing remediation. (*See* http://yosemite.epa.gov/r9/sfund/r9sfdocw.nsf/vwsoalphabetic/Hunters+Point+Naval+Shipyard?OpenDocument (last retrieved, Mar. 12, 2012)). Parcel F of the Shipyard is currently in the Feasibility Study (FS) phase under CERCLA. *Id.* As such, the cleanup efforts at these two sites, which will foreseeably begin in the near future, could potentially have significant, adverse impacts on human health and the environment when combined with the impacts from the Project. The potential impacts of these remediation projects include air quality impacts from the removal and remediation of the contaminated areas, which may involve dredging the contaminated sediments and exposing people to harmful contaminants such as PCBs and VOCs. *See Id.* Despite these potential significant, adverse impacts, the DEIS entirely fails to discuss these projects in the cumulative impacts analysis.

6-26

C. The DEIS Fails to Provide Quantified or Detailed Information regarding Cumulative Impacts.

The following sections of the DEIS fail to comply NEPA by providing inadequate analysis regarding the cumulative impacts of Alternatives A, B, and C of the Project in combination with other proposed projects:

1. Climate Change
DEIS at pg. 5-2 - 5-3.

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In analyzing the cumulative impacts of Alternatives A, B, and C on climate change and greenhouse gas ("GHG") emissions, the DEIS relies on the CP-HPS Project EIR's discussion of GHG emissions since "the development of the Project Site is part of the larger CP-HPS Project." DEIS at pg. 5-3. The DEIS is devoid of any quantified or detailed information regarding the cumulative impacts of the Project in combination with other proposed projects. While recognizing the relevance and proximity of the proposed Executive Park development (DEIS, pg. 4.4-7), the DEIS fails to address the GHG emissions from the Executive Park development and doesn't explain why such analysis was omitted. Due to the close proximity of the Executive Park development and the coinciding construction schedules, DEIS should have analyzed the cumulative GHG emissions impacts of the Project in combination with the Executive Park development.

Additionally, the DEIS concludes, without adequate analysis, that mitigation will effectively address the climate change effects of the CP-HPS Project, which the Project Site is a part of. *Id.* at pg. 5-3. Despite the implementation of the relevant mitigation measures, under NEPA it is still improper to rely on mitigation to shirk the required cumulative impacts analyses. Without more, the DEIS fails to analyze the cumulative impacts of the Project's GHG emissions in combination with the GHG emissions of the CP-HPS Project and the Executive Park development.

2. Fugitive Dust Emissions for Construction (Criterion 3)
DEIS at pg. 5-4.

The DEIS recognizes that fugitive dust emissions during construction could result in cumulative impacts if multiple developments are under construction at the same time in a concentrated area. DEIS at pg. 5-4. The DEIS also admits that the nearby Executive Park development may be under construction at the same time as Alternatives A, B, and C and will be close enough to potentially result in combined fugitive dust emissions during construction. *Id.* The Executive Park development is approximately 0.5 miles south of the Project Site and includes the construction of 3,400 residential units and 90,000 square feet of retail/restaurant uses. *Id.*

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Despite these facts, the DEIS fails to provide quantified or detailed information regarding the cumulative impacts of fugitive dust emissions from the Project in combination with other proposed projects, including the CH-HPS Project and the Executive Park development. Instead, the DEIS relies on mitigation to evade the required cumulative impacts analyses. The DEIS notes that

the Alternatives A, B, and C of the Project, the Candlestick point portion of the CP-HPS Project and the Executive Park development would be required to comply with the City's Dust Control Ordinance and associated best management practices (BMPs) and concludes that such compliance would ensure that cumulative impacts from construction dust emissions would not be significant and adverse. *Id.* As such, the DEIS fails to analyze the cumulative impacts of the Project in combination with the less-than-significant impacts (or unmitigable impacts) of other proposed projects, including the CH-HPS Project and the Executive Park development. 6-28 Con't

3. Exposure to Hazardous Fill Material (Criterion 1)
DEIS at pg. 5-6.

The DEIS recognizes the possible exposure to hazardous fill material during grading and earth-moving activities at the Project Site. DEIS at pg. 5-6. Despite this recognition, the DEIS fails to provide quantified or detailed information regarding the cumulative impacts of exposure to hazardous fill material from the Project in combination with the CH-HPS Project and the Executive Park development. 6-29

The DEIS relies on the proposed mitigation measures for the Project and the CH-HPS Project to conclude that there will be no cumulatively significant and adverse impacts from exposure to hazardous fill material. *Id.* It merely mentions that the nearby Candlestick Point portions of the CP-HPS project would be required to comply with mitigation measures and how Alternatives A, B, and C would be required to implement similar mitigation measures as well. The DEIS then concludes, without adequate analysis, that compliance with the local regulations and mitigation measures would avoid or reduce the risk of exposure to hazardous fill material. 6-30

Moreover, the DEIS entirely fails to address the combined effects related to exposure to hazardous fill material from the Executive Park development. It concludes, without adequate analysis or explanation, that the effects related to exposure to hazardous fill material are generally limited to where the grading and earth-moving activities would occur. 6-31

The DEIS thus fails to adequately analyze the cumulative impacts of exposure to hazardous fill material from the Project in combination with the less-than-significant impacts (or unmitigable impacts) of other proposed projects, including the CH-HPS Project and the Executive Park development. 6-32

4. Proximity to a Potentially Hazardous Site (Criterion 2)
DEIS at pg. 5-6.

The cumulative impact analysis refers to DEIS section 4.3 which discusses past and present hazardous sites which could potentially affect residential development of the Project Site. Based on section 4.3, the DEIS concludes that there are no cumulative impacts involving a potentially hazardous site. DEIS at pg. 5-6. However, the cumulative impact analysis merely reiterates the earlier direct impacts analysis provided under DEIS section 4.3 and is devoid of any discussion 6-33

regarding the potential hazardous sites near the CH-HPS Project and the Executive Park development. 6-33 Con't

Aside from the cursory reiteration of the direct impact analysis, the DEIS fails to provide any quantified or detailed information on cumulative impacts. In sum, the DEIS fails to analyze the cumulative impacts of the Project regarding the proximity to a potentially hazardous site in combination with the less-than-significant impacts (or unmitigable impacts) of other proposed projects, including the CH-HPS Project and the Executive Park development.

5. Release of Hazardous Substances (Criterion 3)
DEIS at pg. 5-6.

The DEIS admits that there are significant and adverse impacts from of asbestos-containing materials and lead-based paint, which may become disturbed during demolition activities at the Project Site and the CP-HPS Project. DEIS at pg. 5-6 - 5-7. Despite this acknowledgment, the DEIS summarily concludes, without adequate analysis, that combined or cumulative effects are not anticipated due to the distance between the two project areas (which are approx. 1,500 ft apart). *Id.* The DEIS, however, fails to proffer any explanation or evidence as to why such distance would foreclose cumulative impacts. Overall, the DEIS fails to provide quantified or detailed information regarding the cumulative impacts from the Project's release of hazardous materials in combination with other proposed projects, the CH-HPS Project and the Executive Park development. 6-34 6-35 6-36

Additionally, the DEIS improperly relies on the proposed mitigation measures for the Candlestick Point portions of the CP-HPS Project and Alternatives A, B, and C to conclude that cumulative impacts under this criterion would not be significant and adverse. *Id.* While compliance with such mitigation measures may reduce the risks under this criterion, the DEIS fails to analyze the cumulative impacts from the Project's release of hazardous substances in combination with the less-than-significant impacts (or unmitigable impacts) of other proposed projects, including the CH-HPS Project and the Executive Park development. Therefore, the cumulative impacts analysis for Criterion 3 is deficient. 6-37

6. Potential Release of Hazardous Materials During Routine Use, Storage, Transport, and Disposal (Criterion 4)
DEIS at pg. 5-7.

The DEIS fails to provide any quantified or detailed information regarding the cumulative impacts from the Project's potential release of hazardous materials in combination with other proposed projects, including the CH-HPS Project and the Executive Park development. DEIS at pg. 5-7. It summarily concludes, without adequate analysis or explanation, that accidental releases during construction are typically isolated to the immediate vicinity of the release and are not cumulative in nature. Thus, the DEIS fails to analyze the cumulative impacts from the Project's potential release of hazardous materials in combination with the impacts of other proposed projects, including the CH-HPS Project and the Executive Park development. 6-38

7. Local Standards for Construction Noise (Criterion 2)
DEIS at pg. 5-9.

Despite the acknowledgment that the construction and demolition noise from the Project would add to the noise from the CP-HPS Project, the DEIS fails to provide quantified or detailed information regarding the cumulative impacts of the Project's construction noise in combination with other proposed projects, including the CH-HPS Project and the Executive Park development. 6-39

Additionally, the DEIS relies on the proposed mitigation measures to evade the required cumulative impacts analysis. *Id.* While compliance with such mitigation measures may reduce the impacts under this criterion, the DEIS fails to analyze the cumulative impacts of the Project with the less-than-significant impacts (or unmitigable impacts) of other proposed projects, including the CH-HPS Project and the Executive Park development.

8. Section 5.2.10 - Hydrology, Flooding and Water Quality
DEIS at pg. 5-18.

The DEIS recognizes that construction activities at both the Project Site and the CP-HPS Project have the potential to degrade water quality from stormwater coming in contact with contaminated areas. DEIS at pg. 5-8. Despite this recognition, the DEIS fails to provide quantified or detailed information regarding the cumulative impacts from the Project's stormwater contamination in combination with the CH-HPS Project and the Executive Park development. When added together, the Project, the CP-HPS Project, and the Executive Park development may cumulatively impact the water quality in the surrounding waters. 6-40

Additionally, the DEIS improperly relies on the proposed mitigation measures for the Candlestick Point portions of the CP-HPS Project and Alternatives A, B, and C to summarily conclude that cumulative impacts under this criterion would not be significant and adverse. While compliance with such mitigation measures may reduce the impacts under this criterion, the DEIS nonetheless fails to analyze the cumulative impacts of the Project in combination with the less-than-significant impacts (or unmitigable impacts) of other proposed projects, including the CH-HPS Project and the Executive Park development.

9. Destabilization of Geologic Conditions (Criterion 3)
DEIS at pg. 5-32.

The DEIS recognizes the risk of cumulative geologic destabilization impacts from rock fragmentation of both the Project Site and the Jamestown portion of the CP-HPS Project. DEIS at pg. 5-32. Despite these risks, the DEIS fails to provide quantified or detailed information regarding the cumulative impacts of the destabilization of geological conditions and the potential for liquefaction from the Project in combination with other proposed projects, including the CH-HPS Project and the Executive Park development. The purported cumulative impacts analysis here is in fact a mere reiteration of the direct impacts analysis for the Project. The DEIS also fails to explain why the combined impacts from the CH-HPS Project as a whole and the Executive Park 6-41

development were not considered.

Additionally, the DEIS improperly relies on the proposed mitigation measures for the Candlestick Point portions of the CP-HPS Project and Alternatives A, B, and C to summarily conclude that cumulative impacts under this criterion would not be significant and adverse. In sum, the DEIS fails to analyze the cumulative impacts of the Project in combination with the less-than-significant impacts (or unmitigable impacts) of other proposed projects, including the CH-HPS Project and the Executive Park development. 6-41 Con't

10. Substantial Adverse Effect on Special Status Species and Other Legally Protected Species (Criterion 1)
DEIS at pg. 5-34.

a. Western Red Bat

The DEIS recognizes the Project's disturbances to wildlife, including the western red bat. DEIS at pg. 5-34. However, the DEIS fails to provide quantified or detailed information regarding the cumulative impacts of the Project in combination with other proposed projects, including the CP-HPS Project and the Executive Park development project. It merely discusses the direct impacts of the Project, resulting from the construction and demolition activities and the increased human presence. *Id.* The DEIS recognizes that Alternatives A, B, and C have the potential to contribute to the cumulative impacts to the western red bat. *Id.* The DEIS is devoid of any analysis regarding the cumulative impacts of the Project in combination with other proposed projects, including the CP-HPS Project and the Executive Park development. Therefore, the DEIS fails to provide an adequate cumulative impacts analysis regarding the western red bat. 6-42

b. Bird Species Protected by the Migratory Bird Treaty Act and California Fish and Game Code

The DEIS also fails to provide quantified or detailed information regarding the cumulative impacts of the Project in combination with other proposed projects, including the CP-HPS project and the Executive Park development project on bird species protected by the Migratory Bird Treaty Act and California Fish and Game Code. DEIS at pgs. 5-34 - 5-35. The DEIS concludes, without adequate analysis, that the Alternatives A, B, and C would not contribute to potential cumulative impacts to legally-protected bird species. *Id.* 6-43

Additionally, the DEIS improperly relies on the proposed mitigation measures for the Candlestick Point portions of the CP-HPS Project and Alternatives A, B, and C to summarily conclude that cumulative impacts under this criterion would not be significant and adverse. While compliance with such mitigation measures may reduce the risks under this criterion, the DEIS fails to analyze the cumulative impacts of the Proposed Project in combination with the less-than-significant impacts (or unmitigable impacts) of other proposed projects, including the CH-HPS Project and the Executive Park development.

VI. Conclusion

Based on the foregoing, the DEIS fails to take a hard look at (1) the environmental setting of the Project, (2) the direct and indirect impacts of the Project, (3) proposed mitigation measures, and (4) cumulative impacts analysis. We respectfully request that the Mayor's Office of Housing revise the DEIS, giving full and fair consideration to the deficiencies raised in the foregoing comments. 6-44

Thank you for your attention to this matter.

Very Truly Yours,

Cathy D. Lee

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Comment Letter 6 – Lippe Gaffney Wagner LLP, representing Arc Ecology

6-1 Comment noted. Specific responses are provided below to each of these comments.

6-2 Comment noted.

6-3 The Draft EIS provides a sufficient description of the potential hazards in and around the Project Site. The Draft EIS described the reasonable steps that have been taken to assess whether there is contamination that could present a risk. In describing the environmental setting and analyzing potential impacts, the Draft EIS relied on a Phase I Environmental Site Assessment prepared by MACTEC in 2009 and on agency database review.[12] The Phase I, which was prepared for the Candlestick Point area, including the present Project Site concluded there were no Recognized Environmental Conditions associated with the site. According to the Phase I, the results of a prior study indicated contamination related to fill materials was present in the area, but not at levels that posed health or ecological risks.

The MACTEC 2009 Phase I summarized a previous soil investigation by Geomatrix of the 196-acre Candlestick Point site[13], including portions of the Project Site. The results of the January 1998 Geomatrix study indicated the "presence of elevated concentrations of metals . . . above background levels and polynuclear aromatics (PNAs) at various locations and depths at the Site, which appeared to be associated with fill materials," and "[l]ocalized elevated concentrations of polychlorinated biphenyls (PCBs) and pesticides [which also] appeared [to be] associated with fill materials. . . ."[14] The January 1998 Geomatrix study also included a human health risk evaluation and an ecological risk evaluation, which indicated the contamination posed no unacceptable risks to future workers or visitors at the site, nearby residents or workers, recreational users, or aquatic organisms in the San Francisco Bay.[15]

The conclusions of the 2009 MACTEC Phase I were based on the prior sampling and risk assessment, in conjunction with MACTEC's performance of a site visit, agency database review, historical map review, etc. While the prior sampling and risk evaluation included only a portion of the Project Site, the data informed MACTEC's conclusions as to the entire area.[16] MACTEC recommended preparation of a soil management plan prior to redevelopment to address the contingency of encountering unexpected contamination during construction.

[12] See Draft EIS pgs 3.3-2 to 3.3-5.
[13] Geomatrix, 1998a. Site Investigation and Risk Evaluation Report for the Proposed San Francisco 49ers Stadium and Mall Site. January 1998.
[14] MACTEC, 2009. Phase I Environmental Site Assessment, Candlestick Point Area, pg 3-3. June 16, 2009.
[15] Ibid.
[16] AMEC (formerly MACTEC) prepared a technical memorandum in July 2012 in order to assist MOH in evaluating technical data in the record. AMEC (formerly MACTEC), 2012. Technical Memorandum – Alice Griffith Public Housing Site. July 2012.

MACTEC also noted additional subsurface investigation may be necessary to comply with local regulations. In accordance with the conclusions and recommendations of the MACTEC Phase I, the Draft EIS conservatively recognizes the possibility for unknown contamination to exist at levels that could pose significant risks. As the commenter notes, the Draft EIS identifies possible sources of contamination at the site, including material used for fill and the site's proximity to contaminated sites. The Draft EIS explains, in connection with analyzing the potential for environmental impact, that possible contaminants at the site could include "petroleum, oil, metals, and chemicals that may have leached into the soil from nearby sites or may have been included in the original fill materials."[17] This conservative approach properly allows for a full assessment of potential environmental impacts given known information based on professional environmental investigations. The known information, including the known possibility of contamination, is sufficient to enable the lead agency to assess the potential direct, indirect, and cumulative impacts of the proposed alternatives, to evaluate the applicable regulatory standards and potential mitigation measures capable of reducing or avoiding these impacts, and to arrive at a reasoned choice among the alternatives in accordance with NEPA.

MACTEC's recommendations to perform additional soil investigation prior to redevelopment and to prepare a soil management contingency plan were incorporated as mitigation measures in the Draft EIS. As explained in Response to Comments 6-4 and 6-11 below, implementation of these measures and recommendations necessarily follows preparation of the EIS and the lead agency's decision to approve the release of funds.

The commenter also states that the Draft EIS "admits that the Project Site has historically been used for various industrial purposes," but this is incorrect. The Project Site was not historically used for industrial purposes, and the Draft EIS does not indicate that it was.

6-4 As noted above in Response to Comment 6-3, there is no evidence to suggest a "high likelihood of the presence of hazardous materials in and near the Project Site." Rather, the Draft EIS discusses the possibility of the presence of hazardous materials in and near the Project Site in order to present a full and complete analysis of potential environmental impacts. Refer to Comment 6-3 above regarding the sufficiency of the description in the Draft EIS of contamination at the Project Site.

This information is sufficient for purposes of analysis of environmental impacts under NEPA, including the requirement to discuss mitigation measures and cumulative impacts. The unknown nature of contamination that may be in the fill does not present an obstacle to safe development. Well-established procedures and

[17] Draft EIS, pg. 4.3-5.

local regulatory requirements have been designed to address the common scenario of undocumented fill presented here. San Francisco Health Code Article 22A, which is referenced and summarized on pages 4.3-3 and 4.3-4 of the Draft EIS, was designed specifically to mitigate risks of development in historic fill areas of the City. Under Article 22A, an applicant for a development permit in a historic fill area must provide the San Francisco Department of Public Health ("SFDPH") with a site history and a soil sampling and analysis report, prepared by an environmental professional.[18] If the report indicates hazardous wastes may be present in soil, a site-specific mitigation report must be prepared and submitted to SFDPH.[19] If a mitigation report is required, Article 22A requires that a qualified professional evaluate the site-specific information, determine whether the hazardous wastes identified pose environmental or health and safety risks at the site, and recommend mitigation measures to address any risks identified.[20] The report must further include certification by the professional that no mitigation is required, or the recommended mitigation would be effective.[21] As noted in the Draft EIS, such mitigation will include, as appropriate, excavation, containment and/or treatment of hazardous materials, monitoring and follow up, and procedures for safe handling and transportation, etc.[22] These comprehensive local requirements routinely and effectively address the exact type of risks and uncertainties presented at demolition and construction sites. In sum, there is ample evidence in the record that the environmental setting can support safe development as described in the Draft EIS.

