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Board of Supervisors
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February 4, 2020

Angela Cavillo, Clerk of the Board of Supervisors
San Francisco City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
(Original, 2 hard copies and $640 appeal fee)

Lisa Gibson, Environmental Review Officer
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RE: 1776 Green Street (2018-011430CUA; 2018-011430VAR; 2018-011430ENV)

Honorable Members of the Board of Supervisors:

I am writing on behalf of The Hollow Revolution ("THoR"), an association of neighbors living near 1776 Green Street, San Francisco, California, concerning certain applications filed with the Planning Department to convert the existing automotive garage at 1776 Green Street (built in 1914) to a new residential development consisting of six market rate, luxury three-bedroom units,[1] with a two-story addition ("Project"). (2018-011430CUA; 2018-011430VAR; 2018-011430ENV).

Pursuant to San Francisco Administrative Code Section 31.16, on behalf of THoR, this letter appeals the San Francisco Planning Department's issuance of a categorical exemption from the California Environmental Quality Act ("CEQA") for the above referenced matter. (Exhibit A). Specifically, this appeal arises from the San Francisco Department of Public Health, Environmental Health Division, action of January 31, 2020, granting an approval of a Site Characterization Workplan submitted on behalf of developer Local Capital Group by AllWest Environmental. (Exhibit B, "Workplan"). Pursuant to Workplan approval, AllWest commenced construction activities on February 3, 2020, in violation of the California Environmental Quality Act ("CEQA"). (Exhibit C (photographs of work)).

The Project seeks to place luxury residential units on a site that has been used as an automobile repair garage for over 100 years – from 1914 to 2018. For much of that time, there were few if any environmental laws. Not surprisingly, the Project site is

[1]Including one unit deemed an accessory dwelling unit ("ADU").

heavily contaminated with cancer-causing chemicals that appear to have leaked out of underground storage tanks over many decades. The contamination levels are startling. For example, as discussed in the attached comments of hydrogeologist Matthew Hagemann, C.Hg., (Exhibit D) the current level of Benzene in groundwater at the Project site of 380 parts per billion (ppb) exceeds the residential environmental significance level (ESL) of 0.42 ppb by **904 times**. Benzene is a known human carcinogen. Mr. Hagemann concludes that these levels pose potential risks related to soil vapor intrusion and construction worker exposure. As a result of the high levels of benzene and other toxic chemicals, the Project site is on the State's Cortese list of contaminated sites. In early December 2019, the City Department of Public Health proposed to remove the Project site from the Cortese list, (Exhibit E) but that request was rejected (Exhibit F) in mid-January 2020 after an appeal by THoR. (Exhibit G).

1776 Green Street is located in close proximity to sensitive receptors, namely, Sherman Elementary School at 1651 Union Street (one block to the east) and Allyne Park at 2609 Gough Street (half a block to the east). The Golden Gate Valley Library is also half a block to the west at 1801 Green Street. (Exhibit H).

CEQA is clear that Projects proposed to be constructed on sites on the Cortese list may not be exempted from CEQA review. (CEQA, Pub. Res. Code §21084(c)). CEQA review is required to ensure that the interested public and elected decision-makers may review the clean-up plan to ensure it is adequate to protect neighbors, workers and future residents of the Project.[2] By allowing the clean-up to proceed without any CEQA review whatsoever, the City is doing an end-run around the clear requirements of CEQA.

Even more egregious is the fact that the City has made an end-run around the Planning Commission. On November 7, 2019, the Planning Commission held a hearing on THoR's CEQA appeal of the Project. (Exhibit I). The Planning Director, John Rahaim, had no substantive response to THoR's argument that CEQA review is required for the Project. As a result, the Commission continued the appeal to February 27, 2020. Rather than wait for the Planning Commission hearing, the City simply approved a clean-up plan, without any public notice or CEQA review, denying the Planning Commission any opportunity to rule or weigh-in on the matter.

As a result, THoR is left with no option other than to appeal directly to the Board of Supervisors pursuant to Administrative Code 31.16.

I. BACKGROUND

On October 30, 2019 the City issued its first CEQA exemption for the Project, claiming that the Project was exempt entirely from CEQA review pursuant to the Class 1 exemption for "Existing Facilities;" and the Class 3 exemption for "New construction or conversion of small structures." Our November 6, 2019 letter explained that those exemptions do not even apply on their own terms. (Exhibit I). Apparently, the City staff

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[2] *Citizens for Responsible Equitable Envt'l Dev. v. City of Chula Vista ("CREED")* (2011) 197 Cal.App.4th 327, 331-333.

agreed with our analysis. Planning Staff has abandoned the Class 1 and 3 exemptions entirely, but instead now propose to exempt the Project from CEQA review pursuant to the Class 32 exemption for Infill Developments, and the "common sense" exemption for Projects "where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." (14 CCR 15061(b)((3)).

As discussed below, the Project may not be exempted from CEQA review at all because it is on the State's Cortese list of contaminated sites, and because the Project will adversely affect a listed historic resource. Therefore, the City may not issue any permits for the Project until the City prepares a CEQA document analyzing the Project's impacts and proposing all feasible mitigation measures to reduce those impacts.

II. CEQA

A. The Project May Not Be Exempted from CEQA Because it is on the Cortese List of Contaminated Sites.

The Project site is listed on the State of California's Cortese list as an active, open site under GeoTracker due to its extensive soil contamination which has not been remediated.
https://geotracker.waterboards.ca.gov/profile_report?global_id=T10000008988
The GeoTracker listing notes extensive soil contamination: MW1 had 17,000 ppb TPH-gas, 3,700 ppb TPH diesel, and 570 ppb Benzene. Soil boring B3 next to MW1 had TPHg at 32,000 ppb, TPHd at 2,500 ppb and Benzene at 4,500 ppb.

The 2nd CEQA exemption admits that, "The project site is listed as an active leaking underground storage tank cleanup site on the Hazardous Waste and Substances Sites List (also known as the "Cortese List")." (2nd CEQA Exemption, p. 5 (Exhibit A)). The document also admits that the Project will require approximately 1,400 cubic yards of soil disturbance. Nevertheless, the City concludes that the San Francisco Department of Public Health ("DPH" or "SFDPH") "will determine if a site mitigation plan is required and, if so, would ensure that remediation is completed in a way that assures protection of public health and safety." (Id. p. 6). The City therefore concludes that the Project is exempt entirely from CEQA review. As discussed below, the staff analysis ignores state law.

Despite clean-up efforts dating to 2016, the report clearly shows that soil contamination has not improved at all (although groundwater contamination levels have improved). (Case Closure Summary, Section III, p.2 (Exhibit J)). These contamination levels remain far above Environmental Screening Levels ("ESLs"). (Id. Section VII).

Release and Site Characterization Information (Continued)

Maximum Documented Contaminant Concentrations -- Before and After Cleanup									
Contaminant	Soil (ppm)		Water (ppb)		Contaminant	Soil (ppm)		Water (ppb)	
	Before	After	Before	After		Before	After	Before	After
TPH (Gas)	19,000	19,000	32,000	2,500	Xylene	420	420	4200	260
TPH (Diesel)	1,200	1,200	2,500	170	Ethylbenzene	190	190	890	43
Benzene	94	94	4,500	380	MTBE	ND	ND	ND	ND
Toluene	570	570	7400	380	NAPHTHALENE	63	63	ND	ND
Other: TPH-b.o	380	380	340	ND	Lead	19	19	NA	NA
Comments (Depth of Remediation, etc.):									

As discussed by certified hydrogeologist Matthew Hagemann, The "after" benzene levels that remain in soil and groundwater, as tabulated above, significantly exceed the following San Francisco Bay Regional Water Quality Control Board Environmental Screening Levels (ESLs) below:

	Benzene ESLs		Documented Concentrations in Excess of ESLs	
	Soil (ppm)	Groundwater (ppb)	Soil (ppm)	Groundwater (ppb)
Residential Soil Vapor Intrusion Concerns		0.42		904x
Residential Exposure	0.33		284x	
Commercial/Industrial Soil Vapor Intrusion Concerns		1.8		211x
Commercial/Industrial Exposure	1.4		67x	
Construction Worker Exposure	33		2.8x	

To put this in perspective, the current levels of toxic contamination in soil and groundwater exceed state standards by hundreds of times. The current level of Benzene in groundwater of 380 ppb exceeds the residential ESL of 0.42 ppb by **904 times.** Furthermore, it exceeds even the commercial of 1.8 ppb ESL by 211 times. The benzene level in soil of 94 ppm at the Site exceeds the residential ESL of 0.33 ppm by over 284 times. Benzene is a known human carcinogen. Mr. Hagemann concludes that these levels pose potential risks related to soil vapor intrusion and construction worker exposure. Soil-vapor intrusion is a process in which the chemical vapors may enter the new construction above, potentially exposing future residents.

1. CEQA Statute.

The Project may not be exempted from CEQA review because it is on the State of California's Cortese List of highly contaminated sites. CEQA is quite clear, a categorical exemption:

> **"shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code [Cortese List]."**

14 CCR §15300.2(e) (emphasis added). The CEQA statute states:

> **"No project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code [Cortese List] shall be exempted from this division pursuant to subdivision (a)[categorical exemptions]."**

PRC § 21084(c)). "The provisions in Government Code Section 65962.5 are commonly referred to as the 'Cortese List.'" A Cortese listing can be effected for "underground storage tanks for which an unauthorized release report is filed pursuant to Section 25295 of the Health and Safety Code." Govt. Code § 65962.5(c)(1). The GeoTracker list is one of the lists in the Cortese List.

The City's 2nd CEQA Exemption, issued at the end of November 2019, ignores entirely the controlling statutory language. Nowhere in the staff report are the above statutory provisions even mentioned.

The Staff Report appears to argue that the SFDPH, will adequately address the soil contamination via the Maher Ordinance. However, CEQA does not allow the City to avoid compliance with state law. To the extent that the City's municipal code allows projects to avoid CEQA review if they comply with the Maher Ordinance, the City's code is in conflict with state law embodied in CEQA. Of course, State law preempts the City's municipal code to the extent that there is a conflict. *Sherwin-Williams Co. v. City of Los Angeles*, 4 Cal. 4th 893, 844 P.2d 534 (1993).

2. Case Law.

The City similarly ignores the copious published case law holding that a project proposed to be built on a site on the Cortese List may not be exempted from CEQA review. As the Court of Appeal has stated, "**We agree that the Legislature intended that projects on these [Cortese List] sites should not be categorically exempt from CEQA because they may be more likely to involve significant effects on the environment.**" *Parker Shattuck Neighbors v. Berkeley City Council*, 222 Cal. App. 4th 768, 781 (2013); *McQueen v. Mid-Peninsula Board*, 202 Cal.App.3d 1136, 1149, ("the known existence of.....hazardous wastes on property to be acquired is an unusual circumstance threatening the environment" and the project may not be exempted from CEQA review); *Association for a Cleaner Environment v. Yosemite Comm. College*, 110 Cal.App.4th 629 (2004) (presence of hazardous materials makes CEQA exemption improper).

The case of *Citizens for Responsible Equitable Envt'l Dev. v. City of Chula Vista ("CREED")* (2011) 197 Cal.App.4th 327, 331-333 is directly on point. In *CREED*, Target proposed to build a new store on the site of a former gas station. Since the site was contaminated with petroleum products, the Court held that an Environmental Impact

Report ("EIR") was required under CEQA. In *CREED*, the City argued (as here) that its public health department would develop a remedial action plan after project approval that would adequately safeguard human health. The Court of Appeal rejected this argument, holding that an EIR was required, and that the mitigation plan must be set forth in the EIR and subjected to public review and comment. The Court held, "it can be fairly argued that the Project may have a significant environmental impact by disturbing contaminated soils." 197 Cal. App. 4th at 332. The City could not defer development of the remediation plan until after Project approval. *Id.* In other words, the Court of Appeal rejected the precise practice that the City of San Francisco is advocating for this Project.

In *ACE v. Yosemite*, 116 Cal.App.4th 629, the court held that an EIR was required to disclose, analyze, and cleanup existing lead contamination on a site from an old shooting range. The court stated that CEQA review was required because "lead contamination could spread at the removal site as well as the site receiving the salvageable portions....cars driving on lead-contaminated soil could lift lead-contaminated dust into the air. Students and staff walking through the area could pick up lead contamination on their shoes and clothing, potentially spreading it throughout the campus or taking it to their homes." Id. at 640 (emphasis added). The *ACE* court expressly concluded that "the physical removal of the MJC Range has the potential for spreading lead contamination, which is a direct physical change in the environment." Id.
The other contamination cases, and CEQA's legislative history, hold similarly. See *McQueen*, 202 Cal.App.3d at 1149 (site contaminated with PCBs could not be exempted from CEQA review and CEQA analysis was required to propose cleanup plan for public review and scrutiny); *Quail Botanical Gardens Foundation, Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1599 (petitioners raised, but court did not reach issue of "toxic contamination on the subdivision property").

3. Legislative History.

CEQA Section 21084(c), requires that, "No project located on a site which is included on [the Cortese list] shall be exempted from this division [CEQA]." This section was added to CEQA in 1991 by AB 869. Excerpts of the legislative history of AB869 is attached hereto as Exhibit K. The purpose of the amendments was to "ensure that hazardous waste sites will be considered in the CEQA process" (AA953), because "[e]xposing people to hazardous materials is generally considered a significant effect under CEQA." (AA1062).

The Legislative History makes clear that the intent of AB 869 was to ensure that if a project is proposed to be built on a contaminated site, then the site shall be cleaned-up and a mitigation plan developed as part of the CEQA process, prior to construction. The official Assembly Natural Resources Committee Report states:

> "CEQA compliance requires an evaluation and remediation of hazardous waste contamination at a project site. The intent of the bill is to focus the lead agency on this issue by requiring that it determine if a site is contained on available lists of hazardous waste sites." (AA973; see also AA988, AA1047). The Bill Analysis

Work Sheet states, "This bill ensures that hazardous waste sites will be considered in the CEQA process." (AA973 (emphasis added)).

The Enrolled Bill Report states, "Exposing people to hazardous materials is generally considered a significant effect under CEQA." (AA1062). The author of AB 869, Assembly Member Sam Farr, wrote to Governor Pete Wilson in support of the bill, stating:

> "This bill responds to problems outlined in the winter edition of the "Environmental Monitor" relating to hazardous waste issues being handled on two uncoordinated tracks (permit and environmental) and the "substantial legal risks" associated with the use of categorical exemptions under CEQA for projects proposed on contaminated properties.
>
> This bill will save public agencies, property owners, and developers significant amounts of time and expense because they will be able to know and address hazardous waste problems before construction...
>
> As stated above, I believe that it is more prudent to address these issues during the CEQA process and before making a decision on a project, not during or after construction." (AA1071).

The legislation was passed in the wake of series of botched toxic site clean-ups that exposed workers and residents to toxic chemicals. The official Legislative History file contains newspaper articles on projects constructed on contaminated sites, where workers were unwittingly exposed to toxic chemicals, evidencing an intent to protect construction workers as well as residents. (AA943-947).

Similarly, the City of San Francisco is embroiled in a series of botched clean-ups, that have resulted in lawsuits and allegations from local residents, and even police officers who have allegedly been exposed to highly toxic chemicals as a result of botched clean-ups that were inadequately supervised by the SFDPH, such as the ongoing contamination issues at the Hunters Point Shipyard and Treasure Island. (Exhibit L). Scandals now embroil the Department of Public Works and Planning Department in alleged criminal activity involving payments and favors in exchange for expedited permits. (Exhibit M).

In vetoing the bill, Governor Pete Wilson argued, as does the City in this case, that:

> "This legislation is unnecessary. Under current local and state health laws, lead agencies routinely undertake site cleanup activities prior to project construction. The cleanup, using certified contractors is usually commenced following discussions with local health authorities. Once the hazardous waste problem has been rectified, the requirement for an environmental impact report or a negative declaration rather than a categorical exemption is unjustified and will result in project delays and costs." (AA1057)."

The legislature rejected Gov. Wilson's argument, and adopted AB 869 over his veto, requiring site contamination and cleanup to be analyzed as part of the CEQA review. The Legislative History makes clear that in enacting AB 869, the legislature intended that if a project is proposed to be built on a site contaminated with hazardous chemicals, then CEQA review is required to analyze the risks to workers and other people, and that a cleanup plan must be included as part of the CEQA review before project construction. The legislature expressly rejected the view that hazardous contamination was adequately addressed by other laws and agencies, and expressly required review and mitigation as part of the CEQA process.

The CEQA statute makes clear that a project on a Cortese List site may not be exempted from CEQA review. The City's checkered history of botched clean-ups and potential cover-ups makes clear that a public, transparent CEQA process is required to ensure that site clean-up is conducted properly. The clean-up plan must be set forth in a CEQA document for public review. The City may not defer development of a clean-up plan until after Project approval. (*CREED*, 197 Cal.App.4th 327, 331-333).[3]

B. The Project May Not Be Exempted from CEQA Because it will Adversely Affect an Historic Resource.

The Project will largely destroy the existing building that has existed on the site since 1914, and which is officially listed as an historic resource. The City contends that the Project will not adversely affect the historic building, but this is nonsensical. The entire building will be almost entirely destroyed, except for the façade. The City's own historical analysis concludes that the roof-trusses are among the most significant historic elements of the building. Yet, all of those historic roof-trusses will be destroyed and removed entirely. Clearly, this will have an adverse impact on the elements of the building that contribute to its historic character.

CEQA section 21084(e), provides, "A project that may cause a substantial adverse change in the significance of a historical resource, as specified in Section 21084.1, shall not be exempted from this division…" CEQA defines a "substantial adverse change" as the **physical demolition**, **destruction**, relocation or **alteration** of the historical resource or its immediate surroundings such that the significance of the historical resource would be materially impaired. CEQA goes on to define "materially impaired" as work that

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[3] It is well-settled that future formulation of mitigation measures is prohibited under CEQA, because it effectively precludes public input into the development of these measures. *CREED*, 197 Cal.App.4th at 332; *Sundstrom v. Mendocino*, 202 Cal.App.3d at 306; *Gentry v. Murietta*, 36 Cal.App.4th at 1396 (condition requiring applicant to comply with mitigation measures that might be recommended in future report on Stephens kangaroo rat was improper). As the Court recently held: "[R]eliance on tentative plans for future mitigation after completion of the CEQA process significantly undermines CEQA's goals of full disclosure and informed decision making; and[,] consequently, these mitigation plans have been overturned on judicial review as constituting improper deferral of environmental assessment." *Comtys. for a Better Env't v. City of Richmond* (2010) 184 Cal.App.4th 70, 92 (deferred formulation of greenhouse gas mitigation measures improper, particularly where delayed due to agency's reluctance to make finding early in EIR process that emissions generated by project would create significant effect on the environment).

materially alters, in an adverse manner, those physical characteristics that convey the resource's historical significance and justify its inclusion in the California Register of Historic Places, a local register of historical resources, or an historical resource survey. CEQA Guidelines 15064.5(b).

There can be no serious question that the Project involves "physical demolition," "destruction," or "alteration" of the historic resource. Therefore, the Project may not be exempted from CEQA review.

C. The New CEQA Exemptions Cited in the City's 2nd CEQA Exemption Do Not Apply on Their Face.

Even if the new CEQA exemptions cited in the 2nd CEQA Exemption were not absolutely precluded due to the Cortese List and Historic Resource exceptions (which they are), the exemptions do not even apply by their own terms.

The Class 32 Infill Exemption applies only if "The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations." (14 CCR §15332). The Project requires variances for non-compliance with rear-yard open-space and parking requirements. The Project also requires a conditional use authorization to exceed the dwelling density for the parcel to greater than the required one dwelling unit per 1,500 square feet in an RH-2 zone. The fact that the Project requires these variances and conditional use authorization shows that the Project is not consistent with applicable general plan and zoning designations. Therefore, the Class 32 exemption does not apply pursuant to its own terms.

The "common sense" exemption does not apply if there is a "fair argument" that the Project may have any significant environmental impacts. *Davidon Homes v. San Jose*, 54 Cal.App.4th 106, 188 (1997); *Dunn-Edwards v. BAAQMD*, 9 Cal.App.4th 644 (1992). The fact that the Project is located on the Cortese List and that it will largely destroy an historic building, create a "fair argument" that the Project may have adverse environmental impacts. *Parker Shattuck Neighbors v. Berkeley City Council*, 222 Cal. App. 4th 768, 781 (2013). Therefore, the common sense exemption does not apply.

D. The City is "Piecemealing" the Clean-Up from the Rest of the Project, in Violation of CEQA.

The City may argue that the site clean-up is separate from the rest of the Project. But CEQA is clear that agencies may not divide projects up into smaller pieces ("piecemealing" or "segmentation") and approve those pieces separately to avoid CEQA review. Rather, agencies must complete CEQA review before issuing any permits in furtherance of a project, even initial permits for site clean-up, demolition, or grading.[4] Here, the City issued a permit to allow excavation and removal of highly contaminated soil

[4] CEQA Guidelines § 15378(a).

while the remainder of the Project is being reviewed by the public and the Planning Commission.

Unlawful "piecemealing" could not be clearer or more deliberate in this case. The original application describes a large and involved project with major construction and numerous changes to the existing property. The Categorical Exemption admits that over 1,400 cubic yards of soil will have to be removed to expand the Project's basement parking area, and also admits that the site is on the Cortese list and will require clean-up. The City first ignored the CEQA provision prohibiting a CEQA exemption for a project located on the Cortese list. The City then attempted to remove the site from the Cortese list, but this was rejected due to the high levels of contamination. Now the City attempts to simply allow the clean-up to proceed without any public review or CEQA compliance, regardless of the law, and before the Planning Commission even has a chance to complete its pending, continued hearing for the Project.

Courts have long ruled that this type of "piecemealing" is unlawful. For example, in 1986, a court invalidated a city's CEQA document prepared for a proposed mixed-use development in Orinda, California.[5] The project had numerous components, one of which was the demolition of an historic theatre and bank building to make way for new development. The City unlawfully segmented the project by issuing a permit to demolish the historic buildings days before Orinda's Board of Supervisors met to approve the entire project and certify the CEQA document. According to the court, "no agency may approve a project subject to CEQA until the entire CEQA process is completed and the overall project is approved."[6] This is because "it is unlawful for an agency to subdivide a single project into smaller individual subprojects in order to avoid the responsibility of considering the environmental impact of the project as a whole."[7] In other words, when a project requires multiple agency approvals, as is the case here, all such approvals must be considered as one project and within a single environmental document before any aspect of the project may go forward.[8]

CEQA requires analysis of "the project as a whole,"[9] so that "environmental considerations do not become submerged by chopping a large project into many little ones – each with a minimum potential impact on the environment – which cumulatively may have disastrous consequences."[10] "The CEQA process is intended to be a careful examination, fully open to the public, of the environmental consequences of a given project, ***covering the entire project, from start to finish***. . . the purpose of CEQA is not

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[5] *Orinda Assoc. v. Contra Costa County* (1986) 182 Cal.App.3d 1145.
[6] Id., at p. 1171.
[7] Id.
[8] *City of Antioch v. City Council of the City of Pittsburg* (1986) 187 Cal.App.3d 1325, 1337-38 (when construction of a project cannot not easily be undone, and when the project would almost certainly have significant environmental impacts, construction should not be permitted to commence until such impacts are evaluated in the manner prescribed by CEQA).
[9] *Arviv Ent., Inc. v. South Valley Area Planning Com.* (2002) 101 Cal.App.4th 1333, 1341, 1346.
[10] *Bozung v. LAFCO*, 13 Cal.3d 263, 283-84 (1975);

to generate paper, but to compel government at all levels to make decisions with environmental consequences in mind."[11]

The record is clear that the site clean-up is just one component of a much larger Project to construct a residential development on a highly contaminated commercial site. Nevertheless, the City has taken it upon itself to alter the overall Project description in order to segment approvals to avoid CEQA review. The City engaged in unlawful segmentation or "piecemealing" when SF DPH issued a permit allowing site remediation to commence before the City's own Planning Commission or the public had a chance to weigh in on the proposed Project. Therefore, the City must rescind SF DPH's permits and stop all work in furtherance of the Project pending full CEQA review of the "whole of the project."

IV. Conclusion

The Project may not be exempted from CEQA review because the site is so heavily contaminated with toxic chemicals that it is on the State's Cortese list of contaminated sites, and also because the Project would largely destroy an historic building. CEQA review is therefore required prior to any permits in furtherance of the Project. The City must prepare a CEQA document that analyzes these impacts and proposes alternatives and feasible measures to mitigate the impacts. The public and the City's own Planning Commission must be afforded the opportunity to review the clean-up plan and the CEQA document to ensure that mitigation measures have been implemented to adequately safeguard the health and safety of nearby residents, workers and future residents of the Project. Thank you for your consideration of our comments and concerns.

Sincerely,

Richard Toshiyuki Drury
LOZEAU DRURY LLP

Cc: Sup. Stefani
Sup. Peskin
Planning Commission

[11] *Natural Resources Defense Council v. City of Los Angeles*, 103 Cal.App.4th 268 (2002) (emphasis added); *Laurel Heights Impr. Assn. v. Regents of Univ. of Calif.* (1988) 47 Cal.3d 376 (project description failed to include second phase of project).

EXHIBIT A

SAN FRANCISCO
PLANNING DEPARTMENT

CEQA Categorical Exemption Determination

Board of Supervisors.
2020 FEB -4 P 2:41
received - JW

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address		Block/Lot(s)
1776 GREEN ST		0544006
Case No.		**Permit No.**
2018-011430ENV		201808016167
■ **Addition/ Alteration**	☐ **Demolition (requires HRE for Category B Building)**	☐ **New Construction**

Project description for Planning Department approval.

The project site is located on the north side of Green Street between Octavia and Gough streets in the Marina neighborhood. The project site is occupied by a 27-foot-tall, two-story over basement, industrial building that is approximately 13,710 gross square feet in size with 12 below-grade parking spaces. The existing automobile repair garage building was constructed in circa 1914 and is currently vacant (formerly occupied by "Green Street Auto Body"). The project sponsor proposes a two-story vertical addition and a change of use to convert the existing automotive garage to a new residential development with five residential units. The project would add approximately 13,408 gross square feet to the existing building. The project includes 1,369 square feet of common open space in the form of a roof deck, and 2,265 square feet of private open space via balconies and terraces. The project includes alterations to the front façade, including the restoration of two pilasters that were removed from the central arch to allow for a wider garage opening during a 1933 alteration. With the proposed improvements, the building would be 40 feet tall (53 feet tall with elevator penthouse) and 27,118 gross square feet in size with 10 below-grade parking spaces and five class 1 bicycle parking spaces. In addition, the project includes the
FULL PROJECT DESCRIPTION ATTACHED

STEP 1: EXEMPTION CLASS

The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA).

☐	**Class 1 - Existing Facilities.** Interior and exterior alterations; additions under 10,000 sq. ft.
☐	**Class 3 - New Construction.** Up to three new single-family residences or six dwelling units in one building; commercial/office structures; utility extensions; change of use under 10,000 sq. ft. if principally permitted or with a CU.
■	**Class 32 - In-Fill Development.** New Construction of seven or more units or additions greater than 10,000 sq. ft. and meets the conditions described below: (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations. (b) The proposed development occurs within city limits on a project site of no more than 5 acres substantially surrounded by urban uses. (c) The project site has no value as habitat for endangered rare or threatened species. (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. (e) The site can be adequately served by all required utilities and public services. **FOR ENVIRONMENTAL PLANNING USE ONLY**
■	**Class** ____ CEQA Guidelines Section 15061(b)(3) - Common Sense Exemption

STEP 2: CEQA IMPACTS

TO BE COMPLETED BY PROJECT PLANNER

☐	**Air Quality:** Would the project add new sensitive receptors (specifically, schools, day care facilities, hospitals, residential dwellings, and senior-care facilities within an Air Pollution Exposure Zone? Does the project have the potential to emit substantial pollutant concentrations (e.g., backup diesel generators, heavy industry, diesel trucks, etc.)? *(refer to EP_ArcMap > CEQA Catex Determination Layers > Air Pollution Exposure Zone)*
■	**Hazardous Materials:** If the project site is located on the Maher map or is suspected of containing hazardous materials (based on a previous use such as gas station, auto repair, dry cleaners, or heavy manufacturing, or a site with underground storage tanks): Would the project involve 50 cubic yards or more of soil disturbance - or a change of use from industrial to residential? *If the applicant presents documentation of enrollment in the San Francisco Department of Public Health (DPH) Maher program, a DPH waiver from the Maher program, or other documentation from Environmental Planning staff that hazardous material effects would be less than significant (refer to EP_ArcMap > Maher layer).*
☐	**Transportation:** Does the project involve a child care facility or school with 30 or more students, or a location 1,500 sq. ft. or greater? Does the project have the potential to adversely affect transit, pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit, pedestrian and/or bicycle facilities?
■	**Archeological Resources:** Would the project result in soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in a non-archeological sensitive area? If yes, archeo review is requried *(refer to EP_ArcMap > CEQA Catex Determination Layers > Archeological Sensitive Area)*
☐	**Subdivision/Lot Line Adjustment:** Does the project site involve a subdivision or lot line adjustment on a lot with a slope average of 20% or more? *(refer to EP_ArcMap > CEQA Catex Determination Layers > Topography)*. If yes, Environmental Planning must issue the exemption.
☐	**Slope = or > 25%:** Does the project involve any of the following: (1) square footage expansion greater than 500 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? *(refer to EP_ArcMap > CEQA Catex Determination Layers > Topography)* **If box is checked, a geotechnical report is required and Environmental Planning must issue the exemption.**
☐	**Seismic: Landslide Zone:** Does the project involve any of the following: (1) square footage expansion greater than 500 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? *(refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones)* **If box is checked, a geotechnical report is required and Environmental Planning must issue the exemption.**
☐	**Seismic: Liquefaction Zone:** Does the project involve any of the following: (1) square footage expansion greater than 500 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? *(refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones)* **If box is checked, a geotechnical report will likely be required and Environmental Planning must issue the exemption.**

Comments and Planner Signature (*optional*): Don Lewis

PLEASE SEE ATTACHED

STEP 3: PROPERTY STATUS - HISTORIC RESOURCE

TO BE COMPLETED BY PROJECT PLANNER

PROPERTY IS ONE OF THE FOLLOWING: *(refer to Property Information Map)*	
■	**Category A:** Known Historical Resource. **GO TO STEP 5.**
☐	**Category B:** Potential Historical Resource (over 45 years of age). **GO TO STEP 4.**
☐	**Category C:** Not a Historical Resource or Not Age Eligible (under 45 years of age). **GO TO STEP 6.**

STEP 4: PROPOSED WORK CHECKLIST

TO BE COMPLETED BY PROJECT PLANNER

Check all that apply to the project.	
☐	1. **Change of use and new construction.** Tenant improvements not included.
☐	2. **Regular maintenance or repair** to correct or repair deterioration, decay, or damage to building.
☐	3. **Window replacement** that meets the Department's *Window Replacement Standards*. Does not include storefront window alterations.
☐	4. **Garage work.** A new opening that meets the *Guidelines for Adding Garages and Curb Cuts*, and/or replacement of a garage door in an existing opening that meets the Residential Design Guidelines.
☐	5. **Deck, terrace construction, or fences** not visible from any immediately adjacent public right-of-way.
☐	6. **Mechanical equipment installation** that is not visible from any immediately adjacent public right-of-way.
☐	7. **Dormer installation** that meets the requirements for exemption from public notification under *Zoning Administrator Bulletin No. 3: Dormer Windows*.
☐	8. **Addition(s)** that are not visible from any immediately adjacent public right-of-way for 150 feet in each direction; does not extend vertically beyond the floor level of the top story of the structure or is only a single story in height; does not have a footprint that is more than 50% larger than that of the original building; and does not cause the removal of architectural significant roofing features.
Note: Project Planner must check box below before proceeding.	
☐	Project is not listed. **GO TO STEP 5.**
☐	Project **does not conform** to the scopes of work. **GO TO STEP 5.**
☐	Project involves **four or more** work descriptions. **GO TO STEP 5.**
☐	Project involves **less than four** work descriptions. **GO TO STEP 6.**

STEP 5: CEQA IMPACTS - ADVANCED HISTORICAL REVIEW

TO BE COMPLETED BY PROJECT PLANNER

Check all that apply to the project.	
☐	1. Project involves a **known historical resource (CEQA Category A)** as determined by Step 3 and conforms entirely to proposed work checklist in Step 4.
■	2. **Interior alterations to publicly accessible spaces.**
■	3. **Window replacement** of original/historic windows that are not "in-kind" but are consistent with existing historic character.
■	4. **Façade/storefront alterations** that do not remove, alter, or obscure character-defining features.
☐	5. **Raising the building** in a manner that does not remove, alter, or obscure character-defining features.
■	6. **Restoration** based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.

■	7. **Addition(s)**, including mechanical equipment that are minimally visible from a public right-of-way and meet the *Secretary of the Interior's Standards for Rehabilitation*.
☐	8. **Other work consistent** with the *Secretary of the Interior Standards for the Treatment of Historic Properties* (*specify or add comments*):
☐	9. **Other work** that would not materially impair a historic district (specify or add comments): *(Requires approval by Senior Preservation Planner/Preservation Coordinator)*
☐	10. **Reclassification of property status**. *(Requires approval by Senior Preservation Planner/Preservation* ☐ Reclassify to Category A — ☐ Reclassify to Category C a. Per HRER or PTR dated — *(attach HRER or PTR)* b. Other *(specify)*:
	Note: If ANY box in STEP 5 above is checked, a Preservation Planner MUST sign below.
■	**Project can proceed with categorical exemption review**. The project has been reviewed by the Preservation Planner and can proceed with categorical exemption review. **GO TO STEP 6.**
Comments (*optional*): See 11/25/19 HRER for a full evaluation of potential impacts to historic resources.	
Preservation Planner Signature: Jorgen Cleemann	

STEP 6: CATEGORICAL EXEMPTION DETERMINATION

TO BE COMPLETED BY PROJECT PLANNER

■	**No further environmental review is required. The project is categorically exempt under CEQA. There are no unusual circumstances that would result in a reasonable possibility of a significant effect.**	
	Project Approval Action: Planning Commission Hearing If Discretionary Review before the Planning Commission is requested, the Discretionary Review hearing is the Approval Action for the project.	**Signature:** Don Lewis 11/27/2019
	Once signed or stamped and dated, this document constitutes a categorical exemption pursuant to CEQA Guidelines and Chapter 31of the Administrative Code. In accordance with Chapter 31 of the San Francisco Administrative Code, an appeal of an exemption determination can only be filed within 30 days of the project receiving the approval action. Please note that other approval actions may be required for the project. Please contact the assigned planner for these approvals.	

Full Project Description

The project site is located on the north side of Green Street between Octavia and Gough streets in the Marina neighborhood. The project site is occupied by a 27-foot-tall, two-story over basement, industrial building that is approximately 13,710 gross square feet in size with 12 below-grade parking spaces. The existing automobile repair garage building was constructed in circa 1914 and is currently vacant (formerly occupied by "Green Street Auto Body").

The project sponsor proposes a two-story vertical addition and a change of use to convert the existing automotive garage to a new residential development with five residential units. The project would add approximately 13,408 gross square feet to the existing building. The project includes 1,369 square feet of common open space in the form of a roof deck, and 2,265 square feet of private open space via balconies and terraces. The project includes alterations to the front façade, including the restoration of two pilasters that were removed from the central arch to allow for a wider garage opening during a 1933 alteration. With the proposed improvements, the building would be 40 feet tall (53 feet tall with elevator penthouse) and 27,118 gross square feet in size with 10 below-grade parking spaces and five class 1 bicycle parking spaces. In addition, the project includes the expansion of the existing basement by 1,615 square feet (from 5,516 square feet to 7,131 square feet). Project construction would require up to approximately 15 feet of excavation below ground surface, resulting in approximately 1,400 cubic yards of soil disturbance. Conventional hand-excavated end-bearing piers would be used for the proposed underpinning system. Heavy equipment would not be used within 10 horizontal feet from adjacent shallow foundations and basement walls; jumping jack or hand-operated vibratory plate compactors would be used for compacting fill within this zone. The project site is listed as an active leaking underground storage tank cleanup site on the Hazardous Waste and Substances Sites List (also known as the "Cortese List").

CEQA Impacts

Archeological Resources: The department's archeologist conducted preliminary archeological review on October 30, 2019 and determined that no CEQA-significant archeological resources are expected within project-affected soils.

Hazardous Materials: The project site is listed as an active leaking underground storage tank cleanup site on the Hazardous Waste and Substances Sites List (also known as the "Cortese List"). The proposed project is therefore subject to the Maher Ordinance (Article 22A of the San Francisco Health Code), which is administered by the San Francisco Department of Public Health (DPH). The Maher Program addresses development on sites with potentially hazardous soil or groundwater in order to protect public health and safety. The project sponsor enrolled in the Maher Program on July 31, 2018. DPH is overseeing the remediation of any soil or groundwater contamination at the project site in accordance with all applicable regulation. DPH will determine if a site mitigation plan is required and, if so, would ensure that remediation is completed in a way that assures protection of public health and safety. Approval by DPH would be required prior to issuance of a certificate of occupancy by the building department.

Traffic: The department's transportation staff reviewed the proposed project and determined that additional transportation review is not required.

Noise: The project would use typical construction equipment that would be regulated by Article 29 of the Police Code (section 2907, Construction Equipment). No impact pile driving or nighttime construction is required. Construction vibration would not be anticipated to affect adjacent buildings. The proposed project would not generate sufficient vehicle trips to noticeably increase ambient noise levels, and the project's fixed noise sources, such as heating, ventilation, and air conditioning systems, would be subject to noise limits in Article 29 of the Police Code (section 2909, Noise Limits).

Air Quality: The proposed project's construction would be subject to the Dust Control Ordinance (Article 22B of the Health Code). The proposed land uses are below the Bay Area Air Quality Management District's construction and operational screening levels for requiring further quantitative criteria air pollutant analysis. The project site is not located within an air pollutant exposure zone.

Water Quality: The project's construction activities are required to comply with the Construction Site Runoff Ordinance (Public Works Code, article 2.4, section 146). The project would be required to implement best management practices to prevent construction site runoff. Stormwater and wastewater discharged from the project site during operations would flow to the City's combined sewer system and be treated to the standards in the City's National Pollution Discharge Elimination System permit.

Natural Habitat: The project site is entirely covered by the existing two-story industrial building and is located within a developed urban area. The project site has no significant riparian corridors, estuaries, marshes, wetlands, or any other potential wildlife habitat that might contain endangered, rare or threatened species. Thus, the project site has no value as habitat for rare, threatened, or endangered species.

