



Indiana Brownfields Program  
an Indiana Finance Authority Environmental Program

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Mr. Brian Bailey  
Director, Indiana State Budget Agency  
Indiana Statehouse, Room 212  
Indianapolis, IN 46204

Re: IFA - Indiana Brownfields Program Appropriation Request, SFY18/19

Dear Director Bailey,

This letter outlines the Indiana Brownfields Program's budget request for the biennium beginning July 1, 2017 and ending June 30, 2019. It provides an overview of the Indiana Brownfields Program ("Brownfields Program" or "Program"), including a description of the Brownfield Program's functions, past accomplishments, and objectives for the next biennium.

**Mission, Program Origin, State Funding History**

The mission of the Brownfields Program is to encourage and assist business investment in the redevelopment of brownfield properties by helping communities via technical and financial assistance to identify and mitigate environmental barriers that impede economic growth of local communities. A "brownfield" is an abandoned, inactive or underutilized parcel of real estate on which expansion or redevelopment is complicated due to the presence or potential presence of environmental contamination. Abandoned gas stations, former drycleaners, automotive parts suppliers, agricultural co-ops, and historic local dumpsites are examples of some of the projects that have been funded by the Brownfields Program.

The Environmental Remediation Revolving Loan Fund ("Brownfields Fund") was established in SFY 1998 under IC 13-19-5 with a one-time, \$10,000,000 transfer from the Indiana Department of Environmental Management ("IDEM") Hazardous Substances Response Trust Fund. The authorizing statute was modified in SFY 2000 and further modified in SFY 2005 to move the Brownfields Program and all related activities to the Indiana Finance Authority ("Authority"). Petroleum Remediation Grant (PRG) funding, also managed by the Authority, was originated in 2001 with a one time, \$9,000,000 transfer from the Excess Liability Trust Fund ("ELTF") to specifically finance cleanup of petroleum-contaminated brownfield sites.

For the 2014-15 and 2016-17 biennia, the Brownfields Program again received a budget appropriation of \$3MM and \$2.91MM, respectively. The appropriation was funded with a transfer from the State's Excess Liability Trust Fund ("ELTF"). The funding enabled the Program to initiate a Petroleum Orphan Site Initiative ("POSI"), which is discussed in greater detail below.

In addition to POSI, the Brownfields Program has continued to provide technical and legal assistance and has offered limited financial assistance (in the form of a loan or an award of professional services managed by the Brownfields Program) using federal brownfields funding awarded to the State by the United States Environmental Protection Agency (“U.S. EPA”). To encourage and facilitate economic development in the State, the Brownfields Program historically awarded grants for environmental site assessment and remediation activities and low-interest and partially forgivable loans to benefit Indiana communities and help finance the acquisition of, and environmental assessment, remediation, and demolition costs at, brownfield sites.

### **Federal Funding For Program Overhead Expenses**

The Brownfields Program receives U.S. EPA CERCLA Section 128(a) grant funding. 128(a) funding can be described as “core” program funding that is awarded through a competitive proposal process among the 50 states and eligible tribes.

With the exception of the current FFY in which the Program received a 5.45% award increase, the Brownfields Program has experienced a significant cut in the amount of 128(a) funding awarded by U.S. EPA since FFY11. From FFY11 through FFY16, the Program experienced a 23% reduction in funding, resulting in an average loss of \$183,552 in funds awarded to the Program from its FFY11 high award of \$927,081. The current FFY award is \$757,053 and further funding for 128(a) awards for FFY18 is reportedly going to be flat, while the number of eligible applicants continues to increase, which is likely to result in further cuts to the State’s funding award. The 128(a) grant currently funds about 41% of the Program’s total personnel expenses.

