

Alternative **FUNDING OPTIONS** for Court Facilities

1 February 2010



- Overview
- New Options and Strategies
- Inverted Triangle Approach
- Guiding Principles
- Discussion

Overview

Executive Branch responsibility

Financial Officer and Consultants

Facilities were not “charged back,”
so there was little compelling
reason ...

Often, facilities are SHARED ...



A group of business professionals, including men and women in suits, are seated around a table in a meeting room. They are looking towards the right side of the frame, appearing engaged in a discussion. The background is slightly blurred, focusing attention on the participants.

Why care?

Risk of not having “needs” met – requires knowledge and understanding of the specific and unique requirements of the courts

Limited advocacy – court facility needs are not always seen as the first need / highest priority

There is a need to communicate:

- a) the needs for public accessibility, safety, security;*
- b) the staffing, operational requirements;*
- c) the costs and importance of well-considered solutions*

HISTORY OF COURT FACILITY FUNDING



GENERAL OBLIGATION BONDS

REVENUE BONDS

LEASE – PURCHASE OPTIONS

VOTER SUPPORT
– SYMBOLS OF
COMMUNITY AND
INVESTMENTS
FOR FUTURE
GENERATIONS



CHALLENGES TO HISTORICAL METHODS

Voter Resistance – as needs for infrastructure, schools, universities and other needs outstripped traditional resources and funding

Debt Limitations – state-by-state rules and local county / city demands grew. And as government operational budget grew – funding for facility upkeep declined – creating additional pressure on facilities

Gaps – tax caps coupled with aging infrastructure and facility replacement needs ... compounded by rising costs of operations and maintenance

Other Limits – limits on use of lease-purchase, design-build, and other methods of finance and construction – coupled with resource limitations

There is a need for alternatives to supplement traditional solutions



IN SOME WAYS, THE PROCESS IS UNCHANGED

it's still – fundamentally – about YOUR economic condition

1. Current Financing Options and Methods

- Current Base and Utilization
- Taxes (Property, Sales, Commercial Transactions, Use, Income)
- Impact Fees
- Fees for Services
- Other sources

2. Options Not Yet Used (Alternative Income)

- Ideas and Precedents
- Legal Constraints

3. Political Will / Level of Support

- In a Period of Reduced Resources
- With Other Projects and Priorities
 - establishing a sense of the “need” and “urgency”

4. Development of Your Strategy

5. Implementation – including cost control, phasing strategies, and more ...

Sequential Steps for Facility Financing Decisions¹

... assuming that the decision has been made
that a facility project is needed ...

Q1 - Is it possible
to finance facility
construction?

Q2 – If so, is it possible to
finance the facility without
Incurring long-term debt?

Q3 – If long-term debt must
be incurred, what form
should it take?

Q4 – Are there revenue
sources which will reduce the
the cost of borrowing?

... and that funds that require **voter approval** can be found ...

BUT THERE ARE LIMITS TO INDEBTEDNESS²

Common Ways to Restrict State / Local Indebtedness

- ✓ Require a Balanced Budget
- ✓ Restrict Carryover of Deficits into the Next Fiscal Year or Biennium

IN 44 States – the Governor Must Submit a Balanced Budget

- ✓ Idaho (but politically unwise not to do so) – Indiana (can carry over annual deficits, but cannot assume debt per IN Constitution) -- Texas -- Vermont – Virginia (the Governor must execute – not sign – a balanced budget) -- West Virginia

IN 41 States -- the Legislature Must Pass a Balanced Budget

- ✓ Arkansas – Hawaii (expenditure may exceed revenues if carryover balances from previous years offset and result in a positive net ending balance) – Indiana – Missouri – New Hampshire -- Pennsylvania – Vermont (in practice, a deficit has not been carried over) -- Virginia – Washington (although the legal requirement for a balanced budget only applies to the Governor, the legislature has always passed a balanced budget – State law forbids expenditures without supporting revenues)

IN 37 States – the Governor Must Sign a Balanced Budget

- ✓ Alabama – Idaho – Indiana – Kansas – Maryland – Mississippi – Montana – Nebraska – Nevada – New Hampshire -- North Carolina -- Vermont -- Washington

Local governments have limits on their ability to incur general obligations debt

- ✓ Debt Limits on Cities (48 States) and Counties (40 States) – Debt Purposes Specified (32 States) – Local Bond Referendums Required (39 States) – Maximum Bond Life (41 States) – Legal Limits on Interest (24 States)

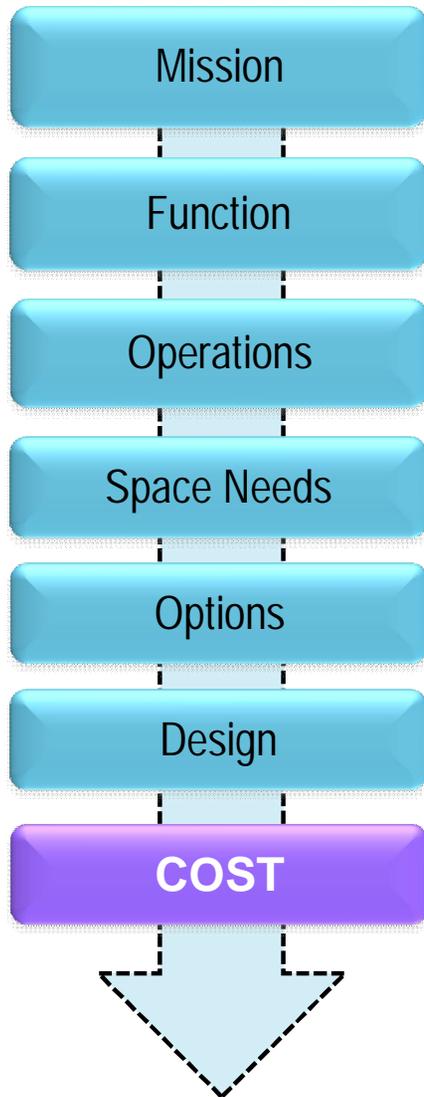
Over the past 20 years, the use of funding that did not require voter approval increased, but will that trend continue?