Public Notice: A "Notification of Project Receiving Environmental Review" was mailed on November 12, 2019 to adjacent occupants and owners of buildings within 300 feet of the project site and the Marina neighborhood group list. Six members of the public responded to this notice and expressed concerns related to shadow, noise, known contamination at the project site, and the department's prior use of a categorical exemption. Concerns and issues raised by the public in response to this notice were taken into consideration and incorporated in the environmental review as appropriate for CEQA analysis.

STEP 7: MODIFICATION OF A CEQA EXEMPT PROJECT

TO BE COMPLETED BY PROJECT PLANNER

In accordance with Chapter 31 of the San Francisco Administrative Code, when a California Environmental Quality Act (CEQA) exempt project changes after the Approval Action and requires a subsequent approval, the Environmental Review Officer (or his or her designee) must determine whether the proposed change constitutes a substantial modification of that project. This checklist shall be used to determine whether the proposed changes to the approved project would constitute a "substantial modification" and, therefore, be subject to additional environmental review pursuant to CEQA.

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address (If different than front page)		Block/Lot(s) (If different than front page)
1776 GREEN ST		0544/006
Case No.	Previous Building Permit No.	New Building Permit No.
2018-011430PRJ	201808016167	
Plans Dated	Previous Approval Action	New Approval Action
	Planning Commission Hearing	
Modified Project Description:		

DETERMINATION IF PROJECT CONSTITUTES SUBSTANTIAL MODIFICATION

Compared to the approved project, would the modified project:	
☐	Result in expansion of the building envelope, as defined in the Planning Code;
☐	Result in the change of use that would require public notice under Planning Code Sections 311 or 312;
☐	Result in demolition as defined under Planning Code Section 317 or 19005(f)?
☐	Is any information being presented that was not known and could not have been known at the time of the original determination, that shows the originally approved project may no longer qualify for the exemption?
If at least one of the above boxes is checked, further environmental review is required.	

DETERMINATION OF NO SUBSTANTIAL MODIFICATION

☐	The proposed modification would not result in any of the above changes.

If this box is checked, the proposed modifications are categorically exempt under CEQA, in accordance with prior project approval and no additional environmental review is required. This determination shall be posted on the Planning Department website and office and mailed to the applicant, City approving entities, and anyone requesting written notice. In accordance with Chapter 31, Sec 31.08j of the San Francisco Administrative Code, an appeal of this determination can be filed within 10 days of posting of this determination.

Planner Name:	**Date:**

SAN FRANCISCO
PLANNING DEPARTMENT

Historic Resource Evaluation Response

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Date	November 25, 2019
Case No.:	**2018-011430ENV**
Project Address:	**1776 Green Street**
Zoning:	RH-2 (Residential - House, Two Family) 40-X Height and Bulk District
Block/Lot:	0544/006
Date of Review:	November 25, 2019 (Part II)
Staff Contact:	Jørgen G. Cleemann (Preservation Planner) (415) 575-8763 jorgen.cleemann@sfgov.org

PART II: PROJECT EVALUATION

Proposed Project ☐ Demolition ☒ Alteration

Per Drawings Dated: 10/3/2019

Part 1 Summary

In a 12/5/2018 Historic Resource Evaluation Response (HRER), Part 1, associated with the current project, the Planning Department determined that the subject property at 1776 Green Street is eligible for individual listing in the California Register of Historical Resources (CRHR) under Criterion 1 for its association with the peak period of early automobile retail and repair in San Francisco, and under Criterion 3 as an excellent example of a light-industrial automotive garage representing the "station" typology identified by architectural historian Mark Kessler in *The Early Public Garages of San Francisco: an Architectural and Cultural Study, 1906-1929*. The building's period of significance is 1914-1933. Its only significant façade alteration occurred in 1933 when two pilasters were removed from the central arch to create a wider vehicular opening.

The subject building's character-defining features include the following:

- Massing and scale of building;
- Wood truss system;
- Reinforced concrete construction;
- Smooth Stucco exterior wall cladding;
- Large vehicular entrances;
- Wood sash windows;
- Gabled parapet; and
- Classical Revival style decorative details, including:
    - Pilasters and molded arch;
    - Round and pointed arch window openings; and
    - Modillioned cornice.

Project Description

The proposal is to rehabilitate the subject building as a residential building containing five units. The proposal would retain the existing walls, remove the existing internal floor structure and roof, and construct a new internal structure. The new construction would include a rooftop addition that would rise approximately 14 feet over the level of the existing roof peak and be set back 20 feet from the front façade. The addition would also include a shared roof deck and 13-foot set back elevator penthouse.

Project Evaluation

If the property has been determined to be a historical resource in Part I, please check whether the proposed project would materially impair the resource and identify any modifications to the proposed project that may reduce or avoid impacts.

Subject Property/Historic Resource:

☒ The project will not cause a significant adverse impact to the historic resource as proposed.

☐ The project will cause a significant adverse impact to the historic resource as proposed.

California Register-eligible Historic District or Context:

☐ The project will not cause a significant adverse impact to a California Register-eligible historic district or context as proposed.

☐ The project will cause a significant adverse impact to a California Register-eligible historic district or context as proposed.

Project Impacts

Based on project plans dated 10/3/2019, Preservation Staff has determined that the proposed project does not meet the Secretary of the Interior's Standards for Rehabilitation (the "Standards"). Under the California Environmental Quality Act (CEQA), a project that conforms to all of the Secretary of the Interior's Standards for Rehabilitation (the Standards) benefits from the presumption that it will not result in an impact to historic architectural resources (CEQA Guidelines 15064.5(b)(3)). If a project fails to meet the Standards, then it must be analyzed further to determine if the project will "materially impair" the significance of a historic resource. Material impairment occurs when a project "[d]emolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for, inclusion in the California Register of Historical Resources" (CEQA Guidelines 15064.5(b)(2)(A)).

In this case, staff finds that the proposed project does not conform to the Secretary of the Interior's Standards for Rehabilitation. On further analysis, however, staff finds that the project would not result in a significant adverse impact to historic resources.

The project meets or does not meet each of the Standards as follows:

Standard 1. *A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces and spatial relationships.*

The project proposes to rehabilitate the existing automotive garage as a residential building. For the most part, this change of use will not require significant changes to the

subject building's character-defining features, which are primarily on the front façade, and will in some ways enhance the building's ability to convey its significance through the restoration of a number of original façade features, including the original vehicular opening and configuration of openings, which are documented on historical elevation drawings (Figure 2). However, the proposed change to residential use will require the complete removal of the interior wood truss system, which has been identified as a character-defining feature. The project also proposes a new internal floor structure and a setback rooftop addition. While the existing floor structure is not a character-defining feature, the new work will reconfigure the interior massing but will not substantially change the subject building's distinctive spaces or spatial relationships Similarly, while the two story rooftop addition will be visible from certain vantage points and thus will have some effect on the building's spatial relationships, the 20-foot setback will ensure that the new construction is deferential to the old and the subject building retains its historic reading as a two-story industrial building sited between a larger apartment building to the east and a smaller residence to the west (see Standard 9, below). Therefore, while the project mainly does meet Standard 1, the removal of the wood truss system does not. Because this feature could not be incorporated into the design of the rehabilitated building, the project does not fully meet Standard 1.

Standard 2. *The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features that characterize a property shall be avoided.*

Most of the subject building's character-defining features will be retained. This applies to the building's massing and scale, concrete construction, smooth stucco cladding, large vehicular entrances, gabled parapet with molded cornice and eave returns, and Classical revival decorative details. Windows will be replaced in kind. Several other primary façade features, including the original vehicular entry and configuration of openings, will be restored based on archival documentation (see historical elevation, Figure 2).

Behind the primary façade, the proposal will remove the building's floor plates, roof, and interior wood truss system. Because the exterior walls will be retained, the roof will be reinstalled with a vertical addition, and the interior floor plates are not character-defining, most of this work conforms to Standard 2. However, the wood truss system has been identified as character-defining and its removal does not conform to Standard 2. Therefore, while the project mainly does meet Standard 2, the removal of the character-defining wood truss system does not, and thus the project does not fully meet Standard 2.

Standard 3. *Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.*

No conjectural features will be added to the subject building. The restorative work on the primary façade—the reconstruction of the pilasters, the installation of recessed panels, the new glazing—will be based on historical architectural plans that show the building's appearance prior to the widening of the vehicular entry in 1933.

Standard 4. *Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.*

The subject building's only major alteration was the 1933 removal of the pilasters and widening of the vehicular entry. This alteration has not acquired significance in its own right; thus, the proposed reversal of this alteration and restoration of the original pilasters will not diminish the subject building's historic significance.

Standard 5. *Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.*

The project will remove the subject building's interior wood truss system, which has been identified as a character-defining feature that is typical for automotive garages of the early 20th century. All other character-defining features will remain. Therefore the proposal does not fully meet Standard 5.

Standard 6. *Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.*

The existing wood cornice will be retained. The stucco cladding will be replaced in kind. The wood windows on the second story will be replaced with new windows that will match the existing windows in design and materials, but with an additional row of lights at the bottom to accommodate a larger opening. Therefore the proposal meets Standard 6.

Standard 9. *New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.*

The proposed two-story rooftop addition will be set back twenty feet behind the primary façade of the existing building. This generous setback combined with the presence of the large neighboring building at 1700 Green Street will substantially reduce visibility when viewed from the east. Although the addition will be visible from directly across the street and from the west, the setback will reduce such visibility and will clearly indicate the subordination of the new construction to the old. To the extent that the new construction will be visible, it has been designed to be compatible with the historic façade. This compatibility is achieved through the division of the addition's façade into three distinct bays that will align with the division of bays in the historic building, the continuous vertical pilasters, wooden spandrel panels between floors, multi-light windows, and a simple profiled cornice that will complement the building's Renaissance Revival style.

In sum, the new addition will be differentiated from the old, compatible with the historic building's design and scale, and thus meets Standard 9.

Standard 10 *New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.*

If the new constructed were removed in the future, the building would lack its internal floor plates, roof, and character-defining wood truss system. Because floor plates and roof are integral to the property's status as a building and because the truss system has been identified as a character-defining feature, the absence of these features would diminish the subject building's integrity and compromise its form such that Standard 10 could not be said to have been met.

Because the project fails to meet all of the Standards, Preservation staff has undertaken additional analysis to determine if the project will "materially impair" the subject building's ability to convey its significance. In conducting this analysis, staff notes every instance of the project failing to meet a Standard stems mainly from the fact the project would remove the character-defining wood truss system, and to a lesser degree from the fact that it would replace the roof with a vertical addition and reconfigure the floor plates. Staff also notes that CEQA states that material impairment occurs when a project "[d]emolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for, inclusion in the California Register of Historical Resources" (CEQA Guidelines 15064.5(b)(2)(A)). Therefore, the question becomes: Would the subject building retain its ability to convey its significance if these features were removed?

The significance of the subject building that justifies its eligibility for the California Register is that it is associated with the peak period of early automobile retail and repair in San Francisco, and that it is an excellent example of a light-industrial automotive garage representing the "station" typology. In both cases, this significance is conveyed almost entirely through the street-facing primary façade. To a lesser extent, the building's low, two-story massing plays a role in conveying its expression as an industrial building. The interior is open and utilitarian: aside from the wood truss system, the interior does not possess distinctive architectural features.

Although the removal of the wood truss system would result in the removal of one character-defining feature, it does not diminish it to the degree of material impairment. First, staff notes that the subject building's trusses are simple in design and lack some of the artistic qualities of more complex truss designs. Second, historically the wood truss only would have been seen by people who had dealings with the garage or happened to pass by and peer in while the garage doors were open as they are behind the front mezzanine level. Thus, the removal of this feature, in conjunction with the retention and restoration of primary façade features, would not have a significant impact on the way that the building historically existed in the public realm.

Similarly, the replacement of the roof and floor plates will not materially impair the building's ability to convey its significance. In making this determination, staff notes that the building will retain nearly all of its exterior walls. The proposed addition is relatively modest in scale and set back twenty feet behind the primary façade, the scale and massing of the existing building will not be affected. It will read as a two-story light-industrial building on which a subordinate addition has been constructed.

In sum, the proposed project will not materially impair the subject building's ability to convey its historic significance, and thus will not result in an impact to the individually eligible historic resource at 1776 Green Street.

Finally, staff notes that the proposed project will not have an impact on off-site historic resources. Although the property's rear lot line abuts the rear of the identified historic resource at 2754 Octavia Street, the proposed work would only read as generic urban background construction if viewed in conjunction with the visible street façade of that building, which has itself been altered to include a visible addition. No other identified historic resources are located adjacent to the subject property and it is not located in a historic district. On the opposite side of Green Street from the subject property, there are a number of Italianate residences that have been identified as individually eligible historic resources. The proposed vertical addition on the subject property will not impact the urban setting of these resources. The Planning Department has determined that no impacts to offsite historic resources will occur as the result of construction-related vibrations caused by the proposed project.

PART II: PRINCIPAL PRESERVATION PLANNER REVIEW

Signature: _____ Date: 11/25/2019

Allison Vanderslice, *Principal Preservation Planner*

cc: Christopher May, Project Planner

Figure 1. 1776 Green Street. Screen Shot of 2016 Google Streetview.

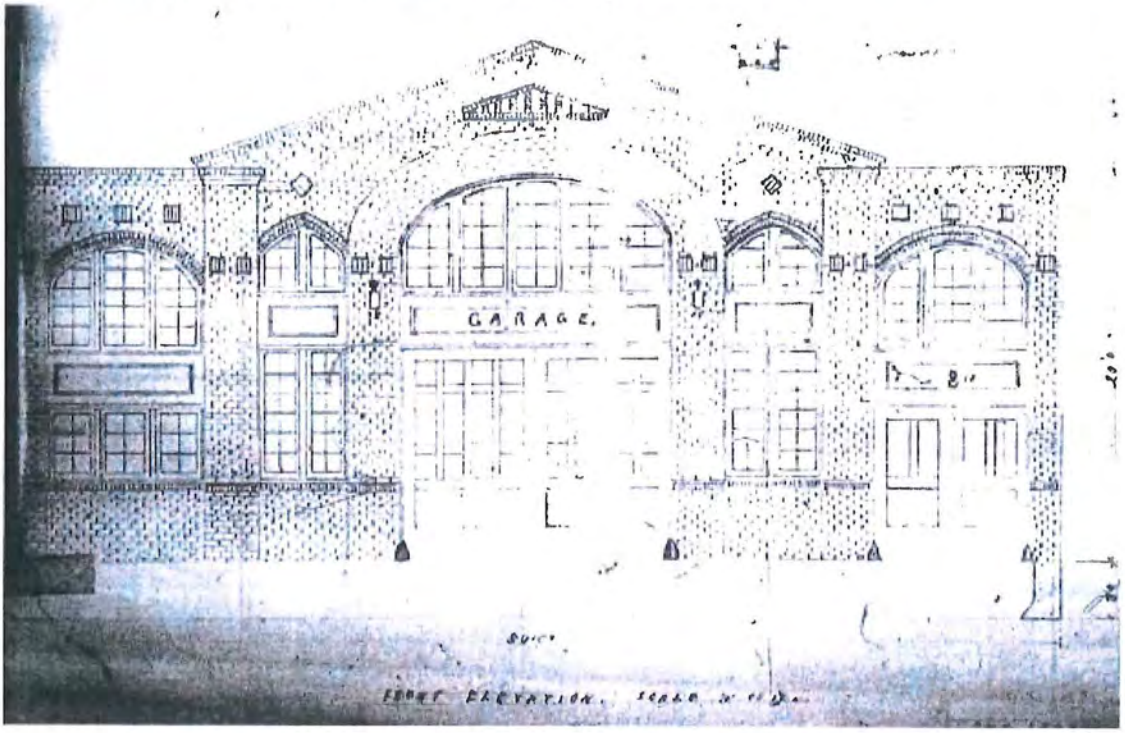


Figure 2. Original elevation drawing of the subject building. Source: SF DBI.

EXHIBIT B

City and County of San Francisco
DEPARTMENT OF PUBLIC HEALTH
ENVIRONMENTAL HEALTH

London N. Breed, Mayor
Grant Colfax, MD, Director of Health
Stephanie K. J. Cushing, MSPH, CHMM, REHS
Environmental Health Director

January 31, 2020

1776 Green Street LLC
c/o Local Capital Group
The Presidio 572 Ruger St., Ste. A
San Francisco, CA 94129
Attn John Bickford

Subject: Site Characterization Workplan Approval
1776 Green Street, San Francisco, California
SF LOP Site Number: 12076

Dear Mr. Bickford:

The San Francisco Department of Public Health, Local Oversight Program (DPH-LOP) has received a Remedial Action and Subsurface Investigation Workplan (workplan) submitted on your behalf by AllWest Environmental. DPH-LOP has reviewed and approved the workplan with the following comments.

1. The workplan states SFDPH shall be notified 5 days prior to the start of field work. Please notify the following staff 5 days prior to any field work, Mamdouh Awwad, Eurich Santiago, Beronica Slattengren and Josuwa Bernardo.

2. In the event the DPT boring to the west of the former USTs is completed as a temporary well, the well shall be secured to prevent unauthorized individuals from accessing the well.

3. All drums stored on site pending soil and groundwater profiling shall be stored in a secured manner and shall not impeded or block the sidewalk or cause a nuisance.

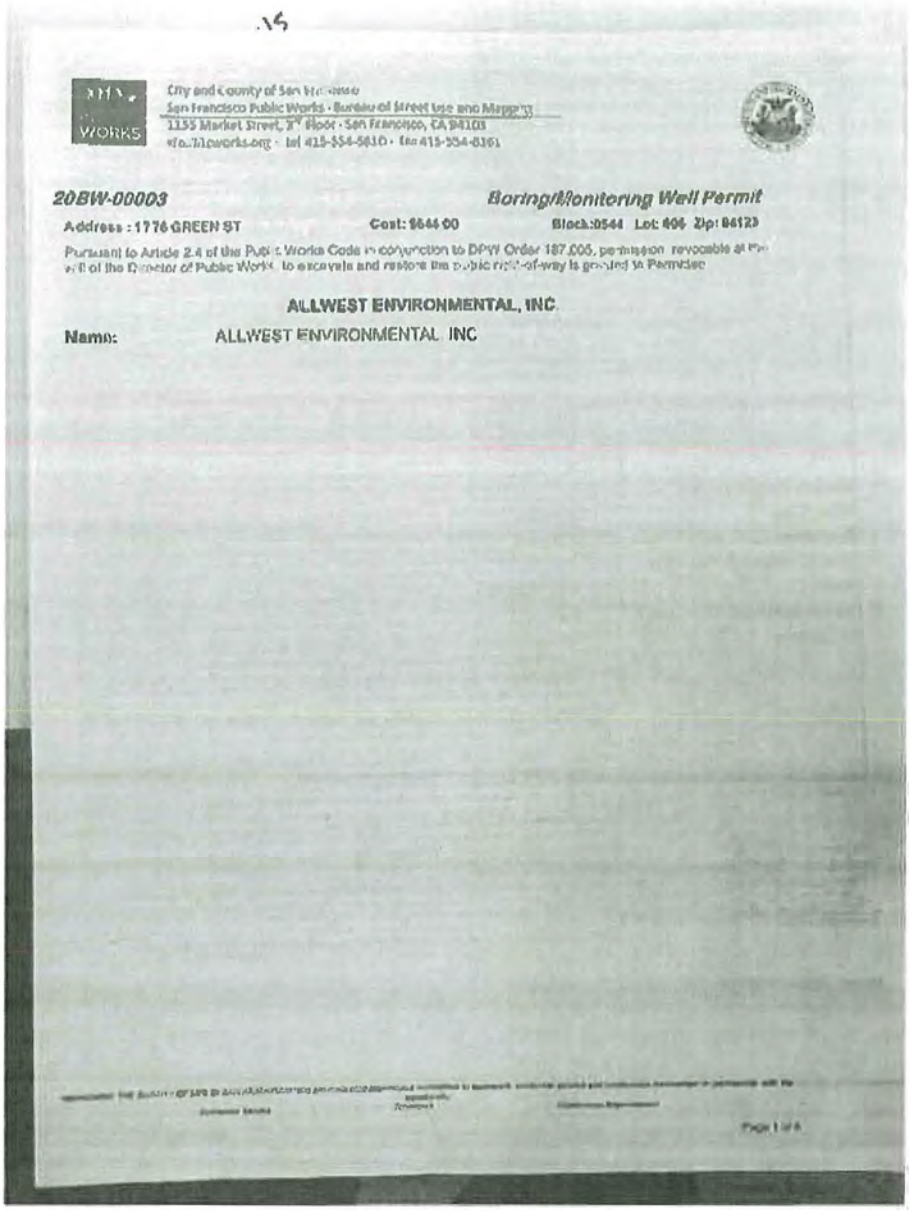
4. Direct your consultant to upload the workplan to Geotracker.

If you have any questions or comments please contact me at (415) 252-3824 or Josuwa.bernardo@sfdph.org or Mamdouh.Awwad@sfdph.org

Sincerely,

Josuwa Bernardo, R.E.H.S
Senior Environmental Health Inspector

cc: AllWest Environmental
Eurich Santiago, SFDPH Water Quality (Eurich.Santiago@sfdph.org)
DPH-LOP File



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City and County of San Francisco
San Francisco Public Works - Bureau of Street Use and Mapping
1155 Market Street, 3rd Floor - San Francisco, CA 94103
sfpublicworks.org - tel 415-554-5810 - fax 415-554-6161

20BW-00003 **Boring/Monitoring Well Permit**

Address : 1776 GREEN ST Cost: $644.00 Block:0544 Lot: 406 Zip: 94123

Pursuant to Article 2.4 of the Public Works Code in conjunction to DPW Order 187,605, permission revocable at the will of the Director of Public Works, to excavate and restore the public right-of-way is granted to Permittee

ALLWEST ENVIRONMENTAL, INC

Name: ALLWEST ENVIRONMENTAL INC

Page 1 of 4

Conditions	An approved application from the Department of Health is required before this permit may be used. Permittee is required to complete the work within 14 days from the start date that work commences. Failure to complete the work in 14 days will result in requiring from the permittee a new permit application and a 30-day notice The permittee shall comply with all existing traffic controls and parking restrictions. The permittee shall also comply with any additional restrictions under the Special Traffic Permit issued by SFMTA. For information related to construction traffic restrictions please reference the latest edition of Regulations for Working in San Francisco Streets, the Blue Book. To download a copy of the Blue Book, please visit https://www.sfmta.com/services/streets-sidewalks/construction-regulations Excavators holding $25K bond: Environmental Control Associates, Inc - Aptos
For the Purpose of:	
Start Date	2/3/2020
End Date	2/7/2020
Size of Trench/Excavation	
USA	X002200535
Street Space Linear Footage	0
Inspection	Work shall not commence until this permit has been activated by Public Works. The permittee shall contact Public Works at dpw-bsminspecs@sfdpw.org or (415) 554-7149 to activate the permit and schedule inspection at least 72 hours prior to work. Failure to follow the activation process prior to commencing work may result in a correction notice and possible notice of violation.

The undersigned Permittee hereby agrees to comply with all requirements and conditions noted on this permit.

Approved Date: 01/29/2020

The permittee shall obtain all necessary permits from the Department of Public Health's Environmental Health Section 1390 Market Street, Suite 210, telephone (415) 252-3800.
**When digging within the sidewalk area, entire sidewalk flag(s) must be replaced to adjacent score lines.

1/29/20

Date

WTR JAN 2 4 2020

City and County of San Francisco
DEPARTMENT OF PUBLIC HEALTH
ENVIRONMENTAL HEALTH

Application for Monitoring Well Construction/Destruction or Soil Borings

Application Date: [illegible] Start Date: [illegible] Completion Date: [illegible]

Address/Location: [illegible] GREEN STREET, SAN FRANCISCO CA 9412[illegible]

To be completed by Owner, Consultant or Driller

Property Owner: 1770 GREEN STREET, LLC	Well Owner: [illegible]	[illegible]
Address: 572 RUGER STREET STE A	Address:	Address: 2141 MISSION STREET
City, State, Zip: SAN FRANCISCO, CA 94128	City, State, Zip:	City, State, Zip: SAN FRANCISCO, CA 94110
Telephone Number: (415) 553-4087	Telephone Number:	Telephone Number: (415) [illegible]-2510
[illegible]	Fax Number:	Fax Number: [illegible]
		Email: [illegible]

Please Indicate Type and Number of Proposed Wells/Borings

Geotechnical Investigation	Environmental Investigation	Monitoring Wells Construction
[illegible]	☒ Exploratory Borings	[illegible]
[illegible]	[illegible]	☐ [illegible]
[illegible]	☐ [illegible]	☐ [illegible]
[illegible]	☐ [illegible]	☐ Well Destruction
☐ Other:		☐ [illegible]

Topographic Features – Well to be constructed

☒ In a Public Sidewalk ☐ In a Public Road ☐ On Private Property ☐ On City Property

Construction Specifications

Diameter of Well Casing: N/A Annular Seal Depth: [illegible]

Gauge of Casing: N/A Annular Seal Material: [illegible]

Casing Depth: N/A Other Information: [illegible]

Destruction Specifications Well Diameter: N/A Approximate Depth: [illegible]

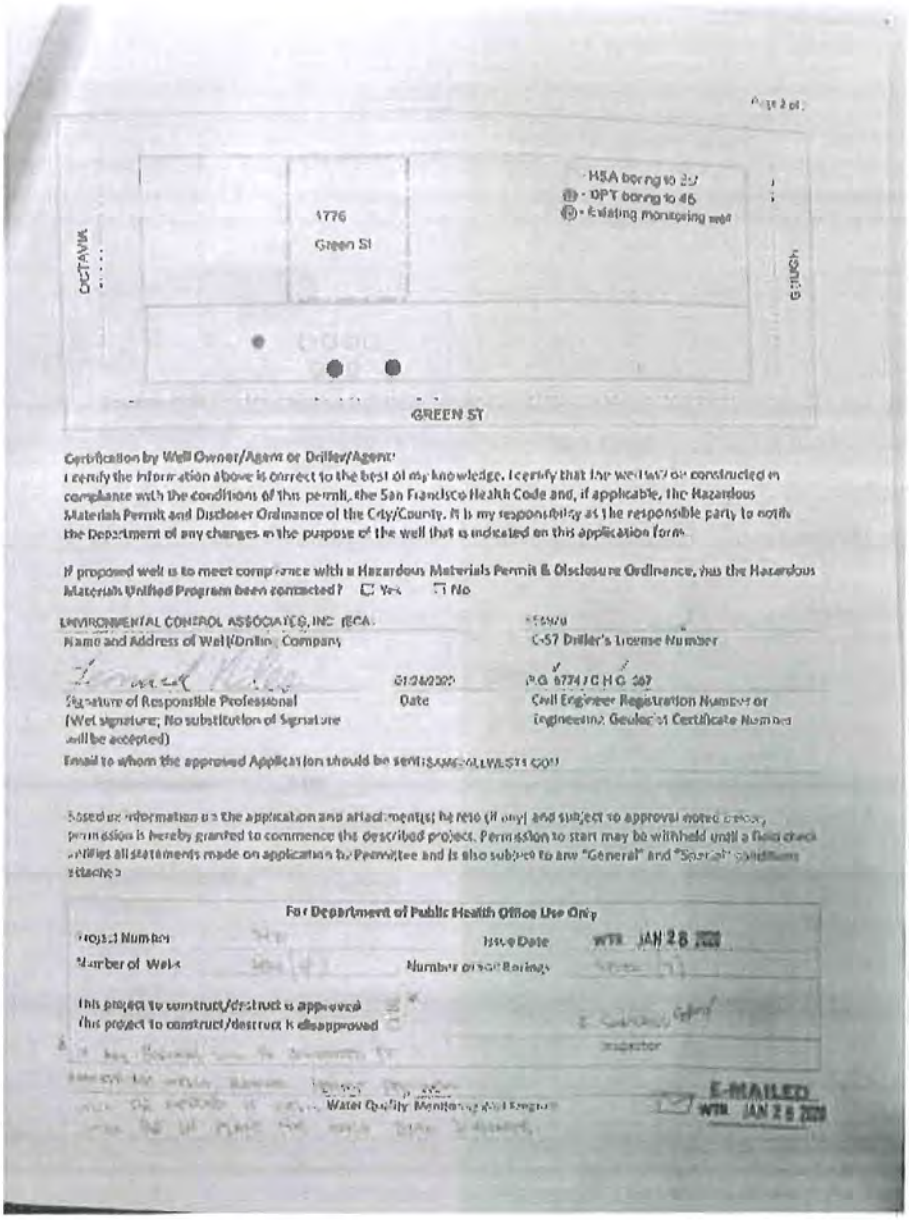
Materials and Procedures to be Used: [illegible]

[illegible]

Well Location: [illegible]

1. [illegible]
2. [illegible]
3. [illegible]

[illegible]



Certification by Well Owner/Agent or Driller/Agent:
I certify the information above is correct to the best of my knowledge. I certify that the well(s) be constructed in compliance with the conditions of this permit, the San Francisco Health Code and, if applicable, the Hazardous Materials Permit and Disclosure Ordinance of the City/County. It is my responsibility as the responsible party to notify the Department of any changes in the purpose of the well that is indicated on this application form.

If proposed well is to meet compliance with a Hazardous Materials Permit & Disclosure Ordinance, has the Hazardous Materials Unified Program been contacted? ☐ Yes ☐ No

ENVIRONMENTAL CONTROL ASSOCIATES, INC (ECA) — 455670
Name and Address of Well/Drilling Company — C-57 Driller's License Number

Signature of Responsible Professional (Wet signature; No substitution of Signature will be accepted) — 01/24/2020 Date — P.G. 6774 / C.H.G. 367 Civil Engineer Registration Number or Engineering Geologist Certificate Number

Email to whom the approved Application should be sent: SAM@ALWLSTS.COM

Based on information in the application and attachment(s) hereto (if any) and subject to approval noted below, permission is hereby granted to commence the described project. Permission to start may be withheld until a field check verifies all statements made on application by Permittee and is also subject to any "General" and "Special" conditions attached.

For Department of Public Health Office Use Only

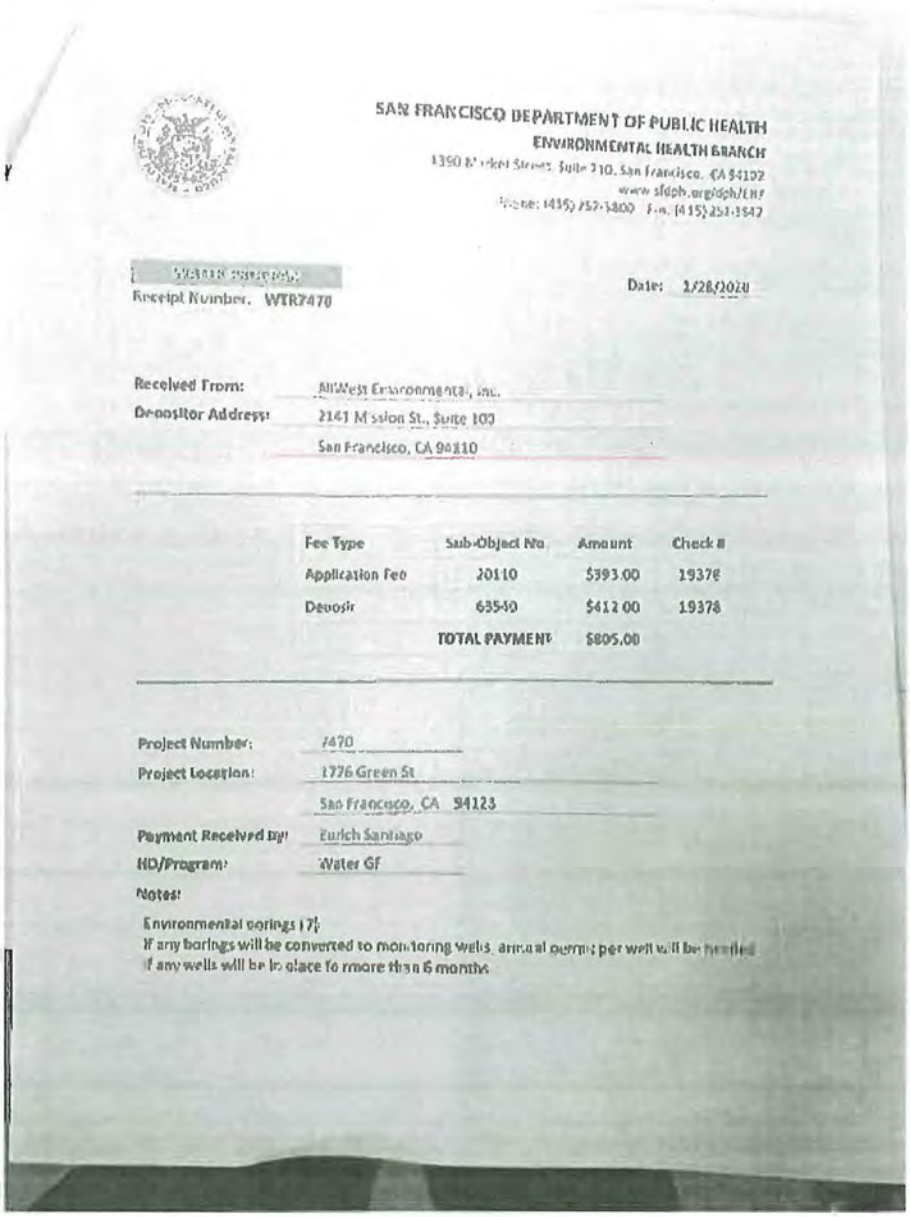
Project Number — Issue Date: WTR JAN 28 2020
Number of Wells — Number of Soil Borings

This project to construct/destruct is approved
This project to construct/destruct is disapproved

Inspector

Water Quality Monitoring and Enforcement

E-MAILED
WTR JAN 28 2020



SAN FRANCISCO DEPARTMENT OF PUBLIC HEALTH
ENVIRONMENTAL HEALTH BRANCH
1390 Market Street, Suite 210, San Francisco, CA 94102
www.sfdph.org/dph/EH
Phone: (415) 252-3800 Fax: (415) 252-3842

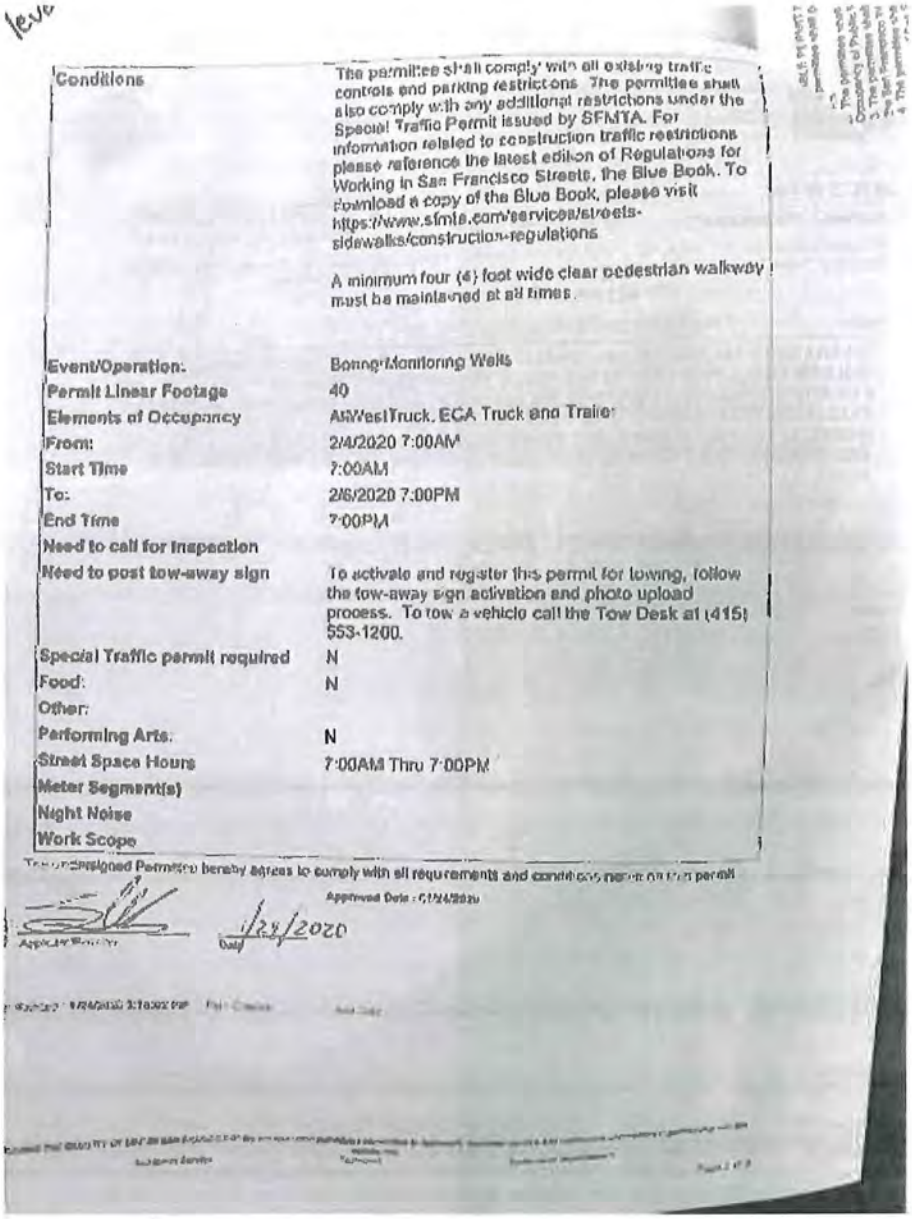
WATER SOURCE
Receipt Number: WTR7470

Date: 1/28/2020

Received From: AllWest Environmental, Inc.
Depositor Address: 2141 Mission St., Suite 300
San Francisco, CA 94110

Fee Type	Sub-Object No.	Amount	Check #
Application Fee	20110	$393.00	19376
Deposit	63540	$412.00	19378
	TOTAL PAYMENT	$805.00	

Project Number: 7470
Project Location: 1776 Green St
San Francisco, CA 94123
Payment Received By: Eulich Santiago
HD/Program: Water GF
Notes:
Environmental borings (7)
If any borings will be converted to monitoring wells, annual permit per well will be needed
If any wells will be in place for more than 6 months



Conditions	The permittee shall comply with all existing traffic controls and parking restrictions. The permittee shall also comply with any additional restrictions under the Special Traffic Permit issued by SFMTA. For information related to construction traffic restrictions please reference the latest edition of Regulations for Working in San Francisco Streets, the Blue Book. To download a copy of the Blue Book, please visit https://www.sfmta.com/services/streets-sidewalks/construction-regulations A minimum four (4) foot wide clear pedestrian walkway must be maintained at all times.
Event/Operation:	Boring/Monitoring Wells
Permit Linear Footage	40
Elements of Occupancy	AllWestTruck, ECA Truck and Trailer
From:	2/4/2020 7:00AM
Start Time	7:00AM
To:	2/6/2020 7:00PM
End Time	7:00PM
Need to call for Inspection	
Need to post tow-away sign	To activate and register this permit for towing, follow the tow-away sign activation and photo upload process. To tow a vehicle call the Tow Desk at (415) 553-1200.
Special Traffic permit required	N
Food:	N
Other:	
Performing Arts:	N
Street Space Hours	7:00AM Thru 7:00PM
Meter Segment(s)	
Night Noise	
Work Scope	

The undersigned Permittee hereby agrees to comply with all requirements and conditions noted on this permit

Approved Date: 01/24/2020

Applicant Signature

1/24/2020
Date

EXHIBIT C


WALTON

EXHIBIT D

SWAPE Technical Consultation, Data Analysis and Litigation Support for the Environment

2656 29th Street, Suite 201
Santa Monica, CA 90405

Matt Hagemann, P.G, C.Hg.
(949) 887-9013
mhagemann@swape.com

January 7, 2020

Stephanie K.J. Cushing, MSPH, CHMM, REHS
Department of Public Health
Environmental Health Services
Local Oversight Program
City and County of San Francisco
1390 Market Street, Suite 210
San Francisco, CA 94102

Subject: 1776 Green Street, San Francisco, California

Dear Ms. Cushing:

I am commenting on the "Eligible for Closure" notice posted for 1776 Green Street, San Francisco, California. Because of residual soil and groundwater contamination, it is my opinion that the property at 1776 Green Street is not suitable for closure.

