

# IQ REPORT

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## FINANCING LAND CONSERVATION

In the face of surging growth and the sprawl that often accompanies it, voters are approving public funds for parks and open space in record numbers. Last year alone—according to the Land Trust Alliance 2000 Referenda Results report—83 percent of the U.S. ballot measures on state and local land conservation passed, generating \$7.5 billion to protect parks, open space, farmland, wildlife habitat, and wetlands. With voters clearly willing to fund open space protection, more and more communities are exploring funding options, designing open space plans, and protecting the land around them.

This report describes strategies for preserving open space, common land conservation financing methods and funding sources, and ways of allocating funds among jurisdictions. Purchase of development rights programs receive special attention. Case studies describe how several fast-growing communities successfully identified and secured public funds to save threatened land.

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# Financing Land Conservation

*This report was developed by the Trust for Public Land, a national nonprofit land conservation organization, and written by Kim Hopper as one part of a forthcoming publication entitled "Creating a Local Greenprint for Growth." Hopper provides research, marketing, and campaign services to TPL's Conservation Finance Program.*

## OPEN SPACE PRESERVATION METHODS

Local governments use a variety of tools to preserve open space, from fee-simple acquisition to conservation easements. This section covers the most common tools, providing the pros and cons of each approach. (Although regulatory tools are summarized here, the emphasis of this report is on voluntary, market-based solutions to land preservation.)

If purchased and managed effectively, fee-simple acquisition provides the most permanent protection of land. Land acquired typically raises the value of nearby property, increasing the tax rolls. This approach also reduces conflicts over conservation approaches because the public bears the cost. On the downside, acquisition is too costly to protect all resources and reduces the amount of land on the tax rolls.

### **A variety of tools, voluntary and regulatory, will likely be needed to meet a community's land conservation goals.**

Conservation easements offer their own set of advantages and disadvantages. Among the advantages: Easements are more restrictive and more permanent than regulations; landowners decide to protect their land and may benefit from tax incentives; easements are cheaper than acquisition; and land is kept on the tax rolls. Easements, however, leave land in private ownership, often denying public access. (See page 6 for more information on agricultural conservation easements and on programs for the purchase of development rights.)

Short- or long-term leasing of land is another op-

tion. With a lease, the government pays a lower cost for land but has limited and temporary control. With a purchase/leaseback arrangement, the government agrees to lease land back to the seller, subject to restrictions.

Generally, voluntary land conservation techniques are far less controversial and generate more public support than regulatory ones. Voluntary approaches assume that landowners are willing to sell their land or easements and contractually agree to the approach. Regulatory techniques are often politically unpopular and can generate intense opposition from landowners. As a result, many land preservation plans specifically note that land must be acquired only from willing sellers.

Regulatory approaches are, however, effective in preventing development in sensitive areas, controlling patterns of development and pollution, and preventing costly disasters, such as floods. Required developer contributions can also help offset the costs for infrastructure and parks and open space that result from new development. It's important to keep in mind that a variety of tools, voluntary and regulatory, will likely be needed to meet a community's land conservation goals.

See Appendix A for tables summarizing landowner-ship arrangements.

## FUNDING SOURCES AND FINANCING TECHNIQUES

The options for funding local park, open space, and recreation projects depend on a variety of factors, including state enabling legislation, the economic health and borrowing history of a community, and the political will of local elected leaders and the electorate. In

*Financing Land Conservation* is part of a larger publication being produced by the Trust for Public Land (TPL) entitled "Creating a Local Greenprint for Growth," which will cover a variety of issues that arise during the implementation of a land conservation, or "greenprint," program at the county, city, or town level. Topics include designing and administering a plan, facilitating public participation and communication, defining preservation goals, identifying and prioritizing lands, determining financing methods and funding sources, forming partnerships, and acquiring the land. For information on the report's publication date or for more details about TPL's Greenprint for Growth and Conservation Finance services, see TPL's Web site at [www.tpl.org](http://www.tpl.org).

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many states, the options are expanding as local governments are given greater fiscal power.

Public financing for conservation can take the form of a pay-as-you-go measure, long-term borrowing, or a combination of the two. With pay-as-you-go approaches, the government spends revenues from general appropriations or from a dedicated funding source. These funding sources—which can include property assessments, sales tax set-asides, real estate transfer taxes, and even one-time environmental fines and budget surpluses—can be attractive to debt-resistant voters and public officials.<sup>1</sup> “Pay-as-you-go” means year-by-year accountability and no borrowing costs. On the downside, it also means relatively small annual revenues (sometimes too small to pay for large capital projects) and funding that can be difficult to sustain as the politics and leadership of a community change.

Borrowing presents its own set of opportunities and obstacles. On the one hand, borrowing can provide a community with the revenue and flexibility it needs up front to fund large-scale park and open space projects, the cost of which is less today than it will be tomorrow. On the other hand, financing charges accrue, and convincing voters of the merits of incurring debt can be challenging. General obligation bonds also require voter approval—sometimes by a supermajority of the electorate.

Often, the two techniques are combined by bonding pay-as-you-go funds in order to bring in more up-front cash. These revenue bonds, which rarely require voter approval, can combine some attractive elements of both approaches.

See Appendix B for a table summarizing local financing options for land conservation.

### Borrowing

**General obligation bonds.** General obligation (GO) bonds are essentially loans taken out by a local government against the value of its taxable property. These bonds are secured by the issuer’s full faith, credit, and taxing power to make timely payments of principal and interest. GO bonds are a popular open space financing tool at the state and local levels because they allow for the immediate purchase of land, and they distribute the cost of acquisition. They do not, however, provide a source of funds for maintenance and can be difficult to achieve for several reasons.

First, GO bonds require either voter approval (sometimes by as much as two-thirds of the electorate) or legislative approval, or both. Interest charges also add costs to the price of the project, and debt ceilings limit the amount of bonds a community can issue. Finally, there is generally stiff competition for GO bonds among the many local programs in need of financing. Depending on the situation, open space bond money can be included in a general capital funding measure or paired with related environmental programs, such as agricultural land preservation or soil conservation.

**Revenue bonds.** Revenue bonds are typically easier to approve and costlier to repay than GO bonds. These bonds are paid from the proceeds of a tax levied for the use of a specific public project or from the proceeds of fees charged to those who use the facility that the bond has financed. Voter approval is rarely required, as the government is not obligated to repay the debt if the revenue stream does not flow as expected. This factor also makes the borrowing costs of revenue bonds higher than those of GO bonds. Unlike GO bonds, however, revenue bonds are not constrained by debt ceilings.

**Short-term debt instruments.** Short-term debt instruments, such as promissory notes and bond and tax anticipation warrants, can also provide communities with park and open space protection financing options. Although more costly to the borrower, these mechanisms can help local governments that have limited long-term bonding capacity but sufficient income to cover the debt service on a loan.

### Alternative Financing Techniques

**Lease/purchase contracts.** Lease/purchase contracts can be used when a decision has been made to buy a property, but up-front funds are unavailable. Under such an arrangement, acquisition can be paid for in periodic payments, or installments, that include principal, interest, and associated costs. The contract can grant possession or use either for a specific or for an indeterminate period.<sup>2</sup>

These contracts do not necessarily bind a future government to a purchase; often, this is not legally feasible. Most governments can, however, enter into a conditional agreement to pay principal and interest subject to annual appropriation. In general, the economic effect of a lease/purchase is similar to that of a bond, but the arrangement is structured so that it does not violate any constitutional limitations on borrowing or affect the debt ceiling. A drawback is that the more complicated a transaction is, the higher the transaction costs, unless these are offset in other ways. And landowners may not be willing to wait for their money over a period of years.