### **Loan Repayments (federal and state)**

Over SFYs18/19, based on current outstanding loans, the Brownfields Program will generate approximately \$587,848 in loan repayments annually. Since the suspension of State appropriations in November 2009, the Brownfields Program has been using State loan payments to pay Brownfields Program expenses that are either ineligible for reimbursement with federal grants or for which there is insufficient federal grant funding available. With the predicted continued reduction in federal 128(a) funding, the Program will have to rely more on these funds to cover operating expenses, further limiting funding available for site-specific activities. The expenditure of federal loan repayments are subject to the terms and conditions of the applicable grant closeout agreement.

*Current unobligated federal and state loan repayment amounts: As of October 30, 2016:*

- Regular RLF repayments: \$387,416
- ARRA RLF repayments: \$855,079
- State Low-Interest Loan repayments: \$1,730,456

### **Program Activities (Organizational Chart)/Liability Clarification & Closure Determination Letters**

*Financial* – Following the suspension of State funding in 2009, the Brownfields Program began offering financial assistance primarily in the form of an award of professional services (as opposed to grants) managed by the Brownfields Program using federal brownfield funding awarded to the State by U.S. EPA and, beginning in April 2014, ELTF transfer dollars. To encourage and facilitate economic development, the Brownfields Program historically awarded grants for environmental site assessment and remediation activities and low-interest and partially forgivable loans to benefit Indiana communities and help finance the acquisition of, and environmental assessment, remediation, and demolition costs at, brownfield sites.

- The following is State assistance that remains suspended pending further funding

- i. *Stipulated Assessment & Remediation Grants* - Environmental site assessment grants were made available to communities to complete environmental investigations at brownfields sites. Assessment costs that were eligible for funding included Phase I and Phase II site evaluation activities and related sampling. Remediation grants were available for costs associated with eligible and approved cleanup activities. The stipulation associated with these grants required local investment match, the amount of which was a percentage of the grant award that varied depending upon an applicant's population and median household income.
  - ii. *Federal Matching Grants* - Grant funding in an amount that equals a community's required match (up to 20% of an award) was provided to Indiana communities/grantees that were awarded brownfield grant funding from U.S. EPA.
  - iii. *Petroleum Remediation Grants* – The Brownfields Program provided funding for site assessment and remediation activities for petroleum-contaminated brownfields.
  - iv. *Low-Interest Loans* – The Brownfields Program awarded low-interest loans to communities for acquisition of, and environmental assessment, remediation and demolition activities at, eligible brownfield sites.
- Federal assistance that has expired/is close to expiration:
    - i. *Trails & Parks Initiative Grants* – The Brownfields Program received two \$200,000 U.S. EPA assessment grant awards in September 2007 which it used to fund a Trails & Parks Initiative (TPI) for site assessment work on brownfields on which the planned future use was trail, greenspace, park or other recreational use. The Authority matched the awards with an additional \$200,000 in funds. Through the TPI, the Brownfields Program completed a total of 34 Phase I/II assessments, assessing approximately 108 acres at 15 sites in 11 Indiana communities, resulting in the development of 2.6 linear trail miles and the redevelopment of 37 acres of land.
    - ii. *Revolving Loan Fund loans* – With federal funds from RLF grants, the Brownfields Program funds low-interest loans to eligible borrowers to conduct soil and groundwater remediation and finance demolition of contaminated and/or obsolete structures to facilitate remediation and redevelopment of brownfields. The Brownfields Program initially received an RLF award from U.S. EPA of \$2,000,000 in September, 2007, to which \$359,204 of loan repayments on a 1997 RLF grant were added. The Brownfields Program received Supplemental Funding awards totaling \$2,800,000 between September, 2010 and September, 2016, totaling \$5,159,204 in federal Brownfield RLF funding. The Authority met its required match with an additional \$1,031,840 in funds. As of November 23, 2016, \$1,918,985 remains available to be loaned.
    - iii. *American Recovery & Reinvestment Act of 2009 (“ARRA”)* – U.S. EPA awarded the Brownfields Program \$2,500,000 in RLF grants and a \$4,039,000 Leaking Underground Storage Tank (“LUST”) program grant which the Authority managed on behalf of IDEM. The LUST ARRA grant financed 35 projects, resulting in the removal of 85 USTs, 26,554 tons of petroleum-impacted soil, and 32,979 gallons of petroleum-impacted liquid. In conjunction with these projects, the Brownfields Program removed 2 above-ground storage tanks, 7 fuel oil USTs, and 13 hydraulic lifts using state petroleum remediation grant funds (because they were ineligible LUST ARRA expenses). Thirty (30) No Further Action letters have been issued for these sites. The LUST ARRA grant was

