SEYFARTH SHAW

DEVELOPING DOWNTOWN
HOW TO PAY FOR IT

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May 2016

A QUICK PICTURE

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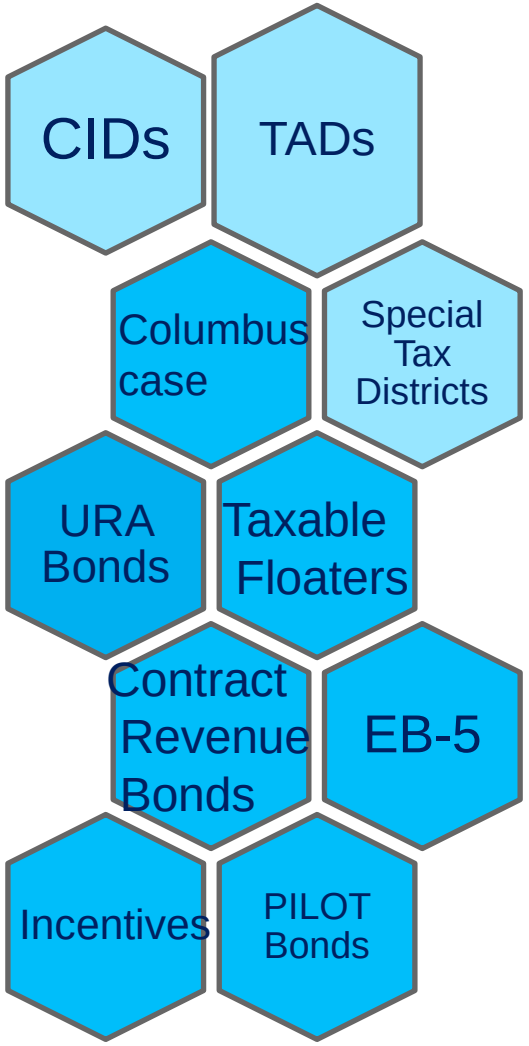
IN THIS SESSION



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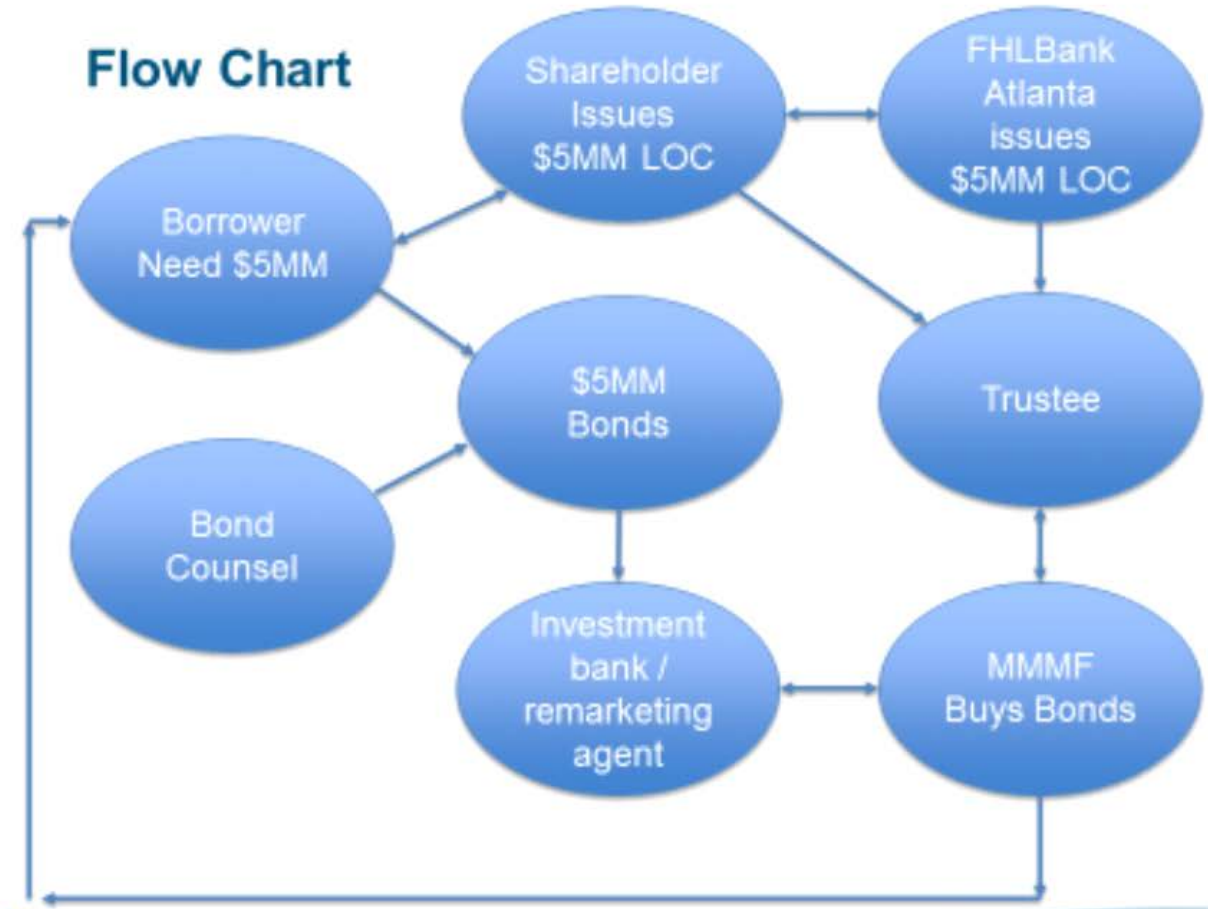
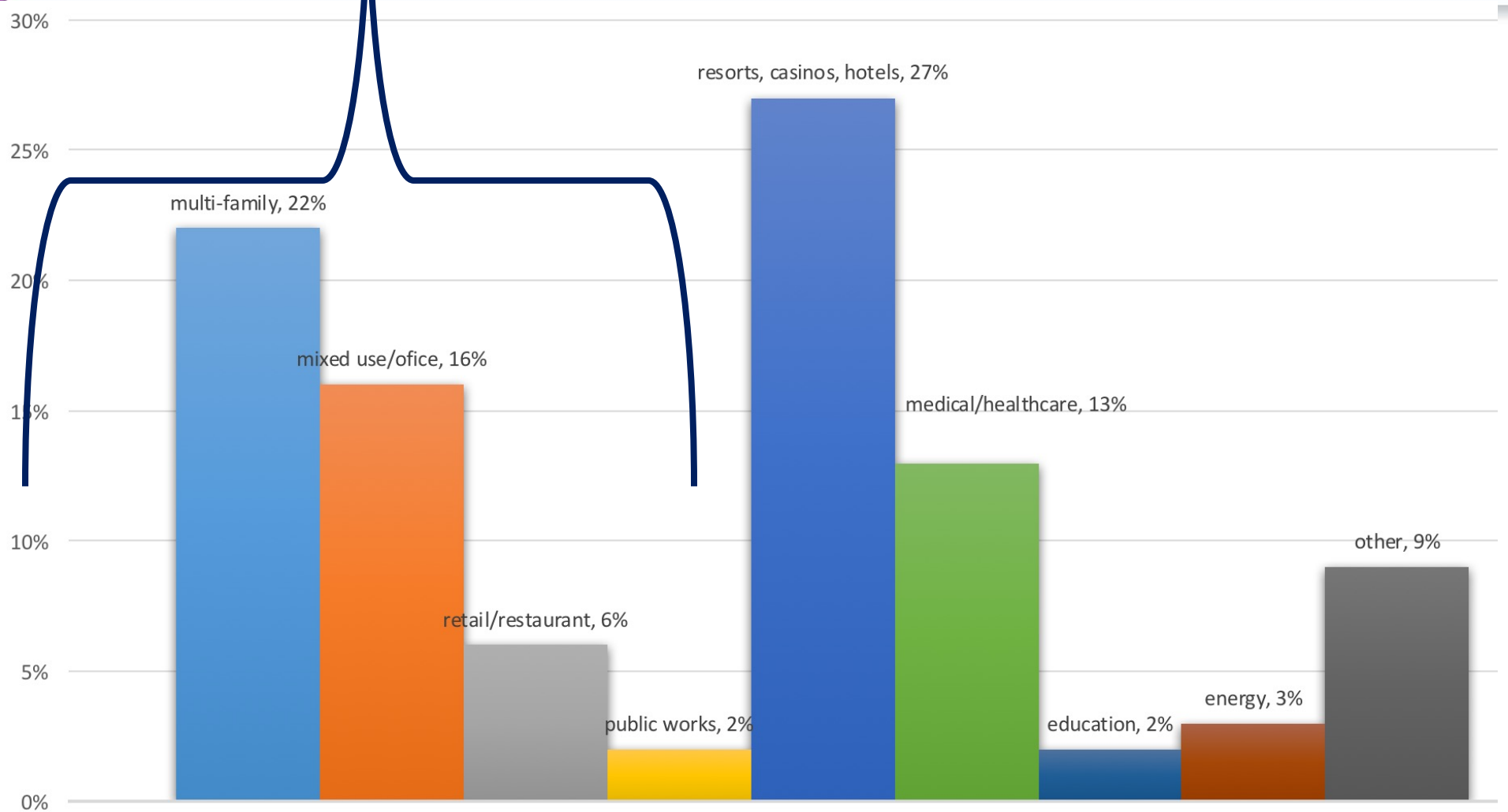
TAXABLE FLOATERS



