



**National Development Council**

Partners In Community Development Since 1969

Comments of the  
**National Development Council**  
to the  
United States Senate Finance Committee  
Tax Working Groups on  
Community Development & Infrastructure

*Senators Dean Heller & Michael Bennet, Co-Chairs*

(Submitted April 15, 2015)

## INTRODUCTION

The National Development Council (“NDC”) is one of the most experienced and innovative national nonprofit community and economic development organizations in the United States. From its founding in 1969, NDC operated with a singular purpose of: *“increasing the flow of capital for investment, jobs and community development to underserved urban and rural areas across the country.”* NDC continues in the forefront of community revitalization policy, sharing our expertise with thousands of communities in every one of the 50 states and Puerto Rico. In addition to countless local projects and programs NDC’s involvement benefits, the National Development Council financed and developed 8,600 affordable housing units in 29 states, leveraged \$1.7 billion in NMTC supported investment in low income neighborhoods, developed 3.5 million square feet of essential municipal buildings including 7,800 structured parking spaces, loaned \$176 million to 490 small business borrowers located in predominantly low income communities nation-wide and provided classroom and onsite training to over 70,000 housing and community development practitioners. The combination of training and technical assistance enabled our community partners to overcome the negative market factors that traditionally stifle investment in America’s poorest neighborhoods. Our work and the positive impact our industry has on millions of lives would not be possible without several important federal programs contained in the tax code.

Over the last three decades, we watched as federal outlays for programs that support local and regional housing, community and economic development declined by a staggering 75% as a percentage of Gross Domestic Product. As overall federal investment in domestic assistance to communities and neighborhoods across America declined, the federal strategy for financing community development and affordable housing initiatives shifted from direct federal appropriations toward an emphasis on employing tax incentives and other market driven financing tools. This shift in policy created tools that produced measurably positive impacts on the creation of affordable housing and overall investment in low income communities even in a time of diminished direct investment.

Specifically, federal tax incentives for community revitalization include Low Income Housing Tax Credit (LIHTC), New Markets Tax Credit (NMTC), Historic Tax Credit (HTC) and the exclusion of federal tax on interest paid on Municipal Bonds. These programs are succeeding in creating jobs, supporting community revitalization, and generating a significant return on investment through the creation of federal, state, and local tax revenue. Now that Congress is considering reforming the tax code by lowering rates and curtailing tax preference items, some have suggested that these essential financing vehicles, along with several other long standing Federal financing tools, be reduced or eliminated. We reluctantly recognize that direct budgetary spending on programs that support investment in America will continue to decline and based on policy priorities, and may never be restored to previous levels. If federal investment tax incentives are weakened or completely eliminated, communities across America, both urban and rural, will be left without the resources they require to meet critical community development and affordable housing needs, and the “market” will not respond to fill the financing gap created by this retreat in investment.

***NDC SUPPORTED TAX POLICY #1***  
***WE RESPECTFULLY RECOMMEND: Permanently Extend and Strengthen***  
***the New Markets Tax Credit***

The New Markets Tax Credit (NMTC) is an essential financing tool used in our work to revitalize urban neighborhoods and rural communities. The program helps direct investment to communities left out of the economic mainstream, leveraging billions in private sector investment, creating hundreds of thousands of jobs, constructing and improving commercial and community facilities, repurposing vacant buildings, and revitalizing local economies in some of the poorest neighborhoods in America.

The NMTC provides a flexible incentive program designed to compensate for investment impediments imposed by the “market.” The New Markets Tax Credit program empowers local decision-making on important community and economic development projects.

Key Aspects of the New Market Tax Credit:

- NMTC is administered by the Community Development Financial Institutions (CDFI) Fund of the United States Treasury Department. The CDFI Fund issues an annual Notice of Allocation Availability that sets out the terms and conditions for the annual allocation application;
- Applicants must be certified as Community Development Entities (CDEs). A CDE must be a domestic corporation, have a demonstrated mission of serving or providing capital to low income communities or people and maintain accountability to residents of low income communities through representation on a governing or advisory board to the CDE;
- The NMTC program targets investments in Census Tracts with poverty rates at or above 20% or median incomes at or below 80% of Area Median Income. However, the majority of NMTC financing goes to severely distressed communities that far exceed program requirements for poverty and income. From 2003 to 2012, seventy-six percent of NMTC projects were located in severely distressed communities, and;
- The CDFI Fund is required to ensure that non-metropolitan (rural) counties receive a proportional share of NMTC financing. Many high migration rural counties are also eligible for the NMTC<sup>1</sup>.

NMTC Economic Impact:

- From 2003 to 2012, \$63 billion in total project financing went to businesses and revitalization projects, creating 744,267 direct jobs in low-income rural and urban communities, including 457,487 construction jobs and 286,781 full-time equivalent jobs in nearly every industry sector of the economy;

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<sup>1</sup> Section 223 of the American Jobs Creation Act of 2004 (P.L. 108-357, 118 Stat. 1418) amended the definition of NMTC-eligible LICs to include, among other things, census tracts in High Migration Rural Counties with a median family income at or below 85 percent of the applicable area median family income.

- By generating economic activity, NMTC investments provide a healthy return to the federal government. In 2012, NMTC-financed businesses generated *\$984 million* in federal tax revenue which more than covered the estimated *\$800 million* cost of the Credit in terms of lost tax revenue to the Treasury that year.
- NMTC investments create significant impact in rural communities. Between 2003 and 2011, the NMTC delivered *\$3.5 billion in capital to non-metro census tracts*, leveraging an additional *\$3.5 billion from other sources for a total of \$7 billion in capital investment to over 600 rural businesses*. These NMTC investments created more than *67,000 jobs*, including nearly *47,000 full-time jobs* and over *20,000 construction jobs*.

