

Environmental Oversight Agreement

A partnership between

**The Department of Toxic Substances Control (DTSC)
a Department of the California Environmental Protection Agency**

and

**The California Redevelopment Association (CRA)
representing California Redevelopment Agencies (RDAs)**

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What ARE brownfields?

- *“real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant”*
 - Estimated **600,000** sites nationwide;
 - Estimated 90,000 sites in California
 - Examples: vacant or underutilized industrial or commercial land, old gas stations, landfills, former oil well sites, etc.

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Why Redevelop Brownfields?

- Protect public and environment from potential hazards
- Revitalize neighborhoods
- Protect “greenfields”/open space & reduce impacts of sprawl
- Reduce impacts to water, air, traffic and community identity
- Optimize use of existing infrastructure
- Create jobs near existing labor pool
- Construct housing in tight housing market
- Expand tax base (property, business and sales)

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The Five Brownfields Uncertainties: (from a Redevelopment perspective)

- Cost uncertainty -- *What will I have to pay? ...and when?*
- Legal uncertainty -- *What's a PRP again?*
- Regulatory uncertainty -- *What will they want, and when will they want it?*
- Financing uncertainty -- *Will anybody finance my project?*
- Time uncertainty -- *How long before I can really build?*

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Polanco Redevelopment Act

- Important Redevelopment Tool
- Grants local redevelopment agencies statutory authority to require assessments and to cleanup, or compel the cleanup, of contaminated properties

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Polanco Redevelopment Act, continued

- *“An agency [RDA] may take any actions that the agency determines are necessary and that are consistent with other state and federal laws to remedy or remove a release of hazardous substance on, under, or from property within a project area, whether the agency owns the property or not, subject to conditions....”*

Health & Safety Code 33459

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Polanco Redevelopment Act, continued

- RDAs can compel property owners and RPs to produce information
- RDAs can require property owners and RPs to prepare plan and cleanup property
- RDAs may prepare cleanup plans, conduct cleanup activities, and recover their costs and attorney's fees
- Upon completion, limited immunities for RDAs, developers, future owners, financial institutions

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Polanco Redevelopment Act, continued

- RDA must request cleanup guidelines from [DTSC or RWQCB or local agency] **before** taking actions to remedy or remove a release
- RDA must submit a cleanup or remedial action plan for approval to [DTSC or RWQCB or local agency] before taking action

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Polanco Redevelopment Act, continued

- Polanco Act allows DTSC and other agencies to enter into agreements with Redevelopment Agencies.

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Polanco Results

- More completed cleanups
- Limited liability immunities to RDAs and future owners
- Additional certainty of costs, legal status, regulatory involvement
- Time to reuse of site reduced



A faded background image of a wooden chair with a high back, sitting in a field of dry grass and debris. The chair is the central focus, and the background is a desolate, open landscape.

Master Environmental Oversight Agreement

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A faded background image of a wooden chair with a high back, sitting in a field of dry grass and debris. The chair is the central focus, and the background is a desolate, open landscape.

Environmental Oversight Agreement

OVERALL PURPOSE:

- To facilitate the brownfields redevelopment process
- To establish a partnership between state environmental regulators and local governments in cleaning up contaminated sites

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Master Environmental Oversight Agreement

- Facilitate Polanco Act Cleanups for Redevelopment Agencies
- Eliminate “Responsible Party” problem for Redevelopment Agencies
- Establish “Brownfields-oriented” cleanup processes for Brownfields-scale redevelopment projects
- Establish simple “consultation process” to assist RDAs in determining how/if to proceed on brownfield sites

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Environmental Oversight Agreement, cont'd.

- Serves as a “Master Agreement” for an RDA through which individual properties or groups of properties can be assessed and, if necessary, remediated.
- Provides for different types of agreements:
 - **Technical consultation or**
 - **Remediation oversight.**
- Uses a menu approach so that only the tasks of interest to the RDA are included in the agreement.

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Environmental Oversight Agreement, continued

Scope of Work: Technical Consultation Option

- Used where the RDA simply wants the professional advice and counsel of DTSC in evaluating site cleanup issues and potential future regulatory review and processing steps (“Exhibit C”).
 - *review of existing data*
 - *review of preliminary site investigation*
 - *review of preliminary sampling and analysis workplan; oversight of implementation*
 - *review of preliminary site characterization report*
 - *other document review*

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Environmental Oversight Agreement, continued

Scope of Work: Remediation Oversight Option

Optional Oversight Tasks:

- Oversight tasks to be customized to coordinate DTSC remediation oversight services (“Exhibit D”)
- *Optional tasks from initial assessment through the site characterization, remedy selection, and cleanup processes, ultimately leading to a closure letter*

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Remediation Oversight Tasks, continued

- Oversight tasks are NOT intended to be mandatory requirements applicable to every case.
- The RDA and DTSC will determine the applicability of each Task.
- Tasks may be substantially modified both at the time the EOA is negotiated and during the implementation of the tasks.

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Remediation Oversight Tasks, continued

Potential Tasks:

- Technical Consultation and Assistance
- Review of Existing Data and Scoping Meeting
- Site Characterization
- Risk Evaluation and Cleanup Level Determination
- Feasibility Study
- Remedy Selection Document
- CEQA Processing
- Remedial Design and Implementation Plan
- Implementation of Final Cleanup Plan
- Changes During Implementation
- Public Participation
- Land Use Covenant
- Operations and Maintenance
- Discontinuation of Cleanup Technology

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Conclusion

DTSC CRA Partnership Designed to:

- Focus on Redevelopment
- Address Legal Liability Issues
- Create Efficiencies in Investigation and Cleanup Steps and Costs
- Creation of public/private/community partnerships

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- To obtain EOA document:

CRA Website: <http://www.calredevelop.org>

- DTSC Website:

<http://www.dtsc.ca.gov/SiteCleanup/Brownfields>