Ten Principles for

Successful Public/Private Partnerships

Urban Land Institute

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About ULI–the Urban Land Institute

ULI–the Urban Land Institute is a non-profit education and research institute that is supported by its members. Its mission is to provide responsible leadership in the use of land in order to enhance the total environment.

ULI sponsors education programs and forums to encourage an open international exchange of ideas and sharing of experiences; initiates research that anticipates emerging land use trends and issues and proposes creative solutions based on that research; provides advisory services; and publishes a wide variety of materials to disseminate information on land use and development. Established in 1936, the Institute today has more than 26,000 members from more than 80 countries representing the entire spectrum of the land use and development disciplines.

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This report was conceived by the Public/Private Partnership Council (Blue Flight) with input from the Public/Private Partnership Council (Gold Flight). These principles are the result of their early work and input on the draft report.

Foreword

The use of public/private partnerships (PPPs), as this publication clearly illustrates, is a growing trend throughout the United States. But this practice is far from novel or even new.

The use of PPPs to meet a wide variety of public needs dates back centuries in the United States. One of the first examples was the Lancaster Turnpike, a toll road built by the private sector with public sector oversight and rights-of-way. It was opened in 1793, connecting Pennsylvania farmers with the Philadelphia market and drastically reducing the travel times. The Erie Canal, completed in 1825, and the first Transcontinental Railroad, finished in 1869, are two other early examples of PPPs.

Today, partnerships are used not only in transportation projects but also for water and wastewater systems, delivery of social services, building schools, and a wide range of other applications. By far the fastest-growing arena for the use of PPPs is urban economic development, which is why *Ten Principles for Successful Public/Private Partnerships* is such a valuable guide.

Cities and counties are rapidly applying the experiences with PPPs learned over the last few decades—experiences on how to most effectively combine the strengths and resources of both the public and private sectors. Significant refinements in the PPP process resulted from these experiences. Although PPPs can be more difficult to execute than other types of procurement, the reward can be worth the extra effort. As the case studies included here indicate, in many instances PPPs make possible the completion of projects that would be impossible using more traditional methods of economic development.

Many of the important lessons learned are included in *Ten Principles*. The importance of continued public sector leadership, as well as the public sector's ongoing monitoring and nurturing of the partnership, is clearly illustrated. Equally important is the clear and open process necessary for the selection of the private partner. Most important of all is that the private and public sectors build a collaborative relationship—one that requires "give and take" on both sides of the table to make the project a success.

This publication by the Urban Land Institute is a valuable step forward in disseminating that information.

Richard Norment, *Executive Director*
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Introduction

Building and rebuilding cities and new communities is a complex and challenging endeavor under the best of circumstances. Among other things, it requires merging public and private interests and resources. However, the traditional process of urban and suburban development can be inherently confrontational—an arm-wrestling contest between the local government and the developer to see which will win distinctly different prizes.

The need to rebuild and revitalize older portions of our urban areas and the public need to monetize underused assets have dramatically changed the rules of this game. No longer can private capital be relied on to pay the high price of assembling and preparing appropriate sites for redevelopment. No longer can local governments bear the full burden of paying the costs of requisite public infrastructure and facilities. Planning and zoning controls are often either inadequate or too inflexible to ensure either appropriate control or enablement of desired private outcomes. True partnerships replace potential confrontation with collaboration and cooperation to achieve shared goals and objectives. This process requires applying far more effort and skill to weighing, and then balancing, public and private interests and minimizing conflicts.


ERHARD PFEIFFER

To fulfill objectives for increased convention business, the city of Charlotte, North Carolina, and private developer Portman Holdings partnered to fund and develop the Westin Charlotte, a 700-room convention center hotel.

Today, public/private partnerships are considered "creative alliances" formed between a government entity and private developers to achieve a common purpose. Other actors have joined such partnerships—including nongovernmental institutions, such as health care providers and educational institutions; nonprofit associations, such as community-based organizations; and intermediary groups, such as business improvement districts. Citizens and neighborhood groups also have a stake in the process. Partnerships around the country have successfully implemented a range of pursuits from single projects to long-term plans for land use and economic growth. Partnerships have completed real estate projects such as mixed-use developments, urban renewal through land and property assembly, public facilities such as convention centers and airports, and public services such as affordable and military housing.

Although each public/private partnership project is unique in its local implementation, most share common stages within a development process bounded by legal and political parameters. In the first phase—conceptualization and initiation—stakeholders' opinions of the vision are surveyed and partners are selected through a competitive bid process. In the second phase, entities document the partnership and begin to define project elements, roles and responsibilities, risks and rewards, and the decision and implementation process. Partners

LCOR INCORPORATED

Contributing major benefits to the citizens of Washington, D.C., the James F. Oyster School/ Henry Adams House, a public elementary school and 211-unit residential apartment complex, was constructed as a result of a partnership among the District of Columbia Public Schools, the community, and the developer LCOR Incorporated.

CARLA BREEZE

Joint efforts by the city of Albuquerque and developer Paradigm and Company to reuse the Old Albuquerque High School Campus and adjacent site have resulted in the development of new residential, commercial, and civic spaces in the downtown.

also negotiate the "deal" and reach agreement on all relevant terms. In the third phase, the partnership attempts to obtain support from all stakeholders, including civic groups, local government (through entitlements), and project team members. Project financing begins and tenant commitments are secured. Finally, in the fourth phase, the partnership begins construction, leasing and occupancy, and property and asset management. However, the process is repetitious and can continue beyond the final phase when partners manage properties or initiate new projects.

A partnership is a process not a product. Successful navigation through the process results in net benefits for all parties. Public sector entities can leverage and maximize public assets, increase their control over the development process, and create a vibrant built environment. Private sector entities are given greater access to land and infill sites and receive more support throughout the development process. Many developers earn a market niche as a reliable partner with the public sector and are presented with an opportunity to create public goods.

With declining levels of public resources to fulfill social and physical needs and pressures for more accountability in financial investments, partnerships between public and private entities will become increasingly permanent and comprehensive in nature. In 2004, $75 billion was spent by public/private partnerships on economic development and urban renewal projects, indicating that the market and the public sector increasingly support this investment approach.

Thus, this publication presents principles to guide community leaders and public officials together with private investors and developers through the development process and highlights best practices from partnerships around the country. The principles endeavor to ensure the most efficient use of public and private resources in the pursuit of mutual gains through public/private partnerships.

Ten Principles for Successful Public/Private Partnerships

1. Prepare Properly for Public/Private Partnerships
2. Create a Shared Vision
3. Understand Your Partners and Key Players
4. Be Clear on the Risks and Rewards for All Parties
5. Establish a Clear and Rational Decision-Making Process
6. Make Sure All Parties Do Their Homework
7. Secure Consistent and Coordinated Leadership
8. Communicate Early and Often
9. Negotiate a Fair Deal Structure
10. Build Trust as a Core Value

1 Prepare Properly for Public/Private Partnerships

Early and comprehensive preparation by both the public and private sectors is the key to successful public/private partnerships. The tasks of the public and private partners described here should not be perceived as sequential; all are necessary for a successful partnership.

Public Partner Responsibilities

Preparation entails creating and constantly updating a plan for development showing specific sites for private investment opportunities. In addition, the public partner must identify development goals and resources, including commitments for inducements and incentives for prioritized projects in the plan. This specificity will enable developers to understand the true scope of the development opportunities in the community.

Assess Your Capabilities. In the early stages of the process, the public sector should assess its institutional capacity to act as a partner. Creating an entity to handle the partnerships, such as a redevelopment authority or a quasi-governmental agency, may be necessary if such an agency does not exist. The public partner needs to make sure it has the expertise to negotiate with the sophisticated private party and the authority to retain the use of one or more consultants to assist in developing the partnership. Ask whether the staff of the

DAVID ANDREWS

A major campaign to coordinate public and private redevelopment investments has made the city of Chattanooga a destination for locals, tourists, and convention attendees.

Set the groundwork for successful joint ventures through careful planning and consensus building

To design a development plan in accordance with the needs of the community, the partnership can use various tools to involve the public in its visioning and implementation process.

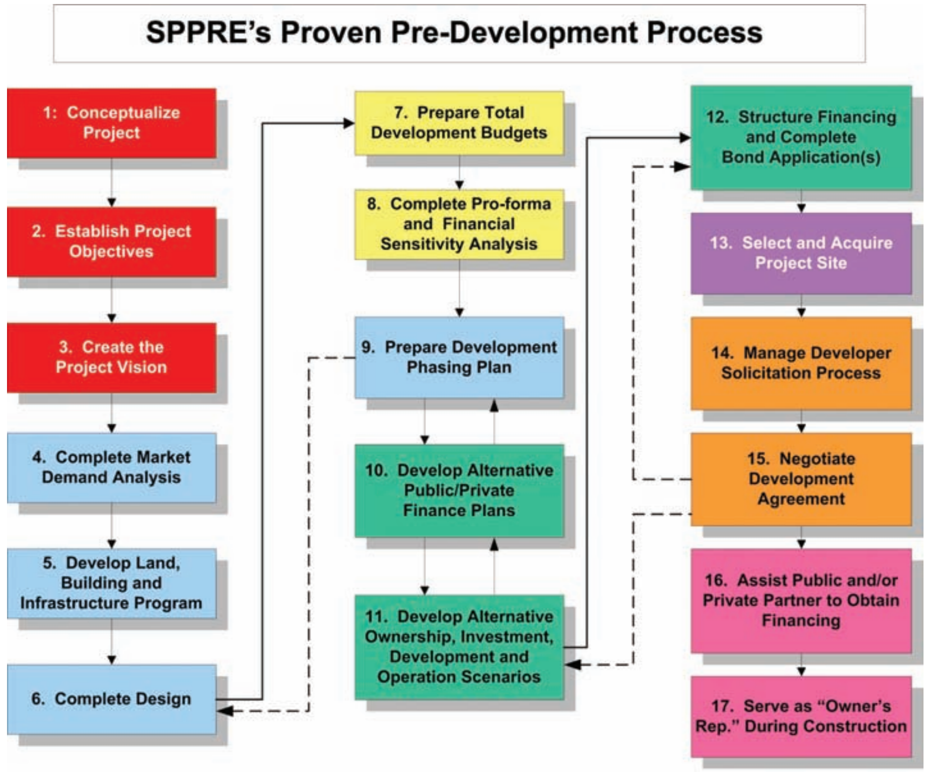
Public Participation Spectrum

Developed by the International Association for Public Participation

INCREASING LEVEL OF PUBLIC IMPACT →

INFORM	CONSULT	INVOLVE	COLLABORATE	EMPOWER
Public Participation Goal:	**Public Participation Goal:**	**Public Participation Goal:**	**Public Participation Goal:**	**Public Participation Goal:**
To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions.	To obtain public feedback on analysis, alternatives and/or decisions.	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.	To place final decision-making in the hands of the public.
Promise to the Public:	**Promise to the Public:**	**Promise to the Public:**	**Promise to the Public:**	**Promise to the Public:**
We will keep you informed.	We will keep you informed, listen to and acknowledge concerns and aspirations, and provide feedback on how public input influenced the decision.	We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision.	We will look to you for direct advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible.	We will implement what you decide.
Example Techniques to Consider:	**Example Techniques to Consider:**	**Example Techniques to Consider:**	**Example Techniques to Consider:**	**Example Techniques to Consider:**
• Fact sheets • Web sites • Open houses	• Public comment • Focus groups • Surveys • Public meetings	• Workshops • Deliberate polling	• Citizen Advisory Committees • Consensus-building • Participatory decision-making	• Citizen juries • Ballots • Delegated decisions

