Finance Techniques Available

For Implementation of the

South New Orleans Development Plan

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of

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Urban Evolution, LLC
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Executive Summary

The South New Orleans (SNO) subdivision is a 600-acre tract of largely vacant land, which was first platted in 1914. Several problems, including issues of lot size, extent of ownership, and lack of adequate infrastructure, have prevented any meaningful and coordinated development as of this report. Jefferson Parish is anxious to develop these 600 acres to increase its tax base, provide quality jobs to its citizens, and to continue the development along the Manhattan Boulevard corridor.

Key to the future development of this tract will be a financial structure that supports the necessary land acquisition and assembly and infrastructure improvements required to put the subdivision into a developable state. Because of the extent of the investment likely required just to make the site ready for development, public resources alone will not be sufficient. Leveraging private dollars in some capacity will be required to see the site developed. This report begins to lie out the myriad of available federal, state, and local financing programs that could be used to finance the required from both the public and private sector.

This report is organized into two sections. Section I identifies the need for a Land Acquisition Plan and Financing Strategy. Section II outlines the many programs that exist at the federal, state, and local levels to assist in land acquisition, operating capital, infrastructure placement, and in public-private development. Grants, taxes, loans, and other forms of securing capital are also presented for future consideration.

This report will augment *The Jefferson EDGE*, which has as main objectives development of a parish-wide land development plan including a land use plan, market feasibility study parish-wide, and a land inventory. To date, the Envision Jefferson 2020 comprehensive land use and transportation plan is nearing completion. Other objectives identify SNOS and recommend strategic actions consistent with this report.

Meetings with Jefferson Parish Finance and Community Development Departments as well as the Louisiana Public Facilities Authority (LPFA) have concluded that resources are available through federal, state, and local means to support land development in SNOS. Current Parish resources are sufficient for some infrastructure costs for SNO development. The Community Development Department can assist in applying for and securing various federal and state funds. The LPFA can assist in various and innovative ways to finance all aspects of development of SNO. LPFA has great potential for financing tech and office parks, housing, and infrastructure, whether through Parish government, a non-profit entity (501c3), or private for-profit developers.

The major findings of this report suggest that quality development of SNO is possible and that resources for all aspects of the project are available. The Jefferson Economic Development Commission (JEDCO) should play a key role in acquiring and administering funds associated with development in SNOS.

Methodology

This inventory of available federal, state, and local finance techniques was undertaken as the first step in developing an "Action Plan" for South New Orleans. The resulting inventory is broken down by jurisdiction. Federal agencies, as well as specific federal programs under their umbrella, are identified first, followed by state programs, and finally local finance techniques. The databases of appropriate federal, state, and local jurisdictions were queried to obtain relevant information as well as face-to-face meetings with relevant state and parish officials

Previous South New Orleans studies were reviewed as well as *The Jefferson EDGE*. The databases of numerous for-profit and non-profit economic development organizations were researched for information and all relevant information is disseminated throughout the report.

Section I- Land Acquisition and Financing Strategy

The land acquisition plan can take various forms and formats, depending on the land management techniques adopted by the responsible offices and the needs of the specific land acquisition program. The land acquisition plan should:

a) Identify the project, the authority to acquire rights and any restrictions on authority to acquire rights, the cost authorization, and the responsible office and official. If there is no condemnation authority, the plan should so state.
b) Identify the parcels to be acquired within the scope of the project.
c) Identify the interests to be acquired for each parcel
d) Identify the general order of acquisition priority.
e) Identify estimated funding requirements.
f) Provide a schedule for the commencement and completion of appraisals and negotiations and other key steps in the acquisition process, and include a multi-year schedule when appropriate.

Several factors have guided the development of financing packages. Some points to consider in developing the financing strategy:

a) Does the district/parish have a shortfall of revenue and/or operating costs?
b) Current situation of bonds/debt service.
c) Forming partnerships with private groups or commercial enterprises could result in less cost for infrastructure.
d) Using multiple funding options within one development.
e) Building in phases would allow more projects to be started.

