New Frontiers in Land Conservation: Conserve, Redevelop, Un-develop

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Like the mantra of Reduce, Reuse, and Recycle, the new frontiers of land protection will be to Conserve, Redevelop, and Undevelop. This session focuses on land trusts as new social entrepreneurs shepherding the movement from large-scale, raw land protection to small-scale, interconnected repurposing of land and its uses. Presenters will share their experiences and examples of working within, and developing new, legal, practical, and functional frameworks for land trusts *conserving* creating, and interconnecting people and parcels of land for public parks, community gardens, cooperative farms, and public forests; *redeveloping*, reimagining, and reinventing the already-built environment for new public purposes such as affordable housing, recreation, and community places; and *undeveloping*, recovering, and restoring developed, degraded, or polluted lands to support revitalized ecological and human systems. Presenters also will use their examples to provide financial, legal, and regulatory guidance for land trusts endeavoring projects on the new frontiers.

I. **New Frontiers and Opportunities for Innovation: Why Conserve, Redevelop, Un-develop?**

II. **Innovation in Action: Conservation organizations at work**
   A. Trust for Public Land
   B. Colorado Open Lands
   C. Clear Creek Land Conservancy

III. **Incentives for the New Frontiers: Existing and New**
   A. Historic tax credits
   B. Affordable housing tax credits
   C. Brownfields tax credits: Federal and State
   D. New market tax credits
   E. Federal conservation easement tax deduction
   F. State conservation easement tax credits

IV. **Discussion: Sharing Experiences, Questions, Answers, and Guidance**

V. **Conclusions and Take-Aways: (building blocks, road maps, lessons learned)**

I. New Frontiers and Opportunities for Innovation: Why Look to New Frontiers of Conserving, Undeveloping, and Redeveloping?

A. Cultural, demographic, political, financial, and climate change trends are moving in very different directions challenging us to reconsider our organizations, priorities, methods, and funding.

B. Natural resources face unprecedented challenges due to climate change and development under existing land use practices:

1. Agricultural and grazing resources are rapidly converting due to development, renewables, and lack of water.
2. Current land use policies and practices are inadequate to conserve important lands.
3. Climate change impacts will significantly impair public health, property, infrastructure, and food security.

C. Responsibility as a community member: understand who conservation programs are serving, working with, what additional lands need to be conserved or converted, and reconsider relationships to people, to land, and between people and land.

D. Aging population becoming older, more obese, less active, less healthy

E. Millennials (b. 1980-2000) will be the dominant decision‐makers over next 35 years; environment not a high concern

F. People in general are losing their connection to the outdoors

G. Protected lands are not necessarily readily accessible to most and do not provide range of desired experiences

H. Land trusts do not necessarily reflect demographic make‐up of communities within which they work

II. Innovation in Action: Conservation organizations at work

A. Trust for Public Land

B. Colorado Open Lands

C. Clear Creek Land Conservancy

III. Inspiring and Enabling People: Incentives for the New Frontiers: Existing and New Opportunities

A. **Existing incentives: Individual Incentives**

B. **Historic tax credits**

http://www.achp.gov/docs/BRAC/Federal_Historic_Preservation_Tax_Incentives_Program-June_06.pdf

The Federal Historic Preservation Tax Incentives program is one of the nation's most successful and cost-effective public/private revitalization programs. The program fosters private sector rehabilitation of historic buildings and promotes economic revitalization. It also provides a strong alternative to government ownership and management of such historic properties. The Federal Historic Preservation Tax Incentives are available for buildings that are National Historic Landmarks, are listed in the National Register, and that contribute to National Register Historic Districts and certain state or local historic districts.

Properties must be income-producing and must be rehabilitated according to standards set by the Secretary of the Interior. Jointly managed by the National Park Service (NPS) and the Internal Revenue Service (IRS) in partnership with State Historic Preservation Offices (SHPOs), the Historic Preservation Tax Incentives program rewards private investment in rehabilitating historic buildings. Prior to the program, the U.S. tax code favored the demolition of older buildings over saving and using them.

Starting in 1976, the Federal tax code became aligned with national historic preservation policy to encourage voluntary, private sector investment in preserving historic buildings. Since that time, the tax incentives have leveraged over $33 billion of private sector investment to preserve and rehabilitate over 32,000 historic properties, including the Over the life of the program, the historic rehabilitation tax credit (HTC) has: created nearly 2.5 million good paying, local jobs; leveraged more than $117 billion in private investment in our communities; generated a significant return on investment for the federal government; preserved more than 40,000 buildings; and created nearly 185,000 housing units, of which over 75,000 are low and moderate-income units.