The commenter also states (citing the Draft EIS at pages 4.3-8 to 4.3-9) that a site investigation to characterize the fill material "will not even be conducted after the Draft EIS is approved." This statement is incorrect. As explained above, and as reflected in the Draft EIS pages cited by the commenter, the Article 22A requirement to characterize fill materials (among other requirements) will apply to any site permit from the City for development activities involving subsurface disturbance of artificial fill materials. Note that the permit application and the compliance with the comprehensive Article 22A requirements necessarily occur after the NEPA process as part of permit approval, which cannot occur prior to the federal government's decision to approve the release of funds. As explained in the Draft EIS, and in accordance with the comprehensive regulatory scheme, once the federal government has approved the release of funds and the time has come to move forward with actual development and permit applications, Article 22A will address the potential for contaminants in fill. Any mitigation required in accordance with Article 22A will be designed based on site-specific considerations (e.g., grading plans, precise building foundation plans and locations, risks identified in site investigations, etc.) that are identified through the permit application and

[18] San Francisco Health Code Article 22A §§ 1224, 1225, 1226.
[19] San Francisco Health Code Article 22A § 1228.
[20] Ibid.
[21] Ibid.
[22] Draft EIS, pg 4.3-8.

Article 22A process.

6-5 Comment noted.

6-6 The commenter is incorrect that the Draft EIS omits "any characterization of the likely fill materials" and that the Draft EIS "violates NEPA's requirement that Project direct and indirect impacts be discussed fully and with reasonable thoroughness."

First, the Draft EIS does not omit "any characterization of the likely fill materials." As noted above, in Response to Comment 6-3, the Draft EIS relies on the MACTEC 2009 Phase I, which discusses prior sampling and analysis of soil at the Candlestick Point Site, including a portion of the Project Site. That sampling and analysis resulted in the identification of certain contaminants related to fill, but not at levels that posed unacceptable human health or ecological risks. The Draft EIS appropriately acknowledges the possibility that contaminants could exist, identifies the types of possible contaminants, and describes the methods that would be used to address any actual contaminants.[23]

Second, the Draft EIS adequately discusses impacts relating to potentially contaminated fill materials. The Draft EIS clearly explains that redevelopment of the Project Site would involve excavation, trenching, and grading of soils, which, absent mitigation, could result in potential health risks for construction workers, residents, and people in the surrounding areas given the possible presence of on-site contaminants such as petroleum, oil, metals, and chemicals. *See* Draft EIS at 4.3-5. In assessing this potential for impact, the Draft EIS also relies on the comprehensive regulatory framework applicable to the planned redevelopment work. See for example, Draft EIS pages 4.3-3 and 4.3-4 and Response to Comment 6-3 above for a description of the requirements of Article 22A, which was designed to address risks involved with potential contaminants in fill at development projects. The Draft EIS incorporates these and other regulatory requirements into mitigation measures (See Draft EIS at 4.3-8 – 4.3-9), such that implementation of these well-established, accepted methods is judged to offset the potential for significant impacts.

The commenter also cites an April 1998 Geomatrix Reference Report[24] prepared for the 3,000 acre Bayview-Hunters Point area to support the proposition that "[h]azardous fill materials [are] likely to be found on the site." As noted in Response to Comments 6-3 and 6-4 above, the commenter's statement is incorrect. A recent 2009 Phase I Environmental Site Assessment prepared by MACTEC for

[23] Draft EIS, pg. 4.3-5.

[24] This report, entitled, "Reference Report Summarizing Environmental Conditions, Bayview Hunters Point Brownfields Pilot Program, San Francisco, California," and dated April, 1998, is distinct from, and unrelated to, the January 1998 Geomatrix report and soil sampling study referenced in the 2009 MACTEC Phase I and discussed above, (see, e.g., Response to Comment 6-3).

the Candlestick Point area, including the Project Site, concluded there are no Recognized Environmental Conditions present.[25] The April 1998 Geomatrix Reference Report is not inconsistent with the recent Phase I. The Reference Report was a "preliminary environmental survey" designed to "develop a broad-brush understanding of general environmental conditions" within the 3,000 acre study area, and it "[did] not present a discussion or interpretation of the results obtained."[26] The report contains no conclusions with respect to hazards in the study area, and the data pertaining to the study area is consistent with the interpretations and conclusions of the recent Phase I.

6-7 The commenter's statement of the law is noted. With regard to the statement that the "DEIS fails to adequately discuss mitigation measures proposed to address the significant, adverse environmental impacts from the Project," please refer to Responses to Comments 6-8 through 6-24 below.

6-8 The commenter incorrectly states that the Draft EIS did not analyze the effectiveness of Mitigation Measure 2.5 to decrease construction emissions. A Health Risk Assessment was conducted for the existing residents of Alice Griffith for the larger CP-HPS Project and additional analysis was conducted in support of the Proposed Action and alternatives. This data is summarized in **Section 4.2**, Impact 2.5 of the Draft EIS. Specifically, Table 4.2-7 summarizes the effectiveness of Mitigation Measure 2.5. As shown in the middle column, without mitigation, construction would exceed the local air district's threshold of 10 per million. As shown in the last column, with Mitigation Measure 2.5, the cancer risk would be reduced to a level below the local air district's threshold. The effectiveness of the mitigation was quantified and presented within the Draft EIS. The commenter should also note that EPA submitted a comment letter on the Draft EIS stating that it had no objection and supporting the mitigation measures for construction emissions.

6-9 See Response to Comment 6-4 regarding the potential for hazardous materials in fill material at and surrounding the Project Site.

The commenter puts forward the position that the Draft EIS's discussion of Mitigation Measure 3.1a is inadequate because the site mitigation plan called for under Article 22A is prepared after the Draft EIS is approved.

However, as discussed above in Response to Comment 6-4, the site mitigation plan necessarily follows the EIS and lead agency decision making process. Article 22A integrates site investigation and, as appropriate, the development of a site mitigation plan with the permit approval process, such that the specific details of

[25] MACTEC, 2009. Phase I Environmental Site Assessment, Candlestick Point Area, June 16, 2009.
[26] Geomatrix, 1998b. Reference Report Summarizing Environmental Conditions, Bayview Hunters Point Brownfields Pilot Project, pgs 1-2. April 1998.

the mitigation plan requirements are keyed to appropriate site-specific information (for example, the identification of risks during the Article 22A site investigation, final grading plans, final building foundation locations, etc.). Development permit application and approval (and the integrated Article 22A process) cannot occur prior to HUD's approval of the release of funds, and therefore specific content of the site mitigation plans that will be required, if any, are presently speculative.

Nonetheless, the Draft EIS identifies the types of measures that would be included in such site mitigation plans, including, for example, "containment, or treatment of the hazardous materials, monitoring and follow-up testing, and procedures for safe handling and transportation of the excavated materials . . . ." as noted on page 4.3-8 of the Draft EIS.

6-10 The Draft EIS contains sufficient analysis of the effectiveness of Mitigation Measure 3.1a to offset identified health risks.

The Draft EIS describes the potential impacts and the methods by which the impacts can be avoided, concluding the mitigation measures would be effective. In Impact 3.1, the Draft EIS identifies the potential impact associated with exposure to hazardous fill material. The Draft EIS explains that risks associated with such exposure would be minimized through the Article 22A regulatory process.

As required by Mitigation Measure 3.1a and Article 22A, a site investigation plan would identify risks, and if hazardous wastes are detected above state or federal minimum standards, a site mitigation plan would be prepared to address the risks using such measures as excavation, containment, or treatment of contamination, consistent with the requirements of Article 22A. State and federal standards for the contaminants listed in Article 22A would be the specific performance criteria for site mitigation, in consultation with SFDPH.

Article 22A also requires a professional certification that either (1) A qualified person has determined in the site mitigation report that no hazardous wastes in the soil are causing or are likely to cause significant environmental or health and safety risks, and the qualified person recommends no mitigation measures; or (2) The applicant has performed all mitigation measures recommended in the site mitigation report, and has verified that mitigation is complete by conducting follow-up soil sampling and analysis, if recommended in the site mitigation report.[27] All plans must be prepared by experts and will be reviewed and approved by the experts at SFDPH.

In Impact 3.2, the Draft EIS identifies the potential adverse impact of soil vapor intrusion associated with contaminated groundwater that could be present. The Draft EIS explains that potential impacts to residents from vapor intrusion would be

[27] Article 22A § 1229.

minimized by soil vapor sampling and removal of contaminated soil or installation of vapor barriers beneath structures. This process would be incorporated into the Article 22A process, which includes certification of the effectiveness of mitigation.

Given the specificity of the measures required by Article 22A, ongoing consultation with SFDPH, and required certification, the evidence in the record established that Mitigation Measure 3.1a would be effective in reducing the potential environmental health risk.

6-11 It appears that the commenter misunderstands the nature of the proposed unknown contaminant contingency plan. As explained in the Draft EIS on page 4.3-8, the plan is designed to address unknown contaminants encountered during development. The Article 22A process is designed to identify and mitigate contamination that exists in the fill material. Although unlikely, the Draft EIS acknowledges that it is possible that even after the site investigation, previously undiscovered (or, "unknown") contaminants may be encountered during development. In order to address this small risk, the Draft EIS proposes an extra layer of protection. Specifically, the Draft EIS (Mitigation Measure 3.1b) proposes that an unknown contaminant contingency plan be developed, approved by SFDPH, and incorporated into the applicable site permit, so that in the unlikely event previously undiscovered contamination is encountered, there would be control procedures in place to address it.

The commenter states the Draft EIS "turns a blind eye until after EIS certification," rather than "taking a hard look at the type and quantity of these 'unknown' contaminants." The purpose of the mitigation measure, however, is precisely to address the contingency of potential contaminants, the type and quantity of which are unknown.

6-12 As explained in Response to Comments 6-3, 6-4, and 6-6 above, the Draft EIS adequately describes the possibility of contaminants existing in the soil at the Project Site, relying on a recent Phase I report. The Draft EIS contains sufficient information to assess whether mitigation of the potential impacts can succeed. As explained in Response to Comment 6-3, the Phase I indicated there were no recognized environmental conditions, but recommended compliance with local site investigation regulations and implementation of a plan to address any unexpected contamination that could be encountered during development. [28] As explained in the Draft EIS at page 4.3-8, the unknown contaminant contingency plan would be subject to SFDPH approval, and will include notice and site-control protocol, including, as appropriate, investigation, off-site removal and disposal, containment, or treatment of hazardous materials. Implementation of these steps is expected to effectively address any existing hazards.

[28] AMEC (formerly MACTEC), 2012. Technical Memorandum – Alice Griffith Public Housing Site. July 2012.

6-13 The Draft EIS sufficiently analyzes the effectiveness of Mitigation Measure 3.1b to reduce identified adverse impacts.

At any urban construction site, there is the potential for construction activities to uncover previously unidentified hazards. Examples include debris or tanks which were installed or covered prior to the introduction of permitting and other regulatory controls. Contamination in the soil would be addressed primarily through compliance with Article 22A. As an additional layer of protection to minimize risk, Mitigation Measure 3.1b also requires preparation and implementation of a contingency plan, in consultation with and subject to the approval of the experts at SFDPH, to address any remaining, unidentified contamination that is discovered during the course of construction. The implementation of such plans is commonplace, well-established, and can be expected to successfully avoid the impact, reducing its adverse effect to less than significant. The information in the record is sufficient to fairly evaluate the environmental consequences of the alternatives, and to make the determination that the mitigation measures would be effective.

6-14 The Draft EIS has been revised to incorporate a discussion of applicable occupational safety standards, including the requirement to prepare a site-specific health and safety plan.

The following language is added to **Section 4.3.1** of the Final EIS, directly after the heading "California Occupational Safety and Health Administration":

> Occupational safety standards have been established in federal and state laws to minimize worker safety risks from both physical and chemical hazards in the workplace. The California Department of Occupational Safety and Health Administration (Cal/OSHA) and the federal Occupational Safety and Health Administration (OSHA) are the agencies with primary responsibility for assuring worker safety in the workplace. Cal/OSHA has primary responsibility for developing and enforcing standards for safe workplaces and work practices in California in accordance with regulations specified in CCR Title 8. For example, under Title 8 CCR 5194 (Hazard Communication Standard), construction workers must be informed about hazardous substances that may be encountered. Compliance with Injury Illness Prevention Program requirements (Title 8 CCR 3203) would ensure that workers are properly trained to recognize workplace hazards and to take appropriate steps to reduce potential risks due to such hazards. This is particularly important where previously unidentified contamination or buried hazards may be encountered. If additional investigation or remediation is determined to be necessary, compliance with Cal/OSHA standards for hazardous waste operations (Title 8 CCR 5192) would be required for those individuals involved in the investigation or cleanup work.

A site-specific Health and Safety Plan ("HASP") must be prepared to protect workers from exposure to potential hazards prior to commencing any work at a contaminated site or involving disturbance of building materials containing hazardous substances. The HASP is part of a broader "safety and health program," which is a comprehensive means of identifying, evaluating and controlling safety and health hazards. Under state and federal regulations, the program is undertaken in order to identify, evaluate, and control safety and health hazards at a contaminated site, as well as provide for emergency response. In addition to the HASP, program elements include organization structure, preparation of a comprehensive workplan, safety and health training programs, medical surveillance programs, standard operating procedures for safety and health, and any necessary interface between general program and site specific activities (29 CFR §§ 1910.120(b)(1)(ii)(A)-(G), 1910.65(b)(1)(ii)(A)-(G); 8 CCR § 5192(b)(1)(B)). The HASP must address the safety and health hazards of each phase of site operation and includes specific requirements and procedures for employee protection (29 CFR §§ 1926.65(b)(4)(i), 1910.120(b)(4)(i); 8 CCR § 5192(b)(4)(A)). Among other minimal requirements, the plan must include a safety and health risk or hazard analysis for each site task and operation in the workplan, employee training assignments, site control measures, decontamination procedures, an emergency response plan to ensure safe and effective responses to emergencies, and a spill containment program (29 CFR §§ 1926.65(b)(4)(ii)(A)-(J), 1910.120(b)(4)(ii)(A)-(J); 8 CCR § 5192(b)(4)(B)). The HASP ensures that safety and health risks would be properly analyzed and evaluated, and appropriate protections would be implemented to ensure the safety and wellbeing of employees at the worksite.

6-15 See Response to Comment 6-14. Although the lead agency disagrees that Mitigation Measure 3.1c contains insufficient detail, the Final EIS has been revised to include more detail regarding the HASP and the associated requirements.

6-16 The Draft EIS sufficiently analyzes the effectiveness of Mitigation Measure 3.1c to reduce identified adverse impacts. The Draft EIS describes the potential impacts and the methods by which the impacts can be avoided, concluding the mitigation measures would be effective. Mitigation Measure 3.1c will reduce the potential for a significant impact from exposure to hazardous fill (Impact 3.1), proximity to a potentially hazardous site (Impact 3.2), and release of hazardous substances (Impact 3.3). With regard to the risks posed from contamination in the soil, the contamination would be addressed primarily through compliance with Article 22A and implementation of a contingency plan to address any remaining unidentified contaminants that are found during development. For more information on the regulatory context, see Section 4.3.1 of the Draft EIS (and Agency initiated changes to that section expanding on regulatory background). The HASP will

directly address potential impacts to the workers carrying out the remediation and construction by regulating the procedures and protocols used on the ground at the time of remediation and construction, thereby minimizing risk to workers. The HASP has specific performance standards through measures which must be incorporated as required by state and federal law. Implementation of the HASP will also minimize risk of upset or accident affecting workers or others near the Site as described in the Draft EIS in Impact 3.3. Such implementation, in conjunction with the other listed mitigation measures, can be expected to successfully avoid the impacts, reducing the potential adverse effect to a less-than-significant level. The information in the record is sufficient to fairly evaluate the environmental consequences of the alternatives, and to make the determination that the mitigation measures would be effective.

6-17 Comment noted.

6-18 With regard to mitigation of asbestos-containing materials (ACM) associated with the abatement or demolition of buildings, the Draft EIS contains sufficient description and analysis to ensure environmental consequences are fairly evaluated. The Draft EIS describes the potential impacts and the applicable regulatory framework, based on federal and state laws.[29] Mitigation Measure 3.3 provides for detailed notification to both BAAQMD and Cal/OSHA. The Draft EIS explains that asbestos removal contractors must be certified by the Contractors Licensing Board of the State of California, as well as under the federal Asbestos Hazard Emergency Response Act.

With respect to an asbestos dust mitigation plan (ADMP), as explained on pages 3.12-1 and 3.12-2 of the Draft EIS, based on published mapping and limited subsurface exploration data, the site appears to be underlain by greywacke, sandstone and shale, which are not associated with naturally occurring asbestos (NOA), and thus it is not expected that an ADMP would be required for the site. Nevertheless, it is possible that some of the fill material on site was cut from nearby NOA-containing bedrock. If it is determined that the soil on site contains NOA, a BAAQMD-approved ADMP would be required prior to the commencement of construction in accordance with the applicable state Asbestos Airborne Toxic Control Measure (ATCM). In response to this comment, and in order to more conservatively assess the potential for impact, the EIS has been revised to include more information regarding the possibility of NOA occurring in soil at the site, and regarding the ADMP that would be required if NOA is determined to be present. In addition, the EIS has been revised to include new Mitigation Measure 3.3b, which would require further analysis of soil content and the implementation of an ADMP if there is NOA-containing /material in the soil.

The following text is added to page 4.3-9 of the Final EIS at the end of

[29] Draft EIS, pgs 4.3-2, 4.3-3, 4.3-6.

"Mitigation" for Impact 3.1:

> Implementation of **Mitigation Measure 3.3b** would also ensure that any NOA that may exist in fill material is adequately controlled through the implementation of an ADMP that would ensure no visible dust crosses property boundaries with such dust control measures as track-out prevention, regular wetting of storage piles and earth-moving activity areas, and traffic control measures.

The following text is added to page 4.3-10 of the Final EIS, at the end of the first paragraph under Impact 3.3:

> Based on published mapping and limited subsurface exploration data, the site appears to be underlain by greywacke, sandstone and shale, which are not associated with NOA, and thus NOA is not expected to be found in the soil at the site. Nevertheless, it is possible that some of the fill material on site was cut from nearby NOA-containing bedrock. If NOA exists in soil on site, it could become airborne during construction or grading activities, causing potential health risks to construction workers and people in the nearby vicinity.

The following text is added to page 4.3-10 of the Final EIS at the end of the second paragraph under Impact 3.3:

> In addition, NOA in soil is regulated pursuant to the California Air Resources Board's Asbestos Airborne Toxic Control Measure (ATCM) for Construction, Grading, Quarrying, and Surface Mining Operations, located at 17 CCR § 93105.

