

Appendix C

Path Forward Response to Comments Memorandum

MEMORANDUM

Date: August 26, 2022

From: David Grunat, P.G., C.H.G.
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To: Jackson Rabinowitsh
2550 Irving Associates, L.P. (TNDC)

cc: Eugene Flannery, Mayor's Office of Housing and Community Development

**Subject: Response to Comments – Notice of Intent to Request Release of Funds
2550 Irving Street Property
San Francisco, California**

Path Forward Partners Inc. (Path Forward) has prepared this Memorandum (Memo) to address comments received from the Mid-Sunset Neighborhood Association (MSNA) in a letter dated August 19, 2022 and similar comments from Adam Michels in an email dated July 21, 2022, in response to the City of San Francisco's *Notice of Findings of No Significant Impact and Notice of Intent (FONSI) to Request Release of Funds (RROF)* dated July 20, 2022. Responses within this Memo are related to the future redevelopment of the 2550 Irving Street property (Site) and the approved response actions that are in-place to ensure the health and safety of future inhabitants of the proposed building due to the presence of tetrachloroethene (PCE) in the subsurface. As presented within this document, the proposed redevelopment has been designed to ensure that protection of the future residents of the proposed development.

COMMENT #1

“Under 24 CFR § 58.47, MOHCD as the responsible entity, is required to re-evaluate its environmental findings to determine if the original findings are still valid, when there are new circumstances and environmental conditions which may affect the project or have a bearing on its impact. In its re-evaluation, the affected public should be involved to the maximum extent practicable under 40 C.F.R. § 1501.5(e) and 40 C.F.R. § 1506.6.”

“The Finding of No Significant Impact (FONSI) for the proposed development at 2550 Irving Street in San Francisco (the site) is outdated, incomplete, and is contradicted by the evidence gathered to date.”

Preparation of the referenced document was based on relevant documents including those pertaining to the investigation, risk assessment to future residents without implementing any mitigation measures, and approved response actions that are presented in Path Forward’s *Final Response Plan*¹ dated September 2, 2021 approved by the California Department of Toxic Substances Control (DTSC) in their September 2, 2021 letter². Since the approval of the *Final Response Plan*, no additional information has been collected on-Site suggesting either on-Site conditions differ from those documented in the *Final Response Plan*, or that the proposed response actions will not be adequately protective of future residents. The approved *Final Response Plan* continues to be the appropriate document relevant to future redevelopment of the property with respect to PCE in the subsurface.

COMMENT #2

“Under 24 CFR § 58.5, the Environmental Assessment prepared by MOHCD does not adequately include evaluation of previous uses of the site or other evidence of contamination on or near the site, to ensure that the occupants of proposed sites are not adversely affected by the existing PCE contamination on the site. It does not adequately evaluate the other sites which sit in adjacent or close proximity to the site that have been found to contain PCE contamination; nor does it use the appropriate current techniques by qualified professionals to undertake the necessary investigations. The DTSC acknowledged at their June 23, 2022 public meeting that source area investigations were ongoing and further lateral delineation was needed.”

“The PCE source area beneath the site has not been investigated and the extent of soil gas PCE impacts extending into the surrounding neighborhoods has not been adequately delineated.”

“2520 Irving Street, now part of the 2550 Irving Street property, is the location of the former Miracle Cleaners site, has been identified as a contributing source of subsurface PCE contamination at 2550 Irving Street.”

Investigations of the subject property performed on behalf of TNDC were conducted utilizing appropriate current techniques under the responsible charge of both David A Grunat, a California Professional Geologist (PG # 9227) and Certified Hydrogeologist (CHG # 1043), and Gregory S. Noblet, a California Professional Civil Engineer (C57069). Both Mr. Grunat and Mr.

¹https://www.envirostor.dtsc.ca.gov/public/view_document?docurl=/public/deliverable_documents/8461709141/Final%20Response%20Plan%2Epdf

²https://www.envirostor.dtsc.ca.gov/public/view_document?docurl=/public/deliverable_documents/3748320639/2021%20TNDC%20Response%20Plan%20DTSC%20Approval%20Letter%2Epdf

Noblet have extensive experience in the investigation, risk assessment, remediation, and mitigation of contaminated sites. Additionally, Mr. Grunat and Mr. Noblet have expertise in evaluating vapor intrusion risks and proposing mitigation measures that are protective of applicable receptors.