#### NDC's NMTC Work:

Since the inception of the program NDC used the NMTC to support economic and community development. We not only provide tax credit equity to our client communities' projects, but we also help communities structure their NMTC transactions, find the necessary additional financing, and develop relationships with other organizations that receive allocations of the investment tax credits to provide NMTC equity when we cannot.

To date NDC has:

- Received *\$704 million* in NMTC allocation
- Invested in *87 projects* located in *25 states*

Generated over *\$1.7 billion in total other public and private investment* creating or retraining *14,508 jobs*

**The following examples demonstrate the impact of the New Markets Tax Credit created by NDC projects:**

#### ***Makah Commercial Dock Neah Bay, WA***

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##### **COMMUNITY PROFILE:**

Census Tract# 53009940000

Tract status: Non-Metro/Rural

Poverty: 27.3%

Household income: 46.6% of Area Median

Unemployment: 18.8%

Population: 1.430

**PROJECT NARRATIVE:** : The Makah commercial fishing dock located in the Northwest Washington Coastal town of Neah Bay supports over *90* small commercial fishing businesses that depend on the dock to offload their catch and sell to fish buyers. Through these operations the pier produces *\$7 million* a year in direct and indirect economic benefits to the region, including approximately *\$600,000* in annual revenue to the Tribe. The pier deteriorated in recent years and reached a condition where it was unsafe and had to be closed thereby impacting revenue to the Tribe. This New Markets Tax Credits investment enabled the full replacement of the deteriorated dock, pilings and causeway, along with construction of a new icehouse and three new off-load cranes. The new facilities will result in reduced operating costs and

savings of \$21,000 per year in maintenance costs. The new facility preserves this key economic resource for the Tribe and paves the way for upgraded emergency response, vessel rescue and spill response operations in the area. This project created greater readiness for disaster response operations

*NDC's \$7.8 million Qualified Equity Investment in the \$13.7 million project was combined with an EDA grant and tribal funds, resulting in the creation of 37 construction jobs and expected retention of at least 400 permanent full time jobs.*

### ***The Continental Tire Company***

#### **Sumter, SC**

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##### **COMMUNITY PROFILE:**

Tract No: 45085000600

Tract Status: Metro

Poverty: 17.3%

Household Income: 79.7% of AMI

Unemployment: 8.9% (1.53 times national average)

Population: 4043

**PROJECT NARRATIVE:** The Continental Tire project, located in Sumter, South Carolina is a 1 million square foot manufacturing plant with customized tire building equipment that produces tires for customers across the United States, Canada and Mexico. Since 2011 Continental Tire has committed to invest \$500 million in the community and has hired 625 FTE employees to date. Continental plans to create a total of 1,600 new jobs and make 8 million tires per year when in full production in 2021. The New Markets Tax Credit investment allowed Continental Tire to expand its North American operations and gain the support of the local government, which provided water, sewer and road infrastructure as well as tax abatements to support the manufacturing plant.

*NDC's \$9.0 million Qualified Equity Investment in the \$106.2 million project was combined with a consortium of CDEs' \$58.0 million Qualified Equity Investments in partnership with Chase Bank, resulting in the creation of 665 construction jobs and expect 1,600 new permanent jobs. The facility is located in a CDFI qualified census tract with an unemployment rate of 1.53 times the national average.*

##### **NDC Policy Recommendation:**

Based on this record of success, the New Market Tax Credit program deserves authorization as a permanent part of the Internal Revenue Code. The National Development Council urges Congress to adopt the provisions of the bipartisan extension legislation in the House and Senate, the New Markets Tax Credit Extension Act of 2015 (H.R. 855/S. 591). Both bills would permanently authorize the New Market Tax Credit program, increase the annual credit authority in 2015, with inflation adjustments in future years and provide an exemption from the Alternative Minimum Tax for NMTC investments. Without this tool, communities will lose billions in financing for important projects that create jobs and jump-start local economies.

**NDC SUPPORTED TAX POLICY #2**  
**WE RESPECTFULLY RECOMMEND: Strengthen the Low Income Housing Tax Credit**

The Low Income Housing Tax Credit (**LIHTC**) is the single most important federal resource available to support the development and rehabilitation of quality and safe affordable housing, currently financing approximately *90 percent* of all new affordable housing developed in the country. While LIHTCs are often used with other sources of financing, they are the essential ingredient in addressing America's affordable housing shortage. Based on our experience using LIHTC to create *8,600 affordable units for over 21,500 low income renters*, NDC recommends that Congress make permanent the reforms included in the Housing and Economic Recovery Act of 2008, which would ensure the continued success of the program.

Key aspects of Low Income Housing Tax Credits:

- The Low Income Housing Tax Credit program is administered by the states which are allocated credits based on population and the state's adoption of a "Qualified Allocation Plan";
- There are two types of credits used with taxable financing: one for *70% of the present-value* cost of constructing or substantially rehabilitating properties, and one for *30% of the present-value* cost of acquiring existing properties. There is a third type of credit, a *4% rehabilitation and new construction* credit which is not allocated by population and is granted solely when used in combination with a tax-exempt multi-family mortgage revenue bond "*IRC Section 143 "Qualified Private Activity Bond."*
- Allocation of credits to a project is a state decision and there is vigorous competition among developers for LIHTCs with demand far exceeding supply;
- LIHTC households must have incomes that do not exceed *60% of area median* and many are at *50% and 40% of area median*;
- Rents are limited based on household income and number of bedrooms; and
- Properties must be maintained and remain affordable for a minimum of 30 years.

