National Recreation and Park Association

Public Private Partnerships

tools tactics opportunities

Robert Cornwell
CSG Advisors

NRPA Innovation Lab, San Diego
January 28, 2016

Part I Public-Private Partnerships: Lessons from Experience

1. Public-private partnerships: one name, many types
2. Mistakes: common private and public sector mistakes
3. What it takes for success

Part II Partnerships Today

1. Public agencies looking for revenue streams in dealing with diminishing budget cuts
2. Tax increment, lease revenues, special tax districts
3. Lender considerations today
4. Opportunities: adaptive reuse of public real estate: parts, transportation facilities, military bases

Part III Process Tools

1. Criteria for negotiation

CSG Advisors

National independent municipal financial advisor for public agencies

$80 billion of public financing for real estate, housing and economic development

Illustrative projects:

- Infrastructure financing strategy for Mission Bay, San Francisco
- Financial strategy and negotiations for Anacostia Waterfront Initiative, District of Columbia
- Anaheim’s financial negotiations with The Walt Disney Company for Second Gate
- Re-use of Ferry Building, San Francisco
- Sustainable economic development incentives for Kansas City
- Developer negotiations and financing for 6,000 acre Stapleton airport reuse, Denver
- University of California guidelines for 3rd party development on ground leases
- Helped design what became US Treasury’s $15 billion New Issue Bond Program
- National financial advisor to Resolution Trust Corporation for all tax-exempt related assets

Robert Cornwell, formerly President, CSG Advisors

26 years national experience negotiating and financing over
$11 billion public-private projects

Clients included: Washington, D.C., San Francisco,
Los Angeles, Denver, Phoenix, Kansas City

Director of Financial Management, City and County of Denver
US Peace Corps Volunteer
Wilderness Ranger, US Forest Service
Founder, Build a School in Burma

Ferry Building, San Francisco

Key Challenges:

- Public or private development?
- Port financial weakness
- Financial criteria
- Re-use criteria

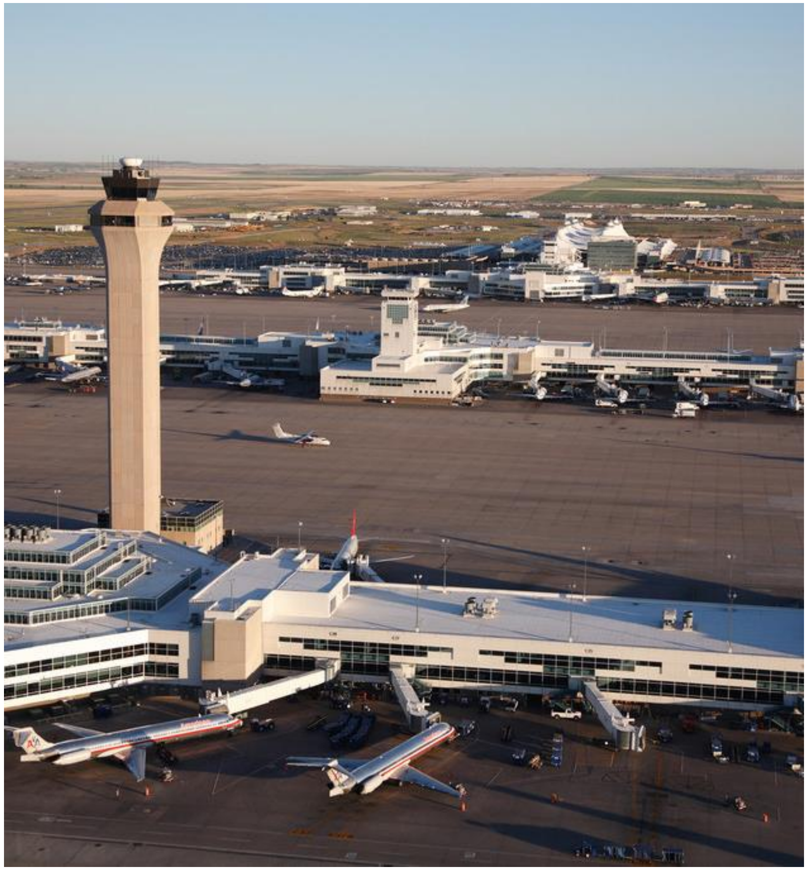
    How to keep the re-use from being ordinary