fully-expended as of June 8, 2012. The Brownfields Program has closed five (5) loans using brownfield ARRA funds totaling \$2,433,565. Six sites are being/were remediated in five communities through these loans.

- iv. With the RLF grant period end date approaching in September 2018, and anticipated continued cuts in 128(a) funding, federal funds will essentially be gone. Further financial assistance will be limited to a new appropriation of State funds and the expenditure of loan repayments.
- Auto Sector Brownfield Assessment Initiative: As part of the close out of a 1997 award of an RLF grant by U.S. EPA to the Brownfields Program, the Program agreed to use some of its loan repayments to fund an initiative to provide environmental site assessments and site stabilization activities in Indiana communities to help address the growing problem of idled, abandoned, and closed facilities related to the downsizing of the automotive manufacturing sector. Through this initiative, the Program provided \$504,846 in services at 7 former auto sector sites in 6 communities.
  - Supplemental Environmental Projects (“SEPs”): In partnership with IDEM’s Office of Enforcement, the Program receives funding to conduct brownfield SEPs. Since 2007, a conscious effort has been directed at brownfield SEPs resulting in the acceptance of 32 brownfield SEPs generating \$1,114,056 for brownfield projects. As of September 30, 2016, 41 brownfield projects have been funded in 19 communities drawing \$1,016,054 to conduct activities such as Phase I & II environmental site assessment, groundwater monitoring, remediation, waste removal and demolition.
  - Petroleum Orphan Site Initiative (“POSI”): With the SFY14/15 transfer of \$3MM in ELTF funds to the Brownfields Program, the Program began POSI to address petroleum contamination on brownfield sites resulting from leaking underground storage tanks that cannot be addressed by the responsible party due to an inability-to-pay, bankruptcy, or other factors (orphan sites). An additional \$2.91MM ELTF transfer was appropriated to the Authority for SFY16/17, and in March, 2016, the Program, at IDEM’s request, began reimbursing POSI project costs with Petroleum Trust Fund (IC 13-23-13-6) dollars which IDEM became statutorily required to spend on corrective action following the 2015 legislative session. Petroleum contamination from other on-site sources (e.g., hydraulic lifts, etc.) and hazardous substances also addressed if ELTF transfer or other brownfield funding is available. The first POSI site was approved in April, 2014. As of September 20, 2016, 36 sites have been approved for funding in 31 communities (26 counties). The Program has obligated \$6,017,190 (102% of appropriated funds available through SFY17) and disbursed \$3,699,610 (61% of approved budgets resulting in the following outcomes:
    - Eight (8) *No Further Action* letters have been issued (22% of awarded sites)
    - 18 underground storage tanks (“USTs”) removed
    - Two (2) USTs closed in place
    - Seven (7) fuel oil USTs removed
    - Two (2) hydraulic lifts removed
    - 9,770 tons of petroleum-impacted soil removed
    - 93,725 gallons of liquid/sludge removed

Petroleum Trust Fund (“PTF”) Reimbursements: POSI is partially funded by reimbursements from IDEM’s Petroleum Trust Fund (PTF). The first PTF reimbursement of POSI expenses cleared on March 18, 2016. As of July 25, 2016, the PTF has reimbursed \$999,300 in POSI expenses at 10 sites in 10 communities (8 counties), funding (or partially funding) the following outcomes:

- 2 *No Further Action* letters issued
- 1 *No Further Action* letter in process for issuance
- 6 underground storage tanks removed
- 5,130.44 tons of petroleum-impacted soil removed
- 71,120 gallons of liquid/sludge removed