**Certificates of participation.** Certificates of participation (COPs) are a variation on the leasing theme structured to enable a group of investors to buy proportionate shares in tax-exempt income from a lease, pursuant to a lease/purchase agreement.<sup>3</sup> Since payments are made year by year, the transaction is not formally considered debt and therefore neither requires a referendum nor affects a community’s debt limit. Although fairly new, COPs are becoming an increasingly important tool for protecting open space at the local level.

## “Pay-as-You-Go” Approaches and Nontaxing Tools

**Property tax.** Perhaps because it is paid in a large lump sum, instead of in small additions to each purchase, the property tax is the least popular of all state and local taxes.<sup>4</sup> Still, property taxes are an important source of revenue for local governments and a clear favorite as a park funding mechanism for the following reasons:<sup>5</sup>

- Property taxes provide a steady source of revenue, less affected by downturns in the economy than either the sales or the income tax.
- They are relatively easily administered at the local level.
- Revenues can be accurately predicted.
- The tax burden is broadly distributed.
- A small increase in the rate can generate substantial funds.

Despite their lack of popularity, voters in many communities have been willing to accept an increase in property taxes when revenues are specifically earmarked for park and open space protection and when accountability is guaranteed. In 1992 and 1996, voters in Los Angeles County, California, approved more than \$850 million in assessments for park, open space, and recreational improvements. On the opposite coast, voters in Ocean County, New Jersey, approved the creation of a countywide Open Space Trust Fund in 1997, funded by a property tax increase and used exclusively to acquire and maintain open space, natural lands, and farmlands.

**Sales tax.** The sales tax is the second-largest source of income for state and local governments and is typically the most popular with voters.<sup>6</sup> The tax, which is levied on the sale of goods or services, is easy to administer, has low reporting costs, and can generate large sums even at low tax levels. It can also tap into tourism profits generated by open space amenities. On the downside, revenues can drop when the economy slows, and the tax is often criticized as regressive, falling disproportionately on lower-income people. In addition, many jurisdictions require a sales tax increase to be made in large increments—one-half or even one cent—making it harder to fine-tune than the property tax.

**Real estate transfer tax.** The real estate transfer tax is levied on the sale of property, increasing with the size of the property being sold. Costs are sometimes imposed on the seller (who has typically experienced an increase in the home’s value over the years). In other places, buyers foot the bill, because it is argued that they are making an investment in the future of their community.

At the local level, the real estate transfer tax can raise substantial funds for park and open space acquisition, particularly in fast-growing communities. But

revenues can plummet in a soft real estate market. Perhaps most important, winning approval for the tax in the face of opposition from real estate interests has proven to be a tough challenge for many communities. At the ballot box, transfer taxes for open space have usually been successful only in wealthy resort communities.

**Impact fee.** An impact fee is a one-time charge that private entrepreneurs, often developers, must pay to the local government in order to undertake a project. In turn, the revenue from the impact fee finances public goods and services that are associated with the project but that the developer would not provide voluntarily.<sup>7</sup> Water and sewer lines, streets and bridges, and parks and recreational facilities are projects typically funded by impact fees.

Although they have their detractors (who oppose the added cost of development and, in some cases, a decreased availability of affordable housing), more and more states are adopting enabling legislation for impact fees. Impact fees are a common tool used by local governments to help pay for the acquisition, construction, and maintenance of parks and recreational facilities near new development but are not as useful for acquiring large properties farther afield.

**Special assessment district.** Special assessment districts are separate units of government that manage specific resources within defined boundaries. Districts vary in size, encompassing single cities or several counties. They can be established by the local government or by voter initiative, depending on state laws and regulations. As self-financing legal entities, they can raise a predictable stream of money (through taxes, user fees, or bonds) directly from the people who benefit from the services being funded, which are often parks and recreational services.<sup>8</sup>

Business improvement districts (BIDs) give local communities another park financing tool, albeit one that is typically used more for park maintenance than for acquisition. Like special assessment districts, BIDs assess residents within set boundaries for additional services, such as park maintenance and public safety. They are unique, however, in that they establish a partnership between property and business owners in downtowns or commercial sections for the purpose of improving the business climate in a defined area.

Finally, benefit assessment districts assess a defined constituency and provide benefits to those residents, from water and roads to parks and recreational facilities. Unlike BIDs or special assessment districts, benefit assessment districts lack a partnership, a structure, or a separate governmental body with management responsibilities.

**Mitigation land bank.** A mitigation land bank is a natural land set-aside in which developers compensate for the adverse impacts of development—often the degradation of wetlands—in a location other than the development site.<sup>9</sup> Mitigation is often the best option

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when development violations have already occurred on-site or when key natural areas are targeted for protection. It also offers local governments flexibility in their land use decisions and gives communities the ability to protect a single, larger area rather than smaller, scattered tracts of land. By doing so, mitigation yields the greatest value for people, wildlife, and threatened ecosystems.

**Other taxes.** Although less common, the income tax and a cell phone tax have also been used locally to fund parks and open space protection.

### DISTRIBUTION OF FUNDS

When a program has been proposed, the next question is how to allocate money among all the parties at the table: the county and municipal governments, public agencies, and nonprofit organizations. A variety of approaches are used to achieve funding equity. For instance, some counties take municipal conservation priorities into consideration when making spending decisions but distribute no money to other jurisdictions or entities. Other counties establish detailed distribution formulas that allocate portions of county revenues to various parties, such as municipalities and nonprofit organizations. In other cases, specific projects are named in a funding measure, like a general obligation bond.

For example, in Pima County, Arizona, voters approved a \$36.3 million open space protection bond in 1997. The ordinance for the Open Space and Historic Preservation Bond tied specific dollar amounts to identified properties, showing voters exactly where their money would be spent. (However, funds raised through the county's bond sale are not sufficient to protect all named properties, and a process of prioritization is also used.) This approach is also used when voters are approving a one-time source of funds to purchase a single property threatened by development.

There are as many different ways to distribute funds as there are communities with land conservation needs. Counties commonly cut the pie into thirds, serving one piece to municipalities, one piece to unincorporated areas of the county, and one piece (in the form of grants) to private nonprofit organizations and/or public agencies. How funds must be spent can either be stipulated before distribution, in accordance with the overall plan, or left to the discretion of the recipient.

### Distribution Formulas

Douglas County and Adams County in Colorado have taken two different approaches. In Douglas County, bond proceeds are split among incorporated municipalities based on the ratio of the number of automobile registrations within a given municipality to those within the entire county. In Adams County, Colorado, 30 percent of a countywide open space sales tax is returned to the cities, towns, and unincorporated areas

in the same proportion as it was collected; 2 percent is reserved for administrative purposes; and the remainder is disbursed in the form of grants to those jurisdictions that have an approved open space and/or recreation plan. Instead of allocating a proportion of revenues generated by its municipalities, counties can also use a per capita allocation formula and/or establish a grants program to distribute the funds.

Mecklenburg County, North Carolina, has a plan in the works to divide \$30 million in bond funds equally among six municipalities. (The \$30 million in county funds are part of a larger bond approved by voters in 1999.) To be eligible for its \$5 million share, each town must have an open space master plan and must match the county funds on a one-to-two basis. Any funds that are not spent during a five-year period would become available to other jurisdictions on a first-come, first-served basis.

The plan was developed after one town sought financial assistance from the county to implement its open space plan. County leaders felt they should do for all towns what they'd do for one and asked the towns to come up with a distribution formula. The mayors and county managers met and recommended the even \$5 million allocation. There is some speculation that smaller towns may be unable to meet the match and use all the available funds. If this is the case, larger towns may have access to more funds.

To summarize, then, county/municipality distribution formulas can involve any of the following arrangements:

- Each municipality is returned a proportion of the taxes it generated.
- Each municipality receives a per capita allocation of funds.
- Each municipality receives funds based on the number of automobile registrations as a ratio of the total county registrations.
- Each municipality receives an equal amount of available funds, with a matching requirement.
- A sum of money is spent annually in each political district within a county or special district.