Economic Impact of the LIHTC:

Over the history of the LIHTC program, which dates back to the Tax Reform Act of 1986, the Credit financed some *2.5 million rental units housing more than twelve million people*. More recently, between 2009 and 2011, LIHTC financed over *200,000 units* of affordable housing. In addition to these significant improvements to the quality and quantity of rental housing stock across America, credit investments also generated significant economic activity including creating about *90,000* construction and permanent jobs annually generating *billions* in economic activity.

While the LIHTC is a critical financing tool for metropolitan areas, it is also the principal tool used by rural communities to overcome barriers to developing affordable rental housing. Between 2009 and 2011, LIHTC investments financed *10,911 affordable housing units in rural communities*.

A significant need remains to increase the supply of affordable housing. Most of America's *11 million* renters – including those eligible for LIHTC units – pay more than *30% of income* for housing and one-quarter spend half their monthly income. According to the Bipartisan Housing Commission only one in four renter households received federal housing assistance of any kind. The gap between supply of rental housing and demand for units by extremely low income households – those with incomes not exceeding 30% of area median – stands at *6.5 million units*. For every *100 extremely low-income renter households*, there are only *29 affordable and available rental units*, and demographic changes will only exasperate this problem over the next decade.

Beyond increasing the supply of housing, LIHTC helps states to meet new construction needs, and to preserve existing affordable housing. For these reasons, the Commission recommended a 50% increase in LIHTC over current rates as part of comprehensive housing finance reform.

#### NDC LIHTC Work:

NDC Corporate Equity Fund, L.P. (CEF) provides equity capital for the construction, renovation and preservation of quality affordable housing using Low Income Housing Tax Credits, Historic Preservation Tax Credits and Renewable Energy Credits. The CEF affordable housing portfolio includes *174 LIHTC projects* with over *8,600 units* of housing with activity in *29 states and Puerto Rico*. NDC Corporate Equity Fund has leveraged over *\$1.5 billion* in other public and private investment to develop essential affordable rental housing.

NDC's analysis of a sampling of twenty-five (25) LIHTC projects showed that these projects created *1,618 jobs* and *1,472 units of affordable housing* with total tax credits awarded of *\$125,893,499*. In Colorado alone, NDC Corporate Equity invested in 19 LIHTC projects with an aggregate cost of *\$133,626,685*. *Seven of the nineteen* LIHTC projects are in rural communities. In addition, one historic tax credit project resulted in an additional *\$1,500,000* investment. All told *921 affordable housing units (235 in rural communities)* came to life. The LIHTC investments intentionally created economic integration to avoid concentration of poverty.

**The following examples illustrate NDC's LIHTC work:**

#### ***Seniors on Broadway***

#### **Eagle, CO**

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#### **COMMUNITY PROFILE:**

6,522 (92% urban, 8% rural). Population change since 2000: +115.1%

Estimated median household income in 2012: \$74,516, higher than Statewide median household income \$56,765

White alone - 5,016 (76.6%)

Hispanic - 1,416 (21.6%)

Two or more races - 30 (0.5%)

American Indian alone - 29 (0.4%)

Asian alone - 27 (0.4%)

Black alone - 9 (0.1%)

**PROJECT NARRATIVE:** This project created 14 units of low income senior housing that allowed seniors the opportunity to live comfortably while offering income integration in the small resort town of Eagle, CO.

### ***Washington St. Senior Residences***

#### **Kokomo, IN**

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##### **COMMUNITY PROFILE:**

56,895 (100% urban, 0% rural). Population change since 2000:+23.4%

Median household Income **\$32,598**, \$14,376 lower than Statewide median household income

White alone - 44,858 (82.5%)

Black alone - 5,660 (10.4%)

Hispanic - 1,805 (3.3%)

**PROJECT NARRATIVE:** Washington Street Senior Residences is a *54-unit* new construction project on a once vacant city block, on one of downtown Kokomo's major arterials and adjacent to the city's Depot District. Financing of just over *\$8 million* of tax credit equity and minimal hard debt allows the sponsor to structure the project with almost half of its units and rents restricted at *30-40% of AMI*, with the remaining at *50-60%*; *seniors with limited incomes aged 55 and older* have the opportunity to reside in the heart of downtown and avail themselves of a variety of services. The four-story elevator building features an array of inside and outdoor amenities with ample parking for residents, and the unit mix includes garden apartments. The development team includes non-profit and for-profit partners and service providers. Proximity to public transportation, social services including those available at the nearby Kokomo Senior Citizens Center, downtown retail establishments and houses of worship make the location ideal for this senior project that provides much needed quality affordable senior housing in a city with a growing elderly population. As the city's economy continues to recover in part due to successful local economic development efforts, this project highlights the ongoing reinvestment in Downtown Kokomo.