The following text is revised on page 4.3-11 of the Final EIS:

> ~~Prior to construction, the project sponsor would obtain approval of an asbestos dust mitigation plan (ADMP) from the BAAQMD, and would ensure that specific dust control measures are implemented throughout the construction period.~~ In addition, under **Mitigation Measure 3.3b**, the project sponsor would be required to determine if soil on the site contains NOA, and if so, prior to construction, the project sponsor would obtain approval of an asbestos dust mitigation plan (ADMP) from BAAQMD in accordance with the state Asbestos ATCM, and would ensure that specific dust control measures are implemented throughout the construction period. Additional air monitoring would be implemented if required by the BAAQMD to monitor off-site migration of asbestos dust and appropriate protocols would be established and implemented.

The following text is added to page 4.3-14 of the Final EIS after Mitigation

Measure 3.3:

Mitigation Measure 3.3b: Asbestos Dust Mitigation Plan

Prior to any grading or construction, the project sponsor shall collect soil samples and analyze the potential for NOA to occur in the soil at the Project Site. The number and quality of samples shall accord with the standards and practices generally employed and accepted by environmental consultants and geologists practicing in the field. If the results indicate that NOA is present in the soil on-site, the project sponsor shall prepare and submit to BAAQMD for approval an ADMP for the site, in accordance with the state Asbestos ATCM.

The ADMP shall specify dust mitigation practices which are sufficient to ensure that no visible dust crosses the property line, and must include all elements required by 17 CCR § 93105(e), and any other elements required by BAAQMD. Such mitigation practices and elements shall include, without limitation: track-out prevention and control measures, such as removal of visible track-out and use of wheel wash systems or tire shakers; wetting or coverage of storage piles; control of inactive surface areas or storage piles with measures such as wetting, surface crusting, chemical dust suppressants, vegetative cover, and use of wind barriers; on-site traffic control measures, including vehicle speed limits of 15 miles per hour or less and the use of such techniques as watering, chemical dust suppressants, and gravel covers; and earthmoving control measures, such as application of water and suspension of grading during periods of high wind.

6-19 The Draft EIS describes the potential impacts and the methods by which the impacts can be avoided, concluding the mitigation measures would be effective. As noted in Response to Comment 6-18, Mitigation Measure 3.3 provides for detailed notification to BAAQMD and Cal/OSHA before any abatement work takes place, and all asbestos removal contractors are subject to state and federal certification. Such notification includes descriptions and locations of the structures to be demolished or altered, the approximate amount of friable asbestos, the scheduled starting and completion dates of the demolition or abatement, the nature of the work, and the methods and procedures to be employed, etc. See Impact 3.3 and Mitigation Measure 3.3 of the Draft EIS for more detail. As noted by Mitigation Measure 3.3, where the work involves 100 square feet or more of ACM, asbestos abatement contractors must follow state regulations contained in 8 CCR 1529 and 8 CCR 341.6 through 341.14 which provide specific performance standards and measures which must be implemented by contractors. Such performance standards include, for example, permissible exposure limits and restricted access (8 CCR 1529). Implementation of this mitigation measure, combined with the requirement

to prepare a site-specific HASP under Mitigation Measure 3.1c, will effectively reduce the potential for release of hazardous substances at the Project Site to a less-than-significant level.

6-20 **Section 4.10.1** of the Final EIS includes additional detail regarding the regulatory structure in place to address impacts to water quality from construction.

As described in Mitigation Measure 10.1a, the City of San Francisco requires the development of a site-specific SWPPP prior to the start of construction for sites with combined sewer systems. Also, as described in Mitigation Measure 10.1b, the State Water Resources Control Board General Permit requires the development of a site-specific SWPPP prior to the start of construction for sites with separated sewer systems. These regulatory requirements are well-established, and commonly address the types of risks presented and identified in the Draft EIS. For additional detail on the applicable regulatory framework, see **Section 4.10.1** of the EIS (as revised).

Mitigation Measures 10.1a and 10.1b incorporate a comprehensive regulatory framework involving performance standards and specific methods through which performance standards can be achieved. The SWPPP is required to minimize the potential for sediment and/or contaminants to drain to the Bay during construction through a number of specified techniques and designs, commonly referred to as Best Management Practices (BMPs). These BMPs are proven techniques, and are expected to achieve the required results as described in the Draft EIS, even though the exact formulation of the SWPPP and selection of BMPs necessarily occurs during a more advanced project design period. Mitigation Measures 10.1a and 10.1b describe examples of the types of BMPs to be included in the final SWPPP document, but the final BMP designs will be developed in conjunction with the final infrastructure designs and construction documents for the selected alternative. The final BMPs will be specific to the design of the selected alternative and the proposed construction activity and will address the proposed construction techniques, materials to be used, and the construction phasing. This can only effectively be accomplished once the final designs and construction plans are developed.

Consistent with the requirements of the SWRCB General Permit[30], a single Legally Responsible Person (LRP) must be identified who would be legally responsible to assure that the General Permit requirements are met including the requirements regarding who can prepare and implement the SWPPP for the site. The General Permit states that the discharger shall ensure that the SWPPP is written, amended and certified by a Qualified SWPPP Developer (QSD). A QSD shall have

[30] SWRCB, National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities. Order No. 2009-0009-DWQ, NPDES No. CAS000002. Effective on July 1, 2010.

appropriate experience, shall have attended a State Water Board approved QSD training course and must pass the state proctored exam in order to be certified as a QSD.

The General Permit also states that the LRP shall ensure that all of the BMPs required by the SWPPP are implemented by a Qualified SWPPP Practitioner (QSP). A QSP is a person responsible for non-stormwater and storm water visual observations, sampling and analysis. A QSP shall have appropriate experience, shall have attended a State Water Board approved QSP training course, and must pass the state proctored exam in order to be certified as a QSP.

The City of San Francisco is responsible for review and approval of the SWPPP prior to the start of construction. The City is also be responsible for inspection and monitoring of the construction site to confirm the requirements of the SWPPP are being followed and the BMPs are working as designed during the construction period. The SWQCB is responsible for confirming the City of San Francisco performs the required oversight.

Comment 6-20 also includes a footnote (footnote 1 on page 8 of 16). The statements in the footnote regarding the effects of discharging stormwater are inapposite because they are based on the assumption the stormwater will not be mitigated. As discussed above in this response, that assumption is incorrect.

6-21 See Response to Comment 6-20 regarding the effectiveness of SWPPP mitigation for both combined and separate systems.

6-22 The commenter incorrectly states that "the Project is expected to have significant and adverse impacts on the people who reside in and around the Project Site" as a result of ground shaking, soil suitability issues, destabilization of geological conditions, and soil erosion. These potential impacts are considered significant, absent mitigation. However, each of these impacts is considered less than significant after implementation of mitigation, which includes compliance with the comprehensive state and local regulatory structures.[31] The discussion of the existing regulatory framework has been expanded in **Section 4.12.1** of the Final EIS.

6-23 The Draft EIS contains sufficient detail with respect to Mitigation Measures 12.2a, 12.2b, and 12.2c to ensure that the environmental consequences of the alternatives have been fairly evaluated. Each of these measures describes in detail the procedures that would be carried out in compliance with requirements of the San Francisco Building Code, and as relevant to liquefaction, the Seismic Hazards Mapping Act and the California Geological Survey Special Publication 117A, *Guidelines for Evaluating and Mitigating Seismic Hazards in California*. The

[31] Draft EIS, pgs. 4.12-2 – 4.12-9.

procedures include, most notably, submission to the San Francisco Department of Building Inspection ("DBI") of a site-specific, design-level geotechnical investigation. In each case, as the mitigation measures explain, the geotechnical instigations would be subject to third-party expert review, including review to ensure all necessary geotechnical mitigation measures are properly incorporated into relevant plans.[32]

The particular measures included in each plan will depend on the findings of the design-level geotechnical report. Each of the mitigation measures emphasizes that the engineering and design techniques utilized to reduce liquefaction, expansive soil, and corrosive soil hazards shall include proven methods generally accepted by California Certified Engineering Geologists. Such methods for liquefaction could include, depending on the design-level results, structural measures (e.g., construction of deep foundations that transfer loads to competent strata beneath liquefaction zones) or ground improvement measures (e.g., over-excavation and replacement with compacted fill).[33] Reduction of hazards associated with expansive or corrosive soil would occur pursuant to chapter 18 of the San Francisco Building Code, which could involve, depending on the design-level results, foundation design techniques[34], or soil removal or stabilization.[35] In all cases, as explained in the mitigation measures, the methods used would be approved by DBI and third party experts.

The applicable standards and procedures incorporated into the mitigation measures are robust. The entire San Francisco Bay Area is in a seismically active region, and many areas of San Francisco were constructed with fill. Successful building construction is possible and readily accomplished in this region through the implementation of the same procedures required in the Draft EIS, which results in appropriate structural and foundation design and/or ground improvement measures as needed. In this particular case, the soil suitability issues associated with potential liquefaction, lateral spreading, and settlement, as well as those associated with soil expansion and corrosiveness, can be mitigated to less than significant levels through the applicable regulatory framework as described in the Final EIS, **Section 4.12**.

6-24 There is no basis for the commenter's position that the Draft EIS does not assess whether and to what extent the mitigation measures would be effective. To the contrary, the Draft EIS explains that carrying out the measures will reduce the potential impact to less than significant. The Draft EIS describes the potential impacts and the methods by which the impacts can be avoided. The Draft EIS specifies, for example, that engineering and design techniques, including proven, generally accepted methods would be based on design-level site specific

[32] Draft EIS, pgs. 4.12-6 – 4.12-9.
[33] Draft EIS, pg. 4.12-7.
[34] SFBC § 1808.6.1
[35] SFBC § 1808.6.3, 1808.6.4

investigations (Mitigation Measures 12.1a, 12.2a, 12.2b and 12.3c). Such methods include structural and ground improvement methods for liquefaction, and soil stabilizing and protective methods for expansive and corrosive soils. The Draft EIS concludes the measures would be effective in reducing the impacts to a less-than-significant level.

6-25 Comment noted. See specific responses regarding cumulative impacts below.

6-26 The commenter correctly points out that there are two sites near the Project Site—Yosemite Slough and Parcel F (the underwater parcel) of the Hunters Point Shipyard—that are currently being addressed under CERCLA, and remediation of the sites is reasonably foreseeable. Although the alternatives analyzed in the EIS are not similar actions in that they do not involve remediation of a site under CERCLA, the commenter suggests that the nearby remedial actions could result in impacts similar to impacts analyzed in the EIS. Specifically, the commenter states that these remediation projects could have impacts including "air quality impacts from the removal and remediation of the contaminated areas, which may involve dredging the contaminated sediments and exposing people to harmful contaminants such as PCBs and VOCs." For the reasons described below, the potential for the remedial actions on the nearby sites to have such adverse impacts is speculative and remote, and accordingly, so is the potential for the Proposed Action and alternatives to have cumulative impacts when combined with the impacts from these actions. Nevertheless, the discussion of cumulative impacts in the EIS has been revised to incorporate in the cumulative analysis a discussion of the remediation actions at Yosemite Slough and Parcel F on the Hunters Point Shipyard.

As a preliminary matter, the removal and remedial actions have not been selected at these sites, and thus the scope of any potential impact (air quality or otherwise) is not well-defined. As the commenter notes, at Yosemite Slough, EPA is currently developing a cleanup planning document called an Engineering Evaluation / Cost Analysis ("EE/CA"). According to the EPA's October 21, 2011 EE/CA Approval Memorandum for Proposed Non-Time Critical Removal Action at Yosemite Creek Sediment Site, "EPA anticipates evaluating a full range of removal response alternatives in the EE/CA including tidal control and excavation, dredging, capping, and monitored natural recovery."[36] Not all of these alternatives would involve dredging or potential exposure of people to contaminated sediments.

At Parcel F of the Hunters Point Shipyard, as the commenter notes, remedial action is currently at the Feasibility study phase under CERCLA. The Feasibility Study identified six alternatives for remediation of the area near Alice Griffith (with two variations on alternatives), including (1) no action; (2) removal/backfill and off-site disposal; (3) in-situ stabilization and institutional controls; (4) monitored natural

[36] EPA, *EE/CA Approval Memorandum for Proposed Non-Time Critical Removal Action at Yosemite Creek Sediment Site*, October 21, 2011

recovery and institutional controls; (5) focused removal/backfill, off-site disposal, monitored natural recovery, and institutional controls; and (6) focused removal/backfill, modified shoreline removal/backfill, off-site disposal, monitored natural recovery, and institutional controls.[37] The two variations involved using carbon-activated backfill in alternatives (5) and (6) instead of clean backfill. The next step in the CERCLA process would be preparation of a Proposed Plan, which will identify a preferred remedial approach based on the options evaluated in the Feasibility Study. As with the probable alternatives for action at Yosemite Slough, not all of the alternatives for remediation at Parcel F involve dredging or potential exposure of people to contaminated sediments. Accordingly, it would be speculative at this point to determine whether, and to what extent, the nearby actions would result in the adverse impacts the commenter highlights.

The commenter claims there is a potential for air quality impacts due to PCBs and VOCs. However, the remedial activities at Yosemite Slough and Parcel F are unlikely to result in air quality impacts. Unlike soil excavation and grading activity, underwater dredging does not result in dust generation. Soil stockpiling could result in dust generation if the sediment is allowed to dry absent utilization of standard dust control practices. Because such practices would be utilized in the event the remedies involve stockpiling, the potential for dust generation and fugitive dust impacts is also minimal. In addition, both actions, which are being addressed under CERCLA, would be carried out following strict regulatory procedures and protocols that will minimize any potential for adverse local impact. In selecting the remedy for sites such as Parcel F, CERCLA requires consideration of short-term protectiveness, including the potential to impact workers and the local community at 40 CFR § 300.430(e)(9)(iii)(E). Moreover, CERCLA generally requires remedial and removal actions to be carried out in compliance with applicable or relevant and appropriate requirements (ARARs), including federal and state environmental laws at 40 CFR §§ 300.430(e)(9)(iii)(B), (f)(1)(i)(A) and 40 CFR § 300.415(j). Such laws would include, for example, provisions of California's Hazardous Waste Control Law, as specified in California Health and Safety Code Chapter 6.5, Article 2, governing the generation, transportation, treatment, and disposal of hazardous wastes. They would also specifically include federal regulations for stockpiling remediation waste at 40 CFR § 264.554. Under these regulations, any staging piles used must satisfy protective performance criteria, including, for example, the use of controls such as liners, covers, and run-off/run-on controls, designed to prevent releases or migration such as fugitive dust.

These facts support a conclusion that the likelihood of cumulative impacts from the remediation activities at Yosemite Slough, Parcel F and the Project Site is remote and speculative. The EIS has been revised to incorporate these considerations which further support the finding that no significant adverse cumulative impacts

[37] Department of the Navy, 2008. *Final Feasibility Study Report for Parcel F*. Prepared by Barajas & Associates, Inc., April 30, 2008, pg. 5-9.

would result. Accordingly, the EIS has been revised as follows. The following language has been added to page 5-4 of the Final EIS, after the second sentence under Fugitive Dust Emissions for Construction (Criterion 3):

> In addition, while the exact timing is not known, remediation of Yosemite Slough and Parcel F of the Hunters Point Shipyard are expected to occur in the future, and could occur during Project Site construction. It is not expected, however, that any combined impacts, including impacts from fugitive dust emissions, would occur.

The following language has been added to pages 5-4 to 5-5 of the Final EIS, at the end of the first paragraph under Fugitive Dust Emissions for Construction (Criterion 3):

> The remedial actions at Yosemite Slough and Parcel F of the Hunters Point Shipyard, which are being carried out pursuant to CERCLA, are not expected to contribute to fugitive dust emissions in the vicinity. As a preliminary matter, the removal and remedial actions that are expected to occur at these sites have not been selected, and thus the scope of any potential air quality impact is largely speculative. In any event, any dredging or excavation of underwater sediment that may occur as part of the final remedial or removal actions selected at the sites would not result in dust generation. Further, any handling of contaminated sediment and stockpiling would be required to comply with strict control procedures to minimize any potential migration of contamination. CERCLA generally requires remedial and removal actions to be carried out in compliance with applicable or relevant and appropriate requirements (ARARs; 40 CFR §§ 300.430(e)(9)(iii)(B), (f)(1)(i)(A); 40 CFR § 300.415(j)), which would include, for example, provisions of California's Hazardous Waste Control Law, governing the generation, transportation, treatment, and disposal of hazardous wastes. They would also specifically include federal regulations for stockpiling remediation waste (40 CFR § 264.554). Under these regulations, any staging piles used would have to satisfy protective performance criteria, including, for example, the use of controls such as liners, covers, and run-off/run-on controls, designed to prevent releases or migration such as fugitive dust. Additionally, construction at the Project Site is subject to dust control measures, as described in **Section 4.2** (Impact 2.3) and **Section 4.3** (Impact 3.1) of the Final EIS. Accordingly, even if the timing of the remedial and removal actions at Parcel F and Yosemite Slough corresponds with Project Site construction, the potential for fugitive dust emissions during construction for Alternatives A, B and C would not be significant and adverse when combined with the potential effects of the remediation projects in the vicinity.

Section 5.2.3, Exposure to Hazardous Fill Material (Criterion 1) is revised as follows:

~~The effects related to exposure to hazardous fill material are generally limited to the area where grading and other earth-moving activities would occur. Demolition and construction activities for the Project Site would begin prior to nearby Candlestick Point portions of the larger CP-HPS Project. The nearby Candlestick Point portions of the CP-HPS Project would be required to comply with mitigation measures to avoid or reduce the impact from exposure to hazardous fill material, including Article 22A Site Mitigation Plans, Unknown Contaminant Contingency Plans and Site-Specific Health and Safety Plans (Mitigation Measures HZ-1a, HZ-2a.1, HZ2a.2). Alternatives A, B and C would be required to implement similar mitigation (Mitigation Measures 3.1a, 3.1b and 3.1c). Compliance with local regulations and adopted mitigation measures would avoid or reduce the risk of exposure to hazardous fill material. Alternatives A, B and C when considered with past, present and future projects would not result in cumulatively significant and adverse impacts under this criterion.~~

Section 4.3.2.2 discusses the potential impact resulting from exposure to potentially hazardous fill materials, and concludes the impact is less than significant with the implementation of identified mitigation measures. The impact also does not result in a collectively significant impact when viewed in combination with other nearby actions. Nearby actions with potentially similar impacts include development of the nearby Candlestick Point portions of the larger CP-HPS Project, the Executive Park development, remediation of Yosemite Slough and remediation of Parcel F of the Hunters Point Shipyard. These actions do not collectively result in a significant effect.

First, the potential impacts from these various actions would occur within separate locations, making the impacts independent of each other and not additive or cumulative in a meaningful way. In other words, there is no potential for individually minor, but collectively significant impacts in this context. This is because the effects related to exposure to hazardous materials are generally limited to the areas where grading, dredging, excavation, or other earth-moving activities would occur. Accordingly, an individually minor impact in one area would not combine with a separate individually minor impact in another area, and thus no cumulative impact would occur.

