FUNDING IDEAS AND SOURCES

April 2010

The following concepts and ideas have been compiled from more than twenty sources, including project-specific financing reports, general reports on public project financing, and recent articles and publications outlining new and additional funding concepts. It is released as a "draft" – a work in progress – with the hope that the materials will be developed more fully for a future publication or research project.

Due to the complexity of funding concepts, Internal Revenue Code Guidelines, differences in state restrictions and guidelines, and the significant impacts of local policy and public sentiment, readers of this material are encouraged to consult their public finance professionals and legal counsel regarding options, opportunities and ideas.

*Key resources and references that should be consulted include the NCSC Publication: **A Court Manager's Guide to Court Facility Financing**, and various best practice resources published by the Government Financial Officer's Association.*

That said, the following materials have been assembled to provide a source of ideas and possible project funding / financing alternatives through the use of revenue from taxes, fees, ands services for direct funding, debt-related funding, or other financing options for both renovation and new construction projects.

This reference paper was prepared to accompany a presentation given at the Mid-Winter Conference for the National Association for Court Managers -- "**Alternative Funding Options for Court Facilities**". Wherever possible, the authors (Mike Griebel, Marcus Reinkensmeyer, and Gordy Griller) have tried to recognize the sources and contributions through direct quotations and footnotes. Also, a bibliography of sources was compiled by the Superior Court of Arizona in Maricopa County, namely its Law Library, to serve as an additional resource. Readers are asked to refer to this bibliography for additional information and ideas.

Foreword

With aging infrastructures, needs for facility replacements and upgrades, rising costs of operations and maintenance, existing and available tax structures in some jurisdictions today are facing significant challenges generating funds sufficient to meet infrastructure and service needs. Traditional means of financing projects -- by which "a lender is satisfied to look initially to the cash flows and earnings of that economic unit as the source of funds from which a loan will be repaid and to the assets of the economic unit as collateral for the loan"[1] – may or may not be option, particularly in states, counties and cities where voter approval is required before revenue can be raised and/or before bond indebtedness can be incurred.

Lenders rely on certainty of cash flow, and equity providers rely on structural features to maintain control, based on the presumption that economic risks are isolated by legal structure. Therefore, as you look for funding / financing, be conservative in your assumptions of your ability to raise revenue from fees, taxes and others sources, and business-like in your thinking. Despite this, where you have pressing needs despite the current economic climate, it is critical to develop forward motion, maximize the

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[1] *Nevitt, Peter K., Project Financing, Fourth Ed. (London: Euromoney Publications, 1983), p. 3*

benefits of available taxes, always consider options (including off-balance sheet financing), and protect your strategic priorities, through methods such as insulating projects from other issues and assets.

There are many issues to be considered as court facility / capital projects are developed. Importantly, projects funded through debt have an additional concern – that of the lender. Project uncertainty is an issue, as lenders will look for remedies for payment if projects are not completed or completed late, or if there is a chance of a law / regulatory change that could impact fee or tax revenues. Keeping project on-budget and on-time helps demonstrate project viability and helps perception (and actual performance) of timely repayment – the definition of a "good" loan. Lenders include banks, pension funds, insurance companies, captive finance companies and others.

Directly or indirectly, revenues from taxes or service fees provide the primary source of revenues for supporting capital spending and upkeep of most county and city court projects. Notable exceptions can be seen in projects that have been funded through creative private financing, through grants and contributions from other entities and jurisdictions (federal grants, congressional appropriations, cost- (and facility or service / operational), and through the creation of facility projects financed in whole or in part through private contributions and grants.

Importantly, the reader is encouraged to consider the following major strategy points in thinking about funding and financing:

- The process starts by reducing and confirming that you are building what you need;
- If you are looking for funding through operational improvements and savings, plan to implement the program and build early successes. This is particularly the case if you can do "process-improvement" studies funded by existing funds – builds "good will" and awareness of commitment to "fiscal conservation"
- Include value management in your project development process (VM = schedule control + cost control + value engineering in all activities)
- Include cost management -- a process of holding all parties to the initial values and goals for the project – once they area established.

Importantly, the process may take effort and need to be repeated several times, since an appropriate solution today may require negotiation across many fronts including functions, operations, service delivery and financing. Please refer to the NACM Presentation "Alternative Funding Options for Court Facilities". With your overall program in place, your search for funding options and development of integrated financing plan strategies should consider both renewable and one-time only strategies;

- Consider savings and cost reductions as a primary source, but get early agreements with all parties as to what can and will be done with any savings realized. Importantly, work collaboratively with other divisions and governmental units, and through better communication and cooperation, use existing tax, fee, and grant programs to sequence improvements and possibly fund backbone and shared support infrastructure improvements wherever possible – e.g., existing fee programs can provide funding for local area infrastructure upgrades that can serve your project for necessary systems such as sanitary sewer, storm drainage, fire and school facilities. Work collectively to phase backbone infrastructure and other public facility improvements to ensure they are constructed when necessary for new development and when funds are available to construct public improvements.

- As you consider funding sources that do not require direct taxpayer approval, aggressively look for value capture strategies and opportunities from grants and direct contributions to the project from all levels and areas of public sources (federal, state and local governments, other quasi-governmental, and non-profit funding), and realistic but creative applications of the latest available programs with donations and grants from private sources (foundations, community groups, individuals, and other sources).
- Consider alliances for either core service (such as multi-jurisdictional projects) or necessary support services (energy consortiums, shared / collaborative purchasing contracts, transportation alliances, or other shared / collaborative pools and services), compatible services and support (use of public or university facilities, staff or library resources or staff to provide community access locations or direct support (pro-se center assistance or other ideas) or related support services – such as energy, transportation, and more. Consider developing negotiated development agreements with governmental or quasi-governmental entities, including use of dedicated or supplemental school / library / project funding.
- Consider a full range of revenue sources, including revenue sources that are a) direct and easy to understand (filing fees to support court facilities or security operations, etc.) and b) agreements for dedicated use of fees and taxes that in the future or at other times could be used for other purposes (sales or income tax revenues or revenue increases, development impact fees, and so forth).
- Consider your existing facilities as capital assets, and consider using allowable financial mechanisms and tools (such as creation of building authorities, facility benefit assessment districts, and other designations) to provide flexibility to use special financing district bonds – or land secured financing – to provide up-front financing. In the cases of community courts, consider the value added by providing local court and governmental services within an area, and consider the service as ore other backbone infrastructure improvements, with possible financing for needed construction and improvements (e.g., roadways, energy projects, landscape corridors, transit, water, supplemental drainage, library, parks, landscape corridors, fire district, schools, etc.) funded through development agreements if / as they cannot readily be funded through existing County or other agency fee programs.
- Carefully consider the way you "package" and "consider" your project needs, and look to "capitalize" those that can generate revenue streams, such as a parking facility.
- Ensure financing mechanisms are flexible to accommodate different combinations of infrastructure time and funding requirements.

The following pages summarize ideas from many sources. Since transportation projects and independent power projects both provide large segments of project financing in the US, we have looked to these types of projects for ideas and for models of project funding – but have attempted to draw "lessons learned" to encourage creative thinking for court project. For example, where a power project relies on fuel supplies, power sales contracts, proven technology, efficient management and appropriate government climate, a court project can rely on relatively stable data regarding project case filings, service fee levels, efficient management and appropriate governmental support and climate.

We hope the information is helpful. Please contact us and share additional ideas and suggestions. We hope that a future decision is made for the National Center for State Courts and/or the National Association for Court Management to develop additional materials and resources related to this topic, and additional information and ideas will be welcome.

TAXES

The following does not include all of the various tax options that are used and could be considered in reviewing financing options. Instead, it is presented as a discussion point for consideration as you (and your finance committee) review options.

States, counties and cities rely on property and income taxes. Tax types and rates are closely constrained by federal and state statutes. Governments and finance officers nationwide compile information related to standard and alternative income sources, sharing information regarding precedents and ideas.

However, in any jurisdiction, changes in taxes or tax rates raise a variety of concerns are raised about the inequity created by disparity of property tax rates among regions – where poorer communities may have to pay higher tax rates than wealthier ones to achieve the same level of services.

Raising or enacting new taxes generally requires legislative action, although there may be some jurisdictions that have not yet used all venues available.

- Property Taxes
- Commercial Transactions (Sales Taxes)
- Income Taxes

PROPERTY TAXES

Discussion of property taxes should include a review of both tangible and intangible assets.

Tangible Assets

- Vehicle license taxes. These are impacted by change in the allocation formula; increased auto sales; changes in registration.

Intangible Assets -- These may be owned by a person, business or other organization, and will require that a value is assigned to these assets.

- Interest in closely-held corporations, partnerships, limited liability companies and professional corporations and partnerships.
- Any other intangible assets that have value, other than cash
  - *Advantages:* a) Revenue growth follows wealth and population growth; b) Affects persons with substantial wealth who may not otherwise pay property tax (many have shifted wealth from real property into intangible assets).
  - *Disadvantages:* a) People will keep intangible assets outside the City and state; b) A new agency or method is required to collect and enforce the tax ; c) Few records are currently collected regarding intangible assets owned by the County's taxpayers.

COMMERCIAL TRANSACTIONS

Sales taxes can raise significant amounts of money, and may or may not be seen as taxes on voters, particularly if they are taxes levied on visitors or tourists.

General Sales Taxes – already levied, and shared, and the rate of this tax, the items subject to the tax and how it is allocated among the state, cities and counties typically is controlled by the state legislature. New general sales taxes may / will require voter approval.

- *Advantages:* a) can be collected by existing system; b) more accepted by the public than property taxes; and c) amounts collected increase with inflation and economic growth
- *Disadvantages:* a) regressive nature of sales tax; b) unpredictability, as they decline in economic slowdowns.

Specific Sales / Transaction Taxes – can be designed to tax only specific taxpayer segments. Collection can be difficult to monitor or enforce in some cases due to the nature of the businesses and transactions.

- *Specific Goods.* Examples of taxes on specific goods include: construction materials, liquor (packaged or by the drink), tobacco, cosmetics, restaurant food, fuel (generally reserved for transportation), newspapers, magazines, recreational equipment.

- *Specific Services.* Examples of taxes on specific services include: entertainment (tickets), lodging, rental cars, advertising, special assessments and charges on construction projects, professional services, labor, utilities, dry cleaning, schools and instruction
  - *Advantages:* a) the taxpayers of transaction taxes on certain specific goods and services may be non-voters (tourists), which can increase chances for voter approval; b) The existing sales tax collection system can be used to collect a specific transaction tax.
  - *Disadvantages:* a) amounts raised may not be great, therefore requiring use of several transaction taxes; b) tax collection may place an additional burden on businesses.

Use Taxes – or "sales" taxes collected on good purchased outside but used inside your jurisdiction. These may be set at the same rate as sales taxes on items that can be tracked, such as vehicles, business equipment, construction materials, tools used on public lands (parks and recreational areas, roads, etc.).

- *Advantages:* a) except for tolls, these are usually not visible; b) your State Department of Revenue can collect the tax.
- *Disadvantages:* a) adds to construction costs; b) tolls, if used, are unpopular; c) adds burden to businesses.

Value-Added Tax – is a transaction tax on wholesale transactions, manufacturing labor, manufacturing processes, and raw materials used in manufacturing. Value-added taxes may equal or exceed a sales tax levied at the same rate. This type of tax can raise hundreds of thousands or millions of dollars per year, depending on the size of your jurisdiction.

- *Advantages:* a) amounts can be significant, and can grow with inflation and economic growth; b)
- *Disadvantages:* a) A value-added tax may require a new agency to collect and enforce the tax; b) not used in the US; c) will be very unpopular with businesses and will raise price of goods sold in the County / City.

