

File No. 100575

Committee Item No. 4

Board Item No. 13

# COMMITTEE/BOARD OF SUPERVISORS

## AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date July 12, 2010

Board of Supervisors Meeting

Date 08/03/10

### Cmte Board

- |                                     |                                     |  |
|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/>            | <input type="checkbox"/>            | Motion                                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Resolution                                   |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance                                    |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Budget Analyst Report                        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Legislative Analyst Report                   |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Youth Commission Report                      |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Introduction Form (for hearings)             |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/>            | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Public Correspondence                        |

### OTHER

(Use back side if additional space is needed)

- |                                     |                                     |   |
|-------------------------------------|-------------------------------------|---|
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Health Commission Resolution No. 00-10</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Article 31 Map - Figure 1</u>              |
| <input type="checkbox"/>            | <input type="checkbox"/>            | _____   |
| <input type="checkbox"/>            | <input type="checkbox"/>            | _____   |
| <input type="checkbox"/>            | <input type="checkbox"/>            | _____   |
| <input type="checkbox"/>            | <input type="checkbox"/>            | _____   |
| <input type="checkbox"/>            | <input type="checkbox"/>            | _____   |
| <input type="checkbox"/>            | <input type="checkbox"/>            | _____   |

Completed by: Alisa Somera Date July 9, 2010

Completed by: Alisa Somera Date July 21, 2010

An asterisked item represents the cover sheet to a document that exceeds 25 pages.  
The complete document can be found in the file.

22

(

(

2

(

1 [Hunters Point Shipyard - Health Code Amendment]

2 Ordinance amending Article 31 of the Health Code to extend, to the entire Hunters  
3 Point Shipyard area, the special permit processing requirements that now apply to  
4 Hunters Point Shipyard Parcel A to address potential residual contamination, and  
5 imposing fees to administer this Article; amending Sections 804 and 1227 of the Health  
6 Code to make conforming amendments; and making environmental findings.  
7

8 Note: Additions are single-underline italics Times New Roman;  
9 deletions are ~~strikethrough italics Times New Roman~~.  
10 Board amendment additions are double underlined.  
11 Board amendment deletions are ~~strikethrough normal~~.

12 Be it ordained by the People of the City and County of San Francisco:

13 Section 1. Findings.

14 A. In conjunction with Ordinances [PWC] \_\_\_\_\_, and [DBI] \_\_\_\_\_ on file  
15 with the Clerk of the Board of Supervisors in File Nos. 100576 and 100577, this Ordinance  
16 amends Chapter 31 of the Health Code to extend to the entire Hunters Point Shipyard area  
17 the special permit processing requirements that now apply at Hunters Point Shipyard Parcel A  
18 to address potential contamination.

19 B. In accordance with the actions contemplated herein, this Board adopted  
20 Resolution No. \_\_\_\_\_, concerning findings pursuant to the California Environmental  
21 Quality Act (California Public Resources Code sections 21000 et seq.). Said Resolution is on  
22 file with the Clerk of the Board of Supervisors in File No. 100572 and is incorporated herein by  
23 reference.  
24  
25

1 Section 2. San Francisco Health Code is amended by amending Article 31 to read as  
2 follows:

3 **SEC. 3100. - HUNTERS POINT SHIPYARD.**

4 Findings. The Board of Supervisors of the City and County of San Francisco hereby  
5 finds and declares as follows:

6 A. This ordinance is designed to protect human health and safety and the environment  
7 at the former Hunters Point Shipyard during and after development and to facilitate  
8 redevelopment as envisioned in the Hunters Point Shipyard Redevelopment Plan, which the  
9 Board of Supervisors adopted in 1997 *and amended in 2010*, and its Environmental Impact  
10 Reports.

11 B. The United States designated Hunters Point Shipyard as a U.S. Naval Shipyard in  
12 1945. The United States Environmental Protection Agency (EPA) placed the Hunters Point  
13 Shipyard on the National Priorities List pursuant to the Comprehensive Environmental  
14 Response, Compensation and Liability Act (CERCLA) in 1989. The U.S. Navy ("*Navy*") *has*  
15 divided the site into ~~six~~ parcels *designated Parcels A-F* for purposes of remediation.

16 C. The ~~U.S.~~ Navy issued a CERCLA Record of Decision (ROD) for Parcel A which was  
17 approved by the EPA, the California Department of Toxic Substances Control (DTSC), and  
18 the San Francisco Bay Region Regional Water Quality Control Board (RWQCB) in November  
19 1995. The ROD concluded that "no action" was needed to clean up Parcel A. Effective April 5,  
20 1999, EPA removed Parcel A from the National Priorities List after EPA and the State of  
21 California found that all appropriate responses under CERCLA had been implemented, that  
22 no further cleanup is appropriate for Parcel A and that the remedial actions conducted on  
23 Parcel A remain protective of public health, welfare, and the environment.

1 D. On September 1, 2004, the Navy issued a draft final Finding of Suitability to  
2 Transfer (FOST) for Parcel A. On September 30th and October 6th and 7th 2004,  
3 respectively, the EPA, DTSC and the RWQCB concurred with the Navy's FOST. The Navy  
4 signed the FOST on October 14, 2004. The FOST for Parcel A contains requirements for  
5 certain notices, restrictions and covenants to be included in the deed for Parcel A. These  
6 notices, restrictions and covenants are also referred to as "institutional controls" and are  
7 binding on all successive owners of any portion of Parcel A.

8 E. On December 3, 2004, the Navy transferred portions of Parcel A to the San  
9 Francisco Redevelopment Agency.

10 F. The Navy issued a CERCLA ROD Amendment for Parcel B in January 2009, a ROD for  
11 Parcel D-1 in September 2009, a ROD for Parcel G in February 2009, a ROD for Parcel UC-1 in  
12 August 2009 and a ROD for Parcel UC-2 in December 2009. The EPA, DTSC and the RWQCB  
13 approved these RODs. The RODs concluded that additional action was needed for the parcels to be  
14 protective of public health, welfare, and the environment in light of the redevelopment plans for the  
15 site. The Navy is preparing a ROD for Parcel C and issued a Draft Proposed Plan in January 2009.  
16 The Navy issued a Draft Final No Further Action ROD for Parcel D-2 in January 2009. The Navy  
17 completed a Draft Final Remedial Investigation Report for Parcel E in February 2008 and a Draft  
18 Feasibility Study in July 2009. The Navy issued a Draft Final Remedial Investigation Feasibility Study  
19 (RI/FS) for Parcel E-2 in February 2009 and a Draft Final Radiological Addendum to the RI/FS in  
20 March 2010. The Navy issued the Final Feasibility Study for Parcel F in April 2008.

