

# Opportunity Now for Communities at Contaminated Sites

**OPPORTUNITY**  
 **NOW**



Presentation with U.S. EPA  
Superfund Redevelopment Program

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# Overview of Presentation

- \* **Tremendous opportunity for local revitalization** in the post-COVID era – including at contaminated sites
- \* **Opportunity Zones** as a major tool for investments at contaminated sites
  - Original use, substantial improvement, vacant lands, involuntary acquisition, horizontal development at brownfields & Superfund sites
- \* **Practical steps** for localities
  - Key areas for OZ investment
  - Get “shovel-ready” & “investment-ready”
  - Make the pitch
  - Show me the money!



# Revitalizing What is Idled

- \* But like a contaminated site can rise like a phoenix into transformational community revitalization
- \* One year ago, COVID-19 threatened our public health and idled America & its communities
- \* America and its communities have tremendous opportunity now to rise
- \* Like an idled brownfield or CERCLA site up and build back better



# Resources for Redevelopment

- \* Many federal agencies are prioritizing **grant funding** in Opportunity Zones
- \* U.S. EPA Brownfields, Superfund, and Land Revitalization **appropriations** are as high as ever
- \* \$1.5 trillion U.S. House **“Moving Forward Act”** legislative package increases brownfield grant funding to \$350M in 2021, up \$50M each year to \$550M in 2025
- \* New **“American COMPETE Act”**, **“Energy Act of 2020”**, and Presidential E.O.s on **“Buy America”** and **“America’s Supply Chains”** provide new resources for redevelopment
- \* **“American Rescue Plan Act of 2021”** providing billions for community revitalization
- \* Forthcoming **“Build Back Better Recovery Plan”** could mean trillions in infrastructure, manufacturing & clean energy investment

***These are the kind of resources that can prepare OZ sites to be shovel-ready & investment ready***



# Opportunity Zones & Opportunity Funds

- \* In 2017, Tax Cuts & Jobs Act created bipartisan Opportunity Zone program
- \* Took a while for U.S. Treasury to create regulatory structure (then COVID!)
- \* EPA took proactive role in ensuring that brownfields, vacant land & other contaminated sites were part of Opportunity Zones
- \* EPA Superfund Redevelopment Program & key stakeholders made sure OZ benefits can extend to Superfund sites





# Key Concepts for Contaminated Sites & Opportunity Zones

- \* IRS requires that Opportunity Funds invest assets in a **“Qualified OZ Business” or “Property”**
  - A Qualified OZ Property must be within an OZ and must either commence an **“original use”** or **“substantially improve”** the property by doubling the property basis within 30 months
- \* **IRS regulation boosts brownfields & contaminated sites:**
  - Site preparation & horizontal development costs can be QOF investment, if tied to vertical development
  - Sites that meet CERCLA definition of **brownfields meet “original use”** test and are not bound by strict timelines to “substantially improve”
  - Sites that are **vacant** (i.e., at least 80% of land/building is “significantly unused”) at time of and on the date of OZ designation, and at least 1 year before purchase of site, can meet “original use”
  - OZ requirement that QOF capital be deployed in 31 months is **tolled for brownfield regulatory permitting delays**
  - A redeveloper that purchases a site from a local government which acquired the site via **“involuntary acquisition”** can meet “original use” test



# Local Government “Involuntary Acquisition”

- \* **Local government sovereign acquisition**
  - IRS Opportunity Fund regulations permit that an entity that purchases real property from a local government that the local government holds as a result of an “involuntary transfer” may treat the property as meeting the original use test
- \* **Sovereign local acquisition can include** tax/demolition/other foreclosures, transfers between some governmental units, TIF transactions, eminent domain for public use, escheat, conservatorship
- \* **Brownfield BUILD Act of 2017 clarifies and improves the local acquisition law**, and EPA’s Office of Site Remediation Enforcement has guidance on these new rules



# Make Opportunity Zones Work for your local community's redevelopment

- \* Create a **community vision** for your Superfund or brownfield site
  - Brightfields & renewable energy (see EPA Repowering America's Land & other tools at [www.epa.gov/repowering](http://www.epa.gov/repowering))
  - New Manufacturing on Old Brownfields (see EPA guidebook)
  - Real estate development in a post-COVID & equity era (see, e.g., [www.SmartGrowthAmerica.org](http://www.SmartGrowthAmerica.org) and the National Brownfield Coalition)





# Make Opportunity Zones Work

- \* Get **shovel-ready & investment-ready** for Opportunity Funds
  - Opportunity Funds come at the right point in **deal flow**
  - See EPA guide on “**Community Actions that Drive Brownfields Redevelopment**” with 5-steps for stakeholder collaboration, creating a vision, removing barriers, engaging developers, and closing the deal
  - See EPA guide on “**Leveraging Resources for Brownfield Revitalization**”



# Make Opportunity Zones Work

- \* Create a **pitchbook** and pitch website – competitive advantages, site advantages, redevelopment program, pro-forma, capital stack, secured backers – and a clear pitch on funding gap for OFund equity & ROI



# Make Opportunity Zones Work

- \* **Find the right Opportunity Fund investors**
  - See Novogradac Opportunity Zone lists [www.novoco.com/resource-centers/opportunity-zones-resource-center](http://www.novoco.com/resource-centers/opportunity-zones-resource-center)
- \* **Consider a single-asset Opportunity Fund**



# *Thank you!*



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