*Legislative and Executive Branch Resistance
Increased Competition for Scarce Resources*

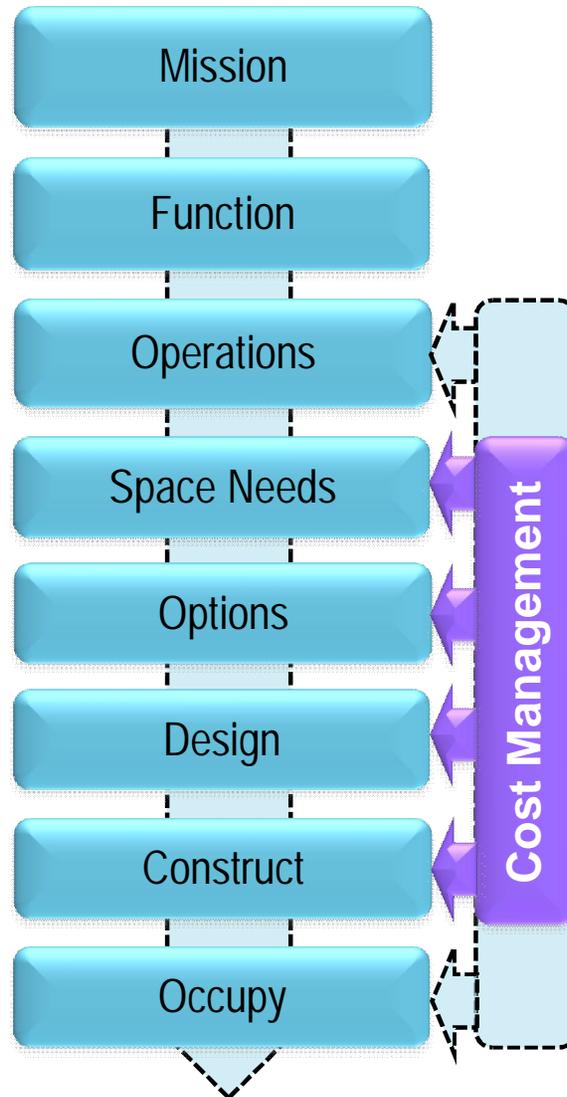
Some options -- *capitalize current assets, capture and leverage current operating costs (maintenance, leasing, operating costs), use private and taxable funding, and consider new value capture strategies ...*

... we're in the midst of an **environmental** change ...