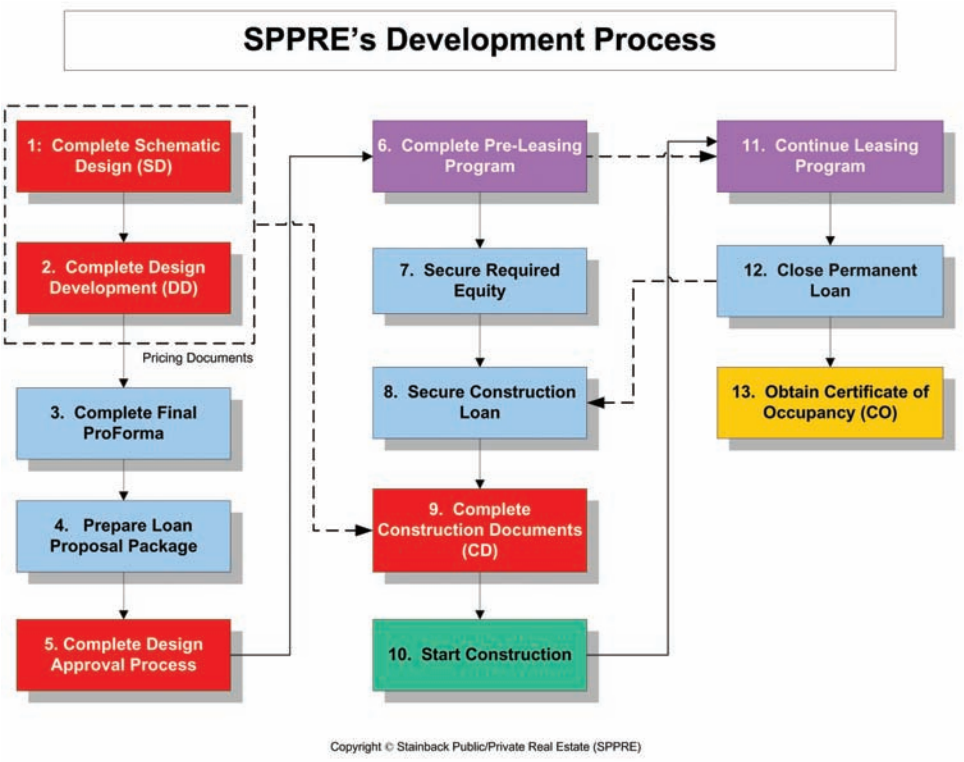
jurisdiction can satisfactorily represent the public interests. Look at housing agencies or urban renewal authorities—such as economic development corporations, public authorities, and special purpose development corporations—as potential implementation entities and project managers. Of course, state authorizing legislation should be reviewed to make sure that the public partner has the authority to create the entity. Last, does the public agency have the capital to invest in the project to ensure its economic viability? Funding for government-imposed requirements, environmental cleanup, and the like are required at times to make the project work.



Create a Public Vision. The vision for the program should be the result of a consensus-building process that identifies the opportunities, objectives, and ultimate goals for the community. The local government must consider and establish its long-range public interest goals and resolve any conflicts that it might have for the specific project in question. It is essential that the overall development strategy is described both verbally and graphically to ensure that both the public and the real estate community understand the program.

The predevelopment process establishes how the vision can be realized and indicates the public partner's level of preparedness to structure and implement the proposed project. The public partner must complete the following stages before issuing a developer solicitation: land assemblage and ownership, environmental analysis of the site, market demand and financial feasibility studies, as well as completion of alternative ownership, investment, development, and facility operational scenarios. Consultants can guide public entities through this process.

Be Legislatively Prepared. Make sure that building codes and regulations support the vision established for the development, including the potential for



Public and private sector partners should be involved in the design of public/private partnerships' physical and financial plans, as shown in this model of the development process.

streamlining building codes and regulations to remove potential obstacles to effective partnerships. Jurisdictions that have created one-stop permitting have been quite successful in attracting private investment by eliminating lengthy approval processes and overlapping regulations. Regulatory delays and loss of the right to develop pose the greatest risks to developers. Eliminating such risks makes a successful public/private partnership much more likely. The public sector must resolve the dilemma of the dual role of partner and land regulator.

Be Resourceful with Funding. With the increasing scarcity of public sector funds, the complexity of the financial package will necessarily increase. It is, therefore, essential to be imaginative and forward thinking to capitalize on all and any funds that might work. Identify public and nonprofit sector funding mechanisms, such as community development block grants, tax increment financing tools (where available), transportation funds, and local revolving loan funds.

Have the Land Ready. The public partner should examine its ability to assemble the necessary land. Evaluate the capacity for the right of eminent domain. Consider the potential for land banking to avoid any land assembly issues if the opportunity makes itself available.

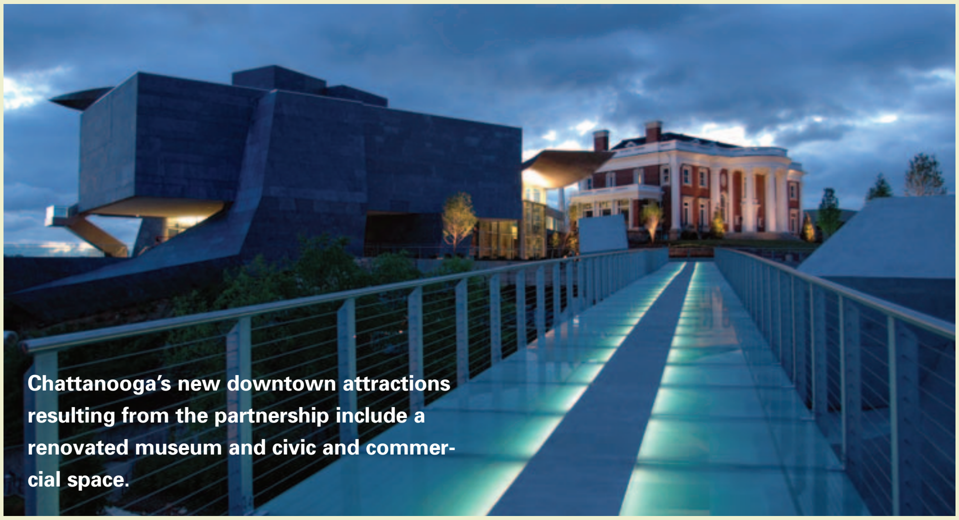
Chattanooga's Comprehensive Approach to Redevelopment

The comprehensive approach to revitalization undertaken by the city and region of Chattanooga, Tennessee, demonstrates how the public/private partnership process can support a long-term strategy for livability and sustainability. With significant air pollution problems and deindustrialization and decentralization patterns hollowing out the city and inner core of the region, the Chattanooga community implemented a master-planning process in the 1980s in an attempt to harness public and private sector resources to promote the redevelopment of the city and to improve regional growth patterns.

"The Tennessee Riverpark Master Plan," published in 1985, emerged from the "Vision 2000" community planning process, which aimed at determining how to attract and maintain high-quality growth in the region. The plan calls for a comprehensive strategy for redevelopment efforts, focused on spurring development downtown, particularly along a 22-mile corridor of the Tennessee River. Using the public and private sectors in creating, funding, and implementing the redevelopment strategy, the plan established a 20-year time frame and specific steps for implementation.

Chattanooga public authorities have supported redevelopment with new regulations, financing mechanisms, and public/private institutions. Land use regulations, such as the redesignation of land to spur reinvestment and the inclusion of community members in the planning process, have catalyzed new development. Furthermore, the creation of new revenue sources, including a hotel/motel tax and the establishment of the 21st Century Waterfront Trust, which has received more than $120 million from public and private sector funding, has resulted in the construction or enhancement of projects along the waterfront. Finally, new organizations have been established to assist in coordinating redevelopment efforts, particularly the River City Company, a private nonprofit organization managing redevelopment projects; the Chattanooga Downtown Partnership, supporting local city businesses; and the Chattanooga Neighborhood Enterprise, which has created affordable housing opportunities in the city.

Many indicators confirm Chattanooga's successful approach to redevelopment, including its current designation as one of the most livable communities in the country, downtown investment exceeding $1 billion within the decade, and the fulfillment of a majority of the original Vision 2000 goals just ten years after the original visioning process. Thus, by comprehensively coordinating revitalization efforts, Chattanooga has set in motion a cycle promoting reinvestment in the community.



DAVID ANDREWS

Chattanooga's new downtown attractions resulting from the partnership include a renovated museum and civic and commercial space.

Manage Expectations. During this stage of the process, establish a schedule that clarifies the expectations of the public decision makers. It is a good idea to craft a public awareness program to inform stakeholders of the goals of the development strategy and the specific projects that are identified.

