

**California Pollution Control
Financing Authority**

**California Recycle Underutilized Sites
(Cal ReUSE) Program**

Turning Uncertainty Into Opportunity

Report to the California State Legislature
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I. INTRODUCTION

A. Summary

Legislation enacted in 2000 (SB 1986 (Costa), Ch. 915 of Statutes of 2000) authorized the California Pollution Control Financing Authority (CPCFA) to provide forgivable loans to finance the cost of site assessments, technical assistance, and other specified activities, to assist in the reuse and redevelopment of underutilized property with real or perceived contamination (brownfields). In response to the legislation and to further sustainable development efforts, the California Pollution Control Financing Authority implemented the California Recycle Underutilized Sites (Cal ReUSE) Program to assist with the reuse and redevelopment of brownfields. Cal ReUSE's goal is to use limited public resources to effect a change in the redevelopment process so that project economics can be determined, liability can be quantified, and redevelopment of these sites can move forward.

B. Preparing for Growth in California

During the next 20 years, California will add more than five million new jobs. This economic growth will be accompanied by more than 12 million new residents, over four million new households, and upwards of two million new schoolchildren. The projected growth of the next 20 years will equal that experienced in the boom years of the 1950s, 1960s, and 1970s combined. The challenge for many communities is not whether they are going to grow, but rather, how they are going to grow.

C. Achieving Sustainable Development

The sheer magnitude of the State's job and population increases will require that growth be accommodated in more thoughtful ways to ensure sustainable development.

California's brownfields offer both an incredible opportunity for sustainable development, and also great challenges. The most rigorous estimate of California's brownfields sites to date suggests there are between 67,000 and 119,000 such properties statewide.¹ Making use of these underutilized sites helps reduce growth pressure at the urban perimeter and the associated traffic, infrastructure and related costs of such development.

One of the greatest barriers to successful redevelopment of brownfields projects is the uncertainty in the development process. This uncertainty centers around two concepts: economic viability and environmental liability.

D. Turning Uncertainty into Opportunity

The Cal ReUSE Program addresses the funding and information gaps in the development of brownfields to help bring these properties back into productive reuse.

Where a project involves a brownfields site, a professional site assessment is necessary to gain an acceptable understanding of economic feasibility. Capital markets have not been willing to fund site assessments or other up-front costs associated with the regulatory and

¹ The Development Fund produced this estimate by combining data from a number of existing studies and supplementing it with an analysis of business and geographical statistics. *Report of Research Phase: Financing Initiative for Environmental Restoration*, A Project of the Development Fund, Feb. 1998, p. 25.

remediation processes because these costs are considered to be predevelopment costs. Development entities are often not willing to fund predevelopment costs if they do not have a grasp of project economics, which is difficult to achieve in the face of uncertainties regarding the extent of potential contamination and resulting remediation costs. As a result, many potentially usable sites sit idle.

By financing the costs of site assessments, Cal ReUSE assists in filling a critical funding gap in the early stages of project development. Where contamination can be assessed and the economics of cleanup are determined to be acceptable, development entities are more likely to spend money to commission the reports necessary to fine-tune the economic equation, attract capital, and move through the regulatory process.

In addition, many development entities do not have the resources or expertise in-house to deal with environmental mitigation issues and the regulatory and remediation processes that surround brownfields sites. Cal ReUSE includes a technical assistance component designed to help development entities overcome uncertainties related to such issues as extent of contamination.

II. PROGRAM DESCRIPTION

A. Program Summary

Program Development. In developing the Cal ReUSE program CPCFA staff consulted at length with industry practitioners and state/private environmental law experts. Through this process, the staff gained a strong understanding of program need and program structuring concerns. Staff believes the program appropriately balances practical, legal and public policy considerations.

Program Goals. Cal ReUSE's primary goal is to spur the development of brownfields by providing predevelopment dollars necessary to address the gap in the funding of brownfields. A professional site assessment, as well as technical assistance with regulatory issues and other possible hurdles, can bring certainty to the economic equation by quantifying environmental risk, providing information for a remediation plan, and applying cost and timeframe information to the problem. Parties to the project can then make informed decisions and measure exposure to liability. This enhances the probability that a site can move forward in the development process.

Cal ReUSE targets properties in distressed urban and rural communities and urban infill areas with a demonstrated need for redevelopment. It focuses on properties that, absent Cal ReUSE assistance, most likely would not move forward in the development process.

The number of sites moved forward in the development process will give a measure of program success. Additionally, program performance will be measured by the degree of "leverage" achieved, that is, the ratio of CPCFA dollars to total costs of the projects assisted. Due to uncertain outcomes associated with site assessments and the difficulty in redeveloping contaminated sites, repayment of Cal ReUSE loans may not be possible in many circumstances. Accordingly, Cal ReUSE will have as a program goal a minimum 40 percent repayment of the aggregate principal loaned through the program.

