

FINANCING ECONOMIC DEVELOPMENT & DEAL STRUCTURING

Other Financing Sources & Incentives

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Alston & Bird, LLP

*Carl Vinson Institute of Government (CVIOG)
Economic Development Professionals Training*

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Tifton, Georgia

- **Atlanta Headquarters with 800+ attorneys**
- **Attorneys ranked among the best in the U.S. and the world**
- **Strong practices in energy and infrastructure development**
- **Public and private finance**
- **International construction & government contracts practice**
- **Tax Expertise (Intl., Fed., State & Local)**
 - Represent: Ga. state and local governments, public and private owners, engineering and design firms, contractors and subcontractors.
 - Extensive Experience with: public finance, commercial construction, tax, grants and incentives, energy regulation, hospital-medical office building projects, college and university projects, retail and hospitality projects, sporting venues, industrial plants and facilities.

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My areas of expertise:

- **Energy and Utilities (transactions and regulatory (Ga. PSC));**
- **Economic Incentives; and**
- **Public Finance**

Leads A&B's Government and Economic Incentives Team

Counsel to Electric Cities of Georgia, MEAG Power, the Municipal Gas Authority of Georgia and a number of other local government utilities (electric/gas/water/telecom) providers and related entities in Georgia

Also, represents private entities in public private partnerships and utility customers (e.g., customers of Georgia Power or EMCs) and traditional and renewable independent power providers (IPP) in Georgia and nationally

Disclaimer – Nothing in this presentation should be interpreted as the formal position of A&B or any of its clients

Disclaimer – Very high level summary and not intended as legal advice re: a particular project

Certain Other Financing Sources & Incentives

- ✓ **New Markets Tax Credit**
- ✓ **Redevelopment Financing Incentives**
- ✓ **Infrastructure and Related Commodity Incentives**

New Markets Tax Credit

- ✓ NMTC enables private investors (e.g., banks, insurance companies and individuals) to receive a credit against federal income taxes for making “qualified equity investments” (QEIs) in “qualified community development entities” (CDEs)
- ✓ To create jobs and improvements in “low-income communities.”
- ✓ Credit equal to 39% of the QEI and is claimed during a seven-year credit period.

New Markets Tax Credit

- ✓ A “low-income community” is generally:
 - ✓ a population census tract with a poverty rate of at least 20%, or
 - ✓ a tract where the medium family income does not exceed 80% of statewide median family income (or 80% of the greater of statewide median family income or the metropolitan area median family income, in the case of a tract located within a metropolitan area).

New Markets Tax Credit

- ✓ “Qualified community development entity” means any domestic corporation or partnership if—
 - (A) the primary mission of the entity is serving, or providing investment capital for, low-income communities or low-income persons,
 - (B) the entity maintains accountability to residents of low-income communities through their representation on any governing board of the entity or on any advisory board to the entity, and
 - (C) the entity is certified by the Secretary for purposes of this section as being a qualified community development entity.

- ✓ **Take Away** – determine if a portion of your community is “low-income community,” and if so, and it doesn’t have this program in place, push to set one up. It take time to do this.

Redevelopment Financing Incentives

- ✓ **What are TIFs, TADs and CIDs?**
 - ✓ TIF - tax increment financing
 - ✓ TAD - tax allocation districts
 - ✓ CIDs – community improvement districts

TIFs and TADs

- ✓ A method to finance improvements in a certain geographic area that may be established under Ga. Law (a “TAD”) to create community improvements including attracting development without additional tax or service cost to citizens.
- ✓ How’s that work?
 - ✓ The improvements and related development in the TAD increases the value of the property in the TAD.
 - ✓ Thus, ad valorem tax revenues increase and the incremental increase in such tax revenues over prior historic revenues is pledged to the repayment of bonds issued by the related local government to finance the improvements and pledges.

CIDs

- ✓ The Georgia Constitution permits the creation of one or more community improvement districts (“CIDs”) for any county or city or combination thereof.
- ✓ A CID is a unit of government with the power and authority to provide certain facilities and services, for example:
 - ✓ street and road construction,
 - ✓ parks, and
 - ✓ water systems.
- ✓ Property owners within CIDs agree to a self-imposed tax to be used for improving the district.

CIDs

- ✓ CIDs can either be a public body or a not-for-profit corporation established to collect money from property taxes, business licenses, sales taxes or user fees within the CID, which funds are then used to provide services within the district.
- ✓ To finance its facilities, the CID may incur debt without voter referendum.
- ✓ CID debt is a GO of the CID but is not an obligation of the State or any local government other than the CID.