21 G. In addition to Parcel A, which the Navy already transferred to the San Francisco  
22 Redevelopment Agency ("Agency"), it is anticipated that the Navy will offer the remaining parcels for  
23 transfer to the Agency in accordance with a Conveyance Agreement between the Agency and the Navy.  
24 Prior to transfer of any parcel, the Navy will issue a draft final FOST or a draft final Finding of

1 Suitability for Early Transfer (FOSET) for the parcel. If the Navy issues a FOST, the Conveyance  
2 Agreement requires the Navy to obtain the concurrence of the EPA, DTSC, and RWOCB in the final  
3 FOST before it offers the parcel to the Agency. If the Navy issues a FOSET, CERCLA requires the  
4 Navy to obtain the approval of EPA and the concurrence of the Governor of California which will be  
5 based on input from DTSC and the RWOCB. A FOST or FOSET may require the deeds for the property  
6 to include certain environmental notices, restrictions or covenants, also referred to as "institutional  
7 controls" that will be binding on all successive owners of the transferred property to which such  
8 notices, restrictions or covenants apply. The Navy also is expected to enter into a Covenant to Restrict  
9 Use of Property (CRUP) with DTSC, which will be binding on subsequent owners and will provide for  
10 DTSC enforcement of the covenants, restrictions or conditions to which the property is subject. A Land  
11 Use Control Remedial Design (LUC RD) for each parcel will lay out the inspection and reporting  
12 requirements for the institutional controls and activity and land use restrictions. For property that  
13 transfers via a FOSET, the EPA and the Agency and possibly subsequent private developers, will be  
14 required to enter into an Administrative Order on Consent (AOC), also approved by state  
15 environmental regulatory agencies, which will detail the required corrective or cleanup actions and  
16 restricted activities associated with the property covered by the AOC and provide for EPA enforcement  
17 of its terms. Additionally, for property that transfers via a FOSET, the Navy and the Agency will enter  
18 into an Early Transfer Cooperative Agreement (ETCA), which will provide for the Agency to cause to  
19 be performed certain environmental remediation activities to facilitate redevelopment in exchange for  
20 funding of such activities by the Navy.

21 H. The Board of Supervisors by Resolution \_\_\_\_\_, adopted CEOA  
22 findings, including a mitigation monitoring and reporting program ("MMRP") for the Candlestick  
23 Point-Hunters Point Shipyard Phase II Development Plan Project ("Project"), for which the Agency  
24 and Planning Commissions certified a Final Environmental Impact Report ("FEIR") in

25 Mayor Newsom  
BOARD OF SUPERVISORS

1 June 3, 2010. The Project contains all of the property in the Hunters Point Shipyard  
2 except the property designated as Parcel A by the Navy. The MMRP contains mitigation measures  
3 that address potential hazardous materials impacts associated with the Project. It is the intent of the  
4 Board to create a process for the Department of Public Health to enforce in the Hunters Point Shipyard  
5 portion of the Project certain hazardous materials mitigation measures identified in the FEIR through  
6 this Article 31.

7 **SEC. 3101. - DEFINITIONS.**

8 In addition to the general definitions applicable to this Code, whenever used in this  
9 Article, the following terms shall have the meanings set forth below:

10 (a) "Applicant" means a person applying for any of the following authorizations for  
11 subsurface activities on portions of the Hunters Point Shipyard subject to this Ordinance:

12 (1) For property determined by the applicable ROD to be suitable for unrestricted residential  
13 use (i) any building or grading permit that involves the disturbance of at least 50 cubic yards  
14 (38.23m3) of soil; (ii) any permit pursuant to the Public Works Code that involves the  
15 disturbance of at least 50 cubic yards (38.23m3) of soil; (iii) any improvement plan pursuant to  
16 Division 3 of the Subdivision Code that involves the disturbance of at least 50 cubic yards  
17 (38.23m3) of soil; (iv) any permit to operate or approval to close an underground tank,  
18 pursuant to Sections 1120 and 1120.1 of the Health Code that involves the disturbance of at  
19 least 50 cubic yards (38.23m3) of soil; (v) any well construction, modification, operation or  
20 maintenance permit pursuant to Article 12B of the Health Code; or (vi) any permit that involves  
21 demolition of structures with lead-based paint.

22 (2) For property which is subject to a deed restriction or covenant containing an environmental  
23 restriction requiring a durable cover or engineered cap (i) any building or grading permit that involves  
24 the disturbance of soil; (ii) any permit pursuant to the Public Works Code that involves the disturbance

25 Mayor Newsom  
BOARD OF SUPERVISORS

Page 5  
5/11/2010

n:\land\as2010\0400297\00628043.doc

1 of soil; (iii) any improvement plan pursuant to Division 3 of the Subdivision Code that involves the  
2 disturbance of soil; (iv) any permit to operate or approval to close an underground tank, pursuant to  
3 Sections 1120 and 1120.1 of the Health Code that involves the disturbance of soil; or (v) any well  
4 construction or destruction permit pursuant to Article 12B of the Health Code.

5 (3) Notwithstanding the preceding subdivisions, An Applicant does not include a person  
6 applying for a permit for the sole purpose of conducting environmental characterization.

7 (b) "Director" means the Director of the San Francisco Department of Public Health or  
8 the Director's designee.

9 (c) "GIS" is a geographic information system, ~~for the Hunters Point Shipyard. The GIS is a~~  
10 computer-based system containing site-specific environmental information.

11 (d) "Hunters Point Shipyard parcels" or "HPS parcels" mean that area of the City and County  
12 of San Francisco shown on Figure Article 31 Map - Figure 1, which is maintained for public  
13 distribution by the Director. A copy of said figure is on file with the Clerk of the Board of Supervisors  
14 in File No. 100575.

15 (de) "Improvement Plan" means an improvement plan as required under the  
16 Subdivision Map Act, California Government Code Sections 66410 et seq.

17 (ef) "Parcel A" means that area of the City and County of San Francisco shown on Figure  
18 Article 31 Map – Figure 1, which is maintained for public distribution by the Director. A copy of said  
19 figure is on file with the Clerk of the Board of Supervisors in File No. 100575 ~~that parcel or~~  
20 ~~parcels of land of the Hunters Point Shipyard as indicated on the Map filed with the Recorder of the~~  
21 ~~City and County of San Francisco on December 3, 2004 situated in the City and Count of San~~  
22 ~~Francisco, that was transferree to the San Francisco Redevelopment Agency by the U.S. Navy.~~



1 (fg) "Prescribed Subsurface Activity Area" means the specific location and horizontal  
2 and vertical extent of the proposed disturbance, excavation, grading or other subsurface  
3 activity defined using coordinates compatible with the GIS to the extent feasible.

4 **SEC. 3102. - APPLICABILITY OF ARTICLE.**

5 (a) Applicants must comply with this Article. The Department of Public Works (for any  
6 permit or improvement plan subject to this Article), the Department of Building Inspections (for  
7 building and grading permits) and the Department of Health (for underground tank permits  
8 and approvals and water well permits) shall inform the Director whenever a permit or  
9 improvement plan application is submitted for Hunters Point Shipyard and shall refer  
10 Applicants to the Director. The Director shall determine the applicability of this Article to the  
11 permit application or improvement plan and shall implement and enforce the provisions of this  
12 Article. If the Director determines that a permit or improvement plan is subject to the  
13 provisions of this Article, the permit or improvement application shall not be deemed complete  
14 until the Applicant has complied with the requirements of this Article or shall be conditioned  
15 upon compliance with this Article as specified herein.

16 (b) Any person that obtains environmental sampling data shall submit that data to the  
17 Director in a form acceptable to the Director.

18 ~~(c) The following sections of this Article apply:~~

19 ~~All Parcels Section 3100 et seq.~~

20 ~~Parcel A Section 3120 et seq.~~

21 ~~Parcel B Section 3130 et seq.~~

22 ~~Parcel C Section 3140 et seq.~~

23 ~~Parcel D Section 3150 et seq.~~

24 ~~Parcel E Section 3160 et seq.~~

25 Mayor Newsom  
BOARD OF SUPERVISORS

Page 7  
5/11/2010

n:\land\as2010\0400297\00628043.doc

1 ~~Parcel F Section 3170 et seq.~~

2 (dc) Prior to applying for a permit or improvement plan any person that desires to  
3 comply with this ordinance may enter into a voluntary agreement with the Director. The  
4 voluntary agreement shall be signed as to form by the City Attorney and shall require the  
5 person to comply with the substantive requirements of this Article and any regulations  
6 adopted by the Director; require payment of fees; and provide for Director notification to the  
7 relevant department that the person has complied with this Article.

