



# P3- UNDERSTANDING PUBLIC/PRIVATE PARTNERSHIPS

Daniel M. McRae, Partner  
Seyfarth Shaw LLP  
1075 Peachtree Street, N.E.  
Suite 2500  
Atlanta, GA 30309  
404.888.1883  
404.892.7056 fax  
dmcrae@seyfarth.com  
dan@danmcrae.info



# P3 = Public/Private Partnership

But What Is That?

According to the National Council for Public-Private Partnerships, a P3 is defined as:

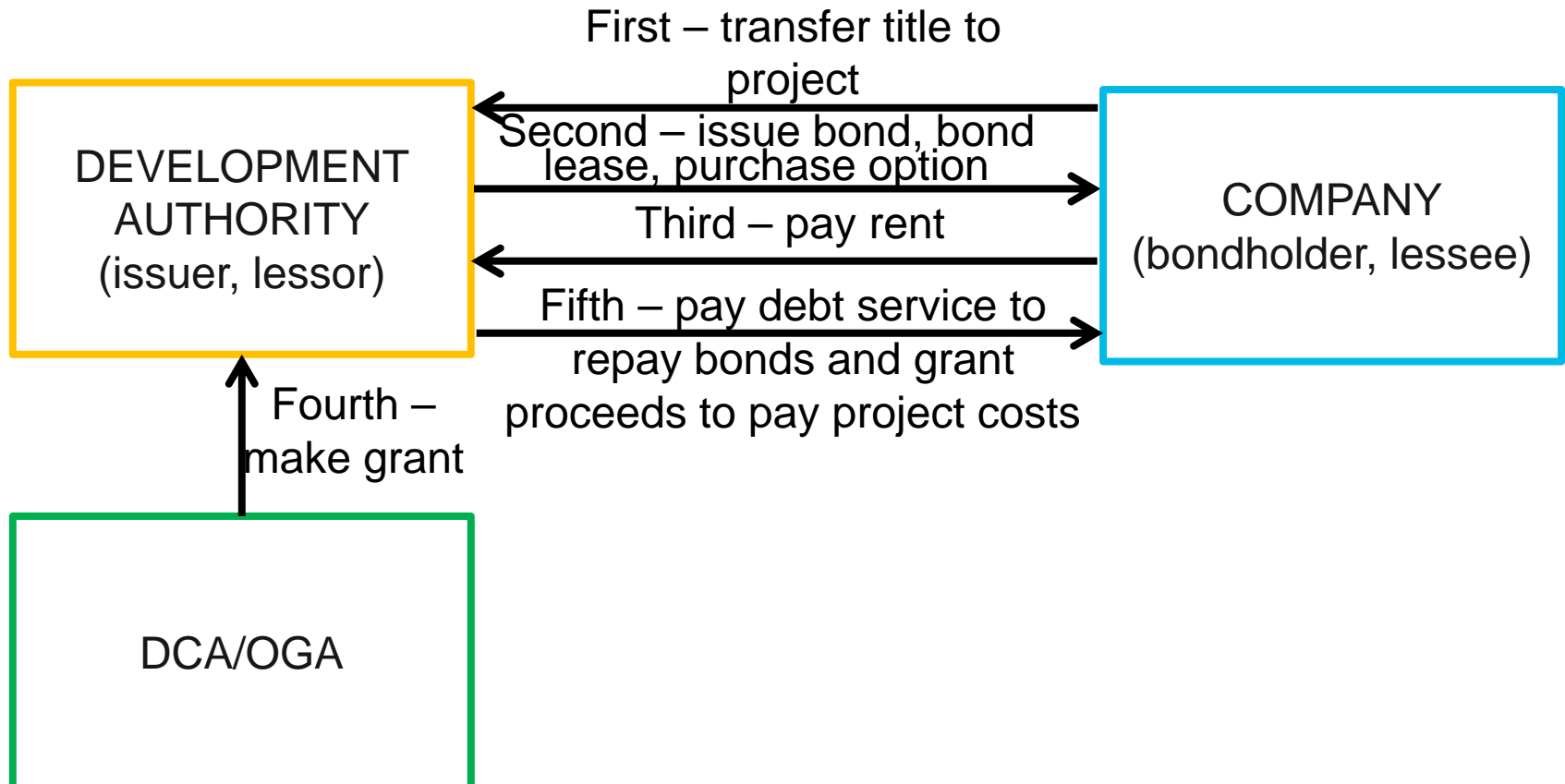
“A contractual agreement between a public agency (federal, state or local) and a private sector entity. Through this agreement, the skills and assets of each sector (public and private) are shared in delivering a service or facility for the use of the general public. In addition to the sharing of resources, each party shares in the risks and rewards potential in the delivery of the service and/or facility.”



