

**City of Culver City, California
Redevelopment Agency Agenda Item Report**

Meeting Date: 2/17/09		Item Number: <u>A-4</u>	
AGENDA ITEM: Invocation of the Provisions of the Polanco Redevelopment Act for Remediation of Contaminates Found at the 8801 Washington Boulevard Site.			
Contact Person/Dept.: Christopher Evans, Phone Number: (310) 253-5744 Redevelopment			
Fiscal Impact: Yes ☒ No ☐ General Fund: Yes ☐ No ☒			
Public Hearing: ☐ Action Item: ☒ Attachments: ☒			
Public Notification: Master E-Mail Notification List (02/11/09), TWS Products, Inc (by mail 02/10/09).			
Department Approval: Sol Blumenfeld: (02/11/09)			
Chief Financial Officer Approval: Jeff Muir (by N. Kimball)(02/11/09)		City Manager Approval: Jerry B. Fulwood (02/11/09)	
<u>RECOMMENDATION:</u> Staff recommends the Redevelopment Agency ("Agency") proceed with remediation of environmental contamination at 8801 Washington Boulevard (the "Property") in order to prepare the Property for future development by: 1. Invoking the provisions of the Polanco Redevelopment Act (California Health & Safety Code sections 33459 <i>et seq.</i>) (the Act) at the Property; and, 2. Authorizing the Executive Director, or designee, to take any actions authorized by the Polanco Redevelopment Act to assist in the cleanup, reuse and redevelopment of the Property. <u>BACKGROUND/DISCUSSION:</u> In February 2005, the Agency contracted with Smith-Emery Geo (Smith-Emery) services to perform a Phase I environmental analysis¹ prior to pursuing acquisition of the Property. The Phase I analysis determined that the Property was formerly used as a gasoline service station and that the Property was subject to quarterly monitoring by the Los Angeles Regional Water Quality Control Board ("LARWQCB") due to contamination being discovered during the removal of underground gasoline storage tanks. Smith-Emery recommended that a Phase II analysis be performed (additional soil and ground water testing, and review of records) to determine the extent of the contamination. Upon completion of the Phase II analysis and document review, ¹ A Phase I Environmental Site Assessment is a report which identifies potential or existing environmental contamination liabilities.			

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Smith-Emery determined that the Property had contamination levels that would require remediation.

On October 15, 2007, the Agency authorized an all inclusive settlement agreement with the then owner of the Property, Mr. Les Surfas, to purchase the Property. The Agency acquired the Property with the intent of developing a Transit Oriented Development (“TOD”) adjacent to Metro’s Exposition Light Rail Station. As a stipulation of the settlement agreement, the Agency agreed to hold Les Surfas harmless for any contamination caused by the prior owner, TWS.



Triangle Site

Property History

Between 1989 and 2001, seven (7) underground storage tanks (“UST’s”) containing gasoline, were removed from the Property. The size of the UST’s ranged from 500 to 10,000 gallons. During the removal of the UST’s the LARWQCB investigated the Property for hydrocarbon (gasoline) leakage. Leakage was found to have occurred.

The LARWQCB found TWS, the former owner of the property, to be responsible for remediating the leakage. In response TWS hired a qualified environmental firm, Alpha Environmental, to manage the quarterly monitoring reports and prepare a Remedial Action Plan (“RAP”)² as required by the LARWQCB.

² A RAP, as required by the LARWQCB, is based upon an adequate assessment of the impacts from the documented release of gasoline hydrocarbons, the determination of applicable clean-up levels, and a feasibility study. These elements are utilized to provide the justification for the detailed

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On May 30, 2007, Alpha Environmental, on behalf of TWS, submitted a RAP that was approved by the State Water Resources Control Board, ("SWRCB"). The SWRCB oversees LARWQCB. The RAP had not been submitted to the Agency for review nor had the Agency been contacted by the LARWQCB to determine the type of development planned for the property. Knowing the type of development would have enabled the LARWQCB to apply the appropriate clean-up levels to the Property.

On May 23, 2008, Agency staff was contacted by TWS in order to request site access to begin the Property remediation as proposed in the approved RAP. Prior to allowing site access, the Agency's environmental consultant CTL Environmental ("CTL") reviewed the RAP and found that it did not specify clean-up levels at the desired level for a TOD. Following that review, and with the recommendation of Agency General Counsel, site access was denied to TWS pending revision of the RAP.

TWS has since agreed to revise the RAP and the LARWQCB has agreed to review the revised RAP with the understanding that a TOD will be developed on the Property. CTL and Agency staff have reviewed the RAP and have determined that additional changes are necessary.

If the Agency authorizes invocation of the Act, Agency staff and General Counsel will immediately notify the responsible party, TWS, that an Agency approved RAP must be prepared and sent to the LARWQCB within 60 days of the notice.

The Act

The Polanco Act was enacted to assist redevelopment agencies in responding to contaminated properties in their redevelopment areas.

In order to assure the Property is properly remediated, Agency General Counsel recommends invoking the Act. Agency General Counsel also indicates that invoking the Act will assist the Agency in requiring TWS to clean up the Property according to an expedited schedule and provide authority for the Agency to complete the clean up and seek recovery of costs in the event that TWS does not submit an approved RAP and schedule or implement the approved RAP in accordance with the schedule (attached). Furthermore, once the Property has been sufficiently cleaned up and the Agency receives written confirmation from the LARWQCB, the Act provides the Agency and any subsequent developers with certain statutory immunities. All of these will facilitate the Agency's efforts to redevelop the Property.

workplan describing the tasks to be performed during implementation of the selected remediation method. The LARWQCB must review and approve the RAP workplan prior to implementation.

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If the Agency were to invoke the Act, it would be required to notify TWS of its responsibility to prepare a LARWQCB approved RAP for the Property, which is to be completed within 60 days of the notice. After submittal of the approved RAP, it is anticipated that the Agency and TWS will enter into Right of Entry and Remediation Agreement which would allow TWS to enter onto and clean up the Property.

FISCAL ANALYSIS:

Alpha Environmental (Alpha) estimates that the remediation will cost approximately \$357,000 based on the RAP first approved by the LARWQCB. However, the cost may vary due to the extent of remediation that may be required. Alpha estimates total clean-up time per the RAP to be 6-12 months. An estimate has not yet been obtained for the revised RAP and the actual cost will be determined after a contract is executed with a remediation contractor.

TWS applied for State Underground Storage Tank Fund clean-up funding and was approved for reimbursement of up to \$1.5 million for expenses related to Property clean-up.

Invoking the Act will result in additional legal fees for the oversight and implementation of the RAP, which are estimated to be approximately \$25,000. These costs could rise if TWS fails to remediate the Property in accordance with an approved RAP. If TWS fails to implement the RAP, the Agency can complete the remediation and seek restitution from TWS (including staff and legal fees).

ATTACHMENT:

1. Agency General Counsel Analysis dated September 8, 2008
2. Resolution invoking the Polanco Redevelopment Act

MOTION:

That the Culver City Redevelopment Agency:

1. Invoke the provisions of the Polanco Redevelopment Act at 8801 Washington Boulevard; and,
2. Authorize the Executive Director to take any necessary actions authorized by the Polanco Redevelopment Act to accomplish the cleanup, reuse and redevelopment of the Property.