Utilizing the federal HTC is essentially a three-step process governed by regulations and procedures of the National Park Service (NPS) and the Internal Revenue Service (IRS): QUALIFYING: The owner determines whether the project will qualify for the 10 percent or the 20 percent tax credit based on IRS and NPS qualification criteria; EARNING: The owner follows the procedure established by the NPS to earn the credits; REDEEMING: The owner consults IRS regulations to determine his/her ability to redeem the credits earned as a credit against federal tax liability.

Current tax incentives for preservation, established by the Tax Reform Act of 1986 (PL 99-514; Internal Revenue Code Section 47 [formerly Section 48(g)]) include:

• a 20% tax credit for the certified rehabilitation of certified historic structures and

• a 10% tax credit for the rehabilitation of non-historic, non-residential buildings built before 1936.

For both credits, the rehabilitation must be substantial and must involve a depreciable building. The substantial rehabilitation test means that the cost of rehabilitation must exceed the pre-rehabilitation cost of the building. Generally, this test must be met within two years or within five years for a project completed in multiple phases. A depreciable building is one that after rehabilitation must be used for an income-producing purpose for at least five years. Owner-occupied residential properties do not qualify for the federal rehabilitation tax credit.

C. **Affordable Housing Tax Credits**

https://www.hudexchange.info/programs/home/

Created by the Tax Reform Act of 1986, the LIHTC program gives State and local LIHTC-allocating agencies the equivalent of nearly $8 billion in annual budget authority to issue tax credits for the acquisition, rehabilitation, or new construction of rental housing targeted to lower-income households.

The LIHTC is commonly referred to as section 42, the applicable section of the Internal Revenue Code (IRC). The LIHTC program provides tax incentives to encourage individual and corporate investors to invest in the development, acquisition, and rehabilitation of affordable rental housing. The LIHTC is an indirect federal subsidy that finances low-income housing. This allows investors to claim tax credits on their federal income tax returns. The tax credit is calculated as a percentage of costs incurred in developing the affordable housing property, and is claimed annually over a 10-year period. Some investors may garner additional tax benefits by making LIHTC investments. The equity raised with LIHTCs can be used for newly constructed and substantially rehabilitated and affordable rental-housing properties for low-income households, and for the acquisition of such properties in acquisition/rehabilitation deals.

LIHTCs provide equity equal to the present value of either 30 percent (referred to in this report as the 4 percent credit) or 70 percent (referred to as the 9 percent credit) of the eligible costs of a low-income housing project, depending in part on whether tax-exempt bonds are used to finance the project. To qualify for the credit, a project must meet the requirements of a qualified low-income project. Project sponsors/developers (project sponsors) are required to set aside at least 40 percent of the units for renters earning no more than 60 percent of the area's median income (the 40/60 test) or 20 percent of the units for renters earning 50 percent or less of the area's median income (the 20/50 test). These units are subject to rent restrictions such that the maximum permissible gross rent, including an allowance for utilities, must be less than 30 percent of Imputed income based on an area's median income. State selection procedures for tax credit allocations often encourage project sponsors to provide more than the minimum number of affordable units and greater than the minimum level of affordability. Because these credits are available only for affordable rental units, many applications designate 100 percent of units in properties as affordable and reserve some units for renters earning well below 50 percent of the area median income.

The Low-Income Housing Tax Credit (LIHTC) is the most important resource for creating affordable housing in the United States today. The LIHTC database shows 40,502 projects and 2.6 million housing units placed in service between 1987 and 2013. The LIHTC program leverages private capital and investor equity to support the development of new and rehabilitated affordable rental housing. The credits are competitively priced. In general, state governments can adapt the LIHTC program to meet their housing needs under broad federal guidelines. In addition, the private sector carries all development and marketing risk and enforces strong oversight and accountability.

The LIHTC program uses a pay-for-performance policy with ongoing risk to the investors. Investors only get to claim and keep the tax credits if their units are built, leased and maintained as affordable housing throughout a 15-year compliance period. Many states enforce a 15 year extended-use period to require that properties stay affordable beyond the first 15 years. Developers provide guaranties throughout the 15-year compliance period, including operating deficit and tax credit guaranties. States use a competitive process to award developers with credits.

HOME Investment Partnerships Program. The HOME Investment Partnerships Program (HOME) provides formula grants to states and localities that communities use - often in partnership with local nonprofit groups - to fund a wide range of activities including building, buying, and/or rehabilitating affordable housing for rent or homeownership or providing direct rental assistance to low-income people. It is the largest Federal block grant to state and local governments designed exclusively to create affordable housing for low-income households.