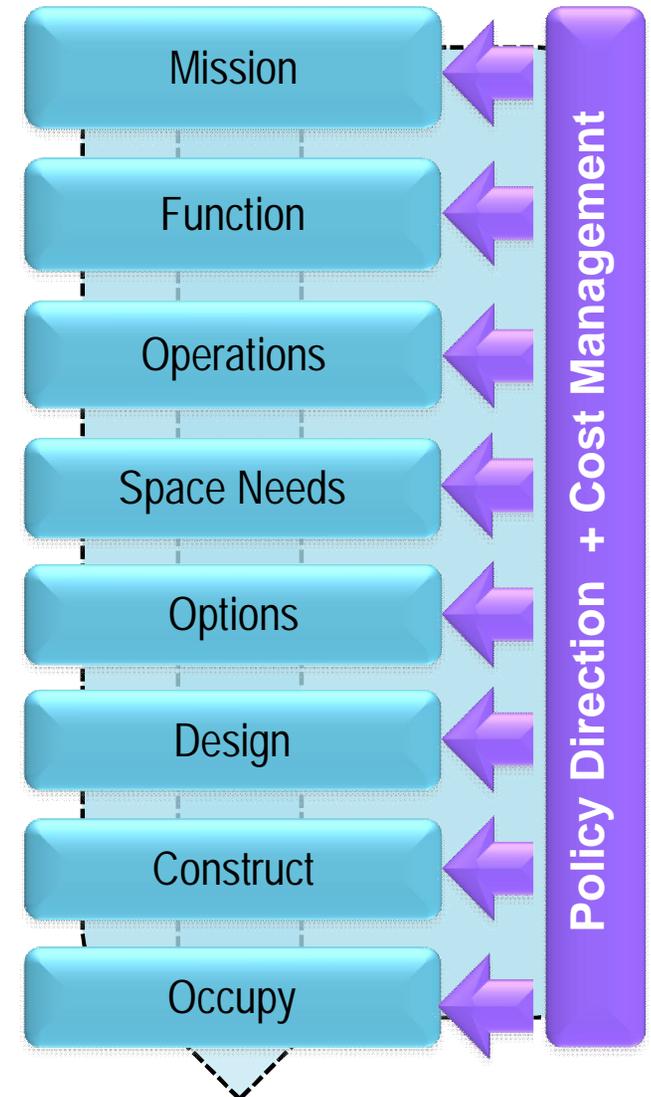
Pre-1980s



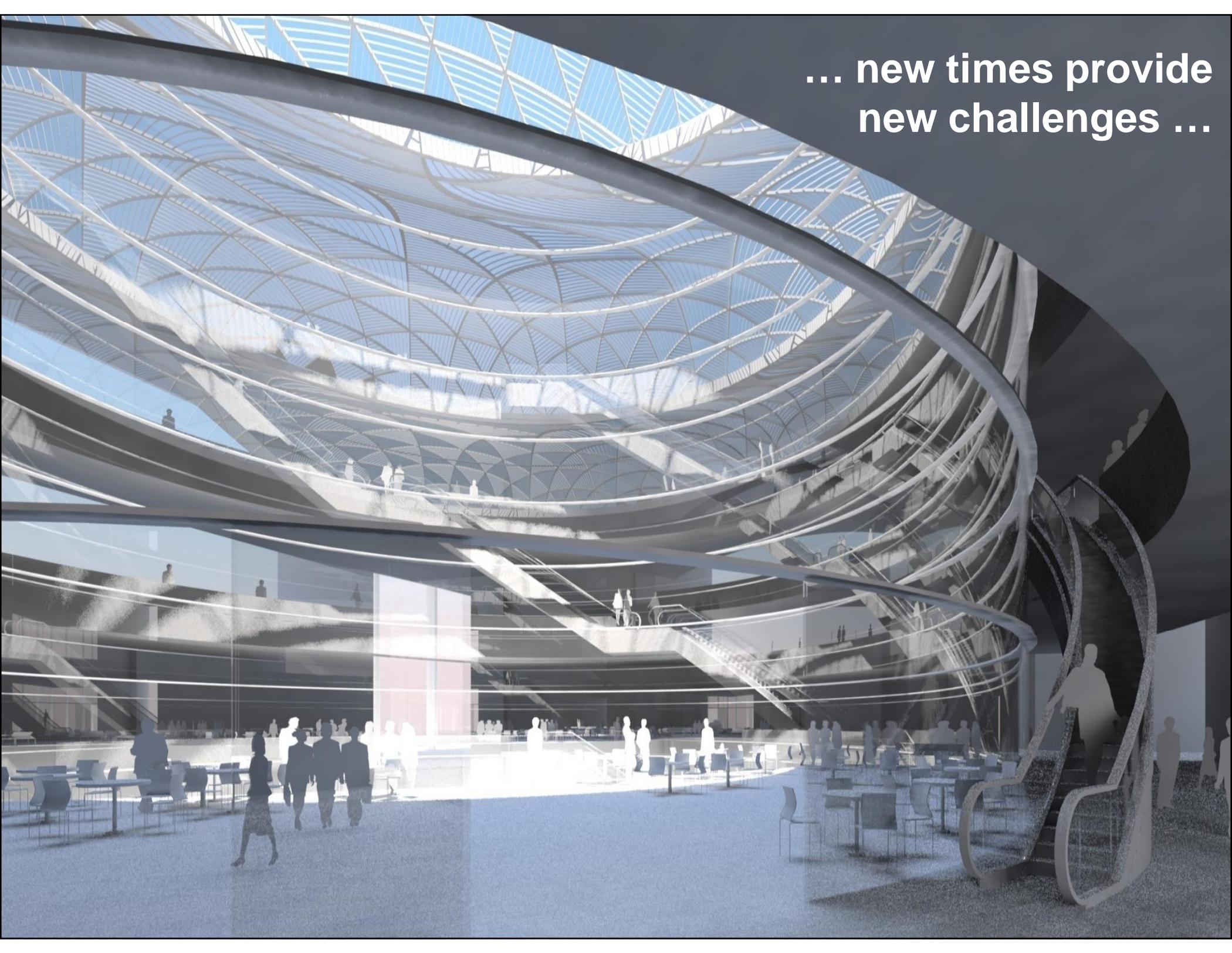
1980-2009
"Value Management"



"STRATEGIC DIRECTION +
VALUE CAPTURE"



... new times provide
new challenges ...





NEW TIMES ... NEW CHALLENGES

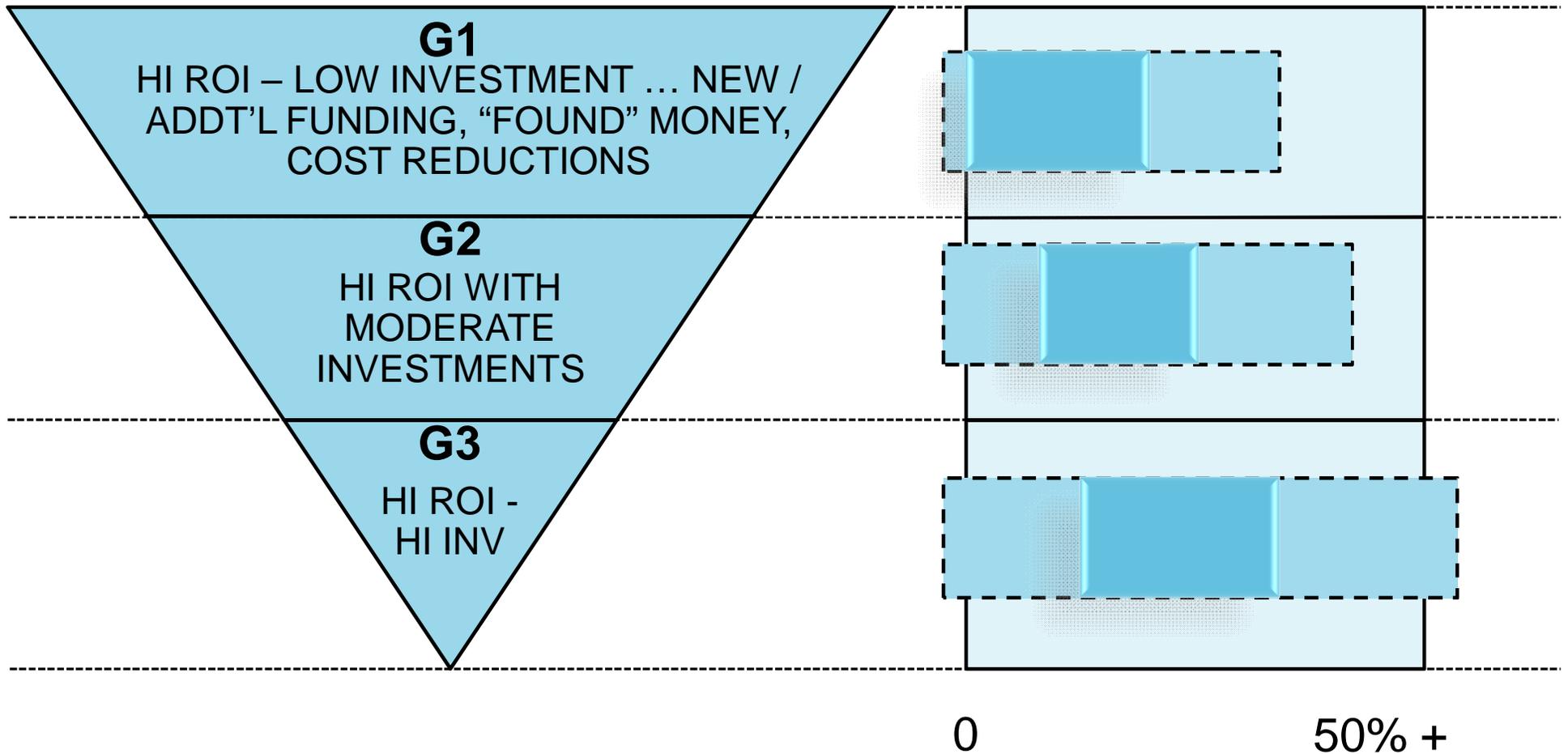
- TAKE A BUSINESS-LIKE AND ECONOMIC APPROACH
 - SEPARATE CURRENT OPERATING FROM LONG-TERM EXPENSES
 - EVALUATE PAYOFF OF PROPOSED INVESTMENTS
- DEVELOP AND MAINTAIN A COMPLETE INVENTORY OF YOUR CAPITAL ASSETS
 - CONSISTENT ASSESSMENT AND MEASURE
 - PHYSICAL CONDITION AND FUNCTIONAL EVALUATIONS
- INVESTIGATE OPTIONS AND THINK CREATIVELY
 - BLEND MISSION – OPERATIONS – FACILITIES
 - CONSIDER A RANGE OF SERVICE DELIVERY MODELS
 - CONSIDER TECHNOLOGY, PROCESS IMPROVEMENT AND VISION
- USE DYNAMIC MODELING TOOLS
- INTEGRATE – COOPERATE – COLLABORATE

