[ADOPTION OF PROPOSITION P AS OFFICIAL CITY POLICY FOR THE ENVIRONMENTAL REMEDIATION OF HUNTERS POINT SHIPYARD]

Resolution adopting the voter approved Declaration of Policy known as Proposition P as the official policy of the City and County of San Francisco, urging the United States Navy, the United States Environmental Protection Agency and the California Environmental Protection Agency to take all actions necessary to implement Proposition P.

WHEREAS, The current Hunters Point Shipyard was built and operated under United States Navy ownership for its entire history; and

WHEREAS, The United States Navy decommissioned the Hunters Point Shipyard in 1974, recommissioned the Shipyard in 1986, and again decommissioned the Shipyard in 1991; and

WHEREAS, Between 1941 and 1991, the Navy polluted the land, groundwater, and subsurface bay-lands comprising the Hunters Point Shipyard with toxic chemicals, heavy metals, and other serious environmental contaminants and hazards to public health including PCBs, PAHs, pesticides, solvents, petroleum compounds, and other shipyard wastes; and

WHEREAS, Under the Navy's ownership, the Shipyard became so contaminated as to require its placement on the National Priorities List in 1989, the list of the most polluted facilities in the nation; and

WHEREAS, Between 1945 and 1974, the Navy utilized the Hunters Point Shipyard for nuclear and radiological experimentation while failing to inform the public and the City and County of San Francisco about the potential public health threats to Shipyard workers, the neighboring community, and the local environment; and

WHEREAS, The community is concerned that the Navy continues to keep the full extent of the radiological and nuclear experimentation, and full extent of the handling of
radiological and nuclear materials at the Shipyard secret from the public and the City and County of San Francisco without validation for the national security requirement for confidentiality; and

WHEREAS, Between 1976 and 1986 the Navy failed to oversee its master tenant, the Triple A Shipyard, forcing both the United States Federal Bureau of Investigation and the San Francisco District Attorney's Office to raid the facility, in response to a decade of massive illegal toxic dumping, crimes against the environment and public health; and

WHEREAS, It took a decade between the beginning of its Installation Restoration Program investigation of the Shipyard's pollution 1978 and its listing on the National Priorities List in 1989 before the Navy began a cleanup program at the site;

WHEREAS, In 1991, the Base Realignment and Closure Commission voted to close the Hunters Point Shipyard and the Navy intends to transfer the Shipyard to the City for civilian use; and

WHEREAS, If the Shipyard is not adequately remediated, thousands of residents, tenants, workers, visitors and neighbors will be exposed to residual toxic hazards from an incomplete cleanup; and

WHEREAS, In 1992, the Navy, the USEPA and CAL/EPA entered into a Federal Facilities Agreement (FFA) for the remediation of the Shipyard that sets forth a specified process and schedules for the remediation of the Shipyard, and pursuant to which the Shipyard was divided into six (6) smaller portions (named Parcel A through Parcel F) to more effectively manage the cleanup of the Shipyard; and

WHEREAS, The Navy has failed to comply with the FFA and subsequent revisions of the FFA; and
WHEREAS, Between 1995 and today the Navy's failure regarding the environmental oversight of the Shipyard resulted in continued violations of the Clean Water Act and NPDES permits by its Dry Dock 4 tenant, Astoria Metals; and

WHEREAS, Although the Navy has not yet undertaken measures to adequately characterize the pollutants contaminating Parcel E, between 1997 and 1998 the Navy and EPA assured the City and County of San Francisco that it would be safe to locate its new police multi-service center on the Shipyard in a building 20 feet from Parcel E; and

WHEREAS, The Navy's failure in site management led directly to the landfill fire in Parcel E which burned from August 2000 to April 2001; and

WHEREAS, In August 2000, the Navy failed to inform the City and County of San Francisco, the United States Environmental Protection Agency, the California Environmental Protection Agency, and the Bayview Hunters Point community for three weeks that the Parcel E landfill had caught fire; and

WHEREAS, The Navy failed to take any action to document the release of pollutants to the air and water, and failed to monitor the impacts of the landfill fire on the health of Bayview Hunters Point residents between August and September 2000 when air borne releases from the fire were seen over the surrounding neighborhood; and

WHEREAS, The Navy's actions with respect to the fire were so egregious that the U.S. EPA, which over the previous ten years had never penalized the Navy for its numerous delays at cleanup, finally levied a penalty against the Navy in June 2001, and

WHEREAS, Today, the Hunters Point Shipyard is the most contaminated portion of San Francisco, and the only federal Superfund site in the City. The residents of the Hunters Point Bayview District, the neighborhood immediately surrounding the former base (an ethnically and racially minority dominant community), are afflicted with the highest levels of cancer, respiratory diseases and other illnesses in San Francisco; and
WHEREAS, After twelve years on the Superfund National Priorities List, the bulk of the Shipyard still has not been remediated and the Navy, the US EPA, and CAL/EPA have agreed to repeated extensions of the schedules for the environmental remediation of the Shipyard set forth in the FFA, and despite numerous delays by the Navy, the US EPA, the enforcement agency under the FFA with the authority to assess penalties, has never penalized the Navy for those delays despite a pattern and practice of evading, deferring and otherwise ignoring the requirements of the FFA and environmental law; and