Residential development, to include a four-story building atop a one-level below-grade parking garage, is proposed for this property. The proposed project site was used for automotive repair purposes between 1914 and 2018.[1]

A Case Closure Summary, signed on December 3, 2019 (attached), prepared by the San Francisco Department of Public Health for 1776 Green Street includes this summary table on page 2.

[1] Phase II Site investigation Workplan, 1176 Green Street, San Francisco, AllWest Environmental, January 18, 2019

Release and Site Characterization Information (Continued)

Maximum Documented Contaminant Concentrations - - Before and After Cleanup									
Contaminant	Soil (ppm)		Water (ppb)		Contaminant	Soil (ppm)		Water (ppb)	
	Before	After	Before	After		Before	After	Before	After
TPH (Gas)	19,000	19,000	32,000	2,500	Xylene	420	420	4200	260
TPH (Diesel)	1,200	1,200	2,500	170	Ethylbenzene	190	190	890	43
Benzene	94	94	4,500	380	MTBE	ND	ND	ND	ND
Toluene	570	570	7400	380	NAPHTHALENE	63	63	ND	ND
Other: TPH-b.o	380	380	340	ND	Lead	19	19	NA	NA

The "after" benzene levels that remain in soil and groundwater, as tabulated above, exceed the following San Francisco Bay Regional Water Quality Control Board Environmental Screening Levels (ESLs) below:

- Benzene (groundwater): 0.42 ppb (residential soil vapor intrusion concerns)
- Benzene (groundwater): 1.8 ppb (commercial/industrial soil vapor intrusion concerns)
- Benzene (soil): 0.33 ppm (residential exposure)
- Benzene (soil): 1.4 ppm (commercial/industrial exposure)
- Benzene (soil): 33 ppm (construction worker exposure)

I have noted that the December 3, 2019 Case Closure Summary states that the corrective action taken at the site is protective only of the current land use, i.e., commercial (p. 1). The Case Closure Summary further states "Most sensitive current use: Commercial" (p. 2). The Case Closure Summary does not acknowledge the proposed change in the current commercial land use to residential; therefore, the lower concentration residential ESLs are most applicable for comparison even though commercial/industrial ESLs for benzene in soil and groundwater are also greatly exceeded.

The "after" benzene concentrations in soil and groundwater greatly exceed residential (and commercial/industrial) ESLs, indicating further investigation or mitigation, including consideration of the installation of a barrier or membrane to reduce the vapor intrusion potential. Benzene is a known human carcinogen[2] and the remaining ("after") levels of benzene may pose health risks to construction workers, commercial/industrial workers and future residents.

The Case Closure Summary states that oversight is to be continued under the Site Mitigation Program (Article 22A) of local Health Code and that development will require additional site assessment and a Site Mitigation Plan under Article 22A (p. 3). Closure is only appropriate when no further action is required. Therefore, because of the proposed residential development, the site should be further assessed and mitigated (as appropriate) prior to closure.

[2] https://www.atsdr.cdc.gov/toxfaqs/tfacts3.pdf

Sincerely,

Matt Hagemann, P.G., C.Hg.

EXHIBIT E

City and County of San Francisco
DEPARTMENT OF PUBLIC HEALTH
ENVIRONMENTAL HEALTH

Notice of Intent

TO CLOSE LOCAL OVERSIGHT PROGRAM CASE FOR
1776 Green Street
(A former underground fuel storage tank location)

TO WHOM IT MAY CONCERN:

NOTICE IS hereby given that: 1776 Green Street, City and County of San Francisco, State of California.

Has been granted "Eligible for Closure" status by the San Francisco Department of Public Health Local Oversight Program. The site is eligible for closure per the California State Water Resources Control Board Low Threat Closure Policy Resolution 2012-0016.

The project documents supporting closure may be requested using the LOP form at:
http://www.sfdph.org/dph/EH/HMUPA/HMUPAFileSearchProc.asp
Information is also available online on the State Water Resources Control Board GeoTracker website at: http://geotracker.waterboards.ca.gov/

Comments or requests for a hearing may be filed in writing with the Department of Public Health, Environmental Health Services, Local Oversight Program, and 1390 Market Street, Suite 210, San Francisco, California, 94102 on or before the 9th day of January 2020.

BY ORDER OF
Stephanie K.J. Cushing, MSPH, CHMM, REHS
Director of Environmental Health

This notice is to be posted in a conspicuous place in front of the premises described in the notice above.

EXHIBIT F

City and County of San Francisco
DEPARTMENT OF PUBLIC HEALTH
ENVIRONMENTAL HEALTH

London N. Breed, Mayor
Grant Colfax, MD, Director of Health
Stephanie K. J. Cushing, MSPH, CHMM, REHS
Director of Environmental Health

January 14, 2020

The Hollow Revolution (THoR)
Richard Toshiyuki Drury
LozeauDrury LLP1939 Harrison Street, Suite 150
Oakland, CA 94612

C.A. Mackenzie
1713 Green Street
San Francisco, CA 94123

Kyoko Watanabe and Hank Bannister
1717 Green Street
San Francisco, CA 94123

Jane Ibrahim Gaito
1889 Green Street
San Francisco, Ca 94123

Salem Mansoir
sdmansoir@gmail.com

Letitia Yang
Letitia.Yang@gmail.com

Isabella Valentini
1770 Green Street
San Francisco, CA 94123

Youjeong Kim, MD
1775 Green Street
San Francisco, CA 94123

Subject: 1776 Green Street, San Francisco, Eligible for Closure Status

Dear Mr. Drury, Ms. Mackenzie, Ms. Watanabe, Mr. Bannister, Ms. Gaito, Mr. Mansoir, Ms Yang, Ms. Valentini and Dr. Kim:

I reviewed your letters in response to San Francisco Department of Public Health's (DPH) Notice of Intent regarding the eligibility for closure of the underground storage tank case at 1776 Green Street.

Upon further review of the case, DPH has withdrawn its Notice of Intent.

Should you have any questions, you may contact me at (415) 252-3926

Sincerely,

Stephanie K.J. Cushing, MSPH, CHMM, REHS
Director of Environmental Health

Cc: Mamdouh Awwad, LOP
Beronica Slattengren, Environmental Health
Jeanie Poling, City Planning
Tania Shire, City Planning
Nicholas Targ, Holland and Knight

EXHIBIT G

LOZEAU DRURY LLP
T 510.836.4200
F 510.836.4205
1939 Harrison Street, Ste. 150
Oakland, CA 94612
www.lozeaudrury.com
richard@lozeaudrury.com

BY E-MAIL AND OVERNIGHT MAIL

January 8, 2020

Stephanie Cushing, Director of Environmental Health
San Francisco Department of Public Health
Environmental Health Services
Local Oversight Program
1390 Market Street, Suite 210
San Francisco, CA 94102
stephanie.cushing@sfdph.org

RE: 1776 Green Street, San Francisco, CA (2018-011430CUA)
Opposition to Closure, Request for Hearing

Dear Ms. Cushing and Department of Public Health:

I am writing on behalf of The Hollow Revolution ("THoR"), an association of neighbors living near 1776 Green Street, San Francisco, California, concerning the proposal to grant "closure" status to the contaminated site located at 1776 Green Street, San Francisco, California ("Site"). THoR opposes site closure, and requests a public hearing on the matter. As discussed in the attached letter from certified hydrogeologist, Matthew Hagemann, C. Hg., (Exhibit A), "the property at 1776 Green Street is not suitable for closure" due to the presence of the cancer-causing chemical benzene at levels far above residential standards, and even exceeding commercial standards. Since further remedial action is required, site closure is inappropriate.

A. PROJECT BACKGROUND

1776 Green Street was used as an automotive repair garage for over one hundred years, from 1914 to 2018. During much of that time, almost no environmental laws even existed. The site became heavily contaminated with the cancer-causing chemical, benzene, which apparently leaked from several underground storage tanks.

A private developer is now proposing to convert the property to residential use with six luxury units and a two-story addition ("Project"). The Project will involve excavation of approximately 1300 cubic yards of potentially contaminated soil to expand the below-ground parking garage.

On December 3, 2019, Mamdouh Awwad of the San Francisco Department of Public Health ("SFDPH"), Environmental Health Branch, posted a report on the Cortese List's GeoTracker website, recommending that the site be deemed "eligible for closure." SFDPH is the Local Oversight Program ("LOP") for contaminated site clean-ups. On

December 9, 2019, SFDPH posted a Notice of Intent to close local oversight program case for 1776 Green Street, requesting comments or requests for hearing by January 9, 2020.

The most obvious problem with the proposal to close the Site is that it ignores entirely the obvious fact that the use of the Site will be changing to residential rather than commercial use, and additional clean-up is admittedly required for the new use since the Site fails to meet residential clean-up standards. Furthermore, as discussed below, if SFDPH takes discretionary action to close the Site, it must first conduct review under the California Environmental Quality Act ("CEQA"). Pub. Res. Code 21084(c).

B. SITE CLOSURE IS IMPROPER.

1. Legal Requirements.

Pursuant to the Health and Safety Code, site closure is only allowed when "no further corrective action is required at the site." Health & Saf. §25299.3. Similarly, the Water Board's guidance document entitled, GeoTracker Status Definitions states that a sites is "Open – Eligible for Closure" only when "Corrective action at the Site has been determined to be completed." (Exhibit B). State Water Board Resolution 92-49 "directs that water affected by an unauthorized release attain either background water quality or the best water quality that is reasonable if background water quality cannot be restored." The Low-Treat Underground Storage Tank Case Closure Policy ("LTUST Policy") (Exhibit C) requires that the "Secondary source [of pollution] has been removed to the extent practicable." (LTUST Policy, p. 3). Any "alternate level of water quality" must not "exceed that prescribed in the applicable Basin Plan." (LTUST Policy, p. 6). "Secondary source" is defined as:

> petroleum-impacted soil or groundwater located at or immediately beneath the point of release from the primary source. Unless site attributes prevent secondary source removal (e.g. physical or infrastructural constraints exist whose removal or relocation would be technically or economically infeasible), petroleum-release sites are required to undergo secondary source removal to the extent practicable as described herein. "To the extent practicable" means implementing a cost-effective corrective action which removes or destroys-in-place the most readily recoverable fraction of source-area mass. It is expected that most secondary mass removal efforts will be completed in one year or less. Following removal or destruction of the secondary source, additional removal or active remedial actions shall not be required by regulatory agencies unless (1) necessary to abate a demonstrated threat to human health or (2) the groundwater plume does not meet the definition of low threat as described in this policy. (LTUST Policy, p. 4).

Pursuant to the Water code, the agency must consider "reasonable maximum estimates of exposure for both current land use conditions and **reasonably foreseeable future land uses at the site**." Water Code §13304.2(c)(6) (emphasis added). Similarly, the LTUST Policy requires analysis of site specific conditions "under current and

reasonably anticipated near-term future scenarios." (LTUST Policy, p. 6 (emphasis added)).

Finally, the Low-Treat Underground Storage Tank Case Closure Policy ("LTUST Policy") requires a "60 day period to comment" on any proposed case closure. (LTUST Policy, p.9).

2. Site is Not Eligible for Closure Under the Applicable Legal Standards.

The SFDPH Case Closure Summary only recommends closure of the site for the "current land use." (Case Closure Summary, Section IV). The "current use" is listed as "commercial." (Id. Section III). The report expressly states that if the land use changes, (such as to residential use), then further corrective action may be required. (Id. Section IV). The report states that additional site clean-up is required: "The development will require additional site assessment and a Site Mitigation Plan prior to development." (Id. Section VII).

Despite clean-up efforts dating to 2016, the report clearly shows that soil contamination have not improved at all (although groundwater contamination levels have improved). (Id. Section III, p.2). These contamination levels remain far above Environmental Screening Levels ("ESLs"). (Id. Section VII).

Release and Site Characterization Information (Continued)

Maximum Documented Contaminant Concentrations -- Before and After Cleanup									
Contaminant	Soil (ppm)		Water (ppb)		Contaminant	Soil (ppm)		Water (ppb)	
	Before	After	Before	After		Before	After	Before	After
TPH (Gas)	19,000	19,000	32,000	2,500	Xylene	420	420	4200	260
TPH (Diesel)	1,200	1,200	2,500	170	Ethylbenzene	190	190	890	43
Benzene	94	94	4,500	380	MTBE	ND	ND	ND	ND
Toluene	570	570	7400	380	NAPHTHALENE	63	63	ND	ND
Other: TPH-b,o	380	380	340	ND	Lead	19	19	NA	NA
Comments (Depth of Remediation, etc.):									

As discussed by certified hydrogeologist Matthew Hagemann, The "after" benzene levels that remain in soil and groundwater, as tabulated above, exceed the following San Francisco Bay Regional Water Quality Control Board Environmental Screening Levels (ESLs) below:

- Benzene (groundwater): 0.42 ppb (residential soil vapor intrusion concerns)
- Benzene (groundwater): 1.8 ppb (commercial/industrial soil vapor intrusion concerns)
- Benzene (soil): 0.33 ppm (residential exposure)
- Benzene (soil): 1.4 ppm (commercial/industrial exposure)

- Benzene (soil): 33 ppm (construction worker exposure)

To put this in perspective, the current levels in soil and groundwater exceed state standards by hundreds of times. The current level of Benzene in groundwater of 380 ppb exceeds the residential ESL of 0.42 ppb by **904 times**. Furthermore, it exceeds even the commercial of 1.8 ppb ESL by 211 times. The benzene level in soil of 94 ppm at the Site exceeds the residential ESL of 0.33 ppm by over one hundred times, and also exceeds the commercial ESL of 1.4 ppm by 67 times. Benzene is a known human carcinogen. Mr. Hagemann concludes that these levels pose potential risks related to soil vapor intrusion and construction worker exposure. Soil-vapor intrusion is a process in which the chemical vapors may enter the new construction above, potentially exposing future residents.

It appears that the SFDPH has ignored entirely the fact that the Site is proposed to be converted to residential use. However, the Planning Commission is currently considering an application for permits to convert the automobile repair shop to a six-unit residential development. This is clearly "**reasonably foreseeable future land use at the site**" within the meaning of Water Code §13304.2(c)(6).

SFDPH's own report admits that if the land use changes, (such as to residential use), then further corrective action may be required. (Id. Section IV). The report states that additional Site clean-up is required: "The development will require additional site assessment and a Site Mitigation Plan prior to development." (Id. Section VII). SFDPH's own report establishes that further corrective action is required for residential use. Therefore, the City cannot make a finding that "no further corrective action is required at the site." Health & Saf. §25299.3. Nor can the City make a finding that when "Corrective action at the Site has been determined to be completed." (GeoTracker Status Definitions).

For the foregoing reasons, SF DPH may not make a finding that the Site is eligible for closure. It should promptly reverse this finding pending full remediation of the Site to residential standards.

Finally, the LTUST Policy requires a "60 day period to comment" on any proposed case closure. (LTUST Policy, p.9). SFDPH has provided only a 31-day comment period. The Notice of Intent to Close Local Oversight of 1776 Green was posted on December 9, 2019, and stated that any comments must be provided on or before January 9, 2020. This provided only 31 days comment period – including the Christmas/New Year holiday. This flatly violates the LTUST Policy and deprived the interested public of an adequate opportunity to review and comment on the decision.

C. CEQA REVIEW IS REQUIRED PRIOR TO SITE CLOSURE.

The California Environmental Quality Act ("CEQA") provides that any "project" located on the State of California's Cortese List of highly contaminated sites may not be exempted from CEQA review. CEQA is quite clear, a categorical exemption:

> **"shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code [Cortese List]."**

14 CCR §15300.2(e) (emphasis added). The CEQA statute states:

> **"No project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code [Cortese List] shall be exempted from this division pursuant to subdivision (a)[categorical exemptions]."**

PRC § 21084(c)). There is no question that the Site is on the Cortese list.

CEQA only applies to "discretionary" actions. (Pub. Res. Code § 21080(a), (b)(1); Guideline § 15268(a)). The decision of whether to list the Site as "closed" on the Cortese list is clearly a "discretionary" action, and therefore falls under CEQA. Closing the Site may have significant adverse environmental impacts since it may bring a halt to ongoing clean-up activities that are necessary to protect human health and the environment.

The decision to list the Site as "closed" is the first step in a series of actions intended to allow the Site to be developed for the pending six-unit residential Project. As such, the City may not "piecemeal" that decision from the consideration of the Project itself. Under CEQA, the agency must consider the "whole of an action." 14 Cal. Code Regs. § 15378(a). That means:

> "[T]he environmental review accompanying the first discretionary approval must evaluate the impacts of the ultimate development authorized by that approval. ... Even though further discretionary approvals may be required before development can occur, the agency's environmental review must extend to the development envisioned by the initial approvals. It is irrelevant that the development may not receive all necessary entitlements or may not be built. Piecemeal environmental review that ignores the environmental impacts of the end result will not be permitted."

See Kostka, et al., *Practice Under the California Environmental Quality Act*, § 6.52, p. 298. As the Court of Appeal stated:

> "The CEQA process is intended to be a careful examination, fully open to the public, of the environmental consequences of a given project, covering the entire project, from start to finish. . . the purpose of CEQA is not to generate paper, but to compel government at all levels to make decisions with environmental consequences in mind."

Natural Resources Defense Council v. City of Los Angeles, 103 Cal.App.4th 268 (2002).

SFDPH has violated CEQA by failing to perform any CEQA review of its proposed action to "close" the Site on the Cortese list. SF DPH has "piecemealed" this action from consideration of the known fact that the Site is proposed to be converted from commercial

to residential use, and has failed entirely to consider the six-unit Project underlying all of these actions. There is no question that "development in the near future was anticipated." *Bozung v. Local Agency Formation Com.*, 13 Cal. 3d 263, 281 (1975). This action is intended to facilitate the proposed development of a specific residential Project on the Site. "[B]efore conducting CEQA review, agencies must not 'take any action' that significantly furthers a project 'in a manner that forecloses alternatives or mitigation measures that would ordinarily be part of CEQA review of that public project.' (Cal.Code Regs., tit. 14, § 15004, subd. (b)(2)(B)." *Save Tara v. City of W. Hollywood,* 45 Cal.4th 116, 138 (2008).

Under these circumstances, CEQA requires that the Project may not be exempted from CEQA review. CEQA review is required to develop a clean-up plan, subjected to public review, to ensure safe and adequate site clean-up that adequately protects neighbors, workers and future residents of the Project. (CEQA section 21084(c); *Citizens for Responsible Equitable Envt'l Dev. v. City of Chula Vista* (2011) 197 Cal.App.4th 327, 331-333).

Therefore, if SFDPH intends to "close" the Site on the Cortese List, it must first conduct CEQA review to analyze the environmental impacts of its action, to analyze the proposed Project, and to consider feasible mitigation measures and alternatives.

D. CONCLUSION

For the foregoing reasons, we request that SFDPH not list the property at 1776 Green as "closed" or "eligible for closure" on the Cortese list, and remove any such references from the GeoTracker database. We request a public hearing on the proposed decision. We also request that SFDPH conduct CEQA review of the proposed discretionary action.

Sincerely,

Richard Toshiyuki Drury
LOZEAU DRURY LLP

Cc: San Francisco Planning Commission
c/o Jonas Ionin (jonas.ionin@sfgov.org; commissions.secretary@sfgov.org)
1650 Mission Street, Suite 400
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EXHIBIT A

SWAPE Technical Consultation, Data Analysis and Litigation Support for the Environment

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January 7, 2020

Stephanie K.J. Cushing, MSPH, CHMM, REHS
Department of Public Health
Environmental Health Services
Local Oversight Program
City and County of San Francisco
1390 Market Street, Suite 210
San Francisco, CA 94102

Subject: 1776 Green Street, San Francisco, California

Dear Ms. Cushing:

I am commenting on the "Eligible for Closure" notice posted for 1776 Green Street, San Francisco, California. Because of residual soil and groundwater contamination, it is my opinion that the property at 1776 Green Street is not suitable for closure.

Residential development, to include a four-story building atop a one-level below-grade parking garage, is proposed for this property. The proposed project site was used for automotive repair purposes between 1914 and 2018.[1]

A Case Closure Summary, signed on December 3, 2019 (attached), prepared by the San Francisco Department of Public Health for 1776 Green Street includes this summary table on page 2.

[1] Phase II Site investigation Workplan, 1176 Green Street, San Francisco, AllWest Environmental, January 18, 2019

Release and Site Characterization Information (Continued)

Maximum Documented Contaminant Concentrations - - Before and After Cleanup									
Contaminant	Soil (ppm)		Water (ppb)		Contaminant	Soil (ppm)		Water (ppb)	
	Before	After	Before	After		Before	After	Before	After
TPH (Gas)	19,000	19,000	32,000	2,500	Xylene	420	420	4200	260
TPH (Diesel)	1,200	1,200	2,500	170	Ethylbenzene	190	190	890	43
Benzene	94	94	4,500	380	MTBE	ND	ND	ND	ND
Toluene	570	570	7400	380	NAPHTHALENE	63	63	ND	ND
Other: TPH-b.o	380	380	340	ND	Lead	19	19	NA	NA

The "after" benzene levels that remain in soil and groundwater, as tabulated above, exceed the following San Francisco Bay Regional Water Quality Control Board Environmental Screening Levels (ESLs) below:

- Benzene (groundwater): 0.42 ppb (residential soil vapor intrusion concerns)
- Benzene (groundwater): 1.8 ppb (commercial/industrial soil vapor intrusion concerns)
- Benzene (soil): 0.33 ppm (residential exposure)
- Benzene (soil): 1.4 ppm (commercial/industrial exposure)
- Benzene (soil): 33 ppm (construction worker exposure)

I have noted that the December 3, 2019 Case Closure Summary states that the corrective action taken at the site is protective only of the current land use, i.e., commercial (p. 1). The Case Closure Summary further states "Most sensitive current use: Commercial" (p. 2). The Case Closure Summary does not acknowledge the proposed change in the current commercial land use to residential; therefore, the lower concentration residential ESLs are most applicable for comparison even though commercial/industrial ESLs for benzene in soil and groundwater are also greatly exceeded.

The "after" benzene concentrations in soil and groundwater greatly exceed residential (and commercial/industrial) ESLs, indicating further investigation or mitigation, including consideration of the installation of a barrier or membrane to reduce the vapor intrusion potential. Benzene is a known human carcinogen[2] and the remaining ("after") levels of benzene may pose health risks to construction workers, commercial/industrial workers and future residents.

The Case Closure Summary states that oversight is to be continued under the Site Mitigation Program (Article 22A) of local Health Code and that development will require additional site assessment and a Site Mitigation Plan under Article 22A (p. 3). Closure is only appropriate when no further action is required. Therefore, because of the proposed residential development, the site should be further assessed and mitigated (as appropriate) prior to closure.

[2] https://www.atsdr.cdc.gov/toxfaqs/tfacts3.pdf

Sincerely,

Matt Hagemann, P.G., C.Hg.

EXHIBIT B

Project Status Definitions

1. ***Completed – Case Closed***
A closure letter or other formal closure decision document has been issued for the site.

2. ***Open – Assessment & Interim Remedial Action***
An "interim" remedial action is occurring at the site AND additional activities such as site characterization, investigation, risk evaluation, and/or site conceptual model development are occurring.

3. ***Open – Inactive***
No regulatory oversight activities are being conducted by the Lead Agency.

4. ***Open – Remediation***
An approved remedy or remedies has/have been selected for the impacted media at the site and the responsible party (RP) is implementing one or more remedy under an approved cleanup plan for the site. This includes any ongoing remedy that is either passive or active, or uses a combination of technologies. For example, a site implementing only a long term groundwater monitoring program, or a "monitored natural attenuation" (MNA) remedy without any active groundwater treatment as part of the remedy, is considered an open case under remediation until site closure is completed.

5. ***Open – Site Assessment***
Site characterization, investigation, risk evaluation, and/or site conceptual model development are occurring at the site. Examples of site assessment activities include, but are not limited to, the following: 1) identification of the contaminants and the investigation of their potential impacts; 2) determination of the threats/impacts to water quality; 3) evaluation of the risk to humans and ecology; 4) delineation of the nature and extent of contamination; 5) delineation of the contaminant plume(s); and 6) development of the Site Conceptual Model.

6. ***Open – Verification Monitoring (use only for UST, Chapter 16 regulated cases)***
Remediation phases are essentially complete and a monitoring/sampling program is occurring to confirm successful completion of cleanup at the Site. (e.g. No "active" remediation is considered necessary or no additional "active" remediation is anticipated as needed. Active remediation system(s) has/have been shut-off and the potential for a rebound in contaminant concentrations is under evaluation).

7. ***Open – Reopen Case (available selection only for previously closed cases)***
This is not a case status. This field should be selected to record the date that the case was reopened for further investigation and/or remediation. A case status should immediately be selected from the list of case status choices after recording this date.

8. ***Open – Eligible for Closure***
Corrective action at the Site has been determined to be completed and any remaining petroleum constituents from the release are considered to be low threat to Human Health, Safety, and the Environment. The case in GeoTracker is going through the process of being closed.

EXHIBIT C

Low-Threat Underground Storage Tank Case Closure Policy

Preamble

The State Water Resources Control Board (State Water Board) administers the petroleum UST (Underground Storage Tank) Cleanup Program, which was enacted by the Legislature in 1984 to protect health, safety and the environment. The State Water Board also administers the petroleum UST Cleanup Fund (Fund), which was enacted by the Legislature in 1989 to assist UST owners and operators in meeting federal financial responsibility requirements and to provide reimbursement to those owners and operators for the high cost of cleaning up unauthorized releases caused by leaking USTs.

The State Water Board believes it is in the best interest of the people of the State that unauthorized releases be prevented and cleaned up to the extent practicable in a manner that protects human health, safety and the environment. The State Water Board also recognizes that the technical and economic resources available for environmental restoration are limited, and that the highest priority for these resources must be the protection of human health and environmental receptors. Program experience has demonstrated the ability of remedial technologies to mitigate a substantial fraction of a petroleum contaminant mass with the investment of a reasonable level of effort. Experience has also shown that residual contaminant mass usually remains after the investment of reasonable effort, and that this mass is difficult to completely remove regardless of the level of additional effort and resources invested.

It has been well-documented in the literature and through experience at individual UST release sites that petroleum fuels naturally attenuate in the environment through adsorption, dispersion, dilution, volatilization, and biological degradation. This natural attenuation slows and limits the migration of dissolved petroleum plumes in groundwater. The biodegradation of petroleum, in particular, distinguishes petroleum products from other hazardous substances commonly found at commercial and industrial sites.

The characteristics of UST releases and the California UST Program have been studied extensively, with individual works including:

a. Lawrence Livermore National Laboratory report (1995)
b. SB1764 Committee report (1996)
c. UST Cleanup Program Task Force report (2010)
d. Cleanup Fund Task Force report (2010)
e. Cleanup Fund audit (2010)
f. State Water Resources Control Board site closure orders
g. State Water Resources Control Board Resolution 2009-0081

In general, these efforts have recognized that many petroleum release cases pose a low threat to human health and the environment. Some of these studies also recommended establishing "low-threat" closure criteria in order to maximize the benefits to the people of the State of California through judicious application of available resources.

The purpose of this policy is to establish consistent statewide case closure criteria for low-threat petroleum UST sites. The policy is consistent with existing statutes, regulations, State Water Board precedential decisions, policies and resolutions, and is intended to provide clear direction to responsible parties, their service providers, and regulatory agencies. The policy seeks to increase UST cleanup process efficiency. A benefit of improved efficiency is the preservation of limited resources for mitigation of releases posing a greater threat to human and environmental health.

This policy is based in part upon the knowledge and experience gained from the last 25 years of investigating and remediating unauthorized releases of petroleum from USTs. While this policy does not specifically address other petroleum release scenarios such as pipelines or above ground storage tanks, if a particular site with a different petroleum release scenario exhibits attributes similar to those which this policy addresses, the criteria for closure evaluation of these non-UST sites should be similar to those in this policy.

This policy is a state policy for water quality control and applies to all petroleum UST sites subject to Chapter 6.7 of Division 20 of the Health and Safety Code and Chapter 16 of Division 3 of Title 23 of the California Code of Regulations. The term "regulatory agencies" in this policy means the State Water Board, Regional Water Quality Control Boards (Regional Water Boards) and local agencies authorized to implement Health and Safety Code section 25296.10. Unless expressly provided in this policy, the terms in this policy shall have the same definitions provided in Chapter 6.7 of Division 20 of the Health and Safety Code and Chapter 16 of Division 3 of Title 23 of the California Code of Regulations.

Criteria for Low-Threat Case Closure

In the absence of unique attributes of a case or site-specific conditions that demonstrably increase the risk associated with residual petroleum constituents, cases that meet the general and media-specific criteria described in this policy pose a low threat to human health, safety or the environment and are appropriate for closure pursuant to Health and Safety Code section 25296.10. Cases that meet the criteria in this policy do not require further corrective action and shall be issued a uniform closure letter consistent with Health and Safety Code section 25296.10. Annually, or at the request of the responsible party or party conducting the corrective action, the regulatory agency shall conduct a review to determine whether the site meets the criteria contained in this policy.

It is important to emphasize that the criteria described in this policy do not attempt to describe the conditions at all low-threat petroleum UST sites in the State. The regulatory agency shall issue a closure letter for a case that does not meet these criteria if the regulatory agency determines the site to be low-threat based upon a site specific analysis.

This policy recognizes that some petroleum-release sites may possess unique attributes and that some site specific conditions may make case closure under this policy inappropriate, despite the satisfaction of the stated criteria in this policy. It is impossible to completely capture those sets of attributes that may render a site ineligible for closure based on this low-threat policy. This policy relies on the regulatory agency's use of the conceptual site model to identify the special attributes that would require specific attention prior to the application of low-threat criteria. In these cases, it is the regulatory agency's responsibility to identify the conditions that make closure under the policy inappropriate.

General Criteria
General criteria that must be satisfied by all candidate sites are listed as follows:

a. The unauthorized release is located within the service area of a public water system;
b. The unauthorized release consists only of petroleum;
c. The unauthorized ("primary") release from the UST system has been stopped;
d. Free product has been removed to the maximum extent practicable;
e. A conceptual site model that assesses the nature, extent, and mobility of the release has been developed;
f. Secondary source has been removed to the extent practicable;
g. Soil or groundwater has been tested for methyl tert-butyl ether (MTBE) and results reported in accordance with Health and Safety Code section 25296.15; and
h. Nuisance as defined by Water Code section 13050 does not exist at the site.

a. The unauthorized release is located within the service area of a public water system
This policy is protective of existing water supply wells. New water supply wells are unlikely to be installed in the shallow groundwater near former UST release sites. However, it is difficult to predict, on a statewide basis, where new wells will be installed, particularly in rural areas that are undergoing new development. This policy is limited to areas with available public water systems to reduce the likelihood that new wells in developing areas will be inadvertently impacted by residual petroleum in groundwater. Case closure outside of areas with a public water system should be evaluated based upon the fundamental principles in this policy and a site specific evaluation of developing water supplies in the area. For purposes of this policy, a public water system is a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year.

b. The unauthorized release consists only of petroleum
For the purposes of this policy, petroleum is defined as crude oil, or any fraction thereof, which is liquid at standard conditions of temperature and pressure, which means 60 degrees Fahrenheit and 14.7 pounds per square inch absolute, including the following substances: motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents and used oils, including any additives and blending agents such as oxygenates contained in the formulation of the substances.

c. The unauthorized release has been stopped
The tank, pipe, or other appurtenant structure that released petroleum into the environment (i.e. the primary source) has been removed, repaired or replaced. It is not the intent of this policy to allow sites with ongoing leaks from the UST system to qualify for low-threat closure.

d. Free product has been removed to the maximum extent practicable
At petroleum unauthorized release sites where investigations indicate the presence of free product, free product shall be removed to the maximum extent practicable. In meeting the requirements of this section:

a. Free product shall be removed in a manner that minimizes the spread of the unauthorized release into previously uncontaminated zones by using recovery and disposal techniques appropriate to the hydrogeologic conditions at the site, and that properly treats, discharges or disposes of recovery byproducts in compliance with applicable laws;

b. Abatement of free product migration shall be used as a minimum objective for the design of any free product removal system; and
c. Flammable products shall be stored for disposal in a safe and competent manner to prevent fires or explosions.

e. *A conceptual site model that assesses the nature, extent, and mobility of the release has been developed*

The Conceptual Site Model (CSM) is a fundamental element of a comprehensive site investigation. The CSM establishes the source and attributes of the unauthorized release, describes all affected media (including soil, groundwater, and soil vapor as appropriate), describes local geology, hydrogeology and other physical site characteristics that affect contaminant environmental transport and fate, and identifies all confirmed and potential contaminant receptors (including water supply wells, surface water bodies, structures and their inhabitants). The CSM is relied upon by practitioners as a guide for investigative design and data collection. Petroleum release sites in California occur in a wide variety of hydrogeologic settings. As a result, contaminant fate and transport and mechanisms by which receptors may be impacted by contaminants vary greatly from location to location. Therefore, the CSM is unique to each individual release site. All relevant site characteristics identified by the CSM shall be assessed and supported by data so that the nature, extent and mobility of the release have been established to determine conformance with applicable criteria in this policy. The supporting data and analysis used to develop the CSM are not required to be contained in a single report and may be contained in multiple reports submitted to the regulatory agency over a period of time.

f. *Secondary source has been removed to the extent practicable*

"Secondary source" is defined as petroleum-impacted soil or groundwater located at or immediately beneath the point of release from the primary source. Unless site attributes prevent secondary source removal (e.g. physical or infrastructural constraints exist whose removal or relocation would be technically or economically infeasible), petroleum-release sites are required to undergo secondary source removal to the extent practicable as described herein. "To the extent practicable" means implementing a cost-effective corrective action which removes or destroys-in-place the most readily recoverable fraction of source-area mass. It is expected that most secondary mass removal efforts will be completed in one year or less. Following removal or destruction of the secondary source, additional removal or active remedial actions shall not be required by regulatory agencies unless (1) necessary to abate a demonstrated threat to human health or (2) the groundwater plume does not meet the definition of low threat as described in this policy.

g. *Soil and groundwater have been tested for MTBE and results reported in accordance with Health and Safety Code section 25296.15*

Health and Safety Code section 25296.15 prohibits closing a UST case unless the soil, groundwater, or both, as applicable have been tested for MTBE and the results of that testing are known to the Regional Water Board. The exception to this requirement is where a regulatory agency determines that the UST that leaked has only contained diesel or jet fuel. Before closing a UST case pursuant to this policy, the requirements of section 25296.15, if applicable, shall be satisfied.

h. Nuisance as defined by Water Code section 13050 does not exist at the site

Water Code section 13050 defines "nuisance" as anything which meets all of the following requirements:

1) Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

2) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

3) Occurs during, or as a result of, the treatment or disposal of wastes.

For the purpose of this policy, waste means a petroleum release.

Media-Specific Criteria

Releases from USTs can impact human health and the environment through contact with any or all of the following contaminated media: groundwater, surface water, soil, and soil vapor. Although this contact can occur through ingestion, dermal contact, or inhalation of the various media, the most common drivers of health risk are ingestion of groundwater from drinking water wells, inhalation of vapors accumulated in buildings, contact with near surface contaminated soil, and inhalation of vapors in the outdoor environment. To simplify implementation, these media and pathways have been evaluated and the most common exposure scenarios have been combined into three media-specific criteria:

1. Groundwater
2. Vapor Intrusion to Indoor Air
3. Direct Contact and Outdoor Air Exposure

Candidate sites must satisfy all three of these media-specific criteria as described below.

1. Groundwater

This policy describes criteria on which to base a determination that threats to existing and anticipated beneficial uses of groundwater have been mitigated or are de minimis, including cases that have not affected groundwater.

State Water Board Resolution 92-49, *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under Water Code Section 13304* is a state policy for water quality control and applies to petroleum UST cases. Resolution 92-49 directs that water affected by an unauthorized release attain either background water quality or the best water quality that is reasonable if background water quality cannot be restored. Any alternative level of water quality less stringent than background must be consistent with the maximum benefit to the people of the state, not unreasonably affect current and anticipated beneficial use of affected water, and not result in water quality less than that prescribed in the water quality control plan for the basin within which the site is located. Resolution No. 92-49 does not require that the requisite level of water quality be met at the time of case closure; it specifies compliance with cleanup goals and objectives within a reasonable time frame.

Water quality control plans (Basin Plans) generally establish "background" water quality as a restorative endpoint. This policy recognizes the regulatory authority of the Basin Plans but underscores the flexibility contained in Resolution 92-49.