... but where to start? ...

think of it ... as an **inverted Pyramid Concept** ...

EASE OF ADOPTION
+ "MANAGEABILITY"

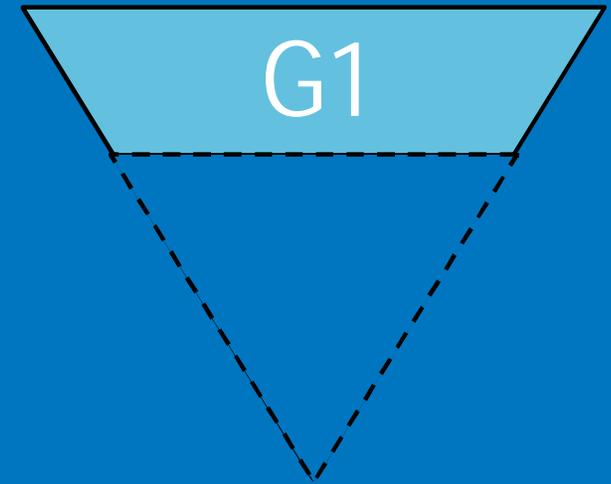
POTENTIAL IMPACT
AND ROI



GROUP 1 -- HIGH ROI – LOWER INVESTMENT

Collecting / developing funding from existing revenues – but **going beyond** simple cost reductions, addition of service charges and cooperative agreements ...

- Cost Reductions
- Revenue Opportunities
- First Tier Capitalization – Cooperation -- Privatization



GROUP 1 -- HIGH ROI – LOWER INVESTMENT

Cost Reductions

- ✓ Basic Cost Reduction Measures (Already Implemented)
- ✓ Refundings (save money on your money -- benefit from current bond rates)
- ✓ Process Improvements without Major Investments -- Think NVA

Revenue Opportunities

- ✓ Qualifying Programs (Provide capital for infrastructure and county / city high-priority projects -- Build America bonds, Clean Renewable Energy Bonds, Qualified Energy Conservation bonds, others)
- ✓ New / Additional Fees and Services (review checklists for ideas), particularly direct fee programs, or adjustments in fee level to include recovery of capital cost of facilities
- ✓ Value-Capture Strategies (taking lessons-learned from transportation programs nationwide)
- ✓ Enterprise Activities (restitution, pay-as-you-go programs for services such as probation or parole, maximize private contracts maintaining tax-free bond status)
- ✓ Philanthropy (individuals, foundations, business concerns – including direct and indirect sources)
- ✓ Additional Funding Sources (fees, grants, formula adjustments on federal programs, refundings, enterprise activities, special assessments, more)

First Tier Capitalization – Cooperation -- Privatization

- ✓ Capture / Leverage Current Support and Operational Costs – Bid / Outsource maintenance, housekeeping, security, operating costs – manage private contractors versus in-house staff
- ✓ Capitalize Current Assets (Highest and Best Use) – Consider the “highest and best use” of locations and facilities, overall program costs (including SF, parking, access), consider simple shifts, sale or transfer of empty or under-utilized assets, and swaps available due to current market opportunities
- ✓ Simple shared / cooperative development and alliances – energy, support, operations, services, more

Start your analysis of financial issues -- build multiple financial and “needs assessment” models. Consider different operations and space requirements -- see if embracing new standards, high-performance offices and work environments, use of technology, e-filing, or other changes may point to a need for less space (or a change in services) – and model the ranges of “projected needs” as you review options ...

Case Studies

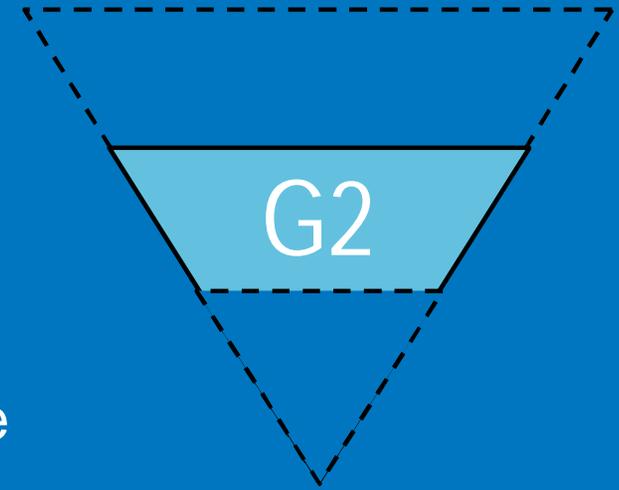
Maricopa County

Decentralized Self-Help Services in Library Centers

GROUP 2 -- HIGH ROI – MODERATE INVESTMENT

Includes a wide range of renovation – reuse, adaptive reuse, new construction, and blended facility solutions. May involve careful system-wide planning, “benchmarking” and process-improvement, commitments to resource recovery, consideration of alternate service delivery and system structure, and life-cycle cost considerations – including anticipated staffing improvements ...