Other Transactions. Other transactions that may be taxed include security transactions or real estate transfer taxes. These transactions can be taxed as a percentage of the value of the transaction, or on a "per transaction" basis. For example, the sale of stocks, bonds, mutual funds, annuities, life insurance polices, certificates of deposit and other securities are commonly taxed by a security tax. Records of these transactions are regulated and available, and firms that deal in insurance or securities can be required to collect the tax.

- *Security Transactions.* These can include per transaction or percentage tax of values of transactions. This type of tax can raise thousands to hundreds of thousands (in large jurisdictions, millions) of dollars per year.
  - *Advantages:* a) burden will fall on investors and typically the more affluent portion of the population; b) this segment of population may not be currently taxed for this type of spending.
  - *Disadvantages:* a) May result in individuals conducting security transactions elsewhere; b) the retired population will carry a larger burden for payment of tax.

- *Real Estate Transactions.* These can include per transaction or percentage tax of values of commercial and/or residential real estate transactions. Records of these transactions are kept by the County or city, and taxes can be collected at the time of deed transference. A real estate transfer tax of $50 to $100 per deed could raise thousands or millions (in large jurisdictions, tens of millions) of dollars per year.
  - *Advantages:* a) tax is relatively minor cost of total cost of transaction; b) there is little additional cost to collect and enforce the tax; c) it only impacts taxpayers when real estate is bought / sold.
  - *Disadvantages:* a) revenues will fluctuate (as they would today); b) it places a small additional burden on real estate sales.

- *Impact Fees.* Impact fees are taxes, flat or progressive, levied on each building permit issued for the construction of a new home or commercial structure. Processing fees involves notification of the city / county assessor's office is notified each time a building permit is issued by the City building department, and the City or County can bill the holder of the permit upon the assessor's office receiving notice of the permit issuance. These are used in growth area by local governments and taxing entities to pay for the capital cost of new construction. Impact fees may fund construction of infrastructure (Oyster Point Contribution Formula (1984), others), schools, parks, fire stations, police facilities, libraries, and childcare facilities (e.g., City of South San Francisco (2008-2009)).
  - *Advantages:* a) An impact fee of $1,000 per each new home or building can raise significant amounts of money in growing counties / areas; b) The tax is paid by new development and generally, by new residents; c) The tax is more popular with existing residents because it is viewed as a "pay-as-you-grow" strategy; d) tax is paid only by a narrow segment of the public and is often "transparent" to the general public.
  - *Disadvantages:* a) Increases housing prices; b) If a "flat fee" per building permit, can be a regressive tax; c) Tax revenues can fluctuate widely (as seen recently); d) Controlled growth efforts will result in reduced taxes; e) the tax burden is on the new home and building business community.

INCOME TAXES

Many cities and counties do not levy income taxes, which are generally based on a percentage of income, but also may be a set as a flat tax, but in some states, cities will receive a share of the State income tax. This source of revenue may be available as a resource directly or to use in securing a revenue bond.

- *City-wide income tax.* Incomes can include wages and salaries, capital gains, interest, dividends, royalties, rents and other payments, business income, inheritance, gifts and winnings. There is an existing state system that can be used by cities and counties to collect a city-wide income tax.

- *Advantages:* a) A small tax (¼ of 1%) can raise large amounts of money; b) the collection system is in place; c) tax revenues increase with growth and economic growth.
- *Disadvantages:* a) Unpopular; b) legislature may view this as an invasion into the state's principal revenue source; c) often seen as open-ended as the rate can be increased at any time.

- *Employment or head tax.* In these cases, each employed person and their employer pays a flat rate per month. Taxes are collected directly from employers and by payroll deductions from employees. A tax of $2 to $3 per employee (with an equal contribution by the employer) could generate hundreds of thousands, millions, or tens of millions of dollars per year less costs of collection.
  - *Advantages:* a) relatively small tax per person; b) collection can be done through existing employers; c) increases with employment growth; d) can be supported by retired population.
  - *Disadvantages:* a) places burden on business community; c) requires an agency to oversee collection and enforcement.

DEBT

The fixed income securities market in the US is sizable. In 2006, for example, the fixed income securities market was approximately $19.8 trillion (par value outstanding), while the US Equities Market was $13.7 trillion (Dow Jones Total US market index – 12/31/04). Municipal securities in 2006 represented less than 10% of the total market.

Bonds are monetized cash flows; loans secured by a pledge of revenues or assets. Municipal bonds are debts or obligations of a public agency that bear interest recognized by a specific maturity date, and are generally used for capital financing.

Between 2000 and 2004, the par value (in $ billions) of municipal bonds grew from $200.7 billion to $418.8 billion, and the number of transactions grew from 11,257 to 16,607, with average sizes of the issuances growing from $17.8 million to $25.2 million. Between 73% and 79% of these bond issuances were handled through negotiated transactions, while 20% -24% were competitively offered, and 1% to 3% were private placements. More than 75% were fixed rate issues, more than 85% were bonds, and more than provided "new money" as compared with "refunding." Less than 3% of the long-term bonds issued in 2004 were for public facilities ($8,847 million).[2]

Tax-exempt bond financing is an important tool, since financial advisors can readily illustrate that the "yield" on tax exempt bonds can be approximately 5% higher than the yield on taxable investments each year for an investor that lives in California, for example, with a 28% federal income tax rate bracket and a 9.3% state income tax rate. Those in higher tax brackets gain more. As a result, in 2006, households and mutual funds each held 37% of municipal debt, with the balance held by insurance companies (12%), banks (7%), person trusts (5%) and corporations (2%).

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[2] *Source: 2004 Bond Buyer Annual YearBook.*

Generally, states, counties, and cities[3] use a number of types of bond issues to raise capital for construction. These can be categorized into three groups:[4]

Bonds backed by revenue of a project or enterprise (and the specific revenues of that project or enterprise):

- Municipal Revenue bonds, including parking bonds, sales tax bonds, water and waste-water enterprise bonds
- Tax Allocation Bonds

Bonds secured by direct obligation of the issuer, requiring a general fund pledge and/or asset pledge, but voter approval is not required:

- Certificates of Participation / Lease Revenue Bonds / Tax-Exempt Lease
- Pension Obligation Bonds
- TRANS (Tax and Revenue Anticipation Notes)

Bonds backed by property taxes or special liens, which require voter approvals:

- General Obligation Bonds, backed by unlimited ability to raise taxes;
- Assessment District Bonds – special assessment bonds
- CFD (Community Facilities District) – special tax bonds

If single sources are insufficient to meet debt service payments, alternate or "double-barreled" bonds may be issued, which are payable from one or more revenue sources, with the general obligation of the municipality acting as backup security for the bonds. Alternate bonds do not count against a municipality's debt limit and are subject to "backdoor", rather than direct, referendum.

Typically, County boards and city councils have the financial ability and constitutional authority (subject to an election) to issue sufficient general obligation bonds to pay capital costs of projects subject to constitutional or statutory restrictions, typically calculated based on a percentage of assessed valuations of properties.

- **Municipal Revenue Bonds. "**Municipal revenue bonds are issued by self-supporting agencies of a municipality such as a water system, sewer system or parking garage that charges the public for use of the facility. The agency will accumulate user fees and pay interest and principal to investors to retire the debt."[5] With the revenue bonds, the obligations are payable solely from the net revenue derived from the financed project or facilities and the "full faith and credit" of the municipality is not pledged.
- **Tax Allocation Bond. "**Bonds issued in conjunction with a redevelopment project. The taxes pledged to their repayment come from the increase of assessed value over and above a pre-established base. The redevelopment creates this added value, known as the tax increment."[6]

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[3] *Others entities that issue tax exempt bonds include water districts, transportation authorities, building authorities, school districts, special districts and others.*

[4] *Fieldman / Rolapp & Associates, Presentation – Introduction to Municipal Finance, 2006*

[5] *From http://www.public-finance.com/about_bonds.htm*

[6] *http://www.mello-roos.com/glossary.htm*

- **Certificates of Participation (COPs).** "Certificates of participation (COPs) are a form of lease financing whereby investors purchase a share in the revenues of a long-term lease on a building being constructed or renovated." The issuance of certificates of participation does not require voter approval because the city or county is not entitled to raise additional tax revenues to support the certificates. Rather, the city or county must find revenues within its existing budget to pay the principal and interest due on the certificates. The certificates are secured by ownership of the financed asset, which is leased to the city or county by the certificate trustee.

  The County Board or City Council is not obligated to appropriate funds for the payment of the certificates or lease beyond the one fiscal year. If the payment is not made, the certificate holder's only recourse is to recover the asset leased to the city or county.

  The term of the certificates is limited to 25 years, which results in a higher annual payment than general obligation or sales tax revenue bonds (repayable over a thirty year term). The taxes currently collected by the secondary levy for debt service will cease with the existing general obligation bonds have been retired if a new general obligation bond election has not been approved by the voters.

  As a result, any certificates must be paid from the city's or county's primary property tax levy, the shared state sales tax, or other income available to the city's or county's general fund. States such as North Carolina allow counties to issue a certain amount of non-voted debt every year based on the amount of voter-approved debt they paid off the year before.

  An example of a plan to use COPs was the 2001 use of COPs to fund $125 million in additional costs for the Mecklenburg County courthouse. The new debt was to be used to supplement $90 million in bonds voters approved for the courthouse in 1989-1900. About $85 million of the additional funding was needed as a result of commissioners' decision to move the site of the courthouse from a government-owned spot at the corner of Fourth and McDowell streets to Trade Street.

  Supporters of the vote felt it would be more expensive in the long-term to build a courthouse that didn't meet the community's needs. About $60 million of the $125 million was designated to go to build a courts support building adjacent to the courthouse. Supporters argued that the increased costs would make the county's portion of the consolidated government district plan about $25 million cheaper, and the county wouldn't spend about $41 million in proposed renovations to the existing courts buildings.

  Lease-Revenue Bonds.[7] Lease revenue bonds are issued by municipalities when their general obligation bond limit is not large enough to allow a project to be financed in that manner. If a municipality is reserving its general obligation limit for other future projects it may elect to issue lease revenue bonds to finance current projects. Some states do not allow the issuance of general obligation bonds without a referendum. In those states, lease revenue bonds have become the method of financing infrastructure projects that will be paid for from property taxes. A lease revenue bond is not an unconditional obligation of the municipality. Rather, the revenue necessary to repay bond owners must be appropriated from tax revenue by the municipality each year.

  Lease-revenue bonds (or enterprise revenue bonds) are a form of long-term borrowing in which the debt obligation is secured by a revenue stream produced by the project. Because revenue

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[7] *http://sam.dgs.ca.gov/TOC/6000/6872.htm and http://www.public-finance.com/about_bonds.htm*

bonds are self-liquidating and not backed by the full faith and credit of the state, they may be enacted in statute and therefore do not require voter approval. In California, lease-revenue bonds are a variant of revenue bonds used in the state's capital outlay program.

In contrast to GO bonds, annual appropriations are necessary for lease-revenue debt service. However, the obligation to pay is not extinguished if appropriations are not provided. The revenue stream backing the bond is created from lease payments made by the occupying department to the governmental financing entity which constructs the facility. Generally, this entity is PWB or occasionally a joint powers authority (JPA) of which the state is a member. The financing authority constructs the facility, issues financing bonds, and retains title to the facility until the debt is retired.

