Nonprofit Economy Development Authority

A Scalable Model for Public-Private Development

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For Nonprofits · Foundations · Cities & Counties · Public Partners

Institutional Roadblocks to Solving the Problem

Many jurisdictions have a land and need but lack the political backing, staffing, and technical expertise to operate and execute complex redevelopment and economic revitalization efforts.

Political Positioning

Development generates controversy that deters elected officials from acting.

Staff Capacity

Typically, may lack sufficient dedicated staff, development expertise, or public-private partnership management capacity to successfully manage and execute complex projects.

Bureaucracy

Public review and approval processes frequently encounter delays that can prolong project timelines.

A Nonprofit Revitalization Model

The City could establish a structured partnership with an independent nonprofit organization to provide dedicated development capacity while preserving governmental authority with the City.

The Concept
The nonprofit would serve as the City's development and execution partner for designated real estate and economic development initiatives.

The non-profit could provide:

- Evaluate and advance development opportunities.
- Coordinate public-private partnerships.
- Assemble and manage development sites.
- Manage interim uses.
- Support commercial corridors and economic revitalization.
- Coordinate financing and private investment.
- Manage development processes from planning through implementation.

Structural Operations Model

CITY

Governmental powers and policy authority

1. Land Use
2. Taxation
3. Bond Issuance
4. Public Works
5. Establishing of City policy and development objectives
6. Required governmental approvals

NONPROFIT

The City's execution partner

1. Support commercial corridor and downtown recovery
2. Site assembly
3. Managing interim uses
4. Holding leaseholds
5. Development manager
6. Business support
7. Coordinate private-sector development partners and financing

Structural Principle

Model Structural Overview

The City retains governmental and policy authority. The nonprofit provides specialized implementation and development capacity pursuant to agreements with the City.

What This Is Not

- Not a JPA
- Not a political body
- Not a city department
- Not a redevelopment agency

Core Benefits to Both Partners

Nonprofit will increase economic output by executing complex initiatives that:

1. Leverage public-sector authority and private-sector development expertise
2. Deliver real estate projects and programs that attract residents, employers, and visitors
3. Diversify land uses and economic activity
4. Spur new private investment
5. Generate additional tax revenue, a portion of which will be reinvested

NONPROFIT
Execution Partner

CITY
Governmental power and policy authority

Challenges & Required Safeguards

Establishing the model requires clear legal, financial, and governance safeguards.

Governance & Accountability
The structure must provide sufficient independence for efficient project execution while maintaining appropriate accountability to the City.

Delegation of Governmental Authority
The nonprofit cannot replace the City's governmental decision-making functions. The respective responsibilities of the City and nonprofit must be clearly defined.

Public Asset Protection
Transactions involving City property must account for applicable legal requirements, City approvals, and protections governing public assets.

Financial Exposure
The structure should clearly identify project funding sources, financial responsibilities, and allocation of development risk.

Transparency & Oversight
The governance and contractual structure should establish appropriate reporting, oversight, and accountability mechanisms.

Legal Compliance
Individual projects remain subject to applicable legal requirements, which may include land use, environmental review, public-property disposition, contracting, ethics, and other requirements depending on the transaction.

Surplus Land Act Considerations

The Surplus Land Act ("SLA") may apply when the City seeks to sell or lease City-owned property that is no longer necessary for the City's use. The nonprofit structure does not bypass applicable SLA requirements.

City Identifies Property
Identify City-owned property for potential redevelopment or economic development.

Structure The Transaction
Following the applicable SLA process, the City can structure the project through a:

1. Development Agreement.
2. Lease.
3. Disposition Agreement.
4. Other Applicable Agreement.

Nonprofit Execution Partner
The nonprofit performs the development and implementation functions assigned to it under the applicable agreement.

Determine SLA Pathway
Identify City-owned property for potential redevelopment or economic development.