### Grants

Grant recipients are often reserved the final piece of the pie. These recipients might include nonprofit land trusts, public agencies, and/or municipalities. Typically, applications for grants are submitted to the advisory board, which then makes recommendations to the governing body based on an established set of criteria.

In Miami-Dade County, Florida, more than half of the revenue from the \$200 million Safe Neighborhood Park Bond is allocated to public agencies and nonprofit organizations for the development, improvement, or acquisition of parklands—some of the distribution being determined on a per capita basis. An additional \$15



million in challenge grants is allocated to these organizations for the land acquisition and development of youth recreation and service facilities and for natural area, recreational, and open land acquisition and development. Once grant funds have been awarded, a contract with the jurisdiction is drafted, and program administrators monitor the progress of the project. To safeguard the process, municipalities that are awarded funds must spend their own money first, then submit a reimbursement to the Safe Neighborhood Parks program administrator. A construction manager on staff verifies that the scope of the work has been completed.

### Limiting Administrative Costs

Putting a cap on administrative costs helps guarantee that open space funds are spent wisely. It can also help reassure an electorate wary of new government spending. Trust for Public Land (TPL) has found that in most communities, this cap is an important and popular part of a land conservation spending measure. Limiting administrative funds from 2 percent to 10 percent is typical. For instance, in Douglas County, Colorado, 92 percent of special sales tax revenues are deposited in the Open Space Lands, Trails, and Parks Fund. The remaining 8 percent is deposited in a separate fund to pay for administration, planning, and maintenance.

## ESTABLISHING A PDR PROGRAM

Every state in the nation is losing agricultural resources to urban sprawl. In response, an increasing number of state and local governments are establishing purchase of development rights (PDR) programs. PDRs—also known as purchases of agricultural conservation easements—are a means of compensating farmers and ranchers for their willingness to accept a deed restriction on their land that limits its future development for nonagricultural purposes. Landowners are compensated for the fair market value of the land, based on the difference between what it could be sold for on the open market with no restrictions and what it can be sold for once an easement is placed on it. When an easement is sold, the landowner continues to own, use, and live on the land and can take advantage of potential income and estate tax benefits. Easements are held in perpetuity by the entity that has purchased them, either a local or state government or a private, nonprofit conservation organization.

Agricultural conservation easements, which are voluntary, are an attractive option for landowners who want to keep their land and gain access to new capital. Many other benefits exist for both the buyer and the seller of an easement: land is kept in private ownership; agricultural and conservation values are safeguarded; the value of the land is limited, keeping it affordable; cash flow and tax benefits are made available to farmers and ranchers; land acquisition and public management costs of local government are reduced;

and the local government is spared the added financial burden of new development.

The ability of local PDR programs to achieve their objectives depends on how they address several core issues:

- Identification of land and priorities for acquisition
- Restrictions on the land
- Valuation of easements
- Methods of payment
- Fund raising
- Administration and enforcement.

These issues are discussed briefly in the following section.<sup>10</sup>

### Identification of Land and Priorities for Acquisition

Because few, if any, jurisdictions have enough money to purchase easements on all their farmland, PDR programs set standards that specify the kind of farmland to protect and the priorities to give to individual parcels of land. Programs identify farmland protection objectives and priorities by applying criteria, identifying targeted land on maps, or both.

Locally, some jurisdictions identify specific agricultural protection zones where development rights will be purchased. These zones generally correspond to areas designated in comprehensive land use plans where agriculture is the preferred use and development is discouraged or prohibited.

The issue of setting priorities is another matter. Priority criteria are used to determine which landowners will receive the first offers to purchase their easements. Among the factors most commonly used to establish PDR program objectives and priorities are:

**Measures of farmland quality, such as soil classifications or crop yields.** Most programs target farms with soils that are the most productive, versatile, or unique in their crop-producing capability.

**Farm size.** Point systems used by some states and localities favor larger farms, on the theory that they are the most commercially viable. Large minimum farm size may not, however, be an appropriate criterion in some urban-influence areas, where small, intensive operations such as nurseries and vegetable farms are more profitable than extensive grain or livestock operations.

**Strategic location of a farm.** Generally, states and localities protect farms that are neither too close to urban development to remain agriculturally viable nor so far from urban areas that there is little risk of their development.

**Environmental, cultural, or scenic qualities: multipurpose PDR programs.** All other factors being equal, superior natural or cultural resources on a farm, like wetlands or a historic cemetery, could make the difference in acquisition priority.

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**Price of easements.** Price is important in determining whether easements should be purchased from sellers, as well as in setting priorities among competing parcels.

**Other factors.** Tenure of the land and the financial circumstances of the landowner can also affect decisions about easement offers.

### Restrictions on the Land

Agricultural conservation easements restrict nonfarm uses such as residential subdivisions and commercial development, though most PDR programs allow subdivision of the land for agricultural purposes, subject to some controls to ensure that the land will continue to be viable for commercial farming. Some programs permit commercial development related to farming operations on protected land; some do not. When considering which commercial activities to allow, programs need to strike a balance between, on the one hand, allowing farmers to adapt their operations to be profitable and, on the other, protecting properties from development that would compromise farming or make the land unaffordable for other farmers to purchase in the future.

### Valuation of Easements

The price of conservation easements has historically been determined through professional appraisals. The value of the easement is typically the difference between the appraised fair market value of the property before and after restrictions on nonagricultural land use have been imposed by an easement.

While appraisals appear to have worked reasonably well for most jurisdictions operating PDR programs, they do involve problems: they take a long time, often six months or more, to complete; they tend to be expensive; they are subjective and therefore open to legitimate questions; and more than one appraisal is sometimes required, with the final offer reflecting an average or some other negotiated price.

These and other problems with appraisals have led some jurisdictions to experiment with other methods of valuing easements. Among the most interesting methods is the point system developed by Montgomery County, Maryland. Though many jurisdictions use point systems to determine priorities, Montgomery County was the first to convert points directly into dollars, translating the following factors directly into the purchase price through a formula: farm acreage, prime soils, crop value, road frontage, use of conservation practices, and proximity to the edge of the county's Agricultural Reserve boundary. As a double-check, the resulting price range is periodically compared with sample appraisals.

### Methods of Payment

Landowners are generally paid for easements in a single lump sum of cash at settlement. However, some landowners are concerned about the high capital gains tax they would owe as a result of this kind of transaction. In addition, banks will often require farmers to use the proceeds from the sale of an easement to pay off their mortgages. Occasionally, the members of a farm family may find that they actually owe more money in taxes than they have available in cash after the sale. To accommodate the needs of landowners, some states offer installment payments over a period of between three and forty years. Installment payments can help agencies leverage their available funds by entering into more transactions, which can be important to the success of a program in locations where development pressure is severe. However, programs must be assured of future cash flow to fulfill the installment-payment commitments they have made.

Howard County, Maryland, finances its installment-purchase PACE (purchase of agricultural conservation easements) program by offering landowners "securitizable contracts" in payment for easements. These financial instruments provide for annual, tax-exempt payments, with the principal amount due in 30 years. At any time, the landowner can convert the contract into a security (similar to a bond) that can be sold on the open market to recover the principal amount, which then becomes taxable. The county funds the program by purchasing zero-coupon bonds payable in 30 years at approximately 10 cents on the dollar—thus affording the county significant financial leverage—while fulfilling annual payment obligations with a dedicated one-quarter percent tax on all real estate transactions in the county. Several other jurisdictions—including Hartford County, Maryland; Mercer and Burlington counties in New Jersey; Virginia Beach, Virginia; and Southampton, New York—use this method.