Lease-revenue bonds may not be issued for any project for which a lease cannot be created. (Without a legally enforceable lease, there is no security for the issue.) Lease-revenue projects may require interim financing for costs incurred before the bonds are issued. Interim financing for preconstruction costs for lease-revenue programs requires substantial assurance that the loan will be repaid in another manner in the event bonds authorized for the project are not sold. For PWB projects, this is generally in the form of Budget Act or statutory language which authorizes repayment of interim costs from a department's support appropriation.

The term of the bonds cannot exceed the useful life of the facility. Lease-revenue payments are due only if there is "beneficial use and occupancy." If the facility cannot be occupied, no lease payment is due (i.e., abatement is a required element of the underlying lease). Because payments would still be owed to bondholders, rental interruption insurance is required for lease-revenue projects.

Lease-revenue bonds pay interest at tax-exempt rates which are slightly higher than tax-exempt rates for GO bonds. Lease-revenue bonds do not require voter approval because the transaction is set up to mirror a typical financing lease (i.e., lease payments are due on a year-to-year basis and required only if the facility can be occupied).

In CA, for example, the Supreme Court has reviewed and determined that the lease-revenue financing mechanism does not create constitutional debt (the Offner-Dean rule). However, bond rating agencies include lease-revenue payment obligations when calculating the state's bonded indebtedness burden. Thus, in California, for example, there is a distinction between the concept of California constitutional debt and debt as defined by the municipal bond market.

Lease-revenue bonds are typically sold on a negotiated basis because the bond market has greater information requirements about the security underlying lease-revenue issues. A financing team, in place before the bond sale, helps meet these information needs.

- **General Obligation Bonds.** Variations include General Obligation, General Obligation Limited Tax, General Obligation (Alternate Revenue Source), and General Obligation Building Bonds (Referendum Approved). The full faith, credit and tax authority of the city or county are pledged to the repayment of general obligation bonds – the bond bears the unconditional promise of the municipality to pay interest and principal, including the promise to raise taxes on the people if necessary. An election authorizing the issuance of general obligation bonds also authorizes the city or county to levy sufficient property or income taxes to repay the debt. The city or county is not required to levy property taxes if funds from other sources are available. For example, the city or county can use revenues from other taxes (including a combination of various taxes), fees, fines or payments from the state and other jurisdictions to pay general obligation bonds.

Most states have laws that restrict the amount of general obligation debt that can be issued by municipalities. The issuance of general obligation bonds must be approved by the voters even if revenues other than property tax revenues are used to pay the general obligation bonds. A thirty-year repayment period can be used with general obligation bonds, and this repayment period may not be available with certificates of participation. General obligation bonds will bear the lowest rate of interest of the three types of bonds, normally .25% to .375% lower than tax revenue bonds or certificates of participation, even if the tax revenue bonds or certificates have the same credit rating.

- **Tax Revenue Bonds.** Tax revenue bonds must be approved by voters. Sales and other tax revenue bonds are secured by a pledge of the revenues from the pledged tax. Sales tax is the most common form of tax revenue bonds.

  Sales tax or other transaction tax collections are variable because the amount of sales or transactions changes with economic activity. If the tax revenues are insufficient to pay the debt service, the city or county is under no obligation to make the debt service payment from other available funds.

  For this reason, the city or county will be required by the financial markets to pledge tax revenues equal to at least 150% of the actual annual debt service payments to the bonds. Excess pledged revenues are available to the city or county for other purposes after the payment of annual debt service.

  Tax revenue bonds may have a repayment term of up to thirty years. The credit rating of a tax revenue bond is determined by the amount of tax revenues pledge to repayment of the debt and the dependability of that stream of tax revenues. A tax revenue pledge of 1.5 to 2.25 times the annual debt services is adequate, 2.25 to 3 times is good, and 3 times or more is well above average.

  Generally, tax revenue bonds will not be rated higher than the community's general obligation bonds. If the city or county elects to pay the project's operating costs from a sales tax or another tax, tax revenue bonds can be approved at the same time as the referendum to raise the sales or other tax is held.

- **Sales Tax Revenue Bonds.**[8] In Kansas, for example, STAR bonds provide Kansas municipalities the opportunity to issue bonds to finance the development of major commercial entertainment and tourism areas and use City and State sales tax revenue generated by the development to pay off the bonds. In order to be considered a major commercial entertainment and tourism area, a proposed project must be capable of being characterized as a statewide and regional destination, and include a high quality innovative entertainment and tourism attraction, containing unique features which will increase tourism, generate significant positive and diverse economic and fiscal impacts and be capable of sustainable development over time. The Kansas Secretary of Commerce ultimately approves the use of STAR bond proceeds within a STAR Bond Project District once the District is established by a governing body.

- **Tax Increment Financing (TIF).**[9] Tax Increment Financing (TIF) is a development tool which allows cities in to pay a portion of redevelopment costs for a new development which is located in the state Enterprise Zone, in a Blighted Area, or a Conservation Area. The redevelopment

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[8] *http://www.olatheks.org/Finance/EconomicDevelopment/STAR*

[9] *http://www.olatheks.org/Finance/EconomicDevelopment/TIF*

costs are paid from the new incremental property and sales tax revenue generated by the new development. The existing property and sales tax revenue is “frozen” until the project generates sufficient revenue to pay for redevelopment costs agreed upon between the City and the developer of the project. Under Kansas law, these redevelopment costs may go toward public infrastructure improvements, including road and utility construction, as well as demolition of existing structures, but may not go toward private building construction.

- **Transportation Development District (TDD)**.[10] A Transportation Development District (TDD) is a special taxing district whereby a petitioner of 100% of the landowners in an area request either the levy of special assessments or the imposition of a sales tax of up to 1% on goods and services sold within a given area. Upon creation of a TDD by a municipality, the revenue generated by TDD special assessments or sales tax under Kansas law may pay the costs of transportation infrastructure improvements in and around the new development. For this study, we have included the TDD as an example of a special assessment district for consideration as an option (or as one of a number of useful options) that could be appropriate for funding some court – and perhaps combined use civic improvement projects.

Bond Issuance. Bonds are sold to investors by either "competitive sale" or "negotiated sale." While local governments typically benefit from competitive sale of bonds to achieve the lowest possible overall debt service costs, occasionally it is appropriate to negotiate bonds sales.

Municipalities will usually contract with a financial advisor who will analyze the transaction and will make recommendations about such things as the term of the financing, credit rating agency selection, municipal bond insurance, etc. In a competitive sale a financial advisor will structure the transaction and will advertise and market the transaction to potential purchasers throughout the United States. When the date for selling the bonds arrives the financial advisor will assist the municipality to accept bids for their bonds and will also assist the municipality to determine which bid is the best (usually the lowest interest rate) bid to accept.

A competitive bond sale offers a municipality the opportunity to let the competitive marketplace determine the interest rate (value) of its bonds on the day they are sold. In a negotiated sale a financial advisor will still provide structural analysis for the transaction but will also help the municipality to select an underwriter in advance of the bond sale. Negotiating directly with an underwriter may offer some advantages such as allowing the municipality to delay issuing bonds if market conditions are adverse or, if a transaction is very complex, an underwriter may be chosen on the basis of their ability to sell that particular type of bond issue.[11] For complicated issues, a financial advisor can structure an RFP for underwriters, make sure the document provisions such as call dates and parity debt are in your best interests, and compare the proposed interest rates to a variety of other indices to ensure the lowest interest rate. [12]

What is built, and how buildings are used, is an important consideration when use of tax-exempt bonds is considered. Typically, use of tax-exempt bonds has been preferred for capital expenditures due to the

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[10] *http://www.olatheks.org/Finance/EconomicDevelopment/TDD*

[11] *From http://www.public-finance.com/about_bonds.htm*

[12] *http://www.ehlers-inc.com/illinois/illinois_services_ehlers.php?category=MQ==*

preferred rates available. Some states, however, such as Arkansas, permit counties to issue taxable bonds, which have been used to finance court facility construction.[13]

An important distinction exists between "Government Use" and "Private Activity" bonds. Both government use bonds and private activity bonds can be used on a tax-exempt basis under the Internal Revenue Code, but there are restrictions. Bonds are treated as government use if a) no more than 10 percent of the proceeds of the bonds are to be used for any private business use (the Private Business Use Test), and b) the amount of the proceeds of the bonds used (directly or indirectly) to make or finance loans to any person (or entity) other than a state or local government unit does not exceed the lesser of a value set by the Code (historically $5M) or a set percentage (historically 5%) of the proceeds of the bonds (the Private Loan Financing Test).

In general, bonds issued for traditional water, sewer and electrical systems, schools roads, public buildings (including courthouses), curb, gutter and sidewalk and other public projects can be financed with government use bonds. However, a change in the use of a facility financed with government use bonds can result in a loss of tax exemption on such bonds. Due to the limitations of the a) Private Business Use Test and the Private Security or Payment Test or b) the Private Loan Financing Test (collectively known as the Private Activity Bond Tests), specific requirements and tests are necessary to test (and to the extent that tax-exempt status is desired) limit the extent to which bond proceeds for bond-financed property benefits private users.

Private Activity Bonds may include bonds that "qualify" for tax-exempt status and bonds that do not. Among the lists of qualified bonds are: a) exempt facility bonds, qualified mortgage bonds, qualified redevelopment bonds, or qualified enterprise zone facility bond and others that b) receive an allocation of a state volume cap; and c) meet requirements of the code relating to substantial users, maximum maturity, limitations on land acquisition and acquisition of existing property, public approval, certain prohibited uses, and restrictions on financed costs of issuance.

Changes in legislation regarding tax-exempt bonds can affect interest rates, tax-exempt status, approval requirements, and more. "In the early 1980s it was possible to freely invest the proceeds of tax-exempt bond sales in higher-yield investments and to use the arbitrage to finance court facilities or to lower the cost of borrowing. This arbitrage option has been largely foreclosed by amendments to the Internal Revenue Code. These amendments have also reduced the percentage of space in a building that can be used to produce a revenue stream."[14]

The timing of the use of debt can / will make a big difference in project funding. During a period of low interest rates, such as the current period, refinancing of debt and/or issuance of new bonds can generate significant additional funds for construction.[15]

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[13] Tobin, p. 8

[14] Tobin, p. 8 (Prior to the legal changes on arbitrage, the Kentucky Association of Counties made good use of arbitrage on county bond issues to keep down the cost of borrowing. The Alabama Judicial Authority has, within the current constraints, tried to make good use of arbitrage. See DeKalb County, Georgia, for another example of a county association being involved in investment decisions. See also Arkansas, which permits counties to issue taxable bonds. These were used to finance court facilities in Washington County.)

[15] Tobin, p. 9 ("see Lamar County, AL; Pennington County, SD; Chesterfield County, VA.)

Taxable Debt[16]

"Taxable debt is commonly issued by governments around the world to finance capital projects. While state and local governments in the U.S. have traditionally relied on tax-exempt debt, the globalization of capital markets has increased the viability of taxable debt as a financing option for some U.S. state and local governments looking to expand the market for their debt or gain financing flexibility. Among the reasons governments may find it advantageous to issue taxable debt are:

- Volume cap restraints that have restricted governments' ability to undertake housing, environmental, and other critical projects;
- Private activity bond rules that have limited the ability of governments to enter into public-private partnerships that may be advantageous to a community;
- Broader market access to pension funds and other investors, including those outside the U.S. domestic market, that prefer taxable interest rates; and
- A desire to avoid burdensome arbitrage regulations."

In evaluating this option, you should: a) ensure that your jurisdiction is legally authorized to issue debt and that your debt policy specifically addresses when it may be used; b) evaluate the total cost of issuing taxable debt which will generally be higher; c) consider investment options to minimize possible negative arbitrage; and d) recognize that the features that will enhance the flexibility of the debt, such as an early call provision, may be more costly to exercise for taxable debt than for tax-exempt debt.