D. **Brownfields Tax Credits: Federal And State**

http://www.epa.gov/brownfields/

Brownfields are real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. Cleaning up and reinvesting in these properties protects the environment, reduces blight, and takes development pressures off greenspaces and working lands.

On January 11, 2002, President Bush signed the Small Business Liability Relief and Brownfields Revitalization Act (Pub .L.No. 107-118, 115 stat. 2356, "the Brownfields Law"). The Brownfields Law amended the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) by providing funds to assess and clean up brownfields; clarified CERCLA liability protections; and provided funds to enhance state and tribal response programs. Other related laws and regulations impact brownfields cleanup and reuse through financial incentives and regulatory requirements: Small Business Liability Relief and Brownfields Revitalization Act; Public Law 107-118 (H.R.2869): "Small Business Liability Relief and Brownfields Revitalization Act"; Executive Order: Further Amendment to Executive Order 12580, as Amended, Superfund Implementation; Other Brownfields - Related Laws: Includes CERCLA, Resource Conservation and Recovery Act (RCRA), Community Reinvestment Act (CRA), Superfund Amendments and Reauthorization Act (SARA).

1. Federal Brownfields Tax Incentive

The Federal Brownfields Tax Incentive sunset on December 31, 2011. Congress has not renewed the Brownfields Tax Incentive. Therefore, the tax incentive cannot be claimed for tax years beyond 2011. Originally signed into law in 1997 and extended through December 31, 2011, the Brownfields Tax Incentive encourages the cleanup and reuse of brownfields. Under the

Brownfields Tax Incentive, environmental cleanup costs are fully deductible in the year incurred, rather than capitalized and spread over time. Improvements in 2006 expanded the tax incentive to include petroleum cleanup. The success of many brownfields cleanup and redevelopment projects depends on the ability of developers and investors to craft a financing package that leverages numerous sources of funding available from a variety of sources. Taking advantage of federal, state and local tax incentives and credits allows a brownfield developer to use resources normally spent to pay taxes for other purposes. This can help site redevelopers save the cash needed to address contamination issues. The extra cash flow resulting from a tax break also can improve a project's appeal to lenders. Federal tax credits and incentives often are an important part of the mix.

State Brownfield Incentives supplement the Federal tax credit program to focus with the federal program on the following programs and State and tribal response programs continue to be at the forefront of brownfields cleanup and redevelopment, as both the public and private markets recognize the responsibilities and opportunities of these response programs in ensuring protective and sustainable cleanups. The increasing number of properties entering into voluntary response programs emphasizes the states' and tribes' growing role in brownfields cleanup. eg, Colorado just passed a $1.5 million dollar tax credit for brownfield property clean-ups.

Sector–Based Initiatives: Auto Sector Property Revitalization; Sustainable Reuse of Brownfields: Resources for Communities; Portfields; Mine-Scarred Lands; Mill Revitalization; Railfields; Petroleum Brownfields; RCRA Brownfields Prevention Initiative Urban Agriculture at Contaminated Sites: Before a property can be redeveloped, contaminants must be removed, capped or contained in ways that limit exposure risks. Urban agriculture projects can help bind contaminants while providing further benefits to the property and surrounding community. An urban farm or community garden can improve the environment, reduce greenhouse emissions, and improve access to healthy, locally grown food. Other possible benefits include promoting health and physical activity, increasing community connections, and attracting economic activity.

Community Initiatives:

Methfields: Clandestine drug labs are an increasing problem in the United States. Once seen as only a rural issue in western states, drug labs—specifically methamphetamine labs (or meth labs)—are multiplying throughout the nation and becoming a major social, economic, and public health concern. Due to this growing national concern, Congress made properties contaminated by controlled substances, such as methamphetamine, eligible for Brownfields funding. Although Brownfields redevelopment is not the primary solution to the emerging drug lab issue, the Brownfields Program can provide funding and technical assistance to assist in addressing the growing problem.

Housing/Residential Reuse: In addition to restoring former commercial and industrial sites into similar facilities, the EPA Brownfields Program facilities brownfields redevelopment for residential uses. Residential developments range from high-end new housing to affordable housing involving partners such as the Department of Housing and Urban Development (HUD) and the Federal Home Loan Bank. Typically, the property developer works with the state, often as part of a state Voluntary Cleanup Program, to ensure that contamination at the property being redeveloped does not exceed state residential contamination levels, which are more stringent than commercial or industrial contamination levels. Redeveloping brownfields into new residential space complements the recent nationwide shift from rural to urban relocation – reducing urban sprawl and protecting greenspace.