8 (ed) Compliance with this Article does not relieve any person of compliance with any  
9 applicable federal, state, regional or local law, and does not take the place of compliance with  
10 any requirement of any regulatory agency that has jurisdiction to enforce any legal  
11 requirement that this Article is intended to address.

12 **SEC. 3103. - REPORTS BY DIRECTOR.**

13 The Director shall monitor compliance with this Article and provide an annual summary  
14 of compliance with this Article to the Board of Supervisors.

15 **SEC. 3104. - GENERAL WELFARE; NON-ASSUMPTION OF LIABILITY.**

16 The degree of protection required by this Article is considered to be reasonable for  
17 regulatory purposes. This Article shall not create liability on the part of the City, or any of its  
18 officers or employees for any damages that result from reliance on this Article or any  
19 administrative decision lawfully made in accordance with this Article. All persons handling  
20 hazardous materials within the City should be and are advised to determine to their own  
21 satisfaction the level of protection desirable to ensure no unauthorized release of hazardous  
22 materials.

23 In undertaking to require Applicants to comply with this Article, the City and County of  
24 San Francisco is assuming an undertaking only to promote the general welfare. It is not

25 Mayor Newsom  
BOARD OF SUPERVISORS

Page 8  
5/11/2010

n:\and\as2010\0400297\00628043.doc

1 assuming, nor is it imposing on itself or on its officers and employees, any obligation for  
2 breach of which it is liable for money damages to any person who claims that such breach  
3 proximately caused injury.

4 All inspections specified or authorized in this Article shall be conducted at the discretion  
5 of the City and nothing in this Article shall be construed as requiring the City to conduct any  
6 such inspection nor shall any actual inspection made imply a duty to conduct any other  
7 inspection.

8 **SEC. 3105. - CONSTRUCTION ON CITY PROPERTY.**

9 All departments, boards, commissions and agencies of the City and County of San  
10 Francisco that authorize construction or improvements on land under their jurisdiction under  
11 circumstances where no building, grading, street use or other permit or approval is required  
12 pursuant to the San Francisco Municipal Codes shall adopt rules and regulations to insure  
13 that the procedures set forth in this Article are followed. The San Francisco Redevelopment  
14 Agency and the departments of Public Health, Public Works, and Building Inspection shall  
15 assist other departments, boards, commissions and agencies to ensure that these  
16 requirements are met.

17 **SEC. 3106. - FORMER LANDFILL DISPOSAL AREAS.**

18 Upon receipt of a site evaluation report from an Applicant, the Director, ~~in consultation~~  
19 ~~with the Local Enforcement Agency and the California Integrated Waste Management Board,~~ shall  
20 determine whether the Prescribed Subsurface Activity Area is subject to the provisions of the  
21 California Integrated Waste Management Act (Cal. Public Resources Code § 40000 et seq.)  
22 as amended, relating to development on or near a former landfill disposal site. In making this  
23 determination, the Director may consult with the Local Enforcement Agency and the California  
24 Integrated Waste Management Board.

25 Mayor Newsom  
BOARD OF SUPERVISORS

Page 9  
5/11/2010

n:\land\as2010\0400297\00628043.doc

1 (a) For any Prescribed Subsurface Activity Area or portion thereof that is subject to  
2 such provisions, the Director shall require the Local Enforcement Agency to approve  
3 proposed land uses and determine any necessary protective measures or requirements to the  
4 extent necessary to comply with California Code of Regulations, Title 27, Chapter 3,  
5 Subchapter 4, Article 6 (Section 20917 et seq.) and Subchapter 5 (Section 20950 et seq.), as  
6 amended.

7 (b) For any Prescribed Subsurface Activity Area or portion thereof that is located within  
8 1,000 feet of a former landfill disposal site, but which is not subject to the above- referenced  
9 provisions of the California Integrated Waste Management Act, the Director shall review any  
10 proposed structures to ensure that the construction or use of the structure will not pose a  
11 threat to public health and safety or the environment. In making this determination, the  
12 Director shall consider the potential for adverse impacts on public health and safety and the  
13 environment, taking into account the following: the amount, nature and age of solid waste in  
14 the landfill disposal area; current and projected gas generation; effectiveness of existing  
15 controls; proximity of the proposed land uses to landfill disposal area; and other relevant  
16 geographic or geologic features. Based on these factors, the Director shall determine whether  
17 the structure must be designed and constructed in accordance with the following measures or  
18 requirements (or other design providing an equivalent degree of protection against gas  
19 migration into the structure): installation of a geomembrane or equivalent system with low  
20 permeability to landfill gas between the concrete floor slab of the structure and subgrade;  
21 installation of a permeable layer of open graded material of clean aggregate with a minimum  
22 thickness of 12 inches between the geomembrane and the subgrade or slab; installation of a  
23 geotextile filter to prevent the introduction of fines into the permeable layer; installation of  
24 perforated venting pipes, designed to operate without clogging, within the permeable layer;

1 construction of a venting pipe with the ability to be connected to an induced draft exhaust  
2 system; installation of automatic methane gas sensors within the permeable gas layer, and  
3 inside the structure to trigger an audible alarm when methane gas concentrations are  
4 detected; and/or appropriate periodic methane gas monitoring, including monitoring inside  
5 structures, with reporting requirements and a contingency and mitigation plan.

6 For purposes of this section, "structures" shall include: buildings, subsurface vaults,  
7 utilities or any other buildings or areas where potential gas buildup would be of concern.

8 (c) If the Director determines under subsections (a) or (b) of this Section that protective  
9 measures or requirements are necessary, the Director shall inform the relevant department in  
10 writing that such measures or requirements must become conditions of the permit or  
11 improvement plan.

## 12 SEC. 3107. - RULES AND REGULATIONS.

13 (a) Pursuant to the procedures specified in Section 1170 of the Health Code, the  
14 Director may adopt rules, regulations and guidelines, including maps, necessary or  
15 appropriate to implement this Article.

16 ~~(b) Pursuant to Section 3107(a), the Director may subject additional geographic areas to the~~  
17 ~~requirements of this ordinance where those additional areas exhibit the same underlying conditions~~  
18 ~~and will be subject to the same restrictions as areas already subject to this ordinance.~~

19 (eb) Regulations promulgated by the Health Commission shall be maintained in the  
20 Office of the Clerk of the Board of Supervisors.

21 (dc) The Director shall maintain and update ~~the GIS~~ project files as site data is received  
22 pursuant to this Article and provide public access to the GIS files and site data.

23 (ed) The Director shall maintain for public distribution a map that reflects the  
24 boundaries of each Parcel of the Hunters Point Naval Shipyard. The map shall include former

1 landfill disposal sites and a line representing the 1,000 foot perimeter from those sites. For  
2 Parcel A, the Director shall adopt a map showing historic fill areas and utility lines existing  
3 prior to the date of transfer of Parcel A from Navy ownership.

