

State and Local Non-Cash Tools and Strategies To Enhance a Brownfield Project's Bottom Line

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Creating Opportunity with State and Local Non-Cash Tools

Innovative state programs to support brownfield financing help to level the economic playing field between brownfield sites and undeveloped property. These “non-cash” tools and strategies build on practical opportunities to link programs and leverage additional resources. About half a dozen state programs accomplish this in various ways—by limiting risk or offsetting critical costs. These approaches are getting more attention in tight budget climates.

In addition, cities can explore other low- or no-cost techniques to stimulate the flow of capital to promising brownfield redevelopment undertakings. For example, Chicago and Cleveland have adopted ways to more easily convey tax-delinquent properties to new owners with viable reuse plans. Other cities are contemplating modifications in their zoning requirements in specific cases to provide developers with the opportunity to earn a greater return on their investment and offset more site preparation costs.

Leveraging Brownfield Insurance

Several types of environmental insurance mechanisms are becoming increasingly affordable and more commonly used by both private and public site owners. They aim to bring certainty against brownfield project risks such as cost overruns and unanticipated contamination, and are proving very effective in reducing project costs in the long run.

Brownfield insurance products may include various features. Basically, there are three types of insurance:

- **Clean-up Cost Cap:** protects against cost overruns associated with known conditions at a site, such as the discovery of new contaminants or changes in regulatory requirements. The insurer pays any costs above a self-insured retention—usually a percentage of the estimated cleanup cost.
- **Pollution Liability:** protects against liability arising from unknown, pre-existing, and new pollution conditions at the site. These policies cover risks of third-party claims seeking damages for on-site or off-site injury or cleanup; cleanup costs incurred by the insured for unexpected contamination; and legal defense costs associated with the first two.
- **Secured Lender:** protects lenders from defaults by the insured. The policy reimburses the lender for cleanup costs or the principal loan balance, and also pays legal defense costs against third-party claims.

Chicago, Illinois: Aramark Uniform and Career Apparel

Environmental insurance was a key factor in a decision by Aramark Uniform and Career Apparel to build a \$23-million, 125,000-square-foot plant and warehouse facility on the site of the former Chicago International Amphitheater. The building contained 520 linear feet of asbestos-containing pipes, and a transformer on the site was leaking oil, but because of the cost cap protection of its environmental insurance policy, the company was able to choose the site over two others in the region. Under the policy, Aramark paid the first \$500,000 for the cleanup, the city agreed to pay anything above that up to \$1.5 million, and the insurance covered any remaining remediation costs.

The City of Chicago had acquired the 12-acre Amphitheater site in 1999 and demolished the building in early 2000. The city transferred the property to Aramark for \$1, and in exchange the company spent nearly \$1 million to remove the old building foundations and approximately \$500,000 to clean up the site.

Colrain, Massachusetts: Upper Mill Site

At the Upper Mill site in Colrain, Massachusetts, the state's Brownfield Redevelopment Access to Capital (BRAC) insurance program provided the protection required for a county economic development loan. City officials worked with the Franklin Regional Council of Governments, the state environmental and economic development agencies, and U.S. EPA to fund a site assessment at the 5.75-acre Upper Mill site—a decaying configuration of fire-ravaged buildings totaling 61,000 square feet that were contaminated with lead and asbestos. The COG then provided a \$200,000-loan for building demolition and cleanup of the site, on the condition that environmental insurance would protect the town and lender from liability and additional cleanup costs.

Establishing Redevelopment Authorities, Corporations, and Partnerships

Lewiston/Auburn, Maine: Bates Mill Complex

When Lewiston, Maine, acquired the Bates Mill Complex in 1992 for nonpayment of taxes, the city created the nonprofit Lewiston Mill Redevelopment Corporation (LMRC) to take over the property's management. The city aimed to use the complex as an anchor for downtown cleanup and redevelopment after consultants estimated the cost of tearing the buildings down at \$30 million. The 1.2-million-square-foot Bates Mill Complex encompassed 11 buildings on 13.5 acres, with an estimated cost for total renovation of \$70 million–\$100 million.