FEES FOR SERVICES

Fees for certain services, permits, licenses provided to citizens and other jurisdictions, and fines are all potential sources of city and county income and revenues sources that can be used for revenue streams for funding. Rate changes in some fees can be enacted on action of the County Board or City Council, while changes in other fees or fines require action by the state legislature. Because the revenue earned from these fees is largely dependent on direct activities and use of services by resident, visitors, or tourists, revenue amounts will vary by jurisdiction and other factors.

The use of direct fees for services has a long history of success for financing improvements and services. For example, in many jurisdictions, water, sewage and solid waste infrastructure are financed directly through user fees—and are often in better shape. Transportation system planners, however, note that roads, bridges and storm drainage systems face increasing financing gaps, in part because they are financed through direct user fees only infrequently (toll roads, bridges, etc.).

Fees for services and fines that are / could be imposed include fees for license and permits, charges for services or products, or charges – often inter-governmental or inter-agency – for services provided. Common examples include marriage license and passport fees (clerk), building permits (planning and development), liquor license fees (general government), pawnbroker licenses (Sheriff), motor vehicle license fee (other). Intergovernmental or interagency fees may include such things as election services

[16] *From a "Best Practice Guideline" from the Government Finance Officers Association (GFOA) publication entitled, "Issuing Taxable Debt by U.S. State and Local Governments (1998) (DEBT). Please refer to "Taxable Municipal Securities: At Home and Abroad," Government Finance Review, February 1987, and "A Cross Section of Opinion on Taxable Municipal Bonds," Government Finance Review, February 1987. This Best Practice is scheduled to be updated in 2010 and may be changed to be an Advisory.*

(Elections), shared state lottery sales (general government), state grand jury reimbursements (public defender costs), state reimbursement for judicial officer salaries, federal reimbursement for juvenile court costs, programs or juvenile homes, federal / state / outside county or city charges for detention services (Sheriff), seizure sales (Sheriff), and so forth.

The following list itemizes a number of fees and charges for services that were located in county budget reports (revenue sources) and other lists of possible fees. While not intended as a comprehensive list, these items have been included to illustrate areas for consideration for possible additional revenues.

Example Revenue Sources (including taxes, fees for services, other charges)

Note -- Those rates of fines or fees set by the legislature may be set at levels that the governing body believes to be reasonable and fair, or in the case of fines, as punishment. Other fee levels may be intended to recover the county's or city's actual direct costs of providing the service, or may be set at levels to support all city or county operations, including costs associated with the criminal justice system. Importantly, under the premise of charging actual costs, the increased operating and capital costs of larger court facilities can be passed on to cities in the county using the service. This approach may also extend to court costs, fines and forfeits.

Airport

Hangar Lease
Rentals & Tie downs
Transit Tie downs
Maintenance Assessment
Land Lease
Airport Access

Auditor

Auditor Filings and Recordings
Centennial Document Preservation
Emergency Non-Standard Recording Fee
Homeless Administrative Fee
Housing Surcharge
Investment Interest
Auditor Certified & Copy Fees
Auditor Copies
Record Searches by County Auditors
Recording Surcharge

Boating Safety

Safer Boating Grant
Vessel Registration Fee
Other Misc. Revenue

CASA (Court-Appointed Special Advocate)
Casa Funding (state)

Child Support Enforcement
Prosecuting Attorney – Reimbursement
Department of Social & Health Services

Clerk of the Court
Filing Fees
Excess Marriage
Clerk Non-Support
Witness Fees
LFO Collection
Other General Government Services
Civil Filing
Probate Filing
Non-Judicial Probate Filing
FACFIL – NO DV SUR
Juvenile Emancipation Filing Fee
Unlawful Detainer Filing
Unlawful Detainer Combo Anti-Harassment Filing Fee
Unlawful Detainer Answer
Domestic Filing Fee
DOM FAC Filing Fee
Counter / Cross / 3rd Party Filing Fee
Release Claim Lien
Other case filings
Tax Warrant File
Modification Facility Filing
Transcript filing Fee
Guardian Ad Lit Fee
Warrant Costs
Crime Lab
Superior Court Word Processing / Printing
Passports
Passport Pictures
Juvenile Diversion Fees
Parental Pay – Detention Costs
Administrative Fee – Clerk
Bail Fee
Family Court Service Fees and Charges
Facilitator User Fee
Criminal Filings
Special Criminal Filing Fee
Meth Manufacturing Fine
Crime Victim Penalty Assessments
Crime Victim – Juvenile
Penalty – Domestic Violence
Fines – Adult
Fines – Juvenile
Lab Blood / Breath Test
Superior Court Cost Recoupments
Jury Demand Costs
Witness Cost
Public Defense Cost
Parental Pay Attorney
Law Enforcement Service Costs
Cost – Recouped – mandate
Crime Lab Analysis Administrative Costs
Investment Earnings
Investment Service Fees
LFO Interest
Dedicated Account – Clerks' LFO Interest
Contributions and Donations
Evidence Confiscated
Cashiers Overages and Shortages
Overpayments
Clerk – NSF Fee
Other / Misc. Revenues

Commissioners / General Government
Local Retail Sales and Use Taxes
Tax Sale fees
Cable TV Franchising Fees
Other Franchise Fees
BLM – PILT
Fish & Wildlife Service
HGAP
PUD Privilege Tax
CJA – State General Fund
Adult Court Costs – Juvenile Offenders
DUI – County
Liquor Excise Tax
Liquor Board Profits
Local Fees – Specific facilities / sites
Management Fee
Recording Surcharge – Historic Preservation
Word Processing / Printing / Duplication Services
Legal Services – Tort Claims
Professional Services – Veteran's Relief
Professional Services – Substance Abuse
Professional Services – Industrial INs
Interest on Sales Tax and notes
Facilities Lease

Café Space Lease
Commissioners – Vending Machine
Other Misc. Revenue

Communications Fund (911)
Enhanced 911 Switched Access Lines
Enhanced 911 Wireless Access Lines
State Enhanced 911 Funds

Community Services / Housing
HGAP
Dispute Resolution Surcharge Civil Filing
Dispute Resolution Surcharge Small Claims
Auditor
Recording – Homeless Housing Admin
Recording – Homeless Housing
DV Previous Local

Constables
Writ and Restitution Collection Fees

Convention / Expo Center
Department of Agriculture
Restitution
RV Park Fees
Expo / Convention Rentals
Expo / Convention Center Improvement
Donations
Expo / Convention Center Misc. Revenue
Tourist and Convention Fund

County Roads
Real and Personal Property (Taxes)
Private Harvest tax
Leasehold Excise Tax
Dept. of Agriculture – Federal Forest Yield
Federal Highway Administration
BRR – Bridge replacement
County Road Administrative Board
CAPA
Motor Vehicle Fuel Tax – County Road
Local Fees
Federal
State
County
Sale of Maps and Publications
Plan Holder Fees – Public Works
Engineering Fee and Changes – Review
Inspection
Impact Fees
REET 2 County Roads
Other Misc. Revenue
Proceeds from Sale of Fixed Assets

Coroner / Medical Examiner
Cremation Certificates / Transport Fees
Autopsy Cost Reimbursement

Criminal Justice Sales tax
Retail Sales & Use taxes -- 1/10, ¼, ½ of one percent sales tax for CJ purposes
Investment Interest

Drug Enforcement Reserve
Superior Court
Investment Interest
Confiscated & Forfeited Property
Proceeds from Sale of Fixed Assets

Elections
Certificate Fees
Election Reimbursement
Election Services – Maps and Publications
Election Candidate Filing Fee

Election Reserve (equipment)
Election reimbursement
Investment Interest

Equipment / Rental Revolving Fund
ER Svcs – Sale of Road Materials
ER Svcs – Vehicle Repair Charges
ER Svcs – Vehicle Repair Charges – Solid Waste
ER Svcs – Fuel Charges (other)
ER Svcs – Other Sales of Merchandise – Signs
ER Svcs – Inter-fund equipment rentals
ER Svcs – Proceeds from sale of fixed assets
Motor Pool – Vehicle Repair Charges
MP – Labor
MP – Sale of Parts / Repair Orders
MP – Other Vehicle Rentals
MP -- Sheriff Vehicle rentals
MP – Vehicle Rentals – Mileage
MP – Other Misc. Revenue
MP – Proceeds from sales of fixed assets

Extension Services
University Extension Service Reimbursements
PUD / Hort Program Fees
Challenge Fee Reimbursements
Contributions / Donations
Other Misc. Revenue

Facilities Maintenance / Central Services
CS Charges – County Roads
CS Charges – Auditor's O&M
CS Charges – Special Facilities / Programs
CS Charges – Law Library
CS Charges – Natural Resources
CS Charges – Solid Waste
CS Charges – Convention / Meeting / Expo Center
CS Charges – Regional Justice Center
CS Charges – Parks, Recreation facilities, other
CS Charges – Noxious Weed Control
CS Charges – Public Education
CS Charges – Public Health
CS Charges – ER & R
Restroom Vending Machines

Fair
Department of Agriculture
Sponsorships
Booth rentals
Event Admission
Exhibitor Pass – Seniors / Adults / Children
Fair Stall Fees
Parking Receipts
Fair Camping Fees
Carnival
Food Booths
Misc. revenues

Farm Worker Housing
DCTED Reimbursable for Migrant Camp
Migrant Camp Bed Rentals
Vending Machine Proceeds

Felony Seizure and Forfeiture (Sheriff's Office)
Confiscated & Forfeited Property
Proceeds from Sale of Fixed Assets

Financial Services
County Roads
Auditor's O&M
ORV
Boating Safety
OHME Gardens
Sheriff Donation
Farm Worker Housing
Pest Control
Noxious Weed
Parent Education
CD Airport
Law Library
Veteran's Relief
Mental Health
Treasurers O & M
Tourism & Convention
Election Reserve
Natural Resources
Criminal Justice Tax
Regional Justice Center
ER & R
Industrial Ins. Fund
Distressed County
REET 1
REET 2

Fire Department
Fire Department Permit
Fire Marshall Plan check

Forest Title III (Federal Program)
Forest Title III revenues

Health Department
Health Department Permit
Health Department Plan check
Health Insurance Fund

Health Insurance (Employee Benefit Fund)
Investment Interest
Employer Contributions
Employee Contributions
Insurance Recovery / Employee-Retiree Paid

Horticulture Department
Pest control – County (City, other)
Gifts / Pledges / Grants – Private Sources

Human Resources
Garnishments and support processing fees
Unemployment
Insurance Administration

Industrial Insurance (Third Party Admin.)
Investment Interest
Employer contributions
Employee contributions
Other Misc. Revenue

Information Technology
IT Service charges – County Roads
IT Service charges – Special facilities / sites
IT Service charges – Natural Resources
IT Service charges – Convention / Meeting / Expo Center
IT Service charges – Regional Justice Center
IT Services charges – Parks, Recreation facilities, other
IT Service charges – Noxious Weed Control

Insurance Admin / Purchasing (reserve fund)
Investment Interest
Inter-fund Insurance Premiums – Current Exp
IIP – County Roads
IIP – ORV
IIP – Boating safety
IIP – Farm Worker
IIP – Pest control
IIP – Nox Weeds
IIP – Parent Education
IIP – Airport
IIP – Natural resources
IIP – Solid Waste
IIP – Solid Waste Planning
IIP – Parks
IIP – Convention / Mtg. / Expo Center
IIP—Public Education
IIP – Detention / Jail
IIP – ER & R
IIP – Motor Pool