Private Partner Responsibilities

First and foremost, the private partner needs to be prepared for a transparent process. Although parts of the process exist in which certain information is not disclosed, particularly during the competition over project bids, the developer must be prepared to make its numbers, its name, and itself open to public scrutiny. The recognition and acceptance of this basic tenet should precede all other steps that the developer will take. If such transparency is not acceptable, the developer should walk away from the project.

Establish Feasibility. While the public partner is establishing clear-cut goals and projects, the private partner can be preparing by meeting with investors to explain the nature of the public/private partnership. As in all development processes, the developer must underwrite the market and determine interest. The public partner should have provided substantial background information during its preparatory phase. The developer must also identify and assess the opportunity for the project and assess whether it is feasible. Increasingly, with the help of legislative authority the private partner submits unsolicited proposals conceptualizing and designing the use of a public/private partnership, which then is implemented with public approval.

The developer needs to make an internal assessment of the resources that are required to accomplish the project, including such items as potential staff, assessment of risk, potential deal structures (whether they will work for a fee or be partners in the venture), potential investors, and political and community leadership and working relationships with leaders.

Know Your Partners. This getting-to-know-you stage will ease the subsequent stages in the development process. During the preparatory, or due diligence, stage the developer should familiarize itself with the jurisdiction's plans, approval processes, and length of permitting processes. The developer should assess the public partner's ability to deliver and to commit its resources up front.

Get the Right Team. If the developer decides to continue with the partnership, the developer should assemble a team who brings insight and experience with the public partner. If the developer is new to the community, it would be valuable to find local expertise to assist in the process. The developer needs to be prepared to be an explorer and adapt to what may be discovered.

2 Create a Shared Vision

All successful projects start with a vision. Without a vision, the project will most likely fail. The vision is the framework for project goals and serves as the benchmark to ensure the realization of joint objectives.

Creating a vision: Creating a vision is not always easy, and it is crucial that the vision is shared. Ideally, property owners, residents, and area anchors such as churches, colleges, hospitals, homeowners associations, and other stakeholders will have "buy-in" because they have a stake in the outcome. Creating a vision involves building consensus and including all the stakeholders, even those who may be naysayers. By casting a wide net and giving all the stakeholders—including potential partners—an opportunity to help craft the vision, less possibility exists for opposition to a project. Public hearings, charrettes, visioning exercises, and other tools for involving stakeholders in the visioning process should be used to ensure the broadest outreach. Involving the media is another key factor for two reasons. First, it helps get the message out about the visioning process, and second, it helps form an alliance with the media, which will be crucial in articulating and publicizing the vision once it is created.

The Durham partnership formalized a plan to fulfill the community's collective economic, physical, and social needs within the city's historic urban framework.

CHUCK YOUNG

Sustaining the vision: A vision is not just pretty pictures depicting the ultimate outcome. It involves a strategy for implementation, which includes funding mechanisms (public and private), potential partners (and their responsibilities), and an agenda or time frame for achieving the vision (making the project a reality). These components are all critical for realizing the vision and ensuring that it gets off the boards and onto the ground.

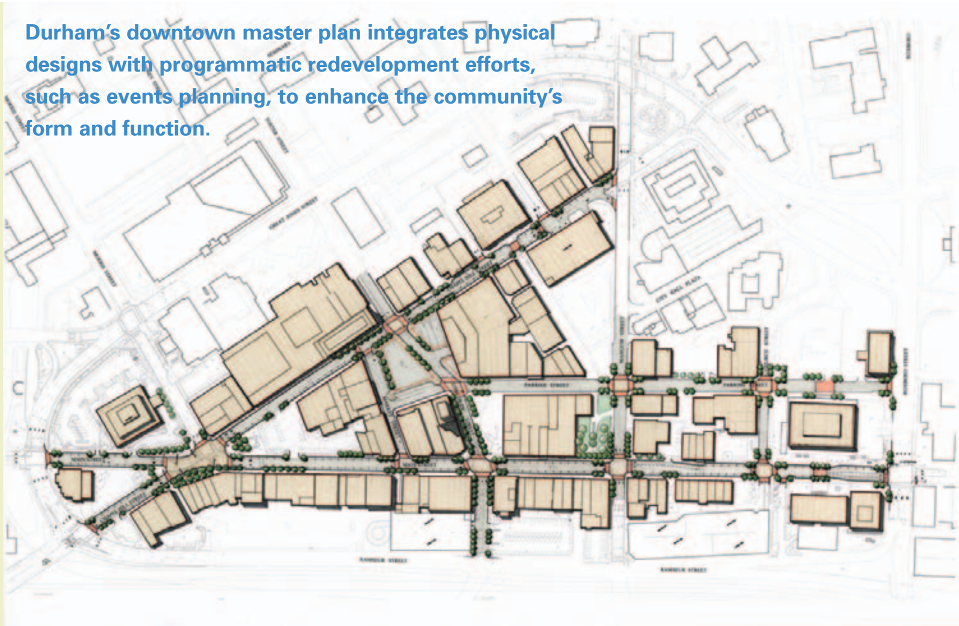
Partners should make a practical analysis of market conditions and demographics to ensure that the vision is neither too grand nor too small. An important component of the vision is specifying the scale of the project or projects that provides people with an understanding of what is going to happen. If the

Facilitate a vision and establish strategies for its implementation

Durham, North Carolina

Seeking measures to attract people and development to the community, public and private leaders in Durham, North Carolina, formed a partnership to initiate a community master-planning process in the 1990s. The partners established a process enabling the community to collectively envision and then implement a desirable new future within a region affected by dynamic local and external economic and social conditions.

To organize revitalization efforts in the community, Downtown Durham, Inc. (DDI), a public/private development organization, directed the formation of the new city master plan and implementation process, a 20-year, $1 billion revitalization effort. To ensure wide support and buy-in for the initiative, Durham stakeholders were invited to identify and formalize their vision of the city's future through meetings, interviews, and focus-group discussions. Stakeholders and public and private partners identified the downtown as the pivotal activity center within which vibrant communities could be established and suggested measures for improving the city's livability—such as creating and maintaining more pedestrian-friendly streets, enduring neighborhoods, attractive spaces, public services, and social outlets.



DOWNTOWN DURHAM, INC.

Durham's downtown master plan integrates physical designs with programmatic redevelopment efforts, such as events planning, to enhance the community's form and function.

In addition to a shared visioning process, the plan identified mechanisms to include both public and private partners and nonstakeholders in the implementation of the plan. DDI with the assistance of the city's Office of Economic and Employment Development, has acted as the "engine" to implement the master plan and as the "accountability mechanism" to ensure that the community continues to move ahead with the recommendations of the plan. Furthermore, a five-year joint DDI and city-funded review of the downtown master plan identified accomplishments and deficiencies and developed a list of priorities for the next five years. By designing a shared vision and implementation process, the community is facilitating the creation of a "downtown that sees the future and understands how to take advantage of it."

vision calls for building new housing, for example, it is important to talk about the density of the residential portion of the vision. Some may think the new development will be ten units to the acre when the vision is really intended to accommodate 40 units to the acre.

Moreover, involving the stakeholders will help bring reality to the plans by establishing a collective vision and creating community buy-in for the project. The most important component of a vision is ensuring that it can endure the test of time. Most development or redevelopment projects are long term and may span several political administrations. Thus, the vision that is created is not just the whim of the current administration, but represents key community and stakeholder buy-in that will help it endure. A shared vision that is created and embraced by key stakeholders will stand the test of time and will persevere through implementation.

3 Understand Your Partners and Key Players

The beginning point of any successful partnership is for all prospective partners to invest the time and effort necessary to gain a full appreciation of, and respect for, their counterparts in a deal—their background, reputation, experience, needs, financial strength, motivations, expectations, and goals. Choose wisely, because you want partners who will work with you, not against you. Everyone is not in the deal for the same reasons, and without such understanding, trust will never be built, and distrust may cause the deal to unravel.

Each partner supports the efforts of the partnership and its long-term objectives.

Public/private partnerships are a four-legged stool. They involve government, nonprofit organizations, for-profit interests, and stakeholders. Each sector plays a different role. Government should understand, for example, that the private partner needs a positive bottom line, while the private partner should understand that government does not move fast, is not necessarily profit driven, and has broader constituencies to deal with. Any deal has to answer two fundamental questions: (1) Is it financially feasible? and (2) Will it be approved?

Public partner: Government often sets the table. Typically, a government agency must validate a project's public purpose before that agency can even consider participation. However, once this validation is affirmed, a government can acquire land, write down its cost, prepare the site, grant permits, expedite processing, build public facilities, and undertake necessary infrastructure improvements (sewers, roads, bridges). It has tools—such as tax abatement, tax increment financing (TIF), fee waivers, zoning, and even eminent domain—that it can bring to the table to incentivize the private sector and help make sure the project is financially feasible to the capital markets. Local governments can make grants, access pools of money and resources at the state and federal levels, float bonds, and raise long-term (patient) capital. And, of course, government has to approve a deal through zoning boards, commissions, city councils, mayors, and county officials, to say nothing of state and federal officials. This development approval process often comes down to political will and standing by and behind a negotiated deal in spite of public opposition. It also requires flexibility. If the public sector cannot make necessary compromises with its partners, the deal may be lost. Consultants and lawyers can help facilitate the decision-making process during negotiations.

Private partner: The for-profit part of the private sector can put together a development, layer in the financing, bring design and marketing expertise, construct a project, and operate it. Local banks can finance loans and work with credit. Developers can access short-term capital, but being in business to make money, they generally need a quicker and significantly higher return on their investment than government, for whom time is not money. However, the public partner may be limited to debt ceilings and the annual appropriation process, restricting its ability to access large, long-term financing. The private partner, if it can see a

Identify the actors in the process along with their needs and perspectives to ensure effective collaboration

The Williamsburg Neighborhood in Brooklyn, New York

"We've learned that the job is too big to tackle alone; we couldn't have achieved what we did without strong partners—community organizations, government agencies, and other companies." The speaker was Hank McKinnell, current CEO of the Pfizer pharmaceutical company, addressing the White House Business Roundtable on June 5, 1998. He was describing a revitalization project in the Williamsburg neighborhood of Brooklyn, New York, where Pfizer was founded 150 years ago.