4 **SEC. 3108. - FEES.**

5 The Director is authorized to charge the following fees to defray the costs of document  
6 processing and review, consultation with Applicants, and administration of this Article: ~~for~~  
7 ~~fiscal year 2004-2005: (1) an initial fee of \$511.00 upon submission of the site evaluation report; and~~  
8 ~~(2) an additional fee of \$137.00 per hour for document processing and review and applicant~~  
9 ~~consultation exceeding three hours or portion thereof payable on an ongoing basis; for fiscal year~~  
10 ~~2005-2006: (1) an initial fee of \$514.00; and (2) an additional fee of \$145.00 per hour exceeding three~~  
11 ~~hours or portion thereof; for fiscal year 2006-2007: (1) an initial fee of \$539.00; and (2) an additional~~  
12 ~~fee of \$153.00 per hour exceeding three hours or portion thereof. Beginning with fiscal year 2007-~~  
13 ~~2008, for Fiscal Year 2010-2011, the fees are as follows: Application Fee = \$592 for up to three hours~~  
14 ~~of document review/consultation and \$197 for each additional hour, including site visits. No no~~ later  
15 than April 15 of each year, the Controller shall adjust the allowable fees ~~provided in this Article~~  
16 to reflect changes in the relevant Consumer Price Index, without further action by the Board of  
17 Supervisors. In adjusting the fees, the Controller may round these fees up or down to the  
18 nearest dollar, half-dollar or quarter-dollar. The Director shall perform an annual review of the  
19 fees scheduled to be assessed for the following fiscal year and shall file a report with the  
20 Controller no later than May 1st of each year, proposing, if necessary, an adjustment to the  
21 fees to ensure that costs are fully recovered and that fees do not produce significantly more  
22 revenue than required to cover the costs of operating the program. The Controller shall adjust  
23 fees when necessary in either case.

24 **SEC. 3109. - VIOLATIONS.**

25 Mayor Newsom  
BOARD OF SUPERVISORS

Page 12

5/11/2010

n:\landlas2010\0400297\00628043.doc

1 In addition to any other provisions of this Article, fraud, willful misrepresentation, or any  
2 willfully inaccurate or false statement in any report required by this Article shall constitute a  
3 violation of this Article.

4 **SEC. 3110. - ENFORCEMENT ACTIONS.**

5 The Director shall have authority to administer and enforce all provisions of this Article  
6 and may enforce the provisions of this Article by any lawful means available for such purpose,  
7 including taking any action authorized pursuant to Article 21, Sections 1133(a)-(d), (f), and (h)-  
8 (i) of the Health Code.

9 **SEC. 3111. - RESERVED.**

10 **SEC. 3112. - REMEDIES NOT EXCLUSIVE.**

11 Remedies under this Article are in addition to and do not supersede or limit any and all  
12 other remedies, civil or criminal.

13 **SEC. ~~31203113~~. - ~~PARCEL A~~ INSTITUTIONAL CONTROLS.**

14 An Applicant must comply with institutional controls included in *the any* deed conveying  
15 ownership *of Parcel A* from the United States Navy to the San Francisco Redevelopment  
16 Agency pursuant to a final FOST or FOSET or included in any recorded covenant to restrict use of  
17 property containing environmental restrictions for Parcel A to the extent such institutional controls  
18 apply to activities authorized by a permit or improvement plan subject to this Article. The  
19 Director will advise the relevant department of the specific requirement pursuant to the deed;  
20 require compliance with the institutional controls as a condition of the permit or improvement  
21 plan; and coordinate with the relevant department to monitor and enforce compliance with  
22 such institutional controls.

23 **SEC. ~~31213114~~. - ~~PARCEL A~~ SITE EVALUATION AND SITE MITIGATION FOR**  
24 **UNRESTRICTED RESIDENTIAL PROPERTY.**

1 This section applies to property determined by the applicable ROD to be suitable for  
2 unrestricted residential use that is transferred without a requirement for a durable cover or engineered  
3 cap.

4 (a) An Applicant must submit the following, satisfactory to the Director, as further  
5 specified in regulations adopted by the Director: (i) ~~s~~Site ~~e~~Evaluation ~~r~~Report; (ii) ~~d~~Dust  
6 ~~e~~Control ~~p~~lan; (iii) Unknown Contaminant Contingency Plan; (iiiiv) ~~d~~Disposal ~~p~~lan (if  
7 applicable); (ivv) Site Specific Health and Safety pPlan; (v) ~~stormwater and erosion control plan~~;  
8 (vi) Soil Importation Plan (if applicable), (vii) Foundation Support Piles Installation Plan (if  
9 applicable), (viii) a determination of whether additional information is necessary to  
10 adequately characterize the Prescribed Subsurface Activity Area, and (ix) for areas that undergo  
11 demolition of structures with lead based paint, a scope of work to collect additional information as  
12 described in the regulations. The plans required by (ii)—(vix) must be specific to the activities to  
13 be conducted under a permit or improvement plan.

14 The Director shall review the site evaluation report and advise the Applicant on whether  
15 additional information is necessary ~~to adequately characterize the Prescribed Subsurface Activity~~  
16 ~~Area~~ as follows:

17 (1) In unrestricted residential parcels, if the Prescribed Subsurface Activity Area has already  
18 been evaluated in a Site Evaluation Report in the past and a Closure Report for the Prescribed  
19 Subsurface Activity Area was approved by the Director and the Closure Report included verification  
20 of: (i) the placement of at least one foot of clean imported fill or equivalent on areas with fill  
21 containing naturally occurring asbestos; or (ii) that the Area was cut into native bedrock and properly  
22 covered, if necessary, to address any concerns about naturally occurring asbestos; or (iii) that the Area  
23 has no naturally occurring asbestos concerns; then no site history, data evaluation, sampling or  
24 additional characterization will be necessary with respect to such Prescribed Subsurface Activity Area.



1           (2) Unrestricted residential property that does not meet the criteria provided in subdivision (1)  
2 will be evaluated as follows:

3           (~~1A~~) Tier I Areas. If a portion of a Prescribed Subsurface Activity Area has been used  
4 continuously only for residential purposes, or is not located on historic fill (as defined in a map  
5 maintained by the Director pursuant to Section 3107(e)), or is not or has not been underlain  
6 by Navy utility lines (as defined on a map maintained by the Director pursuant to Section  
7 3107(e)), and, in any case, there is no evidence that hazardous substances are present, no  
8 additional information or sampling will be necessary with respect to such portions of the  
9 Prescribed Subsurface Activity Area. The Director shall provide the Applicant and the relevant  
10 department with written notification that the Applicant has complied with the requirements of  
11 this Article as to such portions, and must comply with the plans listed in subsection (a)(ii)—  
12 (vix), as determined by the Director to be applicable, and all laws applicable to soil removal and  
13 off-site disposal.

14           (~~2B~~) Tier II Areas. In portions of Prescribed Subsurface Activity Area other than those  
15 described as Tier I, if the Director determines that such portions are adequately characterized,  
16 the Director shall provide the Applicant and the relevant department with written notification  
17 that the Applicant has complied with the requirements of this Article as to such portions, and  
18 must comply with the plans listed in subsection (a)(ii)—(vix), as determined by the Director to be  
19 applicable, and all laws applicable to soil removal and off-site disposal. If the Director  
20 determines that additional information is necessary to adequately characterize portions of the  
21 Prescribed Subsurface Activity Area, the Applicant must submit a proposed scope of work for  
22 a supplemental site evaluation in accordance with regulations adopted by the Director. Upon  
23 approval of the scope of work by the Director, the Applicant shall implement the scope of work  
24 and prepare a supplemental site evaluation report summarizing the new information.

1 (Aa) If the supplemental site evaluation report shows that there is no existing  
2 contamination that exceeds the screening criteria established by the Director by regulation,  
3 the Director shall provide the Applicant and the relevant department with written notification  
4 that the Applicant has complied with the requirements of this Article, and must comply with the  
5 plans listed in subsection (a)(ii)—~~(vix)~~, as determined by the Director to be applicable, and all laws  
6 applicable to soil removal and off-site disposal.