- Investments in Process Improvement
- Financing Alternatives Review – Worth The Effort
- Widest / Most Thorough Consideration of Facility Options



GROUP 2 -- HIGH ROI – MODERATE INVESTMENT

Investments in Process Improvements

- ✓ NVA Approach – Life-Cycle Cost Model – With Short- and Long-Range Recovery and Tracking
- ✓ Deeper analysis of functional, organizational, operational and spatial upgrades and improvements – functional and operational improvements tied to facility investments
- ✓ Develop planning model for alternative service delivery to assist in assessment of options – considering consolidation, co-location, centralization, decentralization options

Financing Alternatives

- ✓ Traditional and Expanded Tax / Revenue Options Considering Significant Changes – With or Without Voter Approval
- ✓ Additional Fees and Services (see checklists for ideas), particularly direct fee programs, or adjustments in fee level to include recovery of capital cost of facilities
- ✓ Consideration of Major Land and/or Facility Swaps – Investments in Capitalizing Current Assets (Highest and Best Use) – Consider the “highest and best use” of locations and facilities, overall program costs (including SF, parking, access), consider simple shifts and current market opportunities
- ✓ Consideration of Larger and More Complex Cooperative Development and Alliances – facilities, energy generation, regional services and operations, cooperative support and privatization services, more.
- ✓ Consideration of Larger and More Complex Enterprise and Financing Options – Traditional, “Back Door”, P3, Privatization, Building Authorities, Improvement Districts, Other Development Arrangements, Long-Term Lease or Lease/Purchase for Facilities
- ✓ Additional Funding Sources (fees, grants, formula adjustments on federal programs, refundings, enterprise activities, special assessments, more)

Facility Options

- ✓ New, Reuse, Renovation, Adaptive Reuse, Historic Preservation, Development Districts + More
- ✓ Significant modeling of options – considering services, operations, staffing, and life-cycle costs /impacts

Requires integrated scenarios, financial and economic analyses, and more...

Case Studies

Polk County (IA)
Adaptive Reuse of JC Penny Store

Maricopa County (AZ)
Process Improvement Effort and CCT
Co-Location of Superior / Justice Courts

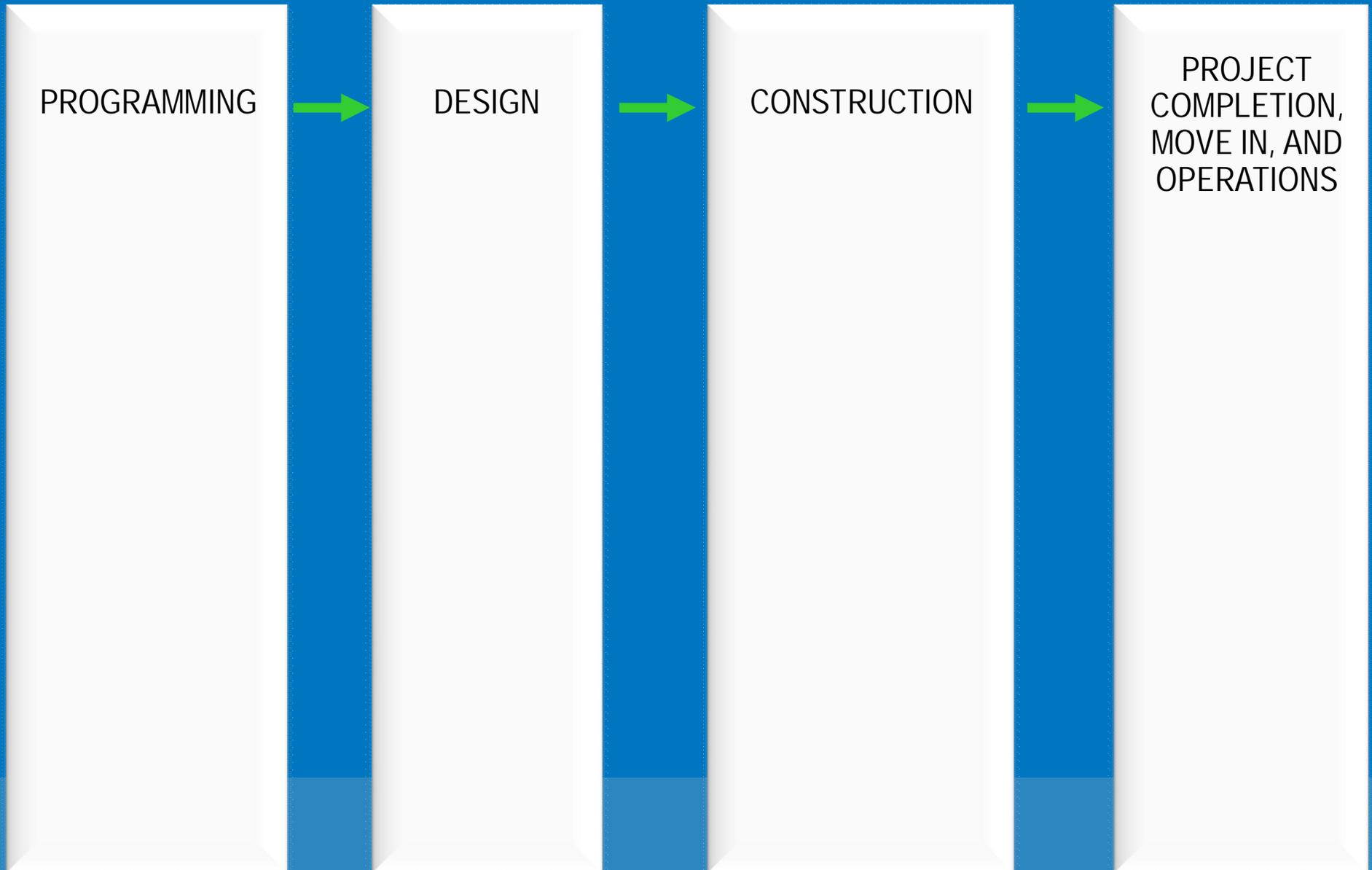
Hennepin County (MN)
Library Center Model

