

## **Principles for Public Investment in Support of Commercial Redevelopment**

1. The redevelopment site or area must be located within an area of the County that is of strategic importance to achieving the County's revitalization goals.
2. The use of public funds shall be directed toward select "Pioneer Projects" that result in area-wide benefits. Pioneer Projects include single projects that will have a catalytic effect on the revitalization of an area; projects on more than one site that collectively result in such benefits; or, area-wide public improvements (such as replacement of utilities) that have broad area benefits.
3. Projects for which public funds are used shall be consistent with the County's Comprehensive Plan\* and Zoning Ordinance.
4. The public purpose and the financial and other benefits from all publicly funded improvements shall be clearly defined and, based upon the nature of the benefit, measurable.
5. Public funding mechanisms shall only be used for public facilities (e.g., fund, plan, construct, and/or maintain those infrastructure improvements as authorized by Virginia law and as specified by the Board of Supervisors in the establishment of any Community Development Authority (CDA) or other entity) to facilitate development, and/or to mitigate the impact of development. Such public facilities include, but are not limited to, roads, transit, utilities, streetscape improvements, public parks and open spaces, bicycle and pedestrian improvements, cultural facilities and parking garages.
6. There shall be no negative impact on the County's bond rating.
7. There shall be sufficient debt capacity available for the portion of the public investment that is identified as the County's responsibility.

\*References in this document to the Comprehensive Plan mean to the existing Comprehensive Plan and/or to the Plan as it may be amended to further the revitalization, redevelopment and reinvestment objectives of the County.

8. The project must pose no direct or indirect liability to the County. The developer (or development entity such as a CDA) shall provide the type and level of surety that is acceptable to the County to protect the County from actions or inactions of the developer or development entity.
9. Each proposal for public funding shall include detailed information on the financial feasibility of the development project with which the public funding request is associated and an analysis of the contribution of the development to the County's goals as set forth in the Comprehensive Plan.
10. A development entity such as a CDA which includes a self-tax is the preferred funding method; Tax Increment Financing (TIF) in conjunction with such an entity and self tax may be utilized as a funding mechanism if it is demonstrated that a sufficient rate of return to encourage private investment is not otherwise available to the developer.
11. Any CDA that is established shall be structured to assume the risk of any deficiency in TIF revenues if they prove to be insufficient to pay debt service.
12. The maximum period of repayment for TIF debt service should not exceed 20 years.
13. The County shall strive to achieve a reasonable return on investment from any of its assets that may be utilized, such as County owned land or use of its lower cost of borrowing. Such return may be financial and/or achievement of County goals that further revitalization, redevelopment and/or investment.
14. The County expects to achieve tangible and intangible benefits to include such things as achievement of the goals and objectives of the Comprehensive Plan. In exchange for its financial participation, the County expects to establish performance measures for the project on such things as the specific character and intensity of development in addition to any other recommendations in the Comprehensive Plan necessary to achieve the public objectives.
15. If a TIF is to fund required shortfalls and to incentivize revitalization, under certain circumstances, the CDA shall remain in existence beyond the repayment of the initial obligations and shall repay a portion of or all of the incremental tax loss to the County's General Fund.
16. Developers will be required to grant full access to all accounting records, project pro formas and any other required financial information for any project involving a financial partnership with the County.

## **Process for the Evaluation of Requests for Public Investment in Support of Commercial Redevelopment**

The County shall enter into a two-tiered evaluation process. All proposals shall be submitted to the Office of Community Revitalization and Reinvestment (OCRR) and shall be reviewed by the County (OCRR, Debt Manager, County Attorney) and its Consultants. The Board member within whose District the property is located shall be consulted.

Tier 1:

1. In order to determine whether a project may qualify for public financial participation, all proposals shall be accompanied by a set of documents for review and evaluation by the County and its consultants. The submission shall contain:
  - Map of the site, district and properties served, as applicable;
  - Description of the project, including types of uses, square feet per use, ownership structure, phasing;
  - General development plan of district, or, if a single development, a specific development plan;
  - Project pro-forma;
  - Proposed public infrastructure including probable cost, preliminary feasibility analysis and preliminary phasing of infrastructure to development;
  - Discussion of proposed financing structure and mechanism for repayment of debt service, proposed special assessments within the district, if any;
  - Discussion of why the development would not take place within an acceptable timeframe without financial assistance from the County (e.g. “but for” the public assistance, the development would not be possible); and,
  - Discussion of how the project furthers the recommendations of the Comprehensive Plan for the site, as well as the revitalization goals for the area.
2. Staff will make a recommendation as to whether the project qualifies for further consideration.
3. General attributes of proposal will be reviewed by the Community Revitalization and Reinvestment Advisory Group (CRRAG) as to whether project should be considered as a candidate.