It is a fundamental tenet of this low-threat closure policy that if the closure criteria described in this policy are satisfied at a petroleum unauthorized release site, attaining background water quality is not feasible, establishing an alternate level of water quality not to exceed that prescribed in the applicable Basin Plan is appropriate, and that water quality objectives will be attained through natural attenuation within a reasonable time, prior to the expected need for use of any affected groundwater.

If groundwater with a designated beneficial use is affected by an unauthorized release, to satisfy the media-specific criteria for groundwater, the contaminant plume that exceeds water quality objectives must be stable or decreasing in areal extent, and meet all of the additional characteristics of one of the five classes of sites listed below. A plume that is "stable or decreasing" is a contaminant mass that has expanded to its maximum extent: the distance from the release where attenuation exceeds migration.

Groundwater-Specific Criteria

(1) a. The contaminant plume that exceeds water quality objectives is less than 100 feet in length.
   b. There is no free product.
   c. The nearest existing water supply well or surface water body is greater than 250 feet from the defined plume boundary.

(2) a. The contaminant plume that exceeds water quality objectives is less than 250 feet in length.
   b. There is no free product.
   c. The nearest existing water supply well or surface water body is greater than 1,000 feet from the defined plume boundary.
   d. The dissolved concentration of benzene is less than 3,000 micrograms per liter (µg/l), and the dissolved concentration of MTBE is less than 1,000 µg/l.

(3) a. The contaminant plume that exceeds water quality objectives is less than 250 feet in length.
   b. Free product has been removed to the maximum extent practicable, may still be present below the site where the release originated, but does not extend off-site.
   c. The plume has been stable or decreasing for a minimum of five years.
   d. The nearest existing water supply well or surface water body is greater than 1,000 feet from the defined plume boundary.
   e. The property owner is willing to accept a land use restriction if the regulatory agency requires a land use restriction as a condition of closure.

(4) a. The contaminant plume that exceeds water quality objectives is less than 1,000 feet in length.
   b. There is no free product.
   c. The nearest existing water supply well or surface water body is greater than 1,000 feet from the defined plume boundary.
   d. The dissolved concentration of benzene is less than 1,000 µg/l, and the dissolved concentration of MTBE is less than 1,000 µg/l.

(5) a. The regulatory agency determines, based on an analysis of site specific conditions that under current and reasonably anticipated near-term future scenarios, the contaminant plume poses a low threat to human health and safety and to the environment and water quality objectives will be achieved within a reasonable time frame.

Sites with Releases That Have Not Affected Groundwater
Sites with soil that does not contain sufficient mobile constituents [leachate, vapors, or light non-aqueous-phase liquids (LNAPL)] to cause groundwater to exceed the groundwater criteria in this policy shall be considered low-threat sites for the groundwater medium. Provided the general criteria and criteria for other media are also met, those sites are eligible for case closure.

For older releases, the absence of current groundwater impact is often a good indication that residual concentrations present in the soil are not a source for groundwater pollution.

2. Petroleum Vapor Intrusion to Indoor Air
Exposure to petroleum vapors migrating from soil or groundwater to indoor air may pose unacceptable human health risks. This policy describes conditions, including bioattenuation zones, which if met will assure that exposure to petroleum vapors in indoor air will not pose unacceptable health risks. In many petroleum release cases, potential human exposures to vapors are mitigated by bioattenuation processes as vapors migrate toward the ground surface. For the purposes of this section, the term "bioattenuation zone" means an area of soil with conditions that support biodegradation of petroleum hydrocarbon vapors.

The low-threat vapor-intrusion criteria described below apply to sites where the release originated and impacted or potentially impacted adjacent parcels when: (1) existing buildings are occupied or may be reasonably expected to be occupied in the future, or
(2) buildings for human occupancy are reasonably expected to be constructed in the future. Appendices 1 through 4 (attached) illustrate four potential exposure scenarios and describe characteristics and criteria associated with each scenario. Petroleum release sites shall satisfy the media-specific criteria for petroleum vapor intrusion to indoor air and be considered low-threat for the vapor-intrusion-to-indoor-air pathway if:

a. Site-specific conditions at the release site satisfy all of the characteristics and criteria of scenarios 1 through 3 as applicable, or all of the characteristics and criteria of scenario 4 as applicable; or

b. A site-specific risk assessment for the vapor intrusion pathway is conducted and demonstrates that human health is protected to the satisfaction of the regulatory agency; or

c. As a result of controlling exposure through the use of mitigation measures or through the use of institutional or engineering controls, the regulatory agency determines that petroleum vapors migrating from soil or groundwater will have no significant risk of adversely affecting human health.

Exception: Exposures to petroleum vapors associated with historical fuel system releases are comparatively insignificant relative to exposures from small surface spills and fugitive vapor releases that typically occur at active fueling facilities. Therefore, satisfaction of the media-specific criteria for petroleum vapor intrusion to indoor air is not required at active commercial petroleum fueling facilities, except in cases where release characteristics can be reasonably believed to pose an unacceptable health risk.

3. Direct Contact and Outdoor Air Exposure

This policy describes conditions where direct contact with contaminated soil or inhalation of contaminants volatized to outdoor air poses a low threat to human health. Release sites where human exposure may occur satisfy the media-specific criteria for direct contact and outdoor air exposure and shall be considered low-threat if they meet any of the following:

a. Maximum concentrations of petroleum constituents in soil are less than or equal to those listed in Table 1 for the specified depth below ground surface (bgs). The concentration limits for 0 to 5 feet bgs protect from ingestion of soil, dermal contact with soil, and inhalation of volatile soil emissions and inhalation of particulate emissions. The 5 to 10 feet bgs concentration limits protect from inhalation of volatile soil emissions. Both the 0 to 5 feet bgs concentration limits and the 5 to 10 feet bgs concentration limits for the appropriate site classification (Residential or Commercial/Industrial) shall be satisfied. In addition, if exposure to construction workers or utility trench workers are reasonably anticipated, the concentration limits for Utility Worker shall also be satisfied; or

b. Maximum concentrations of petroleum constituents in soil are less than levels that a site specific risk assessment demonstrates will have no significant risk of adversely affecting human health; or

c. As a result of controlling exposure through the use of mitigation measures or through the use of institutional or engineering controls, the regulatory agency determines that the concentrations of petroleum constituents in soil will have no significant risk of adversely affecting human health.

Table 1

Concentrations of Petroleum Constituents in Soil That Will Have No Significant Risk of Adversely Affecting Human Health

Chemical	Residential		Commercial/ Industrial		Utility Worker
	0 to 5 feet bgs mg/kg	Volatilization to outdoor air (5 to 10 feet bgs) mg/kg	0 to 5 feet bgs mg/kg	Volatilization to outdoor air (5 to 10 feet bgs) mg/kg	0 to 10 feet bgs mg/kg
Benzene	1.9	2.8	8.2	12	14
Ethylbenzene	21	32	89	134	314
Naphthalene	9.7	9.7	45	45	219
PAH[1]	0.063	NA	0.68	NA	4.5

Notes:

1. Based on the seven carcinogenic poly-aromatic hydrocarbons (PAHs) as benzo(a)pyrene toxicity equivalent [BaPe]. Sampling and analysis for PAH is only necessary where soil as affected by either waste oil or Bunker C fuel.
2. The area of impacted soil where a particular exposure occurs is 25 by 25 meters (approximately 82 by 82 feet) or less.
3. NA = not applicable
4. mg/kg = milligrams per kilogram

Low-Threat Case Closure

Cases that meet the general and media-specific criteria established in this policy pose a low threat to human health, safety and the environment and satisfy the case-closure requirements of Health and Safety Code section 25296.10, and case closure is consistent with State Water Board Resolution 92-49 that requires that cleanup goals and objectives be met within a reasonable time frame. If the case has been determined by the regulatory agency to meet the criteria in this policy, the regulatory agency shall notify responsible parties that they are eligible for case closure and that the following items, if applicable, shall be completed prior to the issuance of a uniform closure letter specified in Health and Safety Code section 25296.10. After completion of these items, and unless the regulatory agency revises its determination based on comments received on the proposed case closure, the regulatory agency shall issue a uniform closure letter within 30 days from the end of the comment period.

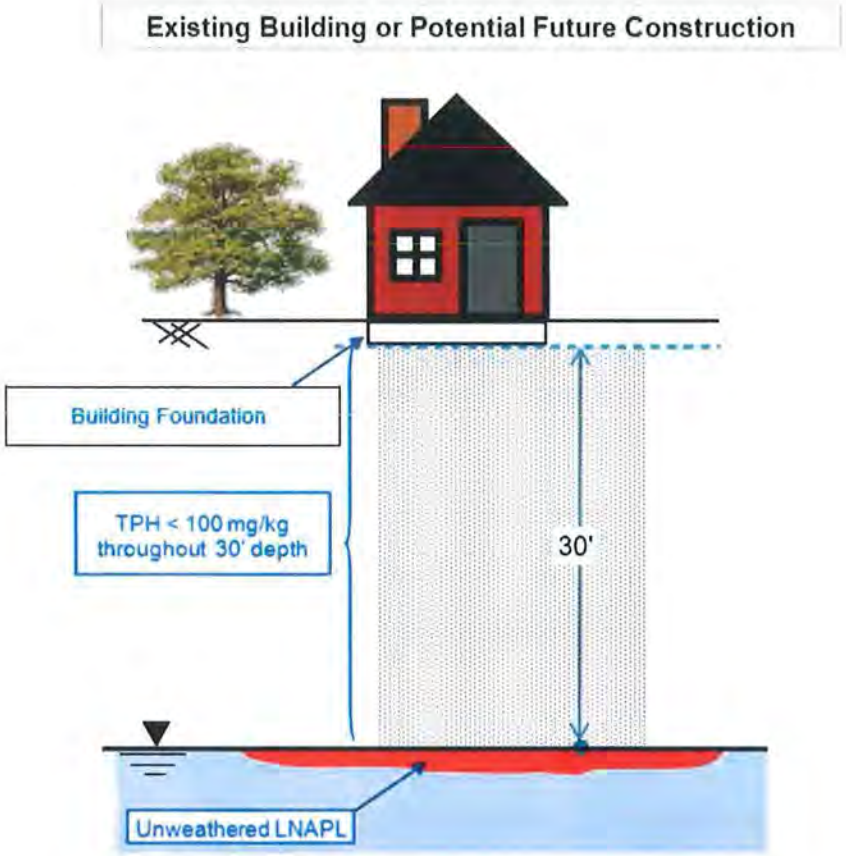
a. Notification Requirements – Municipal and county water districts, water replenishment districts, special act districts with groundwater management authority, agencies with authority to issue building permits for land affected by the petroleum release, owners and occupants of the property impacted by the petroleum release, and the owners and occupants of all parcels adjacent to the impacted property shall be notified of the proposed case closure and provided a 60 day period to comment. The regulatory agency shall consider any comments received when determining if the case should be closed or if site specific conditions warrant otherwise.

b. Monitoring Well Destruction – All wells and borings installed for the purpose of investigating, remediating, or monitoring the unauthorized release shall be properly destroyed prior to case closure unless a property owner certifies that they will keep and maintain the wells or borings in accordance with applicable local or state requirements.

c. Waste Removal – All waste piles, drums, debris and other investigation or remediation derived materials shall be removed from the site and properly managed in accordance with regulatory agency requirements.

Appendix 1
Scenario 1: Unweathered* LNAPL in Groundwater

Required Characteristics of the Bioattenuation Zone



Required Characteristics of the Bioattenuation Zone:

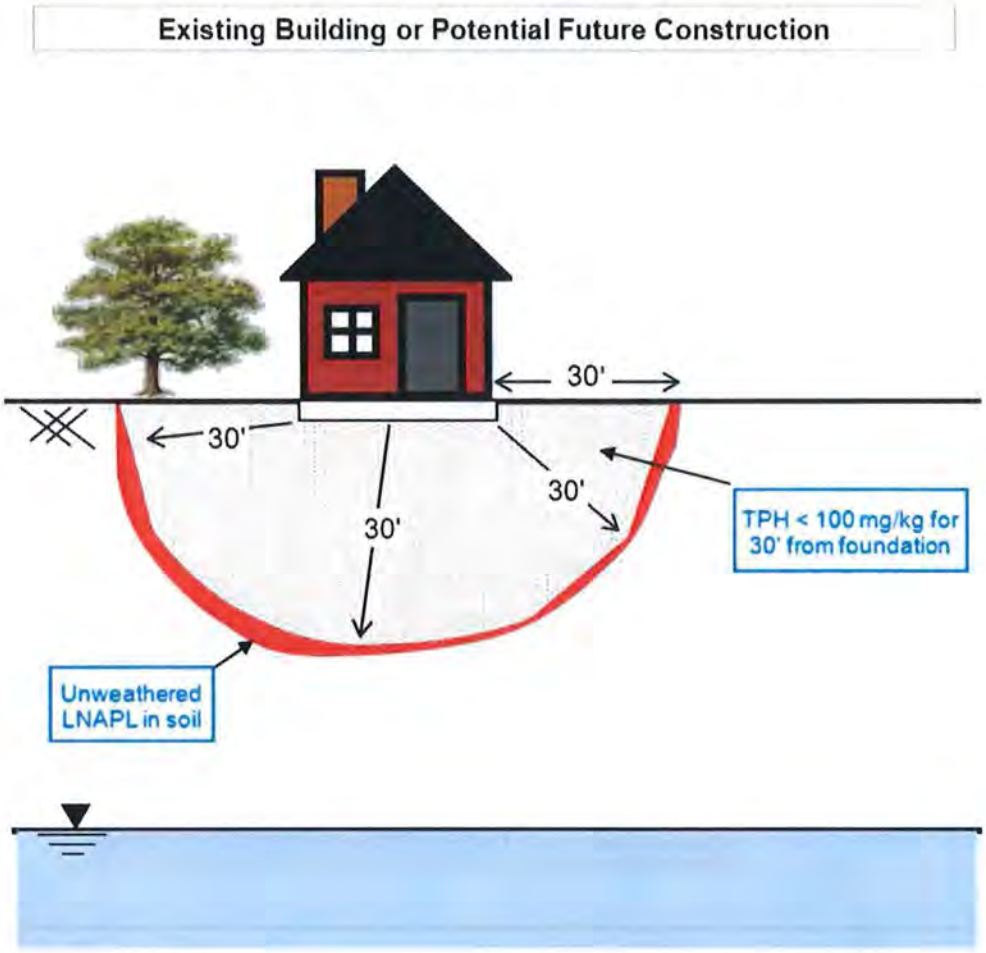
1. The bioattenuation zone shall be a continuous zone that provides a separation of at least 30 feet vertically between the LNAPL in groundwater and the foundation of existing or potential buildings; and
2. Total TPH (TPH-g and TPH-d combined) are less than 100 mg/kg throughout the entire depth of the bioattenuation zone.

TPH = total petroleum hydrocarbons
TPH-g = total petroleum hydrocarbons as gasoline
TPH-d = total petroleum hydrocarbons as diesel

*As used in this context, unweathered LNAPL is generally understood to mean petroleum product that has not been subjected to significant volatilization or solubilization, and therefore has not lost a significant portion of its volatile or soluble constituents (e.g., comparable to recently dispensed fuel).

Appendix 2
Scenario 2: Unweathered* LNAPL in Soil

Required Characteristics of the Bioattenuation Zone



Required Characteristics of the Bioattenuation Zone:

1. The bioattenuation zone shall be a continuous zone that provides a separation of at least 30 feet both laterally and vertically between the LNAPL in soil and the foundation of existing or potential buildings, and
2. Total TPH (TPH-g and TPH-d combined) are less than 100 mg/kg throughout the entire lateral and vertical extent of the bioattenuation zone.

*As used in this context, unweathered LNAPL is generally understood to mean petroleum product that has not been subjected to significant volatilization or solubilization, and therefore has not lost a significant portion of its volatile or soluble constituents (e.g., comparable to recently dispensed fuel).

Appendix 3
Scenario 3 - Dissolved Phase Benzene Concentrations in Groundwater
(Low concentration groundwater scenarios with or without oxygen data)
(1 of 2)

Defining the Bioattenuation Zone Without Oxygen Data or Oxygen < 4%

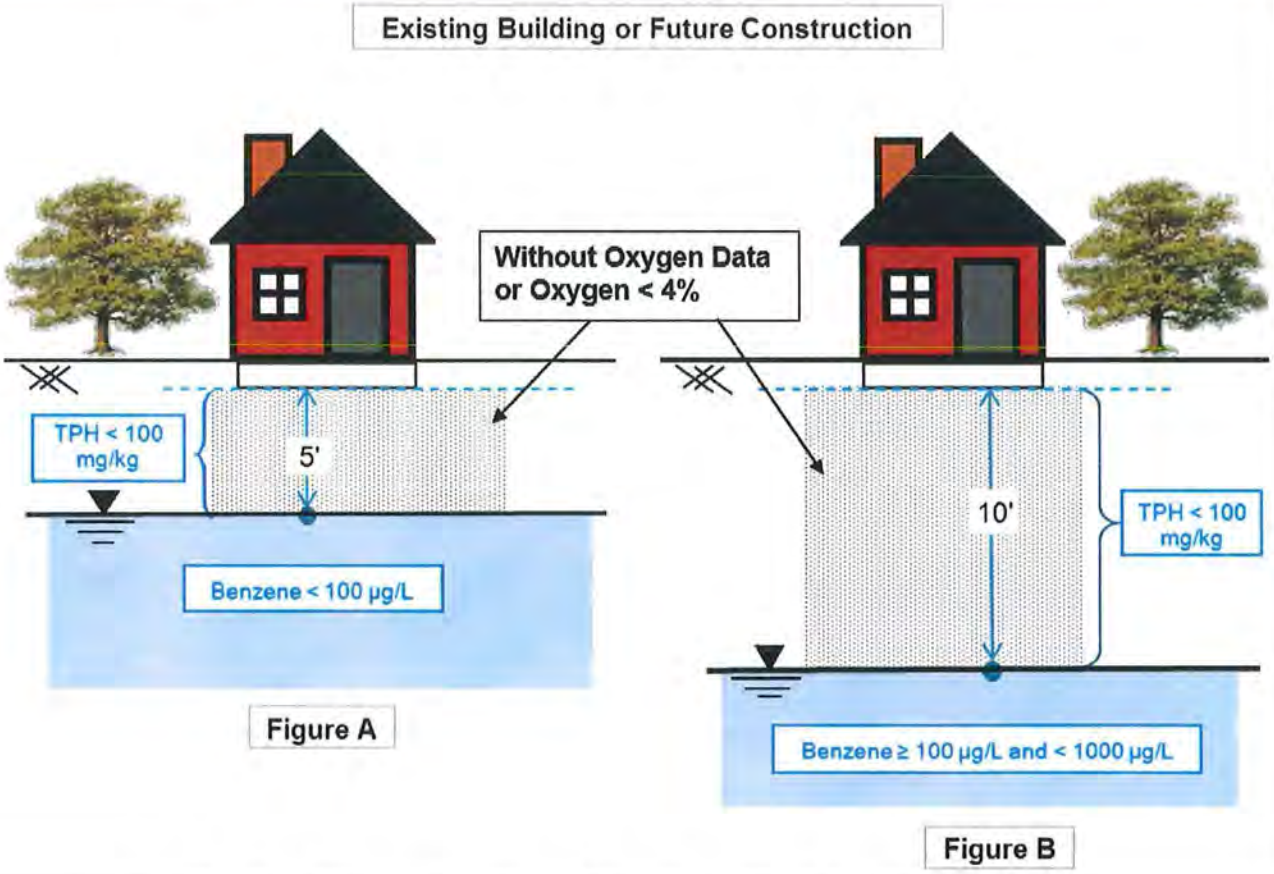


Figure A

Figure B

Required Characteristics of Bioattenuation Zone for Sites Without Oxygen Data or Where Oxygen is < 4%

Figure A: 1) Where benzene concentrations are less than 100 µg/L, the bioattenuation zone:

a) Shall be a continuous zone that provides a separation of at least 5 feet vertically between the dissolved phase Benzene and the foundation of existing or potential buildings; and
b) Contain Total TPH (TPH-g and TPH-d combined) less than 100 mg/kg throughout the entire depth of the bioattenuation zone.

Figure B: 1) Where benzene concentrations are equal to or greater than 100 µg/L but less than 1000 µg/L, the bioattenuation zone:

a) Shall be a continuous zone that provides a separation of at least 10 feet vertically between the dissolved phase Benzene and the foundation of existing or potential buildings; and b) Contain Total TPH (TPH-g and TPH-d combined) less than 100 mg/kg throughout the entire depth of the bioattenuation zone.

Appendix 3
Scenario 3 - Dissolved Phase Benzene Concentrations in Groundwater
(Low concentration groundwater scenarios with or without oxygen data)
(2 of 2)

Defining the Bioattenuation Zone With Oxygen ≥ 4%

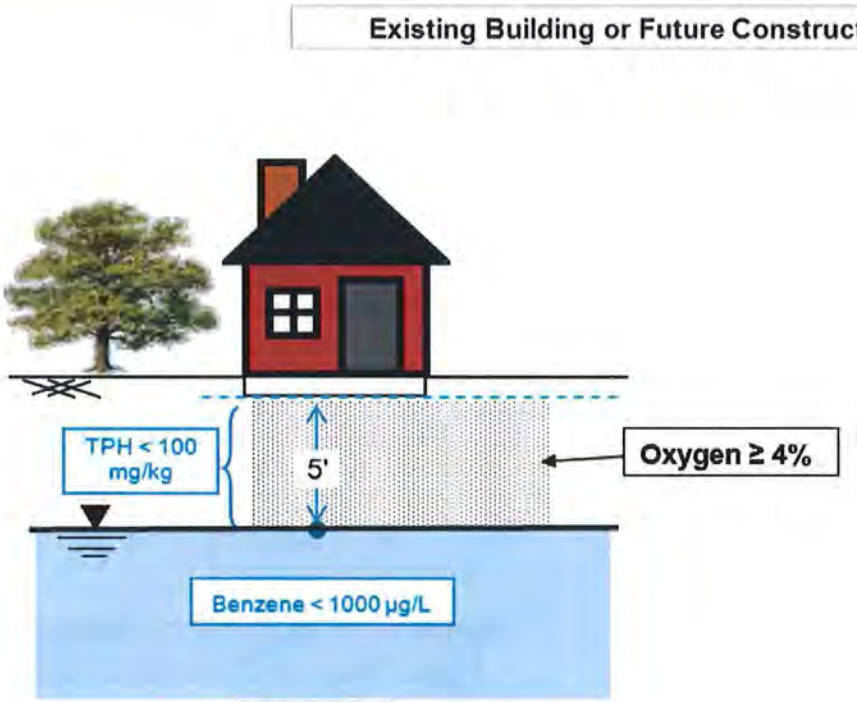


Figure C

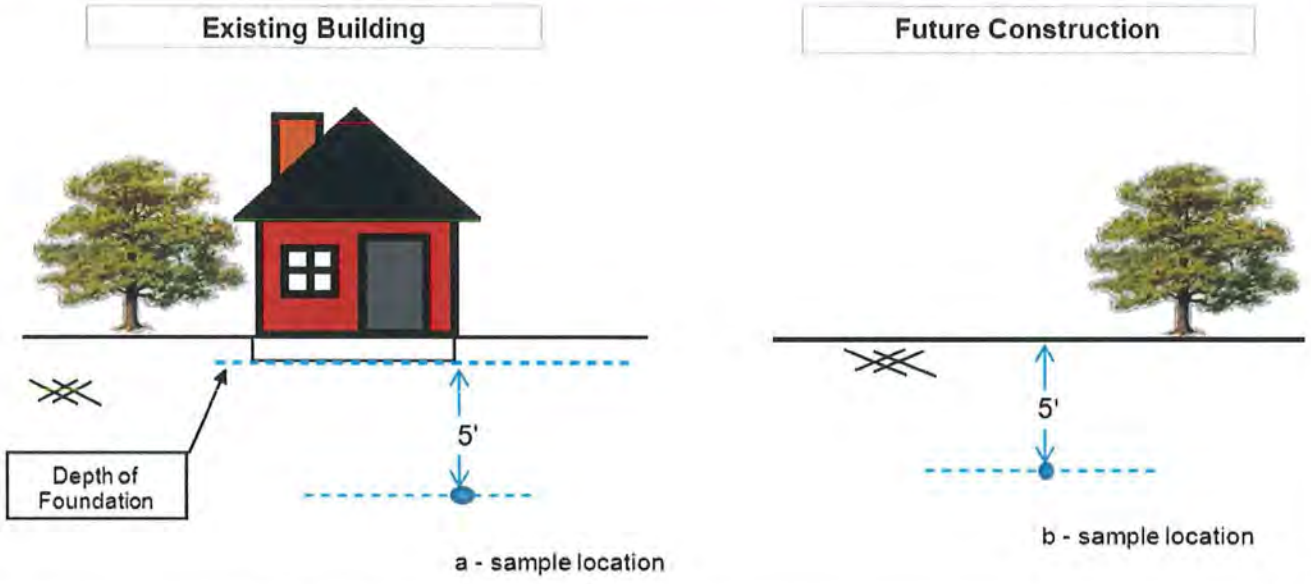
Required Characteristics of Bioattenuation Zone for Sites With Oxygen ≥ 4%

Where benzene concentrations are less than 1000 µg/L, the bioattenuation zone:

1. Shall be a continuous zone that provides a separation of least 5 feet vertically between the dissolved phase Benzene and the foundation of existing or potential buildings; and
2. Contain Total TPH (TPH-g and TPH-d combined) less than 100 mg/kg throughout the entire depth of the bioattenuation zone.

Appendix 4
Scenario 4 - Direct Measurement of Soil Gas Concentrations
(1 of 2)

Soil Gas Sampling – No Bioattenuation Zone



The criteria in the table below apply unless the requirements for a bioattenuation zone, established below, are satisfied.

When applying the criteria below, the soil gas sample must be obtained from the following locations:

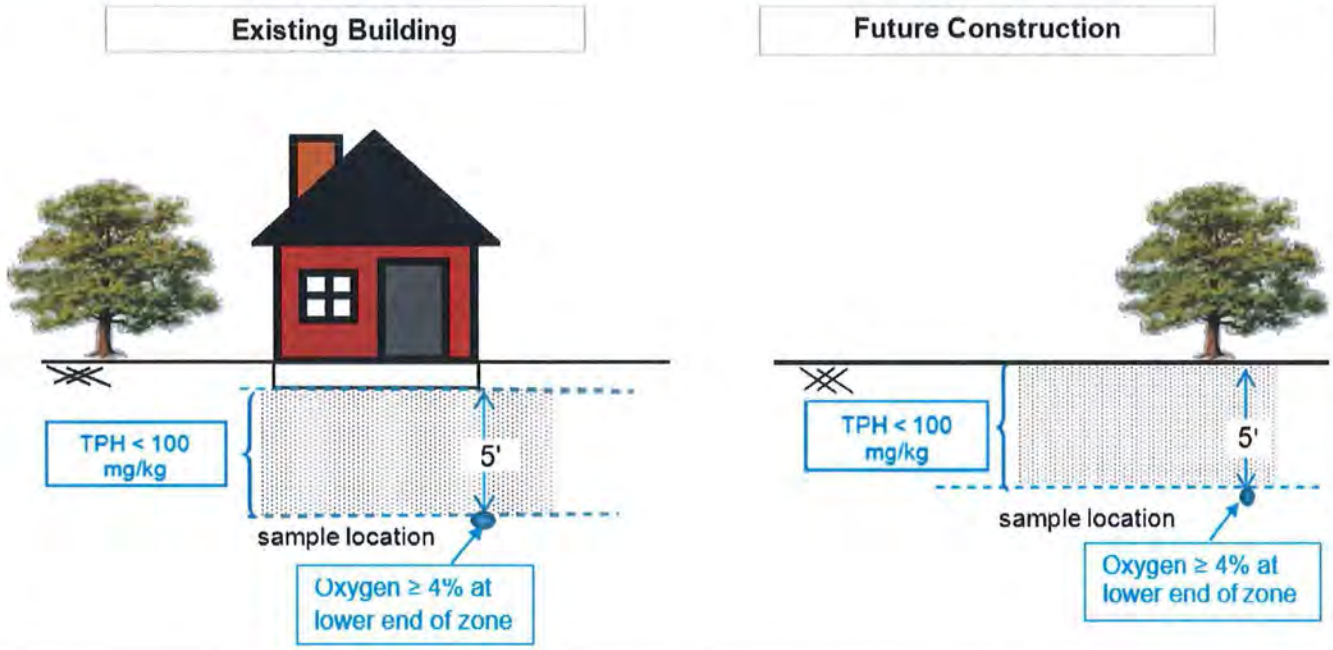
a. Beneath or adjacent to an existing building: The soil gas sample shall be collected at least five feet below the bottom of the building foundation.
b. Future construction: The soil gas sample shall be collected from at least five feet below ground surface.

Soil Gas Criteria (µg/m^3)		
	No Bioattenuation Zone*	
	Residential	Commercial
Constituent	Soil Gas Concentration (µg/m^3)	
Benzene	< 85	< 280
Ethylbenzene	<1,100	<3,600
Naphthalene	< 93	< 310

*For the no bioattenuation zone, the screening criteria are same as the California Human Health Screening Levels (CHHSLs) with engineered fill below sub-slab.

Appendix 4
Scenario 4 - Direct Measurement of Soil Gas Concentrations
(2 of 2)

Soil Gas Sampling – With Bioattenuation Zone



The criteria in the table below apply if the following requirements for a biattenuation zone are satisfied:

1. There is a minimum of five vertical feet of soil between the soil vapor measurement and the foundation of an existing building or ground surface of future construction.
2. TPH (TPHg + TPHd) is less than 100 mg/kg (measured in at least two depths within the five-foot zone.)
3. Oxygen is greater than or equal to four percent measured at the bottom of the five-foot zone.

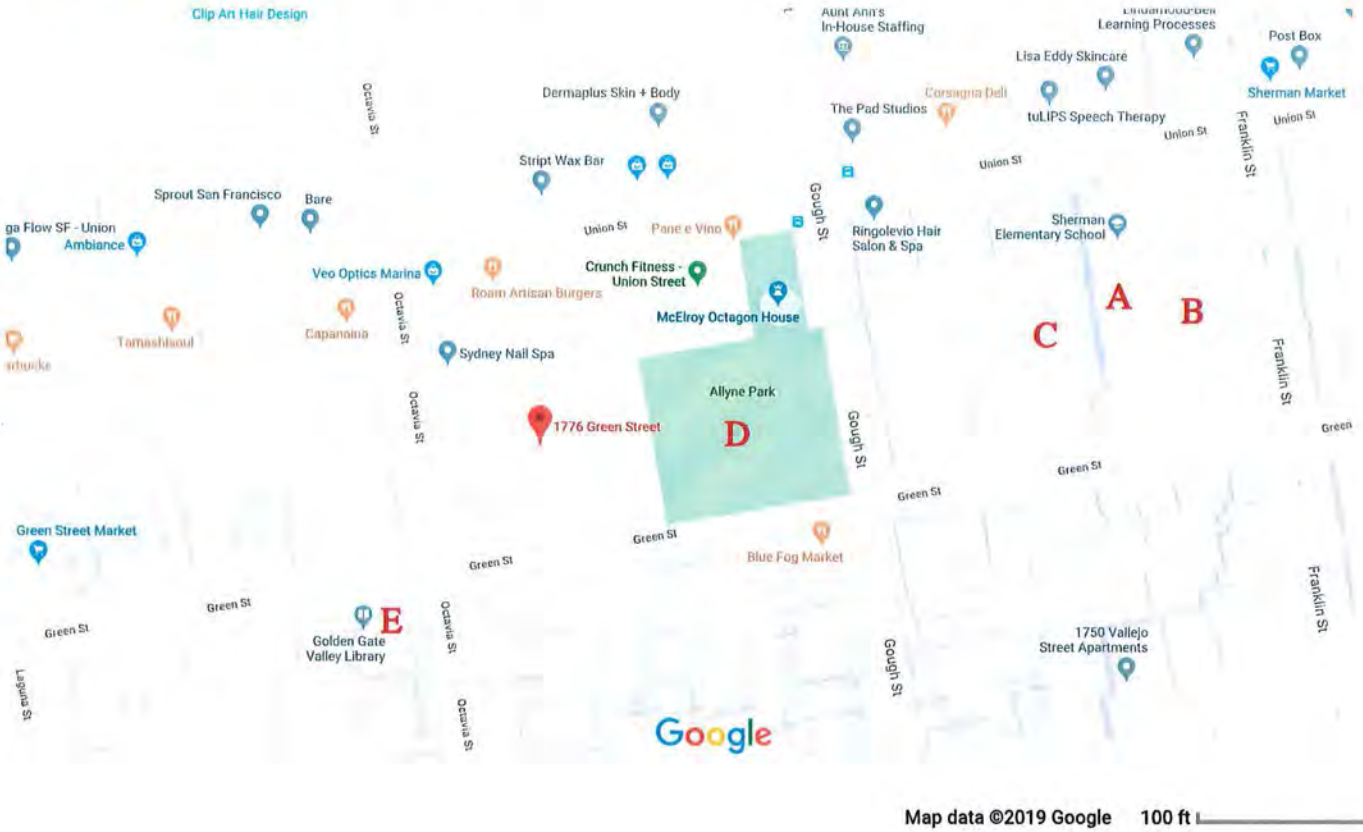
Soil Gas Criteria ($\mu g/m^3$)		
	With Bioattenuation Zone**	
	Residential	Commercial
Constituent	Soil Gas Concentration ($\mu g/m^3$)	
Benzene	< 85,000	< 280,000
Ethylbenzene	<1,100,000	<3,600,000
Naphthalene	< 93,000	< 310,000

**A 1000-fold bioattenuation of petroleum vapors is assumed for the bioattenuation zone.

EXHIBIT H

Google Maps 1776 Green St

EXHIBIT A - NEIGHBORHOOD MAP



Map data ©2019 Google 100 ft

A - Sherman Elementary School
B - Sherman Elementary School (Outdoor Classroom and Edible Garden)
C - Sherman Elementary School (Outdoor Playground)
D - Allyne Park
E - Golden Gate Valley Libary

EXHIBIT I

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November 6, 2019

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RE: 1776 Green Street (2018-011430CUA)

Honorable Members of the Planning Commission:

I am writing on behalf of The Hollow Revolution ("THoR"), an association of neighbors living near 1776 Green Street, San Francisco, California, concerning certain applications filed with the Planning Department to convert the existing automotive garage at 1776 Green Street (built in 1914) to a new residential development consisting of five market rate three-bedroom units with a two-story addition and street level commercial space, and an accessory dwelling unit ("Project").

I. Introduction

The proposed Project would be a relatively large residential development on a quiet street. THoR wants to ensure that any new development at 1776 Green Street:

1. Does not require legal work-arounds like variances and conditional use permits but rather is consistent with San Francisco's general plan for open space, setbacks, density, massing and height;

2. Properly handles and disposes of all hazardous materials prior to any demolition or construction work consistent with San Francisco's Health Code Article 22A ("Maher Ordinance");

3. Maintains and protects the existing building's historic character; and,

4. Fully complies with the California Environmental Quality Act ("CEQA"). In particular, as discussed below, the Project site is listed on the State of California's Cortese list of contaminated sites, due to over 100 years of use as an automobile repair garage. According to the Cortese listing the site contains extremely high levels of contamination, including highly toxic and cancer causing chemicals, in some cases dozens or hundreds of times above environmental screening levels. The contamination remains in the soil. The Project proposes to excavate over 1300 cubic yards of this contaminated soil. Under CEQA, a site on the Cortese list may not be exempted from CEQA. Therefore, the CEQA exemption must be rescinded and CEQA review must be conducted before any Project approvals are considered.

II. Project Description

The Staff Report for the Planning Commission hearing describes the Project as:

Request for Conditional Use Authorization pursuant to Planning Code Sections 209.1 and 303 to permit a two-story vertical addition and a change of use from an automobile repair garage to a residential building containing five new residential units within a RH-2 (Residential-House, Two-Family) Zoning District and 40-X Height and Bulk District. The Conditional Use Authorization request is to exceed the principally permitted dwelling unit density limit for the respective zoning district.

In addition to the five large units, the applicant also proposes an accessory dwelling unit ("ADU") of over 950 square feet, thus making the Project a six-unit building.

The Project includes a 1,369 square foot communal roof deck. The roof deck looks directly into the adjacent apartment building. The roof deck fencing and rail exceed the 40-foot height limit, as does the elevator penthouse (approximately 53 feet tall).

The applicant also seeks a variance from the requirement for a front and rear yard set-back. The required front-yard set-back is 11 feet and the required rear yard set-back is 34 feet. The Project includes no set back at all and intensifies a pre-existing non-complying use. The Project would exceed the two-unit density in the RH-2 district and would exceed the 40-foot height limit due to a roof deck and elevator penthouse.

The applicant proposes to construct extremely large, luxury units of more than 3000 square feet, each having 2 below-ground parking spaces – exceeding the 1.5 spaces allowed by the Planning Code Section 151.

The Project will require excavation of over 1300 cubic yards of highly contaminated soil due to the building's use for over one hundred years (1914-2018) as an automobile repair shop. During much of that time, there were almost no laws governing hazardous waste disposal, and it was common to simply dump chemicals down the drain or on the ground. In addition, the site contains four leaking underground storage tank sites, which have not been cleaned up. Contaminated soil will have to be excavated for the underground garage. The Project site is an "active" (not closed) toxic site, with contamination levels in some cases over one hundred times above environmental screening levels (ESLs). Soil contamination levels are far above levels deemed acceptable for residential use. There is no clean-up plan. The site is so contaminated that it is on the State of California's Cortese List. Since it is on the Cortese list, the Project may not be exempted from CEQA review. CEQA review is required to develop a thorough, enforceable clean-up plan to ensure clean-up to residential levels, in a manner that will safeguard neighbors, future residents of the Project, and construction workers.

III. Neighbors' Concerns

A. The Project Does not Qualify for a Variance from Open-Space Requirements, Roof Deck, or Parking

Rear Yard: The developer is requesting a variance in order to provide less rear yard and frontal set-back space than is legally required in San Francisco.[1] Neighbors understand that front setbacks may not be feasible due to the historic façade's at-sidewalk configuration. However, that limitation only reinforces the need for adequate rear yard open space. It appears the developer may be more interested in maximizing the number of units and each unit's size over providing City-mandated open space.

There appears to be no reason for the rear yard variance. The Project has ample space to create the required 34 feet of rear yard. Although the front façade of the building is historic and should not be moved, the rear of the building is not. If the rear yard variance is not granted, then the building would have ample open space in the rear – making the intrusive communal roof deck unnecessary.[2]

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[1] See application No. 2018-011430VAR.
[2] It may be appropriate to screen neighboring properties from the rear yard by creating or retaining a side wall.