Anacostia Waterfront Initiative, District of Columbia

Key Challenges:

- Very long and costly timeframes
- Funds to bridge infrastructure costs
- Multiple redevelopment projects
- Obtaining major capital funds with limited public revenues and local government risk
- Sharing upside for needs of other neighborhoods
- Exchange of Federal parklands

Stapleton Airport Site, Adaptive Re-Use



Key Challenges:

- Size of site (6,000+ acres)
- Requirement to keep Airport System whole financially
- Desire to create a large part of the site (upwards of 40%) as public parklands
- City's desire for unique, transit oriented, walkable neighborhoods v. developer's need for what's easily financed (chains)
- Huge infrastructure deficit

Mission Bay, San Francisco

Key Challenges:

- Funds to bridge infrastructure costs
- Enormous scale and time-frame
- Shift in economic uses and need to jump-start development
- City-required major affordable housing
- Need to create new parks and fund their operations

Common Mistakes for Public Agencies

___ 1. Not Being Able to Set Limits

___ 2. Negotiating for Too Many Objectives

___ 3. Not Defining Success Up-Front

___ 4. Taking on High-Risk Public Sector Role or Responsibilities

___ 5. Relying on the Developer's Pro-Forma & Fiscal Impact Analysis and Not Doing One's Own

___ 6. Failure to properly consider:

- Increased operating expenses
- Revenues which would occur anyway
- Level of project uncertainty
- Timing risks

Common Mistakes for Public Agencies

___ 7. Viewing Tax Increment as Free Financially as Well as Politically

___ 8. Maximizing Land Sale Price and Ignoring Hidden Consequences

___ 9. Focusing on the Developer's Internal Rate of Return Rather Than What the Public Side Can Afford

___ 10. Fragmenting the Public Decision-Making Parties

___ 11. Financing Structure Which Creates Substantial Public Sector

___ 12. Choosing a Development Partner Not Aligned With the City's Objectives or Unwilling/ Unable to Take on Risk

___ 13. Failing to create political backstop

___ 14. Agreeing to take only upside income

Common Mistakes for Private Developers

___ 1. Assuming That Public Agency Project Requirements Always Are Negative for the Project

___ 2. Assuming That One Agency Speaks For or Controls Others

___ 3. Assuming There Are No Limits to What Public Agency Can Provide

___ 4. Failure to Understand Legal and Political Constraints on Public Agencies

___ 5. Assuming Public Agency Has

- Greater ability to control site than it does
- Done more diligence than it has (land, environmental, existing tenants, etc.)

___ 6. Counting On Subsidies That May Not Be or Remain Available

Common Mistakes for Private Developers

___ 7. Not Recognizing What's Easier and Harder for Public Agency to Agree to

___ 8. Assuming That Your Lender Will Still Be in Business, Too Favorable Financing Terms

___ 9. Focusing Only on Initial Phase Rather Than Whole Project

___ 10. Assuming That the Party With the Shallowest Pockets is Still Able to Perform

___ 11. Underestimating Time Involved

___ 12. Not Having a Lawyer(s) or Advisors Expert at All the Pieces

Public agencies are from Mars, developers are from….

What Does it Take to Work Together

- Mutuality of respect, and understanding of each other's critical needs – and limits
- Learning to find the easiest things to ask for, v. the hardest
- Value to public agencies of external and market discipline
- Both sides focusing on the big picture
- Adaptability to change
- Openness

1. Being able to make decisions

   Small group of key players

2. Getting and keeping everyone in the room, with responsibilities

3. Real outside deadlines, and limited time

   Creating momentum

4. Facing problems right away

5. Access to resources

6. Being willing to change – *while maintaining a clear vision*

   Projects are inherently opportunity-driven, which makes clear specific criteria and framework *even more important*

Greater Need by Both Parties for Each Other

1. Reducing risk
2. Shared infrastructure and other costs
3. Opportunities for joint use facilities
4. Affordable housing may be lower risk (e.g. if rents on tax credit units are 10% below the market)

What Many Public Agencies Are Looking For — And What They' re Not

1. Developer' s ability to carry through on commitments
2. Having a lender already on board
3. Real financial partnership
    - Not shifting all risks and costs to public agency
    - Tax-exempt debt as way to reduce cost of funds, not shift risk
4. Clear understanding of private role and fundamentals of what public agency needs
5. Not bailing out existing projects
    - Public agency objectives v. sunk costs
6. Avoiding problems and expectations that could come back to haunt them

