



**ADMINISTRATIVE DIRECTIVE**

<b>ENVIRONMENTAL DUE DILIGENCE REQUIREMENTS FOR CITY PROJECTS</b>	NUMBER <b>8.01-3</b>	PAGE <b>1 of 4</b>
	EFFECTIVE DATE <b>March 3, 2011</b>	

**I. PURPOSE**

In order to provide the City of Tucson with Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) protection, the City hereby establishes the following environmental due diligence procedures relating to Phase I Environmental Site Assessments (ESA) conducted by the Environmental Services Department (ES) prior to all City real property acquisitions. Acquisitions, as used herein, include purchase, property exchange, and eminent domain. This requirement to complete a Phase I ESA may be waived in writing only by the City Manager.

**II. POLICY**

- A. It is the policy of the City that all property acquisitions shall be preceded by a Phase I ESA completed per the Environmental Protection Agency's All Appropriate Inquiry Standard (40 CFR Part 312).
- B. ES is responsible for hiring contractors for all ESAs and managing technical support to City departments when conducting environmental due diligence for real property transactions and development.
- C. ES is responsible for reviewing reports for compliance with contract requirements.
- D. ES shall maintain contracts for on-call environmental services in order to complete this work in a timely manner (approximately 6 to 8 weeks).
- E. ES shall maintain copies of Phase I ESAs and distribute copies to requesting department. Requesting department will determine number of copies needed including electronic copies.
- F. ES shall provide requesting department with cost estimate and turn around time for the Phase I report. Requesting department will respond by approving bid proposal. ES shall submit an approved Notice to Proceed (NTP) to requesting department. ES shall provide requesting department with a draft copy of all ESA documents for review and comments. If follow-up work is needed, ES shall meet with requesting department to discuss project specifics and report findings. Requesting department will determine whether to proceed with acquisition based on findings.
- G. Project-related costs for any environmental investigation and mitigation work performed by the contract firms shall be paid from the requesting department.
- H. If the property is acquired by the City and development is delayed for a year or more, it is recommended that ES be notified to review the environmental documentation and determine if additional work is needed.



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III. DEFINITIONS

- A. **All Appropriate Inquiry (AA)** – Is the process of conducting environmental due diligence or a Phase I Environmental Site Assessment to determine prior uses and ownership of a property and assess conditions at the property that may be indicative of releases or threatened releases of hazardous substances at, on, in, or to the property. The standards and practices established as comprising “All Appropriate Inquiries” are set forth in regulations promulgated in 40 CFR Part 312. EPA recognizes ASTM E1527-05 “Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process” as compliance with the AAI requirements.
- B. **Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)** – Also known as “Superfund,” was established to address abandoned hazardous waste sites. CERCLA establishes a liability scheme for determining who can be held accountable for releases of hazardous substances. CERCLA also establishes the authority for EPA’s Brownfields Program and sets forth which entities and properties are eligible for Brownfields grants.
- C. **Environmental Contamination** – Is the introduction into water, air, and soil, any chemicals, toxic substances, wastes, or wastewater in concentration that impairs the medium for its next intended use; also applies to surfaces of objects, buildings and various household and agricultural use products.
- D. **Environmental Due Diligence** – Is the process of inquiring into the environmental characteristics of a parcel of real estate or other conditions, usually in connection with a real estate transaction.
- E. **Environmental Site Assessment (ESA) – Phase I** – Is a preliminary examination of a site to determine the potential for environmental contamination. It includes a review of present and historical land uses. Standards for performing a Phase I ESA have been promulgated by the EPA and are recognized in ASTM E1527-05 (or most current version).
- F. **Environmental Site Assessment (ESA) Phase II** – Is an investigation performed on a potential real estate holding that was conducted on a site after a Phase I ESA identified potential environmental conditions, and where more detailed investigation activities were necessary. The detailed investigation may include, but not be limited to the laboratory/chemical analysis of soil, groundwater or air samples for hazardous substances and/or petroleum hydrocarbons. Standards for performing a Phase II site assessment have been promulgated by the US EPA and recognized in ASTM E 1903.