Roof Deck: Although the staff report does not mention it, a variance is also required for the roof deck and elevator penthouse. The roof deck rails and fence extend above the 40 foot height limit by several feet, and the elevator penthouse extends to over 50 feet. The roof deck will create noise and invade the privacy of the adjacent apartment building. The findings for a variance cannot be made, so the roof deck should not be allowed.

Parking: The Code limits parking to 1.5 spaces per unit. Yet, the Project provides 2 parking spaces per unit (10 spaces). The Staff Report contends that the parking is pre-existing and therefore exempt from the Code requirement. This is false. The Project includes excavation of over 1000 cubic years of highly contaminated soil to expand the basement garage and create additional parking. The Project plans include excavation to expand the basement up to Green Street and lowering the floor by up to three feet. Thus, this is not pre-existing parking, but new parking. As such a variance is required but should not be granted. The site is well-served by public transit, and providing surplus parking discourages public transit usage.

In order to receive a variance, the developer must show special circumstances that would make it difficult for the project to meet the Planning Department's requirements. More specifically, variances may only be granted when the strict application of the zoning ordinance would deprive a property owner of privileges enjoyed by other property owners in the vicinity under the same zoning classification because of special circumstances applicable to the specific property such as size, shape, topography, location, or surroundings.[3] Gov. Code §65906; *Eskeland v. City of Del Mar*, 224 Cal.App.4th 936, 946 (2014); see also, *Topanga Ass'n v. County of Los Angeles*, 11 Cal.3d 506, 518 (1974) (written findings required).

For this determination, the San Francisco Zoning Code requires the zoning administrator to make five specific findings, based on the developer's evidence, that a variance is warranted. The findings are:

1. There are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other property or uses in the same class of district;

2. Based on the exceptional or extraordinary circumstances, the literal enforcement of the Code provisions would result in practical difficulty or unnecessary hardship not created by or attributable to the applicant or the owner of the property;

[3] Gov. Code §65906.

3. The variance is necessary for the preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district;

4. That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity; and,

5. That the granting of such variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the Master Plan.

The developer has the burden of showing, based on substantial evidence that it cannot comply with the Code.[4]

Given the size of the parcel and existing structure, it is hard to see how the plain and literal interpretation and enforcement of the Code would "result in practical difficulties, unnecessary hardships," or where denial of the variance "would be inconsistent with the general purpose of the Code." There does not appear to be anything particularly unusual about the configuration of the building or parcel justifying a deviation from the law. In fact, the most extraordinary aspect of the building is its historic character. The developer should not be granted a variance in order to spoil the only exceptional attribute of 1776 Green Street, especially because this detail was surely obvious at purchase.

The findings clearly cannot be made for the roof deck. The roof deck not only exceeds height limits, but it also violates the San Francisco Residential Design Guidelines, which provide: "Articulate the building to minimize impacts on light and ***privacy*** to adjacent properties." (RDGs, page 16). The roof deck will look directly into adjacent apartment windows and conflicts with the intent of the code.

Nor can the findings be made for the Parking over-supply. Since the developer is excavating to create additional underground parking, this is not pre-existing parking, contrary to the staff misrepresentation.

For these reasons, the Zoning Administrator should not grant a variance from the rear yard set-back requirement, should disallow the construction of the communal roof deck, and should limit parking to no more than 1.5 parking spaces per unit.

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[4] See, *Orinda Ass'n v. Bd. of Supervisors*, 182 Cal.App.3d 1145 (1986) (facts did not justify a variance since property was not substantially different from other parcels in the same zone).

B. The Project is Not Entitled to a Conditional Use Authorization

In order to construct 5 luxury residential units, the developer wants to exceed the dwelling density for the parcel to greater than the required one dwelling unit per 1,500 square feet in an RH-2 zone. To obtain a Conditional Use Authorization, the developer must show, among other things that:

- Existing housing and neighborhood character would be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;
- The City's supply of affordable housing would be preserved and enhanced;
- Landmarks and historic buildings would be preserved;
- Our parks and open space and our access to sunlight and vistas would be protected from development.[5]

The Planning Department's recommendation that the Commission approve the conditional use is unrelated to the actual criterial for authorizing a conditional use:

> "BASIS FOR RECOMMENDATON: The Project will add five dwelling units to the City's housing stock and **will feature the restoration of the historic resource's original façade, which had been significantly altered in a 1933 renovation.** As such, the Department finds the project to be necessary, desirable, and compatible with the surrounding neighborhood, and not to be detrimental to persons or adjacent properties in the vicinity."

The staff report provided no analysis that Green Street, the neighborhood or San Francisco generally would benefit from five over-the-top luxury residential units with a penthouse, elevator, roof deck and various balconies and additional decks all intruding upon existing neighbors' privacy, all at the expense of an historic resource. Instead, the Planning Department based its recommendation for conditional use on the building's historic nature, the very aspect that would be destroyed as a result of the proposed Project.

The developer chose to submit plans inconsistent with San Francisco's legal requirements, asking to expand a nonconforming use. Developers should endeavor to propose projects that conform to the law rather than presuming developments will receive a work-around from the City. Land use laws are based on important public interest considerations such as safety, affordability, livability, community character and diversity. There is no evidence this Project would enhance such considerations.

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[5] http://forms.sfplanning.org/CUA_Application.pdf citing relevant findings necessary for a conditional use.

As proposed, the Project would not preserve an historic resource in a way that would respect the character and structure of the building. To the contrary, the Project will destroy the entire historic building, except for the façade. One need only review the developer's own plans for the front façade to see it would negatively transform and diminish 1776 Green. Likewise, the proposed Project would not contribute in any way to affordable housing in the City or encourage economic diversity other than to entice those wealthy enough to afford a penthouse complete with elevator and private decks.

Finally, the CUA recommendation was based on an incorrect reference. The HRER was not concerned about the 1933 alteration.[6] Instead, the HRER found that adding the pilasters back to the façade was ***not*** considered necessary restoration to maintaining 1776 Green's historic nature.[7] So the idea that a CUA authorization would be based on the 1933 alternation makes no sense. More to the point, there are countless ways the building could be developed that would not result in such significant alterations to the building's interior and front façade, and that would ***not*** require conditional use authorization or variances. In short, why would the treatment of the building's façade form the basis of a CUA approval?

It is the developer's burden to explain why the project cannot comply with existing law. Likewise, the City must assume the developer examined the Code requirements before purchasing the property and determined he could enjoy a reasonable return on his investment without any Code variances or conditional uses. Therefore, the development should comply with the law so that the City's broader public policy considerations are respected and implemented.

C. Hazardous Waste Considerations

The Project Site was used for over 100 years as an automobile repair garage – from 1914 to 2018. For most of that time, there were few if any environmental laws, and it was common to dispose of hazardous chemicals simply by dumping them down the drain or on the ground. The site contains four leaking underground storage tanks (LUSTs). While the tanks were removed in 2016, soil contamination was left in place. According to the developer's own environmental consultant, AllWest Environmental Consultants, "***The subject property currently is listed as an open leaking UST (LUST) case with the SFDPH and on the SWRCB Geotracker database.***" (Phase II Environmental Site Assessment ("Phase 2 ESA"), p. 3).[8] The project site is located on the City's Maher map of contaminated sites and the State's Cortese List of contaminated sites (Geotracker).

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[6] October 30, 2019 HRER at p.4.
[7] Id.
[8] No. 2018-011430PRJ.

According to AllWest, the Project would involve excavation of approximately 1,315 cubic yards of soil. (Phase 2 ESA, p..6).

> According to the Phase 2 ESA:
>
> Concentrations of TPH-g, TPH-d, benzene, ethylbenzene, toluene, xylenes and naphthalene were detected at maximum respective concentrations of 19,000 milligrams per kilogram (mg/Kg), 1,200 mg/Kg, 94 mg/Kg, 190 mg/Kg, 570 mg/Kg, 1,000 mg/kg and 63 mg/Kg; above their applicable San Francisco Regional Water Quality Control Board (SFRWQCB) Environmental Screening Levels (ELSs) in soil samples collected from borings B-3 and B-5 at depths between approximately 14.5 feet bgs and 39.5 feet bgs.

(Phase 3 ESA, p. 4).

Some of these levels are dozens or even hundreds of times above the relevant environmental screen levels. For example, total petroleum hydrocarbons (TPH) was found on the site at levels up to 2,300 mg/Kg (parts per million or ppm). The ESL is 100 ppm. (San Francisco DPH Phase II Assessment Work Plan Request, p. 3). Benzene (a known human carcinogen) is on the site at levels of .87 ppm twenty times above the ESL of 0.04 ppm. Xylene is on the site at levels up to 198 ppm, 86 times above the ESL of 2.3 ppm. Naphthalene has been detected in soil at 44.2 ppm, **1,473** times above the ESL of 0.03 ppm. There is no question that the levels of soil contamination are of serious concern to neighbors, future residents of the Project, and construction workers.

Under San Francisco's Health Code Article 22A, the "Maher Ordinance," the San Francisco Department of Public Health regulates hazardous substances in soil and groundwater at properties with industrial use histories. Under the Maher Ordinance, the developer must provide to the City:

1. A site history to show whether there is a record of hazardous substances in the soil or ground water at the site.
2. If there is evidence of contamination, a work plan for a subsurface investigation must be submitted to the Director of Health.
3. If the subsurface investigation report indicates that soil or groundwater samples have hazardous substances present, the developer must submit a site mitigation plan describing handling, management and mitigation of the contamination.
4. A final project report must contain a site mitigation plan and describe implementation and material disposal documentation. The Director then

provides a notification that the applicant has completed and complied with Article 22A.

THoR is concerned about dispersal of heavy metals such as lead, solvents, asbestos and other airborne hazardous materials during demolition and project construction. Without proper identification and a City-approved remediation plan, workers, future residents, and neighbors may be exposed to these chemicals through inhalation and dermal contact. We strongly urge the City to ensure full oversight over this process.

As discussed below, due to the extreme soil contamination, the Project may not be exempted from CEQA review. CEQA review is required to ensure that an adequate clean-up plan is developed and to ensure that clean-up is conducted subject to enforceable measures to residential standards. No such clean-up plan has been developed.

E. California Environmental Quality Act (CEQA).

The City contends that the Project is exempt entirely from all CEQA review based on two separate CEQA exemptions: Class 1 and Class 3. Class 1 is for "Existing Facilities" exemption, and Class 3 is for "New construction or conversion of small structures (CEQA Guidelines, Section 15303)." Neither applies on its face. Even if the exemptions arguably applied, the Project may not be exempted from CEQA because it is on the Cortese list of contaminated sites, and the Project may adversely affect an historic resource.

The Class 1 exemption is commonly known as the "pre-existing" facility exemption. It does not apply on its face. The project involves almost entirely destroying the existing building and replacing it with an entirely new structure – except for the façade. There will be no "pre-existing" facility. The exemption is also limited to "small structures" of less than 10,000 square feet. Since the building is over 12,000 square feet, the exemption does not apply.

The Class 3 exemption is limited to buildings with a total square footage of less than 10,000 square feet. Since the Project is over 12,000 square feet, the exemption does not apply.

The Staff Report asks the Commission to approve the Project in total, including an exemption under CEQA,[9] despite evidence that the Project is not eligible for a categorical exemption. The CEQA statute provides that if a project may cause a substantial adverse

[9] 2018-011430ENV.

change in the significance of a historical resource, that project shall not be exempted from CEQA review.[10] Categorical exemptions are allowed for certain classes of activities that can be shown not to have significant effects on the environment.[11] Public agencies utilizing CEQA exemptions must support their determination that a particular project is exempt with substantial evidence that support each element of the exemption.[12] A court will reverse an agency's use of an exemption if the court finds evidence a project may have an adverse impact on the environment.[13]

1. The Project May Not Be Exempted from CEQA Because it is on the Cortese List of Contaminated Sites.

As discussed above, the site is so heavily contaminated with toxic chemicals, that it is listed as an active contaminated site on the State of California's Cortese List of contaminated sites. For this reason, the Project may not be exempted from CEQA review.

A categorical exemption "shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code." 14 CCR §15300.2(e) (emphasis added); PRC § 21084(c) ("No project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code shall be exempted from this division pursuant to subdivision (a)[categorical exemptions]."). "The provisions in Government Code Section 65962.5 are commonly referred to as the 'Cortese List' ... The list, or a site's presence on the list, has bearing on the local permitting process as well as on compliance with the California Environmental Quality Act (CEQA)." A Cortese listing can be effected for "underground storage tanks for which an unauthorized release report is filed pursuant to Section 25295 of the Health and Safety Code." Govt. Code § 65962.5(c)(1). The GeoTracker list is one of the lists in the Cortese List.

The Project site is listed as an active, open site under GeoTracker due to its extensive soil contamination which has not been remediated:

https://geotracker.waterboards.ca.gov/profile_report?global_id=T10000008988

The GeoTracker listing notes extensive soil contamination: MW1 had 17,000 ppb TPH-gas, 3,700 ppb TPH diesel, and 570 ppb Benzene. Soil boring B3 next to MW1 had TPHg at 32,000 ppb, TPHd at 2,500 ppb and Benzene at 4,500 ppb.

Since the Project site is on the Cortese list, the City may not exempt the Project from CEQA review. CEQA review is required to analyze the soil contamination, to develop a comprehensive clean-up plan to residential standards, and to ensure that

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[10] CEQA § 21084.1, CEQA Guidelines 15300.2(f).
[11] CEQA § 21084(a).
[12] CEQA § 21168.5.
[13] *Dunn Edwards Corp. v. Bay Area Air Quality Management Dist.* (1992) 9 Cal.App.4th 644, 656.

neighbors are not exposed to toxic chemicals during clean-up and excavation. CEQA will ensure that the clean-up plan is adequate, and enforceable. See, *McQueen v. Mid-Peninsula Board*, 202 Cal.App.3d 1136, 1149, ("the known existence of.....hazardous wastes on property to be acquired is an unusual circumstance threatening the environment" and the project may not be exempted from CEQA review); *Association for a Cleaner Environment v. Yosemite Comm. College*, 110 Cal.App.4th 629 (2004) (presence of hazardous materials makes CEQA exemption improper).

2. The Project May not be Exempted from CEQA Because it will Adversely Affect an Historic Resource.

Because the Project involves largely destroying an historic building, the Project may not be exempted from CEQA review. Pub. Res. Code §21084.1.

It is undisputed that 1776 Green Street is an historic resource.[14] The building was constructed in 1914 by owner and builder Sven J. Sterner as an automotive garage in the Classical Revival style. It is a one-story-over-basement light industrial reinforced concrete structure with a mezzanine level that occupies the entire lot area. The facade design is an example of the "station" typology of garage facades, displaying a symmetrical design with a large arched opening centered beneath a gabled parapet with a molded cornice and eave returns. The property features rusticated stucco siding throughout the primary facade with a wide central garage entrance flanked by a secondary garage door at the east (right) bay. Fenestration within the arched openings features wood casement windows with divided lites with solid spandrels below. A trio of casement windows sits above the textured stucco bulkhead on the west (left) bay at the ground floor. Roll-up metal garage doors span the central and eastern (right) openings. Based on historic photographs and a limited permit history, the building appears to have retained a high degree of integrity since a 1933 alteration, which removed pilasters from the central arch to allow a wider garage opening.[15]

The surrounding neighborhood consists of a mix of multi- and single-family homes constructed between 1890s and 1950s designed in various styles, with a majority constructed prior to the Great Depression in 1929.[16] The neighborhood refreshingly lacks large, new boxy construction projects so prevalent around San Francisco now. Nearby local landmarks include the Octagon House at 2645 Gough Street and the Burr House at 1772 Vallejo Street, and a majority of the residences on the south side of Green Street were included in the 1976 survey.[17]

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[14] The building is eligible listing in the California Register of Historical Resources, HRER at p. 1 (December 5, 2019)
[15] December 2018 HRER at p. 1.
[1616] Id. at p. 2.
[17] December 2018 HRER at p. 2.

To assist with CEQA compliance for the protection of historic resources, San Francisco adopted Preservation Bulletin No. 16 (the "Bulletin"). That Bulletin sets out a two-step process for evaluating the potential for proposed projects to impact historical resources. First, a Preservation Planner determines whether the property is an historical resource as defined by CEQA Guidelines Section 15064.5(a)(3); and, second, if the property is an historical resource, it then evaluates whether the proposed action or project would cause a "substantial adverse change" to the historical resource.[18]

CEQA defines a "substantial adverse change" as the **physical demolition, destruction**, relocation or **alteration** of the historical resource or its immediate surroundings such that the significance of the historical resource would be materially impaired. CEQA goes on to define "materially impaired" as work that materially alters, in an adverse manner, those physical characteristics that convey the resource's historical significance and justify its inclusion in the California Register of Historic Places, a local register of historical resources, or an historical resource survey.[19] There can be no serious question that the Project involves "physical demolition," "destruction," or "alteration" of the historic resource.

The Planning Commission must not approve the project without conducting a full CEQA analysis on a range of alternatives and mitigation measures that would lessen the identified impacts on this historic resource. A CEQA document would also give the public and decision makers an opportunity to better respond to staff's analysis which contained a number of errors and unsupported recommendations.

First, the HRER contains ill-conceived recommendations: "the work on the primary facade—the reconstruction of the pilasters, the installation of recessed panels, the new glazing—will be based on historical architectural plans that show the building's appearance prior to the widening of the vehicular entry in 1933."[20] Never has the adage "a picture is worth a thousand words" been more apt; but in this case, the developer's own rendition says it all.[21] One need only view the developer's proposed changes to the façade of 1776 Green Street to see that the alterations would completely destroy all evidence of the buildings historic aspect and character; instead turning it into something entirely different: a garden variety glass-fronted modern structure.

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[18] San Francisco Preservation Bulletin No. 16, at p. 2.
[19] CEQA Guidelines 15064.5(b), Bulletin 16, p. 9.
[20] October 30, HRER at p. 3.
[21] See, Executive Summary Conditional Use Authorization at exhibit F, Project Sponsor Brief (October 30, 2019).

Second, and related, the October 30, 2019 HRER erred by asserting that the "change of use will not require significant changes to the subject building's character-defining features, which are primarily on the front facade, and will in some ways enhance the building's ability to convey its significance through the restoration of specific facade features."[22] After viewing the developer's plans, the idea that the proposed changes would somehow restore the front façade's character-defining features defies credulity. The developer's proposal would entirely transform the look and character of the façade. Under CEQA, this drastic alteration of an historic resource is a significant impact that would materially impair the historic significance of the property. The City must prepare a CEQA document that proposes feasible Project alternatives and mitigation measures to lessen this impact.

Third, the HRER focused on "rehabilitating" the building, which includes gutting the interior, removing the historic wood truss system, creating a "penthouse" with an elevator and roof deck.[23] This cannot be what historic preservation experts have in mind when advocating for protecting our architectural heritage. 1776 Green Street requires careful preservation and restoration, not heavy handed "rehabilitation" designed to completely transform its form and appearance into modern luxury apartments inside and out.

Fourth, the HRER found that the developer's plans did not meet the Secretary of the Interior's Standards for Rehabilitation.[24] The historic analysis focused primarily on the interior's existing wood truss system as the most salient character defining feature.[25] That aspect of the property must be preserved. The proposed Project would destroy the wooden truss system to accommodate five luxury residences. The developer could retain many aspects of the building's interior by proposing a single-story use such as one or two residential units.

Lastly, as mentioned in Section III, the staff report recommending approval mischaracterized the HRER's findings. According to the staff report, the Project "will feature the restoration of the historic resource's original façade, which had been significantly altered in a 1933 renovation. As such, the Department finds the project to be necessary, desirable, and compatible with the surrounding neighborhood, and not to be detrimental to persons or adjacent properties in the vicinity."[26] The HRER made no finding that reinstalling the pilasters would return the building to its historic significance. Instead, the HRER asserted that adding the pilasters back would have no affect: "The subject building's only major alteration was the 1933 removal of the pilasters and widening of the

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[22] October 30, 2019 HRER at pp. 2-3.
[23] October 30, HRER at p. 2.
[24] October 30, 2019 HRER at p. 2.
[25] October 30, 2019 HRER at p. 3.
[26] Executive Summary Conditional Use Authorization at p. 2.

vehicular entry. This alteration has not acquired significance in its own right; thus, the proposed reversal of this alteration and restoration of the original pilasters will not diminish the subject building's historic significance." In other words, putting the pilasters back on the façade cannot be the justification for approving the Project and providing conditional use authorization.

In summary, the complete transformation of the building's façade and the gutting of its interior is a potential significant impact under CEQA. The Planning Department must prepare a CEQA document analyzing alternatives and mitigation measures that would protect this historic resource.

IV. Conclusion

As the foregoing shows, the Project is entitled to neither a conditional use authorization, nor a variance, nor a CEQA exemption. Given evidence of potentially significant impacts on an historic resource and on-site hazardous waste, the Planning Department must prepare a CEQA document that analyzes these issues and proposes alternatives and feasible measures to mitigate such impacts. The public must be afforded to opportunity to assess the project in full. Thank you for your consideration of our comments and concerns. Please do not hesitate to contact me with any questions about this letter.

Sincerely,

Richard Toshiyuki Drury
LOZEAU DRURY LLP

ATTACHMENT A

STATE WATER RESOURCES CONTROL BOARD
GEOTRACKER

CASE SUMMARY

REPORT DATE
2/12/2016

HAZARDOUS MATERIAL INCIDENT REPORT FILED WITH OES?

I. REPORTED BY -
UNKNOWN

CREATED BY
UNKNOWN

III. SITE LOCATION

FACILITY NAME
1776 Green Street, LLC

FACILITY ID

FACILITY ADDRESS
1776 Green Street
San Francisco, CA 94123
SAN FRANCISCO COUNTY

ORIENTATION OF SITE TO STREET

CROSS STREET

V. SUBSTANCES RELEASED / CONTAMINANT(S) OF CONCERN
GASOLINE

VI. DISCOVERY/ABATEMENT

DATE DISCHARGE BEGAN

DATE DISCOVERED	HOW DISCOVERED	DESCRIPTION
2/12/2016	Tank Closure	Tank Closure

DATE STOPPED	STOP METHOD	DESCRIPTION
2/12/2016		Remove Tank

VII. SOURCE/CAUSE

SOURCE OF DISCHARGE
Tank

CAUSE OF DISCHARGE
Corrosion

DISCHARGE DESCRIPTION
Unknown

VIII. CASE TYPE
CASE TYPE

IX. REMEDIAL ACTION
NO REMEDIAL ACTIONS ENTERED

X. GENERAL COMMENTS

MW1 had 17,000 ppb TPH-gas, 3,700 ppb TPH diesel, and 570 ppb Benzene. Soil boring B3 next to MW1 had TPHg at 32,000 ppb, TPHd at 2,500 ppb and Benzene at 4,500 ppb.

9/26/19-Reviewed groundwater monitoring report from August 1st of 2019. MW 1 had TPHg at 1,300 pbb & benzene at 130 ppb.

XI. CERTIFICATION

I HEREBY CERTIFY THAT THE INFORMATION REPORTED HEREIN IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

XII. REGULATORY USE ONLY

LOCAL AGENCY CASE NUMBER
12076

REGIONAL BOARD CASE NUMBER

LOCAL AGENCY

CONTACT NAME	INITIALS	ORGANIZATION NAME	EMAIL ADDRESS
MAMDOUH AWWAD	MA	SAN FRANCISCO COUNTY LOP	mamdouh.awwad@sfdph.org

ADDRESS
1390 MARKET STREET, #210
SAN FRANCISCO, CA 94102

CONTACT DESCRIPTION

PHONE TYPE	PHONE NUMBER	EXTENSION
Business	(415)-252-3927	

REGIONAL BOARD

UNKNOWN

ATTACHMENT B

SWAPE Technical Consultation, Data Analysis and Litigation Support for the Environment

2656 29th Street, Suite 201
Santa Monica, CA 90405

Matt Hagemann, P.G, C.Hg.
(949) 887-9013
mhagemann@swape.com

November 6, 2019

Richard Drury
Lozeau Drury LLP
410 12th Street, Suite 250
Oakland, CA 94607

Subject: 1776 Green Street Project, San Francisco, California

Dear Mr. Drury:

I have reviewed the July 31, 2018 Maher Ordinance application for 1776 Green Street, San Francisco, California. The proposed project is to construct a building with five residential units and one commercial unit within an existing building. The new building will be four stories high and will be situated atop a one-level below-grade parking garage.

The proposed project site, 1776 Green Street, was used by automotive repair purposes between 1914 and 2018.[1] The proposed project site is listed at the California Geotracker website as an open case where the following levels of contamination have been documented[2]: (1) groundwater containing total petroleum hydrocarbons (TPH) gas at 17,000 ppb, TPH diesel at 3,700 ppb, and benzene at 570 ppb and; (2) soil containing TPHg at 32,000 ppb, TPHd at 2,500 ppb and benzene at 4,500 ppb. The project site is under active oversight by the San Francisco Department of Public Health. The San Francisco Department of Public Health approved a workplan for additional soil and groundwater investigation on August 8, 2019. Exposure to TPH compounds can cause developmental effects along with hematological, liver immunological, and renal effects.[3] Benzene is a known human carcinogen.[4]

The City of San Francisco is proposing to exempt the project from the CEQA process. CEQA requires the identification of Cortese-listed sites, such as the 1776 Green Street project site, when evaluating project

[1] Phase II Site investigation Workplan, 1176 Green Street, San Francisco, AllWest Environmental, January 18, 2019
[2] https://geotracker.waterboards.ca.gov/profile_report?global_id=T10000008988
[3] https://www.atsdr.cdc.gov/substances/toxsubstance.asp?toxid=75
[4] https://www.atsdr.cdc.gov/toxfaqs/tf.asp?id=38&tid=14

impacts. Projects that are included on the Cortese List may result in significant impacts from hazardous materials unless assessment and clean-up has been completed. The project should be considered under CEQA to identify the 1776 Green Street site as a Cortese List site. A CEQA process should be undertaken to show that all hazardous waste has been assessed and remediated to the satisfaction of the San Francisco Department of Public Health. (See Citizens for Responsible Equitable Environmental Development v. City of Chula Vista, 197 Cal. App. 4th 327 (Cal. App. 4th Dist. 2011.)

Sincerely,

Matt Hagemann, P.G., C.Hg.

ATTACHMENT C

AllWest Environmental

PHASE II SITE ASSESSMENT WORK PLAN

1776 Green Street, San Francisco, CA 94123
City of San Francisco Department of Public Health,
EHB-SAM Case Number: SMED 1751
LOP Site Number: 12076
GeoTracker Facility Global ID #T10000008988

PREPARED FOR:

1776 Green Street, LLC
c/o Local Capital Group
The Presidio – 572 Ruger St, Ste. A
San Francisco, California 94129

ALLWEST PROJECT 18086.23
January 18, 2019

PREPARED BY:

Samuel O. Calloway
Project Manager

CERTIFIED HYDROGEOLOGIST
LEONARD P. NILES
NO. HG 957
EXP. 3/31/20
STATE OF CALIFORNIA

REVIEWED BY:

Leonard P. Niles
Leonard P. Niles, PG, CHG
Senior Project Manager

2141 Mission Street, Suite 100 | San Francisco, CA 94110 | 415.391.2510
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AllWest Environmental | AllWest1.com

AllWest

AllWest

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AllWest

PHASE II SITE ASSESSMENT WORK PLAN

1776 Green Street, San Francisco, CA 94123
City of San Francisco Department of Public Health,
EHB-SAM Case Number: SMED 1751
LOP Site Number: 12076
GeoTracker Facility Global ID # T10000008988

I. INTRODUCTION

This workplan describes tasks to characterize subsurface conditions at the property referenced above ("the subject property", Figures 1 and 2). The scope of work addresses requirements by the City of San Francisco Department of Public Health (SFDPH) Environmental Health Branch, Site Assessment and Mitigation (EHB-SAM) for a Phase II Site Assessment Work Plan to be submitted prior to site renovation activities.

The subject property is located within the Expanded Maher Zone. Characterization of suspected fill material, native soil, soil gas and shallow groundwater is required in areas within the Expanded Maher Zone where at least 50 cubic yards of soil are planned to be removed, in accordance with procedures and analyses specified in the revised City of San Francisco Health Code (SFHC) Article 22A (Maher Ordinance).

The proposed work will be conducted with the approval and oversight of the SFDPH. Upon approval of the *Phase II Site Assessment Work Plan* by the SFDPH, the proposed scope of work will be implemented. Upon completion of the subsurface investigation, a *Phase II Site Assessment Report* will be submitted to the SFDPH. Contingent upon review of the *Phase II Site Assessment Report*, the SFDPH will require submittal of a *Site Mitigation Plan (SMP)* for the proposed development activities on the property.

This workplan presents the proposed subsurface investigation scope of work and briefly summarizes the site setting and background, including previous site investigations.

II. PROJECT BACKGROUND

A. Site Location and Description

The subject property is located in the Cow Hollow District, on the north side of Green Street between Octavia and Gough Streets, in the City of San Francisco. A site vicinity map is included as Figure 1.

The subject property is a rectangular parcel, comprising approximately 0.17 acres (7,422 square feet), developed with a single-story 12,450 square feet masonry/concrete light-industrial building with a basement parking garage and mezzanine completed in 1914.. The basement floor slab grade is

approximately 10 feet below the Green Street sidewalk grade. A site plan is included as Figure 2. The subject property is occupied by Jump, a bicycle rental firm.

B. Site Geology and Hydrogeology

The subject property slopes gently downwards towards the north, at an elevation of approximately 94 feet above mean seal level (msl).

A review of the USGS Note 36 California Geomorphic Provinces map, the property is located in the Coast Ranges geomorphic province of California. The coastline is uplifted, terraced and wave-cut. The Coast Ranges are composed of thick Mesozoic and Cenozoic sedimentary strata. The northern and southern ranges are separated by a depression containing the San Francisco Bay.

The northern Coast Ranges are dominated by the irregular, knobby landslide-topography of the Franciscan Complex. The eastern border is characterized by strike-ridges and valleys in Upper Mesozoic strata. In several areas, Franciscan rocks are overlain by volcanic cones and flows of the Quien Sabe, Sonoma and Clear Lake volcanic fields. The Coast Ranges is subparallel to the active San Andreas Fault. The San Andreas is more than 600 miles long, extending from Point Arena to the Gulf of California. West of the San Andreas is the Salinian Block, a granitic core extending from the southern extremity of the Coast Ranges to north of the Farallon Islands. Geologically, the area of the subject property is underlain by Mesozoic era Eugeosynclinal Deposits.

According to California's Groundwater Bulletin 118, the subject property is located in the San Francisco Bay Hydrologic Region and lies in the Marina Groundwater Basin (Basin No. 2-039). The Marina groundwater basin is located on the northern portion of the San Francisco Peninsula and is one of five basins in on the eastern side of a northwest trending bedrock ridge within the peninsula (Phillips, et al. 1993). The 220-acre groundwater basin consists of shallow unconsolidated alluvium underlain by less permeable bedrock within the watershed located north of Nob Hill and including most of the Presidio and Fort Point areas. Bedrock outcrops along much of the ridge form the eastern, southern and western basin boundaries.

The Marina Groundwater Basin 2-39 is listed in the State of California Regional Water Quality Control Board, San Francisco Region (SFRWQCB) Water Quality Control Plan (Basin Plan) date May 4, 2017, table 2-2 as having existing municipal and agricultural use and potential industrial and process use (SFRWQCB, 2017). However, the City of San Francisco Public Utility Commission (SFPUC) report no plans to develop groundwater resources within the basin. The SFDPH considers groundwater quality in the basin to be degraded below drinking water standards.

According to information obtained from the Geotracker database for a former service station leaking underground storage tank (LUST) site at 2559 Van Ness Avenue, approximately 1/4-mile northeast of the subject property, soils consist of fill material to approximately 8 to 12 feet below ground surface (bgs) underlain by native sand, silty sand, clayey sand, and sandy clay to the maximum explored depth of 45 feet bgs.

Soils encountered during the AllWest subsurface investigations of May 14 to 15 and July 30 to 31, 2018 were fill materials consisting of very fine to fine sand with fine gravel from below the asphalt/concrete surface to a depth of approximately 12 to15 feet bgs within the former UST pit. Outside of the former UST pit, and below 12 to 15 feet bgs beneath the pit, native soils were silty to clayey sands with some gravel, sandy silt, or sandy clay to the total depth explored at 45 feet bgs (AllWest, 2018b and 2018c).

Depth to ground water was documented as variable in the site vicinity, and based on information available on the Geotracker website, ranging from approximately 8 to 35 feet below ground surface. Ground water was not encountered to a depth of at least 12 feet during excavation activity conducted on the subject property during removal of former underground storage tanks (USTs) in February 2016 (AllWest, 2018a).

Ground water flow direction in the vicinity of the subject property was anticipated to follow the local topography towards the north.

Measurable groundwater was not encountered during drilling activities of the AllWest May 2018 subsurface investigation, although several moist to wet zones were encountered. Boring B-3 (within the former UST excavation) was left open overnight for groundwater recovery; static groundwater was measured at approximately 36.95 feet bgs the next day. Groundwater was first encountered during the July-August 2018 AllWest subsurface investigation at approximately 35 to 40 feet bgs (Green Street sidewalk grade) in borings MW-1 and MW-2 and approximately 32.5 to 34 feet below basement grade (bbg) in boring MW-3 located in the subject building basement (approximately 10 feet below sidewalk grade).

Static depths to groundwater in the completed monitoring wells prior to the August 10, 2018 monitoring event ranged from 31.56 feet bbg in MW-3 to 37.19 feet bgs (Green Street sidewalk grade) in MW-1. The groundwater flow direction was calculated to be due north, at a gradient of 0.01 feet per foot (AllWest, 2018c).

The nearest significant surface water to the subject property is the San Francisco Bay, located approximately ¾ mile north. There are no water supply wells, aboveground water tanks or water reservoirs at the subject property. There are currently three ground water monitoring wells at the subject property. The property does not fall under requirements of the National Pollutant Discharge Elimination System (NPDES) and storm water runoff is directed to drains in the adjoining street.

C. Site History

The subject property was residentially developed by the 1890s, with dwellings remaining present through 1913. The existing building was constructed in 1914 and documented as being utilized for automotive repair purposes by several different businesses between 1914 and 2018. The subject property was occupied by an auto body repair shop at the time of the AllWest Phase I ESA site visit in February 2018. The subject property was unoccupied at the time of the AllWest subsurface investigation in late July to early August 2018, but is currently occupied by Jump, a bicycle rental firm, and undergoing remodeling.

Four USTs were identified on the subject property, a 1,000-gallon and three 550-gallon "petroleum blend" fuel tanks. The date of installation of the USTS is unknown. The USTs were originally 'closed in place' in 1987, and a Certificate of Completion was issued by SFDPH in 1989. However, in 2016 the USTs were removed and residual total petroleum hydrocarbons as gasoline (TPH-g), benzene, toluene, ethyl benzene and xylenes (BTEX) and naphthalene were documented in verification soil samples collected from beneath the tanks. As a result, the 1989 Certificate of Completion was rescinded by the SFDPH-LOP. Total petroleum hydrocarbons as diesel (TPH-d) were detected in soil stockpile samples but were not analyzed in confirmatory soil samples. The subject property currently is listed as an open leaking UST (LUST) case with the SFDPH and on the SWRCB Geotracker database..

D. Previous Investigations

LW Phase I Environmental Site Assessments

In 2013, a Phase I Environmental Site Assessment (ESA) was conducted on the subject property, and subsequently updated in 2014. LW Construction Services, Inc. (LW) conducted a second update in 2015.

The 2015 LW Phase I ESA update, updated a 2013 Phase I and 2014 Phase I update. The property was developed with the existing structure at the time of the 2015 study, which was vacant but had been occupied by various automotive repair businesses. Planned future occupancy by a different auto repair business was reported.

The presence of four USTs was documented. LW stated the tanks had been closed-in-place under proper permitting and the SFDPH had issued case closure with no further action required. A sump was documented in the building basement. LW noted no use, storage, generation or disposal of automotive related materials and no physical or documentary evidence of reportable discharges of hazardous materials.

LW stated the subject property was not located within the Maher Zone at the time of the study. No vicinity facilities of significant concern were identified. Only a "very limited potential" was identified for the presence of a vapor encroachment condition to be present on the subject property.

LW did not identify any RECs or CRECs associated with the subject property. The closed USTs were identified as an HREC, which was appropriate at the time of the study as no contamination had been identified and a certificate of completion had been issued by the SFDPH (LW, 2015).

AllWest Phase I Environmental Site Assessment, February-March, 2018

AllWest conducted a Phase I ESA in 2018. AllWest identified two Recognized Environmental Conditions (RECs) in their Phase I ESA of the subject property; the open LUST case with the SFDPH and property's location within the Expanded Maher Area.

The 1,000-gallon and three 550-gallon "petroleum blend" fuel USTs initially were closed-in-place beneath the adjoining Green Street sidewalk in 1987. Soil samples collected at depths of 10.5- to 11-foot from four borings advanced near the tanks demonstrated non-detectable concentrations of total petroleum hydrocarbons. Based on the analytical results, the SFDPH issued a Certificate of Completion with no further investigation or cleanup required in June 1989.

The four closed-in-place USTs were removed from the subject property in February 2016. The 1989 SFDPH closure was rescinded following the 2016 removals, as residual TPHg, BTEX and naphthalene were documented at concentrations no exceeding applicable direct exposure SFRWQCB ESLs for commercial/industrial land use in verification soil samples collected from beneath the tanks as well as in the removed overburden. The subject property is now an open LUST case with the SFDPH (AllWest, 2018a).

AllWest Phase II Subsurface Investigation, May 2018

AllWest conducted a subsurface investigation at the subject property on May 14 to 15, 2018, consisting of the advancement of five soil borings (B-1 through B-5), and the collection of one groundwater sample. The borings were advanced by track-mounted Geoprobe® direct push technology (DPT) methods to a total depth of 15 to 40 bgs. Static groundwater was measured at approximately 37 feet bgs in boring B-3 following recovery overnight. Boring locations are shown on Figure 2.

Twenty one soil samples were collected from the borings. One grab groundwater sample was collected from boring B-3. Fifteen soil samples were analyzed for total petroleum hydrocarbons as gasoline, diesel and motor oil (TPH-g, TPH-d and TPH-mo); selected volatile organic compounds (VOCs) including benzene, toluene, ethylbenzene and total xylenes (BTEX), methyl tert-butyl ether (MTBE), tert-butyl alcohol (TBA), 1,2-dibromoethane (EDB), 1,2-dichloroethane (1,2-DCA) and naphthalene; and total lead.

