

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

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

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

10 WHEREAS, The United States Navy decommissioned the Hunters Point Shipyard in
11 1974, recommissioned the Shipyard in 1986, and again decommissioned the Shipyard in
12 1991; and

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

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

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

24 WHEREAS, The community is concerned that the Navy continues to keep the full
25 extent of the radiological and nuclear experimentation, and full extent of the handling of

1 radiological and nuclear materials at the Shipyard secret from the public and the City and
2 County of San Francisco without validation for the national security requirement for
3 confidentiality; and

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

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

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

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

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

22 WHEREAS, The Navy has failed to comply with the FFA and subsequent revisions of
23 the FFA; and

1 WHEREAS, Between 1995 and today the Navy's failure regarding the environmental
2 oversight of the Shipyard resulted in continued violations of the Clean Water Act and NPDES
3 permits by its Dry Dock 4 tenant, Astoria Metals; and

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

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

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

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

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

21 WHEREAS, Today, the Hunters Point Shipyard is the most contaminated portion of
22 San Francisco, and the only federal Superfund site in the City. The residents of the Hunters
23 Point Bayview District, the neighborhood immediately surrounding the former base (an
24 ethnically and racially minority dominant community), are afflicted with the highest levels of
25 cancer, respiratory diseases and other illnesses in San Francisco; and

1 WHEREAS, After twelve years on the Superfund National Priorities List, the bulk of the
2 Shipyard still has not been remediated and the Navy, the US EPA, and CAL/EPA have agreed
3 to repeated extensions of the schedules for the environmental remediation of the Shipyard set
4 forth in the FFA, and despite numerous delays by the Navy, the US EPA, the enforcement
5 agency under the FFA with the authority to assess penalties, has never penalized the Navy
6 for those delays despite a pattern and practice of evading, deferring and otherwise ignoring
7 the requirements of the FFA and environmental law; and

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

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

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

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

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

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

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

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

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

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

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

23 WHEREAS, On numerous occasions representatives of the City of San Francisco and
24 community organizations expressed concern to the Navy that the solicitation for the fixed price
25

1 contract for the cleanup of Parcels C and D was written in such a way as to discourage private
2 companies from bidding for the work; and

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

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

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

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

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

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

23 WHEREAS, San Franciscans can, under federal law, express their preference for a
24 cleanup plan. The National Contingency Plan, the guiding principles under which the cleanup
25

1 plan is regulated, establishes community acceptance as one of its nine principle criteria for
2 setting the cleanup standards for a toxic site; and

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

6 WHEREAS, The 87% of voters in the City and County of San Francisco in November
7 2000, who opposed increasing the risk for cancer as a result of using lower standards for
8 cleanup, supported the Hunters Point Bayview community's request that the federal
9 government - through its Department of the Navy - allocate funds sufficient to clean the
10 Shipyard to a level that will enable unrestricted use and approved Proposition P urging that
11 the initiative be adopted as City policy; and

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

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

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

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

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

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

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

21 FURTHER RESOLVED, That the Board hereby urges the Navy, the United States
22 EPA, and CAL/EPA to implement and enforce the FFA and take all actions as may be
23 necessary to cause the prompt remediation of the Shipyard in accordance with Prop P; and
24 be it

1 FURTHER RESOLVED, That the Board urges the Navy to more fully characterize the
2 nature and extent of contaminants in the landfill on Parcel E, off-shore sediments in Parcel F,
3 soils below ten feet and contaminated ground water plumes, so that remedies can be selected
4 and implemented that are fully protective of persons residing in close proximity to the landfill
5 and the Bay shoreline and that fully protect future occupants and residents from any
6 unacceptable exposures posed by soil and ground water on other portions of the Shipyard;
7 and, be it

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

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

17 FURTHER RESOLVED, That the Board hereby urges all participating City agencies
18 including the Departments of Health, Environment, and Planning, the City and District
19 Attorney, and the San Francisco Redevelopment Agency, to ensure full federal compliance
20 with Prop P.



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Resolution

File Number: 011367

Date Passed:

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.

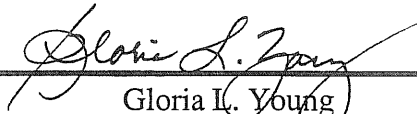
July 30, 2001 Board of Supervisors — ADOPTED

Ayes: 10 - Ammiano, Daly, Gonzalez, Hall, Leno, McGoldrick, Newsom, Peskin,
Sandoval, Yee

Absent: 1 - Maxwell

File No. 011367

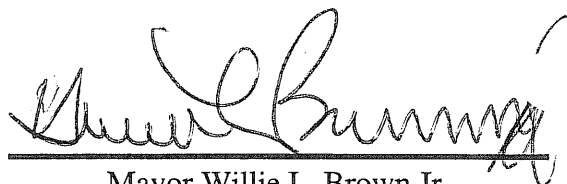
I hereby certify that the foregoing Resolution was ADOPTED on July 30, 2001 by the Board of Supervisors of the City and County of San Francisco.



Gloria L. Young
Clerk of the Board

AUG 10 2001

Date Approved



Mayor Willie L. Brown Jr.