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- G. **Recognized Environmental Conditions (REC)** – Means the presence or likely presence of any hazardous substances or petroleum products on a property under conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substances or petroleum products into structures on the property or into the ground, groundwater, or surface water of the property. The term includes hazardous substances or petroleum products even under conditions in compliance with laws. The term is not intended to include de minimis conditions that generally do not present a material risk of harm to public health or the environment and that generally would not be the subject of an enforcement action if brought to the attention of appropriate governmental agencies.

### IV. PROCESSES

- A. Requesting department shall initiate an “Environmental Review Request” form (see Appendix A). This form shall be submitted to ES – Engineering and Technical Support.
- B. **When applicable**, ES shall provide requesting department with bid proposals and requesting department will select the bid proposal to perform the Phase I ESA.
- C. Per the “All Appropriate Inquiry” standard, for full ownership liability protection, the property transaction timelines in relation to completion of the Phase I ESA are exact and must be followed. Timeline expiration dates shall be included on the cover of the ESA documents.
- D. Per the standard, the user questionnaire shall be completed by an employee of the requesting departments with the most knowledge of the site to be acquired.
- E. The Phase I ESA may identify significant environmental conditions which are referred to as Recognized Environmental Conditions (RECs) and will include an opinion as to whether a Phase II ESA is warranted. ES staff will coordinate a meeting with requesting department to determine whether or not a Phase II ESA is warranted. If a Phase II is warranted, requesting department will submit an Environmental Review Request form to ES. ES shall submit bid proposals for Phase II and subsequent phases to requesting department for selection and approval. ES shall submit an approved NTP to requesting department. ES shall provide requesting department with a draft copy of the ESA documents for review and comments.
- F. If a Phase II ESA is recommended as part of a voluntary acquisition or purchase in lieu of eminent domain, but cannot be completed until the City obtains legal possession of the property, an escrow holdback account or its reasonable equivalent shall be established and funded in an amount reasonably calculated to complete the investigation and any required remediation. The funds shall be held and applied to such investigation and remediation efforts as necessary. At such time, the balance of the escrow account shall be released.



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- G. ES shall provide comment or make recommendations, based on the findings presented in the Phase I and/or Phase II reports, to the requesting departments.

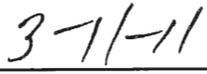
**Appendices** Environmental Review Request Form

**References** 40 CFR Part 312

**Review Responsibility and Frequency** The Environmental Services Director will review this publication annually.

**Authorized**

  
\_\_\_\_\_  
City Manager

  
\_\_\_\_\_  
Date

**APPENDIX A**  
**Environmental Review Request**  
**Phase I Environmental Site Assessment**

**Date Requested:**

**Date Due:**

**Project Manager:**

**Phone Number:**

**Real Estate/General Services Contact:**

**Phone Number:**

**DOCUMENT COPIES:** hard copies # \_\_\_\_\_ electronic copy on CD# \_\_\_\_\_

**SPECIAL REQUEST:**

**Request for multiple scope and fees**

**PROJECT NAME:**

**TAX PARCEL #:**

**ACCOUNT #:**

**SITUS ADDRESS:**

*Please attach an aerial map indicating the area of property transaction and if applicable, project design plans.*

**SPECIAL INFORMATION:**

**PROPERTY RIGHTS TO BE ACQUIRED:**

Full Parcel:

Partial:

**DESCRIPTION OF FUTURE LAND USE:**

**ESTIMATED DEPTH OF DISTURBANCE (below ground surface):**

**PERMISSION TO CONTACT PROPERTY OWNER AND/OR REPRESENTATIVE:**

Yes \_\_\_\_\_

No \_\_\_\_\_

Other conditions apply (explain):

**PROPERTY OWNER CONTACT INFORMATION:**