Some acquisition techniques commonly used are:

- Establishing a land trust
- Fair market value sale
- Bargain sale
- Outright donation
- Donation by bequest
- Remainder interest with life estate
- Encourage partnerships with non-governmental organizations to facilitate land transfers
- Purchase/transfer of development rights
- Identify best practices techniques from other communities
- Enabling legislation to enhance land acquisition
- Joint public/private partnership
- Exchange of property
- Condemnation
- Acquisition by withdrawal

Some examples of funding and financing sources available are identified below.

- Federal, state, and local to be defined below
- LADOTD funding of infrastructure improvements
- Impact fee
- Statewide property transfer tax
- Grants/loans
- Local option levy
- Local improvement districts
- Public/private partnerships
- Bonds
- Tax
- Land trusts
- User fees

Section II- Programs

A) Infrastructure Financing and Land Acquisition

Community Development Block Grant (CDBG)

The Community Development Block Grant (CDBG) program works largely without fanfare to create jobs and expand business opportunities. The CDBG program is broken down into several smaller funding categories including Entitlement Communities, Non-Entitlement Communities, and Insular Areas. The annual federal appropriation of CDBG dollars is split between states and local jurisdictions, also called "entitlement communities". Entitlement communities are central cities of U.S. Census defined Metropolitan Statistical Areas; other metropolitan cities with populations of at least 50,000; and qualified urban counties with populations of at least 200,000.

Over a one, two, or three-year period selected by the grantee, not less than 70% of the CDBG funds must be used for activities that benefit low- and moderate-income persons. All activities must meet one of the following national objectives for the program:

- Benefit low- and moderate-income persons
- Prevent or eliminate slums or blight
- Address community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community.

Section 108 Loan Guarantee Program

Section 108, the loan guarantee provision of the CDBG program, is one of the most potent and important public investment tools that HUD offers to local governments. It allows them to transform a small portion of their CDBG funds into federally guaranteed loans large enough to pursue physical and economic revitalization projects that can renew entire neighborhoods. Such public investment is often needed to inspire private economic activity, providing the initial resources or simply the confidence that private firms and individuals may need to invest in distressed areas.

Loan commitments are often paired with Economic Development Initiative (EDI) or BEDI grants, which can be used to pay redevelopment costs of a Section 108-funded project. The can also be used as a loan loss reserve, to write down interest rates, or to establish a debt service reserve.

Economic Development Initiative (EDI)

EDI provides grants to local governments to enhance both the security of loans guaranteed through Section 108 Loan Program and the feasibility of the economic development and revitalization projects they finance. EDI has been the catalyst in the

expanded use of loans through the Section 108 Program, one of the most potent public investment tools that HUD offers to local governments.

The EDI program offers communities a way to decrease the level of risk to their CDBG funds. EDI helps local governments manage and reduce this risk in at least two different ways. A local government may use an EDI grant to provide additional security for the Section 108 loan, thereby reducing the exposure of its CDBG funds in the event of a default in loans made locally with the 108 funds. Or it may use this flexible grant to simply make the project more feasible by paying some of the revolving loan fund. Increasing access to capital for entrepreneurs and small businesses has emerged as a key component of the job growth strategy powered by the EDI grant program.

EDI grant funds can only be used in projects also assisted by the Section 108 Loan Program; such projects may involve activities such as property acquisition; rehabilitation of publicly owned property; housing rehabilitation; economic development activities; acquisition, construction, reconstruction, or installation of public facilities, and for public works and other site improvements.

HUD publishes an annual Notice of Funding Availability (NOFA) for the EDI program. In addition to addressing the competitive Rating Factors, applicants must certify that the project is consistent with the Consolidated Plan of the jurisdiction in which the proposed project is located. Although no new funds were appropriated for the EDI program in FY 2002, a balance of approximately $3 million from past fiscal years remains in the account and is available for future funding. Program regulations are identical to those governing CDBG and the Section 108 Loan program.

