The Legality of the Enterprising Council

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Local Authorities – Entrepreneurs – Economic Leadership

- Economic Leadership and Place Making
- Do authorities have legal powers for enterprise?
- Strategic Partnerships and Market Shaping
- Will Local Authorities meet challenges of economic leadership?

Scope of Discussion

- Review drivers for economic leadership/partnerships
- Review some examples of entrepreneurial leadership (eg Strategic Service Partnerships, Asset Backed Vehicles and LA trading companies)

Policy and Economic drivers for more Local Authority enterprise

- 3rd phase Gershon – 4th phase? – efficiency targets – 4 work strands?
- Efficient use of assets (and investments) – specific work strand
- Shared services
- Community cohesion
- Sustainable Community Strategies/localism
- Economic regeneration – more innovative use of well-being powers (Lyons)

Policy and economic drivers for more Local Authority enterprise (cont)

- Equity participation: longer term investments
- CAA regime: performance indicators
- LAA: (MAA's)
- Implications from Credit Crunch/Icelandic Banks?
- Involvement of EIB and pension funds to fund PFI and PPPs

Authorities' Powers for Enterprise

- Well-being powers – s2, LGA 2000
- "LAML Case" – link to Sustainable Community Strategy and Community benefits not just saving money
- Trading powers via companies – s95, LGA 2003
- Duty to have regard to local jobs – s214 Sustainable Communities Act 2007
- Power to invest
- Proposed duty to assess economic conditions of area

Examples of and opportunities for enterprise and economic leadership:

- Strategic partnerships – services
- Assets – Investment
- Trading Companies

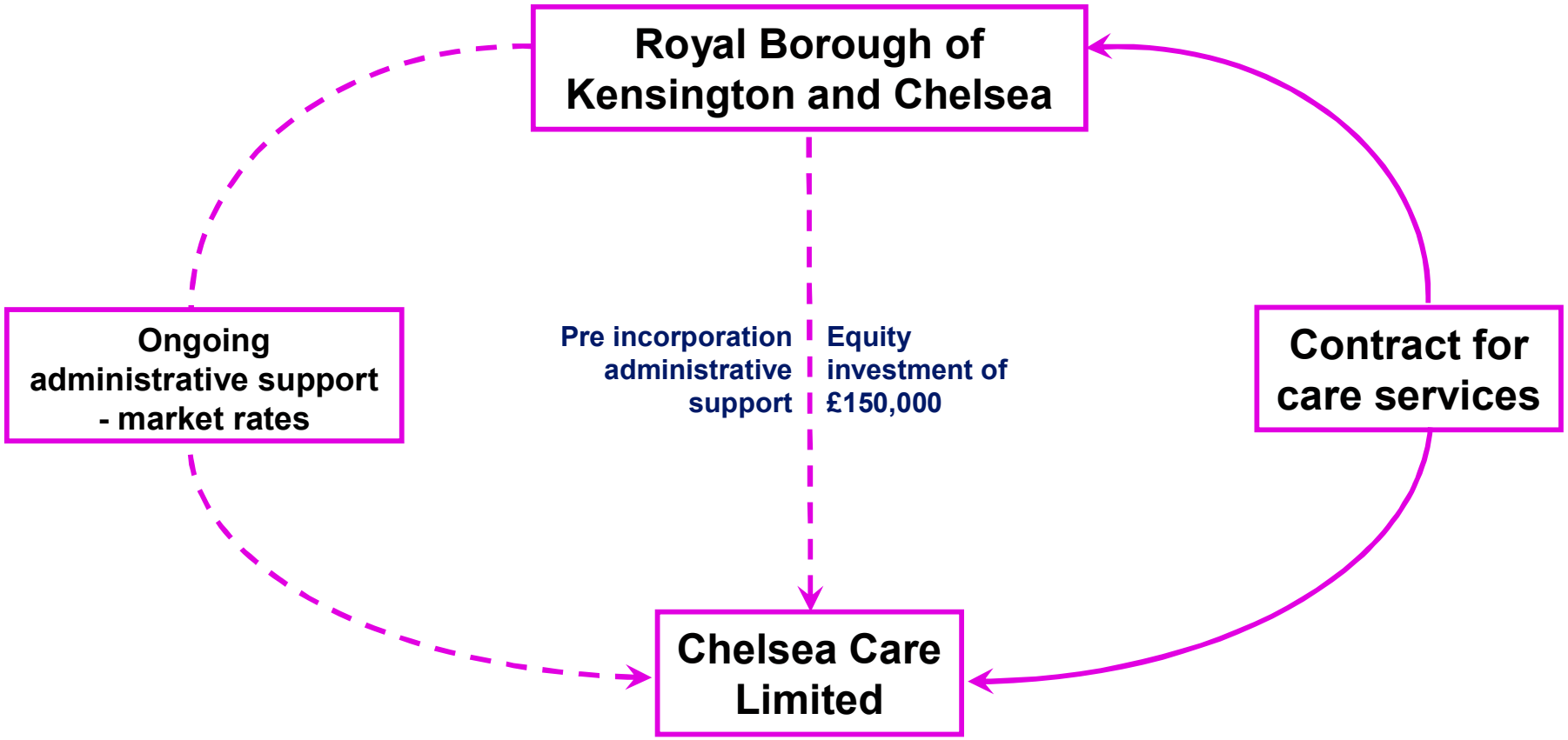
Local Authorities as economic leaders – some examples:

- Tunbridge Wells – first LABV and front loading revenue investment in SCS/Masterplanning
- Oldham – SSP – Community cohesion
- Swindon – SSP – Business/service transformation
- Leeds City – Leeds EASEL
- LB Barnet – Investigating Barnet Bond
- Local Authorities and Post Office retention
- and other examples
- Municipal Enterprise is alive and kicking!
- Post Credit Crunch – more important than ever to innovate

Case study – Chelsea Care Trading Company

- Wholly owned Trading Company of the Council
- Provides in home care services to the Council under contract
- Considerations
  - Establishment of company
    - Well-being power
    - Trading power under Section 95 – Local Government Act 2003
    - State Aid
  - Business case for trading company vs external provider
  - Procurement of the contract for services by the Council
  - Ongoing procurement by Chelsea Care

Chelsea Care structure



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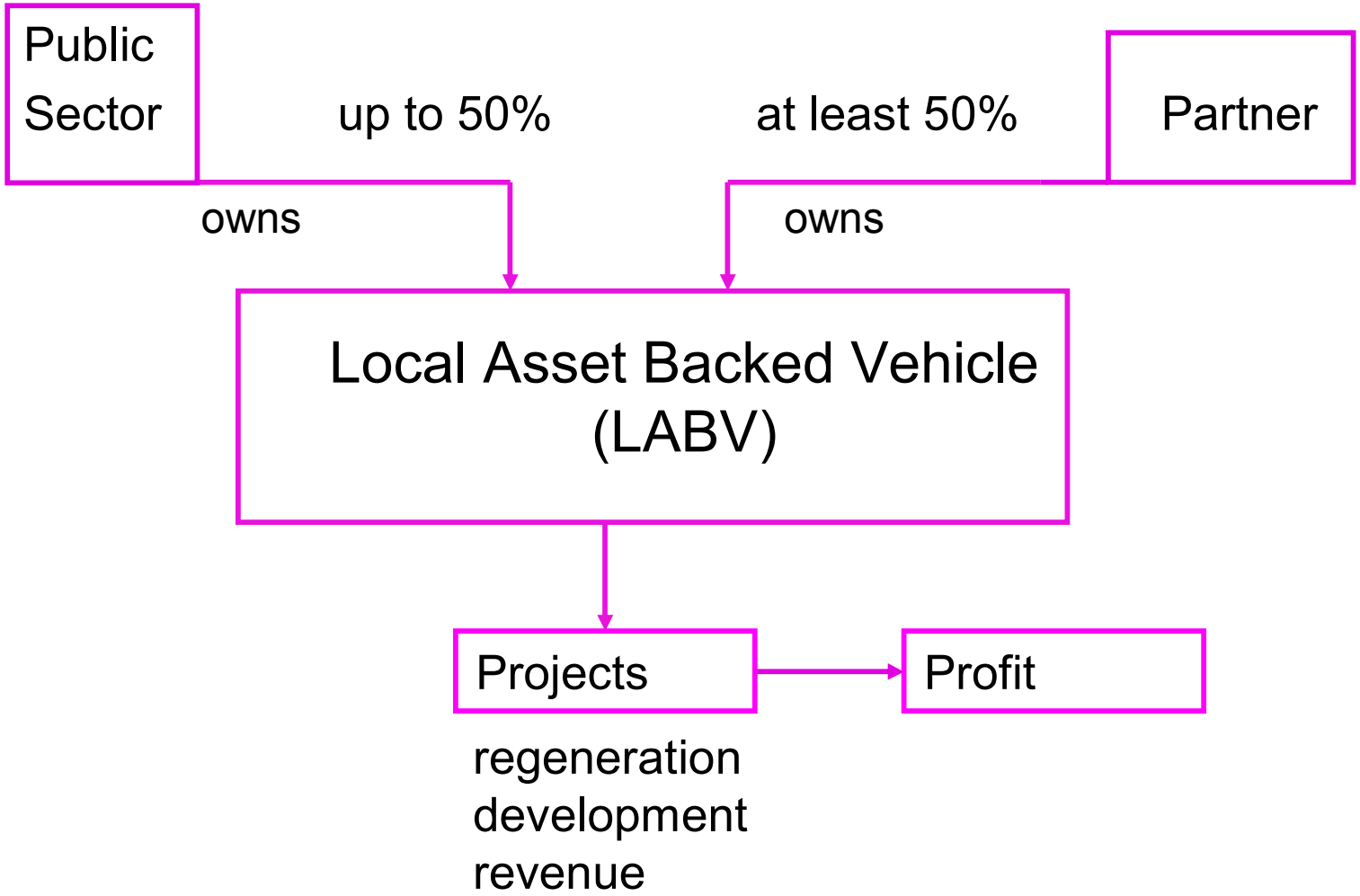
Strategic Partnerships – Assets
Why? – national drivers

- Local authorities own £50 billion assets
- Many assets under used or wasted
- Central government policy – Gershon
- Has your Authority maximised its return?
- Credit crunch means poor return on sales?
- PDA/SDA route - overage – how much do they actually return?

Why a Local Authority Asset Backed Vehicle?

- Investment, Influence, Return
- Reduce procurement costs
- Secure long term expertise
- Incentivisation of partner
- Strategic investment vehicle
- Residual Profit base
- Local strategic partners together

Structure (1)