# PRECEDENTS FOR P3

- P3 IS NEWLY POPULAR
- BUT ITS ORIGINS GO WAY BACK
  - ECONOMIC DEVELOPMENT
  - PUBLIC INCENTIVES FOR PRIVATE PROJECTS
    - CASH
      - GRANTS
    - IN-KIND
      - EXAMPLE- SITE PREPARATION
    - OPERATIONAL
      - PROPERTY TAX ABATEMENT

# “BONDS FOR TITLE”- GEORGIA P3 FOR ECONOMIC DEVELOPMENT





# FORMAL P3

OUTSIDE ECONOMIC DEVELOPMENT, P3 IS MORE FORMAL

- THE PUBLIC SECTOR IS AN OWNER, OR
- THE PUBLIC SECTOR SUPPORTS A PRIVATE ASSET TO ACHIEVE A PUBLIC GOAL
- SOMETHING OTHER THAN ECONOMIC DEVELOPMENT
- THERE IS NO “COOKBOOK”
  - P3s ARE ALL DIFFERENT



# P3 GOALS DRIVE THE OPPORTUNITIES

- BIG, REVENUE-GENERATING P3 PROJECT
- PUBLIC SECTOR NEEDS IT SERVES ARE TYPICALLY EITHER-
  - “MONETIZATION” OF EXISTING ASSETS, OR
  - AVOID/MINIMIZE CASH OUTLAYS FOR NEW CAPITAL PROJECT OR OTHER NEEDS



# “MONETIZATION” OF EXISTING ASSET

- MONETIZATION USUALLY OF INCOME STREAM, NOT OF TITLE
  - EXCEPTION: SALE-LEASEBACK
  - EXCEPTION: PRIVATIZATION
- TRANSACTION YIELDS CASH TO PUBLIC SECTOR  
EXAMPLES-
  - CASH AT CLOSING
  - SCHEDULED ANNUAL PAYMENT
  - REVENUE SHARING
- CONTRACT EXAMPLES-
  - CONCESSION
  - LEASE
  - BUILDER PROJECT DELIVERY SYSTEM



# AVOID/MINIMIZE CASH OUTLAYS FOR NEW CAPITAL PROJECT OR OTHER NEEDS

- P3 IS AN ALTERNATIVE TO RAISING TAXES OR CUTTING SERVICES
- TRANSACTION YIELDS CASH TO PRIVATE SECTOR  
EXAMPLES-
  - AVAILABILITY PAYMENTS
  - SHADOW TOLLS
  - RENT
- CONTRACT EXAMPLES-
  - CONCESSION AGREEMENT
  - LEASE
  - BUILDER PROJECT DELIVERY SYSTEM