Tier 2:

1. If it is determined that the project meets the criteria for further consideration, the developer shall submit a complete financial pro forma as well as any other documents deemed necessary by the County to undertake the evaluation, a fee of \$50,000 or other such amount sufficient to cover the County's cost (including staff time) for all review and analysis, and the identification of all corporate partners, including associations and the responsibilities of any parent organizations.
2. Due diligence shall be performed by the County to confirm information regarding the developers, property owners, and underwriting team, and the adequacy of developer's or property owner's financial projections and resources to sustain the project's proposed financing. Depending upon the scope of the proposal, use of financial, development and legal expert consultants will be employed as the level of analysis and negotiation for redevelopment projects are typically highly complex endeavors that require specialized skills.
3. These consultants will conduct financial and fiscal analysis, including:
  - The economic benefit to the local economy, the fiscal impacts to the County and any overlapping tax entities;
  - The economic cost of public incentives, to include the actual cost of the publicly financed improvements, the loss of tax revenue and the increased cost of public services.
  - The risk to the general government operations if projected revenue growth does not meet expectations. While the incremental tax revenues may be sufficient to repay debt service, they may not ultimately be sufficient to cover all governmental costs associated with the development, since, for example, future tax revenue is not only dependent on an increase in value, it is also dependent upon the application of the tax rate, which rate cannot be predicted with certainty.
  - The use of pay down capital financing as an alternative to debt; and,
  - The timing of payment or performance as matched against clear and measurable milestones and objectives. For example, if the project is phased, funding may be tied to a certain phase or portion of the project.
4. Staff and the consultant will work with the developer on the proposal. Items to be analyzed/addressed/negotiated include:
  - Assistance by the County in the form of facilitating a public financing structure such as a Community Development Authority (CDA), Tax

Increment Financing (TIF), Service or Sanitary District, by providing funding, through the issuance of general obligation bonds and/or by other traditional methods of financing.

- The ability of any proposed CDA to survive the initial developer for at least as long as the bond is outstanding and protections to the County for approval of successors and assigns in order to ensure the ability of the CDA to fund the repayment;
- The right of the County to superimpose a Sanitary or Service District in the event a CDA does not provide sufficient safeguards to the County;
- The value to the project of the County's credit strength and/or lower cost of public funds if such are contributed to the project;
- How much if any of the new incremental taxes (after payment of the TIF debt service) are projected to be contributed to the General Fund and whether this amount is sufficient to cover appropriately the increase in County operating costs associated with the new development;
- The projected assessed value at build out of the taxable property within the defined area of the CDA, which reflects the current use and not the improvements to be funded by the bonds. In general, this should be at least twice the amount of debt that is funded by any CDA and TIF and that is payable from the tax revenues generated by the tax base;
- The amount of the County's investment as a percentage of the total development value of the project (generally should not exceed 12%);
- The ability to verify at a specified later point in time the accuracy of the developer's initial assumptions that formed the basis for the County's level of participation, and to incorporate into any agreement provisions that would prevent one-sided unanticipated profits;
- The exact contribution from a self tax and a TIF, if any, depending on factors unique to the development;
- A development agreement that clearly states the obligations and responsibilities of the developer and the County, the risk sharing between the County and the private developer(s), and the protections for the County against loss of investment and the risk of continued liability;
- Extension of liabilities beyond temporary limited liability partnerships established just for the project;