*Previous three programs applications through JEDCO and/or Community Development Department

U.S. Economic Development Administration (EDA) Title I Programs
Public Facilities and Development Program

The Public Facilities and Development Program empowers distressed communities to revitalize, expand, and upgrade their physical infrastructure to attract new industry, encourage business expansion, diversify local economies, and generate or retain long term, private sector jobs and investment.

In many cases, public works projects are used to upgrade or expand an areas economic infrastructure to support the next generation of industry or commerce. Whenever possible, this program seeks to redevelop existing facilities and industrial/commercial locations. EDA encourages such redevelopment projects because they promote sustainable economic development by taking advantage of readily available infrastructure and markets.

Title I funds support locally developed projects that encourage long-term economic self-sufficiency and global competitiveness. Examples of past infrastructure investments include water and sewer facilities, industrial access roads, rail spurs, port improvements,

skill-training facilities, technology related infrastructure, as well as the demolition, renovation, and construction of publicly owned facilities.

These investments support a variety of specific economic development strategies including technology led development, aquaculture facilities, diversification of natural resource dependent economies, distance learning facilities, export programs, commercialization and deployment of innovative technologies, redevelopment of Brownfields sites, and business/industrial development.

*Application through JEDCO

Jefferson Economic Future Fund (J.E.F.F.)

The J.E.F.F. is a parish-wide incentive fund designed to help Jefferson Parish compete for new jobs and investments. Projects are negotiated on a case-by-case basis, depending on the number of new jobs and payroll to be generated, location, and deal structure.

* Application through JEDCO

Bond Banks

A bond bank is typically an independent, state-sponsored entity that provides low cost financing to local governments through debt issuance with state backing. A bond bank may be a private or non-profit body. It may have a broad focus or it may issue debt for a single purpose only. Local jurisdictions pool the individual costs of issuing bonds and combine their financing needs to create a larger, more attractive issue that can be marketed nationally. The bond bank purchases the bonds from the local jurisdiction, which then repay the funds with interest. State credit assurances and dispersed risk can assist in reducing the interest rate the local governments pay on the bonds.

Bond banks can generally fund a variety of capital projects. Their greatest benefits are to small communities, especially those that may not be able to participate in the national bond market because of inexperience, the small size of the bond issues they are floating, or a weak credit rating. Some states use federal grants, for instance, those pertaining to water and transportation, to subsidize the interest rates.

*Application through Louisiana Public Facilities Authority

Economic Development Award Program (EDAP)

The EDAP, administered by the Department of Economic Development, provides grants for publicly owned infrastructure to assist industrial or business development projects that promote economic development and that require state assistance.

* Application through Louisiana Department of Economic Development

Transportation Equity Act for the 21st Century
Urbanized Area Formula Grant Program

Authorizations totaled $18 billion for the 6-year period for Urbanized Area Formula Grant Program. Under this program 91.23 percent of the funding is made available to all

urbanized areas with a population of 50,000 or more. For urbanized areas with a population less than 200,000, funding may be used for either capital or operating costs at local option and without limitation. For urbanized areas with populations of 200,000 or more, the definition of "capital" has been revised to include preventative maintenance. Operating assistance, for these larger areas, is no longer an eligible expense. Also, for these larger areas, at least 1 percent of the funding apportioned to each area must be used for transit enhancement activities such as historic preservation, landscaping, public art, pedestrian access, bicycle access, and enhanced access for persons with disabilities.

*Application through U.S. Department of Transportation and/or Regional Planning Commission

Common Revenue Sources (Tax)

Property Tax

The primary source of revenue for most local governments is the property tax. Tax values are calculated by multiplying the assessed property value by the tax rate. Property tax revenues are commonly used to fund infrastructure other than utilities. Property tax valuation is also applied in special districts, special assessment districts, and municipal service districts. The property tax is a relatively stable source of revenue with predictable, potentially large yields and limited problems of taxpayer avoidance. Some say however, that increasing tax assessments creates a disincentive to improve property.