Program Administration. By statute, CPCFA is authorized to work in conjunction with public and private sector entities including, but not limited to, cities, counties, school districts, redevelopment agencies, financial institutions, and for-profit and non-profit development entities. CPCFA initially engaged three local governmental Strategic Partners to administer Cal ReUSE. It recently also engaged a statewide Strategic Partner to broaden the reach of the program. Within program guidelines established by CPCFA, Strategic Partners provide technical assistance, select projects, distribute loan funds, and help to administer the program.

All program funds are distributed and loan repayments are collected through the use of a trustee bank.

B. Strategic Partner Selection and Criteria

CPCFA utilizes a collaborative approach of engaging Strategic Partners that understand local community needs to administer Cal ReUSE. An alignment of interests between CPCFA's goals and a Strategic Partner's goals is critical. CPCFA and each Strategic Partner enter into an agreement that sets out their respective roles and responsibilities. Strategic Partners are selected that have a defined strategy to facilitate the redevelopment

of brownfields, a quality team with expertise to execute the strategy, and a program that meets CPCFA criteria including the following:

- Ability to provide the required match of CPCFA funds. Certain and limited non-monetary contributions (such as dedicated staff or resources) are considered towards the match.
- An understanding of the community economic development process.
- Knowledge of real estate development project economics.
- An understanding of the environmental assessment and remediation process.
- An understanding of the environmental regulatory processes and issues related to real estate development.
- An understanding of site access issues on sites not owned by the development entity.
- Public/private partnership experience.
- The capacity to provide technical assistance.
- An overall brownfields redevelopment strategy with knowledge of markets and neighborhoods with, or that leads to, a flow of quality projects.

Strategic Partners are given the flexibility to design responsible programs that provide accountability while facilitating the redevelopment of brownfields sites.

C. Project Criteria

Any for-profit or not-for-profit organization, school district, participating party, or public agency may submit an application for funding. Priority is given to projects located in distressed communities. A Program goal is to assist projects that meet the following criteria:

- Environmental Characteristics.
 - Sites with potential economic beneficial reuse not currently redeveloped due to lack of information about real or perceived contamination, uncertainty about clean-up costs and timeframes, and the regulatory process.
 - Projects that will result in the clean up of environmental contamination.
- Leverage.
 - Projects that maximize matching funds.
- Project Feasibility.
 - Projects most likely to move forward in the development process if the site is proven economically feasible.
 - Projects supported by a quality development entity with a proven track record.
 - Projects that absent Cal ReUSE resources would most likely not move forward.

D. Loan Criteria

Loans extended by a Strategic Partner include the following minimum loan terms:

- Maximum loan amount of \$125,000 per site.
- 25% match requirement.
- Maximum loan term of 36 months.
- Interest rate based on the State's Pooled Money Investment Fund earnings for the previous calendar year. The Cal ReUSE interest rate for 2002 was 4.86%. The expected Cal ReUSE interest rate for 2003 should be in the range of 3-4.5%.

E. Loan Forgiveness

Cal ReUSE is a program of utility, in that it recognizes that investors are unwilling to take on debt to determine whether a site has contamination issues. Cal ReUSE utilizes a loan forgiveness feature acknowledging the uncertain outcomes associated with site assessment. Repayment of Cal ReUSE loans may not be possible in some circumstances, such as when the extent of contamination precludes proceeding with redevelopment as planned. Accordingly, the Strategic Partner may forgive a loan if the Borrower, acting reasonably and in good faith, fails to proceed with development of the Brownfield.

A forgiven loan will be conditioned on the Borrower:

- Executing a written agreement to repay the loan if the Borrower subsequently develops the site.
- Providing documentation to the Strategic Partner that it has complied with all applicable laws, rules, and regulations arising from the Brownfields Project.
- Providing copies of reports and certifications required by the Regulations.

III. CAL ReUSE IN ACTION

During the program development and regulatory process CPCFA began searching for exceptional Strategic Partners to select projects, distribute loan funds, and administer the program. In 2002 Cal ReUSE began working with three local government Strategic Partners—the City of Oakland, the City of San Diego Centre City Development Corporation and the City of Emeryville—to provide Strategic Partner services for their respective communities. Each has been working with local private developers, development agencies, and other local governments on various brownfields projects. With the assistance of Cal ReUSE each city is striving to take on more projects. Due to the extended period of time projects of this nature take, many are still in the early planning stages.

A. Local Governmental Strategic Partners

1. City of Oakland. The City of Oakland's Brownfields Program has been in existence for over five years. Oakland has implemented a comprehensive brownfields strategy utilizing its Brownfields Action Team (BAT). BAT offers significant in-house expertise that provides information technology, risk-based corrective action, legal strategies, site assessment and remediation, site assembly, permit tracking, and various financing mechanisms to successfully reutilize industrial sites. In addition to its Brownfields Cleanup Revolving Loan Fund, the City has access to various financial resources including U.S. Economic Development Administration grants, U.S. Environmental Protection Agency funds and Redevelopment Agency funds, as well as provides a One-Stop Capitol Shop to assist with financing and incentives. Oakland's initial Cal ReUSE Program allocation is \$1,000,000.