Smart Growth: The occurrence of urban sprawl and non-sustainable development has become a growing concern for communities across the nation. The concept of smart growth recognizes the connections between development and quality of life, leveraging new growth that complements the area while revitalizing underutilized and abandoned brownfields in established communities. Smart growth helps to protect open space and prime agricultural lands. The features that define smart growth vary from place to place and community to community. In general, smart growth invests time, attention, and resources in restoring vitality to center cities and older suburbs. Successful communities tend to have one common thread – a vision of the future and an understanding of what is important to their communities. Smart growth is development that serves the economy, the community, and the environment. It changes the terms of the development debate away from the traditional growth/no growth question to "how and where should new development be accommodated." Brownfields redevelopment is an integral component to smart growth. By redeveloping a brownfield in an older city or suburban neighborhood, a community can remove blight and environmental contamination, create a catalyst for neighborhood revitalization, lessen development pressure at the urban edge, and use existing infrastructure.

Groundwork Trusts: The Groundwork Trusts are independent, not-for-profit, environmental businesses that work with communities to improve their environment, economy, and quality of life through local action. Groundwork USA helps people reuse brownfields for community benefit. Because the goal of most publicly funded programs is to reuse brownfields for economic development, many brownfields sites are being left behind because they are too small, surrounded by blight, or located in areas with other constraints, such as flood plains or dense residential neighborhoods. Groundwork Trusts are working to fill the gap.

Environmental Justice: Environmental justice is achieved when everyone, regardless of race, culture, or income, enjoys the same degree of protection from environmental and health hazards and equal access to the decision-making process to have a healthy environment. No group of people, including a racial, ethnic, or a socioeconomic group, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies. Brownfields revitalization presents an opportunity for environmental justice to be achieved through community involvement in cleanup and reuse decisions and activities and through the leveraging of new investment and jobs in distressed communities.

Sustainable Redevelopment of Brownfields:

Climate Adaptation and Brownfields. Our climate is changing and we need to adapt to make sure our cleanups are still protective of human health and the environment now and into the future. To ensure that cleanups remain effective as the climate changes, EPA created a checklist to help cleanup and revolving loan fund recipients address changing climate concerns in an analysis of brownfield cleanup alternatives.

Environmental Impacts of Brownfields Redevelopment. Case studies indicate that brownfield redevelopment can offer significant environmental benefits when compared with alternative development scenarios. Estimates of air and water quality impacts of brownfields reuse for multiple revitalization projects in five municipal areas indicate that daily vehicle miles traveled per capita are 32-57% lower and stormwater runoff is 43 - 60% lower for brownfields than conventional alternative or greenfield sites.

Green Buildings on Brownfields Initiative. The Green Buildings on Brownfields Initiative is an EPA effort designed to promote the use of green building techniques at brownfield properties in conjunction with assessment and cleanup. Through several pilot projects, EPA is providing communities with technical assistance to facilitate the development of green buildings on their brownfields. Building environmentally-friendly buildings on what was once contaminated (or perceived to be contaminated) land can be symbolic of a new, environmentally-sound direction for communities, as well as tangible growth for their economies.

What Is Smart Growth? Smart growth is development that serves the economy, the community, and the environment. It changes the terms of the development debate away from the traditional growth/no growth question to "how and where should new development be accommodated." Brownfields redevelopment is an integral component to smart growth. By redeveloping a brownfield in an older city or suburban neighborhood, a community can remove blight and environmental contamination, create a catalyst for neighborhood revitalization, lessen development pressure at the urban edge, and use existing infrastructure.

2. State Brownfield Tax Credits: Colorado Brownfield Credits

On May 15, 2014, Governor Hickenlooper signed Senate Bill 14-073, reinstating the Colorado Brownfields Tax Credit, for properties which qualify under the Voluntary Cleanup Program. This Tax Credit is available for taxpayers and/or qualifying entities who perform environmental remediation associated with a new capital improvement or redevelopment projects. In order to qualify for the tax credit, applicants must submit a Voluntary Cleanup Plan (VCUP) to the Colorado Department of Public Health and Environment (CDPHE). VCUP applications submitted to CDPHE after January 01, 2014 may be eligible for the credit.

