RESOLUTION NO. 50-2004

Adopted April 29, 2004

ADOPTING ENVIRONMENTAL FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND AUTHORIZING EXECUTION OF THE FOLLOWING DOCUMENTS WITH THE UNITED STATES DEPARTMENT OF THE NAVY CONCERNING THE FORMER HUNTERS POINT NAVAL SHIPYARD SITE: (1) THE CONVEYANCE AGREEMENT, (2) THE SECURITY SERVICES COOPERATIVE AGREEMENT, AND (3) ANCILLARY RELATED DOCUMENTS; AND AUTHORIZING RELATED ACTIONS; HUNTERS POINT SHIPYARD REDEVELOPMENT PROJECT AREA

BASIS FOR RESOLUTION

1. In 1991, the United States of America’s Defense Base Closure and Realignment Commission recommended the closure of the former Hunters Point Naval Shipyard, located within the City and County of San Francisco (“San Francisco”), which consists of approximately 936.37 acres of real property, together with the buildings, improvements and related and other tangible personal property located thereon and all rights, easements and appurtenances thereto (“Hunters Point Naval Shipyard”).

2. Pursuant to the authority provided by Section 2824(a) of the National Defense Authorization Act for Fiscal Year 1991 (Pub. L. No. 101-510), as amended by Section 2834 of the National Defense Authorization Act for Fiscal Year 1994 (Pub. L. No. 103-160), the Secretary of the United States Department of the Navy (“Navy”) may convey the Hunters Point Naval Shipyard to the City and County of San Francisco (“City”) or a local reuse organization approved by the City, such as the San Francisco Redevelopment Agency (“Agency”), for such consideration and under such terms as the Secretary of the Navy considers appropriate.


4. Pursuant to CERCLA, the Navy, the EPA and the State of California (“State”) executed a Federal Facilities Agreement that requires the Navy to investigate and remediate all hazardous substances, pollutants and contaminants on, in, under or about the Hunters Point Naval Shipyard in
accordance with a specified process and schedule. The Navy is also required by CERCLA and other federal law to take community acceptance into account in its cleanup decisions.

5. Executive Order 12898 and 59 Fed. Reg. 7629 (1994), Section 1-101, require each federal agency, including the Navy, to make achieving environmental justice part of each federal agency’s mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of federal programs, policies and activities on minority populations and low-income populations. The area of San Francisco surrounding the Hunters Point Naval Shipyard, commonly known as the Bayview-Hunters Point neighborhood, is a predominantly African-American community that is disproportionately impacted by environmental hazards and has a disproportionately high number of families with household incomes below the poverty level compared to San Francisco as a whole.

6. On January 23, 2002, the Navy and the City amended the MOA by executing the “First Addendum to the Memorandum of Agreement Hunters Point Conveyance Implementation Plan” in order to expedite the remediation and conveyance of Parcels at the Hunters Point Naval Shipyard under the MOA by, among other things, forging a Collaborative Partnership (for the purposes hereinafter defined) among the Navy, the City and community, the Developer and other local reuse organizations designated by the City (collectively the “Parties”). Under the Collaborative Partnership, the Parties shall:

(a) Share information and communicate key goals and objectives early and often;
(b) Continuously explore opportunities for integrating development with cleanup;
(c) Jointly develop strategies for characterizing the site and resolving remediation issues;
(d) Continuously explore conveyance and contracting mechanisms that expedite cleanup and conveyance and meet the Parties’ goals and objectives; and
(e) Jointly present characterization, remediation, contracting and conveyance plans to regulators and community groups, as appropriate.

7. In accordance with the Community Environmental Response Facilitation Act, Pub. L. No. 102-426, the Navy has performed Environmental Baseline Surveys for the Hunters Point Naval Shipyard, copies of which have been provided to the Agency.

8. To facilitate the expeditious remediation of hazardous materials and productive reuse of the Hunters Point Naval Shipyard, the Navy, the EPA
and the State, as parties to the Federal Facilities Agreement, have agreed that remediation should be accomplished on a parcel by parcel basis and the Navy has agreed to treat the Hunters Point Naval Shipyard as consisting of six (6) separate parcels, namely parcels A, B, C, D, E and F, as delineated on the attached Exhibit "A" (collectively, the "Parcels," and each a "Parcel"). Parcel A was delisted from the National Priorities List in April 1999.

