CFD Financing: A New Tool for Developing Regional Infrastructure

By Glenn Amster

If there's one theme common across Washington, it's that we've neglected to fund infrastructure improvements at the level necessary to sustain economic growth. We've taken small bites at the apple by increasing gas taxes to help fund the most urgent road projects, increasing fares on our state ferries and implementing congestion tolling on SR 167 (with other state highway projects sure to follow), while a slew of agencies and committees look at creative ways to find billions more to fund a deep backlog of big public works. But while federal (hopefully) and state funding may provide relief on some of the larger road projects, smaller projects — community-wide roads and utilities, for example — go wanting because, frankly, voters are tapped out and local governments in Washington don't have the tools available to finance these needed improvements without affecting other municipal functions.

Washington lawmakers don't have to look very far to find a dynamic regional infrastructure financing program that is not available to municipalities here, but is working to facilitate construction of public improvements elsewhere. In Arizona, California, Texas and Hawaii, municipalities have the authority under state law to establish Community Facility Districts ("CFD"), which enable new development to fund regional infrastructure projects that are necessary to remediate existing system deficiencies or enable new development consistent with existing growth management plans.

CFD financing is not unlike Local Improvement District ("LID") financing, which is currently used by almost all municipalities statewide to fund local infrastructure projects. LIDs (and Road and Utility Improvement Districts) enable local government to fund the acquisition and construction of certain local improvements by assessing properties benefited by the improvements within the defined District. This revenue stream enables the municipality to issue bonds backed by the assessments alone, without the need to pledge general operating revenues and, accordingly, place no burden on general tax revenues or assessments paid by residents or property owners outside the LID.

LIDs, however, have limitations that restrict their usefulness. Under current law, LIDs may only be used to finance a narrow range of public works or that portion of a regional improvement that provides a limited group of property owners special benefit, *i.e.*, above and beyond the benefit to the general public. Another shortcoming is the impact on landowners. Properties generally are assessed immediately for the potential benefit, which likely will not be realized until the property is developed, resulting in high taxes or assessments on vacant land.

CFDs provide municipalities with a great deal more flexibility. CFDs may fund any public facility with a useful life of five years or longer. Properties deemed to benefit need not be contiguous to the improvements. CFDs can include properties that are not adjacent to the utility or improvement, provided they receive some benefit. CFDs can even finance improvements located outside the district; for example, a sewer pump station that facilitates service to properties downstream. And, finally, assessments may be made to relate to ultimate development, not merely present use, and thus can accommodate changes over time.

CFDs could help promote some of the emerging strategies for addressing the state's climate change agenda. CFD funding to upgrade undersized or obsolete infrastructure in areas where growth is planned to occur can help lessen the cost of redevelopment in our urban areas. Housing, in particular, and the services necessary to support it, could benefit from the lower cost of CFD financing. And enabling CFDs to incentivize higher density residential living in areas with access to transit can help reduce dependence on the automobile.

CFD financing is not without its detractors. Any time the legislature vests local government with additional authority to impose new costs or fees on property owners there are bound to be repercussions. Although it went largely unnoticed, Ron Sims' decision to assess everyone in King County in order to subsidize ferries to Vashon Island no doubt will be cited by those who are opposed to broadening the County's taxing authority in any way, shape or form. But the potential for abuse should not dissuade us from a careful look at the benefits of CFDs. Specific remedies for misuse of the CFD funding apparatus can be included in any legislation. One solution, for example, could be to require 100 percent property owner consent to formation of any CFD.

A coalition of municipalities, property owners and other interested parties are drafting proposed CFD legislation to present to the State Legislature at the opening of the 2009 session. With the benefit of the experiences in other states, Washington has the ability to craft a well-conceived CFD statute that provides municipalities a useful new mechanism for infrastructure funding, one that will help to alleviate the pressures on our underfunded municipal public works.

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