### Fund Raising

Ironically, the biggest challenge facing PDR programs appears to be their popularity: even the most active programs are not able to keep up with the demand to sell development rights. Local programs have been funded by general obligation bonds, real estate transfer taxes, sales taxes, and dedicated increments of property taxes. Some jurisdictions have found additional sources of funding, like cell phone taxes, private contributions, and matching funds. Well-executed PDR educational campaigns aimed at the state legislature, at local government elected officials, and at the grassroots level are key to winning passage of PDR program finance measures. State and local partnerships, as well as public and private partnerships and other creative alliances and sources, are also important to explore.



## Administration and Enforcement

Agricultural conservation easements are only effective at protecting farmland when the restrictions they impose on the use of the land are enforced. A systematic monitoring system and long-term commitment are essential. The local program administrator generally monitors the program by visiting protected properties to observe whether restricted development has occurred and/or to oversee permitted development on approved building lots. Although local programs may not have their own dedicated staff, they generally require the equivalent of at least one full-time position.

## CASE STUDIES

### The Preservation Project: Jacksonville, Florida

Covering 840 square miles, Jacksonville, Florida, is the largest city by area in the contiguous 48 states. Tourists and new residents are attracted to Jacksonville by the region's mild climate and lush beauty, by its abundant recreation, and by nearby open space resources like the 46,000-acre Timucuan Ecological and Historic Preserve.

But Jacksonville is also a rapidly growing city—approaching one million in population—in one of the nation's fastest-growing states, and residents worry about preserving their environmental resources and quality of life. (Jacksonville and Duval County consolidated their governments in 1968.) In January 1999, Jacksonville unveiled the Preservation Project, quite possibly the nation's most ambitious land conservation program targeted at guiding growth and preserving access to nature. The new program draws on the experiences of other counties in Florida that have had programs in place for many years. The dual goal of the five-year, \$312 million effort is to acquire for public use approximately 10 percent of Jacksonville's remaining developable land (between 10 and 20 square miles) while improving access to the St. Johns River and other natural areas. Several dozen city parks will also be upgraded.<sup>11</sup>

**Funding plans.** A variety of local, state, federal, and private funding sources are being lined up: \$30 million from a city bond; \$16 million from debt savings; and \$25 million from the municipal electric utility for strategic land purchases near electric and water utility properties. The city is hoping to secure \$75 million from the state's \$3 billion Florida Forever program, the nation's largest state funding program for land conservation, and one with significant resources dedicated to urban land protection efforts like those of Jacksonville.

In September 2000, voters approved a one-half-cent, local-option sales tax to fund the Better Jacksonville Plan, a comprehensive approach to growth management, transportation, the environment, and economic development. Fifty million dollars of the \$2.2

### Preservation Project eligibility criteria

#### Growth

Is the parcel in imminent danger?  
Does the comprehensive plan allow for development?  
Are the streets and highways in the project area rated "C" or worse for service?  
Is water and sewer service available?

#### Environmentally sensitive lands

Is the parcel designated as environmentally sensitive by the Florida Natural Area Inventory?  
Is the parcel in or adjacent to the Special Management Areas designated by the city comprehensive plan?  
Is the parcel in or adjacent to any state or federally designated park or preserve?  
Is the parcel designated as critical habitat, as listed by the Florida Fish and Wildlife Conservation Commission?  
Does the parcel contain any known or listed plant or animal species?  
Is the parcel designated by a state or federal agency as an acquisition for conservation or protection of endangered land?

#### Water quality and water resources

Will the parcel act as a natural barrier or buffer to protect waterways from urban runoff?  
Will the parcel protect areas that recharge the aquifer?  
Is the parcel part of a riparian corridor or near a tributary to a larger system?

#### Access

Does the parcel provide public access to areas that have been difficult to visit?  
Does the parcel connect to an existing or proposed system of trails or greenways?  
Does the parcel allow for open space in an area in which there is limited or no open space?

Source: Jacksonville, Florida, Preservation Project.

billion projected to be raised will be directed to the Preservation Project.

**Managing growth by acquiring land.** The plan uses land conservation as a growth management tool, targeting lands that are important in the effort to limit sprawl and contain growth. Its three other guiding principles are preserving environmentally sensitive lands; protecting water quality and water resources; and providing public access. Within these principles, a set of 17 questions helps planners determine the eligibility of a property (see sidebar); properties receive one point if a question can be answered in the affirmative. If a property scores eight points or more, it's considered eligible for acquisition. At this juncture, other fac-

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tors come into play, such as the best deals and the availability of matching dollars.

Two working committees have been formed to help implement the plan. The first, the Mayor's Oversight Commission for the Preservation Project, is a 12-member citizen advisory board responsible for seeking public input and making final acquisition recommendations. The second is the Steering Committee, a multidisciplinary group that includes the mayor's chief of staff, the heads of the departments of planning and public works and the head of the real estate division within public works; an ecologist; and representatives of the Trust for Public Land and The Nature Conservancy. The Steering Committee reviews and targets projects and makes recommendations to the Mayor's Oversight Commission.

The program is being established quickly yet thoroughly with a two-phased approach: the first phase focuses on getting the land acquisition program up and running; the second is dedicated to developing a management structure and fund-raising strategy. (A 501(c)(3) organization has also been established to solicit private funds.) In order to retain flexibility in a volatile real estate market, Mayor John Delaney and his staff have avoided creating a rigid system or a new bureaucracy. For instance, landowners, neighbors, community leaders, and political representatives have all identified potential lands through an informal system that encourages direct contact rather than formalized, written nomination forms. Potential lands are also identified when development proposals are submitted to the city. Projects are then evaluated using the system described above.

For the purposes of Preservation Project land acquisition, the county has been divided into five corridors. Jacksonville works in partnership with the Trust for Public Land and The Nature Conservancy to acquire parcels: TPL focuses on acquisitions within the urban corridors, while TNC looks at rural areas. Other consultants have been used to help with growth studies and planning projects.

**Success.** Recently, 86 acres of upland and marsh was acquired with money from a variety of sources, including the St. Johns River Water Management District and state conservation programs. About a fourth of the purchase price was paid for by the city. As reported by the *Florida Times-Union*, "The city's ability to get its partners to pay most of the asking price is just one way the conservation and growth management plan has exceeded the expectations of the mayor, who announced the plan in January 1999."<sup>12</sup>

City officials hope to get reimbursed by the state for part of their most recent acquisition: 234 acres of environmentally sensitive land along the Intracoastal Waterway. The city paid \$1.4 million for the property, in a deal that followed on the Trust for Public Land's placing a deposit on the property to help prevent it from being developed before the city could act. TPL then negotiated the purchase between the city and the owner.<sup>13</sup>

City officials are in various stages of talks to buy

another 17,000 acres in Duval County and have identified yet another 31,000 acres for consideration. The program has also sparked some new ideas, including buying development rights from the owners of timberland in the western part of the county.

In all, the Preservation Project has acquired nearly 5,000 acres in its first year and is considered a resounding success. In fact, the mayor put forth such an ambitious growth management plan that the first year left many conservation stakeholders running to catch up. But the purpose of the program was clear, and the planning process has worked well. Remarked Mayor Delaney: "The Preservation Project has been a little bit like the Jaguars. I knew it would be big, but not this big."

### Growing Fast, Growing Smart: Austin, Texas

Attracted by an educated workforce, rolling hillsides, and a relaxed atmosphere, more than 800 high-technology companies moved to the Austin region in the 1990s. Austin's livability is owed in part to a vast network of parks and open spaces. In fact, the city is among this country's richest in parkland, having acquired thousands of acres of sensitive greenspaces since the early 1970s.

Yet, some of the assets that attract new residents and businesses, like natural resources and quality of life, are also threatened by the city's economic and population boom. Jammed highways, declining air and water quality, and sprawling development are today's challenges—ones that are being met head-on by activist citizens and local leaders alike. Four times in the past decade, voters have supported new funding for parks, greenways, and open space, approving millions of dollars for land acquisition.