9. In accordance with the provisions of the National Historic Preservation Act, the Navy has determined that the disposal of the Hunters Point Naval Shipyard will have an effect upon those portions of such property that are eligible for listing in the National Register of Historic Places. A historic preservation Memorandum of Agreement among the United States Department of Interior, the California State Historic Preservation Officer, the Advisory Council on Historic Preservation and the City was fully executed on April 12, 2000, and sets forth in full the obligations under the National Historic Preservation Act and implementing regulations.

10. The Navy prepared an Environmental Impact Statement for the conveyance and reuse of the Hunters Point Naval Shipyard and adopted a Record of Decision on October 16, 2000 in accordance with the National Environmental Policy Act.

11. On February 8, 2000, the Agency and the San Francisco Planning Commission certified an environmental impact report for the acquisition and reuse of the Hunters Point Naval Shipyard (the "Project") in accordance with the California Environmental Quality Act ("CEQA") and the State CEQA Guidelines and also adopted environmental findings, including a statement of overriding considerations and mitigation measures in connection with the approval of the Hunters Point Shipyard Redevelopment Plan ("Redevelopment Plan") and related Project approvals.

12. On November 2, 2000, the Navy and the City executed the Hunters Point Naval Shipyard Memorandum of Agreement (the "MOA") which generally sets forth the terms and conditions to be included in the Conveyance Agreement which is the subject of this resolution.

13. On November 7, 2000, the voters of the City of San Francisco passed with 87% approval Proposition P that calls upon the Navy to remediate the Hunters Point Naval Shipyard to the highest levels practical to assure the flexible reuse of the property.

14. On July 30, 2001, the Board of Supervisors of the City passed unanimously a resolution implementing the will of the voters as expressed by Proposition P and confirming a City policy that the Hunters Point Naval Shipyard
should be cleaned of toxic and hazardous pollution by the Navy to the highest practical level.

15. In November 2002, a proposed agreement describing the process and conditions for the Navy’s transfer to the Agency of the Hunter’s Point Naval Shipyard (“Conveyance Agreement”) was prepared, which establishes the framework and process for the Navy’s conveyance of the six parcels comprising the Hunters Point Naval Shipyard to the Agency after the Navy has completed environmental remediation of each parcel to a level consistent with the intended use of the property, and the EPA and the State’s Environmental Protection Agency (also known as Cal-EPA) have confirmed that such parcel is safe for its intended uses.

16. On March 10, 2003, the Hunters Point Shipyard Community Advisory Commission ("CAC"), an advisory body which includes representatives of community, civic and religious organizations, Shipyard tenants, educators and area businesses, unanimously endorsed the body of the proposed Conveyance Agreement after a four month long public review of the proposed Conveyance Agreement which the CAC conducted in coordination with City and Agency staff.

17. Since that time additional provisions necessary to finalize the Conveyance Agreement, including certain exhibits, have been negotiated. These negotiations also clarified key terms and conditions in the Conveyance Agreement, including the requirement that both the EPA and Cal-EPA must confirm that a Parcel has been remediated to a level that is safe for its intended reuse before the Navy transfers any Parcel.

18. On or about March 31, 2004, the Navy executed the Conveyance Agreement.

19. Agency staff recommends and requests authorization to execute the Conveyance Agreement, including certain related exhibits and to take related actions in furtherance of the Conveyance Agreement.
FINDINGS

The Agency has considered the environmental effects of the acquisition and reuse of the Hunters Point Naval Shipyard and makes the following findings pursuant to CEQA:

1. In accordance with the National Environmental Policy Act ("NEPA"), the Navy prepared an Environmental Impact Statement for the disposal of the Hunters Point Naval Shipyard and a Record of Decision regarding the conveyance of the Hunters Point Naval Shipyard was issued on October 16, 2000.

2. On February 8, 2000, the Agency Commission, by Resolution No. 11-2000, and the San Francisco Planning Commission by Motion No. 14981, certified the Hunters Point Shipyard Reuse Final Environmental Impact Report ("FEIR") for the Project as complete and in compliance with CEQA and the State CEQA Guidelines.