44% OF ALL EB-5 PROJECTS ARE IN "DOWNTOWN" CATEGORIES



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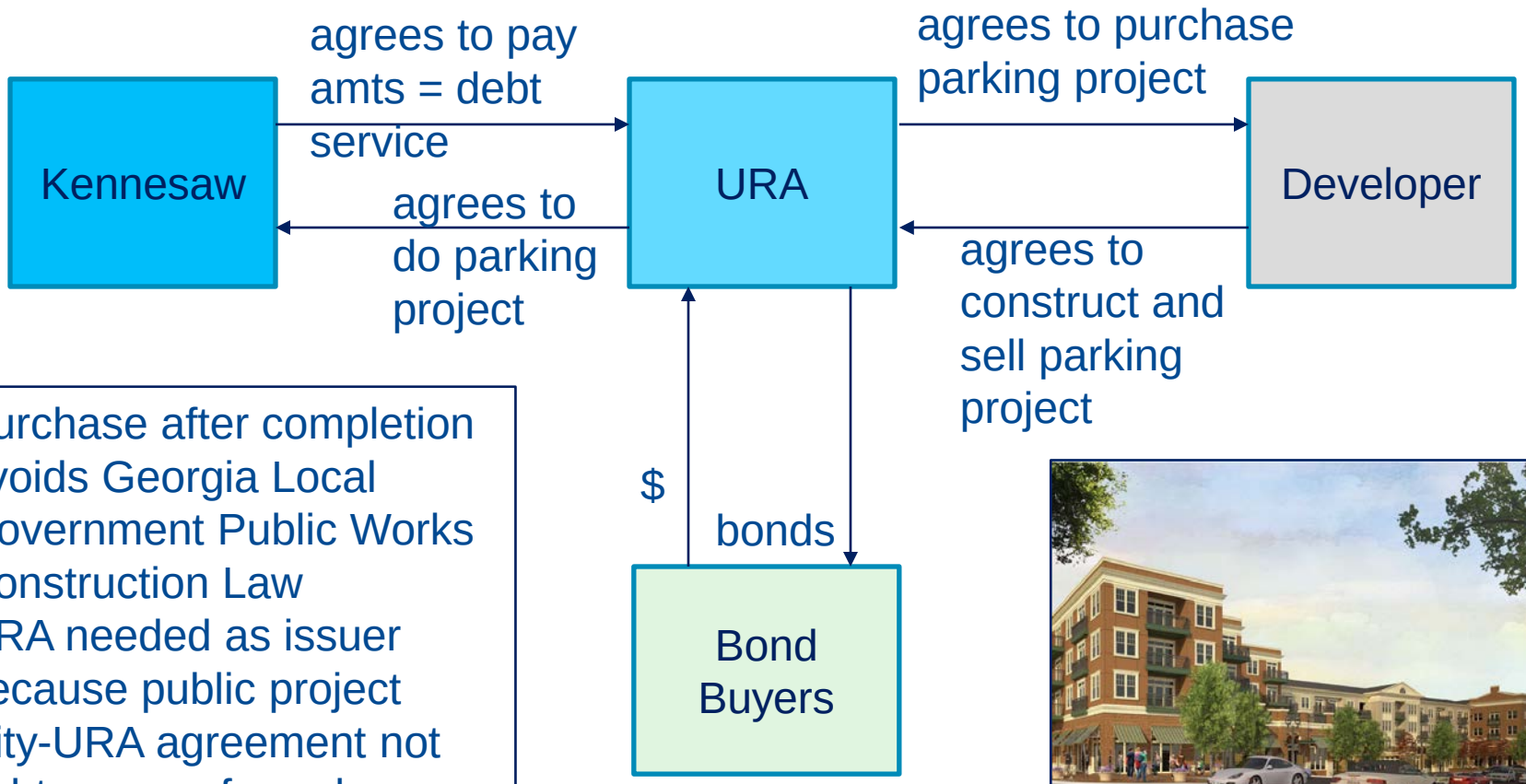
Data source: NESF database 2010-2015
Data Visualization: Dan McRae

CONTRACT REVENUE BONDS



- Purchase after completion avoids Georgia Local Government Public Works Construction Law
- URA needed as issuer because public project
- City-URA agreement not debt so no referendum

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REAL ESTATE, PROPERTY TAXES AND OTHER INCENTIVES

THEY WORK FOR INDUSTRIAL PROJECTS. DO THEY WORK DOWNTOWN?

Tax Savings
- Retained by Company

Payments In Lieu Of Taxes
- Paid to Development Authority

"PILOT fees are paid to the Rome-Floyd County Development Authority. The Authority uses the money to fund environmental studies at potential industrial sites and extend infrastructure — water, sewer, gas lines, access roads — to sites."

ONE EXAMPLE
INDUSTRIAL INCENTIVES IN ROME

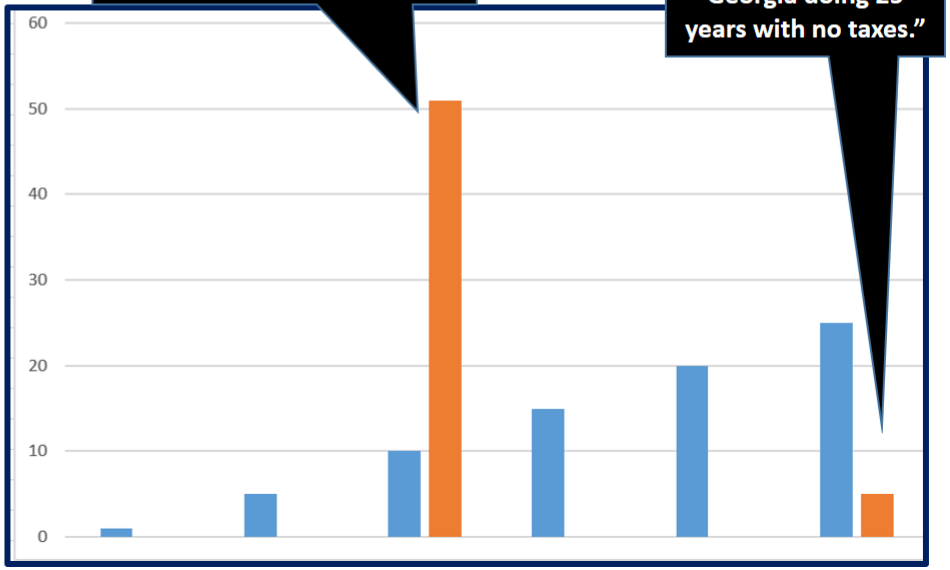
Data source: http://www.northwestgeorgianews.com/rome/business/competition-is-intense-to-attract-new-jobs-big-industries-to/article_11afc054-1960-11e6-b4d0-1f07ce6120cb.html?mode=jqm

"Rome and Floyd County have so far not been willing to give away land."

Reminder- consider the "Columbus case"

"Ten years with no taxes is almost the norm in this current frenzy."

"There are communities in Georgia doing 25 years with no taxes."