Case Study

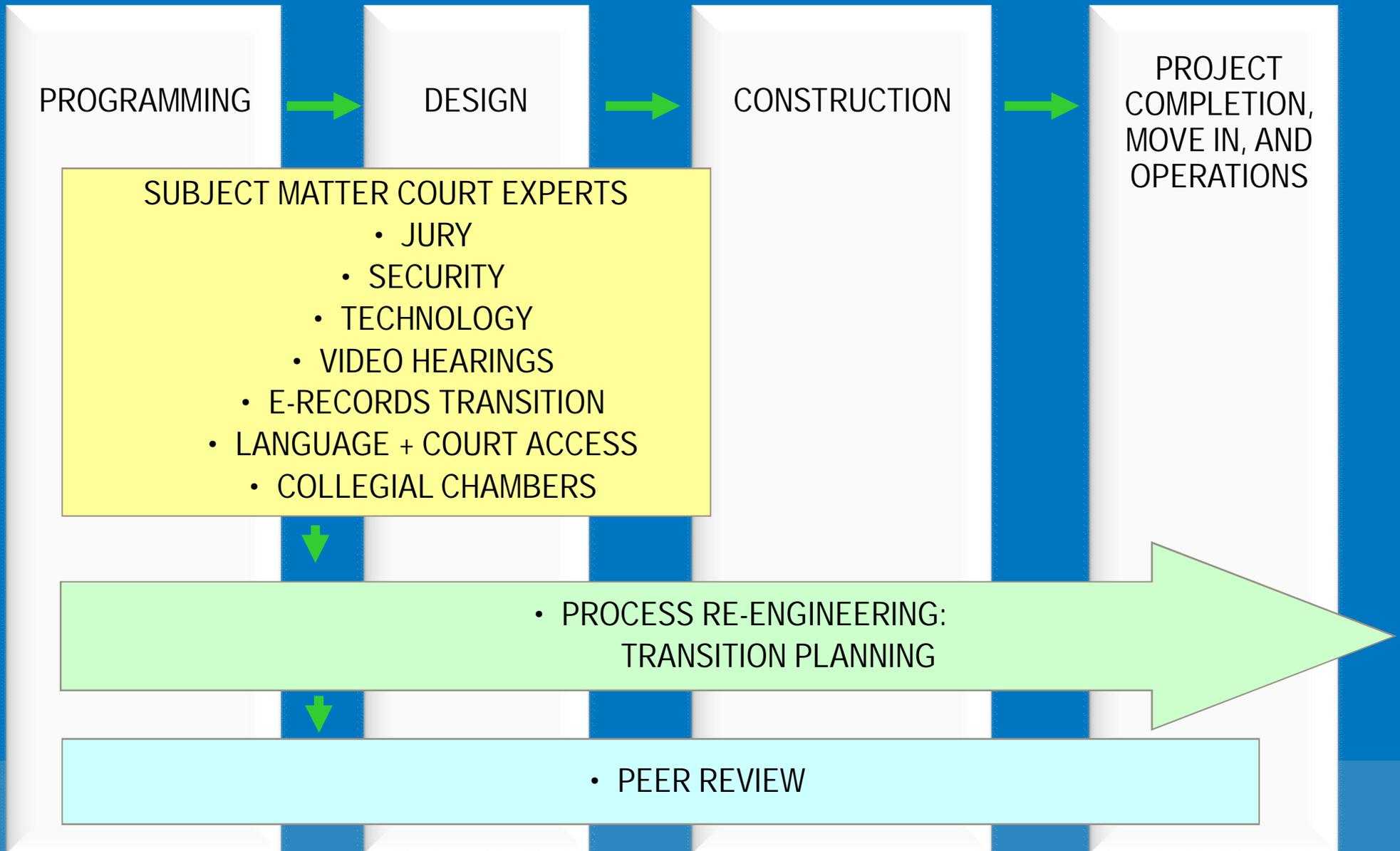
Maricopa County
Process Improvement
Study