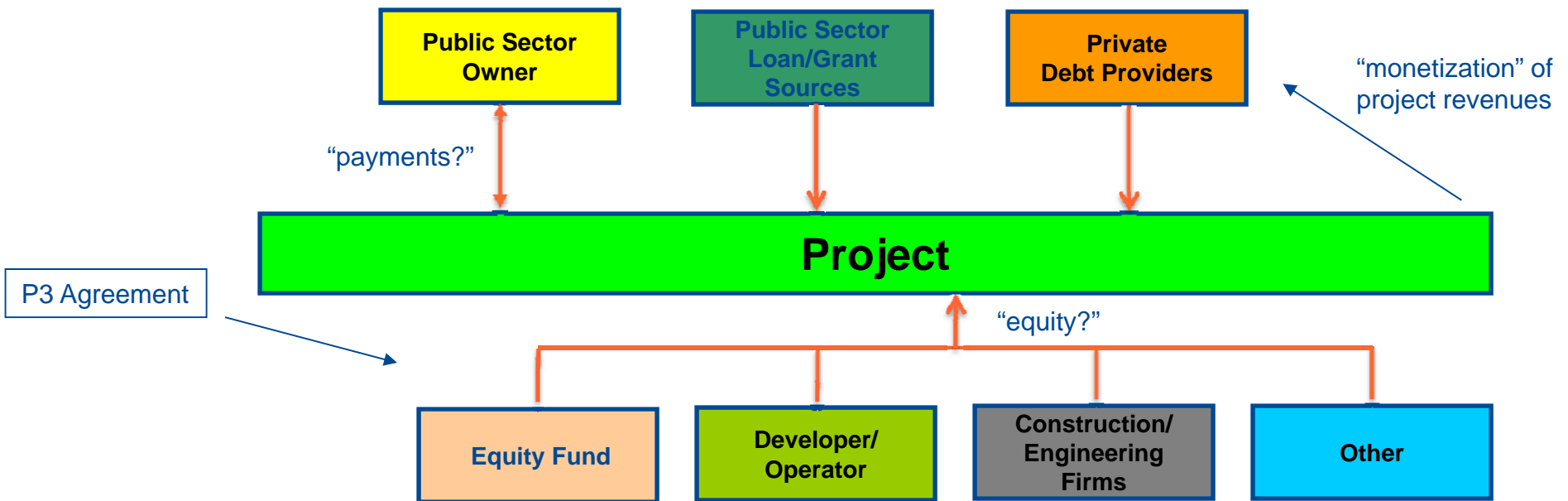




# BIG, REVENUE-GENERATING P3 PROJECT

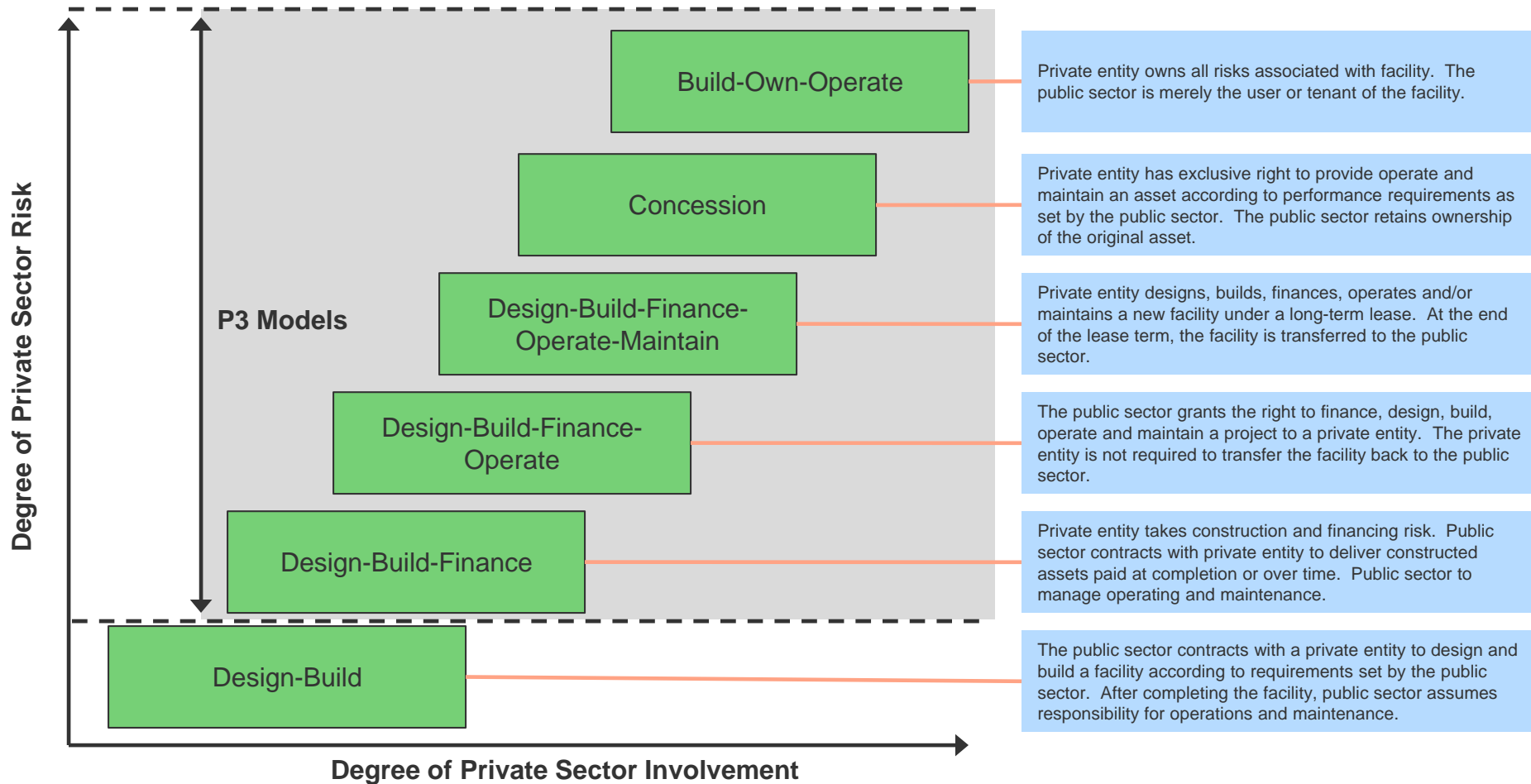
- REGARDLESS OF WHO GETS PAID, SOME PROJECT REVENUES ARE USUALLY “MONETIZED” IN A FINANCING TO PAY CAPITAL COSTS
- CONTRACT IS LONGER TERM
  - PRIVATE SECTOR NEEDS TO RECOUP INVESTMENT
    - *30-50 YEARS NOT UNCOMMON*
  - “EXIT RAMP” OR SAFEGUARDS FOR PUBLIC SECTOR NEEDED. EXAMPLES-
    - *PERFORMANCE STANDARDS*
    - *STRUCTURE OF AVAILABILITY PAYMENTS*