**Funding land conservation.** The decade's first land conservation funding measures were passed in 1992. Supported by a 100-member local coalition, the Barton Creek Wilderness Park measure generated \$20 million for open space protection. On the same ballot, voters approved Save Our Springs, a regulatory measure designed to protect the Barton Creek watershed, and \$23 million for the acquisition of endangered species habitat in sensitive areas of west Austin. To date, over 9,000 acres have been acquired by the city for the Balcones Canyonlands Preserve. Managed by the natural resources division of the parks department, these habitat lands also preserve open space and scenic vistas while protecting water quality.

After the successful 1992 bond, the Trust for Public Land and the Austin Metro Trails and Greenways organization studied the community's park needs and conducted an inventory of parks and greenways. A master plan for the city was developed, and a public information effort helped inform residents of the benefits of a greenways network.

Meanwhile, a city council member who was also a conservation leader pushed for an initiative to fund the plan, and a citizens' bond committee was appointed by the council to help identify citywide priorities for a

bond election and to oversee the expenditure of the funds. The results of these efforts were Proposition 2, a \$75.9 million bond for parks and greenways (including \$35.5 million for new open space acquisitions) and the creation of a new program, Austin Destination Parks and Greenways. After years of planning and organizing, voters approved Prop 2 in November 1998.

What was unique about the Prop 2 bond campaign was its focus on social equity issues. Roughly 80 percent of the new bond money is earmarked for parks and trails east of Interstate 35, where many of Austin's low-income and minority citizens live.<sup>14</sup> This measure reflected the city's comprehensive Smart Growth Initiative, an important factor in the success of this campaign. Passed by the city council in 1998, the plan strives for social equity, economic development, and environmental protection. The bond included \$15 million for greenways, as well as money for metropolitan parks connected to the greenways.

Citizen involvement was another key to the measure's success. Throughout the process of designing a greenways program, for instance, local leaders worked to build public awareness of their land conservation objectives, sharing information about the economic benefits that a greenways network can bring. These efforts were instrumental in securing broad support from business and neighborhood leaders, which in turn helped move the political process forward. Notes Council Member Beverly Griffith: "What we did was pull together a coalition of 41 groups—business and professional, environmental, parks and open space, neighborhood, and community groups—to articulate to the city council how important it was to have that \$76 million bond measure on the ballot. It was their voices and physical presence that got it done. Proposition 2 came from the people to the voters and won by almost 60 percent, proving that if the citizens tell you what they want, and you do it, they will vote. Don't take it to them, take it from them."<sup>15</sup>

Also in 1998 (May), voters authorized a \$65 million revenue bond to purchase land and easements within a 15,000-acre, hourglass-shaped buffer zone. This area is almost entirely within the Drinking Water Protection Zone designated by Austin's Smart Growth Initiative, which was approved by the city council in the same year. The measure is funded by an increase in residential water rates.<sup>16</sup>

Most recently, in November 2000, voters approved \$13.4 million in bonding authority for land conservation. These funds are to be matched by private money to purchase land. Funds are directed toward land in the Barton Springs watershed to prevent pollution to the city's water source. The smaller size of the bond reflects the council's reluctance to take on additional debt: the \$13.4 million actually represents a transfer of bonding authority that was returned unused by the Austin Museum of Art.

Voter-approved bonds constitute the primary source of funding for the city's acquisition of parks, greenways, nature preserves, and water quality pres-

ervation lands. Other sources include a parkland dedication fee and grants. The parkland dedication ordinance requires developers of new homes to pay a fee for parks or to make a contribution of land. Federal and state grants are primarily used for improving existing parks and greenways but can be used for land acquisition.

**Managing the program.** How do city leaders implement their growing land conservation program? The parks and recreation department is the primary city department that acquires and manages open space. Actual real estate transactions are handled by the real estate division of the city, using the Trust for Public Land and The Nature Conservancy of Texas to assist in some of the more complicated efforts.

The city's water utility has recently started to acquire land for the protection of the aquifer recharge zone within Austin's extraterritorial jurisdiction. The utility's staff for this initiative so far consists of one person, a conservation land manager. To date, the utility has concentrated on establishing land management criteria and planning.

Greenways and Destination Parks lands are targeted using the city's Smart Growth Plan, which designates parks and greenspaces in the "desired development zone" of the city. Within these identified target areas, land is evaluated and given a numerical ranking using stated criteria (see sidebar). Those lands with the highest rankings are considered highest priority

### Destination Parks and Greenway criteria

**Park development potential (25 points):** Is developable for recreational facilities; has significant natural resources; is contiguous to other parkland; has road access.

**Potential as greenway (25 points):** Has multiple-use greenway characteristics, such as recreational opportunity, potential for trails, undisturbed floodplain, wildlife corridor, natural habitat, and so on; provides connections to neighborhoods, parks, and businesses.

**Potential for aiding in neighborhood development (20 points):** Adjacent land is developable for homes and businesses; is accessible to parks and greenways; infrastructure (roads, utilities, and the like) is accessible.

**Potential for watershed protection (20 points):** Identified as a priority for water quality improvements; identified as a priority for flood control; pollution avoided by prevention of development; watershed benefited by land protection; protects base flow of water.

**Potential for open space conservation (10 points):** Has scenic qualities; is a large, contiguous tract of undeveloped land (200 acres minimum); has historic and cultural values; has areas suitable for native wildlife.

Source: Austin, Texas, Destination Parks and Greenways.

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lands. Final selection of lands depends on land availability and affordability (as a matter of policy, condemnation is not used). In some cases, conservation easements can be employed to preserve open space values, but most of the lands will be acquired for public access and use.

**Managing the land.** Parks and greenways are managed by park maintenance crews; nature preserves are managed by the natural resources division of the parks department. Because of Austin's aggressive land acquisition program (more than doubling the size of managed lands over the last 15 years), staffing has not been able to keep up with need. This year, a citizen-based committee studied the parks department's need for maintenance funding, recommending that the city council approve a multiyear increase in the maintenance budget to catch up with the expanded resources. Volunteers also help with park and open space management through the city's Adopt-a-Park program.

**Challenges ahead.** As in other fast-growing places, the cost of protecting land in Austin is high and keeps getting higher. Land speculation has doubled the cost of land, as estimated in 1998: sometimes, the city is priced out of the market, and high-priority lands are lost, while at other times, fewer acres can be bought.

**The city's response is to try to be flexible and innovative.** One innovative approach is working with developers on the joint acquisition and development of certain lands. Because the city often uses "undevelopable" lands (e.g., floodplains) for greenways, the developer is often willing to sell this part of a parcel to the city. The result has been a planned development that has parks and greenways built into its land use plan.

To be eligible for acquisition as watershed protection lands, parcels do not always have to have a public access component and thus may be suitable for acquisition as conservation easements. Austin has succeeded in securing conservation easements on some of the family-owned ranches near the city. This technique is successful when the owner wants to continue living on the land and is willing to manage the land for low-intensity uses.

Overall, the city of Austin is fortunate to have a lot of public support for funding the acquisition of greenspaces. In the current atmosphere of rapid development and disappearing open space, the demand for continued land acquisition remains strong.

### **Preserving the Desert Landscape: Pima County, Arizona**

Attracted by economic opportunity, a warm climate, and the spectacular scenery of the Sonoran Desert, some 20,000 new residents arrive in Arizona's Pima County each year. To accommodate this growth, new homes, roads, and strip malls are spreading out in all directions from metropolitan Tucson; no fewer than 17 acres of desert open space are lost to development daily.