When Pfizer moved its headquarters to Manhattan in 1960, it retained a manufacturing facility at the original site, although the neighborhood had lost its industrial base and was becoming blighted. In the 1980s, Pfizer convened partners to develop a comprehensive community reinvestment plan. Pfizer committed extensive private resources to the project (almost $25 million), which resulted in a new public charter school in a renovated Pfizer building, about 300 new homes (all doubles), 400 apartment renovations in neglected buildings, improved public safety, new light industrial space, and, of course, more jobs.

Pfizer was the leader, but Pfizer had partners. The company spent long hours meeting with community stakeholders represented by the St. Nicholas Neighborhood Preservation Corporation and the Los Sures Community Development Corp. as well as the local community boards. The Beginning with Children Foundation created the new school in cooperation with the city's Department of Education. Three intermediaries (the New York City Housing Partnership, LISC, and The Enterprise Foundation) assisted with low-income housing rehabilitation and new construction. The federal government's Urban Development Action Grant and Low-Income Housing Tax Credit programs provided part of the financial package. City agencies, including the Public Development Corporation, the Department of City Planning, and the Department of Housing Preservation and Development, participated in order to designate the urban renewal zone, demolish vacant buildings, and clean up and fence in lots, and the Police Department and Metropolitan Transit Authority worked with Pfizer's private security staff to implement public safety strategies. Two utility companies (Brooklyn Union Gas and Consolidated Edison) coordinated renovations and alterations and arranged low-interest loans for low- and moderate-income housing through their Cinderella Project and Renaissance Program, respectively.

PFIZER INC

In Brooklyn's deteriorating Williamsburg neighborhood, Pfizer and partners rehabilitated the company's original business headquarters building, adding housing units and a public school.

return on its investment over a protracted period, can often be interested in financing that covers a longer term (up to 99 years in one recent case).

Nonprofits: Nonprofit organizations, such as neighborhood organizations, community development corporations, faith-based institutions, task forces and advisory boards, intermediaries such as the Local Initiatives Support Corporation (LISC) and the Enterprise Foundation, and philanthropic foundations, can act as brokers between public and private for-profit interests. They can help private investors find opportunities to participate in community development projects and often assist with closing the gaps in a financing package. They can also access sources of funding that might not otherwise be available to a project.

Stakeholders: Stakeholders have a right to be heard. They want to know that their voice counts and that their views are considered; however, they also need to understand that all possible objections to a project cannot be removed. Citizens must feel they can influence the course of a project, which means being made aware of plans for a project at the front end of the process and being given a chance for input throughout, through private meetings, public hearings, or both.

When each partner understands the others and cooperates with them in a respectful, productive manner, the outcome will be win-win-win-win for everyone.

4 Be Clear on the Risks and Rewards

"Nothing ventured, nothing gained." This old proverb captures the essence of the risk/reward relationship inherent in public/private partnerships. Key to having such a partnership produce tangible, positive results is for each partner to understand and appreciate the nature and scope of the opposite party's potential risks and rewards, as well as its own, so that mutual success is achieved.

Preparing for Mutual Success

A public/private partnership is more than just a real estate deal. The responsibilities of the principal parties in the basic scenario of a real estate deal can be complex, time consuming, risky, and ultimately rewarding, and the public approval process can be controversial and difficult. Significant obstacles must be overcome and challenges met through joint efforts because the resources and responsibility are distributed differently between the sectors, particularly during project implementation. What distinguishes a public/private partnership is the mutuality of effort and investment required to accomplish an outcome that is unattainable without such collaboration.

CBT/CHILDS BERTMAN TSECKARES; NEOSCAPE

Public and private partners are collaborating to share the risks and rewards for the development of the Columbus Center housing/hotel complex.

Stakeholders and nonprofits similarly share in the risks and rewards created by these projects. In the public/private partnership process, they may be affected by changes to quality of life and revenue or tax streams. The table summarizes the nature of the risks and rewards likely to be encountered by the public and private parties to a public/private partnership.

Using the "balance sheet" of factors specific to the project and its participants, as outlined in the table, is an effective way of understanding risks and rewards across the public/private divide. Where feasible, values should be quantified. Otherwise, just stating the expectations regarding relative gains or losses will suffice.

Determine the risks and rewards faced by all parties

Dealing with Conflicts and Uncertainty

The process of stepping beyond rigorous standard procurement and developer selection procedures is fraught with the danger of creating real or perceived conflicts of interest for public officials. Often, it is absolutely necessary that state-mandated procedures be followed in selecting the developer for a particular project before a real public/private partnership can be formed. In other instances, the local government will have broad discretion. Beyond a concern for conflicts of interest, the public partner faces an array of rich opportunities for public controversy and bad publicity associated with property acquisition or charges of misuse of public funds and other resources. The ultimate concern of the public partner is that the developer partner might fail—just drop the project, lose its financing, or even go bankrupt—and leave the community "holding the bag" for substantial additional costs and performance commitments. However, if the selection process for the private partner is conducted properly and appropriate bonding is included in the contract, this outcome will be avoided. Most successful economic development public/private partnerships are the result of a selection process that includes verification of the technical and financial capability of the private partner.

FRAMEWORK FOR A RISKS AND REWARDS BALANCE SHEET

Risks		Rewards	
Public	**Private**	**Public**	**Private**
Conflicts of interest, perceived or real	**Excessive costs of development, unprofitable**	**Greater community wealth, tax base, public infrastructure**	**Resources to sustain organization**
Use/misuse of public funds, resources, perceived or real	**Time-consuming process required; time is money**	**Increased taxes, other revenue**	**Profitability**
Controversial impacts on those directly affected: **• Land use conflicts with adjacent property owners** **• Dislocation by condemnation** **• Relocation costs and procedures** **• Disagreements on fair market value**	**Failure to create long-term value**	**Promote, advance city image**	**Value, wealth creation**
	Accusation of being unfairly enriched at public expense	**Job creation**	**Enhanced reputation, experience to get next project**
	Change in key public, political, or staff leadership that derails partnership	**Community betterment, enhanced quality of life**	**Market niche**
	Market shortfall, failure	**Reelection (elected officials)**	**Community betterment, enhanced quality of life**
	Loss of invested equity	**Job retention, advancement (staff)**	
Developer fails to perform or goes out of business	**Untimely public airing of critical project details, especially financing**		
Public opposition, NIMBYism	**Liability impacts**		
Liability impacts			

The private partner also has its partners, stockholders, equity investors, and lenders to satisfy. They must believe that their resources are being deployed effectively. Although many of the developer's risks are the same as in a straight private deal—sufficient effective market demand, attracting necessary debt and equity financing, and so on—certain risks are unique to a public/private partnership. The counterpoint to the public partner's concerns regarding potential conflicts of interest is the developer's fear of charges based on ignorance of business terms and conditions that are harmful to its reputation and ability to do future deals, for example, that it is taking unfair advantage and "profiting at public expense." Perhaps most risky to the private party is the danger of the process taking far longer than anticipated and becoming a "black hole" for unanticipated costs. The fact that "time is money" for the developer is aggravated by the reality that a key public partner can quickly change its position or be voted out of office as a result of bad publicity, leaving the project without a necessary champion before it is fully entitled by public action.

Various types of risk are potentially encountered in public/private partnership projects:

- Market risk: Will the projected demand for space actually be realized?
- Construction risks: Will the project meet the budget and schedule?
- Ownership risks: Will all the risks of owning and operating a development, such as tenant leasing, be overcome?
- Interest-rate risk: Will the interest rate increase?
- Performance risk: Will the project achieve the public purpose for which government justified its participation?

To minimize risk, consultants have created tools for public partners to develop financial and development safeguards that are negotiated and can be included in the development agreement between the public partner and the selected developer.

Public/Private Partnership Rewards

On the reward side, strong, compelling reasons exist for both public and private partners to take the necessary risks and soldier on to build the partnership and implement the project. Most obvious for the public are the net economic and fiscal benefits—jobs, infrastructure, community wealth and tax base, taxes, fees—that can be produced by joint action to overcome obstacles. Less tangible is the message that the city is on the move—it is progressive in advancing the welfare of its residents. Public officials, who are only human, also seek ego gratification and recognition for their good works.

The benefits to the private developer are perhaps the most obvious and readily measured: the deal must be profitable after paying all associated costs of investment of time and resources. However, developers have a reputation to protect

Columbus Center, Boston

In 2000, public leaders adopted the "Civic Vision for Turnpike Air Rights in Boston" to plan for and promote the development of underused land and air rights parcels over the Massachusetts Turnpike traversing the downtown. Following the plan's adoption, the developer, Columbus Center Associates, an affiliate of the Winn Development Company, submitted a proposal for the Columbus Center, a 1.3 million-square-foot housing, hotel, and commercial complex in the city's Back Bay and South End neighborhoods. Given the city's market conditions, which have made redevelopment costly, and the social environment, which constrains the development of projects that affect existing residents' quality of life, the public and private sectors involved in the project's construction engaged in extensive negotiations to minimize financial and legal risks and to maximize benefits such as public revenues and services.

Columbus Center's development process took place over four years, and the proposal was evaluated according to its financial, physical, and social effects on the community. The city and developer pursued an open development process and were flexible on the final plan and construction timeline, reducing the risk to all parties. Independent consultants conducted financial feasibility analyses to determine the economic return on alternative development proposals in terms of design, scale, and areawide effects. To address public concern over the effect of the project, the Boston Redevelopment Authority and Turnpike Authority established the Citizens Advisory Committee, which had the opportunity to review and comment on the development proposals, and hundreds of biweekly meetings were held to discuss the project.


NEOSCAPE

To accommodate the scale and needs of the neighborhoods in Boston, the Columbus Center project was negotiated and designed within an extensive public process.