*Local jurisdiction

Local Option Sales Tax

The local option sales tax adds a voter-approved tax to the purchase price of goods. Exemptions can be used to lessen the regressive effect of this tax for some qualifying customers or types of purchases such as food and medicine. Often the most convenient and politically acceptable form of infrastructure financing, a sales tax is generally easy to administer and relatively invisible when it is "piggy backed" onto state taxes. A sales tax broadens the tax base to include non-residents.

*Local jurisdiction

Special Purpose Tax

Although restricted by state authority, local governments may be able to levy special taxes to fund specific purposes. Hotel/motel occupancy taxes and vehicle licensing are special purpose taxes. For example, hotel/motel taxes are frequently used for tourism development activities while vehicle-licensing taxes are used to cover the cost of keeping motor vehicle records. Special taxes can be used to pay the interest on bonds. Although a local referendum may be required, the special purpose tax is becoming an increasingly popular funding resource for special facilities such as arenas.

*Local jurisdiction

Louisiana Capital Outlay Budget

Prior to the convening of each regular session of the legislature- and not later than March 1- the governor must submit to each house of the legislature a preliminary capital outlay budget that includes a list of the proposed projects in priority order together with a summary outlining the maximum amount of funds to be spent in each department or political subdivision. After these preliminary recommendations are revised, Facility Planning and Control (FPC) section prepares capital outlay budget pages for the executive budget.

As indicated in R.S. 39:104, the capital outlay budget must include a list of projects requested to be undertaken within the time period, projects recommended by the Division of Administration to be undertaken within the time period, the project expenditures for each project, and the reasons for rejections of any requested project.

FPC coordinates the responsibilities of the Division of the Administration in the capital outlay budget process. Requests for funding may be submitted online by state agencies or by political subdivisions. Expenditures may be used for acquiring lands, buildings, equipment, or other permanent properties or for their preservation or development or permanent improvement.

The FPC Section prepares the capital outlay bill, omnibus bond bill, and concurrent resolution. These are presented to the legislature on the eighth day of the legislative session.

*Application through JEDCO

Bonds

Two common financing mechanisms are general obligation (GO) and revenue bonds. If a jurisdiction is not paying cash for infrastructure, it is probably going to first consider GO or revenue bonds. Property taxes and other general fund revenues securitize most GO bonds. Accordingly, they are backed by the “full faith and credit” of the jurisdiction. More than 90 percent of all jurisdictions use GO bonds to raise money.

Since revenue bonds are not as prevalent, the remaining discussion will focus on these debt instruments. Revenue bonds are usually a desirable method to finance new infrastructure because the debt is retired with revenues received from the users of the improved facility. Revenues back these bonds from sources more specifically defined than those backing GO bonds.

A local jurisdiction may issue revenue bonds without voter approval, which is required for most GO bonds. Since dedicated revenue streams are less predictable and less stable than total general revenues, interest rates may be higher for revenue bonds than for GO bonds, to offset the bondholder’s increased risk.

*Application through Louisiana Public Facilities Authority

Specific Purpose Revenues and Financing Mechanisms
User Charges

Similar to pricing for privately produced goods and services, user charges can be an efficient means of paying for operating expenses and maintaining facilities, and to retire revenue bonds used to finance construction. User charges recover costs for services provided the local jurisdiction, such as water, electricity or gas, and recreation.
Charges can be structured in a variety of ways. In the case of metered water use, fees are tied to the level of use; residential garbage collection is generally based on a flat monthly fee. User charges are permitted by the locality's police power.