Justice / District Courts
Court filing fees
Traffic & Misdemeanor Fines
Antihar Filing
Civil Filing
Probate Filing
Civil Supplemental Proceedings Filing
Civil Transcripts
Small Claims Filing Fees
Counter / Cross / 3rd Party Filing Fee
District / Justice Court Records Services
Certifying Documents
Civil Fees / Appeals
Writ / Garnishment Fee
Warrant Costs
Deferred Prosecution Monitoring Fee
DUI Criminal Conviction Fee
TR Criminal Conviction Fee
Non-TR Criminal Conviction Fee
CR Appellate Filing Fee
Cruelty to Animals Penalties
Proof of Vehicle Insurance
Boating Safety – Infractions
Traffic Infraction Penalties
JIS / Trauma
Non-Traffic Infraction Penalties
Other Infractions
Civil Parking Infraction Penalties
Parking in Handicapped Zone
Parking Infraction Local
DUI
Other Criminal Traffic Misdemeanor Penalties
Boating Safety – Criminal
District Court Felony Fines
Other Criminal Non-Traffic Fines
County Criminal Dog Violation
Other Criminal Non-Traffic Fines
District / Municipal / Justice Court Recoupments
Jury Demand Costs
Witness Cost
Public Defense Cost
Current Expense Interest Income
District / Justice / Municipal Court Overages and Shortages
Foreign Exchange Adjustment
NSF Revenue

Juvenile Services
Breakfast
Lunch
JAIBG
AOC – Fingerprint Reimbursement
SSODA

Intensive – Chat – Diagnostic Program
Diagnostics
Detention Holds
CJAA
Becca / Juvenile
CDDA
Crisis Residential Treatment
Functional Family Therapy
Juvenile Rehabilitation – Impacted Counties
Diversion Fees
Cost – sharing – other jurisdictions

Law & Justice Project Construction Fund
Bond Proceeds

Law Library
District Court Civil Filings
Juvenile Emancipation Filing Fee
Anti-Harassment Filing Fee
Civil / Probate Filing
COM / FAC Filing Fee
Domestic Filing
Counter Cross 3rd Filing Fee
Unlawful Detainer Filing Fee
Unlawful Detainer Combo
FAC Filing – No DVSUR
Word Processing / Print / Duplication services
Transfer In – Property Tax

Medical Assistance
Eligibility Determination Services

Mental Health
Private Harvest tax
Leasehold Excise tax
Transfer In – Property tax

Natural Resources
US Bureau of Reclamation Funding
Federal Programs
FB Projects
DOE Projects
Zoning Subdivision
Forest Title III
Power / Utility Administration
TMDL (match funds)
HCP Grants

Noxious Weed Program
Intergovernmental Revenue
Weed Control Services
Weed Control Assessment

ORV (off road vehicle)
Inter-agency transfer
Education Program

Other Governmental Revenues
Grants (State / Fed) For Public Defense
LEOFF Benefits
Grants (State) for public facilities
Grants (State) for infrastructure to promote economic development
Other Gen Government (OGG) – County Roads
OGG – Drug Enforcement
OGG – Auditor's O & M
OGG – ORV
OGG – Boating Safety
OGG – Special Facilities and Sites
OGG – Sheriff Donation
OGG – Housing camp
OGG – Pest Control
OGG – Noxious Weeds
OGG – Parent Ed
OGG – CD Airport
OGG – Law Library
OGG – Veteran's Relief
OGG – Mental Health
OGG – Treasurer's O & M
OGG – Tour & Convention
OGG – Election Reserve
OGG – Natural Resources
OGG – Criminal Justice Tax
OGG – District Justice Tax
OGG – REET 1
OGG – REET 2
OGG – Solid Waste
OGG – Solid Waste Plan
OGG – Parks / Recreation Facilities
OGG – Conference / Meeting / Expo Center
OGG – Public Education
OGG – Regional Justice Center
OGG – ER & R
OGG – Individual Ins Fund
OGG – Health Ins Fund
OGG – Unemployment

OGG – Insurance Admin
Civil Commitment Reimbursement
Proceeds from Sale of Fixed Assets
Sludge Lease
Other Misc. Revenue

Parent Education
Family Policy Council
Educational Programs
Instruction Fees
Gifts and Grants from Private Sources

Parks
Resident ID / Passes
Park Fees
Event Fees
Registration
Shower Fees
Landscaping Services – Migrant camp
Facilities Lease – Migrant camp
Camping Fees
Space and Facilities Leases
Concession Proceeds
Propane

Paths and Trails
Motor vehicle fuel tax – county Road
Investment interest

Pest Control
Fieldmans Association

Planning / Development
Zoning Review
Subdivision Review
Planning Commission Process
Department of Public Works Plan Check
Public Works Permit
Building Permit
Building -- "After the Fact" Fees
Planning – "After the Fact" Fee
Plan Check Review Fee
Precise Grading Plan Review
Precise Grading and Pad Certification
AQMD Permit
Selection Process (Artwork Approval)
Environmental Fee (Review EIR)
EIR (CEQA-TYPE) Approvals
SEPA Related Mitigation Fees
Building – SEPA Fees
Forest Title III
Shoreline Master Program
LEED Requirements Review
LEED Requirements Approval
Design Review Process
Architectural Planning Board Review
Architectural Planning Board Approval
OSHPD Plan Check and Permit
ODS (Office of Design Services) Plan Check
ORS (Office of Regulatory Services) Plan Check
City Redevelopment Agency
Inspection Fees
Filing Fee
Planning Fee
Preliminary Soils Report (Borings)
Demolition Permit
Building Department Permit and Plan Check
Specialty or Early Construction Permits
Shoring Permit
Grading Permit
Foundation Permit
Structural Permit
Tenant Improvement Permit
Electrical Plan Check and Permit
Mechanical Plan Check and Permit
Self-Regulating Agency Plan Check
Airport Authority
University of Higher Education
General Service Administrative
State Agency Plan Check
Unified School District Authority
Police Department Approval
Core and Shell Permit
OSHA Permits
Tie-Back Easement
Encroach Fee (Adjacent)
Plan Check Expediting
Archiving / Digitizing Cost Recover
Community Development – Copies
Building – Copies
Community Development – Maps
Zoning Subdivision

P/D Special Approvals
SWPPP (Storm Water Pollution Prevention) Fee
AQMD (Air Quality Management District)

Community Outreach Plan
Noise Abatement Plan
Seismic Survey and Program Fee
School Assessment and School District Fees
Coastal Development Commission Approval
Parks & Recreation Assessments
Hazardous Abatement Permit and Fee
Environmental Habitat Fees
Approval to Work Within Utility Easements
Acreage Reserve Fees (water rights)
Water Quality Board
Handicap Access Fee (ADA)
Community Redevelopment Agency Fee
Business License Fee
Mapping Fee (Boundary Survey)
Corp. of Engineers
Fire District Assessments
Low Income Housing Assessment
Lighting District Assessment
FAA Permit and Assessment

P/D Testing and Inspection
City Inspection Fees (includes all Disciplines)
Certification of Building Pads
Fireproofing Inspection
Roofing Inspection (consultant)
Curtain wall Testing
Geotechnical Engineering - Inspection Fees
Soils Reports and Testing - Inspection Fees
Materials Testing - Inspection Fees
Steel and Welding Inspections
Special Testing (water, wind, seismic)
Commissioning Inspections
Overtime Inspection Fees
"Re-Inspection" Fees (changes & Failed Tests)
City Planning Inspection
Safety and OSHA Inspections
Off-Site Special Inspections
Health Department Inspections
Early Occupancy Inspection

Probation
P/P Restitution Fee *(From inmates that have been paroled or on probation, payable monthly by the parolee over a term ordered by the court as a condition of parole or probation)*
Probation Officer Retention Grant
Adult Probation Service Charges

Other Interest Earnings
District / Municipal / Justice Court Overages and Shortages

Prosecuting Attorney
Domestic Violence
State contribution for salary
CTED – Victim Witness Fees
Prosecuting Attorney Fees from Cities
Drug Task Force
PA Restoration Grant
Word Process / Print / Duplication Services
District / Justice / Muni Court to CVW
Superior / Circuit Court to CVW
Legal Services – County Roads
Legal Services – Boating Safety
Legal Services – Special Facilities and Sites
Legal Services – Farm Worker Housing
Legal Services – Pest Control
Legal Services – Noxious Weeds
Legal Services – Parent Ed
Legal Services – CD Airport
Legal Services – Watershed
Legal Services – Solid Waste
Legal Services – Solid Waste Plan
Legal Services – Parks / Recreation Facilities
Legal Services – Conference / Meeting / Expo Center
Legal Services – Public Education
Legal Services – Regional Justice Center
Legal Services – ER & R
Salary Reimbursement – county Roads
Criminal Filing Fees
Prosecutors Service Cost
Cost Recouped – Mandates
Other misc. revenue
City Payments to Crime Victims

Public Education
ECO Stewardship Program
Experiential Program
Sales of Taxable Merchandise – PE
Tree Fruit Research
Master Gardener
Resource Education Center
Gifts / Pledges / Grants from Private Sources
Other Misc. Revenue

Public Fiduciary
Fiduciary fees and probate fees

Recorder
Document Recording Fees

REET (Real estate excise tax)
REET (Real estate excise tax)

REET (Real estate excise tax) Tech Fund
REET Technology Fee

Regional Justice Center Ed Program
Sales of Taxable Merchandise
Non-taxable sales

Sheriff
Contract Law Enforcement
Inmate Fees and Co-pays
Inmate telephone
Boarding contracts
Commissary purchases
Background checks (interdepartmental charge)
Gun Permits
JAG Grant
Marijuana Eradication
STOP Grant
SPC Meth Initiative Grant
Homeland Security Grant
EMA Grant
Snowmobile Fees
DUI Emphasis
Traffic Safety grant
Forest Service
Sex Offender Registration
Multi-Jurisdictional Task Force Fee
Law Enforcement Services
Fees
Reports for Insurance Companies
DUI Charges
Booking Fees
Forest Title III
Law Enforcement Services / County Roads
Boating Safety Infraction Penalties
Parked in Handicapped Zone
Boating Safety Fines
Restitution
SPCE RSO Grant
Misc. Revenues
Drug Enforcement Reserve

Sheriff – Jail / Detention Center
Prisoner Detention Fee *(Adjusted to include recovery of capital cost of facilities)*
SCAPP
Forest Services
Border Patrol
Out-of-county Agreements
Cities
Social Security
Medical incurred for inmates (services)
JRA
DOC Charges
DNA Collection Fee
Recoupment
Work Release
Electronic Monitoring
Furlough Escort
Court Commitments
Weekender Fees
Booking Fees – jail
Property Release
Inmate Marriage Fee
Outside County Detention Services
Juvenile Medical Services
Warrant Service Fee
Restitution
Bed Space Rentals
Jail – Telephone Royalties
Misc. Revenue
Civil Service Exam Fees
Other Misc. Revenues

Sheriff Donation
K-9
DARE
Crime Prevention
GREAT program
Marine Patrol
Community Resource
Search & Rescue
Swift Water Rescue
Contributions and Donations – Citizen Corp

Solid Waste
Garbage / Solid Waste

Department of Ecology
Recycling
Base
Surcharge
Metal
Compost Contributions
Compost Sales
Health District
Investment Interest
Cashiers Overages / Shortages
Other Misc. Revenue

Solid Waste Planning
Department of Ecology
Cities
Counties
Wood Grinder
Sale of Salvage or Junk