The transformation of the Sonoran Desert began in the 1980s, as significant portions of environmentally

and culturally sensitive lands started being developed at ever-faster rates. Pima County officials responded in 1986 by establishing an open space acquisition program, funded by voter-approved general obligation bond measures in that year and in 1997. Now, 35,000 acres in 37 parks are protected, ranging across the county's 9,240 square miles. The jewel among them is the 20,000-acre Tucson Mountain Park.

**Obstacles to land preservation.** Along the way, planners and open space advocates have faced their share of political and environmental obstacles—not surprising in a county as large in acres and people as Pima. While Pima County voters approved a general obligation bond for the preservation of open space and trails in 1986, the economic downturn in the late 1980s and early 1990s produced an 11-year drought between conservation funding measures. During that period, battles raged between developers and builders on one side and environmentalists and slow-growth advocates on the other.

Endangered species protection presented its own challenges. Certain species have been so threatened by urban growth in eastern Pima County that the county had to develop the Sonoran Desert Conservation Plan or risk disqualification for a variety of federal permits, including Section 10 under the Endangered Species Act. Yet, while the task at hand was to protect the habitat of the cactus ferruginous pygmy-owl, the plan that was ultimately developed seeks protection for all types of desert plants and animals. Hundreds of millions of dollars of local, state, and federal funds will be used to implement the comprehensive land conservation/endangered species protection program, which will begin in 2002 and likely take decades to complete.

Despite the challenges—rapid growth, endangered species, local politics, and rising land values—the county has made great progress in protecting its desert landscape and preserving thousands of acres of threatened land, all the while forging new coalitions and raising public support for land conservation. Here are the highlights and history of the county's current open space protection efforts.

**The 1997 open space and historic preservation bond campaign.** A new bond effort got started in 1994 with the aim of preserving land, historic resources, and recreational trails without depending on the divisive planning process.<sup>17</sup> Outreach to diverse groups, from developers to environmentalists to business leaders, led to the creation of the Citizens' Committee for Open Space and Parks. Guided by staff from the parks department, this campaign committee took a couple of years to target carefully prioritized protection areas. Staff then thoroughly inventoried potential parcels within identified target areas, that is, parcels that had been specifically named in the bond measure. (Problems with a past school bond had led to a low level of public confidence in the county borrowing process. As a result, the board of supervisors established a "truth in bonding" provision that requires proposed projects to be outlined specifically and tied to dollar amounts

in a bond improvement plan.)

Meanwhile, committee members pressed the board of supervisors to call for an election. The Trust for Public Land and the Arizona Chapter of The Nature Conservancy joined in the effort, offering advice on campaign strategy and direction on polling. The campaign built a diverse coalition that even included builders and contractors. Noted Jim Kuliesh of the American Subcontractors Association of Tucson, “Our livelihood depends on building, but many people don’t realize that we not only build but we live here. We use the parks, we use ballfields, our kids go there with our families. Somewhere along the line, no matter what happens, we have to have planned open lands and plan things for the generations to come.”<sup>18</sup>

Two and half years of planning and hard work paid off in November 1996: 68 percent of voters approved the bond, providing more than \$36 million to acquire 7,000 acres of open space in the Tucson basin. The bond was important not only for the money it provided for land acquisition but also for the message it sent to political leaders. Noted Raul Grijalva, chairman of the Pima County Board of Supervisors, “In the past, there has not been the political will to preserve land planning decisions. Passage of the bond act will show the political leadership that people care about open space.”<sup>19</sup> Supporters recognize, however, that while the funds are significant, more money must be tapped, and new partnerships must be formed.

**Managing the land conservation process.** Although it was not called for in the bond language, the board of supervisors later founded the Open Space Acquisition Review Committee (OSARC), which is composed of activists and county staff who make recommendations for acquiring properties. Since the bond language named far more properties in the measure than are affordable, OSARC has the challenge of prioritizing lands within targeted areas. When properties become available that were not initially targeted, the committee also has a public process by which to make changes. Final decisions are made by the board of supervisors.

OSARC members are largely community and land conservation activists and technical experts. It is up to the county administrator to ensure a broad-based coalition, to review nominations, and to select members.

Executive management of the open space program is the responsibility of the county administrator’s office. Staff from the natural resources, parks, and recreation department assist with planning, research, and fieldwork tasks, while the real property division handles the technical aspects of the acquisition process, including appraisals, environmental analyses, and the paperwork of land purchases. A local nonprofit land trust, the Arizona Open Land Trust, also plays an important role in the process by starting negotiations with landowners on behalf of the county in certain instances. Acquired properties are managed by the staff of the natural resources, parks, and recreation department. Once properties are acquired, inventories are conducted and management plans developed. However,

because most lands are kept in their natural state, oversight and maintenance are typically low-intensity tasks.

The program’s success is largely attributed to strong citizen participation and partnerships with nonprofit land conservation organizations. Open space advocates worked side by side with county staff to develop the master list of targeted areas and properties and to get the bond measure passed. Nonprofit partners have also been involved from the start (advising the campaign) to the finish (acquiring properties). Not only has the county worked with national land conservation organizations, but they have also invested in local organizations, helping them expand, mature, and become full partners in the implementation process.

### **A Permanent Open Space Department: Boulder, Colorado**

As far back as 1898, residents of Boulder understood the importance of protecting their scenic open spaces. In that year, local leaders made their first acquisition of open space, Chautauqua Park’s mountain backdrop.

By the 1950s and 1960s, population growth had begun to soar, and houses began creeping up unprotected mountainsides and sprawling into the valley. This time, another generation of conservation-minded citizens worked together to preserve Boulder’s open space, helping to pass the country’s first land conservation tax measure. Passage of the 1967 initiative established a permanent 0.40 percent sales tax, funds from which are used for the acquisition and management of greenbelt open space lands through and around the city. An open space/real estate department was also established.

More recently, voters have continued to support the public financing of land conservation. In 1989, voters approved an additional 0.33 percent sales tax for open space acquisition. And in response to a state constitutional requirement, voters agreed in 1993 to allow the open space department to continue to go into debt and to spend all sales tax revenues for open space purposes.<sup>20</sup>

**Acquiring the land.** Since the original greenbelt initiative passed, Boulder has acquired roughly 30,000 acres of open space land and mountain backdrop and 80 miles of trails. As in Pima County, public participation and an advisory board—this one called the Open Space Board of Trustees (OSBT)—have been instrumental in the program’s success. Appointed by the city council, the board sets priorities and policies for the acquisition of greenbelt land and reviews proposed lands to ensure that they reflect those priorities. To provide more permanent protection for open space lands, the city charter was amended to reflect the creation of the open space department and the Open Space Board of Trustees.

A number of groups and individuals participate in the land acquisition and management process: Boulder citizens, the OSBT, open space staff, the city council, nonprofit partners, for-profit contractors, and other agencies and governmental bodies, such as the Boulder County Parks and Open Space Department. Potential acquisitions are most often initiated by open space

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staff, who depend on the city charter for its guiding principles and refer to targeted areas (not individual parcels) to determine priorities. Staff make recommendations to the OSBT, which in turn reviews properties according to the goals of the program and makes acquisition recommendations to the city council. The committee also consults the Boulder Valley Comprehensive Plan (BVCP). Adopted by the city and county in 1978, this plan defines and designates potential open space lands, stating that open space shall provide “an important framework for land use planning in the Boulder Valley.”

Occasionally, properties threatened by development are purchased outside the targeted areas. In one instance, city leaders even saw the need to purchase land outside the city and county limits. In an effort to curb sprawl that would affect city traffic and bring about overcrowding, the city bought land in an adjoining county that had been slated for a massive development. The purchase enjoyed overwhelming public and political support.