Concentrations of TPH-g, TPH-d, benzene, ethylbenzene, toluene, xylenes and napthalene were detected at maximum respective concentrations of 19,000 milligrams per kilogram (mg/Kg), 1,200 mg/Kg, 94 mg/Kg, 190 mg/Kg, 570 mg/Kg, 1,000 mg/kg and 63 mg/Kg; above their applicable San Francisco Regional Water Quality Control Board (SFRWQCB) Environmental Screening Levels (ELSs) in soil samples collected from borings B-3 and B-5 at depths between approximately 14.5 feet bgs and 39.5 feet bgs.

Elevated concentrations, in exceedance of their respective ESLs, of TPH-g, TPH-d, BTEX, and 1,2-DCA were detected at 32,000 micrograms per liter (µg/L), 2,500 µg/L, 4,500 µg/L, 890 µg/L, 7,400 µg/L 4,200 µg/L and 670 µg/L, respectively in the groundwater sample from boring B-3. No other constituents of concern (COCs) were detected in any other soil samples at concentrations exceeding applicable ESLs.

In conclusion, AllWest's subsurface assessment identified elevated levels of petroleum hydrocarbons in soil and groundwater at the subject property exceeding applicable regulatory agency screening levels. The vertical extent and partial lateral extent of elevated hydrocarbon constituent concentrations in soil had been delineated and impacts to groundwater had been identified (AllWest, 2018b).

AllWest Groundwater Monitoring Well Installations and Sampling, July-August 2018

AllWest conducted a subsurface investigation at the subject property on July 30-31, 2018, consisting of the advancement of three soil borings and their completion as groundwater monitoring wells. Two of the borings were advanced in the Green Street sidewalk in front of the subject building to total depths of approximately 43 to 45 feet bgs and completed as monitoring wells MW-1 and MW-2. One boring was advanced to approximately 36 feet below basement grade (bbg) within the subject building basement and completed as monitoring well MW-3.

Nineteen soil samples were collected from the borings. Nine soil samples (three per boring) were analyzed. The only constituents of concern (COCs) detected in soil samples at concentrations exceeding applicable SFRWQCB ESLs were TPH-g, benzene, ethylbenzene, toluene, total xylenes and napthalene at maximum respective concentrations of 3,100 mg/Kg, 6.9 mg/Kg, 69 mg/Kg, 120 mg/Kg, 330 mg/Kg and 25 mg/Kg; all at a depth of 14.5-15 feet bgs in boring MW-1.

The monitoring wells (MW-1, MW-2 & MW-3) were developed on August 3, 2018, and sampled on August 10, 2018. COCs detected in groundwater samples at concentrations exceeding applicable SFWQCB ESLs were TPH-g, benzene, ethylbenzene, toluene and total xylenes at maximum respective concentrations of 17,000 micrograms per liter (µg/L), 3,700 µg/L, 570 µg/L, 320 µg/L, 1,400 µg/L and 2,200 µg/L; all in MW-1. The only COC detected in groundwater samples at a concentration exceeding applicable commercial/industrial groundwater vapor intrusion ESLs was benzene.

AllWest concluded the vertical extent of petroleum hydrocarbons in soil does not significantly extend vertically below first encountered groundwater and petroleum hydrocarbons in soil do not significantly extend laterally beyond the former UST excavations. AllWest concluded the downgradient extent of dissolved petroleum hydrocarbons in groundwater has been largely delineated and probably does not extend significantly downgradient of monitoring well MW-3 or beyond the subject property boundaries. Dissolved VOCs in groundwater are unlikely to present a significant vapor intrusion risk to occupants of the subject site building (AllWest, 2018c).

III. PURPOSE AND SCOPE OF WORK

The purpose of the investigation is to characterize suspect fill material, native soil, shallow groundwater and soil gas at the subject property as required prior to redevelopment activities in areas within the Extended Maher Zone. Soil, groundwater and soil gas sampling and analysis will be conducted in accordance with City of San Francisco Health Code revised Article 22A, Section 22A.7(b), to provide data for preparation of a SMP, to address procedures to remove contaminated soil and groundwater prior to site redevelopment activities.
The subject site building is to be remodeled as a four-story mixed use commercial/residential building with five residential units and one commercial unit (at sidewalk grade) within the shell of the existing building. The new building will be four stories high above a one-level below-grade parking garage. The basement parking garage will be enlarged by excavating beneath the currently unexcavated southern portion of the

building to the Green Street sidewalk, and deepened by demolishing and excavating below the existing floor slab. The proposed finished floor slab elevation of the below-grade garage is estimated to be about 1 to 3 feet below the top of the existing basement floor slab.

The volume of soil disturbance was not indicated in the SFDPH EHB-SAM Maher Program application but, based on the size of the proposed excavation, the Maher Program threshold of 50 cubic yards of soil disturbance will be exceeded. Based on the proposed excavation dimensions, AllWest estimates up to approximately 1,315 cubic yards of soil will be excavated (assuming excavation to 3 feet below current basement grade). A plan of the proposed expanded basement parking garage is included in Appendix B.

The proposed scope of work consists of the following tasks:

1) Prepare a written workplan for conducting a subsurface investigation including soil and soil vapor sampling at the subject site. Submit the workplan to the SFDPH EHB-SAM for review and approval;

2) Prepare a site-specific health and safety plan;

3) Obtain drilling permits from the SFDPH Environmental Health;

4) Engage the service of Underground Service Alert (USA) and a private underground utility locator to locate and clear underground utilities within the proposed investigation area so that the potential of accidental damage to underground utilities will be reduced during proposed subsurface investigation. Notify SFDPH and property owner/tenants 5 days prior to the start of field work;

5) Retain the services of a C-57 licensed drilling contractor for the advancement by Geoprobe® Direct Push Technology (DPT) methods of five borings to the anticipated proposed foundation excavation depth of approximately three feet below basement grade (bbg) within the subject property building basement using a limited access track-mounted rig. Advance two additional borings to approximately 13 feet bgs (Green Street grade) within the subject property building first floor garage and office area adjacent to the Green Street sidewalk using a limited access track-mounted rig.

6) Collect approximately 10 soil samples at depth intervals of approximately 0.5-1 and 2.5-3 feet below basement grade from the basement borings and approximately 6 soil samples from 0.5-1, 4.5-5 and 12.5-13 feet bgs (street grade) from the first floor borings. Collect additional soil samples if warranted based on observed evidence of contamination. Collect groundwater samples (if required by the SFDPH EHB-SAM) from the existing basement groundwater monitoring well, at additional cost pending client approval.

7) Further advance one of the basement borings to 5 feet below grade, install one temporary soil gas probe within the borehole, and collect one soil gas sample. Remove casing and probes, seal borings with cement grout and restore concrete floor slabs. Contain all soil spoils generated during the assessment onsite pending profiling for disposal.

8) Maintain soil, soil gas and groundwater samples under chain-of-custody and transport the samples to a Department of Health Services (DHS) certified analytical laboratory for chemical analyses per SFHC Article 22A (Revised Maher Ordinance).

   - Analyze nine selected soil samples (collected from each of the five basement borings at approximately 0.5-1 feet bgs and from each of the two first floor borings at 0.5-1 and 12.5-13 feet bgs) per Article 22A requirements for total petroleum hydrocarbons as diesel and motor oil (TPH-d and TPH-mo) without silica gel cleanup, total petroleum hydrocarbons as gasoline

(TPH-g) and volatile organic compounds (VOCs) by EPA Method 8260B, semivolatile organic compounds (SVOCs) including polynuclear aromatics (PNAs) and polyaromatic hydrocarbons (PAHs) by EPA Method 8270C, polychlorinated biphenyls (PCBs) by EPA Method 8082, California assessment Manual (CAM)-17 metals by EPA Method 6020, hexavalent chromium (Cr6) by EPA Method 7199, total cyanides by Standard Method SM 4500-CN, pH by EPA Method 9045D and asbestos by CARB Method 435; and

- Analyze the one soil gas sample for TPH-g by EPA Method TO-3, VOCs by EPA Method TO-15, and methane by ASTM D1946, per Article 22A requirements, and for the leak detection gas helium by ASTM D1946.

9) Review sample data and compare analytical results to Tier 1 and 2 Environmental Screening Levels (ESLs) developed by the San Francisco Bay Regional Water Quality Control Board (SFRWQCB), and to State of California Title 22 Total Threshold Limit Concentration (TTLC), Soluble Threshold Limit Concentration (STLC) and Toxic Characteristic Leaching Procedure (TCLP) levels.

10) Prepare a written report describing the field activities, summarizing the laboratory data, presenting investigation findings, and providing conclusions and recommendations. Submit the report to SFDPH.

IV. INVESTIGATIVE ACTIVITIES

A. Permitting

AllWest will prepare and submit a drilling permit application for the Geoprobe® DPT borings to SFDPH EHB-SAM for review and approval. AllWest will also prepare and submit lane closure permit applications to SFDPW if necessary. Upon permit approval, AllWest will notify SFDPH of the drilling schedule a minimum of 10 working days in advance to allow scheduling of drilling and grouting inspection.

B. Health and Safety Plan

AllWest will update the site specific health and safety plan prior to mobilizing to the site. A tailgate safety meeting will be given prior to commencing work. All site personnel will be required to review the health and safety plan.

C. Underground Utility Inspection

To avoid damage to underground utility installations during the course of the subsurface investigation, AllWest will contact USA, an organization for public utility information, on the pending subsurface investigation. USA will then notify public and private entities that maintained underground utilities within the site vicinity to locate and mark their installations for field identification. A private underground utility locator, GPRS, Inc. of San Francisco, California, will also be employed by AllWest to conduct a magnetometer and ground penetrating radar (GPR) sweep investigation to locate marked and unmarked underground utilities in the vicinity of the proposed boring locations. Other qualified contractors may be used if necessary.

D. Geoprobe® DPT Boring Advancement and Soil Sampling

To characterize the vertical and lateral extent of petroleum hydrocarbons and related compounds in soils and groundwater (if encountered) around the former USTs, seven soil borings will be advanced with

Geoprobe® DPT methods by a State of California C-57 licensed drilling contractor, Environmental Control Associates, Inc. of Aptos, California. Other qualified drilling contractors may be used if necessary. Five of the borings will be located in the building basement and advanced to a depth of 3 feet bbg. Two borings will be located in the currently unexcavated area of the building first floor adjacent to the Green Street sidewalk, and advanced to a depth of 13 feet bgs (sidewalk grade). The proposed boring locations are shown in Figure 2.

The borings will be advanced by a limited access track-mounted rig using continuous core Geoprobe® DPT sampling methods. Soil samples will be collected for lithologic characterization and potential laboratory analysis using a nominal 4-foot long, 2-inch outside diameter (OD) stainless steel core barrel drive probe and extension rods. The drive probe will be equipped with nominal 1 ½-inch inside diameter (ID) clear PVC plastic tubes that line the interior of the probe. The probe and insert tubes are together hydraulically driven using a percussion hammer to the specified depth. After the specified drive interval, the drive probe and rods are retrieved to the surface. The PVC tube containing subsurface soil is then removed. Selected soil sample intervals will be cut from the PVC tube for analytical testing. The ends of samples for possible analytical testing are sealed using Teflon™ squares and plastic end caps. The samples are labeled, and stored in an iced cooler.

AllWest will collect approximately 10 soil samples at depth intervals of approximately 0.5-1 and 2.5-3 feet bbg (basement grade) from the basement borings and approximately 6 soil samples from 0.5-1, 4.5-5 and 12.5-13 feet bgs (sidewalk grade) from the first floor borings, or within areas of obvious contamination, and within the capillary fringe zone if groundwater is encountered, or depending upon visual observation, odors and photo-ionizer detector (PID) screening.

AllWest will advance one of the basement borings to 5 feet bgs, install one temporary soil gas probe within the borehole, and collect one soil gas sample. Remove casing and probes, seal borings with cement grout and restore concrete floor slabs. Contain all soil spoils generated during the assessment onsite pending profiling for disposal.

An AllWest environmental professional will oversee field work and drilling activities. The recovered soil samples are inspected after each drive interval with lithologic and relevant drilling observations recorded. Soil samples are screened for organic vapors using a PID or other appropriate device by taking readings of headspace vapor concentrations of the soil inside a zip-lock plastic bag. PID readings, soil staining and other relevant observations are recorded on the boring logs. Geoprobe® DPT soil sampling procedures are included in Appendix B.

E. Borehole Backfilling

At the completion of drilling and sampling activities, Geoprobe® DPT drive casings and temporary soil vapor probes and tubing will be removed and the borings will be backfilled with a "neat" Portland Type I or II cement grout slurry that is tremied into the borehole through a PVC pipe. The level of grout will be checked to ascertain if any settling has occurred and will be "topped off" if required. Concrete surfaces will be restored as appropriate. The SFDPH will be notified 5 days in advance of the anticipated grouting time in order to schedule inspection.

F. Investigative Derived Waste Containment and Disposal

All investigative derived wastes, soil (unused sample intervals) and water (decontamination, development and/or purge water) will be temporarily stored at the property in 5-gallon buckets or 55-gallon drums, awaiting test results to determine the proper disposal method.

V. QUALITY ASSURANCE / QUALITY CONTROL PROGRAM

A. Sample Preservation, Storage and Handling

To prevent the loss of constituents of interest, all soil and groundwater samples will be preserved by storing in an ice chest cooled to 4°C with crushed ice immediately after their collection and during transportation to the laboratory. Groundwater sample will be contained in appropriate laboratory-supplied pre-preserved containers. Groundwater samples for metals analysis will be pre-filtered in the field. Samples will be stored within the cooler in separate zip-lock plastic bags to avoid cross-contamination.

B. Chain-Of-Custody Program

All samples collected for this project will be transported under chain-of-custody protocol. The chain-of-custody program allows for the tracing of possession and handling of individual samples from the time of field collection through laboratory analysis. The document includes the signature of the collector, date and time of collection, sample number, number and type of sample containers including preservatives, parameters requested for analysis, signatures of persons and inclusive dates involved in the chain of possession. Upon delivery to the laboratory the document will also include the name of the person receiving the samples, and date and time samples were received.

VI. ANALYTICAL METHODS

All samples selected for analysis will be analyzed by a State of California certified independent analytical laboratory. McCampbell Analytical, Inc. of Pittsburg, California will perform soil, groundwater and soil vapor analysis. Other available qualified State-certified analytical laboratories may be used as necessary. All samples will be analyzed on standard 5-day turn-around time. Analytical methods are in general accordance with those specified in SFHC Article 22A (Maher Ordinance).

The nine selected soil samples collected during this investigation will be analyzed for total TPH-d and TPH-mo without silica gel cleanup, TPH-g and VOCs by EPA Method 8260B, SVOCs including PNAs and PAHs by EPA Method 8270C, PCBs by EPA Method 8082, California CAM-17 metals by EPA Method 6020, Cr6 by EPA Method 7199, total cyanides by Standard Method SM 4500-CN, pH by EPA Method 9045D and asbestos by CARB Method 435.

Remaining collected soil samples (if any) will be archived for potential analysis based on initial analytical results, pending client approval. Based on initial analytical results, selected soil samples may be analyzed as warranted for STLC and TCLP metals pending client approval.

The one soil vapor sample collected during this investigation will be analyzed for TPH-g and VOCs by EPA Methods TO-3 and TO-15 (mid-level detection limits), and for methane and the leak tracer gas helium by ASTM D1946.

VII. REPORT PREPARATION

A written report will be prepared for this investigation after the completion of all field work and receipt of analytical results. Included in the report will be site plans, analytical tables, soil boring logs, chain-of-custody documents, copies of the analytical laboratory reports, and conclusions and recommendations. Analytical data will be compared to Tier 1 and 2 ESLs developed by the SFRWQCB, and to State of

California Title 22 TTLC, STLC and TCLP levels, to evaluate risk to subject site occupants and to profile excavated soil for disposal.

The report will be reviewed and signed by a California Professional Geologist. The report and associated documents (chemical reports, survey data, boring logs, etc.) will be submitted to the SFDPH and uploaded to the GeoTracker database.

VIII. PROJECT STAFF AND SCHEDULE

Mr. Leonard P. Niles, P.G., C.H.G., a California Professional Geologist (PG 5774) and Certified Hydrogeologist (CHG 357), will provide technical oversight for this project and act as the project manager and regulatory liaison. Additionally, AllWest's staff of engineers, geologists, and technicians will be employed to perform the various tasks of the project. AllWest will inform the SFDPH at least 5 days prior to the start of field activities. AllWest will inform the SFDPH of any significant developments during the course of the investigations.

IX. LIMITATIONS

AllWest has prepared this *Phase II Site Assessment Work Plan* for the exclusive use of 1776 Green Street, LLC, c/o Local Capital Group (Client) for this particular project and in accordance with generally accepted practices at the time of the work and with our written proposal dated November 20, 2018. No other warranties, either expressed or implied is made as to the professional advice offered. This plan is not a specification for the proposed work and should not be used to bid out any of the proposed work found within. **Reliance on this plan by any party other than the Client is at the user's sole risk.**

Background information that AllWest has used in preparing this workplan, including but not limited to previous field measurements, analytical results, site plans, and other data, has been furnished to AllWest by the Client, its previous consultants, and/or third parties. AllWest has relied on this information as furnished. AllWest is not responsible for nor has it confirmed the accuracy of this information.

X. REFERENCES

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AllWest Environmental Inc. (AllWest), 2018b. *Site Characterization Report, 1776 Green Street, San Francisco, CA 94123*, June 7.

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SFDPH, *Maher Ordinance Application*, undated.

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SFRWQCB, *San Francisco Bay Basin (Region 2) Water Quality Control Plan (Basin Plan)*, May 4, 2017.

FIGURES

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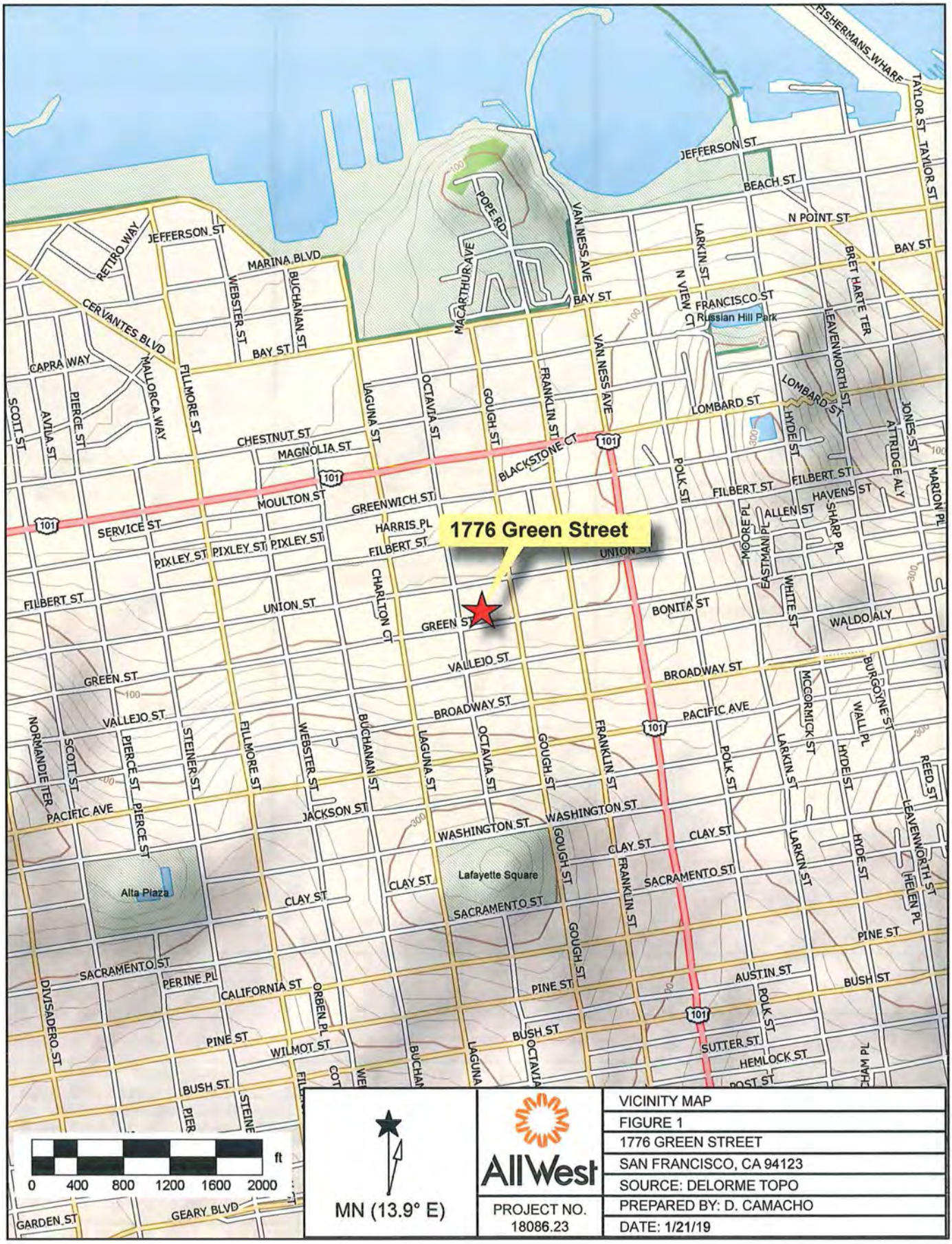
Topo USA® 8



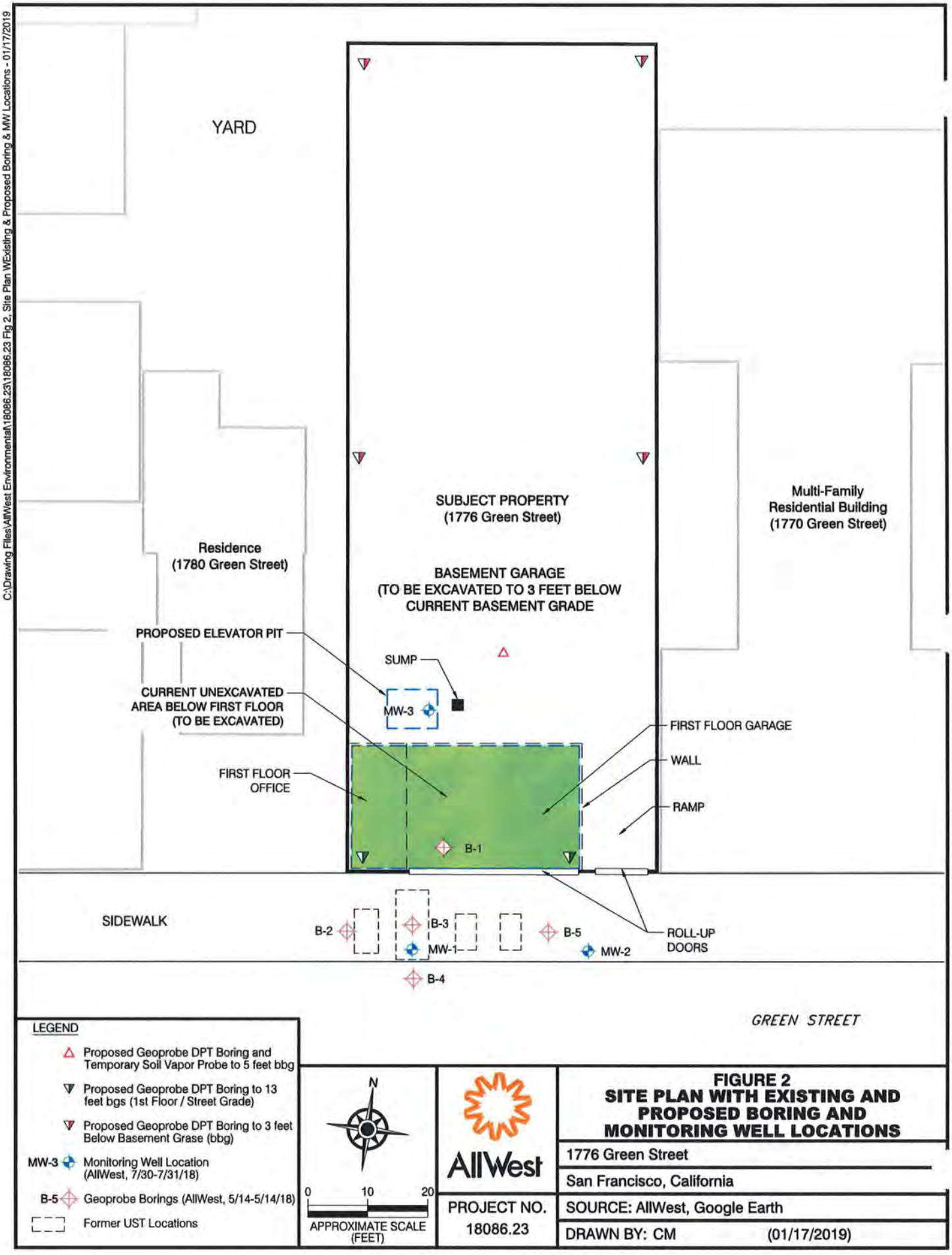


FIGURE 2
SITE PLAN WITH EXISTING AND PROPOSED BORING AND MONITORING WELL LOCATIONS

1776 Green Street

San Francisco, California

SOURCE: AllWest, Google Earth

DRAWN BY: CM (01/17/2019)

APPENDIX A

City and County of San Francisco
DEPARTMENT OF PUBLIC HEALTH
ENVIRONMENTAL HEALTH

London Breed, Mayor
Greg Wagner, Director of Health
Stephanie K.J. Cushing, MSPH, CHMM, REHS
Environmental Health Director

9 November 2018

1776 Green Street LLC
The Presidio – 572 Ruger Street, Ste. A
San Francisco, CA 94129
Email: jbickford@localcapgroup.com

Subject: **PHASE II ASSESSMENT WORK PLAN REQUEST**
1776 GREEN STREET
EHB-SAM NO. SMED: 1751

Dear Mr. John Bickford:

In accordance with the San Francisco Health Code, Article 22A and the Building Code, Section 106A.3.2.4.1, 106A.3.2.4.2 and 106A.3.2.4.4 – Hazardous Substances; the San Francisco Department of Public Health, Environmental Health Branch, Site Assessment and Mitigation (EHB-SAM) has reviewed the following documents:

1. Geotechnical Investigation Report by Rockridge Geotechnical dated 29 July 2018.
2. Environmental Site Assessment Report by AllWest Environmental dated 1 March 2018.
3. Plan Drawings by Sutro Architects dated 18 July 2018.

Site Description

The subject property is developed on a rectangular site comprising approximately 0.17 acre (7,422 square feet), designated as assessor's parcel number (APN) 0544/006. It's located in the Marina District, on the north side of Green Street between Octavia and Gough Streets. The parcel has approximately 54 feet of street frontage along Green Street and extends approximately 138 feet north. The subject property is developed with a single-story light-industrial building with a basement and mezzanine. The building, which occupies the entire footprint of the property, is reported at 12,450 square feet. Construction of the masonry/concrete building was completed in 1914. The building is occupied by an auto body shop. The zoning designation for the subject property is RH-2 – residential-house. The subject property is located on a residential street in a mixed-use residential and commercial area of the Marina District of San Francisco. Adjoining sites include residential structures to the south, west and east and small parking lots followed by commercial/residential structures to the north. Site topography is generally flat, at an elevation of approximately 94 feet above mean sea level (msl). Topography in the immediate vicinity slopes moderately towards the north, then towards the northwest. Depth to ground water was documented as variable in the vicinity, ranging from approximately 8 to 35 feet below ground surface. Ground water was not encountered to a depth of at least 12 feet during excavation activity conducted on the subject property. Ground water flow direction in the vicinity is anticipated to follow the local topography towards the north.

Site History

AllWest assessed the site's land use history by reviewing aerial photographs, city directories, Sanborn Fire Insurance Maps and other relevant documents. Their review revealed the subject property to be residentially developed by the 1890s, with dwellings remaining present through 1913. The existing building was constructed in 1914 and documented as being utilized for automotive repair purposes by several different businesses between 1914 and the present.
Small quantity hazardous materials use by the existing property tenant was observed, including assorted automotive fluids and auto body paints and related materials. Small quantity hazardous waste generation by former occupants of the subject property was also reported. Based on many decades of occupancy by several previous automotive and auto body repair businesses, use and storage of hazardous materials, including solvents and fuels, is presumed.

Proposed Project Scope
The proposed project is to construct a new mixed-use building with five residential units and one commercial unit (at sidewalk grade) within the shell of the existing building. The new building will be four stories high above a one-level below-grade parking garage. The finished floor elevation of the below-grade garage is estimated to be about 12 to 18 inches below the top of the existing basement floor slab. The volume of soil disturbance was not indicated in EHB-SAM application but based on the size of the lot the threshold of 50 cu yards of soil disturbance will be exceeded.

Geotechnical Information
According to the Geotechnical report the garage floor slab is underlain by undocumented fill ranging from less that one foot at (Cone Penetration Test) CPT-1 location to approximately 6-1/2 feet below top of slab (bts) at CPT-4.

Phase I Environmental Site Assessment
The Soil Sample Analysis by Allwest Environmental noted that petroleum hydrocarbons and related compounds were detected in soil remaining in place beneath the former USTs, residual concentrations was at same level as the California Regional Water Quality Control Board Environmental Screening Levels (ESLs) for direct exposure. AllWest recommends preparation and submittal of the required work plan, outlining a subsurface investigation to satisfy SFDPH requirements prior to requesting case closure.

The second recognized environmental condition (REC) is the site's location with the Expanded Maher Area. Subsurface investigations throughout the Area have documented the presence of lead, mercury and other toxic metals, and petroleum hydrocarbons such as oils and creosotes, in shallow soil, fill material and ground water. The sources of these contaminants are past industrial land use activities and the use of debris from the 1906 earthquake in fill materials. Designation of the subject property within the Expanded Maher Area is primarily attributable to the identified UST release.

2016 UST Removal Verification Sampling Results:

Sample Location	TPHd	TPHg	B	T	E	X	Naph.
Tank1 South	NA	**2,300**	**0.37**	**14.4**	**34.3**	**141**	**22.9**
Tank1 North	NA	**2,800**	ND	**19.8**	**45.8**	**198**	**40.8**
Tank 2 South	NA	**2,360**	0.87	**54.1**	**41.9**	**173**	**44.2**
Tank 2 North	NA	**2,400**	ND	2.0	**20.6**	**75.5**	**14.6**
Tank3 South	NA	373	ND	0.39	**3.7**	**15**	**12**
Tank3 North	NA	97	ND	0.09	0.58	**2.4**	**3.3**
Tank4 South	NA	**460**	ND	ND	0.24	ND	**2.1**
Tank4 North	NA	**200**	ND	ND	1.0	0.19	**0.79**
Excavation Soil	1,370	**660**	ND	0.05	ND	0.11	**0.35**
Tier 1 ESL	230	100	0.04	2.9	1.4	2.3	0.03
Direct Exposure ESL	880	2,800	24	4,100	480	2,400	350

Numbers in **bold** font exceed one or both ESLs
1All samples collected from a depth of 10 feet bgs with exception of Subgrade Sample collected at 12 feet bgs

Based on EHB-SAM review of documents (1- 3) a Phase II Subsurface Investigation is warranted.

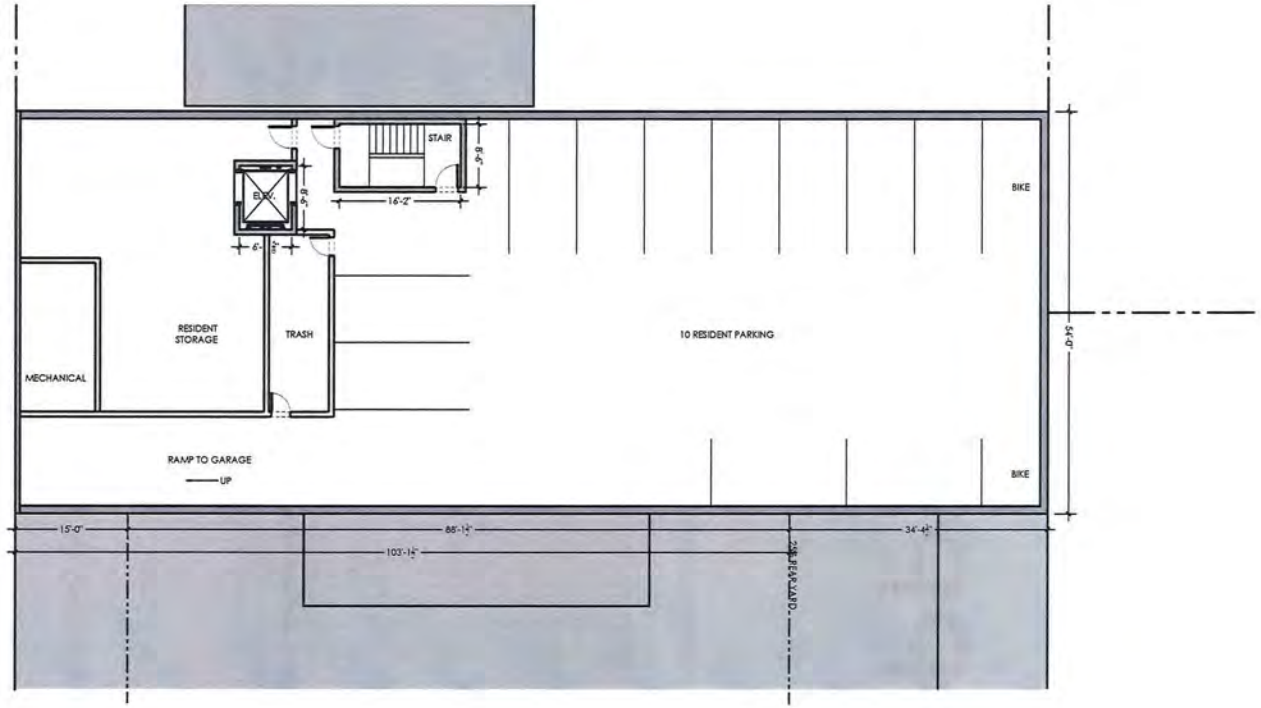
Please submit a Phase II Site Assessment Work Plan via unsecured PDF/Word document to the email below. Should you have any questions please contact me at (415) 252-3892 or joseph.ossai@sfdph.org.

Sincerely,

Joseph Ossai, MSEE, PE, REHS
Senior Environmental Health Inspector

cc: Jeanie Poling, San Francisco Planning Department
Daniel Lowrey, San Francisco Department of Building Inspection
Mark Walls, San Francisco Department of Building Inspection

APPENDIX B



SUTRO ARCHITECTS

415.956.3445
sutroarchitects.com

1055 Post Street, San Francisco, CA 94109

N

GREEN STREET RESIDENCES

1776 GREEN STREET

BLOCK 544 LOT 006 | PROJECT NO. 2018.014

DATE: 2018.04.06

BASEMENT FLOOR PLAN

PLANS

APPENDIX C

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STANDARD GEOPROBE™ DPT SAMPLING PROCEDURES

Soil Sampling

Direct push technology (DPT) soil core sampling using Geoprobe™ or similar methods is accomplished using a nominal 4-foot long, 2-inch outside diameter (OD) stainless steel core barrel drive probe and extension rods. The drive probe is equipped with nominal 1 ½-inch inside diameter (ID) clear PVC plastic tubes that line the interior of the probe. The probe and insert tubes are together hydraulically driven using a percussion hammer in 4-foot intervals to the specified depth. After each drive interval the drive probe and rods are retrieved to the surface. The PVC tube containing subsurface soil is then removed. Selected soil sample intervals can be cut from the 4-foot PVC tube for possible analytical or geotechnical testing, or other purposes.

The drive probe is then cleaned, equipped with a new PVC tube and reinserted into the boring with extension rods as required. The apparatus is then driven following the above procedure until the desired depth is obtained. The PVC tubes and recovered soil are inspected after each drive interval with lithologic and relevant drilling observations recorded. Soil samples are screened for organic vapors using an organic vapor meter (OVM), photo-ionization detector (PID) or other appropriate device. OVM/PID readings, soil staining and other relevant observations are recorded. The soils contained in the sample liners are then classified according to the Uniform Soil Classification System and recorded on the soil boring logs.

Sample liners selected for laboratory analyses are sealed with Teflon™ sheets, plastic end caps, and silicon tape. Samples can also be collected from inside the liner using an EnCore™ type sampler per EPA Method 5035. The sealed sample liner is then labeled, sealed in a plastic bag, and placed in an ice chest cooled to 4°C with crushed ice for temporary field storage and transportation. The standard chain-of-custody protocol is maintained for all soil samples from the time of collection to arrival at the laboratory.

Groundwater Sampling

Groundwater sampling is performed after the completion of soil sampling and when the boring has reached its desired depth. The steel probe and rods are then removed from the boring and new, nominal 1-inch diameter PVC solid and perforated temporary casing is lowered into the borehole. Alternatively, a retractable screen sampling device such as a Hydropunch™ can be driven to the desired depth and pulled back to expose the screened interval. Depth to water is then measured using an electronic groundwater sounding probe. Groundwater samples are collected using a stainless steel bailer, disposable polyethylene bailer, or check valve or peristaltic pump with disposable Teflon™ or polyethylene sample tubing.

After the retrieval of the bailer, groundwater contained in the bailer (or discharged from sample tubing) is decanted into laboratory provided containers. The containers are then sealed with Teflon™ coated caps with no headspace, labeled, and placed in an ice chest for field storage and transportation to a state certified analytical laboratory. The standard chain-of-custody protocols are followed from sample collection to delivery to the laboratory. A new bailer (or sample tubing) is used for each groundwater sampling location to avoid cross contamination.