The developer's final plan for the complex, which includes approximately 200 hotel rooms, 500 residential units, daycare and health club facilities, and commercial and restaurant spaces, reduces the project's height and scale from the original proposal and includes an added public benefits package of $40 million, which includes the rehabilitation of the MTA's transit entrances on the site, the creation of open space or parkland, and the installation of groundwater recharging mechanisms. Furthermore, the city projects that the complex will create significant revenues and services for residents, including approximately $6 million from new annual real estate, hotel, and sales taxes. According to developer Roger Cassin, the approval process, although lengthy and complex, "has led to a better development for everyone."

and build if their business is to do other deals and continue to prosper, as well as the nonfinancial returns to ego and self-esteem satisfied by a successful project.

Although the risks and rewards of a particular public/private partnership may be more easily measured in the private sector, the public concerns are no less important, and a disciplined accounting of expected rewards and risks, or benefits and costs, will go a long way in demonstrating to key stakeholders and the general public alike that the deal is worth doing and is being made with all relevant factors in mind—that risks are being carefully defined and considered and steps are being taken to offset or mitigate them. Clearly, the objective of this accounting should be to show that the ultimate outcome of the partnership will be a win-win for the public and private partners as a result of their respective investments and risk taking. Conversely, if an accounting of risks and rewards fails to show such a positive outcome, good reason exists to reconsider the undertaking.

5 Establish a Clear and Rational Decision-Making Process

All parties need to articulate and agree upon the process to be followed and the rules of engagement to be used to structure a deal with public and private dimensions as early as possible. Agreement on process helps ensure that partnerships establish effective policies and implement them efficiently and collaboratively. Furthermore, a documented decision-making process increases transparency and facilitates the sharing of information about the project.

Create a road map: At the beginning of the partnership, after a developer has been selected, entities must define the process by which decisions are made, implemented, and reassessed. The most important step is creating a road map for decision making, with a timeline to schedule project implementation. The road map should delineate a plan of action that is maintained throughout the process, particularly during the implementation of entitlements, deal terms, financing, design and planning, and the environmental review phase. The road map formalizes joint action and party commitments to the project, consequently promoting the sharing of information, such as studies and plans, and resulting in more rational decision making. Furthermore, by establishing milestones and deadlines, the partners can assess the project's implementation status and each party's activities.

Define roles and responsibilities: Entities within the partnership should also define the relationships for engagement and the various actors' roles in the implementation of the project. In many cases, the public partner defines the expectations for private partners, particularly in terms of their role and capacities. If the proposals are clear and accurate, they provide a strong framework by which actors can jointly implement a public/private partnership. One tool many partnerships have used is the memorandum of understanding, which documents (in a succinct and summary fashion) decision-making processes and relationships between partners.

"We made a miscalculation, but it's consistent with our over-all strategy."

Project roles and responsibilities should also be assigned to entity representatives. Project leaders and "go to" people should be targeted to handle specific tasks. To clarify expectations and ensure accountability, partnerships should adopt documentation measures, such as performance standards and clear metrics, for each position. To ensure collaborative decision making, dispute resolution mechanisms should also be incorporated into a contract.

Construct a framework in which to coordinate decision making

Connecting Cleveland

CLEVELAND CITY PLANNING COMMISSION

Central to the goals for a revitalized Cleveland, a partnership has facilitated the creation of new housing and civic spaces downtown.

The city of Cleveland's river and lakefront resources have long been considered integral catalysts for new development in the region, and a new partnership is working to target financial and political resources to these areas. The public, nonprofit, and business communities have collaborated to establish a comprehensive redevelopment framework for Cleveland's waterfront district to coordinate investment efforts and community development objectives.

The Waterfront Initiative, which is part of the larger planning process "Connecting Cleveland 2020," integrates transportation and land use objectives in the area and establishes steps to implement the goals. The initiative established districtwide planning objectives, including enhancing the lakefront neighborhoods, the area's natural resources, and the built environment and attracting people and jobs to the city. The plan set out a road map delineating the timeline for project implementation and structuring redevelopment into phases to build in flexibility for shifting needs and demands. The framework created provides a baseline for evaluating projects according to their fulfillment of the plan's objectives and strategies.

The five partners of the waterfront redevelopment include the city; the Port Authority; the Ohio Department of Transportation; the business community, represented by the regional chamber of commerce—the Greater Cleveland Partnership; and the neighborhoods, represented by the nonprofit association Cleveland Neighborhood Development Corporation. Their relationship was formalized through a memorandum of understanding that identified each partner's roles and established consensus on the redevelopment framework principles and strategies. The partners have provided support for the framework's implementation, hiring consultants to create land use plans for the district and initiating the extensive public process to obtain input on visioning goals and final projects.

The mutuality of the partners' objectives for the area and the comprehensive approach of the planning framework for the eight miles of city waterfront property have led to significant improvements and more will continue to emerge in the area. Thus far, developed and online projects include additional housing, development over former brownfields, parks, and roadway improvements to increase the accessibility of the waterfront to nearby neighbors and the city's downtown.

A widely supported and collaborative process can be achieved through the inclusion of mechanisms to ensure sufficient and appropriate involvement of stakeholders, such as task force committees, involving input from many actors, and the use of facilitators and intermediaries to build bridges between "cultures." The formalization of the public's role in the process also reduces the likelihood of insurmountable opposition to the partnership and its project.

Create checks and balances: Finally, partnerships must create and use mechanisms to allow continuous assessment of the effectiveness of decisions and implementation procedures. To resolve constraints, such as funding source requirements and bottlenecks in the process, partners must have the opportunity to modify the process. Furthermore, to incorporate new information and reassessed goals into the process, parties must allow for incremental "baby step" decision making. To overcome changing conditions, time frames, and conflicts, the process must be inherently flexible.

6 Make Sure All Parties Do Their Homework

For any public/private partnership to be successful, all parties must do their homework—at the onset as well as throughout the project. The partners need to understand that they will have to invest time, energy, and resources at all phases of the project.

Continue due diligence: Although due diligence is part of the preparatory stage of a project, all partners must continue to understand all the issues—technical, social, and financial—of a project. By "doing their homework," the partners maintain an understanding of the technical aspects of the project and can anticipate change. In other words—don't drop out of the process and do stay invested. Public/private partnership projects will fail when both sides do not continue to invest the resources needed to keep the project going.

ACP VISIONING AND PLANNING

Collaboration to redevelop downtown Fort Wayne has succeeded in part due to the consistent flow of information, which helps to create consensus and assure partners and stakeholders that goals are being achieved.

Share information: The development process can be complicated and involves many moving parts. Clearing title for the land, environmental planning and permitting, meeting local land use codes and requirements, proper design and site planning, and complying with design standards and guidelines are just a few of the many details that need to be attended to when completing a project. All the parties need to know the status of each phase and aspect of development. All consultant work needs to be shared—and shared early. Information needs to be presented in a clear and transparent format so that everyone knows what is happening at all phases.

Adopt scenario planning: Doing your homework also includes understanding your partners' limitations. For example, if part of the deal depends on long-term public investment, having a backup plan may be important in the event that the funding falls through because of budget cuts, changes in administrations, or emergencies.

Pursue creative public/private finance plans: One of the great qualities of the public/private partnership approach to development is the tremendous creativity available to solve financial and development problems. The public partner, its public/private finance and development adviser, and the selected private partner must structure the financing plan for each of the public and private building components; the plan often includes some combination of the following eight elements:

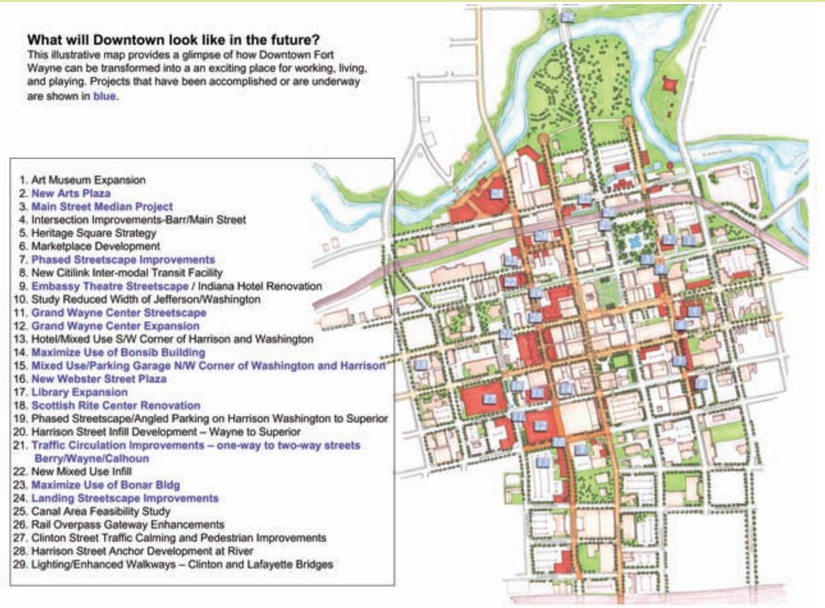
1. Multiple sources of public and private financing from the primary and secondary public and private partners or other related entities, such as county, state, and applicable federal agencies; local Business Improvement District (BID); and other public entities. Potential secondary private partners include construction companies and facility operators.

Create tools and methods to secure ongoing commitments from all parties

Downtown Fort Wayne: Blueprint for the Future

Seeking to bring development to the region and to reestablish the vibrancy of the city in a modest market environment, public leaders of Fort Wayne, Indiana—the second-largest city in the state, with close to a quarter-million residents, have created a planning process to support, coordinate, and institutionalize revitalization efforts within the city's downtown. The process aims at addressing the current deconcentration of growth from the city's historically compact and once-thriving central city to the metropolitan area outskirts.

In 2001, to incrementally and comprehensively effect downtown revitalization, the Fort Wayne Downtown Improvement District, city and county officials, and private consultants Development Concepts initiated a planning and implementation process that was formalized a year later with the adoption of the "Downtown Fort Wayne Blueprint for the Future." The blueprint sets a five-year action plan with mechanisms that promote the sharing of information, decisions, and resources between public and private redevelopment activities. Redevelopment projects are monitored by a Blueprint Implementation Team, which meets once a month with project leaders to discuss the status of activities. This communication mechanism creates the synergy needed to coordinate multiple projects with common goals and provides incentives for partners to stay involved. The blueprint also outlines priority projects, many of which have been already completed, to catalyze redevelopment, such as adoption of urban design guidelines, execution of market feasibility studies, and appropriation of public investments for infrastructure projects and wayfinding systems. Priorities have also been established through community workshops that allow public input into, and the communication of information about, downtown development alternatives.