Second, the likelihood that each of the actions will result in a significant impact is low as a result of regulatory standards and applicable mitigation measures. All potential impacts relating to exposure to hazardous materials

in connection with these actions are unlikely to be significant based on the applicable regulatory structures and mitigation measures applicable to each action. The nearby Candlestick Point portions of the CP-HPS Project would be required to comply with mitigation measures to avoid or reduce the impact from exposure to hazardous fill material, including Article 22A Site Mitigation Plans, Unknown Contaminant Contingency Plans and Site-Specific Health and Safety Plans (Mitigation Measures HZ-1a, HZ-2a.1, HZ-2a.2). Alternatives A, B and C would be required to implement similar mitigation (Mitigation Measures 3.1a, 3.1b and 3.1c). The Executive Park development would be subject to Article 22A site mitigation plans as applicable and any mitigation measures imposed as part of the project-level environmental review under CEQA.[7] Remediation at Parcel F and Yosemite Slough will occur pursuant to CERCLA, which requires rigorous remedy or removal evaluation and analysis (including considerations of short-term protectiveness during remedy or removal implementation), as well as state and federal regulations for carrying out work and handling hazardous materials under RCRA, California's Hazardous Waste Control Law, and the state and federal OSHA. Compliance with applicable regulations and adopted mitigation measures would avoid or reduce the risk of exposure to hazardous fill material. Alternatives A, B and C when considered with past, present and future projects would not result in cumulatively significant and adverse impacts under this criterion.

The following was added as Footnote 6 "AMEC, 2012. Technical Memorandum – Alice Griffith Public Housing Site. July 2012."

The following was added as Footnote 7 "San Francisco Planning Department, 2011. Executive Park Amended Subarea Plan and The Yerby Company and Universal Paragon Corporation Development Projects Final Environmental Impact Report, certified May 5, 2011."

6-27 As noted in the Draft EIS, 24 CFR Part 58 does not address climate change from greenhouse gas (GHG) emissions. California and the City of San Francisco have emissions goals which the Draft EIS considered. In the Final EIR[38] for the larger CP-HPS Project, it was determined that there would be no conflict with 1) the State goal of reducing GHG emissions in California to 1990 levels by 2020 or 2) San Francisco's Climate Action Plan, by impeding implementation of local GHG reduction goals established by the Greenhouse Gas Reduction Ordinance.[39] As Alice Griffith was considered in this analysis and is a portion of the larger CP-HPS Project, the contribution of Alice Griffith independently to GHGs would be less and consistent with the finding of no conflict with state and local reduction goals.

[38]CP-HPS Project Final EIR. pgs III.S.36 through III.S.40.
[39] San Francisco Ordinance 81-08, Climate Change Goals and Action Plan.

The CP-HPS Final EIR finds no conflict based on quantitative data presented in Final EIR Section III.S. As concluded in the Final EIR (page III.S-40), "With mitigation, the Project-related operational emissions of 154,639 result in 4.5 tonnes CO2e per service population per year based on a service population of 34,242 (this accounts for 23,869 net new residents and all jobs except for the stadium jobs, which already exist, 10,373). Therefore, the related operational emissions from the Proposed Action would be less than 4.6 tonnes CO2e per service population per year and would result in a less-than-significant impact on climate change."

The discussion of climate change impacts is different than any other resource area in the EIS as the effect is global and not limited to a specific area. A discussion of Executive Park or any other project unrelated to Alice Griffith would be irrelevant to the conclusion regarding the ability of Alice Griffith to meet statewide and local GHG emissions goals. Nevertheless, a brief discussion of the impact of Executive Park on GHG emissions is included here for reference. The Final EIR prepared for Executive Park evaluated whether the development would have significant impacts by 1) generating GHG emissions, directly or indirectly, that may have a significant impact on the environment, or 2) conflicting with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emission of GHGs. Given that the City of San Francisco has adopted numerous GHG reduction strategies including binding, enforceable measures to be applied to development projects and that the City's GHG reduction strategy has produced measurable reductions in GHG emissions, it was determined that the development would not generate GHG emissions which would significantly impact the environment or conflict with GHG reduction policies.[40]

6-28 See Response to Comment 7-4 regarding the use of the local standard or BAAQMD significance threshold for fugitive dust impacts during construction, which is compliance with Best Management Practices (BMP) (BAAQMD CEQA Air Quality Guidelines December 1999).

The cumulative impact discussion explains that with the compliance of individual projects with BAAQMD BMPs for fugitive dust, impacts would not be significant and adverse. The BMPs are designed to drastically reduce both the individual and cumulative impact of dust emissions and are an accepted method of the local air district. The following language has been added to **Section 4.2.2.2**, Impact 2.3.

> "Measures as discussed in **Section 4.2.1**, include directly controlling potential sources of dust (wetting site areas multiple times a day, covering stockpiles and trucks hauling soils, setting requirements for shutting down operations if dust crosses the property boundary) and enforcement and

[40] San Francisco Planning Department, 2011. Executive Park Amended Subarea Plan and The Yerby Company and Universal Paragon Corporation Development Projects Final Environmental Impact Report, certified May 5, 2011, pgs V.H.16-V.H.22.

accountability measures (use of third party inspections, recordkeeping, a hotline for the community) to prevent significant levels of fugitive dust from being generated during site preparation, construction and demolition activities."

These types of BMPs have been required for many years. Thus, many past projects as well as all present and reasonably foreseeable future projects have or would be required to implement BMPs for fugitive dust emissions from construction. Consequently, no significant adverse, cumulative impact would occur.

There are additional mitigating factors which must be considered. As discussed in the Draft EIS, most of Alice Griffith construction would not be concurrent with construction of other areas of Candlestick Point and thus would not result in combined effects. Regarding Executive Park, the development portions of the Executive Park subarea area are located over 1,800 feet southwest of Alice Griffith, and on the other side of Bayview Park Hill. Given the physical obstruction of the Hill, the distance between the two projects, and their relative orientation to each other considering the prevailing wind direction from the west[41], combined fugitive dust impacts are unlikely. In addition, the Executive Park Final EIR determined that fugitive dust emissions from the Executive Park development would be less than significant as the project would comply with the Construction Dust Control Ordinance of the San Francisco Health Code, which contains fugitive dust control measures similar to those recommended by BAAQMD and the requirement to submit a Dust Control Plan for approval by the San Francisco Health Department.[42] The discussion of the Construction Dust Control Ordinance has been expanded in **Section 4.2** of the Final EIS.

6-29 The Final EIS has been revised to incorporate the Executive Park development into the discussion of cumulative impacts with respect to hazardous fill. See text changes in Response to Comment 6-26.

6-30 The Draft EIS cumulative analysis considers the regulatory framework of Article 22A and state and federal OSHA requirements, as well as the mitigation measures incorporating those requirements and the requirement to prepare a contingency plan, to conclude that cumulative impacts related to exposure to hazardous fill would be less than significant. As the Draft EIS notes, compliance with the regulations and mitigation measures would effectively avoid or reduce the risk of exposure to hazardous fill material. Article 22A applies to development at the Executive Park as well as the CP-HPS Project. The incremental impact associated

[41] ENVIRON, 2012. Technical Memorandum Supporting the Air Quality Section of the Environmental Impact Statement (EIS) for the Alice Griffith Redevelopment Project. From Michael Keinath and Elizabeth Meisner to Jennifer Wade (ESA). September 2012.

[42] San Francisco Planning Department, 2011. Executive Park Amended Subarea Plan and The Yerby Company and Universal Paragon Corporation Development Projects Final Environmental Impact Report, certified May 5, 2011, Section V.G.

with the risk of exposure to hazardous fill at the Project Site is not significant, and does not become significant when added to the incremental impacts associated with similar risk at the nearby sites. First, the risk at those sites is minimal given the compliance obligations and robust mitigation. Second, as explained below in Response to Comment 6-31, any impact resulting from the minimal risk would generally be localized, and would not interact with risk at sites in different locations.

See Response to Comment 6-9 through 6-16 regarding the effectiveness of Mitigation Measures 3.1a, 3.1b and 3.1c (the mitigation associated with hazardous fill materials). The response regarding effectiveness applies to the larger CP-HPS Project mitigation (Mitigation Measures HZ-1a, HZ-2a.1, HZ2a.2) which mirror the Alice Griffith Mitigation Measures 3.1a, 3.1b and 3.1c.

6-31 The Final EIS has been revised to incorporate the Executive Park development into the discussion of cumulative impacts with respect to hazardous fill. See text changes in Response to Comment 6-26.

The Draft EIS explains that effects related to exposure to hazardous fill material are generally limited to the area where grading and other earth-moving activities would occur. This is because the adverse effects of the potential contaminants identified (petroleum, oil, metals, and chemicals) would generally result from direct exposure to the contaminants, e.g., exposure to contaminated soil or water mediated through ingestion, inhalation, or drinking. Thus, there is no opportunity for impacts from other sites to combine with impacts from the Project Site. Notably, the MACTEC 2009 Phase I, which involved a site reconnaissance and discussion of prior soil sampling, analysis and risk assessment in the vicinity, is consistent with this observation. The Phase I concluded the contaminants previously identified adjacent to the Project Site in soil and groundwater did not represent a risk to human health or the environment. However, during redevelopment and soil disturbance, the report recommended taking steps to ensure that any unknown contamination that existed would be adequately addressed. Note, those steps were incorporated into mitigation in the Draft EIS. Additionally, the regulations governing hazardous fill materials have been in place for many years and have applied to past projects, are applied to current projects, and would be applied to reasonably foreseeable future projects. Consequently, the facts support a finding of no significant cumulative impacts associated with exposure to hazardous fill and there is no contrary evidence in the record.

6-32 See Responses to Comments 6-29 through 6-31 above.

6-33 As discussed in the Draft EIS, this impact is not cumulative in nature and thus the reference to **Section 4.3** of the Draft EIS is appropriate. The impact concerns whether the development on the Project Site would be located near a potentially hazardous site. The impact on residents of Alice Griffith from nearby hazardous

sites does not relate in a meaningful way to the impact on future residents of neighboring projects from nearby hazardous sites. In other words, there is no incremental impact from the development project that could be added to other projects, resulting in a cumulative impact.[43] Rather, the impact at issue is the detrimental effect of the various, potentially hazardous sites with respect to the Project Site, which was discussed in **Section 4.3** of the Draft EIS.

6-34 The commenter incorrectly states that the Draft EIS admits that there are significant and adverse impacts from ACM and LBP at the Project Site and at the CP-HPS Project. The Draft EIS makes no such statement or admission. On the contrary, the Draft EIS acknowledges the *potential* for ACM and LBP to become airborne during demolition activities at both sites, but explains the reasons why impacts associated with such potential are not expected to be cumulative or significant. See pages 5-6 and 5-7 of the Draft EIS and Responses to Comments 6-35 through 6-37 below for more information regarding the absence of cumulative or significant impacts.

6-35 The conclusion in the Draft EIS that cumulative effects associated with the release of hazardous substances are not significant when combined with nearby projects is based on analysis of the following: types of impacts that can occur at the project and nearby sites; the control methods that would be used at the sites to minimize risk of impact; the timing of project activity that could result in impact; and the respective locations of the sites. The Draft EIS explains that ACM and LBP have the potential to become disturbed during demolition of existing structures, but that compliance with local regulations and mitigation measures would effectively reduce risk of impact during such demolition. For example, before any demolition or abatement activity involving ACM or LBP can take place, the project sponsor must give detailed notice of the work to be performed to the appropriate regulatory authorities, including such information as scope and location of work, methods to be used, etc., and workers must adhere to various performance standards depending on the site characteristics, including containment, covering and access requirements.[44] As a result of these regulatory requirements, and also the requirements to comply with adopted mitigation measures at the CP-HPS Project and the mitigation measures of Alternatives A, B and C, including but not limited to preparation of a site-specific HASP, there is very little potential for any cumulative impact relating to the release of ACM or LBP. Additionally, the regulations governing ACM and LBP have been in place for many years and have been applied to past projects, are applied to current projects, and will be applied to reasonably foreseeable future projects.

Further, **Section 5.2.3** of the Draft EIS points out that demolition associated with Alternatives A, B and C would occur prior to demolition activities in other areas of

[43] 40 CFR § 1508.7.

[44] Regulations include Chapter 34 of the San Francisco Building Code (SFBC) for LBP and Section 19827.5 of the California Health and Safety Code for asbestos.

Candlestick Point in most cases, eliminating any potential for cumulative effect. The Draft EIS identifies one circumstance in which demolition could take place concurrently. In this circumstance, however, the buildings are located approximately 1,500 feet away, which is the equivalent of approximately four to five blocks. This distance is included in the Draft EIS as an illustration of the low potential for cumulative impact. Even in the unlikely scenario that ACM or LBP particles are somehow able to escape the containment and control procedures utilized on-site, and the site-specific hazard management protocols implemented through the HASP, the particles would have to travel four to five blocks through the air and arrive at the neighboring site (and the neighboring site would have to also have particles escape the control protocols) in order for there to be any potential for cumulative impact. For all of these reasons, the Draft EIS concludes cumulative impacts under this criterion would not be significant and adverse.

For more information regarding survey and notification requirements and preparations of site-specific HASPs, see Responses to Comments 6-14 (HASPs) and 6-19 (ACM) above, and 7-8 (LBP) below. Refer also to Impact 3.3 and Section 4.3.1 of the EIS as revised for information regarding the potential impacts from ACM and LBP and the applicable regulatory framework, respectively.

6-36 The commenter incorrectly states that the Draft EIS fails to provide detailed information regarding cumulative impacts from Alternative A, B or C's release of hazardous materials combined with that of other projects. Refer to Response to Comment 6-35 above regarding detail included in the analysis of this cumulative impact in the EIS. Refer also to Response to Comment 6-37, below, specifically regarding detail on the applicable mitigation measures and their role in the cumulative impacts analysis.

The detail and analysis provided in the EIS and in Response to Comment 6-35, above, also apply to the Executive Park development. For example, the same control procedures and protocols for handling ACM upon abatement or demolition would apply at Executive Park. Notably, the Initial Study prepared for the Executive Park development Final EIR determined that the same regulations and procedures would ensure that any potential impacts due to asbestos would be reduced to a level of insignificance.[45] LBP is not considered a hazard at Executive Park since buildings on the Yerby and UPC development sites were constructed and developed in the 1980s.[46] In addition, the development portions of the Executive Park subarea area are located over 1,800 feet southwest of Alice Griffith, and on the other side of Bayview Park Hill. Given the physical obstruction of the Hill, the distance between the two projects, and their relative orientation to each other considering the prevailing wind direction from the west, the occurrence of a

[45] San Francisco Planning Department, 2009. Initial Study, Executive Park Subarea Plan and Yerby and UPC Development Projects, February 2009, pg. 94. Appendix A of the Final EIR.
[46] *See id.* at 93.

combined impact from airborne contaminants is highly unlikely, even if contaminants somehow simultaneously escape the control procedures at both sites, which is also highly unlikely.

The EIS has been revised to include discussion of the Executive Park development in the discussion of cumulative impacts associated with release of hazardous substances. Specifically, the text under the heading "Release of Hazardous Substances (Criterion 3)" in Section 5.2.3 of the EIS is revised as follows:

> Asbestos-containing materials and lead-based paint have the potential to become disturbed during demolition activities for existing structures in the Candlestick Point portions of the CP-HPS Project. Additionally, asbestos-containing materials have the potential to become disturbed during demolition or abatement activities at existing structures in the Executive Park development area. These substances can become airborne and result in a health risk to construction workers, residents, and others in the immediate vicinity.
>
> Demolition of most of the Project Site would occur prior to demolition activities proposed in other areas of Candlestick Point. . . Thus, cumulative impacts under this criterion would not be significant and adverse.
>
> Demolition or abatement activity associated with the Executive Park development could occur concurrently with demolition of existing structures in the Project Site. However, the development portions of the Executive Park subarea area are located over 1,800 feet southwest of Alice Griffith, and on the other side of Bayview Park Hill. Given the physical obstruction of the Hill, the distance between the two projects, and their relative orientation to each other considering the prevailing wind direction from the west, combined impact from airborne contaminants are highly unlikely. In addition, development activity at Executive Park is subject to federal, state and local survey and notification requirements for ACM and LBP, as discussed in **Section 4.3**. Compliance with these regulations and procedures would reduce the risk of release of hazardous substances, and would accordingly reduce the risk of any cumulative effects associated with hazardous substances. Thus, cumulative impacts under this criterion would not be significant and adverse.

6-37 The consideration of proposed mitigation measures and compliance with applicable regulations in analyzing the potential for cumulative impact is appropriate. Every asbestos abatement activity, demolition, or LBP disturbing activity is subject to detailed regulation. For example, BAAQMD's regulations require that buildings are surveyed by certified professionals and ACM is removed prior to demolition,

and that all asbestos removal is controlled by adequate wetting or equivalent procedures preventing visible emissions.[47] All abatement and demolition activity in the vicinity is expected to comply with these regulations. In addition, the Draft EIS notes that the CP-HPS Project would be required to comply with the site-specific HASP adopted as mitigation[48], similar to Mitigation Measure 3.1c., which would include site control measures and emergency response procedures in addition to those required by the BAAQMD regulations.[49]

As the Draft EIS explains, compliance with these regulations and mitigation measures would reduce the risk of cumulative effects resulting from release of hazardous substances. Stated differently, the incremental impact attributable to Alternatives A, B and C with regard to risk of release of hazardous substances is not significant even when added to and considered with the incremental impact attributable to nearby projects that could undergo structural demolition concurrently.[50] Each of the projects are anticipated to comply with the applicable regulations and mitigation measures. The combined impact would not be significant.

See Response to Comment 6-14 through 6-19 regarding the effectiveness of Mitigation Measures 3.1c and 3.3. The response regarding effectiveness applies to the larger CP-HPS Project mitigation for Site-Specific Health and Safety Plans (HZ2a.2) which mirror the Alice Griffith Mitigation Measure 3.1c.

6-38 As stated in the Draft EIS, accidental releases during construction are typically isolated to the immediate vicinity of the release and are not cumulative in nature. However, in severe cases, the impact from releases could be cumulative, and the Final EIS is revised to incorporate a discussion of the potential for cumulative impact.

The following text is added to **Section 5.2.3** after the second sentence under Potential Release of Hazardous Materials During Routine Use, Storage, Transport, and Disposal (Criterion 4):

> Because the handling of hazardous materials during construction activity would be subject to a range of federal, state, and local statutes and regulations, designed to protect health and safety, and enforced by state and local agencies, potential cumulative impacts resulting from the use, storage, transport, and disposal of hazardous materials would be prevented to the maximum extent practicable and would not be significant. At the state level, DTSC administers laws and regulations related to hazardous waste and hazardous substances pursuant to Division 20, Chapters 6.5 and

[47] BAAQMD Regulation 11-2-303.
[48] See CP-HPS Project Final EIR, Mitigation Measure HZ-2a.2.
[49] 29 CFR §§ 1926.65(b)(4)(ii)(A)-(J), 1910.120(b)(4)(ii)(A)-(J); 8 CCR 5192(b)(4)(B).
[50] 40 CFR § 1508.7.