Prior to preparation of the *Final Response Plan, a Site Assessment Plan and Report of Findings*³ dated February 2, 2021 was prepared by Path Forward. The Site Assessment Plan was prepared in accordance with the California Health and Safety Code (HSC) Section 25395.94 to document:

- Adequate characterization of the hazardous materials released or threatened to be released at, or from, the site and documentation of the findings;
- Reasonably available information about the site, including, where appropriate, a risk assessment that evaluates the risk posed by any hazardous materials released or threatened to be released at, or from, the site, and information regarding reasonably anticipated foreseeable uses of the site based on current and projected land use and zoning designations; and
- If the release has impacted groundwater, reasonable characterization of underlying groundwater, including present and anticipated beneficial uses of that water.

The DTSC approved the *Site Assessment Plan and Report of Findings* in their June 8, 2021 letter.⁴

To date, a PCE source area has not been identified on-Site. In an April 26, 2022 letter⁵ responding to similar comments from the Mid-Sunset Neighborhood Association’s consultant, Don Moore, the DTSC directly addressed this comment stating that based on the extensive investigations performed and the subsurface conditions, if a source was present on-Site it would have been discovered; however, a source area has not been identified:

“If there were a release of liquid PCE in the subsurface at TPCU [the Site], it would be highly probable to detect significant concentrations of PCE in soil, soil vapor and/or groundwater, especially given the significant density of samples collected at TPCU. However, the data indicates the contrary: PCE concentrations in site media are not observed at levels consistent with an on-site source of PCE.”

The DTSC further supported these comments that a source area has not been identified on-Site and based on the available information, it is highly improbable that any additional information

³https://www.envirostor.dtsc.ca.gov/public/view_document?docurl=/public/deliverable_documents/5684620738/2550%20Irving%20St%5FSAP%2DROF%5FFINAL%202021%2D02%2D02%2Epdf

⁴https://www.envirostor.dtsc.ca.gov/public/view_document?docurl=/public/deliverable_documents/2261475086/2021%20TND%20Site%20Assessment%20Plan%20and%20Report%20of%20Findings%20DTSC%20Approval%2Epdf

⁵https://www.envirostor.dtsc.ca.gov/public/view_document?docurl=/public/deliverable_documents/6621212184/DTSC%20response%20to%20Email%20from%20Don%20Moore%2DERS%20to%20Whit%20Smith%2DDTSC%20%2D%20April%202022%20%2D%20final%2Epdf

would change this conclusion, in their June 23, 2022 public meeting⁶. The DTSC reiterated their position that the discovery of a source area on-Site is highly improbable due to the testing conducted to date and the subsurface geology in their August 25, 2022 meeting.

COMMENT #3

“Additionally, under 24 CFR § 58.40, the Environmental Assessment does not adequately identify, analyze, and evaluate all potential environmental impacts from the PCE contamination, the significance of its effects on human health and the environment, and the conditions that would change as a result of the project. It does not adequately examine or recommend feasible ways in which the project could be modified to eliminate or minimize the adverse environmental impacts from the contamination.”

“No Request for Release of Funds (RROF) should be submitted until an overall environmental investigation -- which adequately considers each site contributing to the PCE contamination -- profiles the toxic environmental impact, and a workplan is approved to protect future residents of the affordable housing project, as well as the residents of nearby homes, from PCE vapor intrusion.”

As previously described, the *Final Response Plan* presents results of the Site investigations, risk assessment to future residents without implementing any mitigation measures, and approved response actions to ensure the protection of future residents of the development. No additional information has been collected to date that would change the conclusions presented in the *Final Response Plan*. In the DTSC’s approval letter for the *Final Response Plan*, the DTSC stated:

“DTSC hereby determines that proper completion of the Response Plan constitutes “appropriate care” for purposes of subdivision (a) of Section 25395.67 and approves the Response Plan for implementation.”

Section 25395.67 defines appropriate care as either of the following:

“(a) The performance of a response action, with respect to hazardous materials found at a site, for which the agency makes the determination specified in paragraph (1) of subdivision (c) of Section 25395.96 and that meets all of the following conditions:

(1) The response action is determined by an agency to be necessary to prevent an unreasonable risk to human health and safety or the environment, as defined in Section 25395.90.