CITY OF FORT WAYNE REDEVELOPMENT COMMISSION

The Downtown Coordinating Council, which was formed through a memorandum of understanding in 2003 and consists of local civic, governmental, and business leaders, provides overarching leadership for implementing the blueprint. The council's responsibility is maintaining support for redevelopment efforts, for example, by identifying and advocating for financial resources to support revitalization projects and by ensuring that the blueprint's goals are achieved. The role of the council, according to Fort Wayne Mayor Graham Richard, is to "ensure that the work gets done and that the Downtown Blueprint will not sit on a shelf and gather dust, but will guide the future of downtown development."

2. Public/private financing instruments, such as revenue bonds, general obligation bonds, and soft second mortgages.

3. Long-term lease obligations by the public partner.

4. Government-owned land.

5. Credit enhancement, bond insurance, or both.

6. Development, investment, and operational incentives from different levels of government.

7. Techniques to reduce development costs; for example, the public sector can reduce the parking ratio required by the private partner.

8. Techniques to enhance cash flow, such as tax abatements, surcharges, and lease naming rights.

7 Secure Consistent and Coordinated Leadership

Any public/private partnership deal needs a champion, whether it is an individual or a small group. Why? To define clear goals; to build broad constituencies; to bring the right parties around the table; to coordinate process; to bridge private project management with political leadership; to provide stakeholders who are not financially involved but have an interest in, and expectations about, a project, with a forum to express their views; and to keep everyone on point and not let a project languish.

Leadership creates positive change. It makes a visible difference. It has to do with creating a vision, motivating others to support it, and implementing it. Therefore, leaders must be committed to realizing the final goals. The leadership paradigm has changed considerably in the last 20 or 30 years, from a top-down command-and-obey pyramid to something more flattened out, more democratized. A good leader is a facilitator, a coach, an orchestra leader, an enabler. He or she brings people around the table and helps them move in a given direction. In a sense, the sign on a leader's desk reads "the buck starts here," not "the buck stops here." Such a person takes the initiative and does not wait for some-

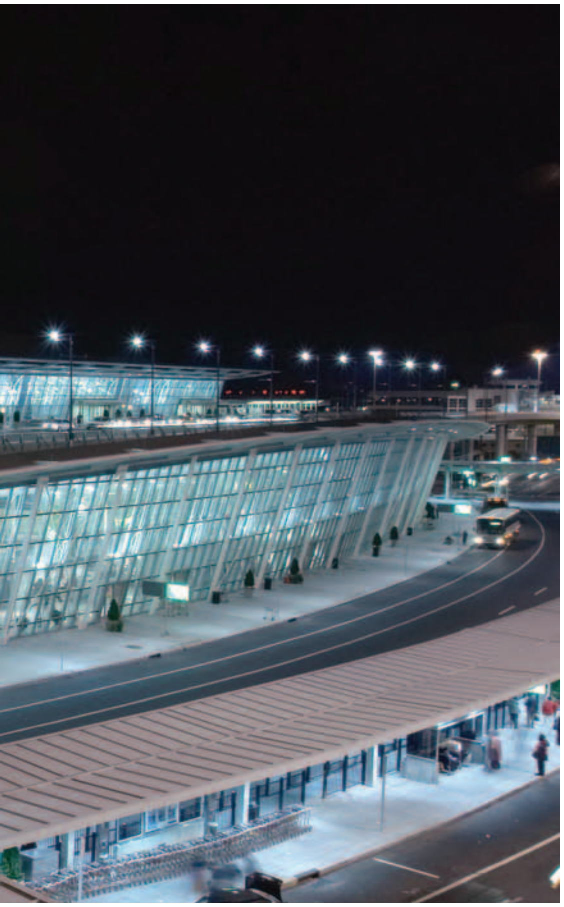
LCOR, INCORPORATED

one else to do it, and then follows through, tirelessly, patiently, painstakingly, to see the project to completion.

Leadership has to be sustained. Successful leadership persists. It does not grow weary in the middle of a project. It keeps all the parties at the table, coordinating their efforts. Many political leaders have a short lease on life—two years, four years, two terms, maybe longer—and often their successors have other ideas and undo what has been started. So, transcending administrations and political change by maximizing opportunities for putting a deal together with one set of public officials makes good sense, as does passing the baton to new leadership in both the public and private sectors, that is, to people who have the same commitment and goals. Just handing off a project will not work.

A decade ago, Max DePree, the well-known chairman of Herman Miller, Inc., came up with a checklist of leadership attributes for the book *Leadership in a New Era* (John Renesch, ed. San Francisco: New Leaders Press, 1994) that are significant to the successful realization of public/private partnerships. They are:

- **Integrity** ("Behavior is the only score that's kept!")
- **Vulnerability** (Trust in the abilities of others, letting them do their best.)
- **Discernment** (What kind of antennae do you have? Can you detect nuance and perceive changing realities?)
- **Awareness of the human spirit** ("Person skills always precede professional skills.")
- **Courage** (Face up to tough decisions, resolve conflicts, define and carry out justice, and say what needs to be said.)



Direct involvement of political leaders and management staff effectively facilitated the redevelopment of the JFK Terminal 4 Gateway.

JFK Terminal 4 Redevelopment, New York

Upon completion of the redevelopment of JFK's Terminal 4 in 2001, the project was the largest public/private infrastructure venture in the nation. The success of the project demonstrates the significance of leadership in the management of public/private partnerships and the realization of a broad array of objectives. The project, which cost $1.4 billion, serves as a catalyst for a comprehensive $10 billion airport revitalization program and supports economic development efforts in the region.

The terminal's redevelopment into a 1.5 million-square-foot, 16-gate terminal with a four-block retail concourse was administered by the JFK International Air Terminal LLC Consortium (JFK IAT). The consortium, which was formed to manage the existing terminal and to develop plans for its revitalization, is composed of LCOR Incorporated, a national real estate developer; Schipol USA, LLC, an affiliate of Schipol Group, the airport developer and manager; and Lehman Brothers, Inc., the investment bank partners. In 1997, the consortium submitted a terminal redevelopment proposal to the Port Authority of New Jersey and New York and, following 11 months of negotiations, the agreement, lease, and financial structure were finalized and more than $900 million in bonds were issued for the project.

The leadership structure and dynamics between the consortium, public agencies, contractors, and the public provided a framework to coordinate the demands of such a complex project. The JFK IAT provided an institutionalized structure in which communication, decisions, and activities were coordinated between JFK IAT's full-time staff, senior project managers such as executive project directors, and public officials. Furthermore, Governor Pataki's leadership provided major support for the terminal's joint redevelopment and a consistent message about the benefits of the project.

Overall, the project's efficient leadership permitted coordination of private and public resources. As Claire Shulman, Queens Borough president, stated at the terminal's completion: "Today's opening marks the culmination of an endeavor by the public and private sectors to provide air travelers with an efficient, modern, and 21st-century facility, welcoming millions of passengers from around the world to the greatest city in the world. It is also an investment in the future of JFK and Queens County, Gateway to New York City. I thank Governor Pataki, the private developers, the Port Authority, and all those who helped make Terminal 4 a reality."

LCOR INCORPORATED

The coordination of Terminal 4 partners' efforts has provided the resources for the design, construction, and operations of a high-quality public service facility.

- **Compassionate sense of humor** (It is "essential to living with ambiguity.")
- **Intellectual energy and curiosity** (Accept "the responsibility for learning frantically.")
- **Respect for the future, regard for the present, understanding of the past** ("The future requires our humility in the face of all we cannot control. The present requires attention to all the people to whom we are accountable. The past gives us the opportunity to build on the work of our elders.")
- **Predictability** (Leaders "are not free to follow a whim"; they are "especially responsible for the vision and values of an organization.")
- **Breadth** ("Leaders are people large enough to contain multitudes.")
- **Comfort with ambiguity** (A leader makes sense out of chaos.)
- **Presence** ("Leaders stop—to ask and answer questions, to be patient, to listen to problems, to seek the nuance, to follow up a lead.")

In short, "Leaders stand alone, take the heat, bear the pain, tell the truth."

8 Communicate Early and Often

The more open the communication channels and the more they are used by each partner, the greater the prospects for a successful project outcome and lasting public/private partnership. Regular communication within the partnership assists in the recognition of joint interests and ensures a more efficient decision-making and implementation process.

Internal communication: Communication is essential to the internal dynamics of a complex partnership structure, allowing distribution of information and implementation of compatible efforts. Initially, the partners should communicate overarching project objectives, such as downtown revitalization or increased real estate values, to find common ground within the partnership. After obtaining consensus on project goals, partners should discuss and agree on strategies to reach those objectives. Communication is essential to the public/private partnership process for many reasons, including ensuring a more efficient decision-making process by facilitating the exchange of information, ideas, and needs and creating opportunities for public involvement.


PETERSON COMPANIES

Vibrant new office, commercial, civic, and housing spaces have contributed to the revitalization of Silver Spring's city center.

External communication: Consistent communication with a broad array of actors external to the partnership is integral to ensure widespread support and diverse perspectives within the process. Partners should reach out, listen, and respond to stakeholders and the community, elected and appointed officials, the media, and investors. The partnership should develop a clear and concise concept of the project that can be communicated in a consistent, cohesive voice to these actors.

The designation of a project spokesperson from the public and private side can help deliver a consistent message about the partnership and its objectives. Leaders can also shepherd the project through the development process by acting as negotiator in securing political and financial support. Finally, the most

Communicate regularly with partners about goals, decisions, and activities

Silver Spring, Maryland, Downtown Redevelopment

Communication among public/private partnership entities was crucial to the successful redevelopment of downtown Silver Spring, an inner-ring suburb outside Washington, D.C. Communication provided the link among the three groups involved in the redevelopment plans—the public partner, real estate developers, and nongovernmental actors.

