[Urging a Coordinated Response to PCE Contamination on the Irving Street Corridor]

Resolution urging the California Department of Toxic Substances Control, San Francisco Department of Public Health, and other agencies to provide a comprehensive, coordinated response to tetrachloroethylene (PCE) contamination in the vicinity of the 2500 Irving Street block to ensure protections for occupants of neighboring homes and establishments.

WHEREAS, Urban redevelopment provides an opportunity to uncover sources of legacy contamination on properties with former commercial and industrial uses, where projects proposed for housing development and existing housing directly adjacent to sites must meet more stringent requirements for human habitation; and

WHEREAS, Contamination on the 2500 block of Irving Street of San Francisco have triggered investigations based on historical uses from past businesses, primarily two dry cleaning operations, namely Miracle Cleaners at 2520 Irving Street (north side) from the 1920s into the 1950s, and Albrite Cleaners at 2511 Irving (south side) from the 1940s until 2018, as well as potentially other yet undetermined sources of contamination; and

WHEREAS, The primary contaminant, identified from soil vapor and indoor air sampling, is identified as tetrachloroethylene, also known as perchloroethylene (PCE), a Volatile Organic Compound (VOC) commonly used in dry cleaning operations, and as a legacy contaminant PCE can migrate long distances from the source in its vapor phase, and is classified as a likely carcinogen by the U.S. Environmental Protection Agency; and

WHEREAS, Housing and mixed-use developments on this commercial corridor will provide needed housing in the City, including the affordable housing development sponsored by nonprofit developer Tenderloin Neighborhood Development Corporation (TNDC), and

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another market rate development proposed by The Police Credit Union at 2525 Irving Street, on or adjacent to the locations of these former dry cleaners; and

WHEREAS, Multifamily housing projects meeting the criteria in California Senate Bill 35 are approved ministerially, without Planning Commission approval and bypassing the CEQA environmental review process, and TNDC's 100% affordable housing project at 2550 Irving Street was streamlined via this state legislation, limiting the ability of the City to assert environmental review subject to public scrutiny as a condition of approval; and

WHEREAS, Environmental testing has been conducted at multiple locations and times confirming PCE as the primary contaminant in this area possibly coming from multiple sources, further testing is needed to address multiple data gaps, and the State regulatory framework is a patchwork of voluntary agreements and mandatory orders with fragmented regulatory oversight for addressing this legacy pollutant; and

WHEREAS, Private entities have conducted tests at their own sites: The Police Credit Union performed initial testing in 2019 and 2020 as owner at the time of 2550 Irving Street, also current owner of 2525 Irving Street, finding PCE levels in soil gas and inside The Police Credit Union building with samples above applicable screening levels, and TNDC conducted an Environmental Site Assessment in September 2020, identifying PCE as the principal chemical detected in soil gas, with associated risks of vapor intrusion into ground level and first floor of the proposed building deemed as "modest" in the Final Response Plan prepared for TNDC in September 2021; and

WHEREAS, The California Department of Toxic Substances Control (DTSC) has provided regulatory oversight in these assessments, and only after public and independent expert comment has stepped in, using taxpayer funds, to perform air testing inside six single family homes near the former Miracle Cleaners site that should have been conducted and
paid for by The Police Credit Union, with one more round of testing scheduled by DTSC for assessing seasonal variability; and

WHEREAS, The regulatory framework for these properties is fragmented, with varying levels of responsibility for cleanup by the parties associated with the legacy contaminants that are present in the high-permeability dune sands and known to be intruding into the air space of building structures above DTSC's screening level which is known to be used as an action level for remediation and/or mitigation at other State cleanup sites; and

WHEREAS, The Police Credit Union ended its voluntary agreement with DTSC in January 2022, after the sale of the 2550 Irving Street property was completed and transferred to TNDC and failed to complete adequate investigation by not sampling the former Miracle Cleaners location and not conducting step-out sampling into residential areas recommended by its own consultant; and

