



**INDIANA BROWNFIELDS PROGRAM**  
**COMFORT / SITE STATUS LETTER REQUEST**  
 State Form 51493 (R3 / 5-14)  
 Indiana Finance Authority

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Return this form to:  
**INDIANA BROWNFIELDS PROGRAM**  
 100 N. Senate Avenue, Room 1275  
 Indianapolis, IN 46204  
 For questions: 317-234-4293  
 Submit form electronically to: [brownfields@ifa.in.gov](mailto:brownfields@ifa.in.gov)  
 FAX: 317-234-1338

Pursuant to the Indiana Department of Environmental Management (IDEM) Nonrule Policy Document W-0051, "Brownfields Program Comfort and Site Status Letters Policy" (April 18, 2003), the Indiana Brownfields Program may issue a Comfort or Site Status Letter to stakeholders at brownfields sites that satisfy the eligibility criteria and conditions of the policy.

**Brownfield Site Definition**

A brownfield site is defined as a parcel of real estate that is abandoned or inactive; or may not be operated at its appropriate use; and on which expansion or redevelopment is complicated because of the presence or potential presence of a hazardous substance, a contaminant, petroleum, or a petroleum product that poses a risk to human health and the environment. IC 13-11-2-19.3

**Comfort Letter**

A Comfort Letter is issued to a party that qualifies for an applicable exemption to liability found in Indiana law or IDEM policy, but is not a legal release from liability. The Comfort Letter explains the applicable liability exemption or IDEM's exercise of enforcement discretion under an applicable IDEM policy. Potentially applicable liability exemptions or IDEM policies include:

- ✓ the Stakeholder is a government entity exempt from liability under IC 13-25-4-8(e), IC 13-11-2-150(d), or IC 13-11-2-151(b);
- ✓ the Stakeholder is a creditor, lender, or fiduciary exempt from liability under IC 13-23-13-14, IC 13-23-13-15, IC 13-24-1-10, IC 13-24-1-11, or IC 13-25-4-8(c);
- ✓ the Stakeholder is not the statutory owner of an underground storage tank pursuant to IC 13-11-2-150(a) because the tanks were not used after November 8, 1984 and the Stakeholder was not the person who owned the tank immediately before the discontinuation of the tank's use;
- ✓ the Stakeholder is a nonprofit corporation exempt from liability under IC 13-25-4-8(h), IC 13-11-2-150(e), or IC 13-11-2-151(f);
- ✓ the Stakeholder is exempt from liability or eligible for a defense to liability as a bona fide prospective purchaser, contiguous property owner or innocent landowner pursuant to IC 13-25-4-8(b), IC 13-11-2-150(f), IC 13-11-2-150(g), IC 13-11-2-151(g), or IC 13-11-2-151(h); and
- ✓ the Stakeholder satisfies the conditions of IDEM Nonrule Policy Document W-0047, "Property Containing Contaminated Aquifers" (20 IR 1674, January 30, 1997), or IDEM Nonrule Policy Document W-0038 "Property Containing Contaminated Aquifers/Underground Storage Tanks" (23 IR 2141, April 20, 2000).

**Site Status Letter**

A Site Status Letter is issued to a party that did not cause or contribute to or knowingly exacerbate the contamination and can demonstrate that current levels of contaminants of concern at the brownfield meet current cleanup criteria as established by IDEM under the Remediation Closure Guide. The potential liability of the party requesting the letter is not addressed. The Site Status Letter states that based on a technical analysis of information submitted to IDEM pertaining to site conditions, IDEM concludes that current site conditions do not present a threat to human health or the environment and that IDEM does not plan to take or require a response action at the brownfield site.

**INSTRUCTIONS:** Please complete this form (type or print legibly) and return it to the Indiana Brownfields Program to begin the process of assessing eligibility to receive a letter. Each request will be reviewed by Indiana Brownfields Program staff. Determinations of eligibility are made based on facts and data provided with the request. A decision on whether or not to issue a Comfort or Site Status Letter will be made approximately 60 days from receipt of the request. The complexity of technical issues pertaining to site conditions may increase staff review time. Please attach any additional documentation required if space on the form does not allow for a complete response.

**Contact Information**

Letter Recipient Ms. Lauren Riga		Organization / Community City of Indianapolis Department of Metropolitan Development	
Address (number and street, city, state and ZIP code) 200 East Washington Street, Suite 2042, Indianapolis, Indiana 46204			
Telephone Number 317-327-5845	Cell Number	Fax Number	E-mail Address Lauren.Riga@indy.gov

**Environmental Consultant Representing the Letter Recipient**

Name(s) Nivas R. Vijay, CHMM		Firm Heartland Environmental Associates, Inc.	
Address (number and street, city, state and ZIP code) 3410 Mishawaka Avenue, South Bend, Indiana 46615			
Telephone Number 574-289-1191	Cell Number 574-360-0961	Fax Number 574-289-7480	E-mail Address nvijay@heartlandenv.com

**Attorney Representing the Letter Recipient**

Name(s)		Firm	
Address (number and street, city, state and ZIP code)			
Telephone Number	Cell Number	Fax Number	E-mail Address