Spearheaded by public investments and plans to spur private development, the county created a comprehensive urban renewal plan and sought a long-term partner to initiate redevelopment. Ten years later, the county's partnership with the Foulger-Pratt and Peterson development companies has resulted in the successful creation of the Downtown Silver Spring Revitalization project. This project redeveloped the city's commercial core through construction and rehabilitation of the existing spaces into a mix of office, retail, housing, and civic uses and has proven to be successful in the market as the suburb again becomes a destination area in the region.

The partnership's comprehensive approach to communication resulted in the creation of an effective relationship and widespread benefits. Notable features of the partnership's effective communication efforts include the use of Montgomery County's Silver Spring Regional Services Center as a liaison between the partners and a primary point of contact representing the public sector to coordinate negotiations and project implementation. The leadership of Montgomery County Executive Doug Duncan was integral in communicating redevelopment goals and generating the political and financial support to implement the project. Furthermore, the partnership established regular communication with nongovernmental organizations, particularly civic associations, and established a Citizen Advisory Task Force, thus creating an opportunity for input and involvement in the process and generating project support from existing neighborhoods and local businesses.

PETERSON COMPANIES

The revitalization of the downtown of Silver Spring, Maryland, a suburb of Washington, D.C., emerged from ongoing communication between public and private partners.

The significant energy and resources devoted to communication among the partners and other actors enhanced the bonds between the private and public partners, as articulated by developer Bryant Foulger: "We have a deep and long-term commitment to this community and county. The future strength of our county depends on a vibrant town center in Silver Spring."

informed actors, the principals, should be directly involved in communicating partnership objectives.

A transparent process, achieved through open communication, information-sharing, and participation in the decision process, increases the potential for broad support for public/private partnership projects, particularly from nonstakeholders. Community outreach should include public involvement or notification of the project's planning, design, and construction stages through ongoing meetings and news updates. Sharing information with the public, however, must be timed to occur strategically in order to protect the deal from market overvaluation; for example, a partnership's disclosure of intent to purchase property may affect land prices as well as the outcome of the overall project.

9 Negotiate a Fair Deal Structure

"Fairness" is a value subject to judgment by both sides in any negotiation. Legal documentation provides evidence of the terms that all parties agreed to at closing, but fairness is often determined by subsequent changes in fact. Because we cannot anticipate all future changes, fairness will often remain an elusive goal.

What Is "Fair"?

Fairness in negotiating a deal structure means that all parties are reasonably satisfied, at the point of closing, that they will receive the outcomes that were important enough to include in the transaction documentation. In public/private partnerships, it is widely acceptable that the private side, in exchange for taking significant financial risk, will accrue proportionate future financial returns. The public side, in return for providing the infrastructure, entitlements, or other public resources that allow the private activity to advance, will receive sufficient tangible and intangible public benefits—such as improved public infrastructure; increased property, employment, or sales tax base; provision of needed services; clearing of blight; and nontax income and tax revenue generated by the project—that justify the required investment.

Tax increment financing over the last 30 years has facilitated the development and renovation of Portland's downtown.

South Waterfront Central District Project, Portland, Oregon

Public/private partnership projects are currently serving as catalysts for urban renewal in Portland's downtown waterfront area. In August 2003, the Portland Development Commission entered into a development agreement creating a partnership to transform the 31-acre South Waterfront Central District from an underused riverfront industrial area to a vibrant, sustainable, mixed-use central city neighborhood. Partners in the agreement include the city, Oregon Health and Science University, and local investors and developers. Their objectives include the construction of affordable and market-rate housing, leasable university research space, open space and public greenways, and transit facilities to link the district with the downtown.

The development agreement structured the project in three phases to generate momentum through TIF funding and early private investments; establish contingencies for public and private commitments by requiring their fulfillment based upon the satisfaction of certain obligations within an established timeframe; ensure responsiveness to real world and market conditions; and secure risk management for all parties by minimizing financial exposure and establishing remedies for noncompliance.

Furthermore, the agreement established a funding plan specifying the sources, responsibilities, and time frames for financing the $1.9 billion project. The agreement established the city's share of financial responsibility at approximately 50 percent of the total cost, 30 percent for the private sector and the university, and 23 percent from federal and state sources. During the agreement negotiations, the partners projected that three-quarters of the phase one project benefits will be spread to the whole district, while the project area will receive the balance of the financial benefits.

Portland's waterfront revitalization will connect the downtown with the rest of the city through the development of a proposed mixed-use residential neighborhood with civic spaces, a renovated plaza, and a new waterfront park.

Getting to "Fair"

Negotiating a fair deal structure does not begin at the point attorneys begin documenting the transaction. It is a cumulative process that begins with some of the principles previously outlined. By the time the transaction is documented, a clear understanding of the deal structure should already be in place. Both parties should have already done their homework and evaluated their respective risks and returns. All parties critical to the transaction should already be informed of the evolution of facts as the deal proceeds to closing. Above all, mutual trust established over time will go a long way in bridging difficult negotiating issues as they invariably arise.

CARTER

Some general rules to follow in achieving a fair deal structure include the following:

- Principals should spend sufficient time preparing or reviewing a detailed term sheet. The term sheet should be circulated and agreed to by all parties before documentation begins. A well-thought-out term sheet will assist in surfacing issues that need to be discussed, and it allows legal counsel to reasonably determine the intent of the parties.

- Do not let legal counsel or the documentation process drive the outcome. Only the principals retain the shared vision, understand the risks they are willing to take, and generally are able to keep the transaction on track when the inevitable unforeseen conditions arise. Transactions fail because the principals either ignore or abdicate their responsibility for supervising the negotiation.

- When possible, build in objective measures of the expected outcomes that can be used to determine the ultimate fairness of the transaction. For example, asking the private partner to spell out the expected time frames of future development and the consequences if conditions change significantly is reasonable. The same is true for public partner commitments.

CARTER

Transit-oriented development is emerging at Atlanta's Medical Center rail station through land leased by MARTA to St. Joseph's Hospital for the construction of two new medical facilities.

- Both sides need to hire competent legal and technical counsel. If you are negotiating the terms of a tax increment financing, for example, you need counsel experienced with transactions subject to your particular state statute.

- Allow sufficient time for final negotiations and documentation. If you are faced with an immovable deadline, forced compromises may result in lasting resentment by one or both parties. On the other hand, too much time can also result in an unsatisfactory outcome and will usually mean larger legal bills.

- Understand the long-term nature of the partnership. The public sector is not going away anytime soon, and private developers, even those with short- to intermediate-term investment horizons, are still creating assets in the built environment that should last for generations. The difference in time horizons may require compromise.

- Understand that compromise is a necessary requirement for achieving a fair transaction. It is not a sign of weakness. Principals are the only parties that can keep the ultimate objectives in mind and know when compromise is appropriate.

10 Build Trust as a Core Value

Trust is one of the overarching values to be realized from the beginning and throughout the public/private partnership process. To endure, partnerships require a foundation of trust in each partner's commitment to the project and its objectives. Given the complex public/private partnership process and structure, trust is required between the multiple actors and entities to enable shared decision making and taking of financial risks. Partners must also ensure that other stakeholders, such as financial investors, as well as the public are dedicated to and trust the project and the partnership.

THE WELLINGTON NEIGHBORHOOD

A strong relationship between public and private partners in Breckenridge led to the development of the Wellington Neighborhood with its sense of place and affordable housing units.

Building Trust

Trust is tangible and can be earned through work and commitment to the project. Building trust incrementally through small efforts within the partnership creates a record of small successes that support bigger strides. In other words, success breeds confidence, and confidence breeds trust.

Parties begin to build trust in each other's interests, capacity, and diligence toward the project during the selection process. Many approaches exist for selecting appropriate private partners that provide opportunities to verify their qualifications. The Request for Qualifications (RFQ) is submitted by the public partner to evaluate references, track records, and resource capacity. The RFQ provides the public sector with the ability to choose a partner in which it can trust and also helps narrow the list of competitors, particularly if the public partner chooses to invite development proposals by issuing a Request for Proposals (RFP).

Maintaining Trust

After partner selection, trust is reinforced through each partner's realization of expected responsibilities. Reasonable performance schedules for deliverables help document the commitments of parties and ensure consistency in the implementation of the project.

Partners can communicate more effectively by building personal relationships with each other. Formal and informal forms of communication between entities create opportunities to build a more open and trusting relationship. Parties must act honestly and in good faith and work under the assumption that the other partners are doing the same. The practice of reciprocity also increases the co-

The Wellington Neighborhood, Breckenridge, Colorado

Increasingly, resort communities with hot housing markets have partnered with private developers to create affordable housing for local employees. One successful example, the Wellington Neighborhood, designed as a traditional neighborhood development and located one mile from downtown Breckenridge, Colorado, demonstrates the necessity of trust between public and private partners and stakeholders to create dense, below-rate housing in a predominantly luxury-home community.

Trust emerged between the private partners and the public members and their representatives through fulfillment of agreed-upon project objectives, including affordable housing, open space preservation, community development, and alternative transportation opportunities. Currently, 80 percent of the 122 housing units in the 85-acre development are deed-restricted affordable for low- and middle-income local workers and range in housing types from single, detached units to two-unit residences. Twenty acres in the neighborhood have been permanently preserved as open space in the form of "community greens," and the grid-based neighborhood design and community spaces promote pedestrian mobility and public gatherings. Future neighborhood improvements are projected to include commercial and office space as well as a transit center allowing residents to travel to the city's downtown and service and recreation areas by a local shuttle bus.

THE WELLINGTON NEIGHBORHOOD

A Wellington Neighborhood festival.

Trust has been sustained throughout the four-year development process by the cooperative nature of the partnership between the local developer and public authorities and their honest and transparent communication. Addressing the considerable environmental damage caused by historic mining required the assistance of the U.S. Environmental Protection Agency, the Colorado Department of Public Health and Environment, the developer—Poplarhouse LLC, and a design team from the nearby city of Boulder. To increase the feasibility of constructing affordable housing, the public sector implemented regulatory incentives, such as impact fee waivers, and adopted deed restrictions on the purchase of the neighborhood units that require owners to work a minimum number of hours per week in Summit County and place a cap on the amount of appreciation per year to maintain units' affordability. An extensive public involvement process was used to obtain community support to authorize rezoning the site for higher-density development. The partners' commitments to mutual objectives and reciprocal deeds have resulted in the creation of an all-season community with benefits to the larger region. Although many intangibles contributed to the success of the Wellington Neighborhood, according to developer David O'Neil, "trust was important because there were no upfront guarantees. Trust allowed each party to take a risk that they would not otherwise have taken. Without trust, the parties would not have taken the risk and nothing would have happened."

operative nature of the partnership. Finally, to overcome misperceptions and differences impeding the emergence of trust, partners should work to understand the perspective and needs of actors involved in the process.