In March 1995 the city entered into a joint development agreement with Platz Associates, which acted as the city's agent to develop the mill buildings for leasing. LMRC manages the leases, tenant issues, and day to day operations. Based on the recommendations of Platz and LMRC, the city funds internal and sometimes external renovations.

By 2003, 35 percent of the mill was completed, and preliminary redevelopment had created 1,400 jobs and generated \$500,000 in annual tax revenue, with more than \$17 million in additional private sector investment. That year, the city loaned LMRC \$150,000 to finish remediating the rest of the property.

Bridgeport, Connecticut: Went Field Park

The Park City Brownfields Redevelopment Partnership, an umbrella group for nonprofit agencies, community groups, and government agencies, played a central role in restoring and expanding Bridgeport, Connecticut's Went Field Park. Partners including the Went Field Park Association, Groundworks Bridgeport, and the Bridgeport Neighborhood Trust leveraged additional funding from the U.S. Department of Housing and Urban Development, National Park Service, Connecticut Departments of Environmental Protection and Community Development, city bond funds, and community fundraising to help pay for the \$4.4-million cleanup and redevelopment. Originally established for the Went Field project, the partnership continues to work on brownfield projects throughout Bridgeport.

Went Field Park is adjacent to the Interstate 95 ramp, a gateway to the 200-acre west end industrial area. The redevelopment project expanded the park from 6 to 10 acres by revitalizing two adjacent brownfields: the Exmet site, a former metal extrusion company, vacant since 1989; and the Swan Engraving site, a former printing company. Bridgeport used funding from EPA Targeted Brownfields Assessment grants totaling \$275,000 and Assessment Demonstration Pilot funds to conduct environmental assessments at the two sites; another \$4 million was raised to improve recreational facilities, provide open space, and create educational opportunities in the West End neighborhood.

Malden, Medford, and Everett, Massachusetts: TeleCom City

In the mid-1990s, three cities abutting the Malden River in the Mystic Valley about five miles north of Boston joined forces to transform a 207-acre brownfield into a state-of-the-art telecommunications research and development park called TeleCom City. Today the development, renamed River's Edge, is expected to help create about 7,500 new on-site jobs, generate tax revenues, improve local public schools through direct links with the site's industries and universities, raise the skill level of the local work force, and create new recreational amenities on and close to the reclaimed Malden River.

By the 1990s, the Massachusetts Department of Environmental Protection (DEP) had listed nine parcels at the site as confirmed or potential hazardous waste sites—one of the highest concentrations of listed sites in the Commonwealth. Although some parcels were converted to industrial or public use through federally funded urban renewal programs, more than 70 percent of the land was severely underutilized and 68 percent of the existing buildings were obsolete, physically deteriorated, or unsuitable for conversion or improvement.

The mayors of Malden, Medford, and Everett signed an agreement in March 1995 to create the Mystic Valley Development Commission (MVDC), a joint economic development agency that oversees the redevelopment project. The seven-member commission includes the mayors of each of the three cities, a designee from each community, and the Governor. MVDC acts as the area's central permitting authority and is responsible for zoning, regulatory, and tax requirements for the project. MVDC also manages the local real estate taxation in the project area, dividing the tax revenues according to a land ownership formula.

The local governments joined with federal and state officials to develop an innovative plan that called for a program of land acquisition, clearance, and infrastructure development. To overcome liability constraints and fragmented ownership—with 88 percent of the land owned by 75 private owners—the MVDC obtained ownership control over the project area and established a consistent set of zoning controls to allow for the comprehensive environmental testing of the area without the constraints of parcel boundaries.

By 2005, the site had been purchased and cleared, most of the permits for construction were in place, and public infrastructure activities for the site were complete. Construction has begun on the current plan's initial phase, which will create 331,200 square feet of office and research and development space and 200 units of housing on a 30-acre site in the Medford section of the project area.

Fostering Regional Cooperation

Naugatuck Valley, Connecticut: Naugatuck Valley Brownfields Pilot

Through the Naugatuck Valley brownfields pilot, established with an EPA grant in 1996, 10 Connecticut towns share management capacity and financial resources to assess and redevelop more than 100 brownfield sites. Managed by the Naugatuck Valley Regional Planning Agency, the pilot has obtained almost \$1.3 million, including \$417,000 in EPA brownfields site assessment funds and \$850,000 from the brownfield cleanup revolving loan fund it shares with Danbury, Connecticut.