6.8 of the California Health and Safety Code and Title 22 of the California Code of Regulations, which are the state equivalents of RCRA and CERCLA, respectively. The RWQCB enforces laws and regulations governing releases of hazardous substances and petroleum pursuant to Division 20, Chapters 6.7, 6.75, and 6.8 of the California Health and Safety Code, and the Porter Cologne Water Quality Control Act (Division 7, Section 13100 et seq. of the California Water Code) and Title 23 of the California Code of Regulations. The RWQCB focuses on petroleum releases and those hazardous substances that may impact groundwater or surface water. At the local level, SFDPH administers the California Accidental Release Prevention ("CalARP") Program under Chapters 6.11 and 6.95 of the Health and Safety Code and San Francisco Health Code Article 21A, which is intended to prevent the catastrophic release of hazardous substances that could cause immediate harm to the public and environment, and which applies to any business in possession of more than a threshold quantity of regulated hazardous materials. All present and reasonably foreseeable future projects would be required to comply with these regulations as applicable. Additionally, these regulations have been in place for many years and have applied to past projects.

6-39 Regarding Executive Park, the development portions of the Executive Park subarea area are located over 1,800 feet southwest of Alice Griffith, and on the other side of Bayview Park Hill. Bayview Park Hill ranges in elevation between the two sites, reaching up to 400 feet above mean sea level. The Hill would physically block most construction noise from Executive Park from towards Alice Griffith and vice versa which are located at lower elevations. Additionally, construction noise reduces by approximately 6 dBA per doubling distance. Given the distance from the Project Site and the intervening hillside, construction noise at Executive Park would not combine with the construction noise from Alice Griffith in the cumulative scenario and will not be discussed further.

Regarding the cumulative noise impact of Alice Griffith and the remainder of the Candlestick Point portion of the CP-HPS Project, the EIS is revised to provide additional detail regarding cumulative noise impact assessment and mitigation.[51] HUD does not have a standard for noise levels during construction and thus the regulations within the San Francisco Noise Ordinance were used as criteria to evaluate both project-level and cumulative-level noise impacts. The Noise Ordinance states that construction equipment shall not emit noise in excess of 80 dBA when measured at a distance of 100 feet, or at an equivalent sound level at some other convenient distance. This noise level limit is not applicable to impact tools and equipment that contain manufacturer-recommended noise-attenuating

[51] The CP-HPS Project is the only project with the potential to have a combined construction noise impact with the Proposed Action. Past projects and future projects constructed after the Proposed Action is constructed are not relevant to this analysis.

features approved by the Department of Public Works or the Department of Building Inspection.[52]

The Final EIS is revised under **Section 5.2.5**, Local Standards for Construction Noise (Criterion 2) as follows"

> Construction and demolition noise from Alternatives A, B and C would add to construction and demolition noise occurring in other portions of Candlestick Point from the CP-HPS Project. The Project Site could overlap with construction of other portions of Candlestick Point from 2016 to 2021, though the majority of the Project Site would be developed by 2019. This impact would be temporary and limited to the duration of the specified activity. Once the particular construction activity is completed, the associated noise would no longer be experienced by the affected receptor. Construction equipment and noise for other portions of Candlestick Point would be similar to that listed in **Table 4.5-4**. On and off-site noise sensitive receptors, could experience noise levels of up to 91 dBA Leq from construction activities associated with the CP-HPS Project, including the Project Site. Without mitigation, cumulative noise impacts have the potential to be significant and adverse.
>
> The CP-HPS Project is required to implement adopted mitigation to reduce noise levels during construction (Mitigation Measure NO-1a.1). Alternatives A, B and C would be required to implement the same mitigation (Mitigation Measure 5.2). Mitigation would directly decrease the level of construction noise through the use of noise barriers for construction equipment. If a noise source is completely enclosed or completely shielded with a solid barrier located close to the source, an 8 dBA noise reduction can be expected; if the enclosure and/or barrier is interrupted, noise would be reduced by 5 dBA.[53] Mitigation includes the provision of a Noise Disturbance Coordinator responsible for responding to complaints. Construction and demolition activities at Candlestick Point must also comply with the San Francisco Noise Ordinance which would limit hours of construction noise. Compliance with the Noise Ordinance and implementation of mitigation would reduce cumulative construction noise impacts such that no significant and adverse impacts would occur."

6-40 The Draft EIS cumulative analysis considers that all development projects must comply with comprehensive regulatory requirements that would avoid or reduce the potential for such impacts. For example, all proposed development in the City is required to conform with the Construction General Permit, Wastewater Discharge

[52] San Francisco Police Code, Article 29 Regulation of Noise, Section 2907(b).

[53] US Department of Transportation, Federal Highway Administration, *FHWA Roadway Construction Noise Model, Version 1.0 User's Guide*, Appendix A: Best Practices for Calculating Estimated Shielding for Use in the RCNM, January 2006.

Permit Orders, Municipal NPDES permits, and potentially General Permit Orders for certain types of construction dewatering. There is a robust regulatory program for stormwater discharges during construction and operation phases which is in place and includes specific measures and performance standards which must be met. As the Draft EIS notes, compliance with regulatory requirements and the mitigation implementing the requirements through recommended BMPS would effectively avoid or reduce the potential for significant stormwater contamination from Alternatives A, B and C as well as the larger CP-HPS Project. See Response to Comment 6-20 regarding the effectiveness of SWPPP mitigation.

The Final EIS has been revised with respect to the geographic context. The context includes the larger watershed and specifically the projects which contribute to the same stormwater systems as the Project Site. This includes both the CP-HPS Project and Executive Park. The Final EIS has also been revised to include additional detail regarding construction impacts and regulatory requirements for cumulative impacts to water quality from construction.

The beginning of **Section 5.2.10** of the Final EIS is revised as follows:

> The geographic context for cumulative hydrology and water quality impacts is generally the watershed containing the Project Site. ~~includes the Project Site and areas which could be impacted by downstream runoff from the Project Site, which is the Candlestick Point area.~~ The Project Site does not contribute to cumulative flooding impacts as discussed below.
>
> ## Construction
>
> Construction activities have the potential to degrade water quality from stormwater coming in contact with contaminated areas, such as parking lots or construction sites. Dewatering activities have the potential to degrade water quality if not properly collected, treated and discharged. Comprehensive regulatory requirements that have been in place for many years, however, have been designed to ensure that significant individual and cumulative impacts from development activities would not occur. Past projects have been required to comply with these regulations. All current and reasonably foreseeable future projects must also comply with these regulations.
>
> Stormwater from the Project Site during construction would contribute to both a separate stormwater system and the combined sewer storm system, though eventually it is proposed that all stormwater be diverted to the separate stormwater system. Both stormwater systems receive stormwater from areas which have been previously developed and where development is proposed, including the CP-HPS Project and Executive Park, among

others.

All development projects, however, must comply with comprehensive regulatory requirements that would avoid or reduce the potential for such impacts. For example, all proposed development in the City is required to conform with the Construction General Permit, Wastewater Discharge Permit Orders, Municipal NPDES permits, and potentially General Permit Orders for certain types of construction dewatering. To obtain coverage under these permits, cumulative development projects would be required to implement construction BMPs similar to those recommended for Alternatives A, B and C ~~The Candlestick Point portion of the CP-HPS Project includes mitigation calling for development of SWPPPs, development of a stormwater control plan and development of a dewatering plan (EIR Mitigation Measures HY-1a.1, HY-1a.2, HY-1a.3and HY-6a.1,). Alternatives A, B and C would be required to implement the same mitigation.~~ (Mitigation Measures 10.1a, 10.1b, 10.1c and 10.1d) to reduce impacts to downstream surface water. ~~With the proposed mitigation for the Alternatives A, B and C and the remainder of the Candlestick Point portion of the CP-HPS Project, cumulative impacts would not be significant and adverse~~ With the implementation of required BMPs, cumulative construction impacts to water quality would be less than significant.

No change is proposed to the Operation subheading which follows or the remainder or 5.2.10.

6-41 Regarding rock fragmentation, Alice Griffith and Jamestown Avenue are approximately 1,000 feet apart. Impacts of rock fragmentation, such as vibration, typically occur over much shorter distances, of up to 200 feet. Furthermore, rock fragmentation at Alice Griffith would not occur at the same time as the Jamestown part of the CP-HPS Project. In fact there would be at least five years (potentially more) between site preparation for the two developments. Based on the separation of time and space of rock fragmentation events at the two sites, there is no anticipated cumulative impact. Additionally each project includes monitoring for ground settlement and lateral movement so that the individual impact of both projects would be mitigated. Regarding Executive Park, this project is located over 1,800 feet from the Project Site which is well outside of the geographic boundary for this impact and thus it was not discussed. Thus, there is no potential for any past, present or reasonably foreseeable future projects to combine with the Proposed Action or alternatives and result in a cumulative impact.

Regarding liquefaction impacts, liquefaction risk is site-specific and not cumulative in nature, i.e. Alice Griffith development does not affect the potential for liquefaction in off-site areas and vice versa. The Proposed Action and alternatives include site-specific geotechnical investigations to address this risk for the Project

Site.

Finally, it is unclear whether the commenter is implying that rock fragmentation could impact liquefaction susceptibility. Rock fragmentation does not cause liquefaction of surrounding areas that may be otherwise prone to liquefaction during an earthquake. Liquefaction is caused by cyclic shear stress in saturated, loose soils that can be induced by the strong rocking, back-and-forth motion of earthquakes. Rock fragmentation may produce shorter-wave vibrations caused by impact or blasting, but the vibrations do not contain the cyclic motion similar to that of an earthquake capable of inducing liquefaction in loose soils.

6-42 The Draft EIS discussed cumulative impacts to the western red bat on p. 5-34, concluding that there would be no cumulatively significant and adverse impacts to the species. That discussion was not specific to the Project Site alone, but rather referred to broader areas where urban development was proposed in the region; this is indicated by the statement regarding "Areas proposed for urban development, including the Project Site", in the first paragraph in the discussion of cumulative impacts to biological resources for Alternatives A, B and C on p. 5-34 of the Draft EIS.

Some other projects in the vicinity of the Project Site, and in San Francisco as a whole, have some potential to disturb roosting western bats. For example, the CP-HPS Project Final EIR analyzed impacts to this species, determining that impacts would be less-than-significant for the reasons discussed in the Alice Griffith Draft EIS (i.e., very low abundance and low probability of injury or mortality to more than a few individuals). Furthermore, the CP-HPS Project would plant many more trees than are currently present on that Project Site, resulting in a net increase in potential roosting habitat for migrant red bats. As a result, the CP-HPS Project would fully mitigate its impacts to red bats and provide an additional benefit.

The Initial Study for Executive Park, mentioned by the commenter as another cumulative project worthy of consideration, determined that no special-status species would be affected by the project.[54] That project would result in the removal of trees as well, and thus it is possible that some red bats could be disturbed. However, project document stated that it will "comply with landscape guidelines of the Subarea Plan and the requirements of the Urban Forestry Ordinance, including requirements for replacement of significant trees and street trees".[55] As a result, Executive Park would also include the planting of trees that would likely offset any impacts that the project might have on red bats.

[54] San Francisco Planning Department, 2009. Initial Study, Planning Department, Executive Park Subarea Plan and Yerby and UPC Development Projects, February 2009, pg. 66. Appendix A of the Final EIR.
[55] San Francisco Planning Department, 2009. Initial Study, Planning Department, Executive Park Subarea Plan and Yerby and UPC Development Projects, February 2009, pg. 27. Appendix A of the Final EIR.

The western red bat was addressed in the Alice Griffith Draft EIS because it is a special-status species (a California species of special concern), and because there is some potential for it to roost in trees on the site. It does not breed in San Francisco; rather, this migratory species occurs only as a migrant and possibly as a sparse winter visitor. There is no evidence that this species occurs abundantly in the City, or that concentrations of the species occur anywhere in the City. Instead, unlike bat species that congregate in large roosts, western red bats tend to be solitary. Western red bats typically roost in the foliage of trees, rather than in cavities or crevices like many other bats. Collectively, these life history/occurrence characteristics indicate that (a) no young or maternity colonies of western red bats would be impacted by any development projects in San Francisco; (b) no more than a few individuals could be impacted by a given project, if the species were present at all; and (c) if a roost site were impacted, the bat would be able to leave the roost site by simply flying away, as opposed to being trapped or injured inside a cavity or crevice. For these reasons, there are no conceivable projects in San Francisco that would be expected to result in the injury or mortality of enough western red bats to lead to a significant impact, and collectively, cumulative development projects in the City would not affect so many individuals that such impacts would be cumulatively significant. Additionally, past, present and reasonably foreseeable future projects have been and would continue to be subject to landscaping and tree replacement and planting requirements thereby further reducing any potential for a cumulative impact to red bats.

6-43 The Draft EIS discussed cumulative impacts to nesting birds protected by the Migratory Bird Treaty Act and California Fish and Game Code on pp. 5-34 and 5-35, concluding that there would be no cumulatively significant and adverse impacts to such species. That discussion was not specific to the Project Site alone, but rather referred to broader areas where urban development has occurred, is occurring and is proposed in the region.

The Draft EIS concluded that, in the absence of mitigation measures, project-specific impacts to protected birds could be significant (p. 4.14-5), and thus Mitigation Measure 14.1 was required. That measure entails surveying for, identifying, and avoiding impacts to occupied nests of protected species. Although that measure was derived from a similar measure implemented by the CP-HPS Project, the use of that measure in the Draft EIS was not "improper" as the commenter suggested, but rather entirely appropriate given the similarity of the potential impacts to nesting birds.

With implementation of Mitigation Measure 14.1, Alternatives A, B and C (like the CP-HPS Project) would avoid impacts to birds protected by the Migratory Bird Treaty Act and California Fish and Game Code, and thus would not contribute to cumulative impacts to these species. This nest protection mitigation measure has been a common requirement for developments in San Francisco and throughout the

region for many years. Thus, many past, and all present and future projects have been or would be required to protect nesting birds during construction. Consequently, no cumulative impacts to nesting birds would occur.

6-44 Comments have been considered and specific responses are provided above.

Arc Ecology
Environment, Economy, Society, & Security

March 13, 2012
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Re: Comments of Arc Ecology regarding Draft Environmental Impact Statement - Alice Griffith Redevelopment Project

"The moral arc of the universe is long, but it bends toward justice"
Reverend Martin Luther King Jr.
Where Do We Go From Here?
August 1966

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PREFACE

Arc Ecology supports the rebuilding of Alice Griffiths and we support the Alice Griffiths community's desire to remain intact as a community. We are however skeptical as to whether this proposed plan will accomplish these important goals. We are also convinced that this Environmental Impact Statement neither adequately nor in many instances accurately characterize conditions surrounding the project and its impacts. 7-1

From our perspective it is generally the case that from 2003 onward the Candlestick Point Hunters Point Shipyard Project has been very long on promises and very short on delivery. The housing development on Parcel A of the Hunters Point Shipyard whose approval dates back to 2004 stands vacant today eight years later. Yes the streets, pads, and lights are in: *but no one is home*.
Nor have the:

- 10,000 jobs promised by the Mayor's Office of Economic and Workforce Development $36 million legacy fund to be derived from development revenues;
- 6 acres of community benefit property whose mission and purpose was to be determined by the community through a public process and could have been utilized in the interim;
- 300 units of affordable housing; or
- The promised promontory park which could be operated to the community's benefit with or without the construction of the housing

associated with this project materialized,

While it is true that some efforts have been made toward providing some of the benefits promised the Bayview Hunters Point Community and a hand full of jobs have been created over the last fifteen years since the San Francisco Redevelopment Commission awarded the Exclusive Negotiating Agreement to the current master developer, these benefits have amounted to pennies on the dollar for a community starving for assistance.

7-2

Arguments will be made that these delays have been the result of a bad economy, that current housing trends don't fit the model proposed for development, and that litigation tied up the process however they are unfortunately easily refuted:

- In the year and a half since the August 2010 passage of the Candlestick Hunters Point Shipyard Phase 2 Disposition and Development Agreement hundreds of units of housing have been build all over the City including the Ocean Avenue Project near City College and at nearby Mission Bay.
- The very type and quantity of housing being constructed on Ocean Avenue (studios, one and two bedrooms) today bears a striking resemblance to that promised for Phase 1 initial construction.
- The construction of such rental units were rejected by the developer and OEWD in their 2007 amendment to the Phase 1 Disposition and Development Agreement as impractical and without a market.

Furthermore while the Environmental Impact Report for Phase 2 may have been litigated:

- The Phase 1 project EIR approved in December 2003 was not litigated and site grading began in 2006.
- Recent actions by the NFL and the City of Santa Clara, have for all intents and purposes eliminated the prime alternative for the 2010 Phase 2 EIR.

Finally we would note that even if this project does go forward:

"*The Proposed Action would not be fully built out until 2021"*
Alice Griffith Redevelopment Project Draft EIS page 4.8-7 December 2011

This means that an average of 28 units of replacement housing would be built annually from the approval of this EIR over the next 9 years . Happily that would 28 times the total annual home construction for Parcel A over the last 9 years.

So it is with some reasonable skepticism that Arc Ecology submits these comments. We present them in two parts, Arc Ecology's internal organizational review provided here and those of our attorney Brian Gaffney of Lippe Gaffney Wagner LLP provided under separate cover. We thank the Mayor Office of Housing for the extension of the public comment period and the opportunity to present these comments today.

Arc Ecology Comments

Alice Griffiths EIS

Arc Ecology Comment 1

Alternative E: Accelerate Construction of Alice Griffith Replacement Housing by constructing on Candlestick Point Hunters Point Shipyard Project Phase 1 property on Hunters Point Hill.

Arc Ecology would propose an additional Alternative for consideration. This Alternative E would propose to accelerate the construction of Alice Griffiths replacement housing by relocating the project to Parcel A formerly of the Hunters Point Shipyard. The successor agency to the Redevelopment Agency has a grandfathered commitment to the construction of 300 units of affordable housing at this site. All of the necessary infrastructure has been built and are in place which would reduce the timeline for AG replacement housing by two years. The successor agency could then simply construct the balance of its affordable housing commitment at both this site and the current Alice Griffiths location.

While the Alternative E site out of Candlestick Point neighborhood it is under one mile north—well within walking distance and a short MUNI ride. As importantly Alternative E addresses all of the concerns discussed in the EIS and would not necessarily preclude relocation back to Candlestick Point one replacement housing is constructed there.

The fundamental question this Alternative addresses is whether or not the goal of the project is to alleviate the stress to Alice Griffiths Housing and its deleterious impacts on the health and safety of its residents as rapidly as possible: Or whether the goal of the project is to obtain HUD monies to jump start private investment in the larger project. If the goal is to address the conditions at Alice Griffiths through the rapid construction of new housing: *Alternative E should be considered.*

Please note: Arc Ecology first made this proposal in 2009. The reason given for not considering it was "lack of funding." Due to the HUD Grant, merits not funding should prevail.