# BIG, REVENUE-GENERATING PROJECT: Conceptual P3



# BIG, REVENUE-GENERATING PROJECT: How to Model It

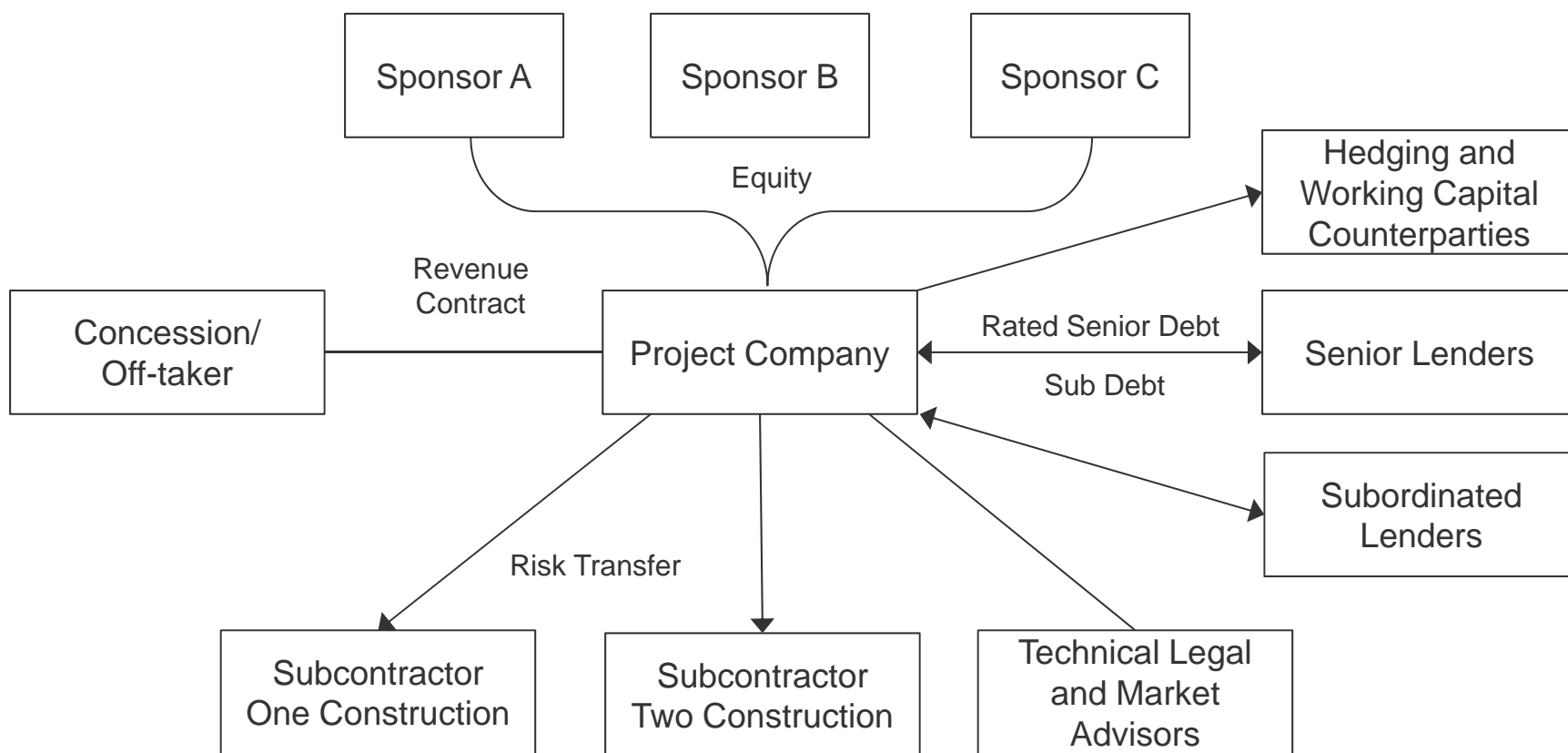
Taken From: KeyBank- Identifying P3 Projects and Knowing the Atmosphere



# BIG, REVENUE-GENERATING PROJECT: How to Structure It

Taken From: Fitch – Rating Criteria For Infrastructure and Project Finance

## Structure Example



# BIG, REVENUE-GENERATING PROJECT: How to Finance It

Taken From: KeyBank- Identifying P3 Projects and Knowing the Atmosphere

## P3 Funding Overview

### Bank Finance

- Senior debt finance by way of bank loans often constituting 75% to 90% of required funding is generally done by a large number of banks under a “club” approach
- Mini perms and bridging facilities
- Typically designed to be a 5-7 year, non-amortizing loan
- Loan sizes have typically ranged between \$50 and \$150 million
- Credit spreads are typically LIBOR + 200-300 bps but can step up to 400 bps
- Canadian, European, Asian are market lenders – U.S. banks have now entered