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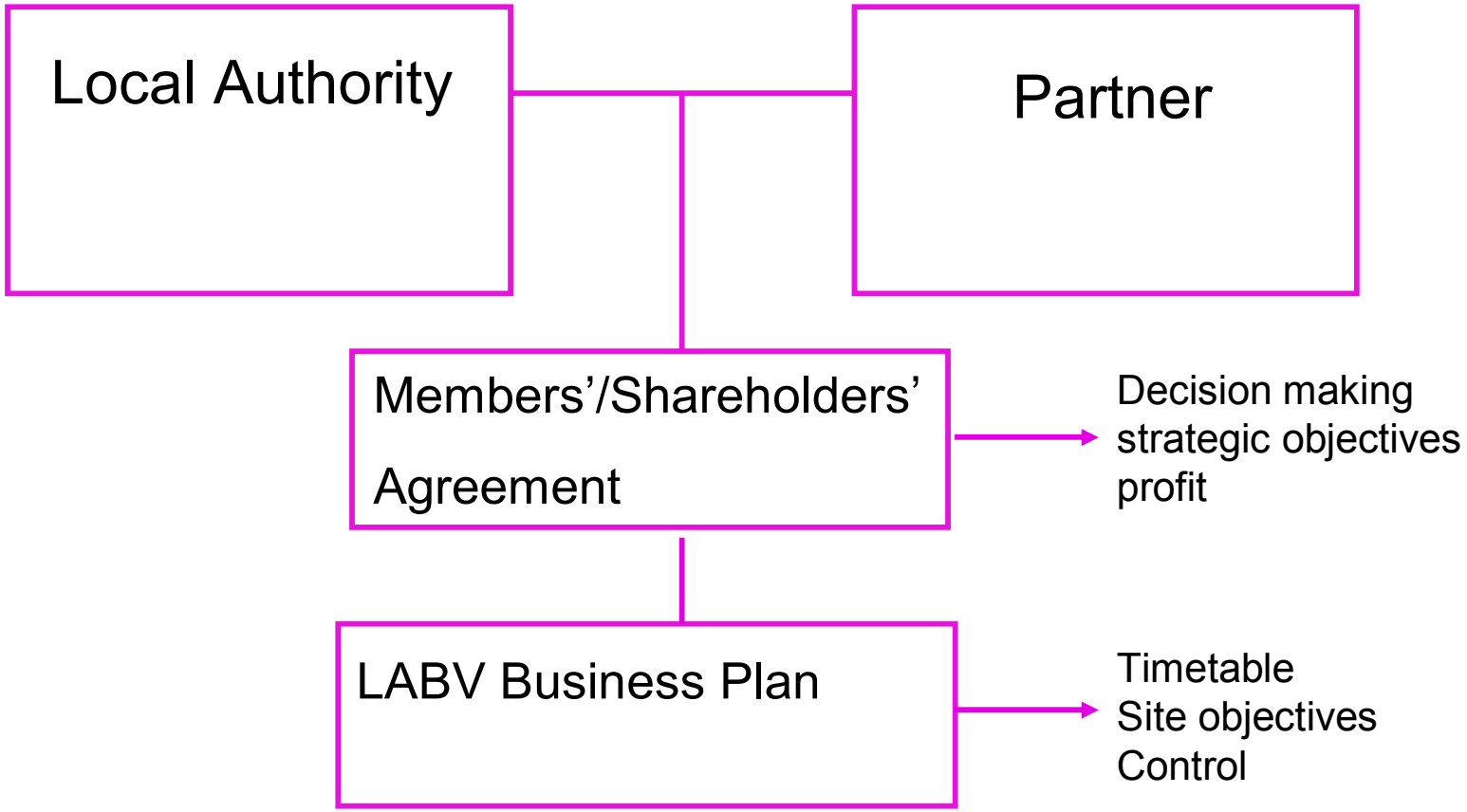
Structure (2)