**Site Information**

Site or Project Name(s) Former Thomson Consumer Electronics / Former RCA Facility / Sherman Park Parcel "H"		
Address (number and street, city, state and ZIP code) 600 North Sherman Drive, Indianapolis, Indiana 46201		
IDEM Site Number Brownfields # 4071003 / 4071115	US EPA Site Number	Size in acres 35.42
Current Owner Midwest Commercial Investments X, LLC	Address (number and street, city, state and ZIP code) 3309 East St. Clair Street, Indianapolis, Indiana 46201	
Telephone Number	Cell Number	E-mail Address

**Property Status**

Current Status: (Check all that apply.)  
 Private Owner  Public Owner  In Bankruptcy  Abandoned  Inactive  Underutilized  Tax delinquent  Other (please specify) \_\_\_\_\_

Environmental Documentation Submitted for Review: (Check all that apply.)  
 Phase I Environmental Site Assessment-After 11/1/06 must comply with federal All Appropriate Inquiry Rule\*  Phase II Environmental Site Assessment  
 Sampling Results  Further Site Characterization  Other (please specify) \_\_\_\_\_  
 \*Contact the Indiana Brownfields Program if you have questions.

The Site will be:  
 Sold  Leased  Used by governmental entity  Gifted  Other (please specify) \_\_\_\_\_  Undecided

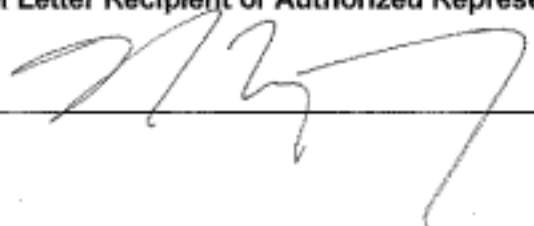
Potential or intended reuse of property: (Check all that apply.)  
 Commercial  Industrial  Residential  Mixed Use  Park  Green Space  Other (please specify) \_\_\_\_\_  Undecided

Property Acquisition:  
 Date of property acquisition (or proposed date) 11/15/2016

Letter Requested by:  
 Date by which would ideally like to receive letter 01/31/2017

**Signature**

I hereby request an Indiana Brownfields Program:  Comfort Letter  Site Status Letter

Signature of Letter Recipient or Authorized Representative 	Date (month, day, year) <u>10/31/2014</u>
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## **Indiana Brownfields Program Comfort/Site Status Letter Request Supplemental Information**

**Please include the following information in a transmittal letter with your  
Comfort and Site Status Letter Request Form to facilitate the review of your request:**

1. Identify the basis in statute or enforcement discretion policy for the Comfort Letter request:
  - *the Stakeholder is a government entity exempt from liability under IC 13-25-4-8(e), IC 13-11-2-150(d), or IC 13-11-2-151(b);*
  - *the Stakeholder is a creditor, lender, or fiduciary exempt from liability under IC 13-23-13-14 (IC 13-11-2-150(b)), IC 13-23-13-15, IC 13-24-1-10 (IC 13-11-2-151(d)), IC 13-24-1-11, or IC 13-25-4-8(c);*
  - *the Stakeholder is not the statutory owner of an underground storage tank pursuant to IC 13-11-2-150(a) because the tank was not used after November 8, 1984 and the Stakeholder was not the person who owned the tank immediately before the discontinuation of the tank's use;*
  - *the Stakeholder is exempt from liability or eligible for a defense to liability as a bona fide prospective purchaser (BFPP), contiguous property owner (CPO) or innocent landowner (ILO) pursuant to IC 13-25-4-8(b), IC 13-11-2-150(f), IC 13-11-2-150(g), IC 13-11-2-151(g), or IC 13-11-2-151(h);*
  - *the Stakeholder is a nonprofit corporation exempt from liability under IC 13-25-4-8(h), IC 13-11-2-150(e), or IC 13-11-2-151(f); or,*
  - *the Stakeholder satisfies the conditions of IDEM Nonrule Policy Document W-0047, "Property Containing Contaminated Aquifers" (20 IR 1674, January 30, 1997), or IDEM Nonrule Policy Document W-0038 "Property Containing Contaminated Aquifers/Underground Storage Tanks" (23 IR 2141, April 20, 2000).*
2. Identify the parcel(s) comprising the site and the corresponding 18-digit parcel number(s)
3. A legible copy of the recorded deed(s) or a surveyed legal description(s) for the parcel(s) comprising the site\*
4. The date of property acquisition (or proposed property transfer/closing date)
5. A black & white site map (no aerial photos) depicting property boundaries, parcel(s) & parcel number(s)
6. Description of redevelopment project including a site redevelopment/design plan (if available)

**If the basis for a Comfort Letter request is the BFPP liability exemption, please complete the attached checklist of additional information required to be submitted with your Comfort Letter request.**

**The following additional information *may* be requested following Program review  
of available site investigation data/reports:**