User charges are most appropriate when the service provided is easily identified and the amount of use can generate sufficient revenues. Any capital project benefiting the users could appropriately be finance with user fees. Examples include sewage collection lines or a water treatment plant. Some advantages are:

- User charges allow capital expenditures outside normal tax or spending limits and are bondable
- Users pay for what they consume
- Consumers see a direct relationship between benefits and charges
- Avoid general tax increases
- User charges can be applied to a broad range of expenditures in existing, emerging, and new locations

* Local jurisdiction

Stormwater and Transportation Utilities

Potable water and sanitary sewer utilities are closed systems in that the provider has control when and where customers are added. The sewer and water operations are usually enterprise funds within the municipality or separate utility districts. In recent years, local governments have expanded the utility concept to more open systems like stormwater and transportation facilities. The stormwater utility concept is likely to grow as the cost of controlling stormwater increase without commensurate growth in general fund revenues.

With a stormwater utility, the fees can be added to the sewer or water bill. User charges are assessed to those who increase the need for, or who benefit from, the improvements. Collection may be annually or monthly. The steady revenue stream can pay for construction, maintenance, operations, and related administrative costs. This additional source of revenue can also improve a local government's ability to bond infrastructure improvements. Utility fees are not subject to voter approval. However, one-time or "connection" fees should follow rational nexus requirements. The administration of an additional utility results in some overhead costs. Also, the laws in Louisiana must

be examined for basic legal guidelines, since utilities for stormwater and roads are relatively new funding mechanisms.

Municipal stormwater utilities may charge for use, availability, and connection to the system. Funds may be used for the federal Clean Water Act's NPDES permit application. They may also be applied to developing stormwater management, construction and maintenance of facilities, administration, and enforcement. Typical stormwater rates across the country range from $20 to $45 annually, per single-family residence. Fees for nonresidential development are usually based on the amount of impervious area on each property.

Transportation utility fees are still quite rare. Charges are based on usage estimates and project budgets. Revenues can be used to fund maintenance, operating, and capital construction costs for road construction and maintenance.

Stormwater and road utilities are ideal where there are infrastructure deficiencies. A utility fund will receive revenues from all customers to address existing deficiencies, future capital needs and – very important – annual maintenance and operating expenses. Some advantages are:

- Broad based and can generate significant revenues to fund an activity that usually does not receive enough local dollars
- Used for maintenance and operations
- Fees can be billed on the same time schedule as utility fees
- Fees are not part of property tax rates and not part of the general fund budget

* Local jurisdiction

Special Assessment Districts

A special assessment district is created by a local government to provide one or several specific public services or improvements. Its operations and finances are usually controlled directly by local governments. The special assessment district generates revenues that can be used to finance public bonds.

A special assessment district is created with voter approval and allows levies within a relatively small geographical area. Special assessments can be considered private financing, since homeowners and businesses located within the special assessment district- who benefits directly from the infrastructure improvements- fund the new, localized investment. Special assessments are generally created to link costs and benefits resulting from new or upgraded infrastructure. There are hundreds of sewer, water, or road special assessment districts in the United States.

Special assessment districts usually fund on-site, basic infrastructure projects such as local streets, curbs, sidewalks, streetlights, and sewer and/or water extensions, as well as stormwater management. Some advantages are:

- More politically acceptable and equitable than general tax increases

- Improvements may raise property values
- Target funds to specific needs in other areas of the community
- Fewer restrictions imposed by federal or state law
- May be more reliable because it is based on an annual levy

A special taxing district, sometimes known as a municipal service district (MSD), permits the additional taxation of property owners within certain geographical boundaries, to fund additional special services provided within the service district. Revenues raised by an MSD can be used to pay for both capital improvements and operating expenses. Depending on state law, the municipal service district may be managed by the municipal government or by an autonomous governing body with the power to levy taxes or borrow funds.