Special Event / Tourist Attraction
Admissions
Weddings
Passes
Tours
Special Events
Wine Gala
Investment Interest
Housing Rental
Concession Proceeds
Concession Proceeds to Non-Residents
Proceeds from Non-taxable Food
Book Sales
Shipping Costs
Gifts, Pledge, Grants from Private Source
Memorial Donations
Overages / Shortages
Other Misc. revenue
Residual Equity Transfers In
Tourist and Convention Fee

Substance Abuse Program
SAPT – Grant in Aid
VRDE – Grant in Aid
VRDE – ADATSA Assessment
Treatment Expansion – Youth
VRDE – Detoxification
GFS TANF Services
Liquor Excise Tax
Liquor Board Profits
2% Liquor Excise Tax – Cities & towns
2% Liquor Excise Tax - County

Superintendent of Schools
Garnishments and Support processing fees

Superior / Circuit Court
Felony Fines
Reimbursement of court costs
AOC – Interpreter Services
Interpreter Service Fee
AOC – Family / Juvenile Court Imp Grant
AOC – Guardian Ad Litem Program Fee
Court Costs
State - Court Commissioner
Superior Court Administration Fees
Warrants
Superior Court Cost Recoupments
Witness Cost
Trial Court Improvement Program
Law Library Program
Other Misc. Revenue

Surface / Storm Water
Surface / Storm Water Mgmt Utility

Tax Department
Real and Personal Property Taxes

Technology Bond Projects
Investment interest

Tourist and Convention
Motel – Hotel Tax
Hotel – Motel Lodging
Investment Interest

Treasurer
Miscellaneous Charges
Financial Services – County Roads
Financial Services – Drug Enforcement
Financial Services – Auditor's O&M
Financial Services – Boating Safety
Financial Services – Special Facilities and Sites
Financial Services – Sheriff Donation
Financial Services – Farm Worker Housing
Financial Services – Pest Control

Financial Services – Noxious Weeds
Financial Services – Parent Ed
Financial Services – CD Airport
Financial Services – Law Library
Financial Services – Veteran's Relief
Financial Services – Mental Health
Financial Services – Treasurer's O&M
Financial services – Tourism and Convention
Financial Services – Election Reserve
Financial Services – Natural Resources
Financial Services – Criminal Justice Tax
Financial Services – Distressed County Program
Financial Services – REET1
Financial Services – REET2
Financial Services – Solid Waste
Financial Services – Solid Waste Plan
Financial Services – Parks / Recreation Facilities
Financial Services – Conference / Meeting / Expo Center
Financial Services – Public Education
Financial Services – Regional Justice Center
Financial Services – ER & R
Financial Services – Industrial Ins Fund
Financial Services – Health Ins Fund
Financial Services – Health Insurance
Financial Services – Unemployment Comp
Financial Services – Insurance Admin
Investment Interest
Treasurer's Fees
Treasurer – Interest earnings
Treasurer – Investment Fees
Treasurer – Overages and Shortages
Treasurer – NSF fee

Trial Court Improvement Fund
Trial Court Improvement Fund (State Authorized)

Unemployment Compensation
Investment Interest
Employer contributions

Veterans' Relief
Private Harvest tax
Leasehold Excise tax
Investment Income
Other Misc. Revenue
Transfer In – Property Tax

Other Fees for Services and Fines[17]

Department	Description of Services
Utility Fees and Assessments	Water and Sewer Tap-in Fees
	Utility Consumption Fees
	Utility Relocation Fees
	Public Transit Facilities
	Phone and Data Connections
	SWPPP Program Assessment
	Underground Utility Easements
	Sewer Tap and Impact Fees
	Solid Waste
	Solid Waste Planning
	Storm Drain Tap Fee
	Storm Drainage Impact (Water Storage)
	Water District
	Water Impact Fees
	Public Services Impact Fees
	Utility Relocation Fees (Electrical , Sewer, Gas)

[17] Possible / required fees from others and/or potential additional specific areas for county / city fees for services. May or may not require approval of the state legislature.

Transit District Fees
Underground Transit Fees
Automatic Transfer Switch Fee
Water Meter
Gas
Gas Connection Fees (meter)
Electric
Electric Connection Fees (meter)
Cable Connection Fees (Data)
Telephone Service Origination Fee
Consumption Fees
Sidewalk Closure Permits
Street Use Permits
Street Lighting Assessment
Traffic Impact Assessment
"B" Permit Work (Public Right-of-Way)
Sewer Inspection Fee (video existing sewer)

TAXES / FEES – EXAMPLE GENERAL FUND[18]
Delinquent Tax, Interest and Fees
Auto Lieu tax
½ cent Sales Tax
Planning / Zoning Permits
Liquor License Fees
Emergency Services (Fees)
J.P. Salary Assistance (State?)
State Shared Sales Tax
Sample Ballot Reimbursement
Lottery Appropriation (AZ)
State Community College Fund (AZ)
LTAF Grant
PILT
Federal Dispro Share
Recorder Fees
Superior Court Fees
Sheriff Fees
Prisoner Room & Board
Constable Fees
Duncan Law IGA
Election Charges
Sport Facilities Fees
Auction Proceeds
Public Fiduciary Fees
Justice Court Fines
Superior Court Fines
Miscellaneous Reimbursement
Miscellaneous Revenues
Interest Earnings

EXAMPLE SPECIAL REVENUE FUNDS
Road Fund
Health Services Fund
ARS Fund
National Forest Fees Fund
Assessor Info Fund
Recorder's Surcharge
Treasurer's Taxpayer Info
Child Support and Visitation
Probate Court Fund
Detention Center Education
FTG / Indigent Defense
Superior Court Judge FTG
Alternative Dispute Resolution
Child Support Enforcement
County Jail Education
Spousal Maintenance Fee
Governor's Anti-Meth Grant
Federal COPS Meth Grant
State Anti-Meth Grant
County Attorney Diversion Program
Superior Court Clerk Document Fund
Law Library
Crime Victim Compensation Fund
Jury Plus
Superior Court Clerk TPF

[18] *Greenlee County AZ Fiscal Year 2009-2010 Final Budget*

J.P. 1 TPF
J.P. 2 TPF
CASA Advocate Program
County Attorney Enhancement
Attorney BCDPP Fund
RICO Fund
Attorney FTG
ACJC State Victim Assistance
Victim's Rights & Assistance
Gang Prosecution Program
Attorney VOCA Federal Victim Right
Jail Enhancement Fund
DARE Program
Sheriff's ACJC Drug Grant
Marijuana Eradication
Sheriff' Forest Service Patrol
Sheriff's Block Grant
Child EDU Fund
Drug Free Schools
Residential Treatment
Visitation Monitor
Court Improvement
Attorney Cost of Prosecution Fund
Superior Court Cost of Prosecution
J.P. 1 Cost of Prosecution Fund
J.P. 2 Cost of Prosecution Fund
Superior Court Clerk FTG
Governor DUI Abatement Grant
State Library Grant
4-D Case Processing
SCAAP Program
HHS Grant
Forest Health Grant
Fill the Gap J.P. 1
Fill the Gap J.P. 2
HAVA Federal Election Fund
AZPOST Firearms Range Grant
Spay / Neuter Grant
Search / Rescue Fund
Federal Sheriff Stone Garden
HURF to Sheriff
Fair / Legal Employment ACT
Sheriff's Volunteer Program
PDMI Donation Fund
DOJ Homeland Security
Emergency Services Planning
Emergency Services CERT Grant
Emergency Services Exercise
Pandemic Flu Fund
HMEP Emergency Planning Grant
Governor's Office of Highway Safety Grant
Landfill Closure / Development
Landfill Operations
Bio-Terrorism Grant
Economic development
Wellness Program
Graham / Greenlee Field Trainer
Flood Disaster Fund – 1994
Flood Control District Fund
Waste Tire Program
Fair Fund
Race Fund
Emergency Food & Shelter Fund
ECO State Land Grant
Unemployment Trust Funds
Probation Services – County
Probation Services – State
Family Counseling
Juvenile Crisis Center
Probation Summer Youth
Probation Urinalysis Feed
Juvenile Crime reduction Fund
Juvenile Probation Services Fees
Adult Probation Services Fees
Juvenile Probation Diversion Fees
Drug Enforcement ARS 41
State Aid Enhancement ARS 12
Community Punishment Program
Juvenile Intensive Probation Supervision
Juvenile Standard Probation
Diversion Consequences
Adult Intensive Probation Supervision
Drug treatment Education
Probation JTSF
Adult Probation Additional Supervision
Drug Treatment Education
Probation JTSF
Adult Probation Additional Supervision
Juvenile Additional Supervision
Juvenile Diversion Over $40.
Judicial Collections Enhancement Fund
JCEF Juvenile Standard
JCEF Juvenile Intensive Probation
Probation Juvenile Transport
GETP

OTHER LARGE-SCALE FUNDING MECHANISMS OR IDEAS

This section of the report begins to address options used to close the gap between the use of traditional funding methods and revenues (taxes, fees, and tax-exempt bond debt) and current and projected needs for public sector capital projects. Please note that ideas, options and concepts discussed in the following pages may or may not be available to your jurisdiction, based on state statutes and other restrictions.

Use of Building Authorities. Public Building Authorities have been in existence for more than 50 years, and are created and established for the development, construction, ownership, maintenance and funding of public projects. Responsibilities and activities conducted by PBAs vary from location to location, but as an example, the PBA in Knoxville and Knox County, Tennessee gives this information:[19]

"In 1971, Knox County and the City of Knoxville acted jointly to create the Public Building Authority of the County of Knox and the City of Knoxville, Tennessee (the "PBA"). The Certificate of Incorporation of the PBA was filed with the Secretary of State of Tennessee on July 20, 1971. Over the years, the Public Building Authority has carried out joint and individual projects for Knox County and the City of Knoxville and affiliated entities such as the Knox County Board of Education and the Metropolitan Knoxville Airport Authority. PBA currently develops, constructs, owns, and/or maintains certain facilities on behalf of the City Knoxville and Knox County pursuant to operating contracts with those entities.

Following is a list of responsibilities carried out by the PBA:

- Construction, management, operation and lease of various public facilities owned by the PBA.
- Construction, management and operation of facilities owned by Knox County and the City of Knoxville.
- Specification, acquisition, maintenance, operation and supervision of the telephone and telecommunication infrastructure owned by Knox County and/or the City of Knoxville.
- Provision of telecommunications consultation and advice for/to Knox County and/or the City of Knoxville.

PBA's involvement in a project can be structured in one of four ways:

- PBA can own and construct the project.
- The municipality can own the project, and PBA can construct the project pursuant to an operating agreement. Construction and professional contracts are then in PBA's name.
- The municipality can own the project, and PBA can oversee construction as agent for the municipality. The construction and professional contracts are then in the municipality's name.
- PBA may act as a consultant, advisor and/or subject matter expert in completing studies, project plans and similar activities."

Public Works Assessment District. Special Assessment District Bonds are a means of financing public improvements secured by a special tax levied on land in a specific geographic area that will benefit from the improvements. Assessments are based on the benefit a specific parcel will receive from the public

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[19] *http://www.ktnpba.org/about/pba_resp.htm*

improvements being financed through the bonds. Assessments are issued in assessment proceedings and usually collected at the same time as general property tax. Public Works Assessment District Bonds can be used to improve public facilities such as: street improvements, construction of sidewalks, parks, or bridges, sanitary facilities, storm drain facilities, flood protection, water supply facilities, electric power facilities, gas supply facilities, or lighting facilities. Cities, Counties and various special districts are authorized to issue special assessment bonds.