#### NDC Policy Recommendations

We recommend Congress make permanent and expand many of the reforms codified in the Housing and Economic Recovery Act of 2008 (HERA). The legislation enacted a minimum credit rate of 9% for projects involving new construction and substantial rehabilitation (*70% credits*) placed in service before December 31, 2013. This provision simplified state administration of the program and removed the financial uncertainty and risk associated with underwriting properties using the "floating rate" system. It was also cost-neutral, since it did not change the amount of Housing Credit allocation that each state receives. HERA also allowed investors to use LIHTC to offset the alternative minimum tax, a reform that brought new investors into the market and improved pricing of the credit. Congress took these actions because the credit rate, which is based on a formula that includes federal borrowing rates –was so low that it jeopardized financing for many potential developments, particularly those targeting the lowest income residents. Since that time Congress has extended this provision several times.

Specifically, NDC endorses the provisions of H.R. 1142, bipartisan legislation introduced on February 26, 2015, by Reps. Pat Tiberi (R-OH) and Richard Neal (D-MA) along with 16 co-sponsors that would make permanent the temporary 9% minimum credit rate for new construction and substantial rehabilitation and also establish a minimum 4% rate credit for existing buildings.

## **NDC SUPPORTED TAX POLICY #3**

### ***WE RESPECTFULLY RECOMMEND: The preservation of Tax-Exempt Bonds***

NDC supports the continuation of the over 100 year old exemption on interest earned on municipal bonds and private activity bonds. Each is vital to the continued investment in both conventional and social infrastructure. Hence, we urge the Senate Finance Committee to continue the exemption that so effectively stimulated investment in America's infrastructure.

#### Key Aspects of Tax-Exempt Municipal Bond Financing:

- State and local governments use tax-exempt municipal bonds to finance the construction of the majority of our nation's core infrastructure.<sup>2</sup> These municipal bonds finance roads, highways, and bridges; public transportation; seaports and marine terminals; airports; water and wastewater facilities; schools; acute care hospitals; multi-family housing; libraries; parks; town halls; electric power and natural gas facilities; and other public projects
- A Qualified Private Activity Bond is a type of municipal bond that finances certain qualifying public and private projects or other qualifying uses, such as state-based student loan programs, docks/wharfs, renewable energy facilities, solid waste facilities, transportation infrastructure, state-based single family mortgages, state-based multi-family mortgages, industrial facilities and certain 501(c)(3) capital projects. Interest on Qualified Private Activity Bonds is exempt from the federal income tax, and some state income taxes but in most cases, except for 501 (c) (3) financing, is subject to the Alternative Minimum Tax.
- Taxable bonds historically carry interest costs from *150 to 300 basis points* (1.5 to 3.0 percentage points) higher than similarly rated tax-exempt municipal bonds. Qualified Private Activity Bonds are exempt from federal income tax, but in most cases are subject to the AMT which drives up the coupon paid to bond holders on these types of bonds. The AMT is, effectively, a surtax beyond the regular income tax that is paid by taxpayers above a certain minimum income level—similar in many respects to the “cap” or limits on investor return being proposed by some for municipal bonds. While some argue that in theory these surtaxes should not raise borrowing costs for state and local issuers, in fact, a Qualified Private Activity Bond typically costs users about *50 basis points* (0.5 percentage points) on average more to carry than a similarly rated government purpose bond.
- Some critics say the exclusion from federal income tax for municipal bond interest as currently priced in the market is inefficient and offers a windfall for wealthy investors. But

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<sup>2</sup> CONG. BUDGET OFFICE, J. COMM. ON TAXATION, SUBSIDIZING INFRASTRUCTURE INVESTMENT WITH TAX-PREFERRED BONDS (Oct. 2009)(showing that for education, water, and sewer, nearly all capital investments are made by state and local governments and that for transportation most investments are made by state and local governments).

even critics of the exclusions agree that at least 80 percent of the benefit of the exclusion goes to reduce state and local borrowing costs and not as a windfall to investors.<sup>3</sup>

- Nationwide, about *72 percent* of bond interest is paid to individuals, either directly or through mutual funds and similar investment vehicles. About *60 percent* of household municipal bond income goes to investors over the age of *65*; and about half of household municipal bond income goes to investors with *incomes of less than \$250,000*. Households purchase municipal bonds because of the stability of the municipal bond market and the safety of the investment. The federal exemption of municipal bond interest protects this income from federal tax. However, investors accept a lower rate of return on these bonds in exchange for the benefit of the tax exemption—reducing or eliminating any tax “windfall.”

#### Economic Impact of Tax-Exempt Bonds:

- In fact, tax-exempt municipal bonds financed more than *\$1.7 trillion* in new infrastructure investments in the last decade.<sup>4</sup>
- Proposals to eliminate or reduce the deduction for interest earned from municipal bond investments focus solely on federal tax revenues to be raised by such proposals, ignoring almost entirely the potential effect on state and local governments and, so, state and local residents. Private sector analyses, however, confirm that taxing municipal bonds, in whole or in part, or replacing municipal bonds with some other financing tool will increase state and local financing costs. The data suggest that these cost increases will actually go well beyond any revenue gain such a change might generate for the federal government. Had municipal bond interest been subject to federal income tax, the *\$1.65 trillion* in new infrastructure projects financed from 2003 to 2012 would have cost state and local governments an additional *\$495 billion* in interest expense.
- A partial tax, such as one intended to “cap” the value of tax expenditures, would have increased those costs by *\$173 billion*.<sup>5</sup> Interest costs on refinanced debt and bonds issued for non-infrastructure projects would also increase.
- A new tax on bonds would affect all Americans, not just “wealthy” investors being targeted. If Congress were to upend the *100-year* precedent of exclusion to tax municipal bond interest with, for example, a surtax on municipal bond interest the price would ultimately be paid by state and local taxpayers. Initially, it will be borne by all investors – regardless of whether they actually pay the tax – as the value of all municipal bonds in the secondary markets decline.<sup>6</sup>

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<sup>3</sup> *Federal Support for State and Local Governments through the Tax Code before the S. Comm. on Finance, 112<sup>th</sup> Cong. (2012)*(statement of Frank Sammartino, Cong. Budget Office).