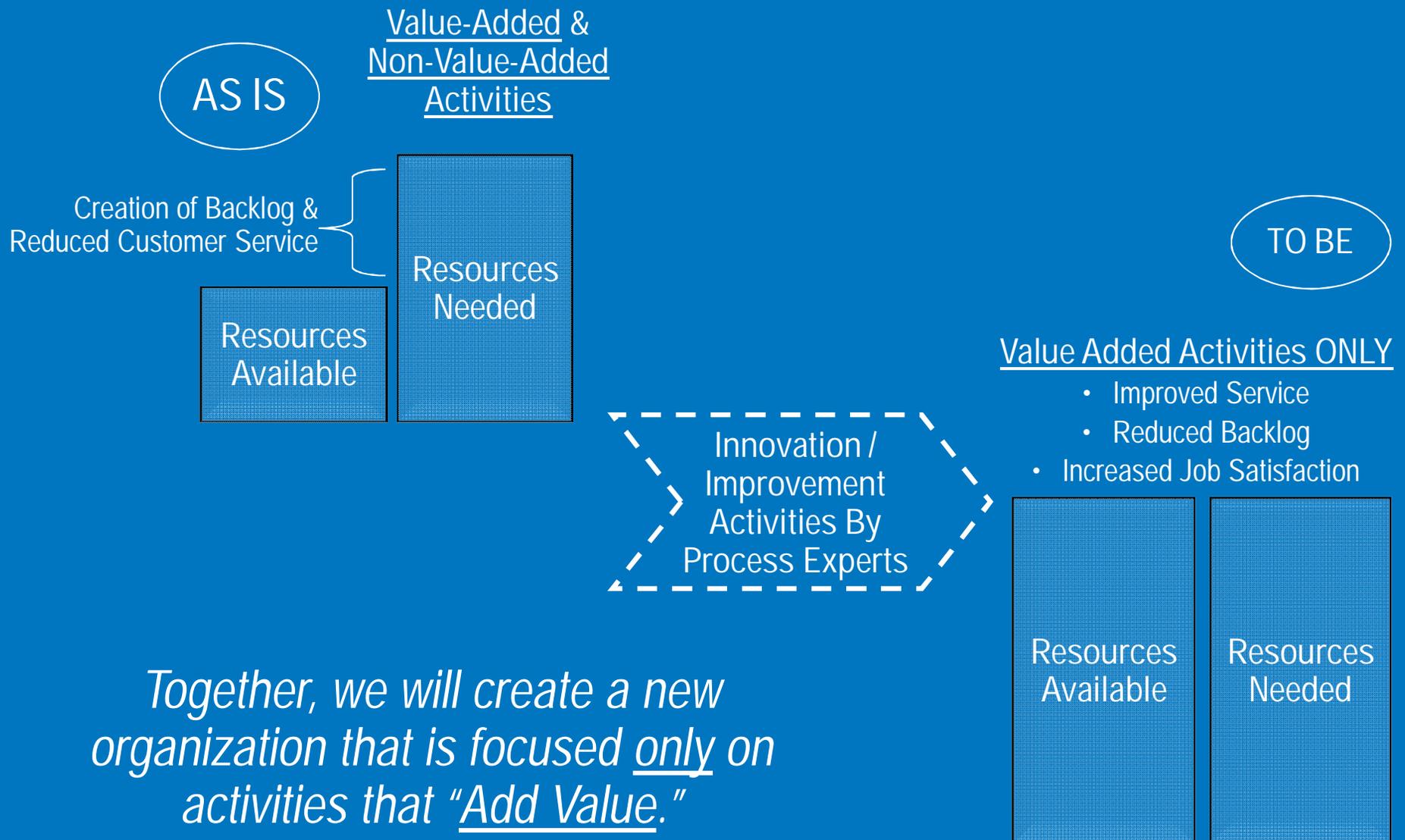
PLANNING FOR CRIMINAL COURTS TOWER: OPPORTUNITIES FOR PROCESS IMPROVEMENT AND INNOVATION



PLANNING FOR CRIMINAL COURTS TOWER: OPPORTUNITIES FOR PROCESS IMPROVEMENT AND INNOVATION



Process Innovation - Objective



Results of Process Re-Engineering Workshops For Criminal Court Tower

Process Identified	Total Processes	Improved Processes	Time Saved (Min.)
Case Filing	20	16	384
Pre-Judgment	38	25	3,490
Calendaring	34	29	180
Court Operations	41	22	1,238(Est.)
Judgment	9	8	205
Post-Judgment	20	11	1,536
Totals	162	111	7,033

The Good News: 68% of criminal case management process can be improved, many before moving into the new courthouse!

What are the Effects of the Re-Engineering Efforts?



&

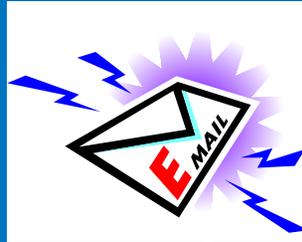


Almost 2,000,000
minutes saved annually!

Around \$1,000,000
in staff costs saved annually!

For more information contact

Marcus W. Reinkensmeyer, Judicial Branch Administrator
Superior Court of Arizona in Maricopa County



mreinken@superiorcourt.maricopa.gov

Address:

125 West Washington, OCH 5th Floor
Phoenix, Arizona 85003
Phone: 602-506-3190

Case Study

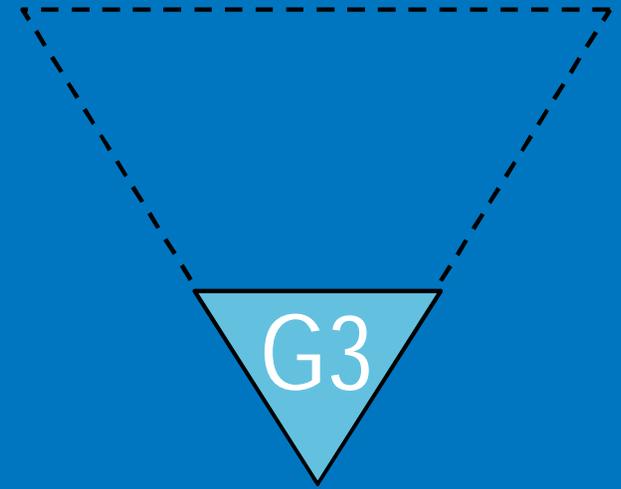
Polk County, IA
Adaptive Reuse
Option Study



GROUP 3 -- HIGH ROI – HIGH EFFORT / HIGH INVESTMENT

Involves comprehensive system-wide planning, “benchmarking” and process-improvement, commitments to resource recovery, consideration of alternate service delivery and system structure, and life-cycle cost considerations – including anticipated staffing improvements ...