In California, for example, land-secured bond financing districts (e.g., Mello-Roos Community Facilities Districts (CFDs)) provide a means of financing public improvements secured by a special tax levied on land in a specific geographic area that will benefit from the improvements. If your property is in a Communities Facilities District (CFD), you will be taxed an additional Mello-Roos Special Tax along with your general property taxes. Mello-Roos Special Tax Bonds do not need to be based upon the benefit a parcel received from the public facility, however the special tax must not be an ad valorem tax. Mello-Roos bonds can only be issued with a two-thirds voter approval of registered voters and are not a personal debt of the property owner. Mello-Roos Special Taxes can be used for a variety of projects to improve the public facilities, including, but not limited to: parks, recreation and open space facilities, elementary and secondary school, libraries, child care facilities, undergrounding utilities, seismic safety standards, police protection services, criminal justice services, operation and maintenance of museums and cultural facilities, clean-up of hazardous substances. Cities, counties, special districts, school districts, and other entities authorized under state law can issue Mello-Roos Special Tax Bonds.

GRANTS, CAPITAL CONTRIBUTIONS, and other non-tax revenues from other sources

- **Congressional or Legislative Appropriations** – Governmental appropriations are and always will be an important source of capital for construction projects for states, counties, cities and special jurisdictions.
- **Grants.** Like congressional appropriations, general or specific grants are and will be important sources of capital to to fund or assist in funding projects. Grants can include general and restricted grants, and include equalization grants, flat grants, community development block grants, and a host of other private or public grants.
    - **Community Development Block Grants (CDBGs).** CDBG historically has been a Federal Grant Program to help in the development of viable urban communities. CDBG grants have been used to fund Infrastructure Public Facilities (IPF) projects to help low-income communities improve their public infrastructure. In some cases, counties provided funding on a competitive basis to cities, county departments, and other governmental agencies to help leverage tax dollars towards public improvements. CDBG funds historically could be used for projects such as acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements, including public Right-of-Way Projects. CDBG funds have been targeted to low-income communities to improve accessibility for the mobility impaired, access to public services, preserve and protect historic properties, and eliminate conditions of blight. In some situations, counties have served as entitlement communities that received funding from the Department of HUD to distribute to cities throughout the urban county. In the past, any eligible entity could apply to the CDBG program for funding.
    - **Other State or Federal Grants.** An example of a specific grant that provided support for capital projects including new construction or renovation projects was the Violent Offender – Truth in Sentencing VOL-TIS incentive grants, USDOJ. VOI-TIS provided funding

to States who were allowed to pass through funding to local government for: 1) Juveniles; 2) Male and Female Adults; 3) All Security levels. Funding was not guaranteed. Allocations to States from USDOJ were based on a complex formula based on population. In some cases, states received only 15% of amount expected. States were allowed to may disburse up to 15% of its allocation with two conditions: 1) there must be a competitive process among local jurisdictions; and 2) local governments must demonstrate they have an increased burden due to State prisoners in certain categories. States had been given few guidelines for allocating and disbursing funds to local jurisdictions. Applications were made twice a year. Funds were to be used to 1) build or expand temporary or permanent facilities, or 2) new construction, acquisition, renovation, repair, remodeling and expansion of new or existing. Additionally, funding was used for professional services including facility planning, pre-architectural programming, architectural design, construction administration, construction management or project management. Funding also was used for seven areas of need by the local jurisdiction: 1) Physical Plant including renovation of an additions to existing buildings and new construction; 2) Security and Control including various types of security and communications equipment; 3) Safety and Emergency including various life-safety building systems and equipment; 4) Food Service including various kitchen and dining equipment; Sanitation and Hygiene including various plumbing, septic system, laundry equipment and systems; Medical / Health Care including renovations of existing or construction of new facilities and medical equipment; Inmate Rights, including renovations of existing or construction of new inmate libraries, visiting areas and related items.

OPERATIONAL (AND FACILITY USE) AGREEMENTS

Operational agreements include any of a number of opportunities for providing direct services to or on behalf of other public or private entities, and through the service, recapturing operational costs.

Consider a full range of options for agreements or alliances. Consider developing regional, multi-court district programs or facilities. Consider co-location or consolidation of court jurisdictions and districts. Partner or co-locate with library, college, university or community colleges for programs, services, sites, facilities and/or central plant efficiencies. Consider closing a location or facility.

Consider sharing staff and expertise, from positions to in-service activities. Develop, coordinate and share forms libraries, business templates, software and more. Cooperative administrative or consulting services contracts may be an option between the courts and other agencies or units of government.

Uncover fees for services and other recapture costs, including partial funding assistance with facility planning, design, construction, and operations include state and federal cooperative / funding programs such as:

- **Cooperative Agreement Program (CAP), US Marshal Service, USDOJ.** CAP provides funding to local government for detention and prison beds for juveniles, limbo juveniles (ages 18-21 years old), male and female adults, and all security levels. No precise funding allocations are known. Each agreement is negotiated individually. *For courts, this could take the form of providing space that was suitable for use by other court jurisdictions or related services, such as providing a courtroom that could be used for appellate or Supreme Court hearings and proceedings. In this case, if the courtroom can be shared and scheduled, each entity might contribute to* *construction, facility maintenance, and related operational costs, such as shared costs of security, technology services, janitorial services, and the like.*

- **Inter-governmental (regional and multi-county, for example) facilities and services,** such as multi-county juvenile detention / court service centers, training schools and the like. Co-located facilities with shared services, such as co-location of municipal and county courts, or co-location of general- and limited- jurisdiction courts, would be another example of how these types of arrangements could be designed to benefit both courts if operations can be co-located. Funding could be provided by one or more of the entities, and if not set up as in a direct lease, could involve Joint Powers Agreements and coordinated taxes or fees. *An example of this would be the new Joint Court Complex in Tucson, Arizona, in which the City and County will be co-locating Justice of the Peace and Municipal Court functions. In this case, the County will fund the project and the City will contribute rent for negotiated use of spaces, specific shared operations (technology support, building security, jury support spaces and support, and the like).*

JOINT DEVELOPMENT

Joint development involves a formal public-private agreement that involves private sector payments to the public entity and private sector sharing of capital costs. The incentive for the public entity comes through the provision of additional revenue for capital projects or improvements. The incentive for the private sector comes through enhanced real estate development potential. Examples of these programs include projects in Washington, D.C., Philadelphia, Portland, and New York.

PRIVATIZATION

The term "privatization" refers to a number of different issues / options. "Privatization encompasses the long-term transfer or sale of public assets or asset management rights to a private entity in exchange for a range of government financial, liability transfer, and risk mitigation benefits. Privatization resulting in an outright sale is a permanent transaction where title transfers from the government to a private entity(s). This may consist of all or part of the entire government facilities/asset network. Outright sales may include potential reversionary provisions should the private entity fail to perform, particularly in the sale of core government functions.

As opposed to outright sale, privatization initiatives may also result in management contracts, in which a private entity(s) assumes day-to-day operational responsibility for financial compensation from the government counterparty. Other responsibilities may also include ongoing capital maintenance, repair, and replacement. Operational responsibilities such as staffing and customer service are normally subject to government quality standards and enforcement. In a lease or concession agreement, the private entity(s) assumes operational responsibility and certain incidence of ownership such as rate setting, service area expansion, capital financing (which, as with management contracts, is normally subject to government procedures), mandates, and other limits. In lease agreements, government may retain revenue sharing rights. At the termination of the agreements, all affected asset rights and responsibilities revert to the government entity.

In some cases, the term "public-private partnership" is used to refer to transactions that are essentially privatization efforts, in which a state or local government enters into a long-term lease of a major asset (e.g., toll road, parking garage, airport, etc.) to a private-sector company and transfers the rights and responsibilities for the leased asset to the private company, or to transactions aimed at privatizing or outsourcing the provision of services that a governmental body had been providing directly. These transactions present a fundamentally different set of opportunities, risks and concerns for governmental participants than the traditional "partnerships" do.

The Government Finance Officers Association (GFOA) recognizes the risks and rewards associated with privatization initiatives and recommends that finance officers play an active role in performing due diligence and facilitating privatization policy decisions. Finance officers should play a central role in considering feasibility of long-term privatization, lead the development of a process to evaluate and implement the potential privatization, and provide options and policy recommendations. During negotiations, the City or County Administrative (or Executive) officer and other local elected officials should be fully apprised of the type and nature of the give and take occurring. This helps to ensure that priorities are laid out in advance to prevent the legislative body from making ill-informed decisions.

The finance officer helps ensure good stewardship of the proceeds by properly structuring the on-going management of such upfront proceeds. For example, creating a permanent endowment capitalized by the proceeds and establishing a professional board of trustees functioning as a fiduciary for the endowment institutionalizes a permanent public asset. Coupled with the use of a professional advisor and fund managers, this structure would promote long-term return and safety of principal.

LEASE – PURCHASE ARRANGEMENTS

A municipal lease-purchase agreement simply allows a municipality to use its annual tax revenue stream to make payments for any type of essential use equipment or facilities needed by the municipality. Cities and counties need police and fire equipment to safeguard their citizens. School districts need buses and other transport equipment to move students from their homes to the classroom and back again. Each of these equipment needs, and many others, can be financed through municipal lease purchase agreements.[20]

Leasing represents a way for municipalities to conserve their cash while acquiring the equipment and facilities necessary for government to function. Generally speaking, there are laws in all 50 states which restrict the ability of municipalities to borrow money. There are, however, very few restrictions on the ability of municipalities to enter into leases. Leases represent a year-to-year commitment on the part of a municipality to make lease payments, not a commitment to pay debt service. In other words, leases are not considered debt and, therefore, are not subject to the limitations placed on debt by state and local laws.

Lease-purchasing equipment is easy for municipalities. The documentation is simple and easy to understand. Lease-purchase agreements can be completed by financial leasing and bond experts within a short time once approval to proceed from the municipality is given, and credit approval require only three years of audited financial statements for review. A municipal lease-purchase agreement is structured as a financing mechanism. There is no residual equipment value to refinance at the end of the lease term. Title to any equipment financed with a lease-purchase agreement equipment will remain with the municipality for the duration of the agreement and will be fully paid for and will belong to the municipality at the end of the lease term with no restrictions.

Lease purchase arrangements can take a number of different forms ranging from simple to complex arrangements involving facilities / space, maintenance, services and more. The ability of any jurisdiction

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[20] *http://www.public-finance.com/about_leases.htm*

to make use of lease-purchase options will be affected be state law (e.g., the Alaska legislature amended the state law to restrict the use of lease-purchase agreements by state agencies[21]).

PERFORMANCE CONTRACTING

Special opportunities exist for funding needed improvements to facilities if a cost model can be constructed that support the improvements. Subject to local and state regulations and requirements, facility improvements can made through lease-purchase agreements for energy conservation improvements and more.

PUBLIC-PRIVATE PARTNERSHIPS (PPPS)22

The term, "public-private partnership," is used to refer to many different types of projects. ”Traditionally, the term “public-private partnership” has referred to private or public-private projects that involve the use of public resources or financing capabilities to promote local economic development.

In those arrangements, the public entity is typically asked to provide some combination of tax incentives, public land or other assets, infrastructure investments or financing methods. In consideration of those public contributions, the private entity is asked to make capital investments, commit to provide jobs, contribute development expertise and assume financial risk. These “partnerships” (which typically are not partnerships legally) can have short life spans covering only the construction period for the project, or longer life spans covering debt repayment or long-term operating agreements."

Evaluating the type and size of projects most suitable for PPPs is an important step. Factors may include speed, cost, capacity and statutory authority.

Public sector topics of interest include the cost of issuance of bonds (bond counsel fees, underwriter's spreads and bond discounts); conventional financing (Letter of Credit, mortgage fees, other fees and charges); and the cost of money through conventional financing. Key issues include tax-exempt structuring: general obligation bonds, special assessment bonds, tax increment bonds, parking revenue bonds, basic security for the revenue bonds and the importance of rating the bonds by a rating agency.