Each participating municipality contributes \$800 in annual dues for staff and supplies, monthly reports, quarterly reports to EPA on preliminary site research, development of community outreach and education programs, and liaison with developers. They also pay fees equal to 10 percent of the value of an assessment grant for staff to issue RFPs, conduct public question and answer sessions, and prepare a matrix of competitive bids. Staff also conduct technical advisory committee meetings, interview candidates, provide advice on scope of work and contract definitions, serve as liaisons to regulatory agencies, and respond to community and press inquiries.

The pilot has performed or begun 30 brownfield site assessments, including the following:

- Silvermine Landfill in Seymour, which is being redeveloped into a 40,000-square-foot industrial building
- Bunker Hill (Schofield) Park in Waterbury, which was redeveloped into a park and playground
- Grove Street in Ansonia, where clean-up is underway
- Pines Bridge Industrial Park in Beacon Falls, which was redeveloped into a factory
- A former DOT site in Derby, which has been fully assessed and transferred to the city
- O'Sullivan's Island in Derby, where cleanup options are under consideration for redevelopment into a park, a marina, and pedestrian and bicycle paths
- Downtown Shelton, where assessment has been conducted at 11 sites for redevelopment

For these communities and the other pilot members—Naugatuck, Oxford, Thomaston, and Watertown—pilot activities help create job opportunities and generated new taxes at rejuvenated sites. In addition, each pilot member has access to \$350,000 of short-term, low-cost cleanup loans. As a result, the Valley communities have generated the capital and expertise that only larger cities usually can acquire.

Subdividing Property

New Bedford, Massachusetts: Alden Corrugated Box

The City of New Bedford took over the Alden Corrugated Box site for delinquent taxes after the company closed its doors in 1991. After the city cleared the site for reuse, a \$200,000-EPA Brownfields Assessment Pilot grant awarded in 1997 paid for the further assessment of the site as three separate parcels. In October 2001, the city became a Showcase Community and received another \$200,000 to complete the assessment.

Wainer & Sons, a gourmet foods distributor based in New Bedford, bought the 2.8-acre central parcel for about \$250,000 from the New Bedford Redevelopment Authority, completing the sale in 2004 and installing greenhouses there to grow vegetables. Professor's Gum bought another portion of the site known as the north parcel, using it as a parking lot to expand its business. The city retained the third

south parcel, and removed four underground storage tanks from the area to market the site for businesses.

Facilitating Property Transfers

Many communities already work with developers, clearing site titles and transferring properties for a minimal cost in exchange for a desired type of development. This tool increasingly is used to address brownfields.

Jackson, Michigan: Consumers Energy Headquarters

When the lease for the Consumers Energy headquarters building in Jackson, Michigan, approached its 2003 expiration, city officials proposed a downtown brownfield site composed of 36 abandoned and underused parcels on 15 acres for the company's new, state-of-the-art downtown facility. Jackson officials assembled 21 parcels for a 13-story, 360,000-square-foot office tower with two parking decks and surface parking, preventing the relocation of 600 high-paying jobs. The Jackson County Brownfield Redevelopment Authority used a \$200,000-EPA Brownfields Assessment Pilot Grant to assess the 36 parcels redeveloped for Consumers Energy.

Jackson contributed \$43 million in infrastructure improvements, including roads, a sewer, and a parking garage for the headquarters, while Consumers Energy spent \$70 million on building construction. In addition, the project leveraged financial support totaling more than \$11 million, including a \$465,000-Senate appropriation for Jackson to purchase the U.S. Post Office building; a 10-year, zero-interest \$1-million Urban Land Assembly Loan from the Michigan Economic Development Corporation to the city; an \$8.6-million Single Business Tax credit from the state to Consumers Energy; and a \$1-million Brownfields Cleanup Revolving Loan Fund grant and a \$150,000 Brownfields Supplemental Assistance grant from U.S. EPA. Consumers purchased and restored the post office building, making the 12-story, 370,000-square-foot tower built directly behind it a gateway to the corporate headquarters.