Building trust with other stakeholders and the public requires a high degree of transparency and the realization of promised objectives. Although parties may feel compelled to overpromise to secure support, good faith and reliability may be tarnished by lack of follow-through.

Overall, partners must understand that people rely upon trust to protect their interests. By pursuing mutual goals, trust can emerge among partners if the process includes mechanisms to encourage honest communication and dedication to the project. Because change is likely and reinvention becomes necessary, trust underlies the partnership's ability to stray from the prescribed path and yet continue to collaborate to realize mutual project objectives.

Conclusion: The Future of Public/ Private Partnerships

Many of the nation's major developments are so complex that neither a private developer nor a public entity alone can finance, design, develop, construct, and operate them. Structuring genuine public/private partnerships can substantially enhance the ability to implement these projects. The key to success is to structure a genuine partnership based on mutual respect, understanding, and strong leadership. Also important is a fair and reasonable sharing of costs, risks, responsibilities, and economic return.

The story of the renovation and restoration of the U.S. Customs House and Post Office in St. Louis, Missouri, commonly known as the Old Post Office (OPO), illustrates the main principles of public/private partnerships. It includes all four partners—"the four legs of the stool"—for-profit private sector, nonprofit independent sector, public sector, and stakeholders (Principle 3). Also, it displays the kind of vision, perseverance, and trust among partners that is essential for success (Principles 2, 7, and 10).

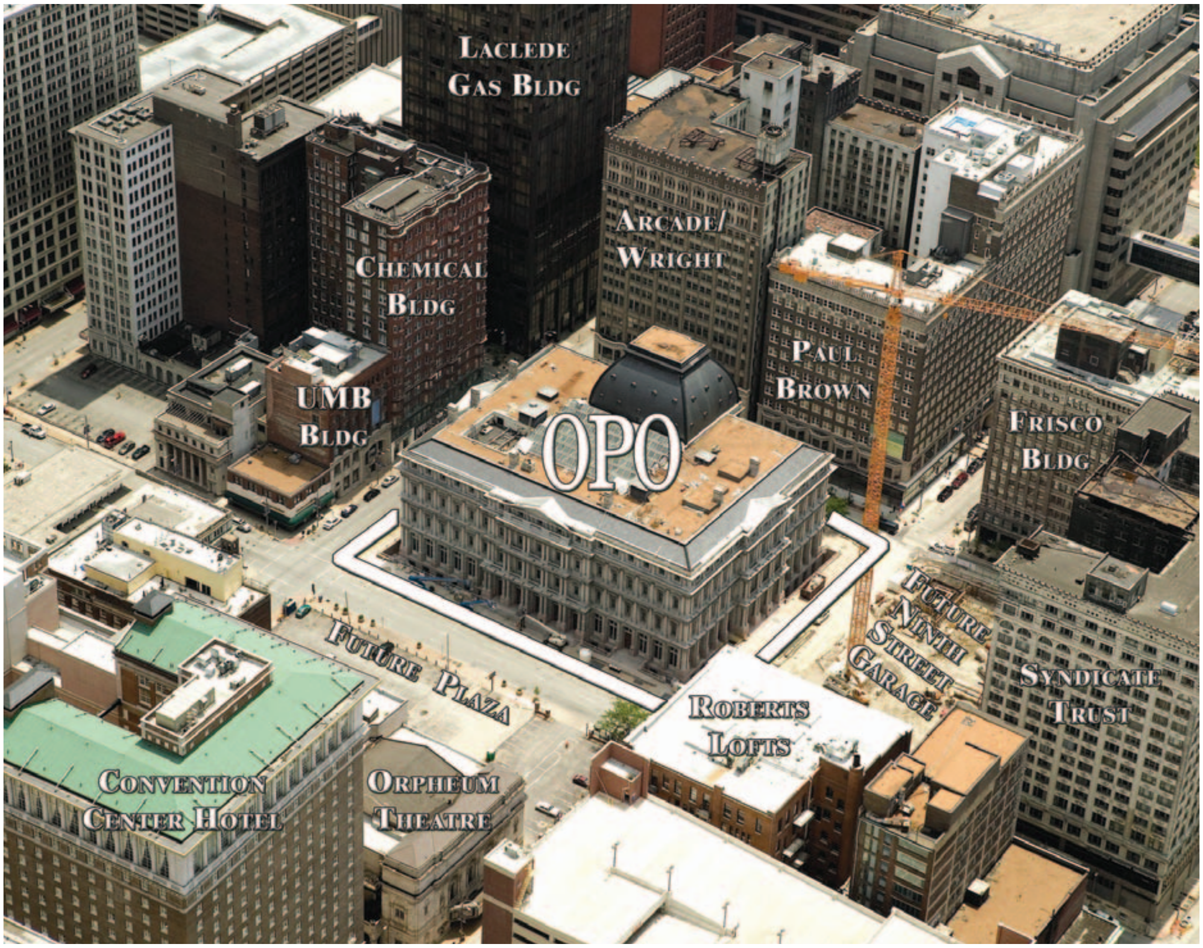
Partnership Financial Contributions to the Old Post Office Redevelopment

Sources of Funds	Old Post Office	Ninth Street Garage	TOTAL
Corporate Contributions to Missouri Development Finance Board (MDFB)*			
MDFB provided Second Mortgage Loan to the project	$12,356,800		
MDFB utilized as equity for construction of the garage		$15,793,200	
TOTAL CORPORATE CONTRIBUTIONS	12,356,800	15,793,200	$28,150,000
First Mortgage Debt			
Enterprise Social Investment Corporation Community Development Entity utilizing New Markets Tax Credits	8,200,000		8,200,000
Bond financing credit-enhanced by Bank of America		16,500,000	16,500,000
MDFB Equity		500,000	500,000
Federal grant (administered by HUD) for public improvements (sidewalks, street lights, etc.)"	1,479,500	1,479,500	
General partner equity	15,000		15,000
Limited Partner federal historic tax credit equity **	7,488,600		7,488,600
State historic tax credit equity **	7,929,000		7,929,000
Limited Partner new markets tax credit equity **	7,471,100		7,471,100
TOTAL SOURCES	$44,940,000	$32,793,200	$77,733,200

* Contributors received 50% State Contribution Tax Credits.

** Subject to adjustment at cost certification. Limited Partners are two CDEs (National Trust/US Bank and Bank of America affiliated entities).

Source: The DESCO Group, Inc. (October 2004).



THE DESCO GROUP, INC.

Tax credits and public grants funded the preservation, renovation, and reuse of the Old Post Office, thus supporting the revitalization of the rest of St. Louis's CBD.

Designed in the Second Empire style and patterned after the Louvre in Paris, this 125-year-old building containing 242,000 gross square feet located in the heart of the St. Louis Central Business District is ranked sixth in historical significance and seventh in architectural significance by the U.S. General Services Administration (GSA) in its inventory of more than 2,200 buildings.

GSA announced its intent to vacate the building in 1997, adding to the already 1.8 million vacant square feet in the OPO District, thus beginning a process that took seven years to arrive at construction. In October 2004, GSA transferred fee title of the OPO to the Missouri Development Finance Board (MDFB). The $77 million redevelopment of the OPO and the demolition of an adjacent building to make way for a new parking structure were financed by assembling various public, private, and civic sources (Principles 4, 6, and 9).

Numerous public hearings were held (Principle 8) at the federal, state, and local levels. Input was sought from various federal, state, and local government agencies (including GSA, the Advisory Council on Historic Preservation, the National Park Service, the State Historic Preservation Office, the Missouri Department of Natural Resources, the MDFB, and the city of St. Louis). Concerned not-for-profit groups (including the National Trust for Historic Preservation) were also consulted (Principles 1, 5, and 10).

Webster University; the Missouri Court of Appeals; Eastern District; the St. Louis Public Library; the St. Louis Business Journal; and the Pasta House full-service restaurant will occupy the building, which is nearly 70 percent leased. As a result of this project, ten surrounding buildings (seven of which were previously vacant, deteriorated historic buildings) either have been renovated or are in various stages of redevelopment. It is pleasant to contemplate that the entire Old Post Office District in the heart of downtown St. Louis will be thriving once again as a result of this project.

The long-term and widespread benefits of this project demonstrate the future potential for public/private partnerships to redevelop and establish vibrant communities. After nearly 25 years, there are hundreds, maybe thousands, of examples of successful public/private collaborations. The successful projects demonstrate joint planning, mutual trust, persevering leadership, open communication, and a reasonable sharing of costs, risks, responsibilities, and economic return. Now is the time to continue to refine this approach to real estate development and use public/private partnerships to complete complex projects successfully.

Ten Principles for Successful Public/ Private Partnerships

Mary Beth Corrigan, Jack Hambene, William Hudnut III, Rachelle L. Levitt, Richard Ward, Nicole Witenstein

Combining strengths and resources, the public and private sectors are working together to achieve common goals. By partnering and sharing the risks and rewards, they are able to revitalize urban and suburban communities by developing projects—such as mixed-use communities, affordable housing, convention centers, and airports—that might otherwise have been impossible to develop using more traditional methods.

This publication presents principles to help community leaders and public officials together with private investors and developers navigate the public/private development process and get the job done, whether it is a single project or a long-term plan. Examples and case studies highlight best practices from partnerships around the country and describe how they were used to make cities more livable and sustainable, while meeting the financial goals of the developer.

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You Will Learn to:

Lay the groundwork for a successful joint venture.

Develop a shared vision and strategies for implementation.

Understand the role of each player and the potential risks and rewards for each.

Identify leaders and establish a process for making decisions.

Create tools for gaining commitment throughout the project.

Establish ways for all parties in the partnership to communicate.

Negotiate a fair deal that meets the needs of each partner.

Build and maintain trust.