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TAXABLE FLOATERS

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THE WHY AND WHAT OF TAXABLE FLOATERS

ANYTHING YOU CAN FINANCE WITH A BANK LOAN, YOU CAN FINANCE WITH TAXABLE FLOATERS	LONG TERM FINANCING AT SHORT TERM RATES	RATES ARE ADJUSTED PERIODICALLY
SYNTHETIC FIXED RATES AVAILABLE	ONLY TAX-EXEMPT IF AFFORDABLE HOUSING BONDS	FOR NON-RESIDENTIAL PROJECTS, IS TAXABLE FINANCING (“taxable floaters”
REQUIRES A DIRECT-PAY LETTER OF CREDIT	THE FEDERAL HOME LOAN BANK CAN HELP	ARE USUALLY SOLD PUBLICLY

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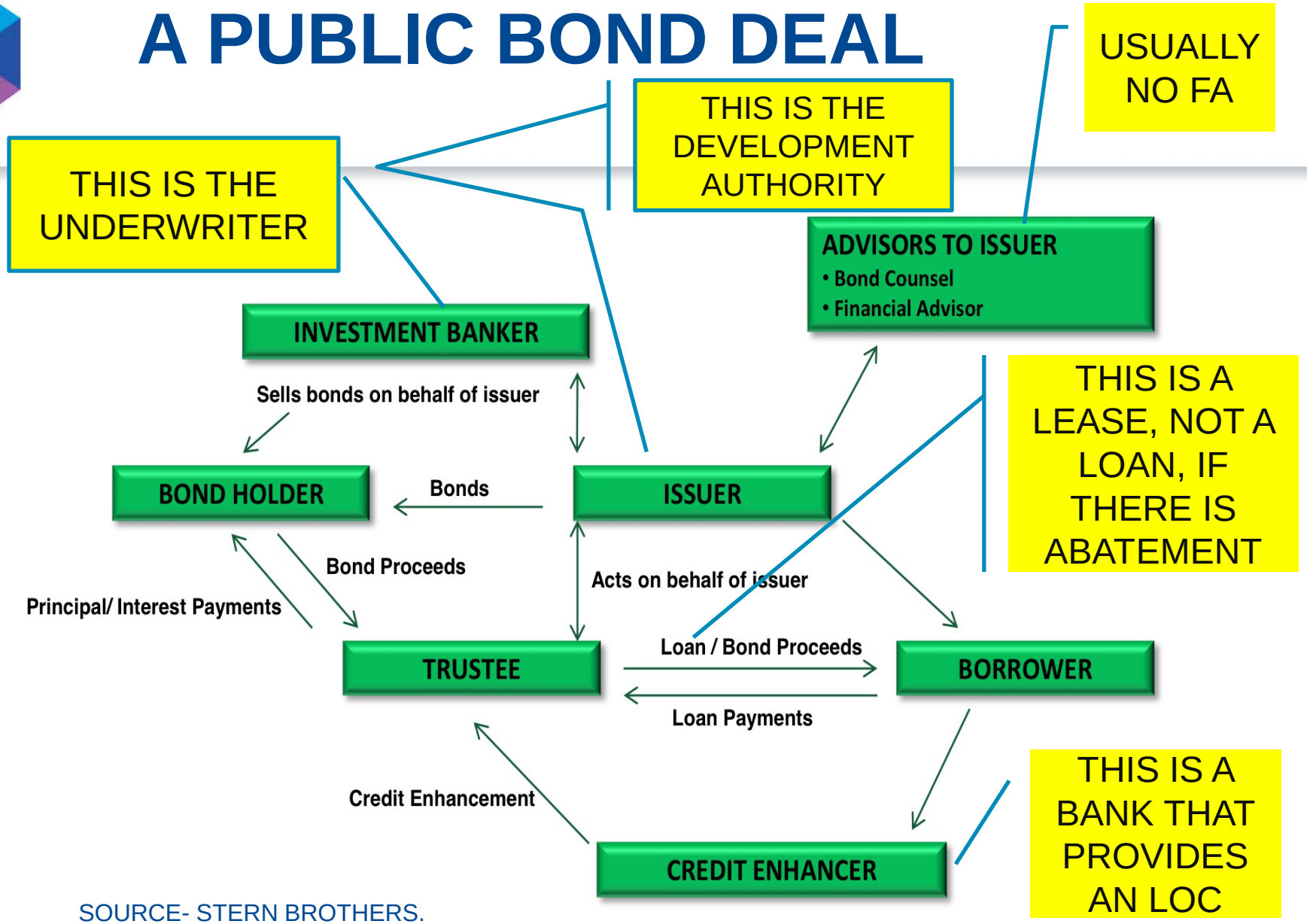
A PUBLIC BOND DEAL



SOURCE- STERN BROTHERS.
COMMENTARY ADDED.

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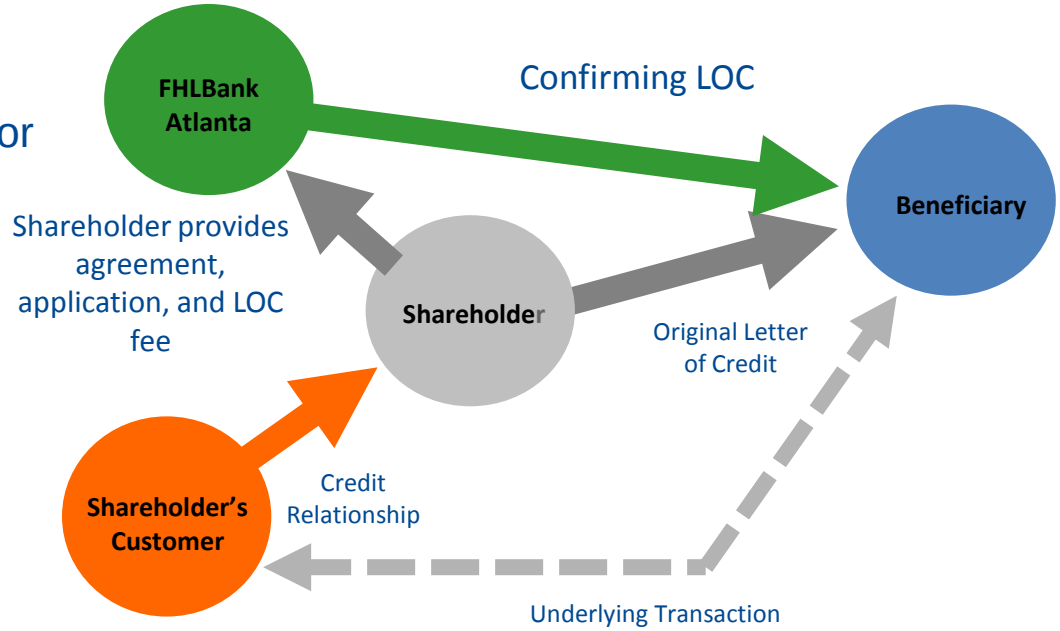
Confirming Letters of Credit
Overview

- Support a shareholder's obligations with respect to the underlying LOC or credit transaction
- A Confirming LOC – sometimes called a 'wrap' – can help secure improved credit terms for community-focused bonds, enhancing the bond's credit rating, reducing borrowing costs, and improving marketability
- The LOC provides added benefits to small and medium-sized community banks as it allows them to compete for local business on a level playing field with larger, rated institutions



Source: FHLB Atlanta

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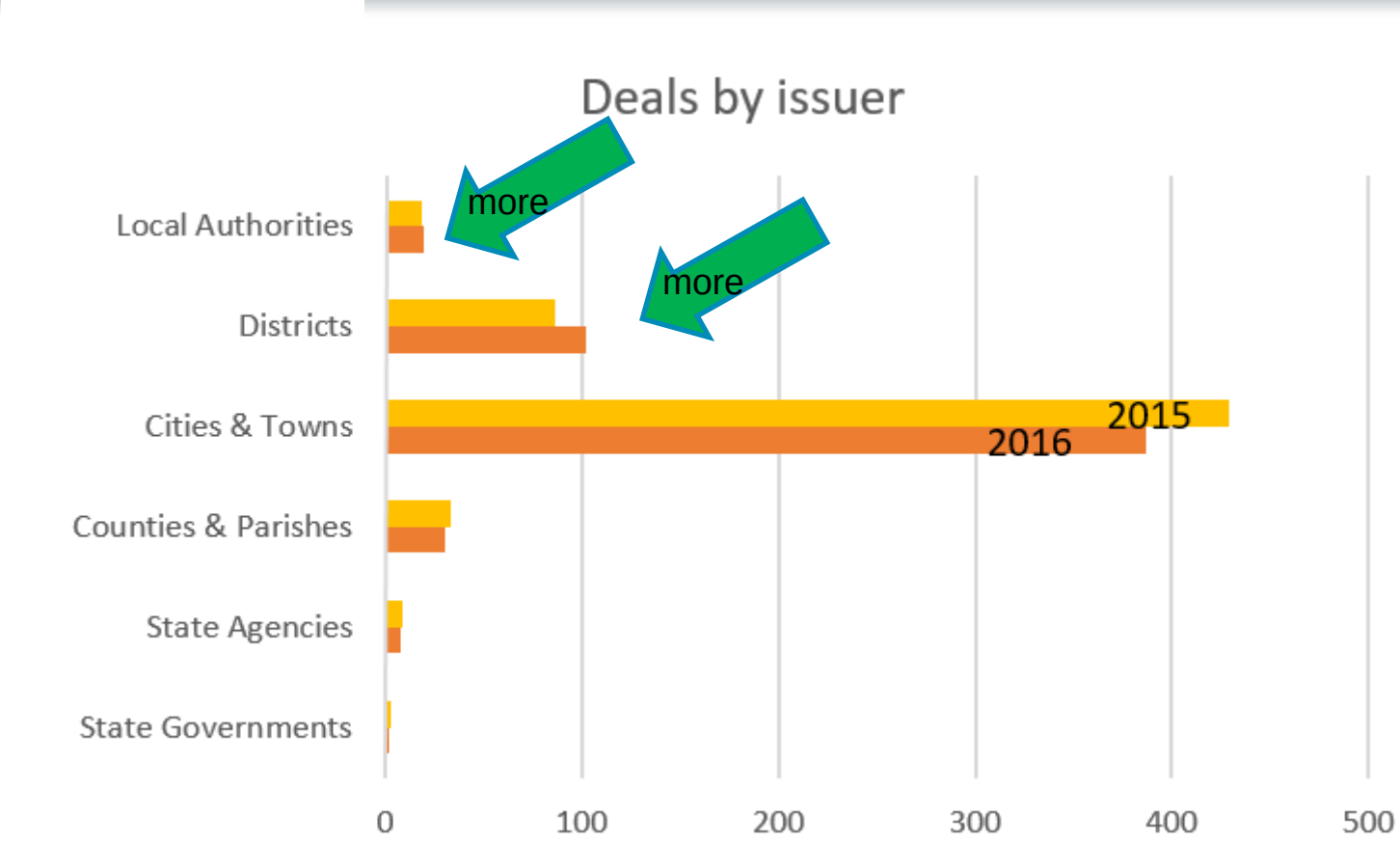
TRENDING- Deals Financed via Short Term Notes
Same Period (Jan.-April) 2016 compared to 2015