Qualifying environmental remediation costs are eligible for a 40% credit on the first $750,000, and 30% on the amount between $750,000 and $1,500,000. The maximum credit available is $525,000. Because there is a $3,000,000 fiscal note that limits the total amount of credit available per year, tax credits will be allocated on a first-come, first served basis. Applicants will be required to receive a "No Action Determination" from the VCUP Program in order to receive a tax credit certification from CDPHE. To enable certification of eligible credits, CDPHE will require applicants to submit documentation of project environmental remediation costs, including invoices, cancelled checks (front and back), and other appropriate documentation. Once project costs are verified, CDPHE will issue a "No Action Determination" for the project, and a Tax Credit Certification Letter to the applicant and the Colorado Department of Revenue. Credits are available for qualified expenses in cleaning up contaminated properties in the state of Colorado. This generous credit provides up to $525,000 in credits depending on how expensive the cleanup project is. In order to be eligible for a Brownfield tax credit, the following steps need to be completed:

-Projects must meet CDPHE (Colorado Department of Public Health and Environment) Voluntary Cleanup Program (VCUP) eligibility requirements and applicants must schedule a pre-application meeting with CDPHE staff prior to pplying.

-Complete and submit a VCUP or No Action Determination (NAD) application to CDPHE. Applicants to the program can apply for either a Voluntary Cleanup Plan or a No Action Determination. Voluntary Cleanup Plans are required when remediation is necessary to address on-site contamination. NADs can be applied for if a property owner has previously completed a

VCUP or if a property is clean but being impacted by an off-site source of contamination. Credits given at the rate of 40% of the first $750,000 in qualified costs and 30% of any costs between $750,000 and $1.5M up to a maximum credit of $525,000 per project. There is a statewide cap of $3M on a first come, first served basis.

E. **New Market Tax Credits**

http://www.cdfifund.gov/what_we_do/programs_id.asp?programID=5

New Markets Tax Credit (NMTC) Program was established in 2000 as part of the Community Renewal Tax Relief Act of 2000. The goal of the program was to spur revitalization efforts of low- income and impoverished communities across the United States and Territories. The New Markets Tax Credit (NMTC) was designed to increase the flow of capital to businesses and low income communities by providing a modest tax incentive to private investors. The NMTC Program provided tax credit incentives to investors for equity investments in certified Community Development Entities, which invest in low-income communities. A Community Development Entity must have a primary mission of investing in low-income communities and persons. Individual and corporate investors to receive a tax credit against their Federal income tax return in exchange for making equity investments in specialized financial institutions called Community Development Entities (CDEs). The credit totals 39 percent of the original investment amount and is claimed over a period of seven years (five percent for each of the first three years, and six percent for each of the remaining four years). The investment in the CDE cannot be redeemed before the end of the seven-year period.

A "low-income community" is defined as any population census tract where the poverty rate for such tract is at least 20% or in the case of a tract not located within a metropolitan area, median family income for such tract does not exceed 80 of statewide median family income, or in the case of a tract located within a metropolitan area, the median family income for such tract does not exceed 80% of the greater of statewide median family income or the metropolitan area median family income.

Since the NMTC Program's inception, the CDFI Fund has made 912 awards allocating a total of $43.5 billion in tax credit authority to CDEs through a competitive application process. This $43.5 billion includes $3 billion in Recovery Act Awards and $1 billion of special allocation authority to be used for the recovery and redevelopment of the Gulf Opportunity Zone. The NMTC expired at the end of 2014, but it can still be extended. The New Markets Tax Credit Extension Act of 2015 (HR 855), introduced by Reps. Tiberi (R-OH), Neal (D-MA), and Reed (R- NY), would extend the NMTC indefinitely. Senators Blunt (R-MO), Schumer (D- NY), Daines (R-MT), and Cardin (D-MD) introduced S. 591, which is nearly identical to its House counterpart.

F. **Federal Conservation Easement Tax Deduction: 26 Usc 170(H)**

The Internal Revenue Code rewards landowners who donate valuable real property rights in the form of conservation easements by recognizing a reduction in the encumbered land's value as a charitable contribution. The gift of real property rights is akin to a cash gift made to a charity, or a valuable painting donated to a museum. In general, the donation of a conservation easement or the bargain sale of an easement for less than the easement's fair market value may create a tax-deductible
charitable gift, provided that the easement meets certain requirements. The easement must be perpetual and it must be donated or bargain-sold to a qualified conservation organization or public agency "exclusively for conservation purposes." Internal Revenue Code Section 170(h) defines conservation purposes as:

- the preservation of land areas for outdoor recreation by, or the education of, the general public; the protection of relatively natural habitat of fish, wildlife, or plants, or similar ecosystems;
- the preservation of open space (including farmland and forest land) where such preservation is for the scenic enjoyment of the general public, or pursuant to a clearly delineated Federal, State, or local governmental conservation policy, and will yield a significant public benefit; and
- the preservation of a historically important land area or a certified historic structure.