⁶ <https://www.youtube.com/watch?v=eyXwCdssBF0>

(2) The response action is performed in accordance with a response plan approved by the agency pursuant to Article 6 (commencing with Section 25395.90).

(3) The approved response plan includes a provision for oversight and approval of the completed response action by the agency pursuant to Article 6 (commencing with Section 25395.90).

(b) A determination that no further action is required pursuant to Section 25395.95.”

COMMENT #4

“Since the discovery of PCE contamination at 2550 Irving Street, cleanup of the on-site contamination has depended upon shared responsibility for the cleanup between the former owner of the property, the Police Credit Union (PCU) and the new owner and developer Tenderloin Neighborhood Development Corporation (TNDC).”

Responsibility for the implementation of the *Final Response Plan* under the California Land Revitalization and Reuse Agreement between the DTSC and TNDC is the sole responsibility of TNDC. No other entities have a role in the implementation of the *Final Response Plan*.

COMMENT #5

“It is the policy of California’s Environmental Protection Agency, of which DTSC is a unit, that mitigation should be preceded by an active remedial action. This was most recently stated in the California Regional Water Quality Control Board’s June 2022 Update to Vapor Intrusion Mitigation Guidance: “VI mitigation is an interim measure and is not considered a substitute for remediation of VFCs [Vapor-Forming Chemicals] in the subsurface.”

“During the public comment period on the draft TNDC Response Plan, the Mid-Sunset Neighborhood Association submitted an August 3, 2021 Response Plan Addendum (see attachment #1), that showed soil vapor extraction (SVE), an active remedial action, was both a technically- and cost-effective alternative that was overlooked by TNDC’s consultant and the DTSC. The SVE alternative is a obvious remedial choice and consistent with DTSC and Water Board guidance.

The use of a vapor intrusion mitigation (VIM) is a common approach to mitigating soil vapor that may pose a risk to future inhabitants and is commonly used at sites with significantly higher concentrations than are present at the subject Site. This mitigation was proposed in the *Final Response Plan* and approved by the DTSC. It is additionally noted that the provided

comment fails to provide the subsequent quote from the same June 2022 *Update to Vapor Intrusion mitigation Guidance*⁷ that states:

“Additionally, VIM may be the only viable long-term response action where remediation is infeasible (e.g., further concentration reductions are not possible and residual concentrations pose a VI threat).”

As referenced by the DTSC in their *Responsiveness Summary* attached to the *Final Response Plan*:

“DTSC understands that the community’s preference is for the installation and operation of a soil vapor extraction (SVE) system or full remediation at the 2550 Irving Site to address the presence of PCE in soil vapor. Under CLRRRA statute, TNDC is only required to propose one remedy that provides long-term protection for residents of the future development. However, based on the frequent requests from the community, DTSC has considered SVE as a remedial option for this Site and concurs with the Draft Response Plan that a vapor intrusion mitigation system is still the preferred protective measure. Use of a mitigation system such as this is effective, commonly accepted by DTSC, consistent with our current guidance (DTSC and SWRCB 2020) and is being used successfully on other sites with VOC contamination that presents a significantly higher potential risk.

Based on the sampling performed to date, the observed concentrations do not suggest that there is a significant source of PCE in soil vapor present on Site that would warrant operation of an SVE system. Such a system has the potential to exacerbate soil vapor concentrations beneath the Site, by drawing PCE from off-Site source areas. An additional source of soil vapor impacts, including the highest observed concentrations, is located off-Site to the south, at the former Albrite Cleaners site. Operation of an SVE system on-Site has the potential to draw the soil vapor plume from Albright Cleaners northward onto the Site. Based on the on- and off-Site distribution of PCE concentrations, it is unlikely that SVE would be effective at treating low-level PCE on-Site and would not be more protective of future on-Site residents than VIMS.”

CONCLUSION

Since the drafting of the *Final Response Plan*, which is the remedy decision document under DTSC oversight, no new additional data has been collected that changes the conclusions that the proposed remedy would be protective as designed for future on-Site residents. Based on this conclusion, the information represented within the FONSI and RROF remain current and accurate as it pertains to risk to future on-Site residents following implementation of the *Final Response Plan* to address the presence of PCE in the subsurface.

⁷ https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/sitecleanup/2022_VIM_Guidance.pdf