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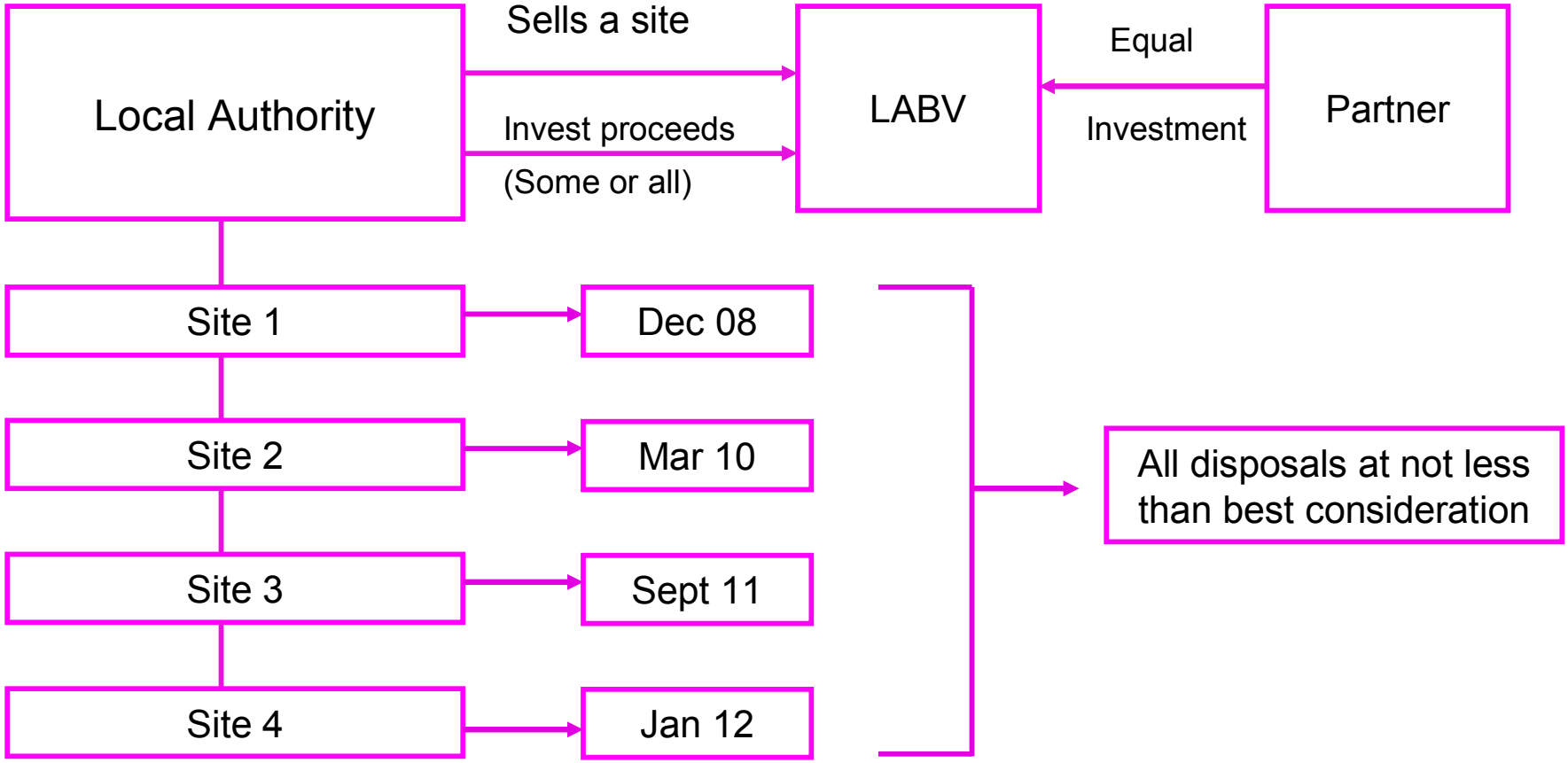
Structure (3)



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LABV's - Type of vehicle

- No single LABV model
- Limited company
- Limited liability partnership
- Limited partnership
- Vires 'audit'
- Governance Review