Alternative A: Proposed Project
Alice Griffith Redevelopment Project ES-2 ESA / 211653
Draft EIS December 2011

Alternative B: Housing Replacement Alternative
Alternative C: Reduced Development Alternative
Alternative D: No Action Alternative
Alice Griffith Redevelopment Project ES-3 ESA / 211653
Draft EIS December 2011

"ES.2 Purpose and Need

The Alice Griffith public housing development is distressed and deteriorated, with residences in various stages of physical decay. The existing Alice Griffith development also is physically isolated from the surrounding community. The development includes several internal looped roadways; however, there is only one access point to the off-site street network. There are few neighborhood-serving retail and quality recreational uses near the Project Site. These conditions of distress and disconnectedness frustrate community efforts to create a secure and healthy environment."
Alice Griffith Redevelopment Project ES-2 ESA / 211653
Draft EIS December 2011

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Arc Ecology Comments

Alice Griffiths EIS

Arc Ecology Comment 2

Given the history of the Phase 1 grading experience this is simply not a credible response.

Even assuming that the City is correct and the outcropping AG is built on is chert and not intermixed with serpentinite: *the likely exposure to pm10/ pm2.5 dust particles and their associated public health impacts warrant inclusion.* Therefore the EIS has not fully evaluated the possible impacts of the project. The EIS should consider the potential for fugitive dust and provide appropriate mitigations.

TABLE ES-1
SUMMARY OF IMPACTS AND MITIGATION MEASURES

4.2 Air Quality

Impact 2.3: Fugitive Dust Emissions for Construction (Criterion 3)

Mitigation Measures— None (all alternatives state low significance)

7 - 4

Arc Ecology Comment 3

Residents of AG have complained about the sewage backups, particularly during rainy season. It's not inconceivable that demolition will result in Odor emmissions, therefore the EIS has not fully analyzed the possible impacts

4.2 Air Quality

Impact 2.7: Exposure to Odor Emissions (Criterion 7)

Mitigation Measures— None (all alternatives state low significance)

7 - 5

Arc Ecology Comment 4

Sampling by State Parks, State Parks Foundation, EPA, and the Navy, as well as the historical record indicates that there is sufficeint data in place at this time to assume that the project has a high probability of encountering hazardous fill material in and around the project site. It is therefore inappropriate to couch the mitigation as an if found we will develop a plan later, *and instead provide a concrete assessment of the mitigations for each of the likely pollutant to be found*.

4.3 Hazards and Hazardous Materials

Impact 3.1: Exposure to Hazardous Fill Material (Criterion 1)

Prior to obtaining a site, building or other permit from the City for development activities involving subsurface disturbance of artificial fill materials, the Project Applicant shall characterize the fill materials in accordance with the requirements of San Francisco Health Code Article 22A. In addition to the requirements of Article 22A, site sampling shall include analysis of soil vapor samples to identify potential vapor intrusion of volatile organic compounds. If the site investigation indicates the presence of a hazardous materials release, a site mitigation plan must be prepared. The site mitigation plan must specify the actions that will be implemented to mitigate the significant environmental or health and safety risks caused or likely to be caused by the presence of the identified release of hazardous materials including soil vapor intrusion. The site mitigation plan shall identify, as appropriate, such measures as excavation, containment, or treatment of the hazardous materials, monitoring and follow-up testing, and procedures for safe handling and transportation of the excavated materials, or for protecting the integrity of the cover or for addressing emissions from remedial activities, including the use of vapor barriers into building design plans, consistent with the requirements set forth in Article 22A.

7 - 6

Arc Ecology Comments

Arc Ecology Comment 5

Given that residents of AG will be in place as demolition, grading and construction takes place it is therefore reasonable again here to provide a plan for review as opposed to present it as a contingency.

TABLE ES-1
SUMMARY OF IMPACTS AND MITIGATION MEASURES

Mitigation Measure 3.1b: Unknown Contaminant Contingency Plan [EIR Mitigation Measure HZ-2a.1]

Before obtaining the permit for the first site or building or other permit for development involving subsurface disturbance, the project sponsor shall prepare and the SFDPH shall approve a contingency plan to address unknown contaminants encountered during development. This plan, the conditions of which shall be incorporated into the first permit and any applicable permit thereafter, shall establish and describe procedures for implementing a contingency plan, including appropriate notification to nearby property owners, schools and residents and appropriate site control procedures, in the event of unanticipated subsurface hazards or hazardous material releases during construction. Control procedures would include further investigation and, if necessary, remediation of such hazards or releases, including offsite removal and disposal, containment, or treatment. In the event unanticipated subsurface hazards or hazardous material releases are discovered during construction, the requirements of this unknown contaminant contingency plan shall be followed. The plan shall be amended, as necessary, if new information becomes available that could affect the implementation of the plan.

7 - 7

Mitigation Measure 3.1c: Site-Specific Health and Safety Plans [EIR Mitigation Measure HZ-2a.2]
Before obtaining the permit for the first site or building or other permit for the project from the City for development involving subsurface disturbance, the project sponsor shall prepare and submit to the SFDPH a site-specific HASP in compliance with applicable federal and state OSHA requirements and other applicable laws to minimize impacts on public health and the environment. Implementation of the HASP shall be required as a condition of any applicable permit. The plan shall include identification of chemicals of concern, potential hazards, a requirement for personal protective equipment and devices, and emergency response procedures. The HASP shall be amended, as necessary, in the event new information becomes available that could affect the implementation of the plan.

Arc Ecology Comment 6

It is equally likely given the age of AG that high concentrations of lead will also be present along with Asbestos Containing Materials (ACM). We suggest adding a new Mitigation Measure 3.4 here to address the release and dispersal of lead through the demolition process. We suggest changing the current 3.4 to 3.5.

Impact 3.3: Release of Hazardous Substances (Criterion 3)

Implement Mitigation Measure 3.1c
Mitigation Measure 3.3: Asbestos Identification and Abatement Mitigation

7 - 8

Impact 3.4: Potential Release of Hazardous Materials During Routine Use, Storage, Transport, and Disposal (Criterion 4)

Arc Ecology Comments

Alice Griffiths EIS

Arc Ecology Comment 7

We respectfully disagree. This statement flies in the face of 20 years of transportation dust control complaints from Bayview residents regarding waste hauling from the Hunters Point Shipyard. In addition accidents do happen. Stating the contractor will follow best management practices does not guard against one who does not. A plan should be available for review as part of the mitigation section of this EIS. A transportation dust control, spill and accident protocol should have been included.

TABLE ES-1
SUMMARY OF IMPACTS AND MITIGATION MEASURES

Impact 3.4: Potential Release of Hazardous Materials During Routine Use, Storage, Transport, and Disposal (Criterion 4)

Mitigation Measure: None (considered Low Significance through all Alternatives)

Alice Griffith Redevelopment Project ES-7 ESA / 211653
Draft EIS December 2011

7-9

Arc Ecology Comment 8

We respectfully disagree. While it may be true site improvements will have some benefits, these benefits will be offset by the potential for exposure during the construction period and the continued possibility of exposure afterwards because a substantial portion of the fundamental activities that cause the Bayview Hunters Point community to be an EJ community will be left unaddressed. Yes Alice Griffiths is a public housing project populated by people and families in poverty but what makes Bayview Hunter Point is an EJ community just the incomes of the residents but the poverty in conjunction with exposure to environmental hazards affecting public health. Alice Griffiths is not an EJ community simply because of the conditions within Alice Griffiths but because of the activities surrounding it. The EIS implies that site improvements ameliorate or benefit EJ concerns. Arc Ecology is concerned that these benefits will be leavened by the potential exposure through the construction period. This exposure will be additive to an existing greater burden and therefore disproportionately greater over other City neighborhoods. Furthermore post construction, the same surrounding disproportionate threats will continue. Alice Griffiths because it will continue to be located in Bayview Hunters Point will continue to be an Environmental Justice community. Burdens of exposure will remain disproportionate over the rest of the City even after reconstruction. This section requires a more nuanced analysis.

4.7 Environmental Justice

Impact 7.1: Disproportionate Effects to Low-Income and Minority Populations (Criterion 1)

Mitigation Measure: None (considered Beneficial through all Alternatives)

Alice Griffith Redevelopment Project ES-8 ESA / 211653
Draft EIS December 2011

7-10

Arc Ecology Comments

Alice Griffiths EIS

Arc Ecology Comment 9

Please change from "may" to ***must***. For example the site is already subject to illegal dumping so non-stormwater management BMPs should include identifying sources of illegal and locations of illegal dumping.

TABLE ES-1
SUMMARY OF IMPACTS AND MITIGATION MEASURES

4.10 Hydrology, Flooding and Water Quality

Mitigation Measure 10.1a: Stormwater Pollution Prevention Plan: Combined Storm Sewer System (EIR Mitigation Measure HY-1a.1)

7-11

- *Non-stormwater management BMPs **may** include water conservation practices, dewatering practices that minimize sediment discharges, and BMPs for paving and grinding; identifying illicit connections and illegal dumping; irrigation and other planned or unplanned discharges of potable water; vehicle and equipment cleaning, fueling, and maintenance; concrete curing and finishing; temporary batch plants; and implementing shoreline improvements and working over water. Discharges from dewatering shall comply with the SFPUC's batch wastewater discharge requirements, which regulate influent concentrations for various constituents*

Alice Griffith Redevelopment Project ES-10 ESA / 211653
Draft EIS December 2011

Arc Ecology Comment 10

An additional comment on ***4.1 Hydrology, Flooding and Water Quality.***

Yosemite Slough is 900 feet down gradient from the project site therefore additional specific Mitigation Measures are needed to prevent conflicts with EPA R9 Remedial Response to the PCB and other contamination there.

Arc Ecology Comment 11

During the CP/HPS review the City alleged the proposed alternate BRT route around the slough was more dangerous because motorists, pedestrians and bicyclist would have to cross the path of the BRT. Therefore the City cannot now claim that there is no or low impact for AG residents and others with regard to crossing the BRT route.

4.11 Traffic and Transportation

Impact 11.1: Intersection Traffic Impacts (Criterion 1)

7-12

Mitigation Measure: None (through all Alternatives)

Alice Griffith Redevelopment Project ES-16 ESA / 211653
Draft EIS December 2011

Arc Ecology Comment 12

Please change this sentence to read north and west of Fitzgerald Avenue to Third Street.

1.3 Background

1.3.1 Existing Uses

"Light industrial, warehouse and storage uses are dominant north of Fitzgerald Avenue."

7-13

Alice Griffith Redevelopment Project 1-4 ESA / 211653
Draft EIS December 2011

Arc Ecology Comment 13

The text of this section of the EIS is repeated throughout the document and the more we read the more pause it gave us. Please clarify whether current residents of Alice Griffiths will be able to move into equivalent lodging (e.g. numbers of bedrooms) as well as replacement units targeted to the same income level.

Bayview Hunters Point Redevelopment Plan

In August 2010, the San Francisco Board of Supervisors amended the BVHP Redevelopment Plan as part of the approvals for the CP-HPS Project. Objectives for the Alice Griffith neighborhood are defined in the Redevelopment Plan as follows:

7-14

Existing affordable homes will be rebuilt to provide at least one-for-one replacement units targeted to the same income levels as those of the existing residents and ensure that eligible Alice Griffith Housing residents have the opportunity to move to the new, upgraded units *directly from their existing Alice Griffith Housing units without having to relocate to any*

Arc Ecology Comments

Arc Ecology Comment 13 continued

This is a subtle but potentially important distinction and one that is very important to AG residents. Replacing units on a one to one basis simply means destroy one replace one and could be interpreted as a quantitative and not a qualitative objective.

When combined with the statement: ***"replacement units targeted to the same income levels as those of the existing residents"***, the outcome could be very different than one envisioned by AG residents. Units targeted to the same income levels as those of existing residents in San Francisco today could be a very different product. A family of five would want a three bedroom apartment at a minimum, but could live reasonably comfortably in a two bedroom, however not a one bedroom.

Seeing further definition of whether the replacement units would offer the residents at least the same numbers of bedrooms and baths they currently have spelled out in the final EIS would be critical toward understanding whether this *opportunity* would be something residents are likely to take.

Bayview Hunters Point Redevelopment Plan continued.

other area.

7-14
Can't

Arc Ecology Comment 14

With all due respect, as the City well knows, this number includes all of the public meetings held regarding this project and not simply the number of meetings specific to a plan that was developed in three months in response to the announcement that the San Francisco 49ers were relocating. We do not wish to reopen the discussion of the way in which the approved plan was presented and approved, or the behavior of a Redevelopment process that contributed to the demise of the process statewide. Our point is simply it would be circumspect to not overstate.

Candlestick Point-Hunters Point Shipyard Phase II Project

"The CP-HPS Project envisions the following new uses at buildout in the Candlestick Point and Hunters Point Shipyard areas: 10,500 residential units; 885,000 square feet of regional/neighborhood retail; 2,650,000 square feet of commercial, light industrial, research and development (R&D) and office space; 255,000 square feet of arts education and artist studio space; 100,000 square feet of community uses; and 330 acres of parks and open space. The Hunters Point portion would include a new 49ers stadium or, in the event that a stadium is not built, either an additional 2,500,000 square feet of R&D or a combination of housing and R&D space."

***"Prior to approval, the CP-HPS Project was reviewed and discussed in over 230 public meetings**, including meetings with the two community-based advisory organizations that oversee the Plan area (the Hunters Point Shipyard Citizens*

7-15

Arc Ecology Comments | **Alice Griffiths EIS**

Advisory Committee and the Project Area Committee), the Redevelopment Agency Commission, the Board of Supervisors, the Planning Commission and other City commissions, along with other local forums."

7-15 Can't

Arc Ecology Comment 14

We would simply and for the record repeat the comments of the residents of Hunters View who have on numerous occasions disputed the claims of Hope SF.

Housing Opportunities for People Everywhere (HOPE SF)

In March 2007, the HOPE SF Task Force recommended that the City and the SFHA partner to rebuild distressed public housing sites in San Francisco, including the Alice Griffith neighborhood, as mixed-income communities. HOPE SF principles include replacement of public housing units one-for-one, creation of economically-integrated communities, involvement of residents within the planning process, provision of economic opportunities through the rebuilding process, integration with neighborhood improvements plans, and creation of environmentally sustainable and accessible communities.

7-16

Arc Ecology Comment 15

Two general comments:

1. Please adjust non-historical references to the San Francisco Redevelopment Agency to either the successor commission or the appropriate City agency to which authority for an action has been assigned.
2. Please review the document to ensure that a consistent number of units for AG be presented. This number has alternately been presented as 251, 256 etc.

CHAPTER 2.0

7-17

Arc Ecology Comment 16

There is currently enough knowledge about what this site would look like to warrant seeing these systems in more detail particularly the overland flow system. It would be helpful for community understanding and from a technical standpoint to see the design or have subsequent designs resubmitted for environmental review.

Drainage

The storm drainage system would handle stormwater by three methods; the particular method employed for any individual storm would depend on the magnitude of the event. These methods include treated storm flows, a five-year storm2 piped system, and overland flow.

7-18

Arc Ecology Comments

Alice Griffiths EIS

Arc Ecology Comment 17

152 trips per day would equate to 4 truck (presumably diesel) trips per hour during a ten hour work day.

Similarly hauling rock away will seem to produce a large amount of emissions. Assuming 20 c/y = 16 ton max load per semi, it would seem close to 7,000 loads this would come to around 3 per hour over the course of a year assuming a ten hour day.

This seems like a lot of truck trips for a project whose air emissions will have low significant impacts.

Building Construction

Building construction would include developing new residential and community service buildings, planting new landscaping, and constructing roadways, sidewalks, and utilities (although these activities would not occur simultaneously). The number of truck trips on any given day would vary, from a low of four trips to a maximum of 152 trips during site preparation.

Current estimates indicate that there are approximately 42,000 cubic yards of hard rock in three areas of the Project Site.[4] For estimation, each area is assumed to contain a third of this volume, or 14,000 cubic yards of rock, that may need to be removed using controlled rock fragmentation. Excavators could remove 14,000 cubic yards of rock in six weeks in three events, each producing approximately 4,500 cubic yards, with a two-week period between events for set up and excavation. The three events would occur sequentially, and would take approximately 17 weeks.

7-19

Arc Ecology Comment 18

As a former Navy housing site (EIS) and filled by SF and Navy there is a good deal in the literature about the practices so while the exact contents of the fill material may be unknown, there is an abundance of data upon which to speculate. For example, if the fill material came from any of the surrounding hills there is the potential for nickel, arsenic, serpentinite, construction debris to be included. Why would this fill material differ substantially from say the Shipyard whose fill is generally well characterized.

CHAPTER 3.0
Affected Environment

Hazards and Hazardous Materials

The lower portions of the Project Site, primarily the non-SFHA properties, were historically part of the San Francisco Bay but have since been filled. The SFHA property was also filled but to a lesser extent. The source of the fill material is unknown.

3.3.1 Historic Land Uses

"the site was occupied by the Double Rock War Dwellings, constructed in the 1940s to house workers at the Shipyard. The site was filled and graded in the early 1960s to construct the Alice Griffith public housing. The source of the fill is unknown, but may have come from the adjacent hillside."

7-20

Arc Ecology Comments

Arc Ecology Comment 19

There is ample precedence for developing monitoring and mitigating the diesel impacts on communities. The Port of Oakland and other communities have developed acceptable ways of mitigating the impacts of Diesel pollution on West Oakland. It is not acceptable, particularly in an environmental justice community to discount action or further investigation of these affects in this manner.

Diesel Particulate Matter

DPM is not one chemical but a mixture of harmful chemicals found in diesel exhaust. The primary source of DPM is emissions from diesel-fueled vehicles both on roadways and from other mobile sources, such as construction and agricultural equipment. There is no monitoring data for DPM because there is no accepted way to measure DPM emissions.

Alice Griffith Redevelopment Project 3.2-3 ESA / 211653
Draft EIS December 2011

7-21

Arc Ecology Comment 20

Lippe Gaffney Wagner LLP will be addressing this issue on our behalf. Arc Ecology is confused authors of this EIS did not refer to the exhaustive 1998 Brownfield Assessment of the Bayview Hunters Point Community by Geomatrix conducted by the Redevelopment Agency. This amply demonstrates that there are historically far more potentially contaminated sites adjacent to and within 1 mile of the Alice Griffiths Housing site than is apparently listed in the EIS table presented on Page 3.3.5. The Geomatix study demonstrates why the Alice Griffiths community will remain and environmental justice community even after the housing is replaced.