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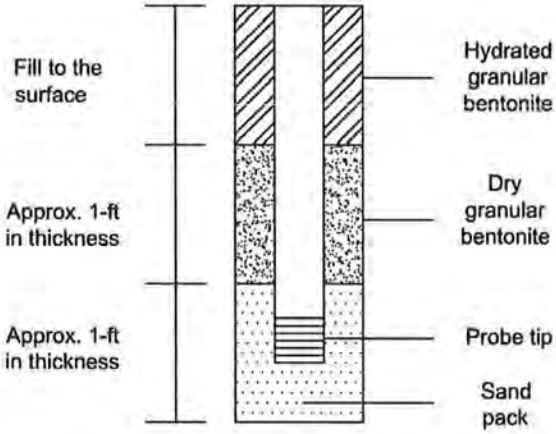
Soil Gas Probe Emplacement Methods

Figure 1
Permanent/Semi-permanent
Gas Probe
Construction



Temporary
Gas Probe Method

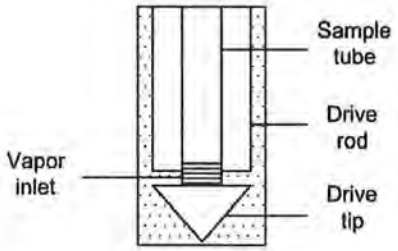
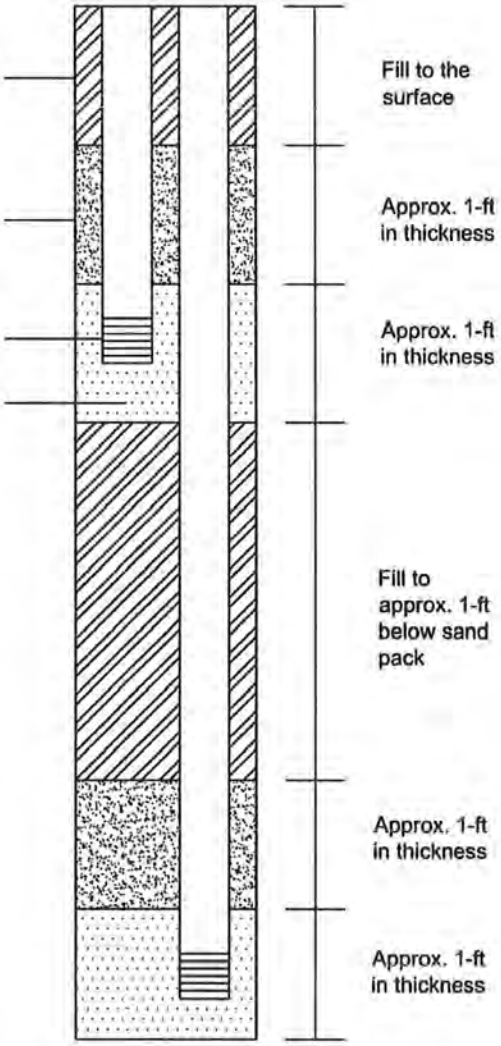


Figure 2
Multi-depth
Gas Probe
Construction



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STANDARD GEOPROBE® AND SUB-SLAB PROBE SOIL VAPOR SAMPLING PROCEDURES

Geoprobe® DPT PRT Temporary Soil Vapor Probe Advancement

The Geoprobe® Direct Push Technology (DPT) Post Run Tubing (PRT) soil vapor sampling process involves driving into the subsurface a disposable Geoprobe® DPT sampling probe with expendable tip and a PRT adapter that are connected to 4-foot sections of Geoprobe® 1.25-inch inside diameter (ID) extension rods. The PRT adapter has a reverse-thread adapter at the upper end to allow the connection of flexible soil vapor sampling tubing with a PRT tubing adaptor after the installation (post-run) of the tip. The entire sampling assembly, the sampling tip, PRT adapter, and the Geoprobe® extension rods, is driven into the subsurface by a truck-mounted hydraulic percussion hammer. The sampler is driven to the desired depth as additional rods are connected. At the desired sampling depth, typically 5 feet below ground surface (bgs) a sufficient length of disposable flexible 0.25-inch OD polyethylene, Nylaflow™ or Teflon™ sample tubing is first lowered through the center of the extension rod and connected to the PRT adapter. Only Teflon™ sample tubing is to be used if naphthalene analysis is intended. The extension rod is then retracted 3 to 4 inches to create a small void around the PRT adapter and the expendable sampling tip for extracting a soil vapor sample from that location. Bentonite chips will be used to fill the annular space between the probe and the subgrade material to the ground surface. The bentonite will then be hydrated with distilled water. The temporary Geoprobe® PRT soil vapor probe will be sampled at least 2 hours following driving of the probe, to allow vapor conditions to equalize in subsurface materials and the bentonite surface seal to hydrate in general accordance with guidelines presented in the CalEPA Department of Toxic Substance Control (DTSC) *Advisory – Active Soil Gas Investigations*, July, 2015.

Geoprobe® DPT Borehole Advancement and Temporary Soil Vapor Probe Installation

Alternatively, borings can be advanced using truck-mounted or limited access Geoprobe® DPT continuous coring equipment using a nominal 4-foot long, 2-inch OD stainless steel core barrel drive sampler and extension rods. The drive probe will be equipped with nominal 1 ½-inch inside diameter (ID) clear PETG plastic tubes that line the interior of the probe. Continuous soil sample cores are recovered for potential lithologic characterization and laboratory analysis. Alternatively, borings can be advanced using truck-mounted or limited access Geoprobe® DPT equipment, or a hand-operated slide hammer, to drive 1-inch outside diameter (OD) rods and probes with expendable steel tips without recovering soil cores. After the probes or core barrels are advanced to the specified depth, typically 5.5 feet bgs, the probes and drive rods are removed, leaving the borehole open with the expendable probe tip (if used) at the bottom.

Plastic or stainless steel soil vapor probes, ½-inch diameter by 2-inches long and tipped with porous plastic membranes, are then inserted to the bottom of the 1-inch diameter boreholes at 5 feet bgs. The probe tips are attached to 7-foot lengths of flexible 0.25-inch OD polyethylene, Nylaflow™ or Teflon™ tubing extending to the top of the floor slab. Only Teflon™ sample tubing is to be used if naphthalene analysis is intended. A 1-foot interval of fine sand filter pack is placed in the borehole annulus around the probe, typically from approximately 4.5 to 5.5 feet bgs. A 1-foot interval of the annular space above the filter pack is then filled with non-hydrated granular bentonite. Hydrated granular bentonite or bentonite chips are then used to fill the annular space above the non-hydrated granular bentonite to the top of the floor slab or surface pavement. The bentonite is allowed to hydrate and borehole conditions to equalize for 2 hours prior to sampling activities, per DTSC vapor sampling guidelines. Temporary soil vapor probe installation procedures will be performed in general accordance with guidelines presented in the DTSC *Advisory – Active Soil Gas Investigations*, July, 2015.

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Sub Slab Soil Vapor Probe Installation

Semi-permanent sub-slab soil vapor probes are emplaced as follows: A 1-inch diameter hole is drilled through the concrete floor slab using a portable electric drill. The boreholes are advanced approximately 0.5 feet bgs into the subgrade material beneath the floor slab. Stainless steel or plastic vapor probes 2 inches long by 0.5 inches in diameter, tipped with porous plastic membranes, will be inserted to the bottom of each sub-slab borehole. The probe tips will be attached to lengths of 0.25-inch diameter Teflon™ or stainless steel tubing extending to approximately 1 inch below the top of the floor slab. The top of the Teflon™ or stainless steel tubing in each probe will be attached to a brass threaded male Swagelock™ fitting and cap recessed below the concrete floor. A fine sand filter pack approximately 2 to 4 inches thick will be placed in the borehole annulus around the probes. A Teflon™ sealing disk will be placed around the tubing above the filter pack.

Dry granular bentonite will be placed in the borehole annulus above the Teflon™ sealing disk to above the base of the concrete floor slab. Hydrated granulated bentonite will then be used to fill the annular space above the dry granular to approximately 2 inches above the bottom of the floor slab, and will be hydrated from the surface using deionized water. Quick-drying cement/bentonite grout will then be used to fill the remaining annular space to the Swagelock fitting approximately ¾ to 1 inch below the top of the slab. A watertight plastic cap or metal vault box will be installed flush with the top of the floor slab within a 2 to 4-inch diameter countersunk hole to protect the probe fitting. At least 2 hours will elapse prior to collecting vapor samples to allow the bentonite and cement grout seal to hydrate and borehole conditions to equalize, per DTSC sub-slab vapor sampling guidelines (DTSC, 2011).

Soil Vapor Sampling via Summa Canister

Soil vapor sampling procedures will be similar for Geoprobe® PRT and continuously cored temporary soil vapor probes, and semi-permanent sub-slab soil vapor probes, and will be in general accordance with *DTSC Advisory – Active Soil Gas Investigations*, July 2015. Soil vapor sampling will not be performed if significant precipitation (greater than ½ inch in a 24 hour period) has occurred within the previous five days. The soil vapor probe Teflon™ sample tubing will be connected to the sample manifold system via threaded SwageLok™ connectors.

AllWest will collect soil vapor samples in laboratory prepared 1-liter capacity SUMMA canisters. Prior to vapor purging and sample collection, a vacuum leak shut-in test of the flow-controller/gauge manifold assembly will be performed for a minimum of 1 minute, with a no allowable observed vacuum drop of 0.2 inches of mercury (in Hg). If any noticeable vacuum drop is observed, the manifold fittings will be tightened or manifold replaced and the shut-in test redone. Vacuum gauge sensitivity will register a minimum of 0.5 inches of mercury (in Hg). The sampling system configuration is shown in the attached schematic diagram.

Prior to sample collection, approximately 3 sampling system volumes of soil vapor will be purged at a flow rate of approximately 150-200 milliliters per minute (ml/min) from each vapor probe using a dedicated 6-liter capacity SUMMA purge canister (approximately 200 ml per in Hg vacuum). A 3-way valve (with the handle mounted outside the leak detection shroud) will be opened to divert the flow of purged soil vapor from the probe to the purge Summa canister, after opening the purge Summa valve. Typical sampling system volumes are 4.5 ml/feet for ¼-inch OD/0.17-inch ID tubing, and 200 ml/feet for a 2-inch diameter borehole with sand filter pack (minus tubing volume). Assuming a 2-inch diameter borehole with a 0.5

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feet sand filter pack interval, the typical system volume would be approximately 130 ml for a 5-feet bgs temporary probe, and 115 ml for a 1–feet bgs sub-slab probe, including 2-3 feet of tubing above grade. Therefore, 3 system volumes would typically be approximately 350 to 400 milliliters (ml) depending on tubing length and borehole diameter, depth and filter pack interval.

Alternatively, for large purge volumes an electric battery-powered vacuum pump may be used for purging. The vacuum pump is located outside of the leak detection shroud and connected to the flow-controller/gauge manifold assembly inside the shroud by ¼-inch OD/0.17-inch ID Teflon tubing passing through a 2-way valve (with the handle mounted outside the leak detection shroud). During the purging operation, the valve is opened to allow soil vapor to be purged by the pump. The pump is equipped with a variable rate flow controller, in addition to the flow regulator on the manifold, and the flow rate is set at 150-200 ml/min. The purge volume is determined by the purge time multiplied by the flow rate. When the required soil vapor volume has been purged, the 2-way valve is closed to isolate the pump from the sampling manifold, and the pump turned off.

During purging and sampling, a leak detection test is conducted using helium as a leak tracer inside an airtight plastic shroud covering the entire sampling apparatus, as recommended in the DTSC *Advisory – Active Soil Gas Investigations* (DTSC Appendix C, 2015). The leak detection shroud configuration is shown in the attached schematic diagram. The helium concentration within the shroud is monitored with a helium gas detection meter with a minimum precision of 0.1% to keep the ambient concentration at approximately 10% to 20% (or at least two orders of magnitude above the minimum meter detection limit). The helium tracer gas will be infused into the shroud at the required concentration at least 5 minutes prior to purging and sample collection. The ambient helium concentration within the shroud will be maintained throughout the purge and sample periods to within ±10% of the target concentration.

Depending upon helium availability, other leak detection gases such as isopropyl alcohol (IPA) or difluoroethane (DFA, commonly known as DustOff) may be substituted. Ambient concentrations of IPA within the shroud or purged soil vapor will be measured with a photo-ionization detector (PID); DFA concentrations are not measurable with a PID. The same volume of IPA (typically a cotton ball soaked with 5 milliliters of IPA) or DFA (typically a 5-second aerosol can discharge) will be used for each sample to maintain consistent ambient concentrations within the shroud.

Immediately following purging of 3 sampling system volumes of soil vapor, a leak test of the probe seal will be conducted by using the 3-way valve to divert the flow of purged soil vapor from the probe to the helium detection meter via a monitoring port on the outside of the shroud. If the measured purged soil vapor helium concentration is less than 5% of the ambient shroud concentration, the soil vapor probe seal is presumed to be acceptable (per DTSC Appendix C, 2015), and sampling will proceed. If the measured purged soil vapor helium concentration is greater than 5% of the ambient shroud concentration, the soil vapor probe seal is presumed to be defective, and the probe should be reinstalled and re-sampled.

Following the purged soil vapor readings and acceptable vapor probe seal leak test, the 3-way and purge Summa valves will be closed, sample Summa valve opened, and additional helium added to the shroud to bring the ambient concentration back up to within ±10% of the target concentration. The 3-way valve will then be turned to divert soil vapor from the probe to the sample Summa canister. To verify helium detection (or PID if used) meter accuracy, one (1) ambient air sample per day is usually collected using a 1-liter SUMMA canister with a 150-200 ml/min flow restrictor inside the leak detection shroud during the sampling of one probe to measure ambient helium (or IPA or DFA if used instead) concentrations inside the shroud.

Flow rates of approximately 150-200 ml/min are used to fill the sample canisters. The canisters are filled to approximate 80% of capacity (approximately 5 inches of mercury vacuum remaining), at which point first the 3-way valve, then the sample Summa valve are closed. All pertinent field observations, pressure, times and readings are recorded. After filling and closing the sample valve, all SUMMA canisters are removed from the manifold, labeled with sampling information, including initial and final vacuum pressures, placed in a dark container and transported under chain-of-custody to the analytical laboratory. The analytical laboratory will record the final SUMMA canister vacuum upon receipt.

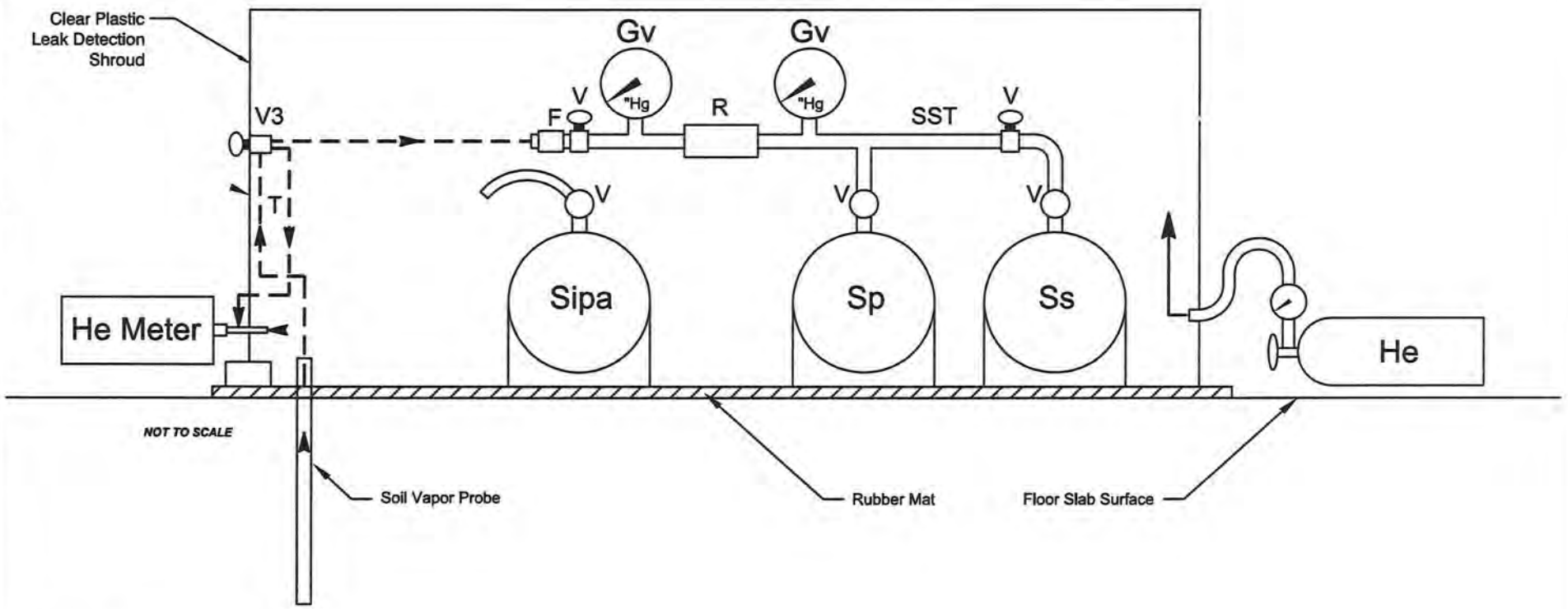
Soil Vapor Sampling via Tenax™ Sorbent Tubes

For collecting soil vapor samples in sorbent tubes for analysis by EPA Method TO-17, the sampling manifold setup, shut-in leak checks, system purging and leak detect shroud setup are similar to that using Summa canisters. However, instead of using Summa canisters for sample collection, samples are collected in stainless steel sample tubes filled with Tenax™ sorbent material. The sorbent tubes are attached with Swagelock™ fittings to the sample manifold downstream from the gauges, filters, flow restrictors, and purge canister or pump, and within the leak detection shroud. In areas of suspected high contaminant concentrations, two (2) Tenax™ sorbent tubes may be placed in series to prevent contaminant breakthrough. A vacuum pump, 100 ml syringe or second SUMMA sample purge canister is attached to the downstream end of the Tenax™ sorbent tubes. If the sample manifold train is too large to fit in the leak detection shroud, the pump, syringe or second sample purge SUMMA may be located outside the shroud with the sample train tubing passing through the shroud wall.

A cotton ball saturated with approximately 5 ml isopropyl alcohol (IPA) and placed inside the shroud will be used as the leak detection gas agent. A photo-ionization detector (PID) is used to monitor IPA concentrations within the leak detection shroud, or purged soil vapor through access ports in the shroud via the 3-way valve. The 3-way valve is used to divert purged soil vapor to either the purge Summa canister during purging, or to the purged soil vapor monitoring port following purging for probe seal leak detection by monitoring IPA concentrations with a PID, as described in the Summa canister sampling section.

Flow rates of approximately 50 to 100 ml/min are used to fill the sorbent tubes with a total sample volume of approximately 1 to 4 liters, depending on the desired laboratory detection limits. The sampling system vacuum should not exceed 100 inches of water (or 7.4 in Hg). All pertinent field observations, pressure, times, and ambient and soil vapor IPA (PID) concentration readings are recorded. After the desired sample volume is withdrawn through the sorbent tubes, the tubes are removed from the manifold, capped with Swagelock™ caps, wrapped in aluminum foil, placed in a sealed plastic tube container, labeled with sampling information, placed in an ice chest cooled to 4°C with crushed ice, and transported under chain-of-custody to the analytical laboratory.

General Soil Gas Sampling Manifold Schematic with Leak Detection Shroud



LEGEND

F	=	Filter
V	=	Valve
V3	=	Valve - 3-Way
Gp	=	Pressure Gauge
R	=	Flow Regulator
Gv	=	Vacuum Gauge
Sp	=	Purge Summa Canister
Ss	=	Sample Summa Canister
Sipa	=	Ambient Air Helium Leak Detect Gas Summa Canister
He Meter	=	Helium detector for He concentration readings - Shroud Ambient & Purged Soul Vapor
T	=	Disposable Teflon or Polyethylene Tubing
SST	=	Stainless Steel Tubing and Fittings
He	=	Helium tank, leak detect gas, regulator and tubing

AllWest

STANDARD OPERATING PROCEDURE
SOIL VAPOR SAMPLING
HELIUM SHROUD
SOURCE: ALLWEST
PREPARED BY: C. RAMELB / MONAHAN

EXHIBIT J

CASE CLOSURE FORM

LEAKING UNDERGROUND FUEL STORAGE TANK PROGRAM

Local Oversight Program

I. Agency Information

Date: 08/05/2019

Agency name: Department of Public Health	Address: 1390 Market Street, Suite 210
City/State/Zip: San Francisco, CA 94102	Phone: 415-252-3927
Responsible staff person: Mamdouh Awwad	Title: Sr. Environmental Health Inspector

II. Case Information

Site facility name: Commercial Property		
Site facility address: 1776 Green Street, San Francisco, CA 94123		
RB LUSTIS Case No.:	Local case No.: 12076	LOP Case No. 12076
URF filing date: 02/12/20168	SWEEPS No.:	
Responsible Parties	**Addressee**	**Phone Numbers**
1776 Green Street LLC, c/o John Bickford	The Presidio – 572 Ruger St, Ste. A San Francisco, California 94129	

Tank No.	Size in Gal.	Contents	Closed in-Place/Removed?	Date
1	1,000	Petroleum blend	Removed	02/12/2016
2, 3,4	550	Petroleum blend	Removed	02/12/2016

III. Release and Site Characterization Information

Cause and type of release: Unknown, corrosion holes, as indication of potential leakage.			
Site characterization complete? Yes	Date approved by oversight agency: 12/3/2019		
Monitoring wells installed? Yes	Number: 3	Proper screened interval? Yes	
Highest GW depth below ground surface: 28 feet	Lowest depth :32 feet	Flow direction North	
Most sensitive current use: Commercial			
Are drinking water wells affected? No	Aquifer name: Marina Basin		
Is surface water affected? No	Nearest/affected SW name: NA		
Off-site beneficial use impacts (addresses/locations): None			
Report(s) on file? Yes	Where is report(s) filed? 1390 Market Street, Suite 210, San Francisco, Ca. 94102		

Treatment and Disposal of Affected Material			
Material	Amount (Include units)	Action (Treatment or Disposal w/Destination	Date
Tank 1,2,3,&4	1-11,000 & 3-550 gals.	Recycled.	02/12/2016

Tank 4	12,000 gal	Tank was recycled at the Recology Services' Vasco Road Landfill in Livermore, California	04/09/2018
Piping	N/A	N/A	N/A
Free Product	N/A	N/A	N/A
Barrels	N/A	N/A	N/A

CASE CLOSURE SUMMARY
PG. 2

Release and Site Characterization Information (Continued)

Maximum Documented Contaminant Concentrations - - Before and After Cleanup

Contaminant	Soil (ppm)		Water (ppb)		Contaminant	Soil (ppm)		Water (ppb)	
	Before	After	Before	After		Before	After	Before	After
TPH (Gas)	19,000	19,000	32,000	2,500	Xylene	420	420	4200	260
TPH (Diesel)	1,200	1,200	2,500	170	Ethylbenzene	190	190	590	43
Benzene	94	94	4,500	380	MTBE	ND	ND	ND	ND
Toluene	570	570	7400	380	NAPHTHALENE	63	63	ND	ND
Other: TPH-b.o	380	380	340	ND	Lead	19	19	NA	NA

Comments (Depth of Remediation, etc.):

IV. Closure

Does completed corrective action protect existing beneficial uses per the Regional Board Basin Plan? Yes		
Does completed corrective action protect potential beneficial uses per the Regional Board Basin Plan? Yes		
Does corrective action protect public health for current land use? Yes		
Site management requirements:		
Should corrective action be reviewed if land use changes? Yes		
Monitoring wells decommissioned: No	Number decommissioned: 0	Number retained: 3
List enforcement actions taken: None		

V. Local Agency Representative Data

Name: Mamdouh Awwad	Title: Sr. Environmental Health Inspector
Signature:	Date: 12/3/2019

VI. RWQCB Notification

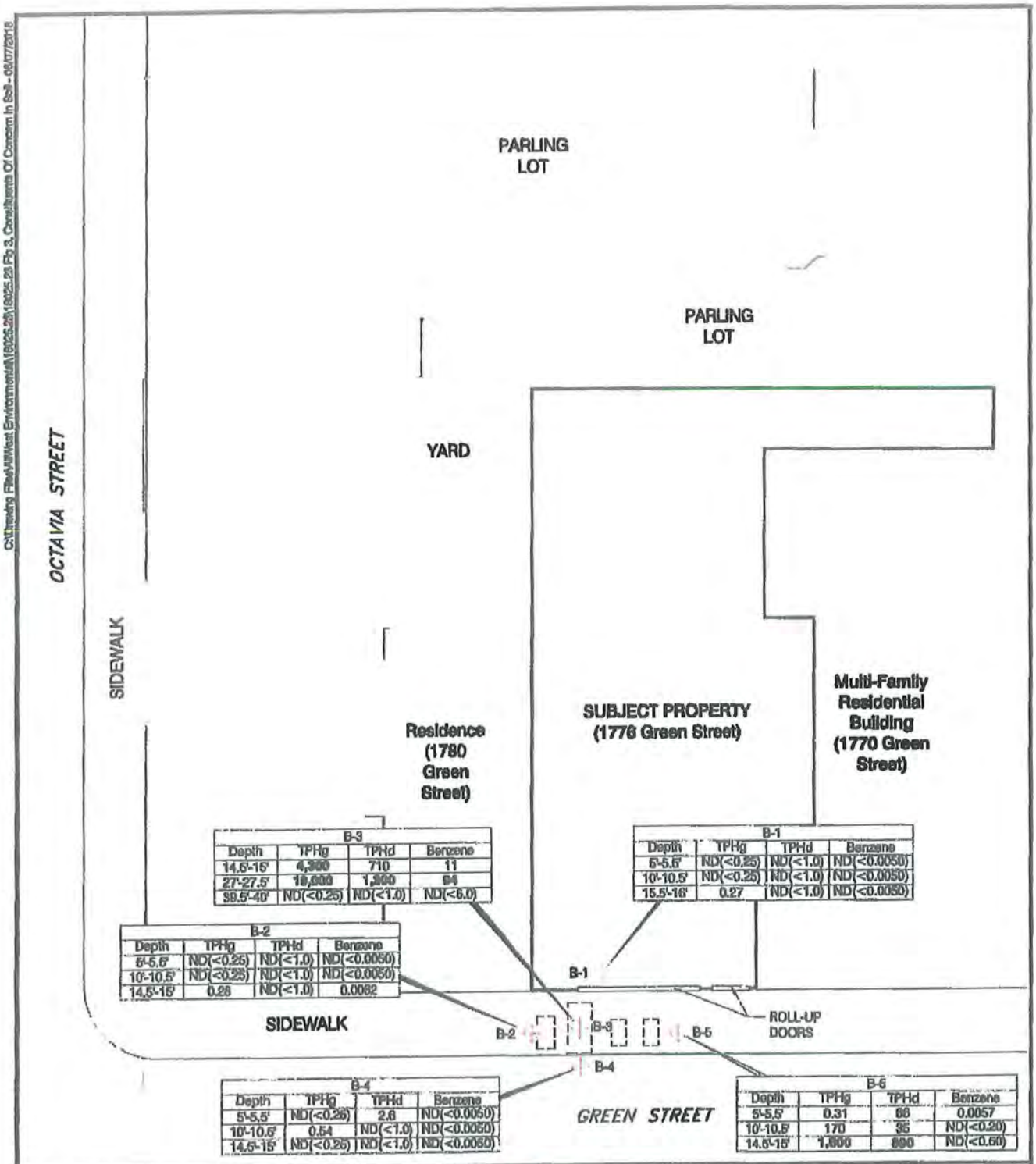
Date submitted to RB: 12/3/2019	

VII. Additional Comments:

AllWest conducted a subsurface investigation at the subject property on May 14 to 15, 2018, consisting of the advancement of five soil borings (B-1 through B-5), and the collection of one groundwater sample. The borings were advanced by track-mounted Geoprobe® direct push technology (DPT) methods to a total depth of 15 to 40 bgs. Static groundwater was measured at approximately 37 feet bgs in boring B-3 following recovery overnight. Boring locations are shown on Figure 2. Twenty one soil samples were collected from the borings. One grab groundwater sample was collected from boring B-3. Fifteen soil samples were analyzed for total petroleum hydrocarbons as gasoline, diesel and motor oil (TPH-g, TPH-d and TPH-mo); selected volatile organic compounds (VOCs) including benzene, toluene, ethylbenzene and total xylenes (BTEX), methyl teri-butyl ether (MTBE), tert-butyl alcohol (TBA), 1,2-dibromoethane (EDB), 1,2-dichloroethane (1,2-DCA) and naphthalene; and total lead. Concentrations of TPH-g, TPH-d, benzene, ethylbenzene, toluene, xylenes and napthalene were detected at maximum respective concentrations of 19,000 milligrams per kilogram (mg/Kg), 1,200 mg/Kg, 94 mg/Kg, 190 mg/Kg, 570 mg/Kg, 1,000 mg/kg and 63 mg/Kg; above their applicable San Francisco Regional Water Quality Control Board (SFRWQCB) Environmental Screening Levels (ELSs) in soil samples collected from borings B-3 and B-5 at depths between approximately 14.5 feet bgs and 39.5 feet bgs. Elevated concentrations, in exceedance of their respective ESLs, of TPH-g, TPH-d, BTEX, and 1,2-DCA were detected at 32,000 micrograms per liter (µg/L), 2,500 µg/L, 4,500 µg/L, 890 µg/L, 7,400 µg/L 4,200 µg/L and 670 µg/L, respectively in the groundwater sample from boring B-3. No other constituents of concern (COCs) were detected in any other soil samples at concentrations exceeding applicable ESLs. In conclusion, AllWest's subsurface assessment identified elevated levels of petroleum hydrocarbons in soil and groundwater at the subject property exceeding applicable regulatory agency screening levels. The vertical extent and partial lateral extent of elevated hydrocarbon constituent concentrations in soil had been delineated and impacts to groundwater had been identified (AllWest, 2018b).

LOP recommends closure of this case as an LOP case and allow the oversight to be continued under the Site Mitigation Program (Article 22A) of local Health Code. LOP also recommends that Monitoring Wells MW-1 and MW-2 be kept for further site assessment during and post development of the site. MW-3 can be kept or abandoned if it interferes with development. The development will require additional site assessment and a Site Mitigation Plan prior to development under Article 22A.

C:\Drawing Files\AllWest Environmental\16025.23\16025.23 Fig 3, Constituents Of Concern In Soil - 06/07/2018



LEGEND

B-5 · Geoprobe Borings

Former UST Locations

Note:
TPHg - Total Petroleum Hydrocarbons as Gasoline
TPHd - Total Petroleum Hydrocarbons as Diesel
Results in milligrams per kilogram (mg/kg)

N

0 15 30

APPROXIMATE SCALE (FEET)

AllWest

PROJECT NO. 16025.23

FIGURE 3

CONSTITUENTS OF CONCERN IN SOIL

1776 Green Street

San Francisco, California

SOURCE: AllWest, Google Earth

DRAWN BY: CM 06/07/2018

EXHIBIT K

JAN RAYMOND

LEGISLATIVE | HISTORY & INTENT

PUBLIC RESOURCES CODE

SECTION 21092.6

ADDED BY
CHAPTER 1212, STATUTES OF 1991

P.O. Box 9216, Berkeley CA 94709 | Phone: (888) 676-1947 | Fax: (530) 750-0190 | www.naj.net

Caltrans Seeks a New Ruling on Toxic Waste Site

1-31-84

By MARK A. STEIN, *Times Staff Writer*

Caltrans announced Wednesday that it is asking state pollution officials to reconsider their earlier approval of plans to build a Century Freeway interchange on an old toxic waste dump in Lynwood.

The announcement came in the wake of charges that Caltrans was endangering public health and safety by refusing to finish removal of hazardous wastes from the dump.

Without conceding an error in judgment, Heinz Heckeroth, Caltrans' Los Angeles district director, said the Regional Water Quality Control Board, a state agency, would be asked to reconsider its approval of the Caltrans plan in light of the charges.

Heckeroth also told reporters at the dumpsite that one of the two subcontractors who first questioned the safety of the project is being investigated for unspecified "contract infractions."

JOE KENNEDY / Los Angeles Times

Heinz Heckeroth speaking to reporters at the dump site.

He said the subcontractor, Andrew Papac Jr. of South El Monte, and his attorneys will meet today with Caltrans officials in Sacramento to try to settle the matter. Papac was to have met with Caltrans on Tuesday, but the meeting was postponed.

Papac and another subcontractor on the $1.5-billion Century Freeway project, environmental engineer Kenneth Hekimian of Huntington Beach, told The Times last week that soil contaminated with "very high levels" of poisonous heavy metals and pesticides and barrels of toxic and perhaps radioactive wastes had been unearthed during construction of the freeway.

They said that after hauling half of the hazardous material to a licensed toxic waste dump, Caltrans planned to cut costs by reburying the remaining 100,000 cubic feet under a synthetic membrane and asphalt. They said this would endanger ground water in the area, which is used to supply drinking water to neighbor-

Please see FREEWAY, Page 2

FREEWAY: Toxic Site Ruling Sought

Continued from Page 1

hoods in the area.

Assemblyman Bruce Young said Wednesday that he, too, had heard the charges and said he has subpoenaed several Caltrans employees to testify before the Assembly Transportation Committee at a public hearing in Norwalk on Friday. The Cerritos Democrat is chairman of the committee.

However, he noted that, "I still have the ultimate confidence in the department (Caltrans) and I am confident that all questions that have been raised will be answered."

Answers Sought From Board

Heckeroth said Caltrans has turned to the Los Angeles Regional Water Quality Control Board in search of those answers. "After a review of the disposal method by the . . . board," he said, "Caltrans will dispose of the material in any manner requested by the board."

The regional board, which is a state agency, was the body that originally approved of the Caltrans plan to leave toxic wastes in the ground.

Young, however, had earlier said he doubts the board has the expertise to decide on such matters. "Frankly, I don't feel the Water Quality Control Board is qualified to make long-term decisions on toxic wastes," he said.

The state Department of Health Services also must approve the Caltrans plan.

Caltrans officials said they turned to the water board and to the state and county health departments when they first came across the waste, which was at the bottom of the old Willco Dump. Caltrans was moving the contents of the dump because it was too unstable to build on, Heckeroth said.

Heckeroth and his deputy, Jerry Baxter, said they had met informally with staff members of the three

agencies, and all had verbally approved a plan to leave about 100,000 cubic yards of wastes in the ground—an option Heckeroth said was made possible because the material was more stable than first believed.

Two of the four principals at that meeting—Raymond I. Hertel of the Regional Water Quality Control Board and Miller Chambers of the state Department of Health Services—retired last year and could not be reached for comment. A third man, John Hinton of the state health department, said he does not recall details of the meeting. Baxter said he could not remember the name of the county health department representative.

However, another state health department expert familiar with the project, Harry Sneh, did not confirm Caltrans' assertion that his agency had approved the idea. "As yet," he said, "Caltrans has not given us the up-to-date, as-built specifications on the proposal, so it is a little early to talk about a final approval."

Heckeroth chafed at a suggestion that the episode was a mistake. "There are no mistakes," he said, "but if there were some inappropriate actions, we have ways of correcting that."

However, area residents doubted that Wednesday. One of them, the Rev. Jerome Fisher, challenged Heckeroth to "guarantee that no toxic material will be left" under the freeway. Heckeroth only said that whatever remains will not harm the water.

Fisher, who said he lives a mile from the dump, was dissatisfied anyway. "I am not going to be satisfied with any answer until they can guarantee that no hazardous waste will be left here," he said. "We demand safety, not appeasement."

Another Lynwood resident, Morris McCants, said he worked on the freeway project, and said much of the material hauled away from the dump "had an awful bad odor . . . . A lot of guys got sick smelling it." He said a considerable amount of toxic waste remains in the dump.

Both Caltrans and Papac, the contractor, acknowledged that the smell was so bad they frequently sprayed the site with a perfume-like substance.

"It's costing us an exorbitant amount," said a Caltrans engineer. "We had to truck in perfume and spray the place. The smell was terrible."

1-21-84

More Potential Toxins Discovered at Dump

By WILLIAM TROMBLEY, *Times Urban Affairs Writer*

Ground X-rays have found at least nine more large metallic containers, holding potentially dangerous wastes, in the part of a Lynwood dump that the California Department of Transportation plans to leave in place along the route of the proposed Century Freeway.

The state Assembly subcommittee on oversight of the Century Freeway received this information Friday during a four-hour hearing in Norwalk on dangers posed by the Caltrans decision.

There was also testimony that hazardous wastes were removed from the dump in "hidden loads" without accurate records and that Caltrans ignored advice from its consultants to perform more tests on the dump material.

Andrew Papac, the Caltrans contractor on the Willco Dump job, said a "geophysical examination" conducted early this week by a Santa Ana consulting engineering firm found "nine targets" that were as large as, or larger than, the 50 to 75 drums that Papac said his truckers already have removed from the site.

The Caltrans plan to leave 100,000 cubic yards of hazardous wastes in place beneath a massive interchange between the Century and Long Beach freeways was based on the belief that the wastes could be "entombed" in a manner that would prevent contaminants from seeping into Lynwood's drinking water supply.

After hearing Friday's testimony about the newly discovered buried drums, however, Heinz Heckeroth, Caltrans district director, said, "We have to review our decision to leave that material there."

Caltrans will seek advice from the state Department of Health Services and the Regional Water Quality Control Board before deciding whether to leave wastes in place, Heckeroth said.

Friday's hearing also produced charges by Papac employees that they hauled "hidden loads" of possibly contaminated 55-gallon drums from the Willco site to the BKK toxic waste dump in West Covina.

In a statement read by Assemblyman Bruce Young (D-Cerritos), chairman of the Assembly Transportation Committee, the operator of the excavation equipment said:

"During the excavation of the hazardous material at Willco, I uncovered numerous liquid drums (approximately 50). When these barrels were encountered, I would just load them onto the trucks so they would not show. I did this as directed by Paul Brewer, the Calscience representative."

(Calscience Research Inc., a Huntington Beach firm, was hired by Caltrans as environmental con-

Please see TOXINS, Page 8

Continued from page 1

sultant on the Willco job. Brewer supervised some of the work at the Willco site.)

Angelo Bellomo, chief of the toxic substances control division in the Los Angeles office of the state health services department, said his agency also will investigate these charges because it is a violation of state law to haul highly toxic and radioactive materials without specifically describing the materials on the trip manifest.

Young also read a statement by Michael T. Marshall, Papac's superintendent on the job, in which Marshall said Brewer "directed me to not open any of the liquid drums that we uncovered. He directed me to 'just put them in the trucks and cover them with dirt.' He also directed me to not make any waves."

According to Marshall's statement, 40 to 50 barrels and drums were taken to the West Covina dump as "hidden loads" under these instructions.

Allen Pierre, a retired Army officer with 21 years of experience in dealing with biological, chemical and radioactive wastes, testified that he feared radioactive wastes might be stored in half a dozen concrete drums that were excavated from the eastern end of the 14.5-acre dump site.

Pierre, who was working as a sub-consultant for Caltrans, said his suspicions were aroused because the barrels looked like those the U.S. Army once used to bury radioactive wastes at sea.

Pierre said he asked the Calscience representatives and Caltrans officials to test the concrete drums for radioactivity "but to no avail."