Municipal service districts can be organized around a variety of different services and facilities, such as parking, trash removal, sewage, stormwater drainage, beautification, and recreation. Some advantages are:

- Confine financing to beneficiaries of improvements
- Provide funds for both capital and operating expenses

*Local jurisdiction

Tax Increment Financing (TIF)

TIF identifies increases in property tax revenue within a defined geographical district that are due to new development or renovation. The incremental increases are earmarked for infrastructure improvements or services needed in that same district. Throughout the lifetime of the tax increment district, the tax contribution from the properties in the district to the municipal budget remains at the original, “baseline” levels; local government entities supported by the property tax, such as cities, schools and counties, continue to receive property tax revenues reflecting the base valuation.

Meanwhile, the increase in property tax revenue that is due to an increase in asset value over the “baseline” tax assessment is deposited in a tax increment fund. The TIF fund pays for necessary infrastructure improvements within the TIF district. Most of the fund usually goes to repay the TIF-backed bonds financing the public improvements in the district. When the TIF period ends, the local tax-supported entities start to receive the full tax benefits from the improved properties. The district is not an autonomous body and is dependent on the local jurisdiction.

A new concept that may become popular is the use of incremental sales tax revenues to finance facilities expected to have a positive effect on sales tax revenue, such as convention centers or arenas. The sales tax rate does not change, but increases in the amount of revenues collected in a defined area are dedicated to the facility being built.

A TIF district is useful if considerable capital facilities are needed within a geographic area, and these needs are not reflected in the municipality’s capital improvement plan. It is also useful in places where development is desired but funding

for public facilities is not available. Tax increment financing is best used for commercial development and redevelopment because these forms of development generate a positive fiscal impact and new jobs, which are necessary to the success of the TIF. Depending on Louisiana regulation, TIF funds can be used for a wide range of purposes, such as property acquisition, site preparation and improvements, rehabilitation and construction costs, economic development, public streets and utilities, professional and administrative fees, or other soft costs. Some advantages are:

- Usually accepted by community and developers alike
- Can encourage new, private investment in an area that may not otherwise be developed
- The incremental increase in tax revenues due to new growth is diverted to a TIF fund to pay off debt

This section describes commonly used financing techniques that are useful when bolstered by the availability of tax-allocation financing. In some cases rather than constructing a very large front-end bond issue that obligates several years of amortization payments from the tax-allocation resources, redevelopment agencies will contract for smaller segments of debt. This allows the utilization of tax-allocation resources on a less heroic scale, somewhat similar to as a ‘pay-as-you-go’ debt obligation and repayment cycle. This technique is often utilized by redevelopment projects in a district’s start-up years when the tax –allocation resources are very modest and will grow incrementally over a longer period. Identified are seven financing partnership types that are commonly found in redevelopment program implementation utilizing tax-increment financing:

1. Assessment district bond support
2. Payback of parish public infrastructure investment
3. Payback of developer loan to start a project
4. Use of tax-allocation funds as local share for federal or state grants
5. Partnership funding to cure contaminated properties
6. Transit oriented district project funding mixes
7. Tax-allocation set-asides for low and moderate income housing

1. <u>Assessment District Bond Support</u>

Under this program, the developer will pay down the assessment district bond debt over a number of years.

2. <u>Payback of Parish Public Infrastructure Investment</u>

Most states allow cities or urban counties/parish to loan money to redevelopment agencies to initiate a project. This debt is then paid off with future tax-allocation resources. Depending on the fiscal policies of the redevelopment agency and its host city or county/parish, the debt created may stand in a third or fourth position to other

expected debt, thus loosening requirements for the immediate retirement of local governmental debt.

3. Payback of Developer Loan To Start A Project

Where a redevelopment project area has evidence of high market acceptance in its early phases, a developer may take the risk to loan a redevelopment agency funds for various eligible program implementation costs such as internal public infrastructure and peripheral roads, drainage, etc. The agency, in turn, creates a debt instrument to be paid back to the developer as redevelopment resources become available.