WHEREAS, The Navy has consistently failed to budget adequate funds for the cleanup of the Shipyard; and

WHEREAS, The Navy has yet to determine the full extent and nature of contamination at the Shipyard, in particular, the landfill on Parcel E, off-shore sediments in Parcel F, soil below ten feet in depth, and contaminated ground water plumes; and

WHEREAS, In 2000 it was only through a combination of the litigation of Arc Ecology, the Bayview Hunters Point Community Advocates, the former Restoration Advisory Board Community Co-Chair, and political pressure from the City, Senator Dianne Feinstein, Senator Barbara Boxer and Congresswoman Nancy Pelosi that the Navy restarted its cleanup of Parcel B; and

WHEREAS, Although the federal government is required by law to clean up the Shipyard, the Navy says it will cost too much money to do a thorough job. Instead, the Navy plans to leave behind so much contamination that the property may expose occupants and visitors to an unacceptable risk of cancer unless the Navy imposes legal restrictions on land use and constructs physical barriers; and

WHEREAS, The Hunters Point Shipyard is located in a seismically active area, and identified in emergency response planning documents as particularly sensitive to liquefaction; and

Supervisor Maxwell, Leno, Peskin, Newsom, McGoldrick
BOARD OF SUPERVISORS

Page 4
7/23/2001
WHEREAS, Liquefaction resulting from an earthquake has the potential for releasing toxic chemicals, radioactive materials and wastes, and hazardous wastes from areas with an engineered soil cap or other mechanical or engineered barriers created to protect humans and the environment from exposure to unremediated contamination left behind by an incomplete cleanup; and

WHEREAS, Between May 7th and June 4th of 2001, the Navy again failed to inform the Shipyard Tenants, Bayview Hunters Point Community, and City of San Francisco of a suspected radiological find at Parcel B IR7-4; and

WHEREAS, It was only after the suspected radiological find at IR7-4 was determined to be a laboratory error that the Navy informed the Shipyard Tenants, Bayview Hunters Point Community, and City of San Francisco of the situation; and

WHEREAS, The failure to provide an early report of the suspected find is contrary to the spirit and purpose of the Community Alert Network, which the neighborhood asked the Navy to implement; and

WHEREAS, On November 2, 2000, officials of the City and the Navy entered into a Memorandum of Agreement ("MOA"), a copy of which is on file with the Clerk of the Board, which sets forth the general terms and conditions of transfer of the Shipyard to the City; and

WHEREAS, The MOA, among other things (i) obligates the Navy to solicit a fixed-price contract for the remediation of Parcels C and D, and to award the contract so long as bids do not exceed One Hundred and Twenty Million Dollars, and (ii) requires the Navy to provide adequate protection and maintenance services, including dedicated police and fire protection, to the Shipyard until the cleanup of the bulk of the Shipyard is complete; and

WHEREAS, On numerous occasions representatives of the City of San Francisco and community organizations expressed concern to the Navy that the solicitation for the fixed price
contract for the cleanup of Parcels C and D was written in such a way as to discourage private
companies from bidding for the work; and

WHEREAS, When the Navy failed to receive any bids for the Parcel C and D contract,
it withdrew the offer and announced that it would proceed to clean up Parcels C and D using
its existing contractor, a process that has been going on for more than a decade and has
resulted in consistently inadequate funding, in contradiction of the intent of the MOA, which
aims to assure a timely and adequately funded cleanup of Parcels C and D; and in violation of
the agreement stipulated to in the Memorandum of Agreement signed by the Navy and the
City of San Francisco in November 2000;

WHEREAS, The Navy has not informed the City of San Francisco about how it plans to
live up to the commitments memorialized in the MOA; and

WHEREAS, Despite the Navy's promise in the MOA to provide adequate fire protection
at the Shipyard, poor site control and weed abatement have resulted in several fires on the
Shipyard property over the last few months; and

WHEREAS, On July 6, 2001 Parcel E again caught fire, burning for most of a day,
producing thick smoke that blew over Bayview Hunters Point; and

WHEREAS, The United States government should be held to the highest standards of
accountability for its actions; and

WHEREAS, The United States Navy has demonstrated that it is not committed to
responsible site management or cleanup and many in the Bayview Hunters Point community
believe the department's disdain for its duties in this neighborhood stems from the racial
make-up of its residents; and

WHEREAS, San Franciscans can, under federal law, express their preference for a
cleanup plan. The National Contingency Plan, the guiding principles under which the cleanup
plan is regulated, establishes community acceptance as one of its nine principle criteria for setting the cleanup standards for a toxic site; and