Pierre said that many drums and barrels were not tested before being hauled to the BKK Dump in West Covina and that all were listed on the trip manifests as "contaminated soil/oil" without any specifics on the nature of the suspected contamination.

Brewer, who worked for Calscience, denied the allegations. He said any drum that contained "a substantial amount of liquid" was tested before it was sent to West Covina. He said the trip records, which the committee plans to check, will confirm this.

Heckeroth, the Caltrans regional director, said his agency will attempt to sort out the conflicting claims during an internal investigation of the handling of the Willco job.

In the meantime, Caltrans has suspended Papac's contract for "irregularities" the agency has declined to describe, and all of the consultants who urged that further testing be done on the wastes have been dismissed.

Heckeroth said he will look into the conditions that permitted Caltrans to ignore warnings from Pierre, from Huntington Beach consulting engineer Kenneth Hekimian and from John Amoore, a Berkeley chemist, that more testing should have been done before the decision was made to leave roughly a third of the Willco Dump material in place.

Stanley Dick, the Caltrans engineer in charge of the job, said, "Our consultant was Calscience and, as far as I can recall, they didn't suggest additional testing."

But the testimony revealed that many Calscience decisions were being made by Brewer, their man on the site, who is working on a master's degree in environmental studies and who never has handled a toxic waste job before, although contrary advice was coming from Pierre and others with advanced degrees and considerable experience in such work.

Midway through the hearing Friday, Assemblywoman Sally Tanner (D-El Monte) said, "If someone from the private sector were to do" what Caltrans has done in this case, "I'm sure they'd be in jail right now" in addition to paying "tremendous fines."

"For someone from the state to tell people to act in this manner is just shocking," Tanner added.

She said the Assembly Committee on Consumer Protection and Toxic Materials, which she chairs, will hold hearings on the Willco Dump soon.

PLEASE RETURN AS SOON AS POSSIBLE TO:
ASSEMBLY TRANSPORTATION COMMITTEE
ROOM 3132, STATE CAPITOL

BILL ANALYSIS WORK SHEET

MEASURE: AB 869 AUTHOR: Farr

1. Sponsor of the Bill - What person, organization or government entity, if any, requested introduction?
The AAA amendments are reflected in SEC. 2 of the bill (SEC. 3 on the amendments). The remainder of the bill (CEQA amendments) are the authors.

2. Problem or deficiency in present law which the bill seeks to remedy:
1) Current law prohibits Caltrans projects from being categorically exempt if there is damage to certain resources. Yet, other agencies can do projects and not be subject to the provision. This bill corrects the inequity. Also, CEQA refers to projects which may have a significant effect, and that is how projects are evaluated in an initial study. This bill therefore changes the "will" to a "may".
2) There is no link between 65962.5 of the government code + CEQA. This bill ensures that hazardous waste sites will be considered in the CEQA process, by a) prohibiting ~~them from being~~ projects from being exempt if they are on a site, b) (cont.)

3. Has a similar measure been before the Legislature either this session or a previous session? If so, please identify the session, bill number, and disposition of the bill.
No.

4. Known Support/Opposition - Please attach copies of letters from any group or governmental agency who has contacted you, indicating a position on the bill.
No.

5. Hearing - Please indicate approximate amount of time necessary for hearing bill and the number of witnesses. (Please encourage witnesses to be brief.) 3 minutes.
There should be no need for witnesses.

6. Name and telephone number of person to contact if further information is needed:
Randy Perton (5-6034).

7. Please attach a copy of any background material which explains the bill or state where such material may be available (INCLUDING ANY POLICY AND FISCAL ANALYSES).
Please note attached amendments subsequent to Leg. Counsel on 3/18/91.

PLEASE NOTE:

- REQUESTS TO SCHEDULE A MEASURE FOR HEARING MUST BE RECEIVED BY 5:00 p.m. OF THE FRIDAY ONE WEEK PRIOR TO THE HEARING.
- AMENDMENTS, IN LEGISLATIVE COUNSEL FORM, MUST BE RECEIVED BY THE COMMITTEE NO LATER THAN 5:00 p.m. ON THE MONDAY ONE WEEK PRIOR TO THE HEARING.
- IN COMMITTEE, BILLS MAY BE PRESENTED BY THE AUTHOR ONLY.

AA 000953

project because it is proposed for a hazardous waste site.

COMMENTS

Background. The author has introduced this bill to better protect the resources of scenic highways, to insure that a lead agency uses available information on hazardous waste sites when evaluating a project and to clarify that highways statutorily included in the scenic highway system are not formally designated as scenic highways.

To demonstrate the need for the bill, the author's staff cite an article in Environmental Monitor (Winter edition, 1991) which argues that CEQA compliance requires an evaluation and remediation of hazardous waste contamination at a project site. The intent of the bill is to focus the lead agency on this issue by requiring that it determine if a site is contained on available lists of hazardous waste sites.

SOURCE: Assembly Member Farr

SUPPORT: None on file

OPPOSITION: California Building Industry Association

Paul Thayer
445-9367
4/22/91:anatres

COMMENTS

The author has introduced this bill to better protect the resources of scenic highways, to insure that a lead agency uses available information on hazardous waste sites when evaluating a project and to clarify that highways statutorily included in the scenic highway system are not formally designated as scenic highways.

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Paul Thayer
445-9367
anatres

3) Requires a lead agency to include relevant information in environmental documents of specified notices when a project site may be contaminated with hazardous material.

4) Delete bill's provision which makes a project which may damage scenic resources within a highway eligible for designation as a scenic highway ineligible for a categorical exemption from CEQA.

FISCAL EFFECT

Minor costs to OPR. Potentially significant but unlikely costs for conducting environmental review of projects previously exempted from CEQA.

COMMENTS

The author has introduced this bill to better protect the resources of scenic highways and to insure that a lead agency uses available information on hazardous waste sites when evaluating a project.

To demonstrate the need for the bill, the author's staff cite an article in Environmental Monitor (Winter edition, 1991) which argues that CEQA compliance requires an evaluation and remediation of hazardous waste contamination at a project site. The intent of the bill is to focus the lead agency on this issue by requiring that it determine if a site is contained on available lists of hazardous waste sites, and to include this information in environmental documents and specified documents.

Paul Thayer
445-9367
anatres

VETO MESSAGE

To the Members of the California Assembly:

I am returning Assembly Bill 869 without my signature.

This bill would modify the eligibility criteria for projects seeking a categorical exemption pursuant to the California Environmental Quality Act (CEQA).

The proposed prohibition against exempting from CEQA any project located at a hazardous waste site raises the potential for significant costs with little practical benefit.

This legislation is unnecessary. Under current local and state health laws, lead agencies routinely undertake site cleanup activities prior to project construction. The cleanup, using certified contractors, is usually commenced following discussions with local health authorities. Once the hazardous waste problem has been rectified, the requirement for an environmental impact report or a negative declaration rather than a categorical exemption is unjustified and will result in project delays and costs.

Cordially,

PETE WILSON
Governor

IMPACT ANALYSIS

A. Specific Findings

a. History and Sponsorship

This bill is sponsored by Assemblyman Farr, Chairman of the Assembly Local Government Committee. The bill was drafted by Randy Pestor, committee consultant, after reviewing an article in the bulletin of the Association of Environmental Professionals (AEP) concerning the problems of using the categorical exemptions from CEQA for projects on listed hazardous waste sites.

b. CEQA Exemptions

Under existing law, the Secretary of the Resources Agency has adopted guidelines for implementing the California Environmental Quality Act (CEQA), the law that requires preparation of environmental impact reports for projects that may have a significant environmental effect. The guidelines are required to include a list of classes of projects determined by the Secretary not to have a significant effect on the environment. These administrative exemptions from CEQA are called "categorical exemptions." Categorical exemptions cannot be used where a project would have a significant effect due to unusual circumstances not foreseen when the exemption was adopted.

The additional restriction on CEQA exemptions on scenic highways would not be a big change. A court would probably rule that damage to scenic resources along a scenic highway would be a significant effect so that a categorical exemption should not be used. The bill would strengthen the point that agencies should not use categorical exemptions under these circumstances.

Prohibiting the use of categorical exemptions on listed hazardous material sites would also be only a minor change. Exposing people to hazardous materials is generally considered a significant effect under CEQA. As a result, categorical exemptions generally should not be used on the listed sites. However, the categorical exemptions for experimental management and enforcement actions could be useful in dealing with listed sites. The bill is broader than it should be.

The restriction on exemptions would apply only to the categorical exemptions adopted by the Secretary of the Resources Agency. All other CEQA exemptions would still apply. A few examples are the exemptions for emergencies, disaster relief, and the repair of public utilities.

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and mitigation measures can be evaluated early; and, 3) establishing a process for the California Environmental Protection Agency to notify the lead agency if a proposed project is located on a listed site and the lead agency did not so indicate on the statement.

As such, AB 869 creates no new environmental requirements. This bill responds to problems outlined in the winter edition of the "Environmental Monitor" relating to hazardous waste issues being handled on two uncoordinated tracks (permit and environmental) and the "substantial legal risks" associated with the use of categorical exemptions under CEQA for projects proposed on contaminated properties.

This bill will save public agencies, property owners, and developers significant amounts of time and expense because they will be able to know and address hazardous waste problems before construction.

In drafting AB 869, I worked closely with public agencies, especially the Office of Planning and Research (including the Office of Permit Assistance in OPR) and the California Environmental Protection Agency. This staff involvement was crucial, their suggestions have been incorporated into the bill, and I very much appreciate their assistance.

The Department of Transportation was concerned with an amendment in the bill relating to scenic highways. I accepted their suggested amendment (page 6, line 13 of the September 11 version). The department also wanted to be exempt from the remainder of the bill, and indicated that the department simply halts construction when a hazardous waste site is discovered. As stated above, I believe that it is more prudent to address these issues during the CEQA process and before making a decision on a project, not during or after construction. Moreover, if the hazardous site is discovered during construction, then the CEQA process is reopened. Nevertheless, I believe the amendment relating to scenic highways responds to the department's major concern.

I have also worked closely with all interested groups and there is no opposition by them to AB 869.*

EXHIBIT L

LOCAL // BAY AREA & STATE

Hundreds of SFPD officers sue Hunters Point contractor over health problems

Jason Fagone and Cynthia Dizikes
Nov. 18, 2019 | Updated: Nov. 18, 2019 5:20 p.m.

Paul Swiatko (left), Richard Tong, Mel Bautista, Mark Madsen, Victor Tsang and Lewis Fong were stationed at the former Hunters Point Naval Shipyard while working for the SFPD.

Photo: Photos by Lea Suzuki / The Chronicle 2018

The engineering and consulting firm Tetra Tech Inc. and a pair of subsidiaries exposed hundreds of police employees to unsafe levels of hazardous materials at the former Hunters Point Naval Shipyard, leading to chronic health problems and at least two

The shipyard, which is owned by the Navy, was named a Superfund waste site in 1989 because it was heavily contaminated by radioactive substances and industrial chemicals. The new legal complaint, was filed Thursday against Tetra Tech Inc., Tetra Tech EC and Tetra Tech EM. It alleges that a Tetra Tech predecessor corporation, PRC Environmental Management, misled the city in the late 1990s about the extent of possible contamination at a shipyard building that ended up becoming a busy police office and training center for officers across the city.

The lawsuit also alleges that between 1997 and 2014, the three Tetra Tech entities acted fraudulently in the cleanup, mishandling contaminated soil around the shipyard, falsifying records and further exposing police employees to danger.

Earlier this year, the U.S. Department of Justice joined a federal whistle-blower lawsuit against Tetra Tech EC, alleging that top managers directed employees to commit widespread fraud in the shipyard cleanup. Two Tetra Tech EC employees had previously admitted to falsifying soil samples in order to make the site appear cleaner.

"I believe it was a botched-up job," said Mark Madsen, 58, a retired Tactical Division officer who worked for years at the shipyard and is one of the plaintiffs. "Guys are getting sick. Guys are sick from being out there."

Many S.F. officers worked at Building 606 (background right), which is the site of a former Navy "radioactive laundry." Photo: Lea Suzuki / The Chronicle

Tetra Tech spokesman Sam Singer defended the company in a statement. Speaking for all three entities, he said that Tetra Tech's shipyard work "was done properly and to the standards of the contracts with the Navy." He said the allegations in the lawsuit "are without merit." The company has previously said that the two men who admitted falsifying soil samples were "rogue" employees and problems did not extend beyond them.

The new lawsuit follows a 2018 Chronicle investigation into the circumstances that led the city to transfer several elite police units into the heart of a Superfund site, including the SWAT team, the K-9 unit, the bomb squad and the Honda motorcycle unit, as well as the citywide crime lab.

In 1996, attracted by the shipyard's cheap rent and wide-open spaces, the city decided to lease a large Navy warehouse known as Building 606. The Navy was required by law to disclose information about hazardous substances at the property, according to the

"No radiological hazards are expected," according to Navy reports that concluded the laundry had no history of "the storage or use of hazardous materials."

These reports, according to the lawsuit, were prepared by PRC Environmental Management, which was acquired by Tetra Tech Inc. around 1995 and later renamed Tetra Tech EM.

Foliage is seen behind Building 606 at the former Hunters Point Naval Shipyard on Wednesday, July 25, 2018 in San Francisco, Calif.
Photo: Lea Suzuki / The Chronicle

"As we looked at this case, we were kind of scratching our heads," said Sara Peters, an attorney and shareholder at Walkup, Melodia, Kelly & Schoenberger, a personal injury firm in San Francisco that represents the plaintiffs. "Why would we put our police officers out there?" The answer, she said, is that PRC gave assurances that "there's

go on runs in T-shirts and shorts while Navy contractors working on the base wore full-body Tyvek jumpsuits.

In 2000, when a nearby landfill containing radioactive waste caught fire underground and burned for a month, police worried about the smoke that rose from the plume and wafted above Building 606. Later, as cleanup activities intensified, the employees' vehicles and clothing were caked with dirt and dust from the site. In 2007, a Tetra Tech company placed a "Radiological Screening Yard" next to the police building and brought large quantities of potentially contaminated soil there, dumping it by the truckload and spewing dust, a Chronicle investigation showed.

Dan Linehan, a retired police sergeant who was stationed at Building 606 between 2001 and 2006, said he used to wonder what was in the dust at the shipyard, which often seeped into the building and settled in dark layers on computer keyboards and desks. If you ran a moist paper towel along those surfaces, the towel "would be jet black by the time you were done wiping down your workspace," Linehan said.

At the time and ever since, the city and Navy have repeatedly said that no one has ever been exposed to any harmful substances at the shipyard, including the police employees.

evidence of health hazards at Building 606 related to the Shipyard cleanup and restoration." Singer pointed to that statement in arguing that the new lawsuit is baseless.

Aerial photos of Hunters Point Naval Shipyard showing Buildings 366 (white on left, middle) 351, above that on the right, and 411 (middle on the right) in Parcel G in San Francisco, Calif., on Tuesday, September 11, 2018. The Navy's retesting plan for Parcel G is being brought into question. When the U.S. Navy pledged to perform new soil tests at its

However, the city's radiation survey was a partial one, covering only certain areas, and it did not rely on rigorous soil sampling, which some experts say is the most sensitive way to search for radioactivity and is the Navy's standard practice.

The police and their advocates also point out that Building 606 itself wasn't their only possible source of exposure to contamination at the shipyard. Police moved all around the base, performing training exercises in abandoned buildings, and their vehicles and clothing often picked up mud and dirt from different locations.

really complicated, but the simple answer is: Dirt blows around, and people breathe it in."

Peters said some of her clients are suffering from chronic health conditions that they worry are linked to the shipyard, including lung cancer, blood disorders and adult-onset asthma. It can be difficult, if not impossible, to link a particular environmental exposure to a particular disease, because symptoms might not appear until decades later.

"I'm not looking for a big cash payout," said Linehan, the retired sergeant. "I'm just looking for medical coverage if something were to come up later in life that could be a result of that exposure."

The lawsuit alleges that two deceased SFPD personnel, John Portoni and Joseph Zamagni Sr., "were exposed at HPNS to hazardous substances and radiation, which were a substantial factor in causing each of them to suffer from fatal diseases." Portoni died of brain cancer in 2013.

Avenue at the former Hunters Point Naval Shipyard.

Madsen, the retired Tactical Division officer, said he hopes the lawsuit will bring some accountability for mistakes at the shipyard, or at least some closure for officers who worry about their own exposure.

"The guys that are still alive, we still talk about it," Madsen said. "We still wonder."

Jason Fagone and Cynthia Dizikes are San Francisco Chronicle staff writers. Email: jason.fagone@sfchronicle.com, cdizikes@sfchronicle.com Twitter: @jfagone @cdizikes

LOCAL // BAY AREA & STATE

SF's Treasure Island, poised for building boom, escaped listing as Superfund site

Jason Fagone and Cynthia Dizikes
Sep. 19, 2019 | Updated: Sep. 19, 2019 4 a.m.

Construction on Treasure Island in San Francisco, Calif., on Wednesday, September 18, 2019.

Photo: Scott Strazzante / The Chronicle

San Francisco's Treasure Island, the former naval base being transformed into a $6 billion development of condos and shops, was once considered hazardous enough to be a federal Superfund waste site but was never officially named one, newly disclosed

prompted calls Wednesday from some environmentalists for more federal examination.

However, the island's developers, who have plans to put more than 8,000 homes on the site by 2035, said the cleanup has been heavily scrutinized and handled effectively by multiple government agencies, dismissing any suggestion that the area is not safe for habitation.

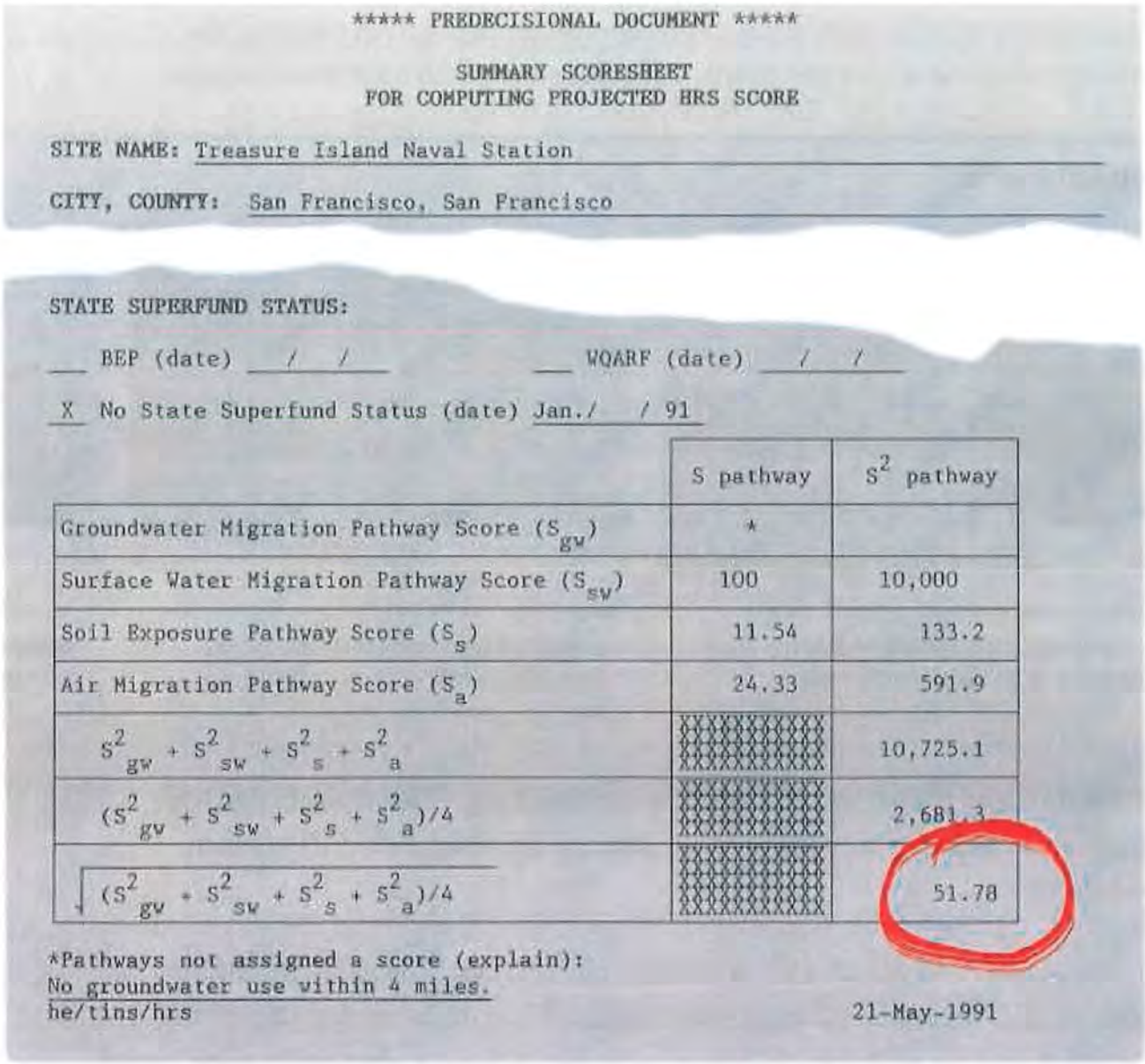
The U.S. Environmental Protection Agency gives special attention to contaminated sites on the National Priorities List, commonly known as Superfund sites. Cleanups require extensive tests of soil and water and public documentation of those efforts. The owners of the sites usually pay for the bulk of the cleanup while the EPA looks over their shoulder.

The process of listing a Superfund site begins with the EPA's Hazard Ranking System, which measures the threat to human health and the environment on a 100-point scale. A score above 28.5 qualifies that place for a Superfund designation, which would make cleanup a federal priority.

In 1991, the EPA calculated a hazard score for Naval Station Treasure Island, the base that included all of Treasure Island — the flat, artificial island stretching for 400 acres at the midspan of the Bay Bridge — and portions of neighboring Yerba Buena Island.

The base's score was 51.78, the new documents show, almost double the threshold for Superfund consideration and slightly higher than the score for the Hunters Point Naval Shipyard in the southeast corner of San Francisco, which was named a Superfund site in 1989.

But Superfund listing is not mandatory if the score exceeds 28.5, and Treasure Island was never stamped with the classification. Instead of leading the cleanup, the EPA took a back seat, allowing the California Department of Toxic Substances Control to monitor the project.



***** PREDECISIONAL DOCUMENT *****

SUMMARY SCORESHEET
FOR COMPUTING PROJECTED HRS SCORE

SITE NAME: Treasure Island Naval Station

CITY, COUNTY: San Francisco, San Francisco

STATE SUPERFUND STATUS:

___ BEP (date) / / ___ WQARF (date) / /

X No State Superfund Status (date) Jan./ / 91

	S pathway	S^2 pathway
Groundwater Migration Pathway Score (S_{gw})	*	
Surface Water Migration Pathway Score (S_{sw})	100	10,000
Soil Exposure Pathway Score (S_s)	11.54	133.2
Air Migration Pathway Score (S_a)	24.33	591.9
$S^2_{gw} + S^2_{sw} + S^2_s + S^2_a$		10,725.1
$(S^2_{gw} + S^2_{sw} + S^2_s + S^2_a)/4$		2,681.3
$\sqrt{(S^2_{gw} + S^2_{sw} + S^2_s + S^2_a)/4}$		51.78

*Pathways not assigned a score (explain):
No groundwater use within 4 miles.
he/tins/hrs

21-May-1991

In 1991, the EPA assessed Naval Station Treasure Island for potential health and environmental hazards from its soil and waste areas, giving it a hazard score of 51.78, almost double the threshold for Superfund consideration.
Photo: The Chronicle

Environmental advocacy groups said the decision led to a dysfunctional and delayed cleanup, making the process less transparent and leaving thousands of Treasure Island residents in the dark for years about contamination near their homes. In 2007, when Navy contractors started to discover radioactive objects across the island that weren't supposed to be there, the EPA officially remained on the sidelines without ever fully explaining why.

Responsibility (PEER), under separate Freedom of Information Act requests. The Chronicle obtained related EPA emails and documents through a different request.

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Suspe contra

"Treasure Island is what we call a 'Shadow Superfund site' — a toxic stain that has remained in the shadows," PEER's Pacific director, Jeff Ruch, said in a statement Wednesday.

Bradley Angel, executive director of the San Francisco nonprofit group Greenaction for Health and Environmental Justice, called on the EPA to reevaluate the risk of the site and investigate the work that has been done so far. "Nobody's minding the store," Angel said. "It is just another example of public agencies looking the other way."

The site's private developer, Treasure Island Community Development, said in a statement Wednesday that it was "flat wrong" to suggest that the cleanup has been flawed, calling those claims "bogus."

"Over the past three decades, hundreds of millions of dollars have been spent to identify and remove contaminants per State of California standards in order to ensure the island is safe for development," the statement said. "The work has been closely supervised by

The records obtained by The Chronicle and PEER do not make clear why Treasure Island never made the Superfund list. But in a 1998 document, the EPA listed opposition from the state as a "moderate factor" for the island not being added to the list. A federal review of the Superfund program later found that some state governors cited "the perceived stigma of (National Priorities List) listing and potential adverse economic effect" as reasons for not supporting listings of eligible sites.

Then-California Gov. Pete Wilson did not immediately respond to a request for comment. The EPA did not answer specific questions about why Treasure Island never made the list, and the Navy did not respond to a request for comment.

An official with the state Department of Toxic Substances Control said a hazard score is just the start of the listing process.

"Recognizing that the EPA implements the Superfund program, the final number in the hazard ranking score system doesn't mean that one site is more hazardous than another," said Grant Cope, the department's deputy director for site mitigation and restoration. "That requires a more in-depth investigation."

Robert Beck, director of the city's Treasure Island Development Authority, defended the island's cleanup and oversight, which he called extensive.

"The Treasure Island Development Authority remains confident in the measures taken by the Navy to identify and appropriately remediate environmental concerns on Yerba Buena Island and Treasure Island and the oversight of those measures provided by the State of California," Beck said in a statement.

A state official said in a 2017 email obtained by The Chronicle that although Treasure Island isn't on the Superfund list, "It is still treated like a Superfund site in that it is going through the same stringent cleanup requirements."

The real estate project could bring thousands of new homes and residents to the area. More than half of the island, now home to about 1,800 people, has been declared free of

World War II and throughout the Cold War, the Navy transformed the island into a bustling base, where thousands of sailors and civilians lived, worked, trained and repaired ships.

Those activities polluted the land with unknown quantities of metals, industrial chemicals and radioactive substances, some used in training exercises to prepare for possible nuclear bomb attacks.

In September 1991, an EPA employee filled out an 18-page worksheet to determine Treasure Island's hazard score of 51.78. Noting that the "types of wastes and contaminants deposited on site are mostly unknown," the staffer assumed that mercury and PCBs, industrial chemicals banned in 1979, tainted some soil. The EPA reviewer called this a "worst case situation," but didn't account for the possibility of radioactive waste.

As Navy contractors began investigating the island, according to Navy reports, they found "a broad distribution of chemicals in soil and groundwater" at potentially harmful levels, including PCBs, dioxin, lead and volatile organic compounds. The Navy started to identify and remove tainted soil and sediment.

Later, after the Navy closed the base and the city began reusing some buildings for housing, Navy contractors made a series of troubling discoveries, finding and removing more than 600 individual radioactive objects, some in housing areas.

Still, the EPA kept Treasure Island off the Superfund list. In a one-page 2008 document, an EPA staffer wrote that the cleanup was "making good progress ... under state oversight" and that future evaluations of Treasure Island's status were a "lower" priority. There are no records of EPA evaluations in the past 11 years.

An EPA spokeswoman said in a statement Wednesday that the agency "regularly checks in with its state and other federal agency partners on the status of cleanup work at this site."

In May 2014, Saul Bloom, the leader of San Francisco environmental nonprofit group Arc

"The simple fact is we have learned more about TI (Treasure Island) in the past three years than we have in all the preceding ones since the (cleanup) began and the story is troubling," Bloom wrote. "Right now residents of TI do not know where in government they can go for an unbiased point of view on their health and exposure."

Bloom, who died in 2016, also submitted a Freedom of Information Act request for documents about the site, asking the EPA for details about its decision to leave Treasure Island off the Superfund list. His questions initially stumped some EPA officials.

"No one is sure if it was ever scored and ranked," a regional project manager emailed to a colleague in 2014. After doing some research, he added in another email, "The site exceeded the score for listing. I don't know the history as to why it was never listed."

Jason Fagone and Cynthia Dizikes are San Francisco Chronicle staff writers. Email: jfagone@sfchronicle.com, cdizikes@sfchronicle.com

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EXHIBIT M

Nuru with fraud

Evan Sernoffsky and Dominic Fracassa
Jan. 29, 2020 | Updated: Jan. 30, 2020 9:20 a.m.

San Francisco Public Works Director Mohammed Nuru has been arrested by the FBI on suspicion of public corruption.

Photo: Cameron Robert / The Chronicle

Federal authorities charged San Francisco Public Works Director Mohammed Nuru and high-profile restaurateur Nick Bovis with fraud Tuesday following a public corruption probe. The schemes involved an envelope of cash, fraudulent city contracts, improper gifts from a Chinese developer and a $2,000 bottle of wine, according to authorities.

"The complaint alleges corruption pouring into San Francisco from around the world," said David Anderson, U.S. attorney for the Northern District of California, at a news conference Tuesday.

Anderson accused Nuru of "corruption, bribery kickbacks and side deals by one of San Francisco's highest-ranking public employees."

David Anderson, U.S. attorney for the Northern District of California, discusses the charges against S.F. Public Works chief Mohammed Nuru and restaurateur Nick Bovis.
Photo: Lea Suzuki / The Chronicle

Both men face up to 20 years in prison on the fraud charge. They were arraigned Tuesday in federal court in San Francisco.

Bovis' attorney did not return phone calls.

Fifth & Mission

Bombshell Arrest of "Mr. ..

San Francisco Public Works Director Mohammed Nuru and Lefty O'Doul's owner Nick Bovis are charged with fraud after a months-long federal corruption probe. Audrey Cooper, Heather Knight and Evan Sernoffsky explain.

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The charges stunned San Francisco, with city officials expressing shock over the alleged schemes that took place between 2018 and 2019. Mayor London Breed vowed to "cooperate fully with any investigation" and placed Nuru on paid leave while the city finds an interim replacement.

Nuru is a visible department head who's been at the post for nearly two decades and is deeply intertwined in San Francisco's so-called city family, which includes former Mayors Willie Brown, Gavin Newsom and Ed Lee and current Mayor Breed. As head of the DPW, Nuru, known in City Hall as Mr. Clean, was continually struggling with the city's quality-of-life challenges like sprawling homeless encampments and filthy streets.

Bovis — who was sentenced to five years in state prison for robbery in the 1990s — is owner of famed bar and restaurant Lefty O'Doul's and was the public face of its annual Christmas toy drive.

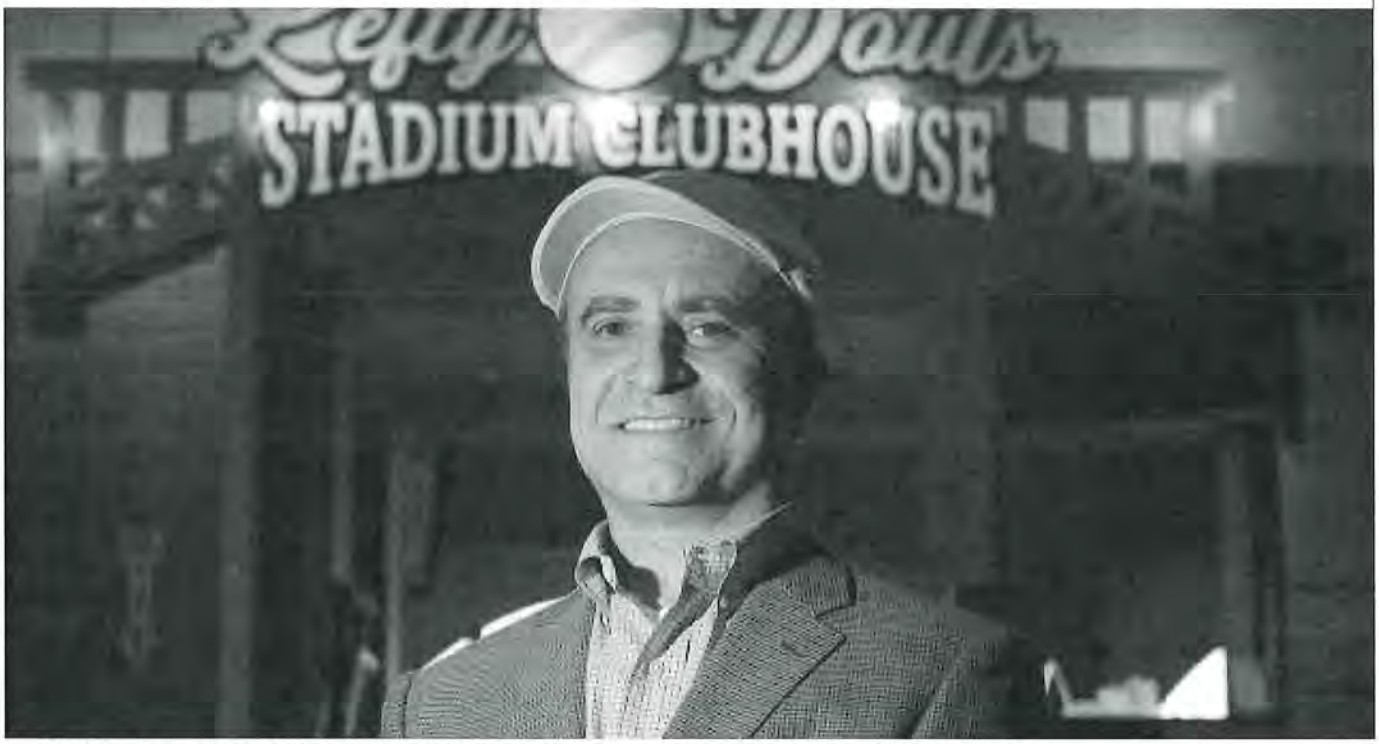
But while Nuru and Bovis projected one image to the public, the FBI alleges the two were quietly involved in a number of fraud schemes involving city resources.

FBI Special Agent James Folger outlined the allegations in a federal complaint unsealed Tuesday following the arraignments.

To print the document, click the "Original Document" link to open the

Starting in January 2018, Nuru and Bovis began scheming to win a contract for a restaurant lease at San Francisco International Airport by bribing an unnamed airport commissioner, the FBI said.

Nuru and Bovis plotted to give the commissioner $5,000 cash, along with a free trip, in exchange for voting for the lease, authorities said. The airport commissioner, though, declined to take the cash, authorities said, and the scheme fell apart after Bovis and others got suspicious that the undercover agent was working for the FBI.



Nick Bovis, owner of Lefty's Ballpark Buffet and Cafe, on November 16, 2018 in San Francisco.
Photo: Lea Suzuki / The Chronicle

Nuru was separately using his position in city government to work with an unnamed billionaire developer in China who was putting together a multimillion-dollar project in San Francisco, authorities said. In exchange for travel, lodging, high-end booze — including a $2,070 bottle of French wine — and other gifts, Nuru pledged to manipulate the building and inspection process for the developer, authorities said.

Nuru and Bovis' relationship involved schemes across multiple government agencies, authorities said. Nuru allegedly tried to get Bovis a lease for retail space at the Transbay transit center, by circumventing the traditional process, authorities said. Nuru chairs the Board of Directors for the Transbay Joint Powers Authority, which operates the center.

Nuru also provided Bovis inside information on specifications for public toilets and homeless shelters so he would have the jump when the contracts went to bid, according to the FBI. In 2017, Bovis' company Tiny Potties provided design and manufacturing work for a DPW portable toilet project that looked like the Painted Ladies Victorian homes near Alamo Square.

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For years, Nuru has presided over DPW, which is responsible for construction management, maintaining public buildings and caring for street trees. With a $500 million budget, DPW has a roughly 1,600-person workforce. He drew a $273,400 salary last year, not including benefits.

Nuru was made the permanent head of DPW by then-Mayor Ed Lee in 2012. Prior to his appointment, Nuru worked for 11 years as the department's deputy director for operations and was long considered a protege of former Mayor Willie Brown.

Federal officials informed Breed about the arrest at about 3:30 p.m. Monday, shortly before FBI agents executed a search warrant for Nuru's office.

"Nothing matters more than the public trust, and each and every one of us who works for the city must hold ourselves to the highest standard," Breed said in a statement. "I accept nothing less for myself or for those who serve in this administration."

Breed asked City Attorney Dennis Herrera and Controller Ben Rosenfield on Monday to begin reviewing any city contract that might be connected with Nuru's alleged scheme to

City Purchaser Alaric Degrafinried as acting director of the department.

This is not the first time Nuru has found himself at the heart of a city scandal. In the early 2000s, DPW whistle-blowers alleged Nuru misappropriated public funds and replaced city workers with employees from a nonprofit he previously led, among other allegations.

Deputy director of San Francisco's Department of Public Works Mohammed Nuru on November 18, 2011.
Photo: Liz Hafalia / The Chronicle

Following Nuru's appointment, Herrera, who was running for mayor against Lee, slammed the decision as nothing more than "cronyism, politics and bad judgment."

Herrera led a 2004 investigation into reports that Nuru, while working for DPW, improperly directed employees of the nonprofit he had formerly led to campaign for Newsom, who was making his first run for mayor.

Bloody Marys, was a Union Square landmark since 1958, but was forced to move to a less-prestigious location at Fisherman's Wharf in 2018.

Bovis — who also owns the once-popular and now closed Gold Dust Lounge in San Francisco and Broadway Grill in Burlingame — welcomed patrons into Lefty O'Doul's during an emotional farewell in February 2017 attended by local news and city dignitaries, including the mayor.

The high-profile business owner, though, had a criminal past that never came to light during the property dispute, The Chronicle has learned.

Bovis was arrested in 1993 in Santa Clara County and charged with second-degree robbery and use of a firearm in commission of a felony. He ultimately was found guilty of a single count of second-degree robbery in 1996 and sentenced to five years in state prison, records show.

Bovis had enough credits for time served in county jail and was released without serving time in state prison, according to Santa Clara County Superior Court records.

News of Nuru's arrest jolted much of City Hall Tuesday.

"It's a shock. I think that department has been run like a one-person fiefdom for a long time," said Supervisor Matt Haney, who sparred often with DPW over a number of issues.

"There's an understanding that, 'everything goes through Mohammed,' and if you piss him off, there's retribution. I think there needs to be an overhaul of that department."

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