The Code defines a "qualified conservation contribution" as a contribution that is a "qualified real property interest" granted to a "qualified organization" that is exclusively for conservation purposes. A "qualified real property interest" includes the entire interest of the donor in real property, other than a qualified mineral interest. A "qualified organization" includes the following entities: the United States; a state; a political subdivision of the United States or a state; a state or federally chartered corporation, trust, community chest, fund, or foundation that is organized and operated for a specified conservation purpose; and certain §501(c)(3) organizations, including land trusts.

Conservation easements may open or close a property to physical access by the public. Some easements grant public access rights, such as to allow fishing or hiking in specified locations or to permit periodic guided tours or outfitting, while other easements expressly prohibit public access. A conservation easement will require public access when the primary conservation value of the property is public recreational or educational use. The Treasury Regulations Section 1.170A-14(d) specifies how much public access ("substantial and regular") is necessary for an easement to meet tax- deductibility requirements. By contrast, a scenic easement requires that the scenic qualities of the land be visible to the public for its visual access, without physical access. Access generally is not required for easements that protect wildlife or plant habitats, open space, or agricultural lands.

To determine the value of an easement donation pursuant Treasury Regulations Sections 1.170A-13 and A-14, a landowner must have his or her land appraised both at its fair market value before the conservation easement is applied and at its fair market value after the easement is applied (known as "before and after valuation"). The difference between these two appraised values is the easement's value for charitable donation purposes. If an easement removes value from the land, that value is reflected in the after valuation of the land's fair market value with the conservation easement in place.

G. **State Conservation Easement Tax Credits: Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Iowa, Idaho, Maryland, Minnesota, Mississippi, New Mexico, Oregon, South Carolina, and Virginia**

State tax credit programs vary widely from state to state with variations on the percentage of the easement's value that can be taken as a tax credit, the tax credit limit or cap, and the time that the taxpayer has to use that credit (the "carry forward period"). States with income tax credit programs for conservation gifts or conservation activities are Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Iowa, Idaho, Maryland, Minnesota, Mississippi, New Mexico, Oregon, South Carolina, and Virginia.

While many landowners focus on federal income tax benefits as the primary incentive for charitable gifts, state income tax benefits can be a powerful additional incentive. Some states provide state income tax deductions for conservation easement donations, and some provide income tax credits. A tax deduction is a reduction in taxable income, whereas a tax credit offsets the landowner's tax liability on a dollar-for- dollar basis, up to whatever limits are established by the statute. Because state tax rates are relatively modest and state income tax deductions do not generate large tax savings for landowners, more and more states are using state tax credits, and some of them make credits transferrable, such as Colorado, New Mexico, South Carolina, and Virginia.

Colorado's transferrable income tax credit, created in 2000, allows 50 percent of a maximum cap of $3,000,000 of the donated value of a conservation easement to be treated as a transferrable income tax credit ($1,500,000). Any portion of the credit not used in the year of the gift may be carried forward for up to 20 years. Colorado law also permits taxpayers to request a refund of up to $50,000 in years of state revenue surplus and to transfer their tax credits to other taxpayers. New York credits state income tax liability for lawn protected by a conservation easement for up to twenty-five percent of property taxes paid on land protected by a conservation easement. Mississippi credits state income taxes for a landowner's expenses for a conservation transaction. Florida provides a 50-100% property tax exemption for conservation easement-protected land, and Arkansas, Idaho, and Oregon credit expenses of managing conservation land against state income tax liability.

2. **Programmatic conservation, local, land use, guided, cooperative, collaborative, community-based incentives**

   a. **Tax Increment Financing: State and Local**

   Tax increment financing (TIF) is the most popular financial tool for financing local redevelopment activities. It has been widely used for revitalizing blighted areas, redeveloping new housing units, and cleaning up environmentally contaminated and polluted sites. Currently, TIF is authorized in 49 states and the District of Columbia. Simply defined, TIF is a financial mechanism to capture the new or incremental taxes that are created when underutilized and vacant properties are redeveloped and use the captured revenues to finance the costs of redevelopment. TIF is generally thought of as a self-financing district.

-In concept, local governments do not lose anything during the TIF period because the projects would not have occurred "but for" the TIF. At the end of the TIF period, the local governments receive higher tax revenues. TIF has several benefits. First, it provides incentive for private developers to build in economically depressed areas; second, it increases property values and creates a stronger tax base; third, it does not require a general tax increase.