Process Tools

1. Criteria
2. Defining success
3. Creating a cohesive, effective public negotiating team
4. Structuring with Effective Development / Financing Term Sheet
5. Summary

Criteria

Public agency pressures and dilemmas on highly desired projects

Political environment, "slippery slopes", changed proposals, changed economics, changed negotiators

Impacts and benefits for both:

- Public agency and
- Private developer

Criteria That Have Proven Useful

Each is fundamental – but also measurable

Criteria that anticipate the next request

- Criteria which are not "slippery slopes"
- Essentiality
- Anticipation of deal points

A key criteria: ability to take on more projects

- Why critical
- Why easy to lose sight of
- Measures
- Financial sustainability

Example: Using This Criteria Approach

Financing criteria for re-use of the San Francisco Ferry Building

1. Maintain current financial benefits
2. No reduction in Port net income during construction
3. Protection from any annual financial losses
4. Preserve financial flexibility for other projects
5. No obligation to pay construction shortfalls
6. Upside potential

Example: Anaheim Criteria for Disneyland Resort Development and Financing Agreement

In order to shape and negotiate a development and financing agreement for the Disney expansion, it is recommended that the City establish a set of criteria by which proposals can be measured and evaluated.

Financial Criteria

The City's ability to provide quality services to all of its residents must be preserved. Specifically, the development and financing agreement should provide:

1. <u>Positive direct financial benefits</u>. An expanded Disneyland Resort should provide the City a net direct positive fiscal return after payment of public costs (including capital related debt service costs) of the project.

2. <u>Protection of City finances from development risk during build-out</u>. Given the magnitude of the project, the City must be protected from any interim financial risk resulting from a failure to develop or delay in development, which might impair the City's ability to provide existing services to current residents.

3. <u>Protection from any annual financial losses</u>. Given the City's highly constrained operating budget and limited reserves, the City cannot assume payments from any existing revenue streams (net revenue reductions) in a given fiscal year.

4. <u>Preservation of financial flexibility to serve all of the City</u>. The development and financing agreement must preserve the City's ability to serve all of its residents (i.e. it shouldn't so over-commit discretionary funds so as to diminish the ability to serve the City as a whole). Further, the City must be able to maintain financial flexibility in dealing with the Gann Limit, as well as the ability to secure future county, state and federal financings.

5. <u>Protection of financial position in a changing revenue, cost and development environment</u>. The agreement must protect the City from financial losses due to the changes in cost or revenue streams, or developing events outside City control (e.g. changes in the nature, ownership or scope of the project; legislative, judicial, or initiative changes to tax or other revenue sources; cost overruns; operational cost changes, etc.).

Example: Anaheim Criteria for Disneyland Resort Development and Financing Agreement *(cont.)*

Development Criteria

The expanded growth of the City's economic potential must be fostered. Specifically, the development and financing agreement should:

1. Reinforce the Commercial Recreation Area's image as a high quality destination resort.
2. Assure that Disney development complements rather than competes with the City's investment in its Convention Center and other CR Area resources and interest.
3. Provide fair treatment to all landowners and users in the Commercial Recreation Area while recognizing the economic needs of the entire City.
4. Maintain or improve traffic/circulation in the area.
5. Maintain open spaces accessible to the public.
6. Provide convenient access to all hotel, restaurant and retail opportunities in the Commercial Recreation Area to enhance the area-wide tourist experience.
7. Maximize development potential through full and efficient use and location of Commercial Recreation Area infrastructure (e.g. people movers, monorails, pedestrian bridges, etc.) so as to maximize the City's return on investment.

Environmental Criteria

1. The development and financing agreement should resolve the impacts and mitigation measures identified in the Environmental Impact Report.

Example: Anaheim Criteria for Disneyland Resort Development and Financing Agreement *(cont.)*

Community Criteria

The City is more than any one area and future development must bring a net benefit to the entire community. Specifically, the development and financing agreement should:

1. Create positive impacts on surrounding neighborhoods (including buffers, housing, community facilities, safety, circulation, etc.).
2. Provide new job and economic opportunities to Anaheim residents.
3. Integrate the development of regional transportation networks.
4. Not adversely impact the Anaheim electrical and water utilities and the clients they serve.