<sup>4</sup> NATIONAL ASSOCIATION OF COUNTIES ET AL., *PROTECTING BONDS TO SAVE INFRASTRUCTURE AND JOBS*, 3 (2013) (<http://www.naco.org/newsroom/pubs/Documents/Protecting-Bonds-to-Save-Infrastructure-and-Jobs-2013.pdf>).

<sup>5</sup> *Supra* Note 5 at 5.

<sup>6</sup> Michael Kaske, *Tax Cap Threatens \$200 billion Muni Loss, Citigroup Says*, Bloomberg, Dec. 7, 2012 (reporting analysis that limiting the tax value of the exclusion for municipal bond interest will reduce the value of existing bonds in the secondary market); Brian Chappatta, *Tax-Status Threat Fuels Worst Losses Since Whitney: Muni Credit*, Bloomberg, Dec. 21, 2012.

- If such a new tax was enacted, when state and local governments go to issue new debt, the cost of the new tax will not be borne by the investor, who will be compensated with higher rates for any taxes they pay, but rather by state and local residents forced to pay billions more every year in additional financing costs.<sup>7</sup>
- Effectively, a new tax on bonds would result in a locally imposed federal tax.

#### Key aspects of NDC's use of Tax-Exempt Bond Financing:

NDC uses tax-exempt bonds to finance privately delivered but publically owned buildings, roads and municipal utilities in partnership with local communities and universities. NDC has long been a leader in the use of bonds by non-profits to support the rebuilding of a communities social infrastructure. NDC pioneered the concept and uses the *"American Model"*, an innovative approach to Public Private Partnerships combining tax-exempt financing with private sector design, construction and management efficiency.

In nearly all cases, taxable debt is more costly than tax -exempt debt. Tax-exempt debt operates on a longer term, has a fixed rate and a lower cost. The Municipal Debt Market also traditionally provides 100% of the financing needs of a project and alleviates the need for costly private equity. Unfortunately, the majority of emerging public private partnerships rely on the more costly taxable debt option thereby reducing the financial savings to the government.

The public sector does not regularly build facilities for its use. Unlike roads or sidewalks, city halls or municipal office building projects are undertaken once every few decades. When it comes time for a public entity to embark on a construction project, it is generally as concerned with consensus, procedure, and public perception as it is with outcome. In the private sector such concerns, while not totally absent, are clearly secondary to the primary goal of quality construction and a cost efficient project delivery. Combining efficient private development methods with cost efficient tax exempt debt financing using the existing Tax Code through the use of qualified nonprofit intermediaries is a smart and efficient way to jumpstart the reconstruction of America's failing infrastructure.

Tax-exempt bonds make infrastructure development more cost efficient, thereby lessening the burdens of government, saving money, creating jobs, and strengthening the local tax base. Projects such as municipal office space, parking garages, laboratory space, student housing, libraries, biomedical research facilities, and hospitals provide benefit to the public while at the same time contributing significantly to the overall economy. Meeting the infrastructure challenges of the next decade will be difficult, but without the affordable financing provided through tax-exempt bonds, it will be nearly impossible.

#### NDC's Tax-Exempt Bond Work:

As consultants to local and state governments, NDC sees the positive impact of the tax exemption on interest earned on bonds daily. We know that our clients rely on that low cost source of revenue. We are

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<sup>7</sup> GEORGE FRIEDLANDER, CITI, MUNI ISSUERS AND THE CURRENT MARKET ENVIRONMENT: THREATS, CHALLENGES AND OPPORTUNITIES 10 (Mar. 30, 2012)(estimating a yield increase of as much as 75 basis points); JOHN HALLACY & TIAN XIA, BANK OF AMERICA MERRILL LYNCH, MUNIS & DERIVATIVES DATA, 1 (Feb. 13, 2012)(estimating a 40 basis point increase on issuer costs); BLX at 6 (estimating a 77 basis point increase in all-inclusive borrowing costs for large issuers and a 92 basis point increase in all-inclusive borrowing cost for smaller issuers).

also aware that many groups are presenting this issue to the Senate Finance Committee. Indeed we signed on to the submission from the Municipal Bonds for America Association.

Therefore, we focus here on our work using private activity bonds. During the last *26 years*, NDC used tax-exempt bonds to develop *37* essential social and conventional infrastructure projects totaling over *\$2.5 billion* in development costs. In each instance the community or governmental entity engaged NDC to undertake the project to lessen that community's governmental burden. NDC completed all of our projects on-time and on, or under-budget with savings benefiting the public partner. The facility operation or management and maintenance has been, and continues to be, privately delivered and competitively priced.

To ensure operational efficiency, the NDC "*American Model*" allows the nonprofit sponsor/owner to hire "best in class" private developers, construction and property managers to build, operate and maintain the facility. NDC's "*American Model*" is an innovative approach to public private financing that combines the low cost of tax-exempt financing with private sector design, construction and management efficiency. To date we have completed *37* projects, all on time and on or under budget resulting in *\$2 billion* of new development. NDC's American Model requires no new budget authority or modification to the existing tax code. We therefore ask you to preserve our ability to use this effective tool.