-Local Revitalization Financing districts authorized by state to allow districts to receive state tax revenues as long as matched by new local tax revenue through TIF future property tax revenue.

Diversity and Complexity

TIF interacts with tax regimes that differ by state. For revenue generation, TIF is most powerful in places with high property taxes. Because states with high property taxes often dedicate those revenues to education, TIF laws that allow access to the school district's portion of the property tax increment can produce significant revenue. Although many states allow TIF to access retail sales taxes at a district level, sales taxes are relatively weak revenue generators.

Either the public or private sector can take the first step in initiating a TIF district. A community- driven TIF district "means the city is taking a proactive role and making policy decisions about priorities," says Amanda Rhein, senior director for transit-oriented development at the Metropolitan Atlanta Rapid Transit Authority and a member of ULI's Public/Private Partnership Council. A developer-driven TIF district, however, relieves the city of the need to court developers with an untested plan. A city's policy culture may favor one approach, but many cities do both. Developers should expect development negotiations to be more intense if they are the ones initiating TIF discussions.

Today, depending on the state, TIF supports everything from expanding affordable housing to attracting manufacturers to industrial zones, including provisions for job training. In some states, TIF must be used solely for public projects, such as infrastructure; other states allow, and even encourage, TIF in support of private development costs, such as those for rehabilitating existing buildings or subsidizing the interest on loans for new construction.

B. **New Incentives and New Benefits**

1. **New Incentives:**

a. Natural Capital Investment:

i. TNC wants to transform managing, investing and sustaining natural capital – the soil, clean air and water, and other valuable resources that nature provides. The Nature Conservancy and JPMorgan Chase & Co. launched a finance initiative for conservation projects around the world. NatureVest will invest $5 million over three years to protect communities affected by climate change and other environmental threats.

ii. According to Global Canopy Programme, worldwide conservation efforts require an annual investment of $290 billion, but the public and private sectors spend $51 billion combined. Private companies underwrite just $10 billion in natural capital investments each year, the group found in a 2012 study, leaving a wide gap for financial services firms like JPMorgan Chase that are interested in sustainability ventures.

iii. Rachel Kyte, a vice president and special envoy for climate change at the World Bank, said initiatives like NatureVest could urge other financial firms and environmental groups to form similar partnerships. But land trusts need to be ready to take advantage of these innovations. The essence of land trust work is to care for future generations and that includes looking as far into the future as science has something to say that is relevant to conservation transactions.

iv. Some land trusts are undertaking climate vulnerability assessments; but is not yet standard procedure. Assessments need periodic reviews to reflect what is actually happening, and also to reflect the latest science, but it also may leverage new ventures such as NatureVest.

2. Urban Alleys:

a. Conservation reaches to greening up urban alleys, streets and yards in a program called Love Your Block, which last year attracted nearly 5,200 volunteers. Their efforts served 11,000 city residents with debris removal, painting and other neighborhood-revitalization. Mayors across the nation put volunteers to work on specific challenges, such as fighting obesity or beautifying neighborhoods.

b. Since former mayor Bloomberg started a series of related urban programs with 16 other mayors in 2009, 170 mayors joined the bipartisan coalition. Conservation organizations working in urban areas might explore partnership and leverage opportunities with this entrepreneurial and well-financed effort.

3. Hidden Gems:

a. Twelve wonderful, slightly off the beaten path gems along North Carolina's Eno River lure many visitors to the land trust land. Eno River Association is the first land trust to receive a Glaxo Smith Kline Impact award for helping people live healthier lives using clever ideas such as the Hidden Gems. The award, historically given to health-based organizations, recognizes the land trust for its leadership in creating public parks, water quality protection and environmental education.

b. The land trust offers information on how to find the gems, maps to print out and additional stories about what make these places special for each location and a new gem for every month. Visitors can click on the links for maps to each of the hidden gems and enter a Flickr photo stream contest.