The importance of a parking feasibility study should be underscored, emphasizing for the first-time developer the pitfalls that can be encountered in the selection of the architect and general contractor. One cannot emphasize enough the importance of the architect and general contractor: a poor selection of either one of these two professionals can provide a negative impact on the community and the project, for continuous delays in the construction, especially in a downtown area, can cause considerable traffic congestion and frustration. A miscalculation by the architect and poor

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[21] *Tobin, A Court Manager's Guide to Court Facility Financing, NCSC.*

[22] *From a "Best Practice Guideline" from the Government Finance Officers Association (GFOA) publication entitled, "Public – Private Partnerships for Economic Development (2008) (CEDCP and DEBT). Approved by GFOA's Executive Board, February 22, 2008. Please also refer to "Project Evaluation for Public Private Partnerships: Aligning Development with Strategic Goals in Virginia Beach," Patricia Roberts, Robert Scott, and Nancy Leavitt, Government Finance Review, GFOA, June 2004. http://www.gfoa.org/downloads/ProjectEvaluatoinforPublic-PrivatePartnerships.pdf; "An Elected Official's Guide: Economic Development, 'GFOA, 2005; GFOA Best Practice, "Role of the Finance Officer in Economic Development," 2006; and Issue Brief: Privatization vs. Public Finance Partnerships: A Comparative Analysis: California Debt and Investment Advisory Committee; August 2007.*

communications between the municipality and the architect also can be very costly, requiring excessive change orders for completion of the project.

Within the types of “partnership” transactions discussed in the recommended practice bulletin provided by the GFOA, a broad range of risk exists for the governmental participants. At one end of the spectrum, the governmental participants may be serving only as an issue of conduit debt, enabling the private borrower to gain access to tax-exempt financing but with no promise to use any other public funds. At the other end of the spectrum, the governmental participant may be guaranteeing a private party’s debt or otherwise placing public funds directly at risk.

The nature and extent of the governmental participant’s appropriate diligence will vary depending upon where in the spectrum a particular proposed “partnership” transaction fits. In addition, some transactions may necessitate utilizing the limited resource of private activity volume cap for tax-exempt financing, while others will not. For those that do, the governmental participant should have policies in place to assure compliance and to cause the governmental participant’s use of that resource to reflect its priorities and policies.

In “partnership” arrangements, the public and private parties have both complementary and conflicting objectives. Complementary objectives center on the ongoing success of the development, while conflicting objectives focus on levels of financial participation and risk.

The public and private parties have two different perspectives. The public party’s perspective is towards stewardship of the public’s assets and other public benefits (job creation, tax base, elimination of blight), while the private party’s perspective is on return of investment. Both views must be accommodated for a viable development project.

For governmental participants, successful partnering requires an understanding of the transaction’s risks and benefits for both parties, sufficient knowledge of the private parties in order to assess their ability to fulfill their obligations, a fully negotiated development agreement, and agreed-upon methods to resolve future conflicts and uncertainties. The government finance officer should play a central role in the government’s involvement. He or she brings professional expertise in evaluating, structuring, and managing the government’s involvement in a proposed public-private partnership and should lead the financial review of public-private partnership development agreements.

Examples of P3 Programs include:[23]

- Land assembly programs, by negotiation or eminent domain
- Urban renewal programs
- Tax increment financing programs
- Tax (property, sales, income, etc.) abatement/rebate programs
- Industrial development revenue bond financing programs
- Note and bond financing programs, including full faith and credit bonds and revenue bonds, for land assembly, site preparation, public facilities or supporting public improvements and infrastructure
- HUD Section 108 loan programs

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[23] *From a "Best Practice Guideline" from the Government Finance Officers Association (GFOA) publication entitled, "Public – Private Partnerships for Economic Development (2008) (CEDCP and DEBT). Approved by GFOA's Executive Board, February 22, 2008.*

- Small Business Administration programs
- Economic development administration programs
- Foreign trade zone programs
- Community development block grant programs
- National and state tax credit programs, including New Markets Tax Credits
- Loans or grants to developers
- Public body guarantees of developer loans

TYPICAL P3 PROJECTS[24]

- Development projects involving commercial facilities
- Parking facilities
- Hotels
- Convention centers
- Entertainment complexes
- Multiple redevelopments in various urban renewal projects
- Waterfront development and marina projects
- Port authority projects
- Housing projects
- Neighborhood development projects
- Manufacturing facilities
- Office buildings
- Industrial parks
- Warehouses
- Museum projects
- Theater districts
- Major and minor professional league sports stadium and arena complexes
- Airport improvements
- Pedestrian walkway systems

ALLIANCES

Alliances between counties, cities, and other governmental entities provides opportunities for savings. Using large-volume collective purchasing programs can be wise in a variety of areas. These may be programs you join, or programs you create. Join large court or county-wide, state or national purchase programs for savings (equipment, supplies, services, and other areas – including rebate programs).

An example of the use of an alliance is in the area of energy aggregation. Energy deregulation presents opportunities and challenges to consumers and producers. Consumers of energy, such as cities and school districts, can benefit by forming alliances with similar consumers and purchasing energy together. By merging their buying power, consumers can reduce their costs which they would not be able to do independently.

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[24] *From a "Best Practice Guideline" from the Government Finance Officers Association (GFOA) publication entitled, "Public – Private Partnerships for Economic Development (2008) (CEDCP and DEBT). Approved by GFOA's Executive Board, February 22, 2008.*

Current issues include:

- As producers review their cost profiles, they are approaching local jurisdictions with the choice of purchasing traditional utility assets such as street light systems and even local distribution systems. Select financial service firms have assisted numerous communities with studying the risks, rewards and policy issues surrounding this type of decision.
- **Lowering the Risk of Franchise Tax Reductions.** Many public entities have franchise taxes on energy consumption as an important part of their revenue base. In the world of retail wheeling, where consumers may not be purchasing their energy from local power producers, this revenue source may be compromised. Local entities today must review and, where necessary, revise their local franchise ordinances to anticipate this new environment.
- **Alternative Generation Financing.** Certain areas of the country are already experiencing power supply problems which is due, in part, by the unwillingness of some producers to make major capital expenditures at this time. Select financial service firms are working with municipally-owned utilities to purchase smaller, less capital intensive, gas-generation facilities. These facilities can help utilities position themselves to meet customer demands and they have the potential to reduce costs in start-up operations. In addition, in some states, these facilities have the potential to produce property tax benefits.

VALUE CAPTURE STRATEGIES

One approach being taken in transportation finance is to set up new fees, taxes and assessments based on "value" provided by new transportation projects. Value capture strategies are increasingly being reviewed in terms of value added through "location, location, location" and improved / enhanced access provided by transportation improvements. These include value capture strategies for interchange and station locations, and downtown value capture, and are being staged with development and construction.

The following table, from the presentation, "Value Capture Strategies for Transportation Finance – Funding by the Minnesota Legislature (2008-2009)", was presented by Zhirong (Jerry) Zhao, Assistant Professor at the Hubert H. Humphrey Institute of Public Affairs at the University of Minnesota. The presentation talked about value created by transportation investment, and noted:

1) **Split-rate tax** – with separate tax rates based on buildings and land -- captures more value from transportation, less value from development. This approach taxes value (increases) created by the community / access separate from increased tax on buildings. *Translating this to court operations?*
2) **Special Assessments District** uses a compulsory levy against parcels receiving a special benefit from the improvement, and the assessment amount is directly related to the value of the benefits the property receives. *Translating this to court operations, an additional assessment (fee?) would be charged for improved access (faster, easier, electronic, etc.) – where convenience and time would be the "value" derived.*
3) **Development impact fees** – one-time predetermined assessments levied on new development – are used to offset the impact of the development on the capital cost of providing regional transportation infrastructure. *Translating this to court operations, development impact fees could be used to support decentralized court services and operations, particularly where the convenience of having the court services nearby would have a regular benefit to taxpayers*

(reduced time and difficulty for jury service, access to the clerk's office for payment of taxes, fines, etc.).

4) **Air rights –** Air rights can be treated as a joint development project in cases where transportation infrastructure is newly constructed or as a revenue generation strategy in cases where transportation infrastructure is already constructed. The opportunity to make use of the three-dimension area (above highways or other transportation system spaces) is clear. *Less clear would be the opportunities presented by a court facility project. However, providing a clear site and mounting locations for radio towers or cell sites, should these be needed in an area, may be a need that could be addressed in a court facility funding package.*

OTHER IDEAS

Other ideas that were provided to the authors included good-practice and money-saving ideas that could be useful for saving or generating funds for general operations or facility projects. These may or may not be useful, practical or allowable to you, but we've included some of them below to spark ideas regarding options that may be available to you.

ENDOWMENTS / GIFTS

Seeking targeted donations for special events is a technique being adopted across the country – but the recipient should consider the actual or potential impact of unintended consequences and risks. Particularly in the case of government entities, the acceptance of a private gift must not be construed as an endorsement. In accepting private gifts, the creation of a permanent endowment capitalized by the proceeds and establishing a professional board of trustees functioning as a fiduciary for the endowment can institutionalize the gift into a permanent public asset.

- Site donation, particularly by a City or other entity wishing to steer development.
- A variation of site donation would be a site swap, whereby capital assets controlled by the city, county, or state could be "traded" for sites or facilities of equivalent value but more appropriate location / proximity to services, size, or other feature.
- Seek large corporate donations for specialized equipment or programs. These opportunities will vary, based on the location of the court and personal relationships with key company or corporate leaders (with large headquarters or regional office/operational center locations in your state, city, county, or community). These can have a dramatic impact on specialized technologies or teaching / learning opportunities.
- Consider donations of technology or systems to serve conference, courtroom or other functions
- Encourage full or partial local sponsorship of construction projects – through your foundation – for special areas. Provide stages and levels of participation – from paving bricks with naming rights to entire conference facilities, law libraries, or more.
- Renovation funding, including contributions for memorials or naming rights for outdoor plazas, conference rooms, library assembly or conference rooms, law library spaces room(s).

ENTERPRISE ACTIVITIES

- Other enterprise activities (selling / leasing facilities or services)
- Develop, copyright, license and sell your software, processes or service ideas. License, sell rights, or develop / sell court-related educational programs. Give incentives and bonuses to published work, and develop win-win agreements for staff and volunteers.

- Develop, copyright, license and sell services to other entities with specific needs.
- If you do not already have a foundation, consider creating one. Encourage local involvement in the Court or County Foundation (donations, activities, and scholarship support programs).
- Charge user / participation fees for extra-curricular programs not mandated.
- Charge administrative time and all support services to categorical projects whenever feasible (such as in grants).
- Sell naming rights and advertising, or allow advertisements on an annual, renewable basis.
- Rent out your facilities during non-court periods to revenue-producing but not-for-profit organizations. Actively encourage use of the facilities for community programs and charitable organizations.
- Consider leasing data processing hardware to other users (library patrons, businesses, community colleges, others) to users between 5:00 PM and 7:00 AM. Remote access for computing may make this a practical alternative without allowing direct physical access to facilities and equipment.
- Use standard approaches and model bid forms. Wherever possible, do not "reinvent the wheel" when you issue bid specifications, and do not rely solely on vendors. Neighboring court districts, county offices, professional associations, lawyers, consultants, and some vendors can assist you in locating model specifications to serve as a starting point. Larger cities and counties in your own state are likely sources. You can save a lot of time and avoid finding the pitfalls the hard way, especially on complex purchasing transactions.