

# California Funding and Liability Relief Tools for Infill and Brownfields Revitalization



Underutilized and blighted properties continue to challenge economic development efforts in many communities. There are many conditions that contribute to properties sitting idle and underutilized. One of these conditions that can be corrected is environmental impact/contamination from prior operations on the site or nearby. There is a wide variety of funding sources and liability protection tools to aid the efforts

to cleanup Brownfield sites.

The tables and charts below list some of the funding sources and liability protection tools that are available to local government agencies and non-profit organizations. Several are also available to developers as low interest loans and possibly grants.

## FUNDING SOURCES

| SOURCE                                                                                                                            | ACTIVITY   |         |          | ELIGIBILITY            |         |                   | MAXIMUM AMOUNT                            |
|-----------------------------------------------------------------------------------------------------------------------------------|------------|---------|----------|------------------------|---------|-------------------|-------------------------------------------|
|                                                                                                                                   | Assessment | Cleanup | Planning | Nonprofit & Local Govt | Private | Responsible Party |                                           |
| EPA Assessment*                                                                                                                   | ●          |         | ●        | ✦                      |         |                   | \$300k-\$500k-\$2M                        |
| EPA Cleanup*                                                                                                                      |            | ●       |          | ✦                      |         |                   | \$500k                                    |
| EPA Revolving Loan Fund (RLF) Capitalization*                                                                                     | ●          |         |          | ✦                      |         |                   | \$1M                                      |
| EPA Multipurpose*                                                                                                                 | ●          | ●       | ●        | ✦                      |         |                   | \$800k                                    |
| EPA Targeted Brownfield Assessment (TBA)*                                                                                         | ⬢          |         |          | ✦                      |         |                   | ~\$100k                                   |
| DTSC Targeted Site Investigation (TSI)                                                                                            | ⬢          |         |          | ✦                      |         |                   | ~\$70k                                    |
| DTSC Revolving Loan Fund (RLF)                                                                                                    |            | ▲●      |          | ✦                      | ✦       |                   | As funds allow                            |
| DTSC Equitable Communities Revitalization Grant (ECRG)                                                                            | ●          | ●       | ●        | ✦                      |         |                   | \$300k - 7M depending on type of activity |
| DTSC Cleanup Loans and Environmental Assistance to Neighborhoods (CLEAN) and DTSC Investigating Site Contamination Program (ISCP) |            | ▲●      |          | ✦                      | ✦       | ✦                 | Contact DTSC                              |
| SWRCB Leaking Underground Storage Tank (LUST)                                                                                     | ○          | ○       |          | ✦                      |         | ✦                 | Up to \$1M                                |
| SWRCB Orphan Site Cleanup Fund (OSCF)                                                                                             | ○          | ○       |          | ✦                      | ✦       |                   | Up to \$1M                                |
| SWRCB Site Cleanup Subaccount Program (SCAP)                                                                                      | ○          | ○       |          | ✦                      | ✦       | ✦                 | As funds allow                            |
| Affordable Housing and Sustainable Communities                                                                                    | ●          | ●       |          | ✦                      |         |                   | As funds allow                            |

### LEGEND

- Grant
- ⬢ Technical Assistance/In Kind
- ▲ Loan
- < 6 Months for funding approval
- 6-12 Months for funding approval
- > 12 Months for funding approval

\* Check the guidelines in the Spring of 2022

### ABBREVIATIONS

- EPA:** Environmental Protection Agency
- DTSC:** Department of Toxic Substances Control
- SWRCB:** State Water Resources Control Board

There are a number of brownfield grant and technical assistance resources that provide early seed funding for investigating, planning, assessing and cleaning up sites.

Most underutilized sites are eligible for these funds – the sites need not be listed in any state database or otherwise considered contaminated. While there are many criteria, which vary across programs, to avail of grants for assessment or cleanup, the current property owner and/or prospective grantee cannot have caused the contamination – yet there are exceptions to this, so you need to ask. Also, for site assessment grants, the grantee need only to have site access – site ownership is not a requirement.

Local government – including councils of government, nonprofit organizations, business improvement districts, universities, are all eligible for these programs. Contact EDFRE for more info.

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## LIABILITY RELIEF TOOLS

| LIABILITY RELIEF TOOLS                                          | ELIGIBILITY |                     |                   | NOTES                                                                                                                                                                                                                        |
|-----------------------------------------------------------------|-------------|---------------------|-------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                 | Local Govt  | Nonprofit & Private | Responsible Party |                                                                                                                                                                                                                              |
| Standard Voluntary Cleanup Agreement                            | ★           | ★                   | ★                 | Applies to most properties and parties and used for limited and broad project scopes.                                                                                                                                        |
| Local Agency Oversight Agreement                                | ★           |                     |                   | Agreement with language designed for specific needs of local government agencies.                                                                                                                                            |
| Reimbursement Agreement                                         | ★           | ★                   |                   | For limited consultation and discussion with DTSC. DTSC is not able to make regulatory decisions under a Reimbursement Agreement.                                                                                            |
| California Land Reuse and Revitalization Act (CLRRA) Agreements | ★           | ★                   |                   | Provides limited liability protection for a bona fide purchaser, bona fide prospective purchaser, innocent land owner, contiguous property owner, or a ground tenant of a property if specific eligibility criteria are met. |
| Prospective Purchaser Agreement                                 | ★           | ★                   |                   | Provides limited liability protection and "covenant not to sue" if specific eligibility criteria are met.                                                                                                                    |
| Gatto Act                                                       | ★           |                     |                   | Provides cities and other local agencies with the needed authority to compel cleanup of contaminated properties.                                                                                                             |

There are a number of legal and liability relief tools available to local government, nonprofits and prospective purchasers. These agreements with either the Department of Toxic Substances Control or your local Regional Water Quality Control Board.

## EXAMPLE PROJECTS



The Tracks at Brea, City of Brea, is a "rails-to-trails" project that transformed an abandoned railroad right-of-way into a multi-use trail. The 4-mile trail/linear park includes a two-way paved bike trail and a pedestrian path providing alternate transportation as well as offering fitness and recreational opportunities. The project required addressing soil contamination from historical railroad use and EPA Brownfield funding provided funding for site assessment, remedial action design and partial cost of the soil removal. Site cleanup included removal and disposal of approximately 20,000 cubic yards of arsenic and petroleum hydrocarbon-impacted soil, and capping with clean import fill. The project was completed under the oversight of the Orange County Health Care Agency.



La Valentina Station in Sacramento is a transit-oriented brownfield redevelopment. Along the light rail line, the site was once a high crime area and a neglected brownfield that has transformed the area. In addition to affordable housing, it provides street-level commercial space. It also incorporates sustainable building features like rooftop solar panels, energy-efficient design and eco-friendly building materials. EPA brownfields funding provided seed funding that helped bring \$25 million in grants and financing, including low income tax credits, land donation, state cleanup and infrastructure grants, and Community Development Block Grants (CDBG).