*Technical* - The Brownfields Program performs environmental technical oversight and review for all projects receiving financial or legal assistance, as well as projects receiving U.S. EPA brownfield grants. The Brownfields Program's technical review is consistent with the cleanup policies followed by IDEM, while providing flexibility to achieve a balance between environmental protection and economic development. Technical review by Brownfields Program project managers also results in the issuance of *No Further Action* and *Site Status Letters* and contributes to liability clarification letters drafted by the Brownfields Program's General Counsel and determinations regarding appropriate land use restrictions for environmental restrictive covenants as a part of site reuse determinations. Since 1998, the Brownfields Program has issued 198 *No Further Action* (NFA) letters and 279 *Site Status Letters* (SSLs). In the past two SFYs, 29 NFAs and 37 SSLs have been issued.

*Legal* – The Brownfields Program issues Comfort and Site Status Letters that attempt to eliminate concerns of stakeholders that their involvement in a brownfield redevelopment project will result in cleanup liability. If upon review the Brownfields Program determines that current site conditions meet applicable cleanup criteria, a Site Status Letter states that no response actions will be required. Brownfields Program legal counsel also makes determinations for U.S. EPA grantees regarding eligibility of sites for federal petroleum brownfield funding, draft environmental restrictive covenants, reviews No Further Action determinations, and requests for waiver or reduction of delinquent property taxes on brownfields. As pertains to federal grants, Brownfields Program legal counsel ensures compliance with assistance agreement terms and conditions and reporting obligations. In addition, Brownfields Program legal counsel works cooperatively with IDEM on legislation impacting remediation statutes. Since 1998, the Brownfields Program has issued 412 *Comfort Letters* (CLs). In the past two SFYs, 135 CLs have been issued.

*Community Relations/Outreach* – The Brownfields Program promotes its financial, legal and technical assistance through various education and outreach activities. The Brownfields Program provides educational opportunities about brownfield redevelopment and the Brownfields Program via its web site and various written materials, as well as one-on-one assistance through phone calls, meetings and workshops. Resource materials include forms to request services, fact sheets, guidance documents and newsletters. Brownfields Program staff participate in and present information at various national and local workgroups, advise federal and local educational programs, and coordinate and participate in project meetings, workshops and conferences. Brownfields Program staff also support Indiana communities applying for and/or recipients of a U.S. EPA brownfield funding, for example, the issuance of state support letters and site eligibility determinations for use of petroleum funding.

*Indiana Economic Development Corporation (IEDC)* – The Brownfields Program has developed a strong working relationship with the IEDC on economic development projects that are occurring on contaminated sites. Over the past several years, the Program has assisted with technical review and liability clarification involving large economic development. The Brownfields Program has been lauded by corporate and legal representatives from these companies for its abilities and efforts and the crucial role the Brownfields Program has played in helping these businesses reach a comfort level in bringing their business to these sites.

*Organization Chart* – Since August 2015, the Brownfields Program has reorganized to better reflect the changed nature of the Program toward more petroleum clean ups and increasing demand for liability clarification letters. See attached organizational chart.

### **Program Accomplishments/Return on Investment (ROI) Results**

When the Brownfields Program was awarding grants to Indiana communities, it tracked the private and additional public investment that were provided as a Program metric. Past recipients of State-funded grants were required to match the State’s assistance with additional investment. Since 2006, the Brownfields Program has been conducting an annual Return on Investment (ROI) survey to determine the additional investment in *all* brownfield sites for which the Program has provided legal, technical or financial (state and federal) assistance. For the SFY16 report, the ROI for actual funds leveraged for all brownfield program projects (financial assistance and other) was \$48:1. While this calculation includes several large projects such as Lucas Oil Stadium and the JW Marriott in Indianapolis, even when you back those two projects out, the average additional public and private investment in a Brownfield Program project is \$339,588 and \$550,884, respectively.