7 (Bb) If the supplemental site evaluation report shows that there is existing  
8 contamination that exceeds the screening criteria established by the Director and the  
9 Applicant wishes to retain that soil in the Prescribed Subsurface Activity Area or elsewhere  
10 within *Parcel A unrestricted residential property*, the Applicant must prepare and submit to the  
11 Director a risk evaluation report and a site mitigation plan demonstrating the property can still  
12 be used for unrestricted residential purposes consistent with the FOST. The site mitigation  
13 plan must include the plans listed in subsection (a)(ii)—~~(vix)~~, as determined by the Director to be  
14 applicable, and may include a deed notice, provided that any notice is consistent with use for  
15 unrestricted residential purposes. The Director must review and approve the risk evaluation  
16 report and the site mitigation plan. Upon approval of these documents, the Director shall  
17 provide the Applicant and the relevant department with written notification that the Applicant  
18 has complied with the requirements of this Article, and must comply with the site mitigation  
19 plan and all laws applicable to soil removal and off-site disposal.

20 (b) If the Director finds that the Applicant intends to remove soil from the Prescribed  
21 Subsurface Activity Area and dispose of that soil off-site, then the Director shall find that, as to  
22 that soil, no additional information is necessary and shall provide the Applicant and the  
23 relevant department with written notification that the Applicant has complied with the  
24 requirements of this Article, and must comply with the plans listed in subsection (a)(ii)—~~(vix)~~.

1 as determined by the Director to be applicable, and all laws applicable to soil removal and off-site  
2 disposal.

3 (c) Upon completion of the activity authorized by the permit or improvement plan, the  
4 Applicant shall submit a €Closure rReport to the Director including: additional information or  
5 data obtained, including information on unanticipated conditions; correcting any information  
6 previously submitted; and certifying implementation of the plans listed in subsection (a)(ii)—  
7 (vix), as determined by the Director to be applicable, any applicable risk management or site  
8 mitigation plan and all laws applicable to soil removal.

9 ~~SEC. 3130. PARCEL B [RESERVED].~~

10 ~~SEC. 3140. PARCEL C [RESERVED].~~

11 ~~SEC. 3150. PARCEL D [RESERVED].~~

12 ~~SEC. 3160. PARCEL E [RESERVED].~~

13 ~~SEC. 3170. PARCEL F [RESERVED].~~

14 SEC. 3115. HPS PROPERTY WITH A DURABLE COVER REQUIREMENT.

15 (a) For property which is subject to a deed restriction or covenant to restrict use of  
16 property containing an environmental restriction requiring a durable cover or engineered cap the  
17 Applicant shall submit to the Director (i) Site Evaluation Report; (ii) Dust Control Plan; (iii) Unknown  
18 Contaminant Contingency Plan; (iv) Disposal Plan (if applicable); (v) Site Specific Health and Safety  
19 Plan; (vi) Soil Importation Plan (if applicable); (vii) Foundation Support Piles Installation Plan.

20 The Applicant will also submit verification to the Director of the following:

21 (b) for property that is currently subject to an Administrative Order on Consent (AOC) and  
22 is therefore subject to the regulatory oversight of the EPA, the Applicant must submit proof that it is  
23 complying with all environmental documents and restrictions, including without limitation as  
24 applicable, the AOC, ETCA, CRUP, LUC RD, pre-Remedial Action Closeout Report (pre-RACR) Risk

1 Management Plan (RMP), post-RACR RMP and Operation and Maintenance Plan (OMP). Proof of  
2 compliance can be: (i) a letter from EPA detailing the compliance; (ii) a report or checklist, as  
3 required by the document; or (iii) any other form acceptable to the Director demonstrating compliance.

4 (c) for property that is no longer subject to an Administrative Order on Consent (AOC) or  
5 that was never subject to an AOC, the Applicant must submit proof that it is complying with all  
6 environmental documents and restrictions that are applicable to the property, including without  
7 limitation as applicable, an ETCA, CRUP, pre-RACR RMP, post-RACR RMP, and OMP. Proof of  
8 compliance can be: (i) a report or checklist, as required by the document; or (ii) any other form  
9 acceptable to the Director demonstrating compliance.

10 (d) Whether or not an AOC is in effect for the property:

11 (i) if an RMP for the property includes a requirement for a Dust Control Plan and if EPA  
12 already has approved the RMP and Dust Control Plan, then the Applicant is required only to submit a  
13 copy of the approved Dust Control Plan and approval letter from EPA as proof of compliance with the  
14 Dust Control Plan requirement. However, if the EPA approved Dust Control Plan does not include  
15 specification of particulate monitoring equipment, site specific monitoring location requirements, or  
16 action levels then the Director may require submittal of this information.

17 (ii) if an RMP for the property includes a requirement for a Site Specific Health and Safety Plan  
18 and if EPA has already approved the RMP and the Site Specific Health and Safety Plan, then the  
19 Applicant is required only to submit a copy of the approved Site Specific Health and Safety Plan and  
20 approval letter from EPA as proof of compliance with the Site Specific Health and Safety Plan  
21 requirement.

22 (iii) if an RMP for the property includes a requirement for a Soil Importation Plan and if EPA  
23 has already approved the RMP and the Soil Importation Plan, then the Applicant is required only to  
24

1 submit a copy of the approved Soil Importation Plan and approval letter from EPA as proof of  
2 compliance with the Soil Importation Plan requirement.

3 (e) Upon completion of the activity authorized by the permit or improvement plan, the Applicant  
4 shall submit a Closure Report to the Director including: additional information or data obtained,  
5 including information on unanticipated conditions; corrections as to any information previously  
6 submitted; and certifications of implementation of the plans listed in Section 3115 (a)(ii)-(vii), and all  
7 laws applicable to soil removal.

8 **SEC. 31803116. - SEVERABILITY.**

9 If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this  
10 Article or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective  
11 by any court of competent jurisdiction, such decision shall not affect the validity or  
12 effectiveness of the remaining portions of this Section or any part thereof. The Board of  
13 Supervisors hereby declares that it would have passed each section, subsection, subdivision,  
14 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more  
15 sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared  
16 unconstitutional or invalid or ineffective.

17 Section 3. The San Francisco Health Code is amended by amending Section 804, to  
18 read as follows:

19 **SEC. 804. - APPLICATION.**

20 Any person proposing to construct, modify, operate and/or maintain a well or soil boring  
21 shall file with the Department a completed written application on forms approved by the  
22 Department and submit the appropriate application fees thirty (30) days prior to the proposed  
23 commencement of such activities. For well permits in Hunters Point Shipyard *Parcel A*, such  
24 permit application shall not be deemed complete until the department receives written

25 Mayor Newsom  
BOARD OF SUPERVISORS

Page 19  
5/11/2010

n:\land\as2010\0400297\00628043.doc

1 notification from the Director that the applicant has complied with all provisions of Article 31  
2 that are required to be met prior to permit issuance. The completed application shall include,  
3 without limitation, all of the following, when applicable:

4 (a) The name and address of the owner of the property on which the well or soil boring  
5 is located.

6 (b) The name and address of the operator of the well or soil boring, if different from the  
7 owner.

8 (c) The name and state license number of the general contractor, if applicable, and the  
9 C-57 license number of the person responsible for the construction or modification of the well  
10 or soil boring.

11 (d) The address at which notices issued in accordance to this Article are to be served,  
12 if different from those specified in Subsections (a) and (b).