**Managing the program.** Even after more than 30 years, the open space department is still growing and changing: January 2001 marked the merger of the department with the mountain parks division of the parks and recreation department. The mountain parks division represents the 7,000 acres of mountain-backdrop land acquired in the 1800s. Through the joining of divisions, staff are able to increase efficiency and provide better service. With the merger, the open space department has approximately 70 employees, not including seasonal employees working in such areas as real estate planning, environmental and visitor services, land facilities, and finance and support.

**Protecting acquired lands.** Local leaders recognize that increased public use and the high cost of acquisition are the city’s biggest challenges. More than 1.7 million visits to open space lands take place annually, and population growth in the city and surrounding community is sure to increase that number. To protect acquired lands, the program relies on its Long-Range Management Plan (LRMP). Described as the paramount planning document, the LRMP outlines program goals, decision-making processes, and implementation techniques. Specifically, the plan contains the following chapters:

- Policies for open space acquisition and land protection
- Open space planning and management
- Natural resources management
- Cultural resources management
- Agricultural management
- Volunteer services management
- Education and interpretation
- Use of open space and open space facilities.

These policies provide “the framework and direction for future, more issue-specific or site-specific planning.”<sup>21</sup> The approximate planning horizon is 20 years, with the LRMP being updated every five years.

The open space program has fulfilled its many objectives: protecting the mountain backdrop; creating a buffer around the city that prevents sprawl; preserving wildlife habitat and preventing the erosion of ecosystems; keeping farm and ranch land productive; and providing passive recreational opportunities for residents and visitors. With land being protected or developed at accelerating rates, fewer big purchases (500 acres or more) are being made.

- 1 Phyllis Myers, *Greensense*, published by the Trust for Public Land (Spring 1997).
- 2 Phyllis Myers, “Financing Open Space and Landscape Protection: A Sampler of State and Local Techniques,” published by the Trust for Public Land, in *Land Conservation through Public/Private Partnerships* (1995).
- 3 *Ibid.*
- 4 Hal Hovey, *The Property Tax in the 21st Century*, prepared for The Finance Project (May 1996).
- 5 *Ibid.*
- 6 Henry J. Raimondo, *The Economics of State and Local Government*, published by Praeger Publishers (1992).
- 7 *Ibid.*
- 8 Phyllis Myers, *GreenSense*.
- 9 Phyllis Myers, “Financing Open Space and Landscape Protection: A Sampler of State and Local Techniques.”
- 10 For more details, see Julia Freedgood and Edward Thompson, Jr., *Saving American Farmland: What Works*, published by the American Farmland Trust (1997), from which this section has been excerpted and adapted. To get answers to technical questions about farmland protection, contact the AFT at 800/370-4879.
- 11 Introductory section excerpted from Greenprint Gallery, *Land Conservation for Smart Growth*, published by the Trust for Public Land (1999).
- 12 Chris Scriber, “Land-buy program succeeds,” *Florida Times-Union*, February 9, 2000).
- 13 Jim Saunders, “City Land Buy Blocks Waterfront Building,” *Florida Times-Union* (July 29, 2000).
- 14 “Austin Affirms Commitment to Smart Growth, Open Space and Its Own Natural Beauty,” *Southwest Regional Office Articles*, Trust for Public Land (1999).
- 15 Beverly Griffith, “Bridging Worlds for Austin’s Open Space,” *On the Land*, published by the Trust for Public Land (Winter/Spring 1999).
- 16 “Protecting the Edwards Aquifer,” *Building Green Infrastructure*, published by the Trust for Public Land (2000).
- 17 William Poole, “Friends of the Desert,” *Land & People* magazine, published by the Trust for Public Land (1997).
- 18 Jim Kuliesh of the American Subcontractors Association of Tucson, *Arizona Republic* (May 8, 1997).
- 19 Raul Grijalva, chairman of the Pima County Board of Supervisors, as reported by William Poole in “Friends of the Desert”; *Land & People* magazine; published by the Trust for Public Land (1997).
- 20 City of Boulder Open Space; Department Information; [www.ci.boulder.co.us](http://www.ci.boulder.co.us).
- 21 *Ibid.*



**APPENDIX A LANDOWNERSHIP AND CONTROL TABLES**

Information for these tables was adapted from *Tools and Strategies: Protecting the Landscape and Shaping Growth* (1990) published by the Regional Plan Association, New York. This information was also published in *Doing Deals: A Guide to Buying Land for Conservation*, written by the Trust for Public Land and published by TPL and the Land Trust Alliance (1995).

**Table A-1 Rights and Interests in Land That Can Be Acquired by Local Governments**

Method	Definition	Advantages	Disadvantages
Fee-simple purchase	Full ownership of the land is obtained.	<ul style="list-style-type: none"> <li>• Gives public full access to the property.</li> <li>• Guarantees permanent protection.</li> </ul>	<ul style="list-style-type: none"> <li>• Expensive.</li> <li>• Usually removes land from tax base.</li> <li>• Ownership responsibility includes liability and maintenance.</li> </ul>
Conservation easement/development rights	Legal agreement is made by a property owner to restrict the type and amount of development that may take place on his or her property. A partial interest in the property is transferred to an appropriate nonprofit or governmental entity, either by gift or by purchase. As ownership changes, the land remains subject to the easement restrictions. (Well suited for preserving agricultural land, watersheds, and scenic areas.)	<ul style="list-style-type: none"> <li>• Less expensive than fee-simple ownership.</li> <li>• Tailored to the protection landowners and the property, and the desire of the landowner.</li> <li>• Landowner retains ownership, and property remains on the tax rolls, often at a lower rate because of restricted use.</li> <li>• Potential income and estate tax benefits from donation.</li> <li>• More permanent and often more restrictive than land use regulations, which often with the political climate.</li> </ul>	<ul style="list-style-type: none"> <li>• Public access may not be required.</li> <li>• Easement must be enforced.</li> <li>• Restricted use may lower resale value.</li> </ul>
Purchase of land with leaseback	As part of purchase contract, city/county agrees to lease land back to the seller, subject to restrictions.	<ul style="list-style-type: none"> <li>• Income through leaseback.</li> <li>• Liability and management responsibilities assigned to lessee.</li> </ul>	<ul style="list-style-type: none"> <li>• Land must be appropriate for leaseback (e.g., agricultural).</li> <li>• Public access may not be available.</li> </ul>
Lease	Short- or long-term rental of land.	<ul style="list-style-type: none"> <li>• Low cost for use of land.</li> <li>• Landowner receives income and retains control of property.</li> </ul>	<ul style="list-style-type: none"> <li>• Does not provide equity and affords only limited control of property.</li> <li>• Temporary.</li> </ul>

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**Table A-2** Ways in Which Title Can Be Acquired