1. Data table(s) with sample results compared to applicable IDEM screening levels (e.g., residential, commercial/industrial, recreational)
2. A black & white map (no aerial photos) with contaminant locations above applicable IDEM screening levels
3. A table with GPS coordinates of sample locations at which contaminants of concern have been detected above applicable IDEM screening levels
4. A Site map with survey or GPS coordinates establishing the boundaries of any "Affected Area" to which a land use restriction will be tied

**\*Note:** *if you are a prospective purchaser, and an environmental restrictive covenant is required to be recorded on the deed(s) for the site, your new deed(s) will be utilized at the time of recording.*



**Indiana Brownfields Program**  
**BFPP (Bona Fide Prospective Purchaser)**  
**Comfort Letter Request Checklist**

Date of Phase I report: 10 / 05 / 2014

Entity for which the Phase I report/Phase I Update was prepared (User): City of Indianapolis Department of Metropolitan Development

Which of the following describes the User? (check the applicable box):

- Prospective Purchaser (has not purchased)
- Prospective Tenant (has not executed lease)
- Current Owner (seller or already purchased)
- Current Tenant (seeking liability protection under existing lease or intending to buy)

Buying on land contract?  Yes  No Date land contract executed: \_\_\_\_\_

Is the User the stakeholder requesting the Comfort Letter?  Yes  No

Who answered the User-specific questions in the Phase I/Phase I Update? City of Indianapolis

- Were the questions answered on behalf of the BFPP seeking comfort?  Yes  No

If the User identified above is not the BFPP, has the BFPP obtained a Phase I Update in its name and/or a reliance letter to utilize the Phase I report?  Yes  No

- If yes: Date of the Phase I Update or reliance letter obtained for the BFPP?        /        /
- If yes: Did the BFPP complete a User-questionnaire for itself when obtaining the Phase I Update or reliance letter?  Yes  No

Phase I report completed within 180 days of (prior to) acquisition (clock on 180 days and one-year shelf life of Phase I report begins ticking from the date on which the earliest report information is collected, NOT the date of the report)?<sup>1</sup>  Yes  No

- If no: Has the User/BFPP obtained a Phase I Update?  Yes  No
- If yes: Date of the Phase I Update:        /        /

	Date Conducted	Expiration Date
(i) interviews with owners, operators, and occupants;	<u>9 / 29 / 2014</u>	<u>03 / 29 / 2017</u>
(ii) searches for recorded environmental cleanup liens;	<u>9 / 23 / 2014</u>	<u>03 / 23 / 2017</u>
(iii) reviews of federal, tribal, state, and local government records;	<u>9 / 23 / 2014</u>	<u>03 / 23 / 2017</u>
(iv) visual inspections of the <i>property</i> and of <i>adjoining properties</i> ; and,	<u>9 / 29 / 2014</u>	<u>9 / 29 / 2017</u>
(v) declaration by the environmental professional	<u>10 / 05 / 2014</u>	<u>04 / 05 / 2017</u>

Report Viability Date (based on earliest expiration date from above-listed items): 03 / 23 / 2017

<sup>1</sup> The "continuing viability" component of the ASTM standard requires updates after 180 days from the earliest date of collection of interviews with owners, operators & occupants; environmental lien search; government database search; visual inspections/site reconnaissance; and, the Environmental Professional declaration. In any case, if a different User relies on the report, the new User must satisfy the User Responsibilities.



**Indiana Brownfields Program**  
**BFPP (Bona Fide Prospective Purchaser)**  
**Comfort Letter Request Checklist (continued)**

Do the Phase I User name and the name of the purchasing entity (to be) listed on the deed match exactly?

Yes  No (If no, need to obtain a reliance letter or a Phase I Update and a complete a new User Questionnaire on behalf of the correct entity)

Phase I/Phase I Update completed in accordance with ASTM E1527-13 or 40 CFR Part 312?  Yes  No

Phase I signed by qualified Environmental Professional with the required certification statement?  Yes  No

Is the BFPP "affiliated with" another party who is potentially liable at the site?  Yes  No

1. Direct or indirect familial relationship?
2. Any contractual, corporate, or financial relationship (other than property transfer instrument)?
3. Reorganization of a business entity that was potentially liable?

For sites already acquired, has the BFPP satisfied continuing obligations since acquisition?

1. Provided all legally required notices with respect to discovery/release of hazardous substances<sup>2</sup>  Yes  No  Not Applicable
2. Taken reasonable steps to stop continuing releases, prevent any threatened future releases, prevent or limit exposure to any previously released hazardous substances  Yes  No  Not Applicable
3. Provided full cooperation, assistance and access to persons conducting response actions  Yes  No  Not Applicable
4. In compliance with any land use restrictions already established and not impeding the effectiveness or integrity of any institutional control employed at the site in connection with a response action  Yes  No  Not Applicable
5. Complied with any request for information or administrative subpoena issued by the U. S. EPA  Yes  No  Not Applicable

<sup>2</sup> If applying for comfort based on BFPP status for a petroleum-contaminated site, evaluate these criteria for petroleum releases rather than/in addition to hazardous substances.