**The following examples illustrate NDC's use of Tax-Exempt Bonds:**

***Volusia County Parking and Intermodal Transportation Center  
Daytona, Beach, FL***

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**COMMUNITY PROFILE:**

Census Tract: 12127081200

Percentage of Persons Living in Poverty: 16.2%

Population in 2013: 62,316 (99% urban, 1% rural). Population change since 2000: +2.1%. Estimated median household income in 2012: \$27,762, \$19,194 less than statewide median income.

White alone – 36,017 (57.8%)

Hispanic – 3,863 (6.2%)

Black alone – 20,190(35.4%)

The City of Daytona Beach, Florida faced several difficult problems requiring a well planned and executed development strategy. The City of Daytona Beach and Volusia County proposed constructing a *1,500 space* parking garage adjacent to the County Ocean Center and adjacent to the beach to accommodate increased traffic created by the proposed expansion of the Ocean Center, the construction of Ocean Walk Village, and the expansion of the Adam's Mark Hotel, as well as house an intermodal facility and remove parking from an environmentally sensitive area of the beach.

After exploring various ownership and financing options available, the County, acting in its interest and on behalf of the City, partnered with NDC to design, finance and construct the new parking garage and intermodal transportation center.

NDC delivered this *\$17 million* project ahead of schedule and on budget. This creative public private partnership which included a private development and construction partner and the use of Tax-Exempt 501(c)(3) bonds not only lowered the cost of capital versus the private financing proposed by other development teams, the introduction of NDC's "*American Model*" structure insulated the County from

construction risk, accelerated project completion by over eighteen months while at the same time satisfying the need to create structured parking for the redevelopment occurring along the beach, and in connection with the expansion of the Ocean Center. The siting of the intermodal transportation center within NDC's garage also solved a long standing problem on where to site the County facility in an area of high property values and limited land. The garage, by removing cars from the beach, saved a breeding habitat for sea turtles and opened up sections of beach for non-vehicular recreational use.

The project upon completion was transferred to a de nova locally controlled 501(c)(3) created by NDC as part of the bond financing process and the garage continues to be operated as a public garage.

***University of Washington, Lake Union Campus  
Seattle, WA***

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**COMMUNITY PROFILE:**

Census Tract: 53033007200

Percentage of Persons Living Below Poverty: 19%

Population in 2013: 652,405 (100% urban, 0% rural). Population change since 2000: +15.8% Estimated median household income in 2012: \$64,473, \$6,900 more than statewide median income.

White alone - 413,696 (65.2%)

Asian alone - 92,364 (14.6%)

Hispanic - 46,413 (7.3%)

Black alone - 45,000 (7.1%)

Two or more races - 31,076 (4.9%)

**PROJECT NARRATIVE:** In the summer of 2003, University of Washington School of Medicine first engaged NDC as a partner in renovating the existing Brotman Building into a state-of-the-art biomedical research facility. Based on the success of Phase I, the partnership continued. UW Medicine South Lake Union Phase II broke ground in 2006, and then In April 2010, the University of Washington's Board of Regents approved plans to move forward with Phase 3.1 which was completed in 2013.

The currently completed campus consists of three state-of-the-art laboratory buildings and one office building. It totals *542,000 square-feet*, with a total bond issue of more than *\$362 million*. Plans to continue development (Phases 3.2 and 3.3) will add two new buildings to the same city block as Phase 3.1. With the completion of Phase 3.3, the entire UW Medicine Lake Union Campus will consist of *six buildings* and *903,000 square-feet* of office and life sciences laboratory space. UW currently leases the buildings from the NDC created partnership who contract with a private management company.

The UW Medicine's project, in partnership with Vulcan Real Estate and NDC HEDC Public-Private Partnerships, utilized two forms of Tax-exempt bond, 501 (c)(3) bonds and 63-20 bonds, and a unique approach to a collaborative delivery model and Public-Private Partnerships. UW Medicine and Vulcan Real Estate hired a not-for-profit owner/issuer of tax-exempt bonds, NDC HEDC Public-Private Partnerships to create a bankruptcy remote entity. The development team was under contract to take construction and delivery risk. They were given the tools to do so, including incentives to build efficiently and to strict quality standards. After construction was completed by Sellen Construction, the facilities are leased to UW Medicine. After the debt is retired all phases of the project are then transferred to UW Medicine at no cost. Rent is dictated by the lease and is set at the debt service plus operating costs.

To better understand the value of NDC HEDC's approach to public-private partnerships, UW School of Medicine compared our delivery with the University of Washington's traditional delivery structure. In

their unofficial report, UW Medicine compared the development of two newly constructed and successful university wet-laboratory science buildings, Phase III of UW Medicine South Lake Union that utilized 63-20 tax-exempt bond financing and a collaborative delivery model and the University of Washington's Molecular Sciences Building that was built using the University's traditional GC/CM approach. In the report, UW Medicine determined that the University of Washington's *90,374 GSF Molecular Sciences Building took 35 months to build*. In comparison UW Medicine's *South Lake Union Phase III took only 21 Months to build and was over twice the size at 216,109 GSF*. When adjusted for the scale of the project the preliminary determination by UW School of Medicine is that UW Medicine South Lake Union Phase III cost *14% to 29% less than the University of Washington's Molecular Sciences Building*. UW facility manager Jill Morelli reported on this success when she spoke at the 2014 P3 conference.