Technique	Explanation	Advantages	Disadvantages
Sale at fair market value	Land sold at its value at highest and best use.*	<ul style="list-style-type: none"> <li>• Highest sales income (cash inflow) to seller.</li> </ul>	<ul style="list-style-type: none"> <li>• Can be expensive.</li> </ul>
Bargain sale	Part donation/part sale: property is sold at less than fair market value.*	<ul style="list-style-type: none"> <li>• Often, the landowner is eligible for a tax deduction for the difference between the sale price and the fair market value.</li> </ul>	<ul style="list-style-type: none"> <li>• Seller must be willing to sell at less than fair market value. Can be expensive.</li> </ul>
Outright donation	Donation by landowner of all interest in property.*	<ul style="list-style-type: none"> <li>• Allows for permanent protection without direct public expenditure.</li> <li>• Tax benefits to seller because property's fair market value is considered a charitable contribution.</li> </ul>	<ul style="list-style-type: none"> <li>• Very few landowners willing to consider.</li> </ul>
Bequest	Landowner retains ownership until death.*	<ul style="list-style-type: none"> <li>• Management responsibility usually deferred until donor's death.</li> </ul>	<ul style="list-style-type: none"> <li>• Date of acquisition is uncertain.</li> <li>• Donor does not benefit from tax deductions.</li> <li>• Landowner can change will.</li> </ul>
Donation with reserved life estate	Landowner donates during lifetime but has lifetime use.	<ul style="list-style-type: none"> <li>• Landowner retains use but receives tax benefits from donation.</li> </ul>	<ul style="list-style-type: none"> <li>• Date of acquisition is uncertain.</li> </ul>
Land exchange	Exchange of developable land for land with high conservation value.	<ul style="list-style-type: none"> <li>• Little or no government funds required.</li> <li>• Landowner may defer capital gains recognition.</li> </ul>	<ul style="list-style-type: none"> <li>• Properties must be of comparable value.</li> <li>• Complicated and time consuming.</li> </ul>
Eminent domain	Government takes private property for public purposes upon payment of just compensation, as by right.*	<ul style="list-style-type: none"> <li>• Provides government with a tool to acquire desired properties if other acquisition techniques are not workable.</li> </ul>	<ul style="list-style-type: none"> <li>• Landowner and public opposition.</li> <li>• Can result in speculation on targeted properties.</li> <li>• Potentially expensive and time-consuming litigation.</li> </ul>
Tax foreclosure	Government acquires land by tax payment default.	<ul style="list-style-type: none"> <li>• Limited expenditure.</li> <li>• Land might not be appropriate for public open space but can be sold to provide funds for open space acquisition.</li> </ul>	<ul style="list-style-type: none"> <li>• Cumbersome process.</li> </ul>
Agency transfer	Government agencies that have surplus property inappropriate for their needs transfer it to a parks agency for public use.	<ul style="list-style-type: none"> <li>• Limited expenditure.</li> </ul>	<ul style="list-style-type: none"> <li>• Surplus property available may not be appropriate for park use, or the owning agency may want to sell to a private party to generate revenues.</li> </ul>

\*Conservation easements can also be acquired by these means.

**Table A-3 Government Financial Incentives for Conservation**

Method	Definition	Advantages	Disadvantages
Preferential assessment	Under some state laws, agricultural and forest districts are established to assess land as farmland or forestland, rather than at its highest and best use.	<ul style="list-style-type: none"> <li>• Promotes resource conservation and management.</li> <li>• Especially benefits landowners in areas with development pressure.</li> <li>• Tax base loss can be partially reclaimed through penalty tax on landowners who terminate enrollment.</li> </ul>	<ul style="list-style-type: none"> <li>• Voluntary participation.</li> <li>• Does not provide long-term protection.</li> <li>• Minimum acreage for entry.</li> <li>• Strength of program depends on penalty from withdrawals.</li> <li>• Local government bears burden of reduced tax base.</li> </ul>
Purchase of development rights (PDR)	Local or state government purchases development rights to maintain land in farm use.	<ul style="list-style-type: none"> <li>• Landowner can derive income from selling development rights and continue to own land.</li> <li>• Lower property value should reduce property taxes.</li> </ul>	<ul style="list-style-type: none"> <li>• Can be costly, particularly in a community with high real estate values.</li> </ul>

**Table A-4 Regulatory Techniques for Achieving Growth Control**

Method	Definition	Advantages	Disadvantages
Phased growth	Permits a limited amount of growth each year.	<ul style="list-style-type: none"> <li>• Effective as a comprehensive planning strategy.</li> </ul>	<ul style="list-style-type: none"> <li>• Must be an equitable system to approve development.</li> <li>• Future development pressures difficult to predict.</li> </ul>
Moratorium	Imposes legal postponement or delay of land development.	<ul style="list-style-type: none"> <li>• Useful as an interim measure during the formulation of a master development plan.</li> </ul>	<ul style="list-style-type: none"> <li>• Provides only a temporary solution and can create a rush on land development before it takes effect.</li> <li>• May generate intense opposition from real estate interests.</li> </ul>
Transfer of development rights (TDR)	An owner of publicly designated land can sell development rights to other landowners whose property can support the increased density. Program establishes "sending sites" (those from which development rights are transferred) and "receiving sites" (those to which development rights are transferred). Conservation easements may be placed in perpetuity on the sending site.	<ul style="list-style-type: none"> <li>• Costs of preservation absorbed by property owners who purchase the development rights.</li> </ul>	<ul style="list-style-type: none"> <li>• Difficult to implement. Preservation and receiving areas must be identified.</li> <li>• Can require large-scale and controversial downzoning before program starts.</li> <li>• Receiving areas may oppose additional density.</li> </ul>

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### APPENDIX B LOCAL FINANCING OPTIONS

Method	Definition	Advantages	Disadvantages
Property tax	Tax on real property paid for by commercial and residential property owners.	<ul style="list-style-type: none"> <li>• Steady source of revenue.</li> <li>• Relatively easily administered.</li> <li>• Tax burden fairly broadly distributed.</li> <li>• Small increases create substantial funding.</li> <li>• Popular with voters when restricted to parks and open space.</li> </ul>	<ul style="list-style-type: none"> <li>• Competition for other public purposes.</li> <li>• Overall concern among taxpayers about high rates.</li> </ul>
Sales and use taxes	Taxes on the sales of goods or services.	<ul style="list-style-type: none"> <li>• Relatively easily administered.</li> <li>• Low reporting costs.</li> <li>• Can generate large sums, even at low tax levels.</li> <li>• Can also tap into tourism profits generated by open space amenities.</li> </ul>	<ul style="list-style-type: none"> <li>• Revenues can drop when the economy slows.</li> <li>• Tax is considered regressive.</li> </ul>
Real estate transfer tax	Tax on the sale of property, paid either by the buyer or by the seller.	<ul style="list-style-type: none"> <li>• Funds can be substantial.</li> <li>• Nexus between taxing new development and protecting remaining open space.</li> </ul>	<ul style="list-style-type: none"> <li>• Unpredictable revenue stream.</li> <li>• Difficult to pass.</li> </ul>
Impact fee	One-time fee paid by developer to offset costs of infrastructure needed by new development.	<ul style="list-style-type: none"> <li>• Nexus between taxing new development and protecting remaining open space.</li> </ul>	<ul style="list-style-type: none"> <li>• Park and open space projects must be directly linked to new development.</li> <li>• Makes housing less affordable.</li> </ul>
Special assessment district	Special tax district for area that benefits from an open space project.	<ul style="list-style-type: none"> <li>• Users finance acquisition and management.</li> <li>• Predictable revenue stream.</li> <li>• Accountability in government spending.</li> <li>• Sense of “ownership” of and responsibility for area services and parks.</li> </ul>	<ul style="list-style-type: none"> <li>• Takes time and money to implement.</li> </ul>
Business improvement district	Special tax district that assesses business owners for special services.	<ul style="list-style-type: none"> <li>• Same as for special assessment district.</li> </ul>	<ul style="list-style-type: none"> <li>• Can only address park needs of a limited area.</li> <li>• Inequitable park financing mechanism, not likely to be found in poorer neighborhoods</li> </ul>
General obligation bond	Loan taken out by a city or county against the value of the taxable property.	<ul style="list-style-type: none"> <li>• Allows for immediate purchase of open space, locking in land at current prices.</li> <li>• Distributes the cost of acquisition.</li> </ul>	<ul style="list-style-type: none"> <li>• Extra interest costs of borrowing.</li> <li>• Can require two-thirds voter approval.</li> </ul>
Revenue bond	Loan paid from proceeds of a tax levied for the use of a specific public project, or from proceeds of fees charged to those who use the financed facility.	<ul style="list-style-type: none"> <li>• Not constrained by debt ceilings of GO bonds.</li> <li>• Voter approval rarely required.</li> </ul>	<ul style="list-style-type: none"> <li>• More expensive than GO bonds.</li> </ul>

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