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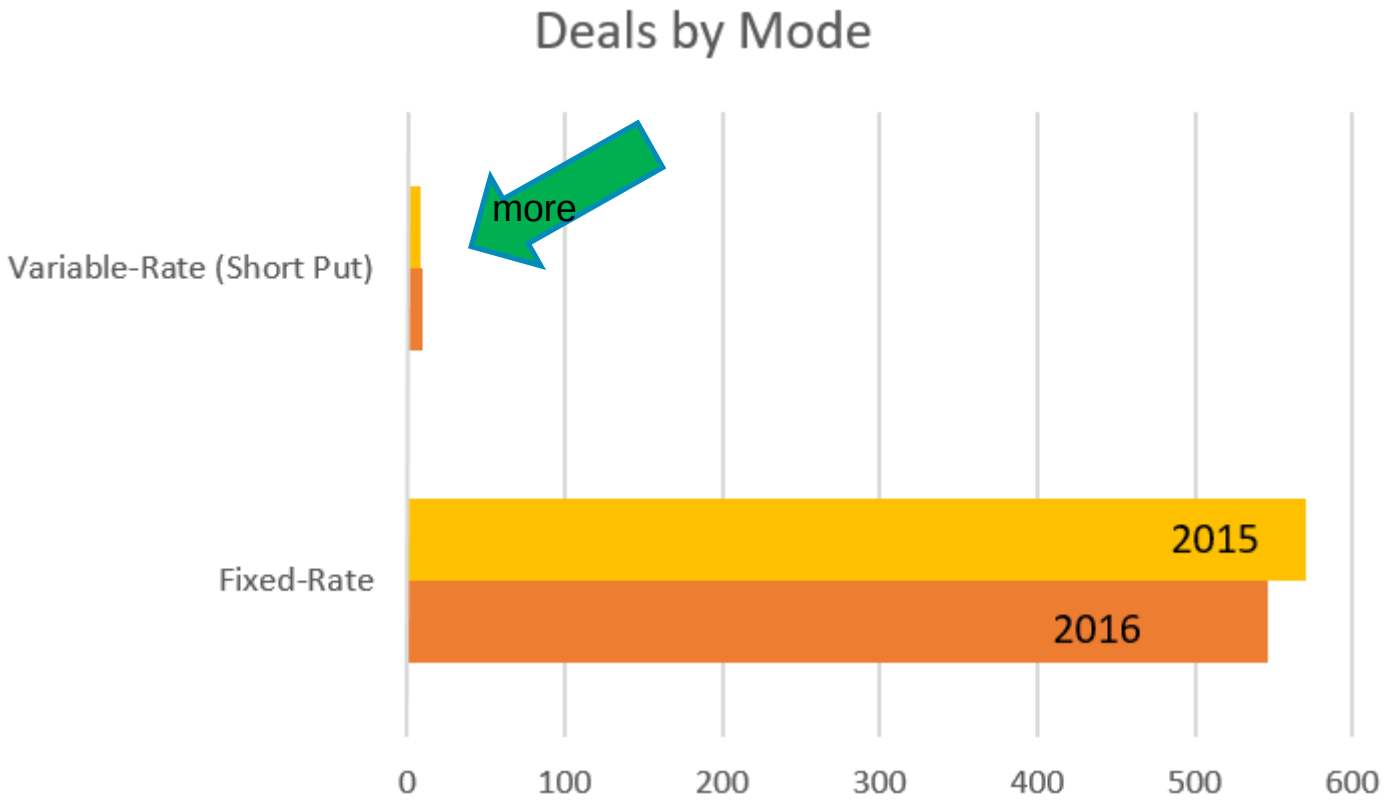

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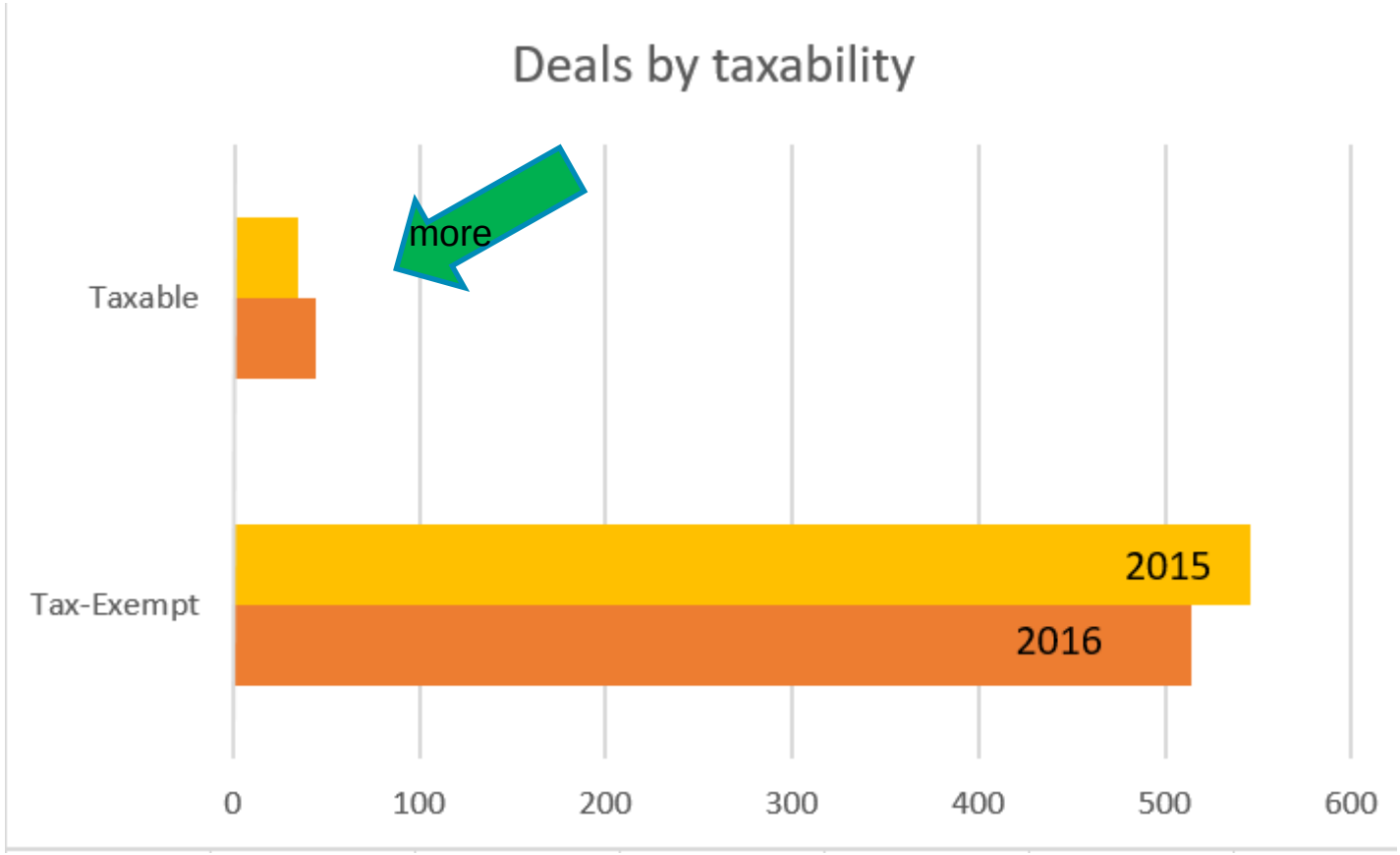