- A \$125,000 Cal ReUSE loan is funding the initial environmental study to jumpstart an important development project at the MacArthur BART station in Oakland. The Redevelopment Agency of the City of Oakland, San Francisco Bay Area Rapid Transit, and Creative Housing Associates are working jointly to create a Transit Village at the BART station. The project is being designed as a true intermodal facility that will provide 400 to 800 new housing units, retail shops, improved access for bikes and shuttle busses, as well as continued vehicle access to the station. This project is expected to intensify the use of BART's currently underutilized property in the station area by redeveloping the property and the surrounding parcels into a vibrant transit village. This project is estimated to cost \$95 million dollars to complete. If the site assessment proves the project viable, Cal ReUSE funds have the potential to be leveraged 760:1.
- A second loan has received preliminary approval. This loan, if made, will assess a former plating company site in the lowest income area of Oakland.
- City staff is currently processing three additional loan applications. These loans would assess proposed major developments including: the Coliseum BART Transit Village, the Fruitvale Transit Village Phase II, and the Martin Luther King/40th Street neighborhood commercial project.

2. City of San Diego. The City of San Diego, through its Redevelopment Agency (RDA) and the Centre City Development Corporation (CCDC), an operating arm of the RDA, has more than ten years experience with the redevelopment of at least 80

brownfields projects, utilizing a variety of environmental professionals, land use planners, and special environmental counsel. One of the primary purposes of the RDA and CCDC is to develop blighted areas. The RDA and CCDC set aside funds in each fiscal year budget for use for environmental issues including environmental investigations and sometimes full remediation efforts for projects, and is therefore able to provide both matching funds and services. San Diego's initial Cal ReUSE Program allocation is \$1,000,000.

- CCDC activities to date include completion of a draft marketing brochure for the program, and talks with potential applicants.

3. City of Emeryville. The City of Emeryville, through its redevelopment agency and other city branches, has successfully developed several large brownfield properties. It also administers several loan and grant programs to facilitate brownfield site assessment and redevelopment. One of these programs, the Capital Incentives for Emeryville's Redevelopment and Remediation (CIERRA) program, provides matching site assessment grants (up to \$25,000) and no/low-interest remediation loans. Emeryville further has partnerships that facilitate the Cal ReUSE Program, such as memoranda of understanding with the State's Department of Toxic Substance Control (DTSC) and the Regional Water Quality Control Board, where Emeryville serves as the environmental regulator for simple clean-up sites. Emeryville's initial Cal ReUSE Program allocation is \$300,000.

- Activities to date include marketing the loan to developers and property owners, contact with prospective grantees/borrowers, and active discussions with two potential applicants.

B. Statewide Strategic Partners

1. California Environmental Redevelopment Fund (CERF)/California Center for Land Recycling (CCLR). More recently, in December 2002, the CPCFA board approved the California Environmental Redevelopment Fund, LLC (CERF) and the California Center for Land Recycling (CCLR) to serve as a Statewide Strategic Partner for the Cal ReUSE Program.

CERF and CCLR will provide the full range of technical assistance and remediation financing expertise needed to provide statewide loan services under the Cal ReUSE Program and to stimulate the revitalization of struggling communities in California. Their overlapping missions, combined with CERF's financial support for the cleanup of contaminated lands and CCLR's environmental expertise and financial assistance programs for projects in under-served communities, creates a unique opportunity for a very successful collaboration that represents a logical statewide strategic partnership for the Cal ReUSE Program.

CERF's and CCLR's strategy for implementing the Cal ReUSE Program statewide will be based on stimulating brownfields redevelopment projects that serve as models of sustainable development, build on local strengths, and are based on community participation at all stages. Prior to receiving a loan, prospective borrowers will be required to demonstrate local government support, community benefit, and committed community involvement. Preference will be given to projects that demonstrate the

availability of funding for project completion and a strong likelihood of achieving timely and transferable successes. CERF/CCLR's initial Program allocation is \$1,000,000.

IV. CONCLUSION

After just one year, the Cal ReUSE program is heading towards successful implementation through its local governmental Strategic Partners in Oakland, San Diego, and Emeryville, and its new statewide Strategic Partner, CERF/CCLR. By addressing a crucial gap in the funding of brownfields redevelopment, Cal ReUSE and its Strategic Partners will help bring underutilized properties back into productive reuse. And, as part of the State's sustainable development efforts, Cal ReUSE will help return economic prosperity to the urban core and reduce growth pressure on the urban fringe.