NDC Policy Recommendation:

**Maintain the federal tax exemption on municipal bond interest.** Proposals to reduce, repeal or limit the tax exemption on municipal bonds would have a severely detrimental impact on the replacement and expansion of the nation's infrastructure, destroy the highly efficient municipal bond marketplace, and raise the cost for state and local borrowers and creating uncertainty for investors. Proposals to tax municipal bond interest, in whole or in part, would also introduce uncertainty into the municipal market, causing investors to fear additional federal intervention in the market where none has existed for the past 100 years.

Furthermore, capping or eliminating the exemption on municipal bond interest will adversely impact job creation. A recent IHS Global Insight report estimates that proposals to replace the exemption with a 28 percent cap on investor deductions would result in the loss of almost *312,000 jobs* annually and *\$24.7 billion* in GDP. The report also estimates that full repeal of the exemption would result in the loss of nearly *892,000 jobs* annually and *\$70.7 billion in GDP*.

NDC encourages the Senate Finance Committee to continue the partnership with state and local government and resist any efforts to shift the cost burden for infrastructure from the federal government to state and local governments. After all every American taxpayer lives in a local community and will bear the burden of cost shifting.

## **NDC SUPPORTED TAX POLICY #4**

### **WE RESPECTFULLY RECOMMEND: The Preservation and Enhancement of the Historic Tax Credit**

The Historic tax credit encourages significant financial investment in historic preservation. From the first tax benefit for historic preservation signed by President Gerald Ford, the historic credit now has a clear record of leveraging private investment. The goal Tax Reform Act of 1996 stated:

*Congress believes that the rehabilitation and preservation of historic structures and neighborhood is an important national goal. Congress believes that the achievement of this goal is largely dependent upon whether private funds can be enlisted in the preservation movement.*

The record now clearly shows the success of the historic tax credit. Historic tax credits alone cannot finance a project. Instead the credit is intended to leverage private investment in projects that are costlier and riskier than new construction. According to an IRS study in 2002 the completed projects brought “renewed life to deteriorated business and residential districts, created new jobs and new housing unit, increased local and state revenues, and helped ensure long-term preservation of irreplaceable cultural resources.”<sup>8</sup>

#### Key Aspects of the Historic Tax Credit:

- Twenty percent credit:
  - An income tax credit equal to 20% of the qualifying rehabilitation cost is available for rehabilitation of historic, income-producing buildings determined by the Secretary of the Interior (through the National Park Service) to be “certified historic structures”
  - An additional income tax credit equal to 10% of the qualifying rehabilitation costs is available for rehabilitation of historic, in
  - State Historic Preservation Offices and the National Park Service review the rehabilitation to ensure that it complies with the Secretary’s standards for rehabilitation
  - The IRS defines qualified rehabilitation expenses
  - Developers may transfer the historic tax credits to investors in exchange for equity
- Ten percent credit:
  - An income tax credit of 10% for the rehabilitation of non-historic buildings placed in service before 1936. The building must be rehabilitated for non-residential use.
  - The rehabilitation must meet three criteria: at least 50% of the existing external walls must remain in place as external walls, at least 75% of the existing external walls must remain in place as both external and internal walls, and at least 75% of the internal structural framework must remain in place.

#### Economic impact of the Historic Tax Credit:

- Research conducted for the National Park Service by the Rutgers Center for Urban Policy Research documents that since enactment of the historic tax credit in 1981, the credit has leveraged \$117 billion in private investment in historic rehabilitation, created nearly 2.5 million jobs, created or renovated more than 500,000 housing units, and rehabilitated more than 40,000 historic buildings.

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<sup>8</sup> Internal Revenue Service, “Market Segment Specialization Program, Rehabilitation Tax Credit.” Training 3149-109, Rev 02/2002, Catalog Number 83711M

- The 762 completed projects certified in FY 2014 created an estimated 77,762 jobs and nearly 19,786 new or renovated housing units.
- This tax incentive more than pays for itself. The same studies report that over the life of the program, \$24 billion in tax credits have generated more than \$28.6 billion in federal tax revenue associated with historic rehabilitation projects. Indeed, the historic tax credit more than pays for itself: *every \$1 of tax credits ultimately generates \$1.19 in tax revenue for the federal government.*<sup>9</sup>
- The historic tax credit is helping the communities that need it the most. According to an analysis of historic transaction data after 2001, eighty-four percent of historic tax credit projects are in low or moderate income census tracts, and more than two-thirds are in low income census tracts. More than one-third of the housing units created by the historic tax credit are priced as low or moderate income.

#### NDC Historic Tax Credit Work:

NDC Corporate Equity Fund, L.P. (CEF) provides equity capital for the construction, renovation and preservation of affordable housing using Low Income Housing Tax Credits, Historic Preservation Tax Credits and Renewable Energy Credits.

The following examples illustrate NDCs Historic Preservation Work:

NDC projects often combine the Historic Tax Credit with other community and economic development tools to allow projects that would not otherwise be financially possible.

#### **Examples of our work in this area include:**

##### ***Park Ave Apartments*** **Canon City, CO**

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#### **COMMUNITY PROFILE:**

Population in 2013: 16,318 (99% urban, 1% rural). Population change since 2000: +5.7% Estimated median household income in 2012: \$38,793, \$17,972 less than statewide median household income.