13 (e) A plot plan showing the proposed or actual location of the well or the soil boring that  
14 is being constructed, modified, operated or maintained with respect to the following items  
15 within a radius of five hundred feet (500') from the well or soil boring:

16 (1) Property lines, including ownership;

17 (2) Sewage or waste disposal system, including reserved waste disposal expansion  
18 areas, or works for conveying sewage waste;

19 (3) The approximate drainage pattern of the property;

20 (4) Other wells, including abandoned wells;

21 (5) Access road to the well site;

22 (6) Any structures; and

23 (7) Any aboveground or below ground utilities.

1 (f) Location of the property with a vicinity map including the legal description of the  
2 property and the assessor's parcel, block and lot numbers.

3 (g) The proposed use and the operating parameters of the well or soil boring, if  
4 applicable.

5 (h) The expected operational lifetime of the well or soil boring, if applicable.

6 (i) Location and classification by visual inspection of any solid, liquid, or hazardous  
7 waste disposal sites within five hundred feet (500') of the proposed well or soil boring.

8 (j) Method of and a proposed schedule for the construction or modification of the well or  
9 soil boring.

10 (k) The construction parameters of the well or soil boring including, without limitations,  
11 the following information, if applicable:

12 (1) Total depth of the proposed well or soil boring;

13 (2) Depth and the type of casing to be used for the proposed well;

14 (3) Depth and the type of perforation; and

15 (4) Proposed depth and the type of annular seal.

16 (l) A plan for the safe and appropriate handling and disposal of drilling fluids and other  
17 drilling materials resulting from the proposed work.

18 (m) An approval from the San Francisco Public Utilities Commission if drilling fluids or  
19 water extracted from the well or soil boring will be discharged into the sanitary sewer.

20 (n) Submission of completion bonds, contractor's bonds, cash deposits, or other  
21 adequate security of at least \$10,000 to insure that all projects are performed completely and  
22 properly in a manner which protects the public health and safety and the integrity of the  
23 groundwater resources. The Director may, in his or her discretion, increase the amount of the  
24

1 bond, cash deposit or security deemed necessary to protect the public health and safety and  
2 the integrity of the groundwater resources.

3 (o) Submission of the appropriate filing fees as provided for in this Article.

4 (p) Any other information deemed necessary by the Department to ensure adequate  
5 protection of groundwater resources.

6 Section 4. The San Francisco Health Code is amended by amending Section 1227 to  
7 read as follows:

8 **SEC. 1227. - KNOWN HAZARDOUS WASTE SITE; HUNTERS POINT SHIPYARD.**

9 *PARCEL A.*

10 (a) If the soil sampling and analysis report or site history indicates that the property is  
11 listed on the National Priorities List or the list of California Hazardous Substances Account Act  
12 release sites, the applicant shall provide to the Director certification or verification from the  
13 appropriate federal or State agency that any site mitigation required by the federal or State  
14 agency has been completed and complete the certification procedure set forth in Section  
15 1229. Certification by a competent State or federal agency that mitigation measures have  
16 been properly completed shall constitute a conclusive determination and shall be binding  
17 upon the Director.

18 // // // // //

19 // // // // //

20 // // // // //

21 // // // // //

22 // // // // //

23 // // // // //

24 // // // // //

25 Mayor Newsom  
BOARD OF SUPERVISORS



1 (b) Applicant's activities on ~~Parcel A~~ of the Hunters Point Shipyard, as defined in Article 31,  
2 are governed by Article 31 of the Health Code and not by this Article.  
3

4  
5 APPROVED AS TO FORM:  
6 DENNIS J. HERRERA, City Attorney

7  
8 By:

  
9 ANDREA RUIZ ESQUIDE  
10 Deputy City Attorney  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

25 Mayor Newsom  
BOARD OF SUPERVISORS

Page 23  
5/11/2010

n:\land\as2010\0400297\00628043.doc

## LEGISLATIVE DIGEST

[Hunters Point Shipyard – Health Code]

**Ordinance amending Article 31 of the Health Code to extend to the entire Hunters Point Shipyard area the special permit processing requirements that now apply to Hunters Point Shipyard Parcel A to address potential residual contamination, imposing fees to administer this Article, amending Sections 804 and 1227 of the Health Code to make conforming amendments, and making environmental findings.**

### Existing Law

Article 31 of the Health Code was enacted by Ordinance 303-04 and became effective on December 24, 2004. It was triggered by the transfer of Parcel A of the Hunters Point Shipyard (HPS) from the U.S. Navy to the San Francisco Redevelopment Agency (SFRA), which subjected Parcel A to the jurisdiction of the City. Its goal was to impose specific requirements on activities at HPS, in order to provide additional protection to human health and safety and the environment above and beyond what was required by federal and state law.

Article 31 provides that any person seeking permits for subsurface activities on portions of the HPS that involve the disturbance of at least 50 cubic yards and any person seeking a well construction or destruction permit (Applicant), be referred to the Department of Public Health (DPH). It authorizes DPH's Director (Director) to require the Applicant to conduct additional sampling, if DPH determines that the area was not adequately characterized; to advise the relevant departments of any specific requirements that may apply to the area, pursuant to the conveyance deed; to require compliance with the institutional controls as a condition of the permit or improvement plan; and to coordinate with the relevant departments to monitor and enforce compliance with such institutional controls.

In areas where there are proposed land uses or structures that are on top of old landfill disposal sites or within 1,000 feet of old disposal sites, and where there is evidence that landfill gas migration could pose a threat to public health and safety or the environment due to those land uses or structures, Article 31 authorizes the Director to impose protective measures, such as venting pipes, as a condition of a permit or improvement plan.

The Director and the Health Commission are authorized to charge established rates to ensure that DPH's costs of oversight are fully recovered; add and implement certain requirements by regulation; and subject additional geographic areas of HPS to Article 31.

Under Article 31 the Director must maintain, for public access, all data collected by the Navy and any subsequently gathered data, as well as maps necessary to enable compliance with the Article; and submit an annual summary of compliance to the Board.

FILE NO.

Finally, under Article 31 DPH may seek administrative and civil penalties for violations of the Article.

#### Amendments to Current Law

At the time Article 31 was adopted, it was anticipated that it would be amended to include the other HPS parcels, as they are transferred out of Navy ownership. Now, in anticipation of the transfer of the remainder of the HPS to the SFRA, the current ordinance amends Article 31 to extend to the entire HPS the special permit processing requirements that now apply at HPS Parcel A, to address potential contamination. The ordinance preserves all review and permitting requirements that are currently in existence under Article 31, but makes some important changes.

The ordinance reiterates that all Applicants must comply with institutional controls included in the any deed conveying ownership from the Navy to the SFRA or included in any recorded covenant to restrict use of property containing environmental restrictions, and that the Director will oversee and enforce compliance with such institutional controls. Beyond these general requirements, the ordinance divides the HPS parcels in two main groups. The first group is composed of unrestricted residential properties, defined as parcels that the applicable ROD determined to be suitable for unrestricted residential use, and that are transferred without a requirement for a durable cover or engineered cap (such as Parcel A, Parcel D-2, and any other parcels that may transfer to the SFRA in the future in such condition.) The second group is that of properties transferred with a durable cover requirement, defined as properties which are subject to a deed restriction or covenant to restrict their use containing an environmental restriction requiring a durable cover or engineered cap.