WHEREAS, TNDC as the current owner and nonprofit developer of 2550 Irving Street is under a California Land Reuse and Revitalization Act agreement with DTSC gives them statutory immunity without obligation to clean up contaminants beyond their development site; and

WHEREAS, DTSC has issued an order under California Health & Safety Code, Section 25358.3(a) holding the owners of the former Albrite Cleaners responsible for investigation and cleanup and thus placing the property on the State's Cortese List of contaminated sites; and

WHEREAS, San Francisco's Maher Ordinance, under Health Code, Article 22A, is designed to ensure that hazardous substances impacting soils and groundwater in specified areas of the City are assessed and mitigated prior to the issuance of a building permit, and the 2550 Irving Street development is under the Maher Program, however, the San Francisco Department of Public Health (SFDPH) has deferred oversight and cleanup authority to DTSC for the various properties, agreements and orders; and
WHEREAS, The September 2021, Final Response Plan from TNDC evaluated three alternatives for their planned development at 2550 Irving Street: (1) "No Further Action," (2) "Soil Excavation," and (3) "Vapor Intrusion Mitigation System (VIMS), a Land Use Covenant (LUC), and Operations and Maintenance (O&M)," recommending the VIMS, LUC and O&M alternative as most effective overall and lower in cost which involves no actual cleanup and is subject to failure if the O&M component is not conducted; and

WHEREAS, Community advocates prepared an August 2021 Response Plan Addendum calling for a fourth alternative of soil vapor extraction (SVE) which is (1) an actual PCE removal technology with the ability to reach beneath the adjacent residential areas, (2) a technology recommended by DTSC guidance for PCE and VOC remediation and (3) lower in cost relative to the VIMS, LUC and O&M alternative and is supported by DTSC SVE contractor estimates; now, therefore, be it

RESOLVED, That the Board of Supervisors strongly urges that DTSC, in coordination with SFDPH, manage this situation with a comprehensive, coordinated investigation and cleanup approach for the PCE contamination on the 2500 Irving Street block based upon the State’s preference for permanent remedies, while utilizing the State’s enforcement authority to hold responsible parties accountable for the contamination, in order to protect the health of future building occupants and long-time residents now known to have been exposed to PCE for decades as well as maintain and enhance the value of the neighborhood’s century-old homes, new housing, businesses, nonprofit establishments, and the right-of-way areas; and, be it

FURTHER RESOLVED, That the Board of Supervisors strongly urges the Planning Department to take all steps necessary to ensure that construction at any property impacted by the 2500 Irving PCE soil gas plume is performed only after a Response Plan is in place to remediate the contamination and to prevent the exposure of nearby residents to PCE vapors

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intruding into their homes above DTSC’s own residential screening level of 0.46 ug/m³ that is known to be an action level at other cleanup projects with State oversight; and, be it

FURTHER RESOLVED, That the Board of Supervisors strongly urges SFDPH to provide robust oversight through the Maher Program requirements for a Site Mitigation Plan for 2550 Irving Street project and other future redevelopment projects impacted by PCE and to coordinate with DTSC, San Francisco Planning Department, San Francisco Department of Building Inspections, San Francisco Department of Public Works, and other agencies engaged in permitting and oversight of housing redevelopment projects to ensure that the health of San Franciscans be protected at the most protective end of the State’s “risk management range” which is done at other State cleanup projects and is within DTSC’s authority to do so.
Resolution urging the California Department of Toxic Substances Control, San Francisco Department of Public Health, and other agencies to provide a comprehensive, coordinated response to tetrachloroethylene (PCE) contamination in the vicinity of the 2500 Irving Street block to ensure protections for occupants of neighboring homes and establishments.

July 12, 2022 Board of Supervisors - ADOPTED

I hereby certify that the foregoing Resolution was ADOPTED on 7/12/2022 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

I hereby certify that the foregoing resolution, not being signed by the Mayor within the time limit as set forth in Section 3.103 of the Charter, or time waived pursuant to Board Rule 2.14.2, became effective without her approval in accordance with the provision of said Section 3.103 of the Charter or Board Rule 2.14.2.

Angela Calvillo
Clerk of the Board