WHEREAS, The Hunters Point Bayview community wishes the Hunters Point Shipyard to be cleaned to a level which would enable the unrestricted use of the property - the highest standard for cleanup established by the United States Environmental Protection Agency; and

WHEREAS, The 87% of voters in the City and County of San Francisco in November 2000, who opposed increasing the risk for cancer as a result of using lower standards for cleanup, supported the Hunters Point Bayview community's request that the federal government - through its Department of the Navy - allocate funds sufficient to clean the Shipyard to a level that will enable unrestricted use and approved Proposition P urging that the initiative be adopted as City policy; and

WHEREAS, A cleanup to unrestricted levels under Proposition P would (1) protect the community and future residents of the Shipyard from past pollution, and (2) allow the City to redevelop the Shipyard for the full range of uses set out in the Redevelopment Plan, without substantially shifting the cost of cleanup from the federal government to the City or making implementation of the Redevelopment Plan economically infeasible; and

WHEREAS, Under Proposition P, environmental remedies that require future owners to maintain physical barriers to protect future occupants and the public from exposure to pollution left by the Navy should be used only when other solutions are technically impractical; now, therefore, be it

RESOLVED, That the Board hereby declares that Proposition P, a copy of which is on file with the Clerk of the Board in File No. 011367, and which is hereby declared to be a part of this Resolution as set forth fully herein, shall be the official policy of the City regarding the remediation of the Shipyard and sets forth a standard of remediation acceptable to the community; and be it;

Supervisor Maxwell, Leno, Peskin, Newsom, McGoldrick
BOARD OF SUPERVISORS
FURTHER RESOLVED, That by adopting Prop P as policy the Board urges the Navy to clean up the Shipyard in a manner that is fully protective of public health and does not rely on future owners to maintain barriers to protect future occupants and the public from exposure to pollution left by the Navy, unless other remedies are technically infeasible. In those instances where full compliance with the community acceptance criteria established in this resolution cannot currently be achieved due to technical limitation, the Board urges the Navy to consider the remedy a temporary interim solution until a final destructive or neutralizing technology has been developed so that the Navy can return to the site and complete its remediation; and be it

FURTHER RESOLVED, That the Board urges the U.S. EPA and CAL/EPA to approve a remedy for the site only if it meets the above criteria; and be it

FURTHER RESOLVED, That by adopting Prop P as policy, the Board urges the Navy to clean up the Shipyard in a manner fully consistent with the Reuse Plan, and without remedies that impose significant economic burdens on the community and future owners, or that make implementation of the Reuse Plan economically infeasible; and be it

FURTHER RESOLVED, That by adopting Prop P as policy, the Board expresses its dissatisfaction with the pace of cleanup and urges the Navy to fully fund the remaining cleanup of the Shipyard and complete the remediation in a time frame consistent with the schedule set out in the recently signed MOA between the Navy and the City of San Francisco; and be it

FURTHER RESOLVED, That the Board hereby urges the Navy, the United States EPA, and CAL/EPA to implement and enforce the FFA and take all actions as may be necessary to cause the prompt remediation of the Shipyard in accordance with Prop P; and be it
FURTHER RESOLVED, That the Board urges the Navy to more fully characterize the nature and extent of contaminants in the landfill on Parcel E, off-shore sediments in Parcel F, soils below ten feet and contaminated ground water plumes, so that remedies can be selected and implemented that are fully protective of persons residing in close proximity to the landfill and the Bay shoreline and that fully protect future occupants and residents from any unacceptable exposures posed by soil and ground water on other portions of the Shipyard; and, be it

FURTHER RESOLVED, That the Board hereby urges City departments and the Agency to establish community-based monitoring programs to ensure that the adjacent community is protected and that the remediation process for the respective Parcels are accomplished in a manner that is fully protective of human health and the environment; and be it

FURTHER RESOLVED, That the Board urges the Department of the Environment to fully support and fund the efforts currently underway by San Francisco-based and Bayview Hunters Point neighborhood-based public interest organizations to investigate and engineer a removal solution for the landfills contaminating Parcel E; and be it

FURTHER RESOLVED, That the Board hereby urges all participating City agencies including the Departments of Health, Environment, and Planning, the City and District Attorney, and the San Francisco Redevelopment Agency, to ensure full federal compliance with Prop P.
Resolution adopting the voter approved Declaration of Policy known as Proposition P as the official policy of the City and County of San Francisco, urging the United States Navy, the United States Environmental Protection Agency and the California Environmental Protection Agency to take all actions necessary to implement Proposition P.

July 30, 2001  Board of Supervisors — ADOPTED

Ayes: 10 - Ammiano, Daly, Gonzalez, Hall, Leno, McGoldrick, Newsom, Peskin, Sandoval, Yee
Absent: 1 - Maxwell
I hereby certify that the foregoing Resolution was ADOPTED on July 30, 2001 by the Board of Supervisors of the City and County of San Francisco.

Gloria L. Young
Clerk of the Board

AUG 10 2001

Date Approved

Mayor Willie L. Brown Jr.