The distinction between unrestricted residential properties and properties transferred with a durable cover requirement is important for two main reasons. First, the applicability of the Article is triggered by different kinds of actions, depending on whether the permit sought would affect an unrestricted residential property or a property transferred with a durable cover requirement. If the first, then the Article applies only for permits that involve the disturbance of at least 50 cubic yards (38.23m<sup>3</sup>) of soil (in addition to any well construction, modification, operation or maintenance permit and any permit that involves demolition of structures with lead-based paint.) If the latter, Article 31 applies for any permit sought, regardless of the amount of soil disturbed.

A second reason why the distinction between these types of properties is relevant is that, depending on the kind of property, different requirements apply to each and, consequently, DPH's role in enforcing the Article varies. Applicants for permits in unrestricted residential properties are subject to the regulatory oversight of DPH, and are required to submit the following plans, to the satisfaction of the Director: (i) a Site Evaluation Report; (ii) a Dust Control Plan; (iii) an Unknown Contaminant Contingency Plan; (iv) a Disposal Plan (if applicable); (v) a Site Specific Health and Safety Plan; (vi) a Soil Importation Plan (if applicable), (vii) a Foundation Support Piles Installation Plan (if applicable), (viii) a determination of whether additional information is necessary to adequately characterize the

FILE NO.

Prescribed Subsurface Activity Area, and (ix) for areas that undergo demolition of structures with lead based paint, a scope of work to collect additional information as described in the regulations. On the other hand, Applicants for permits on property transferred with a durable cover requirement are required to submit substantially the same plans as Applicants for permits in unrestricted residential properties (except for the plans required in subsections (viii) and (ix), which do not apply) and in addition, submit proof that they are complying with all environmental documents and restrictions imposed by federal and state regulatory oversight agencies.

Another change that this ordinance seeks, vis a vis the current Article 31, is that it requires, for both types of properties, the preparation of some plans that have not been explicitly required until now: Unknown Contaminant Contingency Plans and Foundation Support Piles Installation Plan. On the other hand, the ordinance deletes the requirement of Stormwater and Erosion Control Plan, in recognition of the fact that these plans are regularly reviewed by another regulatory agency, the San Francisco Public Utilities Commission.

The ordinance preserves the authority of DPH to adopt regulations to administer the Article, to enforce the Article seeking administrative and civil penalties, and to charge fees to recover the costs of administering the Article, including document processing and review and site visits.

Finally, the ordinance makes conforming amendments to Sections 804 and 1227 of the Health Code, to reflect the fact that Article 31 now applies to the whole HPS area, not just to Parcel A.

### Background Information

Pursuant to CERCLA, and with oversight by the United States Environmental Protection Agency (EPA) and state regulatory agencies, the Navy is investigating and remediating the HPS. In 1989, the EPA placed the HPS on the Superfund List. For purposes of remediation, the HPS is divided into Parcels A through F. In addition to Parcel A, which the Navy already transferred to the SFRA, it is anticipated that the Navy will offer the remaining parcels for transfer to the Agency in accordance with a Conveyance Agreement between the Agency and the Navy. Prior to transfer of any parcel, the Navy will issue a draft final Finding of Suitability to Transfer (FOST) or a draft final Finding of Suitability for Early Transfer (FOSET) for the parcel, as required by law.

The Board of Supervisors by Resolution \_\_\_\_\_, adopted CEQA findings, including a mitigation monitoring and reporting program (MMRP) for the Candlestick Point-Hunters Point Shipyard Phase II Development Plan Project (Project), for which the SFRA and Planning Commissions certified a Final Environmental Impact Report (FEIR) in June 3, 2010. The Project contains all of the property in the HPS, except the property designated as Parcel A by the Navy. The MMRP contains mitigation measures that address potential hazardous materials impacts associated with the Project. It is the intent of this Board by adopting this ordinance to create a process for DPH to enforce, through this

FILE NO.

Article 31, certain hazardous materials mitigation measures identified in the FEIR in the HPS portion of the Project.

**HEALTH COMMISSION**  
**City and County of San Francisco**  
**Resolution No. 08-10**

**Approving an ordinance amending Article 31 of the Health Code to extend to the entire Hunters Point Shipyard area the special permit processing requirements that now apply to Hunters Point Shipyard Parcel A to address potential residual contamination, imposing fees to administer this Article , amending Sections 804 and 1227 of the Health Code to make conforming amendments; and approving amendments to the Regulations implementing the proposed ordinance; and adopting CEQA findings, including a statement of overriding considerations and a mitigation monitoring and reporting program, in furtherance of the Candlestick Point and Phase 2 of the Hunters Point Shipyard Redevelopment Project.**

WHEREAS, Improving the quality of life of the residents of Bayview Hunters Point ("BVHP") is one of the City's highest priorities. Expediting the revitalization of BVHP will provide long overdue improvements to the BVHP community that will also benefit the City as a whole. Both the Hunters Point Shipyard and the Candlestick Activity Node, as defined in the Bayview Hunters Point Redevelopment Plan (the "Candlestick Site," together with Phase 2 of the Hunters Point Shipyard, the "Project Site"), are part of BVHP and together they make up the largest area of under-used land in the City; and,

WHEREAS, For many years, the City and the Redevelopment Agency of the City and County of San Francisco (the "Agency") have been working together to bring about the revitalization of the Shipyard and the Candlestick Site, and in early 2007, the City's Board of Supervisors and the Agency Commission endorsed a Conceptual Framework for the integrated development of these two areas; and,

WHEREAS, On June 3, 2008, the City's voters passed Proposition G, which: (i) adopted overarching policies for the revitalization of the Project Site; (ii) authorized the conveyance of the real property owned by the City at Candlestick Point under the jurisdiction of the City's Recreation and Park Department and (iii) urged the City, the Agency and all other governmental agencies with jurisdiction to proceed expeditiously with revitalization of the Project Site; and,

WHEREAS, The City's Planning Department and the Agency have undertaken a planning and environmental review process for the Project (as defined below), and there have been more than 230 public meetings, workshops and presentations over the past three years on every aspect of the Project, including meetings before this Commission, the Agency Commission, the Planning Commission, the Board of Supervisors and other City commissions and advisory and community groups; and,

WHEREAS, The Planning Commission and the Agency Commission, respectively, reviewed and considered the Final Environmental Impact Report for the Project (the "EIR") in Planning Department File No. 2007.0946E, consisting of the Draft EIR and the Comments and Responses document, and the Planning Commission found that the contents of said report and the procedures through which the EIR was prepared, publicized and reviewed complied with the provisions of the California Environmental Quality Act (CEQA), the CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code ("Chapter 31") and found further that the EIR reflects the independent judgment and analysis of the City and is adequate, accurate, and objective and that the Comments and Responses document contains no significant revisions to

the Draft EIR and certified the completion of the EIR in compliance with CEQA.; a copy of certification motion is on file with the Planning Department; and

WHEREAS, the EIR files available from the Planning Department have been made available to the Commission and the public and this Commission has reviewed and considered the information in the EIR and the proposed CEQA Findings in furtherance of the actions contemplated by this Resolution, including a statement of overriding considerations, and the proposed mitigation, monitoring and reporting program, attached to this Resolution as Attachments A and B, respectively, and,

WHEREAS, The Planning Commission determined that the Project, and the various actions being taken by the City and the Agency to approve and implement the Project, are consistent with the General Plan and with the Eight Priority Policies of City Planning Code Section 101.1, and made findings in connection therewith (the "General Plan Consistency Determination"), a copy of which is on file with the Planning Department and is incorporated into this Resolution by reference; and,