Potentially Contaminated Sites within 1 Mile of the Project Site

Alice Griffith Redevelopment Project 3.3-2 ESA / 211653
Draft EIS December 2011 through Alice Griffith Redevelopment Project 3.3-5 ESA / 211653
Draft EIS December 2011

7-22

Arc Ecology Comment 21

Environmental just raises important questions about rebuilding in place. Rebuild in place means that the City is committing this EJ project and its residents to residing in the midst of a highly contaminated community where the emissions and pollution generated by adjacent industrial activities will continue unabated for the foreseeable future. This will ensure that future generations of AG residents will continue to be subjected to a disproportionate impact from these pollutants of the general population of the City of San Francisco, a worrisome prospect at best, particularly considering the availability of other alternative location within the community.

3.7 Environmental Justice

U.S. Department of Housing and Urban Development (HUD) regulations found at 24 CFR Parts 50 and 58, mandate compliance with Executive Order 12898 (EO 12898), *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, for HUD and/or HUD applicants.

7-23

Arc Ecology Comments

Arc Ecology Comment 22

The data presented in this Table 3.7-1 is not accurate. According to the mid decade Census update in 2006, African Americans made up 38.5% of the community, Asian Americans 25.5%, Hispanic Americans 25%, White Americans 6%, and all others 4%.

San Francisco's own Human Rights Commission differs from the data presented here stating that the numbers for Asian and African Americans have now reversed themselves with Asian Americans now accounting for around 33% and African Americans 28% and the remainder of the population remaining close to the 2006 data.

This concurs with the rest of the City where the Human Rights Commission identifies Whites at 44%, Asian Americans around 20%, Hispanics at 14% and African Americans 8%. The City's African Americans population is expected to continue to shrink over the coming years. The data clearly reflects why Bayview Hunters Point is so important to African Americans in San Francisco.

Similarly in Table 3.72 the EIS presents a Study Area Poverty Statistic that does not study the project site in reference to the Area it is located in—Bayview Hunters Point. The EIS presents poverty defined at a US national average where the average home price is between $100-200k is different than a City like San Francisco where the average price of a home is $700k. Were San Francisco specific data used in combination of the national statistics a much worse condition would be revealed.

TABLE 3.7-1
STUDY AREA ETHNIC PROFILE

TABLE 3.7-1
STUDY AREA ETHNIC PROFILE

	Bayview Hunters Point	San Francisco	California
Percent White	8.9%	49.6%	59.4%
Percent African American	46.8%	7.6%	6.6%
Percent Asian/Pacific Islander	28.3%	30.9%	10.9%
Percent American Indian	0.5%	0.5%	0.9%
Percent Other Race	10.7%	6.4%	16.9%
Percent Multiracial	4.8%	4.5%	5.0%
Percent Minority	94.9%	56.4%	53.4%

SOURCE: EPA, Demographic Report, available online at http://oaspub.epa.gov/envjust/demog_report_2_ejv.doCountyStateComp, accessed September 30, 2011.

TABLE 3.7-2
STUDY AREA POVERTY STATISTICS

	Bayview Hunters Point	San Francisco	California
Percent Persons below Poverty Level	21.6%	11.3%	14.2%
Households in Area	9,273	329,700	11,502,870
Households on Public Assistance	1,089	12,942	563,409
Percent Households on Public Assistance	12	4	5

SOURCE: EPA, Demographic Report, available online at http://oaspub.epa.gov/envjust/demog_report_2_ejv.doCountyStateComp, accessed September 30, 2011.

Alice Griffith Redevelopment Project 3.7-3 ESA / 211653
Draft EIS December 2011

7-24

Arc Ecology Comments

Alice Griffiths EIS

Arc Ecology Comment 22

We are not entirely sure that we would concur. The real question here is how much will traffic grow. The combination of the CP/HPS project with the implementation of segments of the Bayview Plan should result in more than 10,000 daily. Implementation of the YS bridge alone should result in more than 200 BRT trips per day. AE disagrees with the EIR transportation analysis and testified as such during the time. Assuming half the projected work force commutes by car and half the residents of the development commute by car that would in and of itself generate close to 10,000 vehicle trips per day without calculating any of the existing residential, current business, or adjacent project generated trips.

Operational Risk and Hazard Impacts

The Proposed Action would result in the location of new sensitive land uses (residences) in an area where there are existing stationary sources of TACs. Based on 2010 traffic data of the San Francisco CHAMP traffic model, all roadways within 1,000 feet of the project perimeter would have daily traffic volumes below 10,000 vehicles per day and would not require an assessment of traffic related risks and hazards from local roadways.

Alice Griffith Redevelopment Project 4.2-9 ESA / 211653
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7 - 25

Arc Ecology Comment 23

This statement is similar to one produced for the 2003 EIR for the Shipyard's Phase 1 project. That statement proved erroneous as this one will as well. Parcel A phase 1 community dust monitors outside the construction site data are in the possession of the City and the asbestos exceedences alone should have chastened these comments. The presentation of a robust plan for fugitive dust control would have been much preferred. Such a plan should focus on monitoring for possible health impacts versus the BAAQMD oriented model of monitoring the success of dust control measures. The model should include a grided monitoring system with detectors inside the project area and with the adjacent surrounding community similar to the one now operating around Parcel A.

Impact 2.3: Fugitive Dust Emissions for Construction (Criterion 3)

Alternatives B and C would generate fugitive dust during construction and would be required to comply with the Construction Dust Control Ordinance and the BAAQMD threshold for construction, which is implementation of BMPs contained in the Dust Control Ordinance. The BAAQMD has not established a significance threshold for fugitive dust associated with operation, and these uses proposed under the alternatives would not be expected to produce substantial fugitive dust. Because these alternatives would comply with the Dust Control Ordinance and associated BMPs, air quality impacts related to fugitive dust emissions would be ***less than significant****.*

Alice Griffith Redevelopment Project 4.2-11 ESA / 211653
Draft EIS December 2011

7 - 26

Arc Ecology Comments

Arc Ecology Comment 24

This is a confused and misleading section. It conflates AST explosive radius issues and groundwater plumes with sites that use, store and handle hazardous and toxic materials adjacent to the site thereby presenting an incorrect impression. See prior comments as well as comments of LGW LLP.

Impact 3.2: Proximity to a Potentially Hazardous Site (Criterion 2)

There are no documented sites that use, store, handle, or dispose of toxic, radioactive, or chemical substances within an unacceptable distance from the Project Site. A search of AST sites, indicated that three ASTs were located within a mile radius of the Project Site.

Alice Griffith Redevelopment Project 4.3-5 ESA / 211653
Draft EIS December 2011

7-27

Arc Ecology Comment 25

Summary Comment

If there a general overarching theme to our comments it is that this document overreaches its analysis.

One cannot simply say that because one expects to employ best practices, it functions as an analysis of a threat or that the threat is less than significant. A more nuanced ordering of significance is needed.

One cannot affirmatively state that what one does not know is a less than significant problem. It may at best potentially so, but there are numerous reasons to be cautious about such a claim.

Having rules on the books doesn't guarantee compliance by an Agency, Developer, Contractor, Subcontractor or Employee. San Francisco and Bayview Hunters Point has already witnessed this problem with regard to dust control on Parcel A.

As indicated in the Preface our Lippe Gaffney Wagner will be providing more detailed legal commentary. However in summary we find this report woefully inadequate and for the benefit of the project, the City of San Francisco, the US Department of Housing and Urban Development, and most importantly the residents of Alice Griffiths whose well being is dependent upon this project, we urge recirculation of a new and improved Draft EIS. Thank you.

7-28

Comment Letter 7 – Arc Ecology

7-1 See specific responses to comments below concerning adequacy of the Draft EIS.

7-2 The commenter's assertion that an average of 28 replacement units would be built annually mischaracterizes the proposal. The 256 public housing replacement units would be constructed first to allow existing residents to move into the replacement units prior to demolition of the existing public housing so that no displacement occurs. Construction of the site as a whole is proposed to be completed by 2023; however the public housing replacement units would be finished prior to 2019.

The following two references in the Final EIS have been revised:

On page 2-6, under the heading construction the following text is revised:

> "The Proposed Action would be constructed over a ten ~~nine~~-year construction period beginning in 2013~~2012~~ and ending in 2023~~2021~~."

On page 4.8-7, under Impact 8.3, the following text is revised:

> "The Proposed Action would not be fully built out until 2023 ~~2021~~ when residual waste would be transferred to Ostrom Road Landfill ..."

7-3 The commenter recommends an alternative to move existing Alice Griffith residents, either temporarily or permanently, to the Hunters Point Hill location because infrastructure is in place to expedite housing construction. A discussion of alternatives considered but not carried forward for detailed consideration has been added to the Final EIS as **Section 2.7**.

The Proposed Action has been designed to provide for the timely development of infrastructure without relocating existing residents.

Temporary or permanent relocation to Hunters Point Hill does not meet the Purpose and Need for the following reasons:

- The Hunters Point Hill site is outside of the scope of the Purpose and Need, which is revitalization of the Alice Griffith Project Site.
- Redevelopment of Alice Griffith is part of the HOPE SF program which includes a commitment to minimize the displacement of existing residents and emphasizes on-site relocation.
- Proposition G, which was approved by voters in June 2008, specifies:

> *Subject to consultation with Alice Griffith Housing residents and the receipt of all required governmental approvals, rebuild Alice Griffith Housing to provide at least one-for-one replacement units targeted to the same income levels as those of the existing residents and* ***ensure that eligible Alice Griffith Housing residents have the opportunity to move to the new, upgraded units directly from their existing Alice Griffith Housing units without having to relocate to any other area****.*

[Emphasis Added]

Regarding economic feasibility, it should be noted that the Alice Griffith Project received a $30.5 million dollar Choice Grant from HUD. This grant is site-specific and cannot be applied to Phase 1 development at the Shipyard. There is no similar source of funding available for development of the Alice Griffith Project at Hunters Point Hill.

7-4 The Draft EIS considered the potential for fugitive dust in **Section 4.2**, Impact 2.3. As noted in the Draft EIS, the Proposed Action and alternatives would generate fugitive dust during construction. The analysis considers the local standard or BAAQMD significance threshold for fugitive dust, which is compliance with Best Management Practices (BMP) (BAAQMD CEQA Air Quality Guidelines December 1999). San Francisco Health Code Article 22B, Construction Dust Control, requires preparation of a site-specific dust control plan for construction projects within 1,000 feet of sensitive receptors. That plan must include a number of equivalent measures to minimize visible dust. These measures contain measures similar to those presented the BAAQMD CEQA Guidelines; however the San Francisco Health Code requirements increase the watering frequency as well as adding monitoring, recordkeeping, third-party verification, and community outreach requirements not found in the BAAQMD guidelines. The Proposed Action and alternatives would comply with the Dust Control Ordinance and associated BMPs. Compliance with existing regulatory requirements would reduce the impacts of fugitive dust from construction to a less than significant level. The regulatory discussion in **Section 4.2** has been expanded to support this conclusion.

7-5 Odor impacts were analyzed in **Section 4.2**, Impact 2.7. The following text is revised in the Final EIS:

> "Residents could notice odors from construction vehicle exhaust or ~~other~~ construction <u>and demolition activities</u>, but these would be temporary and do not typically result in odor complaints."

Construction and demolitions sites are not noted as potential odor sources for screening by the local air district, BAAQMD.[56]

7-6 Refer to Response to Comment 6-3, 6-4, 6-9 and 6-10 concerning the analysis of hazardous fill material.

7-7 Refer to Response to Comment 6-11, 6-12 and 6-13, regarding Mitigation Measure 3.1b. Refer to Response to Comment 6-14, 6-15 and 6-16 concerning Mitigation

[56] BAAQMD, 1999. BAAQMD CEQA Guidelines Assessment the Air Quality Impacts of Projects and Plans, December 1999. pg 16-18.

Measure 3.1c.

7-8 The potential for impacts from lead-based paint (LBP) was discussed in **Section 4.3**, Impact 3.3. As noted in the EIS "LBP would be regulated by Chapter 34, Section 34017 of the SFBC [San Francisco Building Code] which requires notification and work standards for activities which could result in LBP disturbance. These requirements are built into the permit review process and thus no demolition or abatement activities could take place prior to satisfying these requirements." The potential for exposure was considered significant and adverse and mitigation was provided for a Site Specific Health and Safety Plan (Mitigation Measure 3.1c) in addition to the requirements of Chapter 34, Section 34017 of the SFBC. To further define the measures that will be taken in compliance with Chapter 34, Section 34017 of the SFBC, the following mitigation is added to **Section 4.3.3** of the Final EIS:

> Mitigation Measure 3.3c: Lead Based Paint
>
> Prior to any proposed demolition or abatement work, the project sponsor shall provide the San Francisco Department of Building Inspection (DBI) Director with notice of the location of the project; the scope of work, including the methods and tools to be used; the anticipated job start and completion dates; name, address, and telephone number of the person who will perform the work; and any other information applicable under Chapter 34 of the San Francisco Building Code. No demolition or abatement work shall proceed unless the project sponsor continuously meets the following performance standards: access to the work area by third parties shall be restricted; work debris shall be contained within the work area; and migration of work debris shall be prevented, using such measures as secure protective covering and prevention of dust tracking. Upon completion of the work, the project sponsor shall make all efforts to remove all visible work debris from the work area. In the course of carrying out the work, the project sponsor shall comply with all other applicable requirements of Chapter 34 of the San Francisco Building Code relating to work with Lead Based Paint.

The following language is added to the mitigation discussion for Impact 3.3: Release of Hazardous Substances (Criterion 3) of the Final EIS:

> The project sponsor would also implement **Mitigation Measure 3.3c**, which requires adherence to notification requirements and demolition/abatement work performance standards in order to minimize public and worker exposure to LBP at the Project Site and vicinity.

7-9 The Draft EIS acknowledged that accidental releases of hazardous materials during demolition and construction activities could impact the environment and/or result in adverse health effects. However, as explained in the Draft EIS, this risk is minimal because of the applicable regulatory schemes in place that govern the handling, use, storage, and transport of hazardous materials. For example, under Article 21A, contractors are required to comply with the San Francisco Department of Public

Health's ("SFDPH") Hazardous Materials and Waste Program, which implements six state environmental mandates and two local mandates relating to the management of hazardous materials and accident prevention. Through the program, any business handling, storing, or using hazardous materials must register with SFDPH and obtain a Hazardous Materials Compliance Certificate. In addition, under the risk management and prevention element of the program, implemented by SFDPH as the California Accidental Release Prevention ("CalARP") program, any business in possession of more than a threshold quantity of regulated hazardous material must comply with additional safety requirements including preparation of a Risk Management Plan ("RMP"). An RMP is a highly technical engineering study that includes safety information, hazard review, operating procedures, training, maintenance, compliance audits, and incident investigation. Additionally, under Article 22B—the City's Construction Dust Control Ordinance, implemented by SFDPH—contractors are required to comply with stringent controls to minimize dust emissions. Under the Ordinance, for projects over one half acre in size, a site-specific Dust Control Plan that accomplishes the goal of minimizing visible dust must be prepared and approved by SFDPH. The Ordinance specifically addresses haul trucks carrying excavated material and includes measures to minimize any resultant generation of dust. Transporters of hazardous materials must also comply with highly controlled federal and state protocols for packaging, labeling, and manifesting hazardous materials, among other requirements.

Note that the Final EIS has been revised in Response to Comment 6-38 to supplement the information on applicable regulatory programs related to handling, use, and storage of hazardous materials. For more information on the applicable federal, state, and local regulatory programs designed to protect against accidents during the handling, use, or storage of hazardous materials, refer to Response to Comment 6-38 above and **Section 4.3.1** of the Final EIS as revised.

7-10 The agency addresses environmental justice under Federal Executive Order 12898 (EO 12898), Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations. The order directs agencies to develop environmental justice strategies to address disproportionate high and adverse health or environmental effects of its programs, policies, and activities on minority and low-income populations. Alice Griffith meets the definition of a low income or minority population. HUD guidance, for grantees and Responsible Entities, on environmental justice analysis includes ensuring the fair treatment and meaningful involvement of all people with respect to the development of projects. [57,58]

The commenter makes three environmental justice comments, 1) the potential for

[57] U.S. Department of Housing and Urban Development (HUD), 2012. Environmental Justice Website. Available online at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/environment/review/justice, accessed August 27, 2012.

[58] U.S. Environmental Protection Agency (EPA), 2012 Environmental Justice Website, Available online at: http://www.epa.gov/compliance/environmentaljustice/, accessed May 23, 2012.

exposure during construction is a disproportionate burden, 2) the present adverse environmental impacts at the Project Site will remain after the Proposed Action is constructed, and 3) site improvements would not offset impacts. Responses to the comments follow.

1) The potential for exposure during construction is a disproportionate burden.

The environmental impacts of construction of the Proposed Action and development alternatives on existing residents of Alice Griffith were considered throughout the Draft EIS in Chapters 3.0, 4.0, and 5.0. These chapters discuss in detail the present environmental conditions of the Project Site and its surroundings, the environmental impacts of the construction of the Proposed Action and alternatives, and cumulative environmental impacts from construction activities. A focused discussion of environmental justice impacts is included in **Section 4.7**. Draft EIS Chapter 4.0, Environmental Consequences, discusses the regulatory requirements and mitigation measures that would reduce the potentially significant adverse impacts from construction to less than significant. This document in its responses to comments provides additional detail about the regulatory requirements and mitigation measures. See for example Response to Comment 3-4 regarding fugitive dust emissions from construction and TACs. As noted in previous responses, the construction activities associated with the Proposed Action and alternatives must comply with many construction regulations, building codes, state law and local ordinances, which have been adopted in many cases specifically to address potential environmental effects. Adherence to these laws and regulations and compliance with the mitigation measures specified in the Final EIS would reduce the environmental effects associated with construction of the Proposed Action and alternatives to less than significant.

2) The continuation of present adverse environmental impacts once the Proposed Action is completed.

The commenter does not substantiate their claim that disproportionate threats in the Bayview Hunter's Point community will continue unaddressed. To the contrary, pre-existing environmental threats have been addressed. For example, the analysis prepared in connection with this EIS identified a potential source of TACs at the Bay View Greenwaste Management Facility and as a result this issue was brought to the attention of the BAAQMD, resulting in a Notice of Violation as described further in **Section 3.2.2** of the Draft EIS. The remediation activities at Yosemite Slough and Hunter's Point Parcel F would cumulatively contribute to improved long-term environmental conditions in the community. Additionally, the redevelopment of the entire Candlestick Point-Hunters Point Shipyard Area will improve the quality of the environment surrounding the Project Site. The CP-HPS Project, which was approved by the San Francisco Board of Supervisors in 2010, includes new public recreation and open spaces, artist studios, transportation improvements, and job and economic development opportunities for economically disadvantaged individuals, particularly

those in the Bayview neighborhood.

3) The site improvements do not offset the impacts.

The Alice Griffith housing development suffers from severe damage that presents potential health and safety concerns. The damaged conditions are discussed in detail in the Draft EIS on page 1-8. The neighborhood contains large numbers of vacant retail and industrial spaces. The configuration of roads and only one entrance gate have left Alice Griffith isolated from the surrounding community.

The Alice Griffith project proposal provides new upgraded housing, connects Alice Griffith to the surrounding community, and will include mixed-income housing, rental and for-sale units, market rate housing, affordable housing targeted to lower income residents, ground floor retail, support services for low income residents, an Alice Griffith neighborhood park and transportation improvements (Draft EIS page 1-7, 2-7 to 2-9).