Determine whether the property is:

- <u>Agency Use</u>
  Property used or planned for qualifying City work or operations.
- <u>Surplus Land</u>
  Follow the applicable SLA disposition process, including required notices, negotiations, and HCD review.
- <u>Exempt Surplus Land</u>
  Determine whether a statutory exemption applies and complete the applicable declaration, findings, and HCD review process.

Legal Toolbox: Development Agreements

Development Agreements function as the implementation instrument that enables the nonprofit venture to carry out projects on public or nonprofit-owned sites over time under a single negotiated framework.

Elements of a Development Agreement

- Long-term development agreement (~30 years)
- Runs with the land.
- Authorizes specific identified projects.
- Designed to incorporate future partnerships and acquisitions including City-owned sites and opt-in for private property; new properties/projects can be added through administrative procedure or by amendment.
- Vests the overlay and provides by-right development of included properties.

Legal Toolbox: Development Agreements

Core Powers of a Development Agreement

- **One-Time Legislative Approval**
  Development Agreement is a legislative act approved by ordinance in a single action by the City Council.
- **Vested Land Use Protections**
  Upon approval, the Development Agreement vests the applicable zoning, General Plan, and land use regulations governing the project for the term of the agreement, notwithstanding any subsequent amendments or modifications adopted by the City.
- **Future Sites May be Added by Amendment**
  The Development Agreement may be drafted to encompass one or more projects and may be subsequently amended to include additional sites.
- **Administrative Approval**
  A well-drafted Development Agreement can include internal provisions allowing minor, non-material changes to be handled administratively by staff.
- **Independent Usage**
  Development agreements can be used in tandem with a district overlay or independently.

Development Agreements

The role of the Development Agreement allows a city to designate the nonprofit as a long-term development partner and execute agreements that apply uniformly across multiple parcels within the overlay, including sites added in later phases, while locking in negotiated public-private partnership terms and delivery obligations.

Key Features

- Defined development incentives and standards.
- Long-term certainty for project participants.
- Ability to amend and add sites over time.

Amendment Flexibility

- Development agreements can be amended as additional sites become available, enabling the model to grow without renegotiating the core structure.

Nonprofit Governance and Framework Overview

Governance & Organizational Structure

The primary mission execute development projects, primarily on public land, through public-private partnerships.

Board Composition

The board is "mission-driven" and composed of private-sector professionals, specifically:

- Professionals in real estate development and investment.
- Specialists in regulatory law.
- Leaders in community development.

Public Land Development

California law expressly permits cities to dispose of or lease public land for development through development agreements and land disposition arrangements.

Delivery

The organization would leverage surplus parcels, coordinate PPP structures, and deliver projects consistent with overlay zoning and development agreements, enabling jurisdictions with limited technical capacity to accelerate housing production.

PPP Coordination

Cities may also contract with nonprofit corporations to structure and manage public-private partnerships and development programs.

Programmatic Functions of the Nonprofit

Key Operations

Facilitator of Development
The nonprofit serves as the city's designated partner to coordinate private-sector development.

Redevelopment-Like Functions
A nonprofit cannot be a "redevelopment agency," but through a Development Agreement, it can perform similar functions: land assembly, developer selection, and project coordination.

Streamlined RFPs & RFQs
Through a Development Agreement, the nonprofit may be able to issue RFPs through a faster and streamlined process than that available to cities.

Secure Diverse Financing
Nonprofits can access a variety of financing mechanisms from federal, state, local to private, and philanthropic capital.

Redirect Revenue to Other Projects
The Development Agreement may include revenue recycling provisions to cross subsidize future projects, subject to any applicable restrictions associated with public funding sources.

Proof-of-Concept Strategy

Start with a few small, non-controversial site to negotiate a robust development agreement and overlay that can later scale.

Demonstrate Feasibility

Prove the nonprofit model works in a real jurisdiction.

Refine Tools

Develop and test legal and financial instruments.

Build Confidence

Develop a track record that creates credibility with partners in order to expand operations and development.

We look forward to building the future with you!

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