WHEREAS, Following certification of the EIR, the Agency entered into a Disposition and Development Agreement (the "DDA") with CP Development Co., a Delaware limited partnership ("Developer"), for the redevelopment of the Project Site (the "Project"): At full build-out, the Project is anticipated to include: over 300 acres of public park and open space improvements; 10,500 homes for sale or rent; 885,000 square feet of retail uses; about 2,650,000 square feet of green office, science and technology, and research and development uses; a 150,000 square foot hotel; a 10,000-seat arena or other public performance site; a 300-slip marina; a site in the Shipyard Site for a new stadium if the 49ers and the City timely determine that the stadium is feasible; and up to 2,500,000 square feet of additional green office, science and technology, research and development, and industrial uses if the stadium is not built. The Project is consistent with the Conceptual Framework and Proposition G; and,

WHEREAS, the Health Commission passed Resolution 22-04, approving an ordinance establishing Article 31 of the Health Code and regulations implementing the ordinance, which established special restrictions for activities on Parcel A of the Hunters Point Shipyard to address potential residual contamination and to authorize the Department of Public Health to implement these restrictions, impose penalties and charge fees to defray the costs of implementation of the ordinance; and,

WHEREAS, the proposed ordinance in conjunction with companion ordinances amending the Building Code and Public Works Code, amends Article 31 of the Health Code to extend the existing restrictions and special permit processing requirements to the entire Hunters Point Shipyard; and

WHEREAS, the Director of the Health Department has drafted and approved amendments to the regulations implementing this ordinance that provide clarification and further details about the required content for identified plans and reports; and

WHEREAS, the proposed ordinance and regulations were prepared by Department staff, working with the Mayors Office, the City Attorney's Office, the Agency and in consultation with interested members of the community, the Hunters Point Shipyard Citizens Advisory Committee and the Bayview Project Area Committee, federal and state environmental regulators and other City officials; and

RESOLVED, That in order to effectuate the redevelopment of the Project Site, and consistent with the requirements of Proposition G, this Commission hereby adopts the CEQA Findings, including the Statement of Overriding Considerations, attached to this Resolution as Attachment A and adopts the Mitigation Monitoring and Reporting Program, attached to this Resolution as Attachment B, both of which are incorporated into this Resolution by this reference; and, be it

RESOLVED, that the Health Commission approves the proposed amendments to the Health Code; and, be it

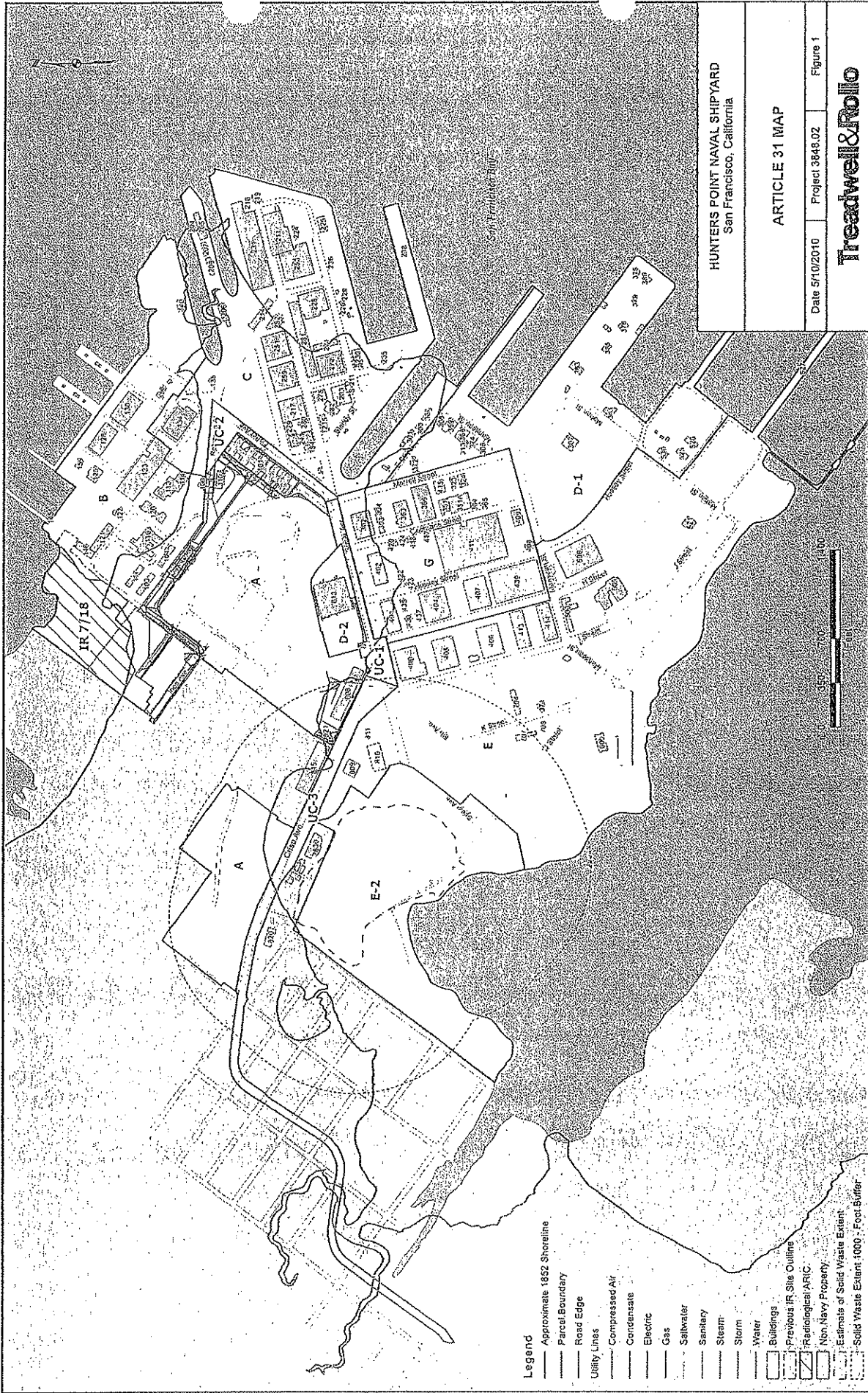
FURTHER RESOLVED, that the Health Commission recommends these amendments to the Board of Supervisors; and be it

FURTHER RESOLVED, that the Health Commission adopts the amendments to the implementing regulations approved by the Director to become effective on the effective date of the Health Code amendments.

I hereby certify that the San Francisco Health Commission at its meeting of June 15, 2010 adopted the foregoing resolution.

  
\_\_\_\_\_  
Mark Morewitz, MSW  
Health Commission Executive Secretary





HUNTERS POINT NAVAL SHIPYARD  
San Francisco, California

ARTICLE 31 IMAP

Date 5/10/2010 Project 3848.02 Figure 1

**Treadwell&Rollo**

- Legend**
- Approximate 1852 Shoreline
  - Parcel Boundary
  - Road Edge
  - Utility Lines
  - Compressed Air
  - Condensate
  - Electric
  - Gas
  - Saltwater
  - Sanitary
  - Steam
  - Storm
  - Water
  - ▭ Buildings
  - ▭ Previous IR Site Outline
  - ▭ Radiological/ARIC
  - ▭ Non-Navy Property
  - ▭ Estimate of Solid Waste Extent
  - ▭ Solid Waste Extent: 1000' Foot Buffer

Treadwell & Rollo C:\GIS\3848\_01\arcmap\_doc\2010\3848-01-044.mxd

Notes:

1. Map displayed in California State Plane Coordinate System, Zone