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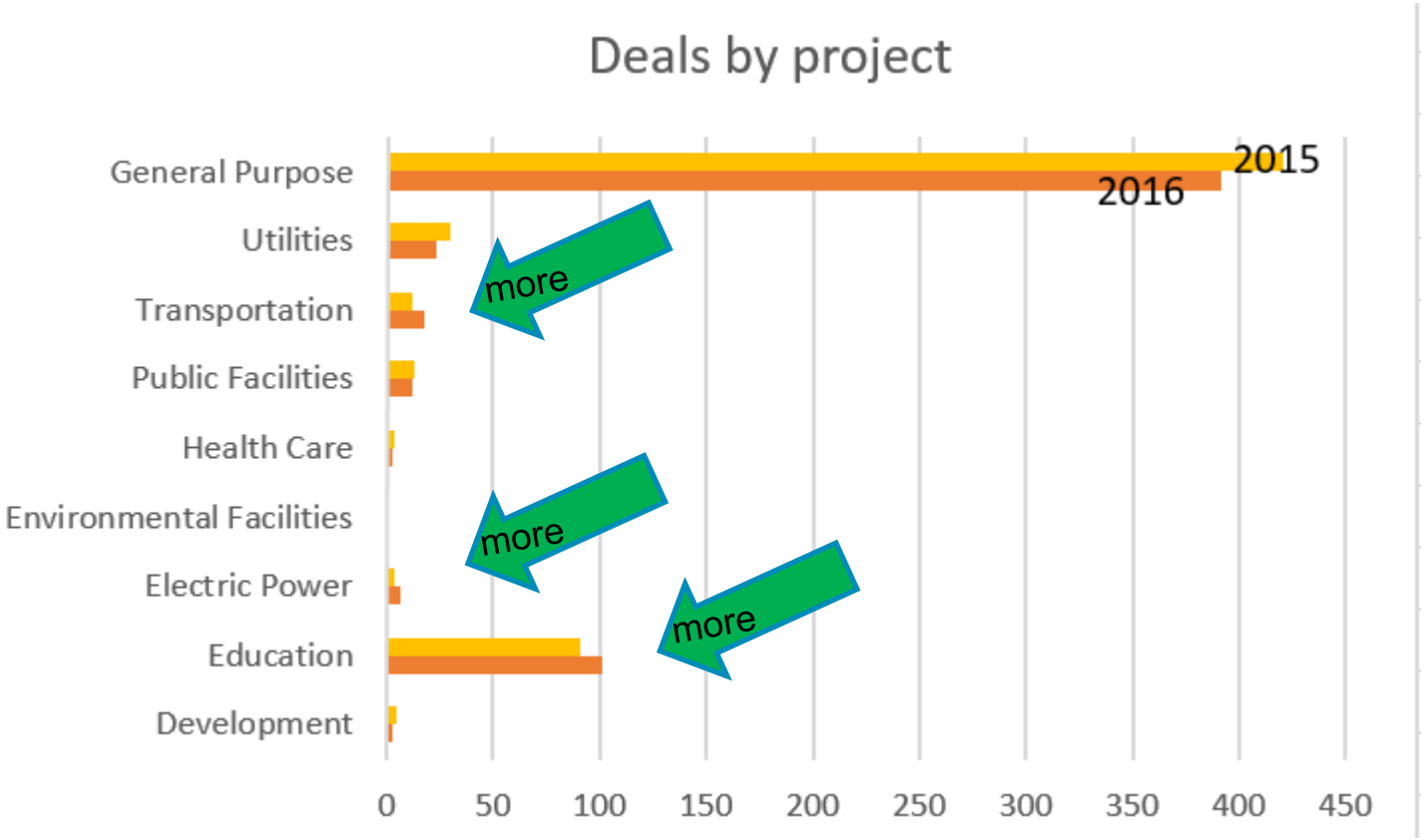

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EB-5
immigrant investor capital

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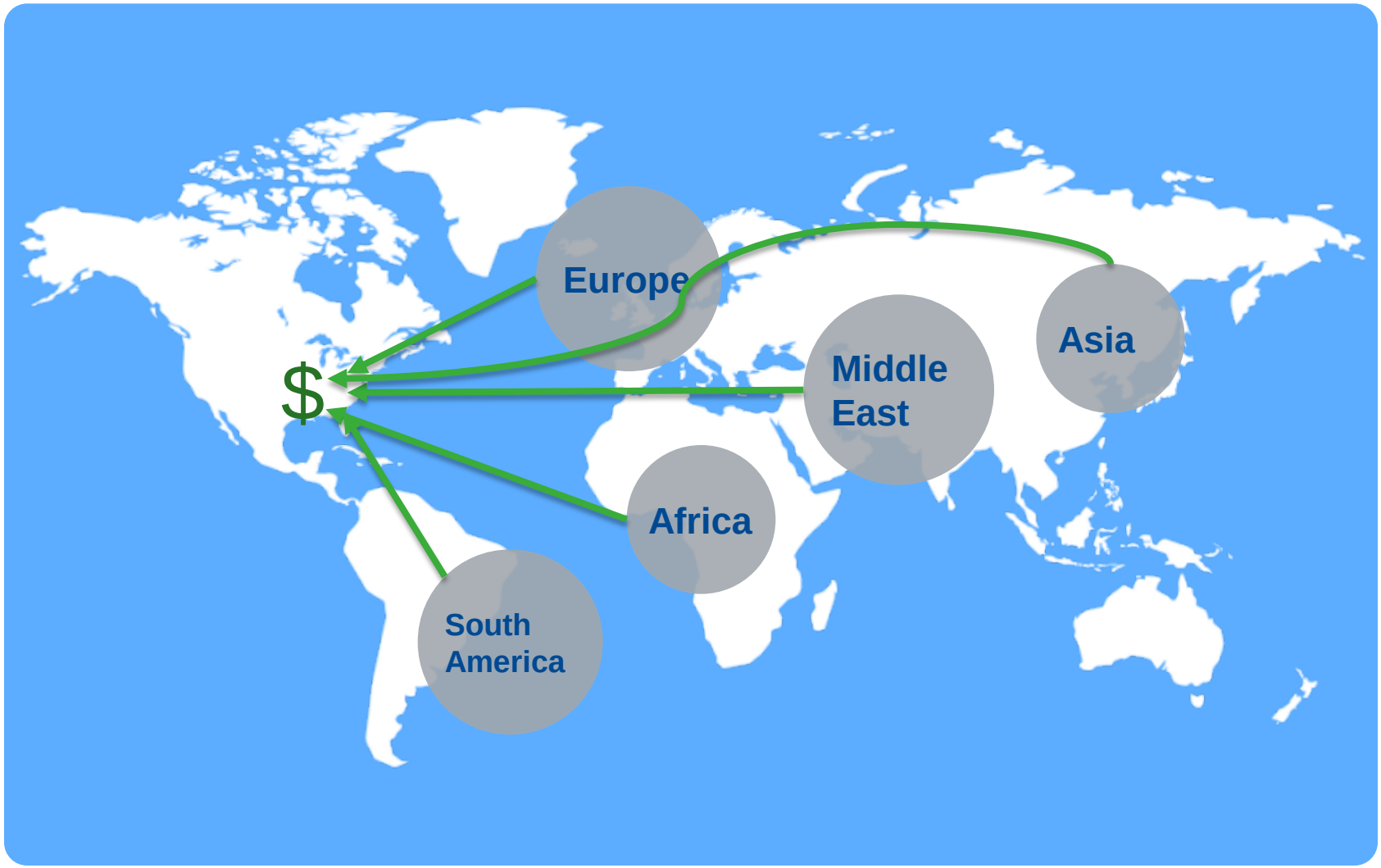
EB-5



BASIC RULE

FOR A $500,000 INVESTMENT IN A TARGETED EMPLOYMENT AREA THAT CREATES AT LEAST 10 DIRECT, INDIRECT OR INDUCED JOBS, A FOREIGN INVESTOR WILL GET A "GREEN CARD"

- Something called a "Regional Center" raises the capital and is the conduit .
- Capital is raised on a per project basis via a Private Placement Memorandum.
- Per investor requirement is $1 million, unless project is located in a Targeted Employment Area.