TAKE AWAYS – determine if your community has one or more TADs or CIDs. It takes time to set up these tools.

Infrastructure & Commodity Incentives

- ✓ Providers of infrastructure and commodity, e.g. transportation, energy, water and data, have the ability and frequently make incentives available to attractive businesses.
- ✓ Providers include local governments and private utilities.
- ✓ Many of the incentives that have already been discussed may be used.

Infrastructure & Commodity Incentives

- ✓ In Georgia, the best example of utility competition is electric service.
- ✓ Electric providers have exclusive service territories assigned to them by the GPSC pursuant to the Georgia Territorial Electric Service Act of 1973.
- ✓ There are, however, two frequently used exceptions to exclusive service rights where the customer may choose among multiple providers in most cases when service is initially rendered.

Infrastructure & Commodity Incentives

- ✓ Where there's a choice there's competition, and where there's competition there are incentives.
- ✓ The two exceptions:
 - ✓ Corridor Rights: when more than one electric provider has a line within a certain distance; and
 - ✓ Large Load Customer: when a customer's facility has a large connected load in many cases. NOTE: a substantial renovation may qualify.
- ✓ Incentives can include discounted or no-costs facilities and long term incentives utility rates.

Infrastructure & Commodity Incentives

- ✓ There are multiple nuances to both of these exceptions, but the important point is that there is a one-time choice for each new “premises” in some circumstances.
- ✓ Pursue the option before permanent service is extended to the project.
- ✓ **Take Away:** Determine who the likely utility provider options are in your area. Also, local governments that are also utility providers may offer greater incentives as they have a greater interest in increased tax revenue and employment opportunities created by new development

PKF - Other Presentations and Events

- [Alternative-Fueled Vehicle Roadshow on Transportation and Clean Fuels – Georgia Local Government Financing Options - June 3-21, 2013](#)
- [Natural Gas Vehicle Fleet & Infrastructure Summit – Utility Perspective- June 6, 2013](#)
- [Engineering & Operations Exchange - June 13, 2013](#)
- [2013 City Attorneys § CLE Seminar & Annual Business Meeting – ESCOs - June 23, 2013](#)
- [Ga. Assoc. of Water Prof. Energy Workshop, Funding Options for Energy Saving and Other Operational Saving Transactions – July 31, 2013](#)
- [M&J University, Tax Credits, Incentives and Economic Development – July 11, 2013](#)
- [Energy Client Advisory - Electric Service Rights to Premises Locating in Wholly New Municipalities or Consolidated/Annexed Areas - September 2013](#)
- [Solar Programs in Georgia and Proposed Amendments to the Georgia Cogeneration and Distributed Generation Act and Electric Territorial Act - March 18, 2013](#)
- [Innovative Smart Grid Projects - November 7, 2012](#)
- [Are you ready to be deposed - Engineering & Operations Exchange - June 11-13, 2012](#)
- [Finance 101 Forum for Utility Managers - May 2, 2012](#)
- [Economic Development Advisory: Georgia General Assembly Passes Economic Development-Friendly Bills During 2012 Session - April 10, 2012](#)
- [Ga. Electric Service 101 – Executive Summary of Ga. Territorial Electric Service Act and Ga. Cogen and Distributed Generation Act - November 11-13, 2011](#)
- [Update on the Deployment and Use of Smart Grid Technology in Georgia - October 17, 2011](#)
- [Sustainable Cities - GMA Annual Convention - June 2 -28, 2011](#)
- [Legislative Update - Electric Cities Annual Meeting - March 30, 2011](#)
- [Green Building Focus - February 24, 2011](#)
- [Georgia's Constitutional Amendment 4: Guaranteed Energy Savings Performance Contracting - February 23, 2011](#)
- [Energy & Sustainability Advisory: Energy Efficiency and Conservation – Successful Legislative Session in Georgia - November 10, 2010](#)
- [DOE Loan Guarantees - Real Estate and Renewable Energy Markets Forum - August 24-2 , 2010](#)
- [Georgia Territorial Electric Service Act 101 - August 27, 2009](#)
- [Public Finance 101 - 2008 TGA Utility Finance & Accounting Conference \(August 18-19, 2008\)](#)
- [Public Finance Advisory: Certain Governmental Issuer's Tax-Exempt Bonds Questioned by IRS Regarding Post-Issuance Tax Compliance - January 30, 2009](#)
- [Solar Programs in Georgia and Proposed Amendments to the Georgia Cogeneration and Distributed Generation Act and Electric Territorial Act - March 18, 2013](#)
- [Innovative Smart Grid Projects - November 7, 2012](#)
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Questions:

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