4. Use of Tax-Increment Funds as Local Share for Federal or State Grants

Tax-allocation financing can be pledged as the local share of matching funds that the state or federal legislation may require for receipt and use of the grant resources. The local jurisdiction will attempt to provide 'in-kind' levels of effort and other 'non-cash' resources historically allowed by categorical grant programs as a significant portion of the local share.

5. Partnership Funding to Cure Contaminated Properties

Local redevelopment agencies have become more willing to consider in public-private partnerships that can make the difference in the viability and financial feasibility of the redevelopment of brownfield sites. Redevelopment agencies have recognized the idea of utilizing tax-allocation financing as a means to conduct brownfield redevelopment while limiting liability. A few risks do exist in this approach.

6. Transit Oriented District Project Funding Mixes

Usually a transit district will bring station area property to the negotiations and the redevelopment agency will bring its tax-allocation financing capabilities to the deal, as well as the ability to assist with additional site assembly.

7. Set-Asides For Low and Moderate Income Housing

Some arrangements mandate that specific portions of TIF funding be directed to the production of low and/or moderate-income housing.

* Local jurisdiction

Developer Contributions

Exactions

Exactions are developer-funded, in kind contributions of land, facilities, or services that are demanded as a condition of development approval. Negotiated agreements

between the developer and the local jurisdiction traditionally include off-site infrastructure, such as roads, water and sewer lines, and site contributions.

Linkage programs, a related revenue mechanism, offer an additional method of funding off-site development. For instance, a housing linkage program would require the development of new off-site housing, or monetary contributions for such development. The level of off-site development exactions is usually reached through negotiations, while standardized guidelines often provide information on allocating costs for on-site infrastructure. It is the regulatory authority of local governments that permits them to require exactions. Exactions are usually linked to subdivision approvals or annexation agreements.

Any subdivision or project can be considered appropriate, since relevant off-site improvements frequently include streets, local water and sewer lines, and drainage improvements. Some advantages are:

- Infrastructure costs are paid by the developer
- Jurisdiction avoid spending general tax revenues on infrastructure

* Local jurisdiction

Impact Fees

Impact fees, also known as development fees, are one-time cash payments required of developers to pay for the new development's fair share of capital facilities. Depending on state legislation, impact fees can be used to pay for water and sewer, parks, libraries, schools, fire, police, roads, transit, and general government facilities and equipment. The fees imposed must meet two important tests: the "substantial benefit" and the "rational nexus" tests. The tests require a reasonable relationship between the amount of the fee and the actual cost of capital facilities needed to accommodate new development.

Because impact fees are not a tax but are based on the local government's police power, the fee payer must receive a substantial benefit. Thus impact fees require consideration of geographical service areas and the time period when the money will be used. Enabling legislation and/or case law requires fees to be proportionate, or non-discriminating, and to account for possible credits. In some cases, waivers or reductions may be allowed, although the jurisdiction must fund the difference. This is one reason why a cash flow analysis should be part of an impact fee study.

There are three methodologies that can be used to calculate impact fees: 1) plan-based, 2) incremental expansion, 3) buy-in. The plan-based approach is usually based on a master plan or facility study that indicates what facilities will be needed over a certain time frame to service projected development. Under incremental expansion approach, capital items are added incrementally to meet growth needs based on current level-of-service standards. The buy-in methodology is used when the local government has already oversized capital facilities from which new growth will benefit. Some advantages are:

- Can help meet capital facility needs without raising taxes
- Politically attractive since they pass on costs to future voters
- Shift the fiscal burden to new development and subject growth to pricing realities
- Add certainty to the development process by encouraging capital improvement plans
- Add certainty to the development process by encouraging capital improvement plans
- Provide funding for infrastructure
- Provide developers and builders with a specific and known fee schedule
- Coordinate new growth with the services demanded

*Local jurisdiction

Subdivision Regulations

Most communities have fees associated with the application for development of new subdivisions. These fees are usually up-front costs and are applied across the board and independent of the size of the development. These fees are associated with administrative costs necessary for the local government to review and comment on the impact of the subdivision application.