CHANGES ARE EXPECTED BY SEPT. 30, 2016 WHEN THE PROGRAM IS DUE FOR RENEWAL

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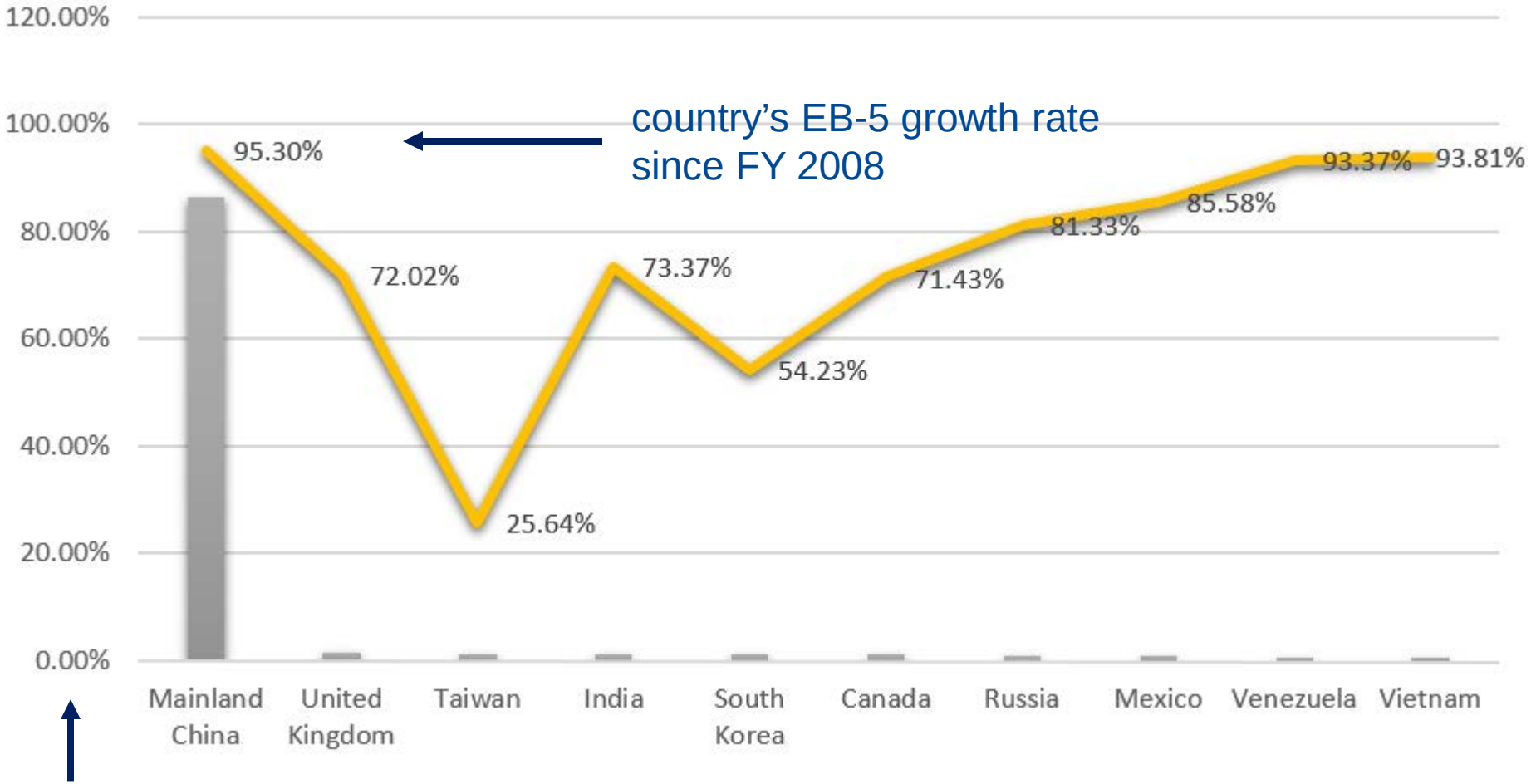
WHAT'S TRENDING
China accounts for the largest share and the largest growth rate for EB-5 investment



Data Source: IIUSA
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WHAT MOTIVATES THE INVESTOR?

INVESTOR'S PRIORITIES (IN THIS ORDER)-

1. ULTIMATE RETURN OF CAPITAL
2. OBTAIN "GREEN CARD" (PERMANENT RESIDENT VISA)
3. GET SMALL RETURN (MAYBE)

The investor does not want to work at the project. Except perhaps for a due diligence visit, the community will never see the investor.

A loan made to the project out of the investment has a normal 5 year term and is not repayable early because of the "continuously maintained" requirement that applies to the investment.

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THE REGIONAL CENTER IS THE CONDUIT

- REGIONAL CENTER (RC)
- EB-5 investment can be made by an investor on a stand-alone basis, or through a USCIS-designated Regional Center (RC)
- RCs are the norm
- Each investor's investment must create at least 10 jobs (direct, indirect and induced)
  - If the investment is stand-alone, indirect/induced jobs are not counted
  - RCs use an economic model to calculate and substantiate job creation
    - Models that are used are subject to USCIS approval

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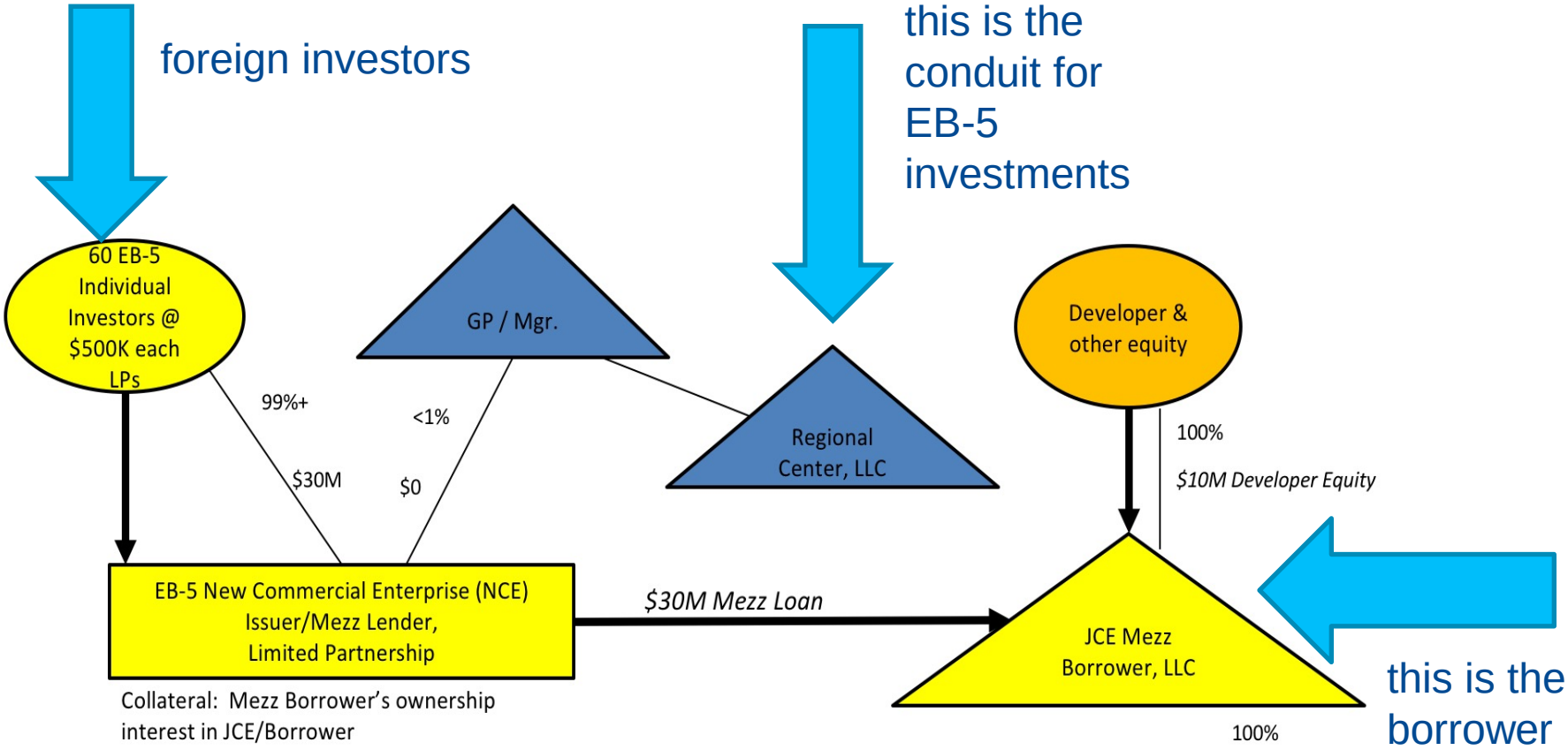
WHAT'S THE EB-5 PROCESS?



Source: Calderon and Friedland

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DOES YOUR COMMUNITY QUALIFY?
TARGETED EMPLOYMENT AREA (TEA)

- TEA
- A Rural Area
  - outside an MSA, and
  - city or town with population under 20,000, or
  - unincorporated county
- OR
- An area of high unemployment (areas with unemployment rates at least 150% of the national rate)
  - The state may designate a particular geographic or political subdivision located within a metropolitan statistical area or within a city or town having a population of 20,000 or more within such state as an area of high unemployment (at least 150 percent of the national average rate)

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WHY DO BORROWERS WANT EB-5?