- The public share, the private share, and the joint share the public improvements; and,
  - The extent to which the project furthers the Comprehensive Plan.
5. Staff/consultant determines if proposal is supportable.
  6. Proposal presented to and discussed at the Board's Revitalization and Reinvestment Committee.
  7. Proposal forwarded to Board of Supervisors for decision. Notice of proposal provided to the public.
    - Creation of a CDA – The CDA process is started by petition from owners of at least 51% (by land area or assessed value) of any of a choice of statutorily-specified tracts of land (see Va. Code Ann. section 15.2-5153). Public notice of the public hearing on the question of creating a CDA must be published once a week for 3 successive weeks in a newspaper of general circulation, with the public hearing to be held not sooner than 10 days after the last publication. After the hearing but before adopting a resolution or ordinance creating the CDA, the Board must mail a copy of the proposed ordinance or resolution to the petitioning landowners or their attorney, and they have 30 days to decide whether to withdraw their petition. If after 30 days, the petition is still supported by the 51% minimum requirement, the Board can adopt the ordinance or resolution and create the CDA. Va. Code Ann. section 15.2-5156.
    - TIF -- No petition is needed to establish a TIF, but the Board must give notice of a public hearing on whether a TIF is needed. Certain details must be included in the notice (see Va. Code Ann. 58.1-3245.2(B)). Notice must be published once a week for 3 successive weeks in a newspaper of general circulation. The public hearing can be held any time after the 3rd publication, and Board can act immediately following the public hearing, if it chooses to do so.

## Glossary of Terms

Community Development Authorities: Broad range of infrastructure and services. Established by petition of majority of owners and governed by appointees of the BOS. Flexible tool, funded by ad valorem special taxes or special assessments, as negotiated with petitioners. Typically covers relatively small area (i.e., a single shopping mall; a downtown redevelopment area; a mixed use housing development; single or small group of owners). No general fund or debt impact is intended, unless coupled with tax increment financing.

General Obligation Bonds: Used for broad area improvements (i.e., transportation) and for smaller area improvements of general benefit on public land (i.e., streetscapes). Long term debt and recurring expenditure impact. Improvements tend to lag behind needs; insufficient capacity to fund the magnitude of projects now under consideration.

Proffers: Historically used for localized improvements related to single developments. Provides vital infrastructure without cost to the County, but does not address issue of requirements that exceed the ability of the project to sustain.

Public Private Partnerships: Primarily used for provision of specific public facilities where there is a confluence of public need and private profit; generally involves leverage of land value and/or public sector assumption of risk to reduce financial and debt impact. In practice, PPEA opportunities tend to jump projects ahead of other priorities if funding support can be seen as non-competitive or not interfering with completion of other projects.

Redevelopment: The development or improvement of an area that has previously been developed, typically consisting of underutilized sites. Redevelopment activity is generally characterized by clearing of existing structures and new construction. The new development may be the same type of land use, or a new type, but it is usually at a higher level of intensity or density than that which it replaces.

Reinvestment: Continued and expanded economic activity to strengthen existing businesses and attract new economic opportunities. Capital for reinvestment can come from private and/or public sources with the goal of stimulating the local economy. Reinvestment could include direct financial investment, capital improvements, enhanced public services, or financial incentive programs.

Revitalization: The improved physical and economic development of older commercial areas resulting from redevelopment and reinvestment efforts. The intention is to encourage quality renovation and new construction; enhance public spaces and pedestrian amenities; ensure safe, efficient and convenient transportation options; and contribute to the social and economic vitality of the area.

Sanitary Districts: Broad range of purposes and revenue options. Limited use in Fairfax to

date (McLean and Reston Community Centers). Uniform taxation; no direct general fund or debt impact. Created by petition. Board controlled.

Service Districts: Generally service oriented, but certain infrastructure may be funded. May be an option for continuing maintenance or operating support. Ad valorem tax; contributions from the general fund is possible. Board controlled. (Gypsy Moth).

Transportation Improvement Districts: Used to fund large projects of general benefit to all users in an area; voluntary tax by petition of landowners (Route 28, Dulles Rail). Generally requires public support and consensus. No general fund or debt impact.

Tax Increment Financing: Funding mechanism only. Obligates portion of future “additional” tax revenue generated by the development. Usually works best for relatively small geographic areas. Examples in Virginia are limited in scope and are usually coupled with a CDA governance and funding structure. In theory, creates a net benefit to the general fund that may or may not cover cost of increased services; debt impact will be the same as the net revenue impact – positive, negative or neutral as determined by project pro forma and economic impact analysis.