3. Also on February 8, 2000, the Agency Commission, by Resolution 12-2000, adopted environmental findings, including a statement of overriding considerations, and mitigation measures pursuant to CEQA and the State CEQA Guidelines in connection with the approval of the Redevelopment Plan and related Project approvals, and such findings are hereby incorporated by reference into this Resolution as though fully set forth herein.

4. The FEIR is a program EIR under State CEQA Guidelines Section 15168 and a Redevelopment Plan EIR under State CEQA Guidelines Section 15180. The Conveyance Agreement and related instruments and documents contemplated by the Conveyance Agreement are an undertaking pursuant to and in furtherance of the Redevelopment Plan pursuant to Section 15180.

5. On November 19, 2003, the Department of City Planning ("City Planning") issued a Memorandum to City Planning File No. 2003.0241 pursuant to State CEQA Guidelines Section 15164 ("Addendum") to the FEIR for the Project, a copy of which is on file at the Redevelopment Agency. City Planning found that no changes have occurred with respect to circumstances surrounding the Project Phase I Disposition and Development Agreement ("DDA") with Lennar/BVHP, LLC (a California limited liability company doing business as Lennar/BVHP Partners), that would indicate new significant impacts not identified in the FEIR and no new mitigation measures would be necessary to reduce significant impacts.

6. City Planning further found that no changes have occurred with respect to circumstances surrounding the proposed Project that would cause significant environmental impacts not analyzed in the FEIR, and no new information has become available that shows that the Project would cause significant environmental impacts and, therefore, no supplemental environmental review is required beyond the Addendum.
7. On December 2, 2003, the Commission adopted Resolution No. 179-003, which concurred with the City Planning's determination regarding the Addendum to the FEIR.

8. Based on its review of the FEIR, the Addendum, the Executive Director's memorandum, the administrative record and the public comments submitted as to the proposed process of acquiring property from the Navy described in the proposed Conveyance Agreement, it is found that there are no changes in the circumstances of the Project that will require revisions to the FEIR, therefore no additional environmental review is necessary to execute and implement the Conveyance Agreement and related documents and instruments for the following reasons:

   (a) The Conveyance Agreement does not modify the Project analyzed in the FEIR and there are no new significant environmental effects, nor is there a substantial increase in the severity of previously identified significant environmental effects of the Project that will require revisions of the FEIR.

   (b) There are no substantial Project changes and there are no substantial changes in the Project circumstances that would require major revisions in the FEIR due to the involvement of new significant environmental effects nor is there a substantial increase in the severity of any previously identified significant effects; and

   (c) There is no new information of substantial importance that was either not known when the FEIR was certified as complete or which has become available since certification of the FEIR, nor is there any other indication that the Project would have significant effects not discussed in the FEIR, or cause previously described significant effects to be substantially more severe.

9. In addition, the mitigation measures identified in the FEIR have been considered and there are no indications that mitigation measures or alternatives previously identified as infeasible have become feasible nor are there any feasible Project alternatives considerably different from those identified in the FEIR that would substantially reduce one or more significant effects on the environment.

10. Hence, no revisions to the FEIR are required by CEQA and the State CEQA Guidelines for the reasons previously indicated.
RESOLUTION

ACCORDINGLY, IT IS RESOLVED by the Redevelopment Agency of the City and County of San Francisco as follows:

1. The foregoing findings and determinations are hereby approved and adopted.

2. The Executive Director is authorized to take the following actions:

   (a) To execute the Conveyance Agreement between the Redevelopment Agency of the City and County of San Francisco and the United States Department of the Navy, substantially in the form lodged with the Agency General Counsel.

   (b) To execute the Security Services Cooperative Agreement, substantially in the form lodged with the Agency General Counsel as Exhibit S-1 to the Conveyance Agreement.

   (c) To execute ancillary and related instruments and documents and to take actions which the Executive Director deems necessary and appropriate to carry out the Conveyance Agreement.

APPROVED AS TO FORM:

James B. Morales
Agency General Counsel