- IT'S NOT BECAUSE THE INTEREST RATE IS LESS THAN WITH A REAL ESTATE MORTGAGE.
- WHEN THE PROJECT BORROWS EB-5 FUNDS, INTEREST RATE EXAMPLES ARE OFTEN IN THE 5%-7% RANGE. NOT SO GREAT, COMPARED TO A PERMANENT LOAN IN THE REAL ESTATE INDUSTRY.

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WHY EB-5?

HERE'S WHY-

- COMPARE IT TO THE REAL ALTERNATIVE, AND IT COSTS LESS
- "… Compared with typical costs of between 9-20 percent annually for mezzanine capital, traditional equity or preferred equity (plus potentially points upfront and equity participation), EB-5 capital has obvious appeal." Source: Jahangiri & Tishler Mar 04, 2015
- IT'S TYPICALLY INTEREST-ONLY THROUGHOUT THE TERM.

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SPECIAL CASES

- WHERE EB-5 MIGHT MAKE SENSE FOR A PUBLIC SECTOR BORROWER
  - SOME DEVELOPMENT DISTRICT FINANCINGS; e.g., TADs
    - RATES FOR TAX ALLOCATION BONDS ARE TYPICALLY HIGHER, SO EB-5 MORE COMPETITIVE
    - NO REFERENDUM
  - FOR FINANCINGS WHERE JUNIOR BONDS WOULD BE USED.
    - AGAIN, HIGHER RATES
  - WHERE CONTRACT REVENUE BONDS ISSUED BY A LOCAL AUTHORITY ARE USED
    - NO REFERENDUM
      - Exception: Development Authority of DeKalb County
  - IN SOME OTHER SPECIAL CASES…

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CASE STUDIES

HERE ARE SOME ADDITIONAL CASE STUDIES OF EB-5 FINANCING IN THE P3 SPACE. Source: Gate Industries, sponsor of a number of EB-5 Regional Centers.

- **STATE ROUTE 520 – FLOATING BRIDGE AND LANDINGS PROJECT**
- The state of Washington utilized EB-5 financing to help fund the replacement of the aging State Route 520 floating bridge across Lake Washington. Sponsored by Access the USA: Washington Regional Center, 95 Chinese EB-5 investors invested $47.5 Million into a company set up to buy bonds. The total cost of the project was $4.128 Billion. The Project is currently being adjudicated by the USCIS. This project was one of the first times the EB-5 program has been used to fund a public infrastructure project using municipal bonds anywhere in the U.S.

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CASE STUDIES

PHILADELPHIA CONVENTION CENTER

- Sponsored by CanAm Enterprises and the Philadelphia Industrial Development Corporation (PIDC), EB-5 investors loaned $122 Million to the Philadelphia Convention Center Authority to expand the pre-existing structure. The project raise consisted of 244 investors, who have all been returned their investments on-time and in-full as the project fulfilled the job creation requirement and each I-526 and I-829 has been approved.

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PROPERTY TAXES, REAL ESTATE, AND OTHER INCENTIVES

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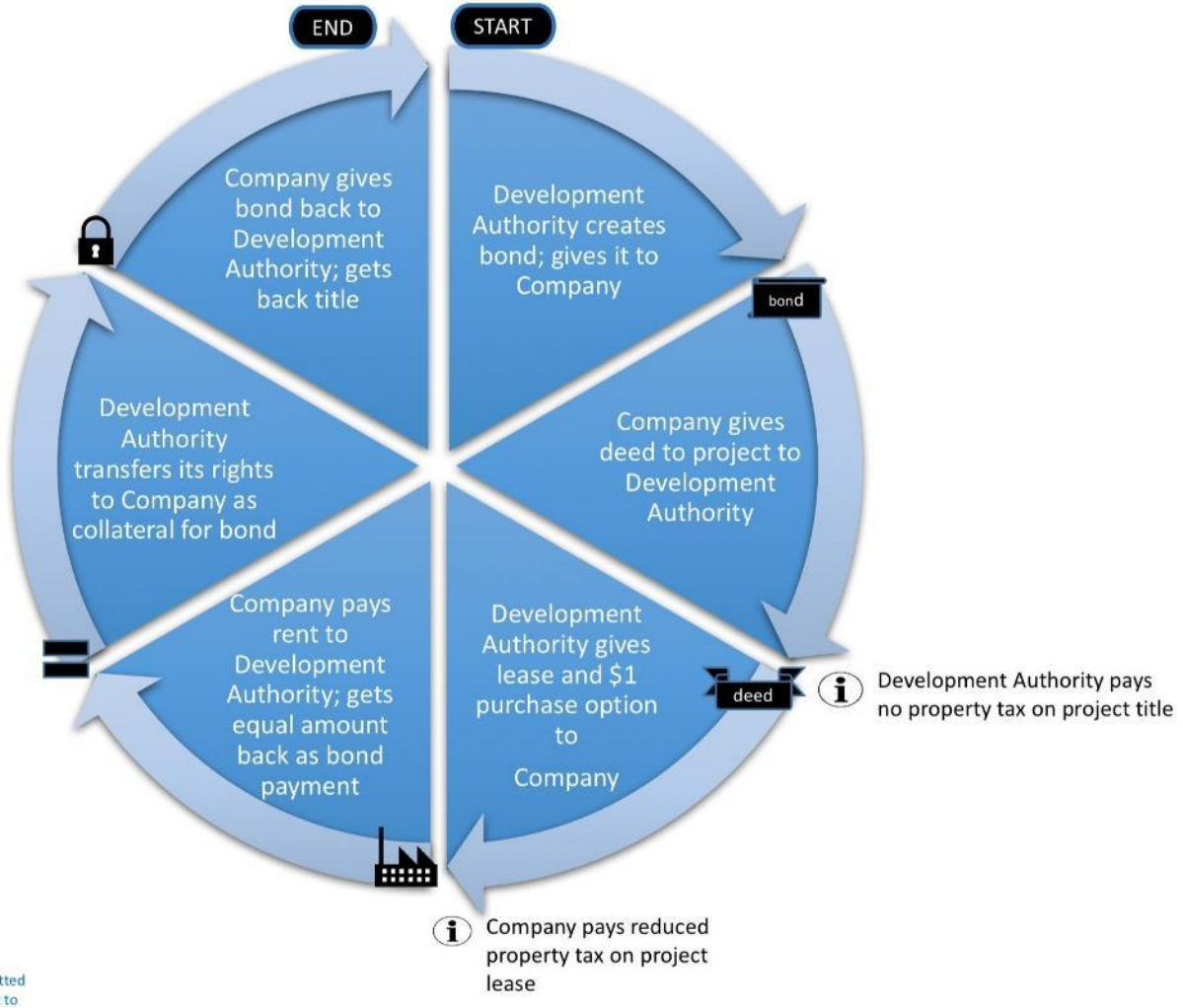
HOW “ABATEMENT” WORKS



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LEASEHOLD VALUATION "ABATEMENT"

INVEST ATLANTA

Bond Inducement Resolution Fact Sheet
LEASE PURCHASE REVENUE BONDS
GEORGIA PACIFIC LLC

PROJECT NAME: Georgia Pacific LLC

LOCATION: 133 Peachtree Street, NE
Atlanta, Georgia 30303
Council District 2; NPU M

INVESTMENT: Approximately $150,000,000

PROJECT DESCRIPTION: Georgia Pacific will reconfigure 23 floors of their headquarters building located in Downtown Atlanta. The ability to acquire, reconstruct and install the improvements is a material factor in the company's decision to maintain its 2,600 headquarters employees at the location. In addition to the current employees in the building, the project will permit the company to relocate up to an additional 600 of its employees to the building and/or make room for leases to other businesses for location of their employees in the building.

Project improvements include creating a modernized open office environment and technological upgrades attractive to millennial employees. Project improvements also include energy efficiency upgrades and other improvements which will result in reduced costs for lighting, heating/air conditioning and water consumption. These investments will materially decrease the use of energy and water, improving the efficiency of the building by an amount to be determined.