- Investments in Process Improvement
- Financing Alternatives Review – Worth The Effort
- Widest / Most Thorough Consideration of Facility Options



GROUP 3 -- HIGH ROI – HIGH EFFORT - INVESTMENT

- **Commitment to Life-Cycle Scenarios and Approach** -- With Short- and Long-Range Recovery and Tracking
- **Commitment to Undertaking Major Project with Long-Term Facility Impact**
- **Emphasis on Responsiveness to Vision and Values** – Emphasis on Sustainable, Flexible, Efficient, Maintainable, Appropriate
- **Best-Practices and “Lessons Learned” Approach Crucial** -- planning model for alternative service delivery to assist in assessment of options – considering consolidation, co-location, centralization, decentralization options
- **Integrated, Inter-Disciplinary (with Economic / Financial Specialists), Mission-Function-Operational-Staffing-Facilities Model with Multiple Scenario Modeling** -- Deeper analysis of functional, organizational, operational and spatial upgrades and improvements – functional and operational improvements tied to facility investments
- **All Funding and Financial Models On the Table**

Requires vision, leadership, perseverance, team players, multi- and inter-disciplinary expertise and approach, personal and system investment

Case Study

STATE OF CALIFORNIA

Administrative Office of the Courts

The overall program is large -- **39** new court projects this year – and hoping to get the complete list of **56** court projects approved for funding by year end



- 1 – Lankford, Phelps (HOK)
- 2 – Balfour, Beatty (P+W / HLM)
- 3 – California Judicial Partners (AECOM)



Case Study

STATE OF CALIFORNIA

Administrative Office of the Courts

Long Beach CA Court – *Background and Lessons*

- ✓ Structured to uses PBI (PPP) – which has been used in England and Canada, locations without the US tax-exempt financing options.
- ✓ Forces decisions forward -- better planning and standards are important – and drive a truly integrated approach – A / C / D / O / F
- ✓ An important challenge -- the A/E-Development – Construction industry does not yet have standard agreements and protocols
- ✓ The current proposals for the Long Beach Court Project include private funding. However, the question of public vs. private financing for PBI is still unresolved in the US. This is an important issue – particularly in cases where a decision is made to not use bonding capacity (or the option is unavailable) ...

ADVANTAGES - DISADVANTAGES

- ✓ A – Possible Value Capture Strategies -- the private sector can use the development for compatible and creative means for other income to recover debt costs and investment (e.g., energy use, service contracts, etc.)
- ✓ A -- The development model includes the COST OF RISK of not completing the project correctly on time -- ties payment to operational readiness – the lender does not get paid if the building doesn't perform to specification
- ✓ A -- PBI / PPP can provide a higher value to the Court (*better “value attributes”*) – by providing contiguous space for expansion for courts and agencies – without the investment by the governmental entity
- ✓ A – Assurance of meeting set criteria -- good quality, reasonably simple to operate, built for maintainability ... the availability to the courts to use is very important – and distinguishes this from a “build-to-suit” project
- ✓ D – Initial Investment by Courts – Developing Standards, Contracts, Team
- ✓ D -- Cost Model – there are higher costs for funds in the private sector, but in terms of value may be better – cost amortization points to larger projects (300K+)
- ✓ D – What is the Value of Capitalized Risk -- of not completing the project correctly, delays in approvals, completion of construction, subcontractor delays, changes in building technology, other performance issues ...

Case Study

Calgary Courthouse

Government of Alberta

(Provincial Court)

Canadian Federal Government

(Court of Queen's Bench)

Program History -- Ontario is growing, but poor planning and under-investment had left the province with the most serious infrastructure deficit in its history.¹

Program Principles -- Protection of the Public Interest; Value for Money; Appropriate Public Control / Ownership; Accountability; Fair, Transparent and Efficient Processes.

The Honourable David Caplan, Minister of Public Infrastructure Renewal, *Building a Better Tomorrow: An Infrastructure Planning, Financing and Procurement Framework for Ontario's Public Sector*. Queen's Printer for Ontario, 2004. p. 5



Started as a Public-Private Partners (PPP) process -- the developer was to design, build, finance and maintain project for 20 years with two additional five-year extensions and the Government of Alberta was to pay rent over the length of the lease.



Developer (Great West Life) led-team included the AE, general contractor, financial consultants, and a maintenance and operations group.

Became a Design/Build when Alberta Infrastructure decided to finance the project directly at a lower rate.



LESSONS LEARNED? IT TAKES A PROCESS ...

- Starts by reducing and confirming that you are building what you NEED
- Requires EARLY SUCCESS – the program should begin saving money right away. 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”
- Includes VALUE Management (VM = schedule control + cost control + value engineering in all activities)
- Includes COST Management -- a Process of Holding to the VALUES – once they are established

LEADS TO THE GUIDING PRINCIPLES ...

- Vision and commitment to build only what is needed
- Document current facility conditions and capacities
- Streamline operations (centralize, consolidate, co-locate, coordinate, communicate, integrate, apply technology)
- Identify funding options and opportunities, including the available sources, opportunities for savings and alliances-sharing-collaboration (multi-jurisdictional, community, not-for-profit, for-profit, other groups)
- Consider capitalizing on-going expenditures in current operational budgets – leases, rent, operations, energy, maintenance, janitorial services, and more
- Justify renewable and on-time only funding

Project Support *and* Capital Funding Strategies

1. **Understand the Problem Set** – Provide credible data and a “real world” story about pressing court space needs
 - a. Energize a small cadre of people to push the project forward – a guiding coalition
 - b. “Stars must be aligned” in terms of political climate, local economy and leadership
2. **Develop a Longer Term Vision**
 - a. Involve stakeholder in process re-engineering efforts and cost-benefit analyses
 - b. Demonstrate the benefit of the new courthouse to the CJ system and Community
 - c. Provide a master plan for court and justice space needs
3. **Conduct Process Improvement Studies and Plans**
 - a. Closely review front-end processes –case screening, ADR, early felony processing
 - b. Demonstrate the benefit of the new courthouse to the CJ system and Community
 - c. Provide a master plan for court and justice space needs
4. **Control Project Scope**
 - a. Present the scope so voters can understand it
 - b. Build what’s needed with space – plans to accommodate future changes or growth
5. **Aggressively Search for the Money**
6. **Once Funding is Secure – “Pull the Trigger”**
7. **Once Underway, Monitor and Report**
From Project Start Through Project Close-Out

1 February 2010