7-11 Regarding changing the wording of Mitigation Measure 10.1a: Stormwater Pollution Prevention Plan, see Response to Comment 6-20. The response explains that the mitigation provides examples of the types of BMPs to be included in the SWPPP and that the final BMPs will need to be developed in conjunction with final infrastructure designs and construction documents. Although the SWPPP must be prepared and must address the stormwater management BMPs, the mitigation measure is correct in noting what measures may be included.

Section 4.10 discusses the potential for water quality degradation during construction and the applicable regulations and mitigation measures that would reduce the potential for pollutants to enter stormwater. See Response to Comment 6-20 and the expanded regulatory discussion in **Section 4.10**. In addition, Mitigation Measures 3.1a (Article 22 Site Mitigation Plan), 3.1b (Unknown Contaminant Contingency Plan), and 3.3b (Asbestos Dust Control Plan) would reduce the potential for hazardous materials that may be present in soils to be mobilized as pollutants in stormwater runoff as a result of construction activities.

7-12 Construction or alteration of Bus Rapid Transit (BRT) routes is not part of the Proposed Action or alternatives. The larger CP-HPS Project includes development of BRT routes. Future Alice Griffith residents will be able to access BRT at a signalized intersection at Arelious Walker and Carroll. From this point, residents may travel north across Yosemite Slough Bridge to Hunters Point Shipyard or south to the Bayshore Transit Center.

During the CP-HPS Project review of the proposed bridge and an alternative BRT route around the slough proposed by Arc Ecology, the City identified several pedestrian and bicycle safety concerns related to the proposed alternative. The proposed alternative route included not only an additional three intersection crossings

when compared to travel across the bridge, but also a number of crossings through industrial properties.

CP-HPS Project review took into account City policy to protect Production, Distribution, and Repair ("PDR") industrial uses and so assumed that the neighboring industrial uses would remain. Without the bridge, pedestrians and cyclists from the residential neighborhoods south and west of the Slough to the ball fields on the Shipyard would have to negotiate travel through industrial areas where trucks and hauling of freight and raw materials are vital economic functions. It should also be noted that the industrial area would typically be inactive after hours. Passive surveillance ("eyes on the street"), during non-business hours would be limited.

In order to reduce intersection conflicts posed by the alternative route, San Francisco Municipal Transportation Agency service planners would likely install a barrier (fence, hedge, wall, etc.) to prevent uncontrolled pedestrian access across the BRT laneway. The barrier, while necessary for safety, would literally create a wall between the Slough and the neighborhoods.

Some of these potential conflicts may be resolved or reduced with construction of the proposed Bay Trail route around the Slough. Under these conditions, the additional distance to travel between the two sites without the bridge would be approximately 2/3 mile, compared to conditions with the bridge. In general, an additional 1/3 to 2/3 mile is not a substantial increase for cyclists, particularly if the Bay Trail is constructed and a smooth route free of conflicting truck traffic and other industrial vehicle traffic is provided. However, the bridge does provide a better environment for pedestrians, who are more sensitive to increases in walking distance.

In addition, the bridge would be lit, providing a better sense of personal security during evening hours, which are generally when the recreational fields at the Shipyard would be in use. Lighting would only be provided at select locations along the Bay Trail (parking lots, overlook decks, etc.), and the facility would only operate during park hours from 8:00 A.M. to sunset.

The commenter cites Impact 11.1; however, it is unclear what relationship the comment has to Impact 11.1. Impact 11.1, Intersection Traffic Impacts, pertains to Levels of Service (LOS) at intersections in the vicinity of the Project Site. "Levels of Service" are a quantitative measure of the average amount of delay incurred by a vehicle as it waits to move through an intersection. As such, reported LOS does not measure pedestrian and bicycle safety.

The effect of the Draft EIS alternatives on pedestrian and bicycle safety are discussed under Impact 11.4, Impacts on Pedestrians and Bicycles. The Proposed Action and alternatives would include streetscape amenities, including benches, lighting, plantings and other features, which would facilitate a high-quality pedestrian and bicycle network consistent with the visions for neighborhood residential streets and alleyways

as presented in the San Francisco Better Streets Plan (Draft EIS Page 2-6).[59] Impacts were found to be less than significant.

7-13 Based on aerial photography, such as that included in Figure 1-2 of the Draft EIS, the dominant uses west of Fitzgerald Avenue (to 3rd Street) are residential.

7-14 As discussed in Response to Comment 3-2, eligibility and transfer policies for SFHA public housing are included within the Admissions and Continued Occupancy Policy (ACOP) document.[60] The Proposed Action and alternatives would not change the existing income eligibility requirements for public housing and thus new units are targeted to the same income levels as existing units. The ACOP also contains the policies which determine the size of the unit needed for each household with provisions for transfer if a larger unit is needed based on household growth. Income and household size are evaluated annually.

7-15 Comment noted.

7-16 This statement does not represent a comment on the Draft EIS and no response is required.

7-17 Regarding the Redevelopment Agency, on February 1, 2012, the San Francisco Redevelopment Agency was dissolved pursuant to AB 26, approved by the California Governor in June 2011 and the December 2011 decision of the California Supreme Court upholding AB 26.[61] In its place the City and County of San Francisco through its Redevelopment Division as the Successor Agency to the San Francisco Redevelopment Agency assumes all responsibilities and obligations of the Redevelopment Agency, and has established an Oversight Board to exercise enforceable obligations for Zone 1 of the Bayview Hunters Point Redevelopment Project Area, which includes the Project Site. References in the Final EIS are revised to reference the Successor Agency.

Regarding the number of proposed units, 256 is the correct number of units and is mentioned throughout the Draft EIS. MOH and the Successor Agency were unable to find a reference to 251 units in the Draft EIS.

7-18 The proposed stormwater system is defined in the CP-HPS Phase 2 Development Infrastructure Plan approved by the Board of Supervisors August 3, 2010 (Ordinance

[59] San Francisco Planning Department, 2010. Final Better Streets Plan, Chapter 6, Streetscape Elements, adopted by the Board of Supervisors December 2010,

[60] SFHA, Admissions and Continued Occupancy Policy, revised June 2011.

[61] On June 28, 2011, the California Governor approved AB 26 and AB 27. AB 26 was the "dissolution" bill, which set November 1, 2011 as the date to dissolve all redevelopment agencies. The companion legislation AB 27, the "reinstatement" bill, allowed cities to keep their agencies in place by committing to substantial "community remittances" to be paid to the State. In July, a lawsuit was filed challenging the constitutionality of both AB 26 and AB 27. On December 29, 2011, the California Supreme Court issued its decision, and upheld AB 26, but struck down AB 27. As a result, under the schedule set by the Supreme Court, the San Francisco Redevelopment Agency was dissolved on February 1, 2012.

Nos. 210 and 211-10). Per the CP-HPS Disposition and Development Agreement and the Design Review and Approval Procedures, further detail will be submitted along with the first Major Phase and Sub-Phase Applications.

7-19 All construction-related truck trips in and out of the Project Site (including those associated with rock fragmentation activities) were evaluated in the Draft EIS. The analysis evaluated over 95,000 truck trips in and out of Alice Griffith, with approximately 30,000 occurring during the first year of construction. Air quality impacts are discussed in **Section 4.2** of the Draft EIS. When evaluated with respect to the significance criteria in the Draft EIS, pollutants influenced by construction-related truck traffic did not reach a significant and adverse level.

Construction would likely result in lower emissions from truck trips than originally analyzed in the Draft EIS. The Draft EIS assumed the start of construction in 2011, prior to the phase in of stricter state and federal emissions standards. Construction is proposed to begin in 2013, when emissions standards would have begun to take effect, resulting in a cleaner fleet than in 2011.

7-20 Refer to Response to Comment 6-3 with regard to the possible contents of fill, as discussed in the Draft EIS. The Draft EIS based its analysis on the 2009 MACTEC Phase I[62], and on an agency database review. With respect to the possibility that serpentinite containing NOA exists in fill, refer to response to Comment 6-18, and note that the Final EIS has been revised as discussed in that response.

Additionally, proposed development is subject to Article 22A, incorporated into Mitigation Measure 3.1a, which is designed to address possible contaminants in fill. If the initial site investigation required under Article 22A identifies contaminants of concern, there is a requirement to address these contaminants appropriately through preparation and implementation of a professionally-certified site mitigation plan.

7-21 The commenter incorrectly states that that the Draft EIS discounts action or investigation of the effects of DPM. The referenced quote from **Section 3.2** of the Draft EIS is within the Affected Environment section. There, the Draft EIS accurately states that there is no existing monitoring data for DPM in the Project Site vicinity. It does not state that this issue is not investigated further. To the contrary, DPM impacts are part of the health risk analysis of TACs evaluated in Environmental Consequences **Section 4.2**, Impact 2.5, which includes discussion of significance criteria, construction- and operation-phase impact analysis, and mitigation for TACs. See **Section 4.2** of the EIS and Response to Comment 3-4 (18th issue listed) for more information on the TAC impact analysis and mitigation.

The commenter references the approach to diesel mitigation at the Port of Oakland.

[62] MACTEC, 2009. Phase I Environmental Site Assessment, Candlestick Point Area, June 16, 2009.

However, comparing diesel impacts and mitigation at the Port of Oakland with potential impacts and mitigation at Alice Griffith would not be a useful or meaningful exercise. The Port of Oakland and the Alice Griffith Project are fundamentally different land uses with drastically different potential for diesel emissions. The Port is a large international, multimodal cargo facility with the continuous operation of a number of varied sources of emissions, including ships, cargo handling equipment, trains and trucks. The Alice Griffith Project, being primarily a residential development, is not expected to have any significant ongoing sources of diesel emissions. The scale of potential long-term diesel emissions from a housing project is negligible in comparison to a port facility.

With respect to the potential diesel impacts during construction of Alice Griffith, the EIS includes robust mitigation measures at least as protective as any construction impact mitigation used during construction of the Port of Oakland. Indeed, the mitigation measures built into the construction of the Proposed Action and alternatives represent the highest and most advance control recommended by the BAAQMD, including the use on Tier 4 engines or Tier 2 with ARB Level 3 Verified Diesel Emission Control Strategy.

The commenter also suggests monitoring for DPM; however, there is no current technique to directly collect and analyze DPM[63]. DPM is the particulate component of diesel exhaust from diesel-fueled combustion sources. DPM generally consists of elemental carbon (EC)/black carbon (BC), sulfates, silicates, and various organic compounds adsorbed on the particulate. DPM is often used as a surrogate for emissions of all toxic air contaminates from diesel-fueled compression-ignition internal combustion engines, regardless of whether it is a solid or gaseous phase constituent. Since there is no current technique for monitoring DPM, EC often serves as a surrogate. To quantify EC as a surrogate for DPM, ambient PM2.5 (particulate matter with aerodynamic diameter < 2.5 micrometers [μm]) is collected on a filter and analyzed using thermal/optical methods to determine EC content. Then a multiplying factor is applied to the resulting EC concentration to estimate ambient DPM concentration. At the Port of Oakland, both the BAAQMD[64] and University of California Berkeley[65] have conducted studies measuring EC/BC concentrations in the area to track decreasing emissions from trucks as new regulations and engine replacement/retrofit programs are phased in. While both of those studies have reported concentrations of EC/BC; neither attempted to quantify cancer risk based on the

[63] ENVIRON, 2012. Technical Memorandum Supporting the Air Quality Section of the Environmental Impact Statement (EIS) for the Alice Griffith Redevelopment Project. From Michael Keinath and Elizabeth Meisner to Jennifer Wade (ESA). September 2012.

[64] BAAQMD, 2010. West Oakland Monitoring Study. Prepared by Desert Research Institute, October 7, 2010. Available online at: http://www.baaqmd.gov/~/media/Files/Planning%20and%20Research/CARE%20Program/DRI_WOMS_final_report.ashx

[65] Dallman, Timothy, Robert Harley and Thomas Kirchstetter. "Effects of Diesel Particle Filter Retrofits and Accelerated Fleet Turnover on Drayage Truck Emissions at the Port of Oakland," in *Environmental Science and Technology*, 2011. Available online at: http://its.berkeley.edu/sites/default/files/Dallmann%20port%20trucks%20EST%202011-1.pdf

monitoring data. In fact, in the BAAQMD study, the DPM concentrations estimated from the air modeling conducted by the California Air Resources Board in 2008 were approximately two times higher than those of the measured EC/BC concentrations.

There are inherent limitations in attempting to quantify excess cancer risk through monitoring for DPM. As discussed earlier, it is impossible to directly monitor DPM; therefore EC is used as a surrogate. However, EC can originate from a variety of natural and anthropogenic sources not associated with the combustion of diesel fuel. For example, EC can be generated during forest fires or as a component of wood smoke. As such, using EC to approximate DPM can dramatically overestimate potential health impacts. In addition, the ratio used to estimate DPM concentrations from measured EC concentrations can vary quite significantly depending on the type of source of the DPM, the engine operating conditions (e.g., load factors), and a variety of other factors. Therefore, defining an appropriate multiplier to accurately estimate DPM concentrations is extremely difficult; especially when DPM comes from a variety of types of sources of DPM, such as would be expected from construction equipment. The quantification of DPM using EC as a surrogate in ambient air monitoring may result in significant uncertainties for estimating potential health impacts. Instead, comparing health risks (based on modeled air emission concentrations) to the designated BAAQMD recommended significance thresholds is the best available methodology for evaluating potential health impacts, consistent with BAAQMD guidance. Additionally, as shown in the BAAQMD West Oakland study, modeled concentrations are generally higher (and therefore conservative in predicting exposure) than monitored data.

7-22 Refer Response to Comment 6-6 regarding the referenced April 1998 Geomatrix Reference Report.[66] Refer to Response to Comments 7-10 regarding environmental justice issues.

7-23 See Response to Comment 7-10 regarding the potential for surrounding hazards and environmental justice impacts. See Response to Comment 6-3 and Response to Comment 6-4 regarding the characterization of hazards at the site, and particularly the absence of a basis for the commenter's assertion that the area is "highly contaminated." The Draft EIS discusses the extent of existing contamination/pollution and evaluates the impact of the redevelopment of residences (considered a sensitive receptor) on the Project Site. The potential for exposure to contamination/pollutants during construction and after construction was evaluated in several areas (air quality, hazards and hazardous materials, etc.) and found to be less than significant with applicable regulatory requirements and mitigation measures. Thus the analysis in the Draft EIS contradicts the commenter's assertion that the Proposed Action is committing "its residents to residing in the midst of a highly contaminated

[66] Geomatrix, 1998b. Reference Report Summarizing Environmental Conditions, Bayview Hunters Point Brownfields Pilot Program, San Francisco, California, April 1998.

community…"

Note also that, contrary to the commenter's assertion that "emissions and pollution generated by adjacent industrial activities will continue unabated for the foreseeable future," the process of redeveloping the Project Site has already resulted in reduced pollutant exposure for Alice Griffith residents. The analysis prepared in connection with this EIS identified a potential source of TACs and as a result this issue was brought to the attention of the BAAQMD resulting in a Notice of Violation as described further in **Section 3.2.2** of the Draft EIS.

7-24 In developing Table 3.7-1, Study Area Ethnic Profile and 3.7-2, Study Area Poverty Statistics, MOH utilized tools available from EPA's Compliance and Enforcement data tools for environmental justice issues.[67] This data is based on the 2000 Census. The 2000 numbers were compared to the 2006 estimates of the American Community Survey which is published by the U.S. Census Bureau and referenced by the commenter. The newer data did not change the conclusion that the Bayview Hunters Point Community and Project Site contain low-income and minority populations.

The commenter's assertion that the Project Site is not compared to the Bayview Hunters Point community is incorrect. The data for existing Alice Griffith residents was provided by the San Francisco Housing Authority, which updates data more frequently than the Census Bureau.

The use of the U.S. poverty average is consistent with Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations. The commenter's recommendation to use a San Francisco poverty average does not change the conclusion that the Project Site and larger BVHP neighborhood contain low-income and minority populations.

7-25 The commenter references an excerpt from the direct impact analysis of Operational Risk and Hazard Impacts in Draft EIS **Section 4.2**; however, the commenter's concerns relate to cumulative air quality impacts from traffic (the Proposed Action in combination with the CP-HPS Project). Cumulative impacts are discussed separately in **Section 5.2.2**, Impact 2.5, Exposure to Health Risks. Cumulative impacts related to increased health risks to sensitive receptors were calculated by performing a health risk analysis. This analysis included the effects of full build out of the Proposed Action as well as the full build out of the other elements of the CP-HPS Project and other assumptions in the cumulative traffic analysis. The resulting cancer risk over a 70-year lifetime exposure would not exceed the BAAQMD thresholds for increased cancer risk

[67] The Draft EIS utilized a version accessible only to approved agencies (EPA, Demographic Report, available online at http://oaspub.epa.gov/envjust/demog_report_2_ejv.doCountyStateComp, accessed September 30, 2011); however, the same data is now available to the public. The public version of EPA's Environmental Justice Geographic Assessment Tool (EJView) is available online at: http://www.epa.gov/environmentaljustice/mapping.html.

of 100 in a million. The non-cancer hazard index and the annual average $PM_{2.5}$ concentration also would not exceed the BAAQMD thresholds. Thus, cumulative impacts related to potential health risks would not be significant and adverse.

7-26 Regarding fugitive dust see Response to Comment 7-4. Regarding the potential during construction for asbestos dust specifically, refer to Response to Comment 6-18.

7-27 This section analyzes the impact of proximity to potentially hazardous sites. The response lists above-ground storage tank (AST) sites separately from the sites that "use, store, handle, or dispose of toxic, radioactive, or chemical substances," because AST sites are not covered under the federal ASTM Phase I standard, which lists minimum recommended search distances for federally regulated sites. *See* ASTM E1528 – 06, Government Records/ Historical Sources Inquiry.

The Draft EIS relied on a 2009 Phase I report prepared for the Candlestick Point area as well as a search of agency databases. Based on those sources of information, there were neither documented sites that use, store, handle or dispose of toxic substances within an unacceptable distance, nor listed AST sites within an unacceptable distance. The Draft EIS, **Section 3.3** discussion of the Bayview Plume Study Area addressed a known contamination issue in the vicinity of the Project Site.

7-28 The commenter requests circulation of a revised Draft EIS. CEQ Regulations for Implementing NEPA (Section 1502.9) require circulation of a revised Draft EIS "if a draft statement is so inadequate as to preclude meaningful analysis." A supplement shall be prepared if "(i) The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or (ii) there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts." These responses and the revisions to the Draft EIS text provide additional explanation and clarification of certain topics covered in the Draft EIS and confirm the analysis and conclusions in the Draft EIS. Thus, this additional information does not implicate the standard for recirculation. Additionally, there are no changes to the Proposed Action and no significant new circumstances or information related to environmental concerns that result in significant impacts not analyzed in the Draft EIS. Consequently, there is no basis for recirculation or preparation of a supplement.

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