White alone - 13,533 (79.7%)

Hispanic - 1,930 (11.4%)

Black alone - 863 (5.1%)

American Indian alone - 250 (1.5%)

Two or more races - 202 (1.2%)

Asian alone - 157 (0.9%)

**PROJECT NARRATIVE:** The equity created by the sale of \$500,000 of historic tax credits, together with Low Income Housing Tax Credit equity and developer financing allowed the owner of this 26-unit family project to rehabilitate studio, 1-, 2- and 3-bedroom apartments and preserve both the Historic South Canon City High School (built c. 1904 and converted to residential use in 1973) and affordable family housing for 26 households at 40% and 50% of AMI.

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<sup>9</sup>Rutgers University, Bloustein School of Planning and Public Policy, *Annual Report on the Economic Impact of the Federal Historic Tax Credit for FY 2014.*

### ***Aeolian Senior Apartments*** **Vicksburg, MS**

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#### **COMMUNITY PROFILE:**

Population in 2013: 23,542 (93% urban, 7% rural). Population change since 2000: -10.8%. Estimated median household income in 2012: \$26,402, \$10,693 less than the statewide median household income.

Black alone - 15,788 (66.2%)

White alone - 7,447 (31.2%)

Asian alone - 277 (1.2%)

Hispanic – 264 (1.1%)

**PROJECT NARRATIVE:** Historic tax credit equity in the amount of \$1.3 million together with Low Income Housing Tax Credit equity and bank financing enabled the developer to acquire and renovate this historic property built in 1924 and vacant from 1991 until it was placed in service in 2013. The renovation of the Aeolian Apartments, a contributing structure in Vicksburg’s Uptown Historic District, has provided 60 units of housing serving adults 62 and older with low to moderate incomes. The Aeolian provides an extensive array of amenities to its residents, who also have easy access to many local benefits and services. Located within walking distance of the mighty Mississippi River, The Aeolian has been restored to a place of pride in Vicksburg, designated by the National Trust for Historic Preservation as one of Mississippi’s original Main Street towns.

### ***365 Jay Street – “Old Brooklyn Firehouse Headquarters”*** **Brooklyn, NY**

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#### **COMMUNITY PROFILE:**

Population: 2,538,705

Estimated median household income in 2012: \$45,230, \$11,218 less than statewide median household income.

White alone - 854,532 (34.7%)

Black alone - 848,583 (34.4%)

Hispanic - 487,878 (19.8%)

Asian alone - 184,291 (7.5%)

Two or more races - 68,688 (2.8%)

**PROJECT NARRATIVE** Built in 1892 and an active firehouse (complete with seven-story watchtower) until the 1970s, this Richardsonian Romanesque building, placed on the National Register of Historic Places in 1972, was converted to affordable housing in 1989. Its first residents were low income people displaced by construction of Brooklyn’s MetroTech Center. The \$5.7 million renovation completed in December 2014 was funded in part by the equity generated from the sale of almost \$1.0 million in historic tax credits. The development team includes a Brooklyn-based non-profit experienced in housing and economic development, and a for-profit firm specializing in rehabilitation that will also manage the project. A significant and once again splendid landmark for the borough and the City of New York, 365 Jay Street also continues to be home to 18 families, some of whom are the original tenants from the 1980s, and who will continue to pay affordable rents.

Furthermore, the catalytic impact of the historic tax credit is only now being recognized. Often the historic buildings are in neighborhoods with questionable reputations and too many vacant lots. One neighborhood that aptly demonstrated the impact of the historic credits’ ability to attract investors to an area lacking in prosperity is the Depot District in Salt Lake, Utah. There two historic tax credit projects –

Big-D construction and Artspace understood that the success of their investment required additional new economic activity. While the developer stated that neither project would have been possible without the historic tax credit, the community is experiencing clear benefits. According to a recent report issued by the National Trust for Historic Preservation called “Prosperity through Preservation,” since the completion of these two projects, the market value of properties in the area has increased 22.5% at a time when the citywide property valued declined more than 17%.

NDC Policy recommendation:

NDC recommends the preservation of the Historic Tax Credit, an incentive with a demonstrated record of leveraging private investment at a rate of \$4 for every \$1 of credit. We also recommend that Congress enact several technical fixes that would improve the pricing and efficiency of the credit while making it easier to use on smaller Main Street projects. These fixes are included in the Creating American Prosperity through Preservation (CAPP) Act, bipartisan legislation that has been introduced in the past several Congresses. The CAPP Act contains several technical fixes, the most important of which are the following:

- Enable more “Main Street” historic preservation in small towns and rural areas by increasing the HTC from 20 percent to 30 percent for “small projects” – those with \$5 million or less in qualified rehabilitation expenditures.
- Increase energy-efficient rehabilitation by increasing the both the 10 and 20 percent credits by 2 percentage points, if the rehabilitation is successful in increasing the building’s energy efficiency by 30 percent or more.
- In the Tax Reform Act of 1986, Congress provided that any building built before 1936 was eligible for the 10 percent rehabilitation tax credit. This arbitrary date is not indexed. We recommend indexing eligibility to fifty years in the past.
- Modifying Section 47c rules limiting the definition of a qualified lease to those leases that are part of the sale leaseback. This would make it easier for nonprofits and local governments to participate in the program, thereby increasing the number of community facilities, schools, and affordable housing that can be placed in service using the historic tax credit.

These changes would increase the catalytic impact of the historic tax credit, improve pricing, and broaden its use in rural areas and smaller main street communities.