2. New Benefits

A. Health and Access to Parks

i. When District of Columbia Dr. Robert Zarr wanted a young patient to get more exercise, he gave her an unusual prescription: Walk four blocks. The young patient did, reducing her weight from obese to just overweight. About 40 percent of Zarr's young patients are overweight or obese, so he gives them very specific exercise recommendations resulting in maps of 380 parks in the District of Columbia so far.

ii. Boston area pediatricians are writing prescriptions to spend time outside too, particularly during the summer months, when the weather is good and the lack of structured activity can lead to weight gain. "Weight is just a symptom of the problem," said Dr. Christina Scirica, medical director of the Outdoors Rx program run jointly by MassGeneral Hospital for Children and the Appalachian Mountain Club.

iii. If you live in the Urban Ring of Baltimore County, a good safe walk can be a challenge there too in the motor driven unwalkable communities. NeighborSpace is trying to change that and has taken the first steps to complete a portion of the Star Spangled Banner National Historic (SSBNH) Trail. Seventy-five breakfasters turned out including developers, contractors, members of the architectural and engineering community, and concerned citizens to focus on the critical issues surrounding redevelopment and the creation of quality open space and walkable areas within the Urban Ring

B. Health and Climate:

i. Half of all Americans now face mounting climate change threats including health risks. The Obama administration released the updated climate change report showing that every region of the country experiences adverse impacts now, from oyster growers in Washington State to maple syrup producers in Vermont, ocean resorts in the southeast and ranchers in the southwest. The site has numerous mitigation strategies and other solutions for individuals, groups and states to use.

ii. The advisory committee behind the report was established by the U.S. Department of Commerce to integrate federal research. Thirteen departments and agencies, from the Agriculture Department to NASA, are part of the committee, which also includes academics, businesses, non-profit organizations and others. More than 240 scientists contributed.

iii. Climate change produces a variety of stresses on society, affecting human health, natural ecosystems, built environments, and existing social, institutional and legal agreements. These stresses interact with each other and with other non-climate stresses, such as habitat fragmentation, pollution, increased consumption patterns and biodiversity loss.

iv. Edible portions of many key crops have decreased nutrition compared with the same plants grown under identical conditions but at present ambient carbon dioxide levels

v. Climate change already influences human health in many ways: The results could have grave implications where climate change, land development or invasive species contribute to the elimination of larger mammals. "When you lose big animals, one of the ecological consequences is that little animals, which are not so susceptible to changes, increase all over the world," said Rodolfo Dirzo, a biology professor at Stanford University who participated in a National Academy of Sciences study.

vi. The threat of extinctions from global climate change far outweighs the risks to local bird and bat species from new wind farms, according to a new paper by scientists from a wind energy coalition. Environmental groups must be willing to accept "substantial risk" from the build-out of wind farms in order to curb the pace of climate change and associated loss in biodiversity, said the paper, published in the journal Climatic Change.

3. Ecocities; Sustainable Urban Ecosystems (www.ecocitybuilders.org)
   a. An ecologically healthy human settlement modeled on the self-sustaining resilient structure and function of natural ecosystems and living organisms.
   b. An entity that includes its inhabitants and their ecological impacts.
   c. A subsystem of the ecosystems of which it is part — of its watershed, bioregion, and ultimately, of the planet.
   d. A subsystem of the regional, national and world economic system.
   e. Ecocities as ecosystems: An ecosystem is a biological environment consisting of all the organisms living in a particular area, as well as all the nonliving, physical components of the environment with which the organisms interact, such as air, soil, water, and sunlight. Urban entities (cities, towns and villages) are urban ecosystems. They are also part of larger systems that provide essential services that are often undervalued, as many of them are without market value. Broad examples include: regulating (climate, floods, nutrient balance, water filtration), provisioning (food, medicine), cultural (science, spiritual, ceremonial, recreation, aesthetic) and supporting (nutrient cycling, photosynthesis, soil formation).
   f. Ecocities as analogous to living organisms: Like living organisms, cities (including their inhabitants) exhibit and require systems for movement (transport), respiration (processes to obtain energy), sensitivity (responding to its environment), growth (evolving/changing over time), reproduction (including education and training, construction, planning and development, etc.), excretion (outputs and wastes), and nutrition (need for air, water, soil, food for inhabitants, materials, etc.).
   g. An Ecocity is a human settlement modeled on the self-sustaining resilient structure and function of natural ecosystems. The ecocity provides healthy abundance to its inhabitants without consuming more (renewable) resources than it produces, without producing more

waste than it can assimilate, and without being toxic to itself or neighboring ecosystems. Its inhabitants' ecological impact reflect planetary supportive lifestyles; its social order reflects fundamental principles of fairness, justice and reasonable equity.

h. Working definition adopted by Ecocity Builders and the International Ecocity Standards advisory team, 2/20/10, Vancouver, Canada.

i. *Cities as Sustainable Ecosystems*: How cities and their residents can begin to reintegrate into their bioregional environment, and how cities themselves can be planned with natures organizing principles in mind. Taking cues from living systems for sustainability strategies, Newman and Jennings reassess urban design by exploring flows of energy, materials, and information, along with the interactions between human and non-human parts of the system.