ECONOMIC BENEFITS:

- Approximately $150 million of investment in Downtown Atlanta.
- Potential addition of up to 600 employees with a projected average salary of $100,000.
- The building owner projects that the modernized layout will allow the building to accommodate an additional 1,300 workers, 600 of which could be employees of Georgia Pacific.
- The new building layout will be more efficient for the people currently employed in the building and will be a material factor in the retention of those positions and the attraction of new resources.
- The building will be more energy and resource efficient.
- Estimated tax savings of $7.2 million over 10 years.
- Estimated new City of Atlanta taxes of $1.2 million per year and estimated new Fulton County taxes of $1.7 million per year.*

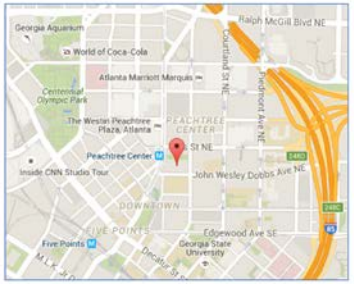
$

ANTICIPATED CLOSING DATE: May 2016

*Based on IMPLAN Analysis

fiscal impact study- new norm

Georgia-Pacific



Source: Invest Atlanta

LEVERAGING EXAMPLE-
COLLEGE PARK GATEWAY PROJECT

Atlanta Airport Marriott Gateway

College Park, GA
403 rooms & 22,000 sf meeting space

Awards & Recognition:
2012 Marriott Hotel of the Year – The Americas
2012 ULI Atlanta Development of Excellence Award
US Green Building Council, LEED Silver

The Atlanta Airport Marriott Gateway Center and Atlanta Airport SpringHill Suites are the only two hotels connected to the World's busiest airport. Connected to both Hartsfield-Jackson Airport and the consolidated rental car facility via the new ATL Skytrain, these hotels have unparalleled connectivity. The full-service Marriott with its 403 rooms,

Credit: Stormont

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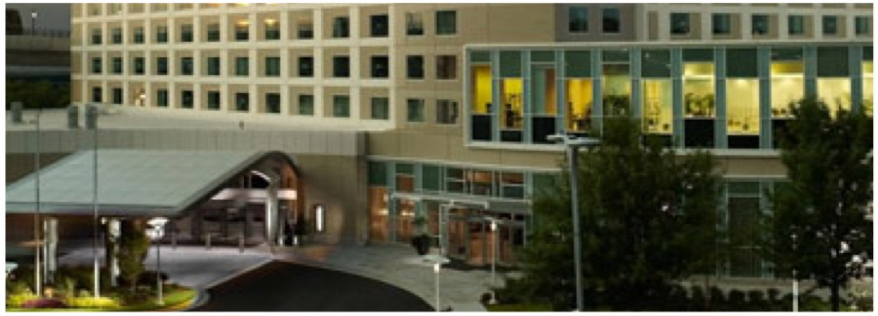
PILOT BONDS

beautifully designed first-class facilities and 22,000 square feet of flexible meeting space is already a market leader since its opening in 2010. The limited-service SpringHill Suites, completed in 2009, features 147 suites and meeting rooms and provides efficient and convenient accommodations for all travelers.



These hotels were capitalized with a unique blend of public and private capital sourced from development authority "PILOT" bonds and conventional construction lenders as part of a six-lender syndicate. This funding represents an allocation of a two-hotel cross collateralized $76 million loan. The balance of the development costs were funded with equity from partners, affiliates and investors of Grove Street Partners, including Jim Stormont.

This unique development authority bond structure was accomplished by creating a legal structure wherein the property is not subject to real or personal property taxes and therefore, the developer agreed to make Payments in lieu of taxes ("PILOT") which the authority used to fund a portion of the bond debt service. By creating a successful public-private partnership, the City of College Park was able to c

jobs, stimulate economic development and substantially increase the demand and profitability of the adjacent Georgia International Convention Center.

Credit: Stormont

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WHAT CITIES ARE DOING NOW

CITIES ARE "TAKING CONTROL OF THEIR OWN DESTINIES"

CITY AUTHORITIES HAVE BECOME "DEAL MAKERS"

PROPERTY TAXES (EVERYBODY'S) ARE A TOOL CITIES USE TO ATTAIN CITY GOALS

OTHER TOOLS- CITY OWNED REAL ESTATE, LAND USE REGULATION, etc.

PUBLIC/PRIVATE PARTNERSHIPS (P3) ARE COMMON

"ABATEMENTS" FOR DEVELOPERS CAN REACH 20 YEARS, 25 YEARS OR LONGER

BARGAINS ARE IMPOSED- MAKEWHOLE CITY TAXES, CLAWBACKS, LIMIT TO OFFSETTING EXCESS COSTS, etc.

END GAME- CURTAIL INCENTIVES AS GOALS ARE ATTAINED

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THE “COLUMBUS CASE”

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WHAT HAPPENED

"A Muscogee County Superior Court judge has sided with a Columbus-based hotel owner, issuing an injunction that will halt the sale of a prime piece of downtown property to a competing hotel company….[The plaintiff's attorneys] argued that under state law the Development Authority, an arm of the Columbus Consolidated Government charged with economic development, could not sell land for less than fair-market value."

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http://www.ledger-enquirer.com/news/local/article71817147.html#storylink=cpy

THE MAIN ARGUMENTS

- DOES THIS SECTION OF THE DEVELOPMENT AUTHORITIES LAW LIMIT BELOW FMV SALES TO SALES OF UNUSABLE PROPERTY TO THE STATE?
- O.C.G.A. Sec. 36-6-6-(7.1) Notwithstanding any other provision of this chapter to the contrary, to dispose of any real property for fair market value or any amount below fair market value as determined by the board of directors of the authority, regardless of prior development of such property as a project, whenever the board of directors of the authority may deem such disposition to be in the best interests of the authority if the board of directors of the authority prior to such disposition shall determine that such real property no longer can be used advantageously as a project for the development of trade, commerce, industry, and employment opportunities and if title to such real property is to be transferred to the state;

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THE MAIN ARGUMENTS

- DOES THIS SECTION OF THE DEVELOPMENT AUTHORITIES LAW GENERALLY AUTHORIZE BELOW FMV SALES?
- O.C.G.A. Sec. 36-6-6(6) To sell, lease, exchange, transfer, assign, pledge, mortgage, dispose of, or grant options for any real or personal property or interest therein for any such purposes;

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NOT CITED

"The Georgia Constitution prohibits the General Assembly from granting any donation or gratuity. Ga. Const. 1983, Art. III, Sec. VI, Para. VI....This office has opined repeatedly that agencies may not dispose of publicly owned property without obtaining fair market value, **or** its equivalent in an exchange, for the transaction. See, e.g., 1971 Op. Att'y Gen. U71-17; 1995 Op. Att'y Gen. 95-25; 1997 Op. Att'y Gen. 97-6.Therefore, based upon these legal authorities, it is my official opinion that the Department [of Transportation] must receive in return for the disposal of access rights under O.C.G.A. § 32-6-l33(b), the fair market value of such rights **or** other substantial benefit in aid of the performance of the Department's governmental mission." Op. Ga. Atty. Gen. No. 97-14

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CONTRACT REVENUE BONDS

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CONTRACT REVENUE BONDS

- SOME LOCAL AUTHORITY BONDS ARE BACKED BY MILLAGE PLEDGE THROUGH INTERGOVERNMENTAL AGREEMENT ("IGA") WITH LOCAL GOVERNMENT
  - city contracts with city development authority, DDA or URA
  - called "contract revenue bonds" (formerly called "back-door G.O. bonds")
  - PROPER INTERGOVERNMENTAL CONTRACT "BINDS SUCCESSORS" AND CAN LAST FOR UP TO 50 YEARS

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LIMITING OBLIGATIONS

- MILLAGE COMMITMENT MAY BE LEGALLY LIMITED
  - EXAMPLE: ECONOMIC DEVELOPMENT MILLAGE
    - 1 MILL FOR COUNTY
    - 3 MILLS FOR CITY
  - "GOVERNMENTAL PURPOSE" MILLAGE CAN BE "FULL FAITH AND CREDIT"
    - not limited by statute
    - can be limited by contract
  - CITY-CONSIDER MILLAGE LIMITATIONS IN CHARTER
  - NO REFERENDUM
    - example of exception: If O.C.G.A. Sec. 36-75-11(c) applies (in practice, this applies only to DeKalb County).

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KEY ISSUES

BOTH THE CITY AND THE LOCAL AUTHORITY MUST HAVE THE POWER TO CARRY OUT THE PROJECT BEING FINANCED

CITY DEVELOPMENT AUTHORITIES AND DDAs (statutory)- PRIVATE PROJECTS AND PROPER P3's

DOWNTOWN PROJECTS OFTEN START AS PRIVATE BUT CAN BECOME PUBLIC-

ANTICIPATE IN BOND DOCUMENTS

MANY CITY CONTRACT REVENUE BONDS ARE PRIVATELY PLACED

PRIVATE PLACEMENT MARKET: 3-4%, INTEREST ONLY FIRST FEW YEARS, POSSIBLE AMORTIZATION, PROJECT AND IGA AS COLLATERAL

ALTERNATIVE STRUCTURES-

"GUARANTY"

GRANT

PASS-THROUGH OF INCREMENTAL PUBLIC REVENUES

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CONCLUSION

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DO WHAT YOU CAN

- THERE ARE **SOME** THINGS YOU CAN DO SOMETHING ABOUT
- AND THERE ARE **SOME** THINGS YOU CAN'T DO ANYTHING ABOUT
- THE DESTINY OF DOWNTOWN IS IN ITS STAKEHOLDERS!
- SO DO WHAT YOU CAN
- I HOPE THIS PRESENTATION HELPS

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QUESTIONS?

If you have any questions or comments on this presentation, please do not hesitate to let me know.

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SCOPE

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