How to *forward* fund your Sustainable Community Strategy

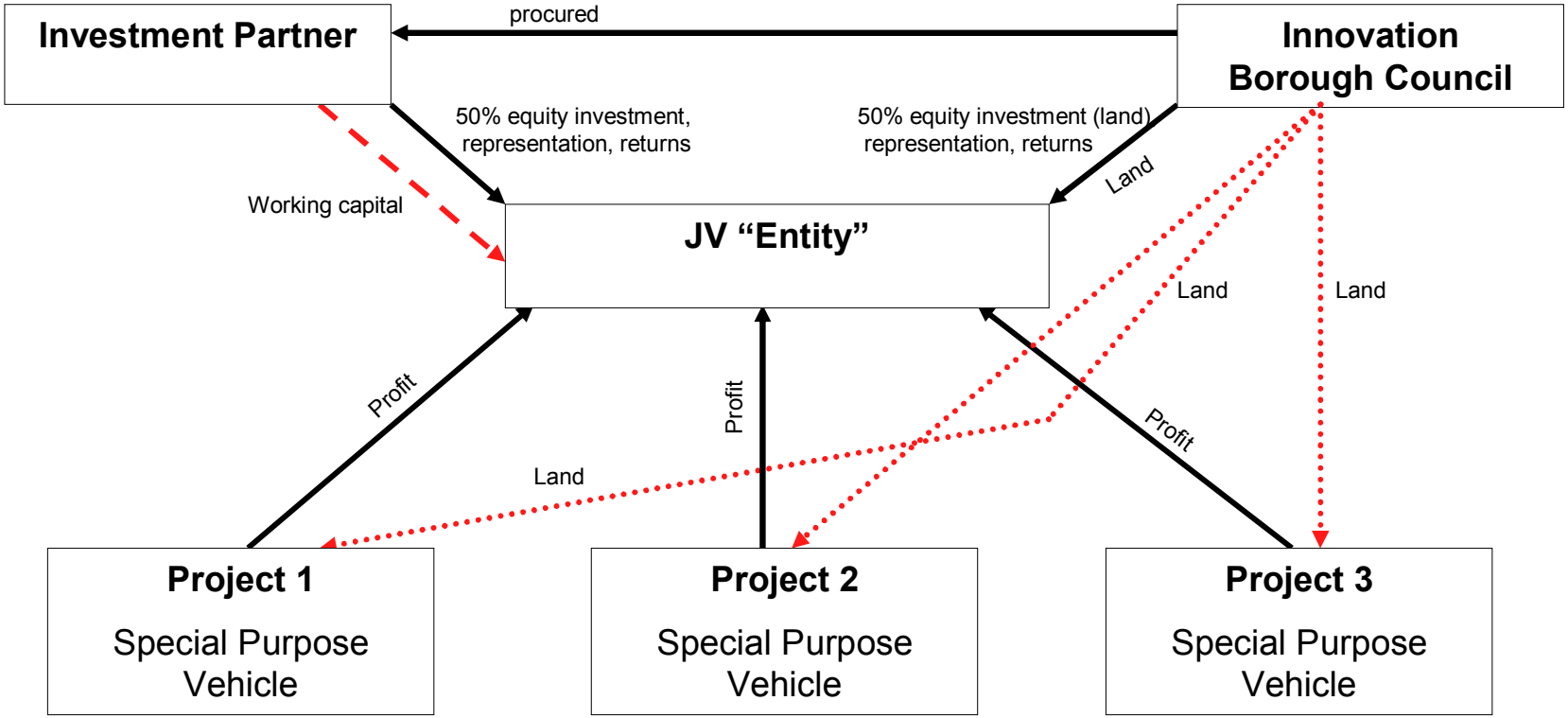
LABV aims

- Masterplanning – LDF's
- PPS12 – "Delivery Vehicles"
- Test of "Soundness" – if failed – no LDF?!
- Delivery of SCS
- Funding Masterplans – forward fund revenue support
- Procure and fast track procurement of regeneration investment

Possible objectives of Joint Venture

- Fund and resource 10 year Masterplan
- Delivery vehicle for 30-40 sites/projects
- Avoid “average returns” on Council assets disposals
- Longer term investment partnership: not one off development agreement (e.g. invisible overage after “deductibles”)

SCS - Delivery Vehicle – Joint Venture – economic delivery…..



[NB: JVCo provides Masterplanning, Development Management, Investment Advice and Administrative Services to JVCo for a set fee under separate agreement]

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Outputs and Investments e.g.:

- Fully funded 10 year Masterplan
- Private sector (cash/debt): Council equity (land)
- Procured and competitive (deter challenges – e.g. State Aid)
- Regeneration Programme secured
- Sustaining local economy
- Revenue/cash flow benefits
- Flexibility (reverse in other proposals e.g. LABVIs)

Economic Leadership – Revenue and Forward Funding of Infrastructure

- Accelerated Development Zones (ADZ's)
  - Tax Incremental Financing (TIF's)
  - Principle: Investment in public projects (assets) increases value of areas – increases taxable capacity i.e. the Tax Increment
  - Higher tax yield to central government and councils benefit through annual settlement
  - Council retain TIF element
  - SPV for ADZ procured for upfront
  - "InfraCo" can guarantee and underwrite, access EIB/other loans
  - ADZ/InfraCos borrows/retain TIF element repays loans

Conclusion

- Local Government will increasingly have to lead and act as the “Local Entrepreneur”
- It will need leaders equipped with requisite skills prepared to innovate and lead
- LAs will need to work even more in partnership
- LAs will need to “maintain commitment”
- LAs have made the difference before and will do again
- Even more important in a recession and to be prepared for the upturn