Establishing Institutional or Land-Use Controls

Institutional or land use controls are used at sites where risk-based cleanups are tied to future land uses. They can significantly reduce development costs for sites, especially those intended for new industrial or commercial uses, by preventing unanticipated uses of the site that could result in unacceptable exposure to residual contamination. And new techniques are expanding use of this tool to mixed use and residential projects.

Most states incorporate land-use controls as part of the brownfield cleanup and redevelopment process for some projects. The controls may be proprietary, such as covenants or easements incorporated in the property deed, or governmental, such as permitting and zoning restrictions. Working with the site redeveloper, the state sets up these controls to contain rather than remove pollutants at a site. For example, many brownfield sites converted to commercial use allow the placement of the building slab or the parking lot over contaminated soil to eliminate the possibility of human exposure to it.

Jersey City, New Jersey: Lafayette Village

Jersey City's Lafayette Village Project transformed a 6-acre urban brownfield into a 124-unit, mixed-income residential community. This project demolished dilapidated row houses that had been abandoned for more than 20 years, and then conducted environmental assessments that revealed

contaminated fill materials and several underground storage tanks. Voluntary site remediation performed by the site developer involved both the removal of contaminated debris and two institutional controls: the installation of an engineered cap to cover the entire site and deed restrictions on site uses.

The engineered cap contains residual contamination beneath clean topsoil, building foundations, and asphalt roadways and parking lots. The deed notice identifies the contamination type, location, and concentrations; states that the contamination will remain on site; establishes emergency procedures to follow should a breach of the engineered cap occur; and establishes requirements for biannual monitoring of the engineered cap.

Portland, Oregon: South Waterfront Redevelopment

Portland's 73-acre South Waterfront Redevelopment project site faces the Willamette River immediately south of the city's central business district. The Portland Development Commission acquired the 73-acre site in 1978 and incorporated it into the Portland Downtown Urban Renewal Plan. The city council adopted the South Waterfront Redevelopment Program the following year, focusing on a 16-acre tract of land.

An environmental risk assessment performed under the state's voluntary cleanup program revealed high levels of lead and polynuclear aromatic hydrocarbons (PAHs) in subsurface soils, and PAH contamination in the groundwater. To prevent potential migration of contaminants into the Willamette River, the Oregon Department of Environmental Quality required institutional controls including a prohibition on groundwater use, a surface cap maintenance program, and specialized piling methods and post-piling groundwater monitoring, together with surface capping of discrete site areas and a riverbank stabilization system. Through the city's urban renewal plan, the PDC incorporated mixed-use development including retail, commercial, housing, parks, and open space, to meet neighborhood community needs as well as support the larger downtown community. The four-acre South Waterfront Park includes a neighborhood park and esplanade lined with shops and restaurants, facing the 83-slip marina.

New London, Connecticut: Pfizer Global Research and Development Headquarters

In the early 1990s, the State of Connecticut provided funding to the City of New London to begin preparing a 30-acre former wetland for economic development purposes, including planning, demolition, and site remediation. The effort paid off when in 1997 Pfizer Global Research & Development (PGRD) chose the site to build its 750,000-square-foot headquarters and state of the art research and development facility. In preparing the site for development, the city recorded institutional controls to speed remediation and reduce costs.

The project area included an abandoned, 154,000-square-foot linoleum plant, scrap yard, and wetland restoration area, which were each individually acquired and transferred to PGRD. The city also removed linoleum and slag along the shore, created an engineered cap on the filled land, and excavated and disposed of soil that exceeded the pollutant mobility criteria. Soil that exceeded only the direct exposure criteria was rendered inaccessible during site development, and as a condition for state approval of the remediation, an environmental land use restriction was recorded on the city land records to restrict the disturbance of the inaccessible soil

Port of Seattle, Washington: Southwest Harbor

In 1991, the Port of Seattle began cleanup and redevelopment of the Southwest Harbor, encompassing five contaminated sites on 180 acres. The site included a former shipbuilding and ship repair yard, a municipal landfill, and slag and scrap steel yards, where it was not technically or economically feasible to return the land to pristine condition. Instead, the proposed plan aimed to mitigate human health and environmental risks and clean up the contamination to levels that are nonthreatening to humans and the environment. The project included deed restrictions for the property that limit the site to industrial development. In addition, the state designated the aquifer as nonpotable.