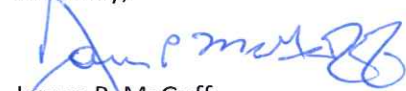
The second metric formerly reported by the Brownfields Program was the number of brownfield sites readied for redevelopment based on the issuance of *Comfort*, *Site Status*, and *No Further Action* determination letters. Over the past 10 years, the number of such letters requested and issued by the Brownfields Program has grown exponentially, on the order of a 420% increase (from 20 letters issued in SFY2007 to 104 issued in SFY2016). Through the dedication of Brownfield Program staff, this increase in work product has been accommodated with the addition of only two FTE.

### **Next Biennium Objectives**

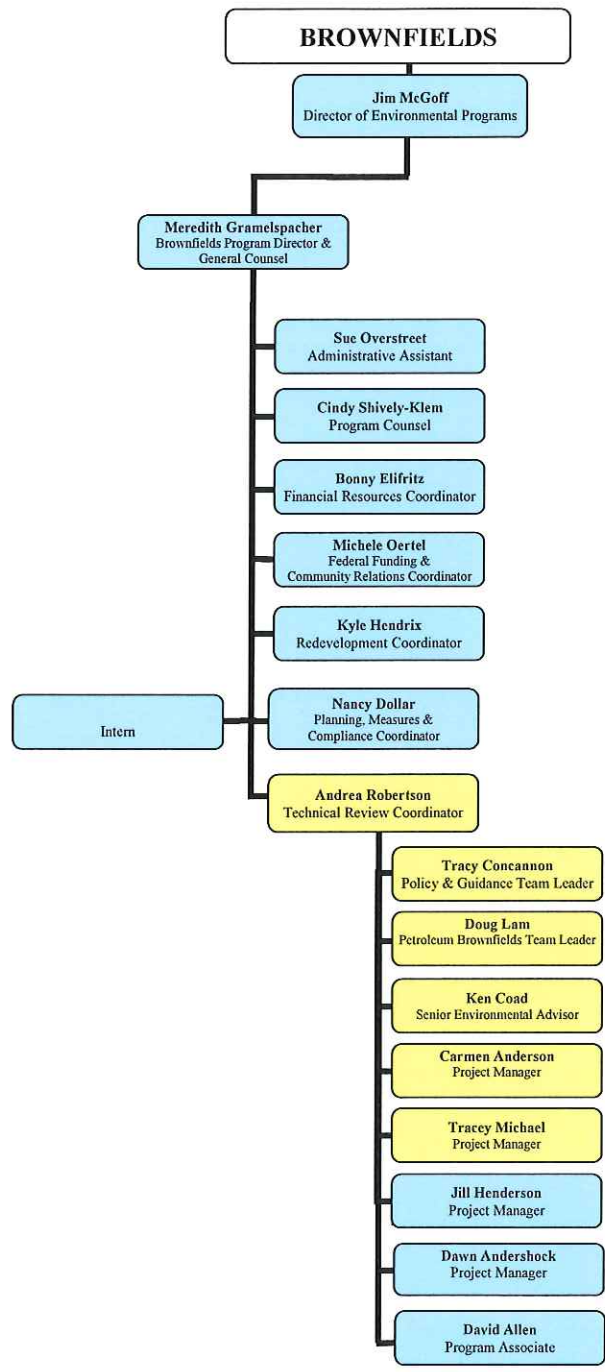
In light of the continued decrease in federal funding, the Program’s reliance on State funding is increasingly important. If stipulated grant incentives are renewed, the combined targeted ROI for \$1 invested of State brownfields funding for assessment/remediation grants would remain at \$10:1.

The Indiana Brownfields staff and I are confident that any appropriations will be managed in the most efficient and effective manner for the taxpayers of Indiana as we have demonstrated with the Brownfields Program’s stewardship of brownfield funds over the past ten years.

Sincerely,



James P. McGoff  
Director of Environmental Programs  
Indiana Finance Authority



IFA STAFF

IDEM STAFF