### Equity

- Share capital and sub-debt usually contributed by sponsors, often constituting around 10% - 30% of the initial projected project cost, but can be higher based on the nature of the concession
- Developers, private equity funds and pension funds

### Mezzanine Finance

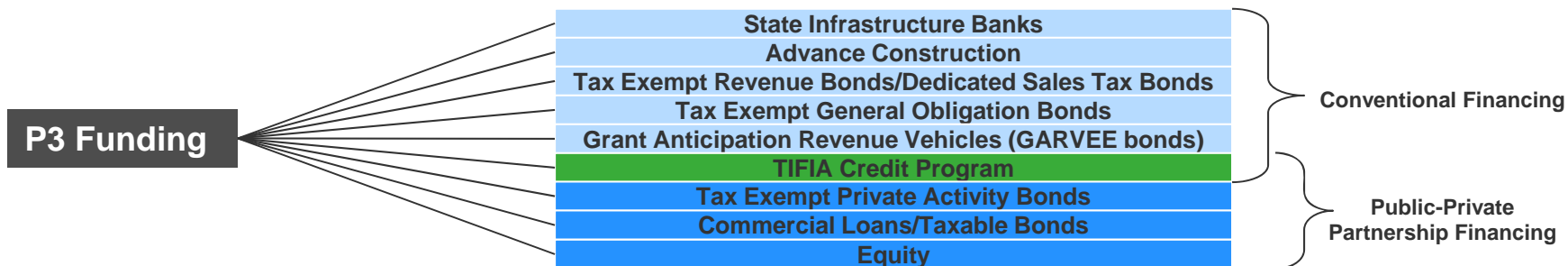
- Finance ranking between the senior debt finance and equity
- Typically, short term, subordinated debt, structured with cash interest, PIK interest and equity participation
- Can be from either commercial banks, private investors or federal/state sources

### Bond Finance

- For qualified project, the private sector may issue tax-exempt Private Activity Bonds. These bonds have many of the typical features of municipal bonds
- Taxable bonds may also be issued (structured with make-whole payments for early redemption)
- The bonds are normally fixed rate with a final maturity of 30 years or more and fully amortize from project cash flows (no need to refinance)
- Leases (lease/leaseback and sale/leaseback with tax exempt bonds) are used across multiple sectors including municipal facilities such as city halls, courthouses, schools, and administrative buildings
- US Investment Banks lead this market

### Federal and State Loans and Grants

- Fills capital gaps for secondary subordinated capital
- Federal Transportation Infrastructure Finance Innovation Act (TIFIA Loans) is to stimulate private capital investment in infrastructure
- TIFIA is a subordinate lender, however, it come to parity with senior debt in bankruptcy event
- State Infrastructure Banks are a type of revolving infrastructure investment fund for surface transportation projects will offer loans, credit assistance and enhancement products to public and private sponsors





# P3 IS NOT FREE

- ANOTHER PUBLIC SECTOR P3 GOAL IS TO SHIFT RISK TO THE PRIVATE SECTOR
- BUDGET RISK
  - OBTAIN BETTER EFFICIENCIES AND ECONOMIES FROM THE PRIVATE SECTOR
- CONSTRUCTION RISK
- OPERATING RISK



# P3 IS NOT FREE

- PUBLIC SECTOR WILL ALWAYS HAVE “SKIN IN THE GAME.”
- EXAMPLE: GEORGIA’S NORTHWEST CORRIDOR MANAGED LANES PROJECT-
  - State Transportation Board selected Northwest Express Roadbuilders to build the Northwest Corridor toll lanes project for \$840 million
    - this budget more than \$100 million less than original projections
  - however, Georgia will provide another \$241 million of total project costs (right of way acquisition, administrative expenses and the portion of the project to be performed by the State Road and Tollway Authority)
- FEDERAL HIGHWAY ADMINISTRATION: “P3 CONCESSIONS DO NOT GENERATE REVENUE, THEY REQUIRE IT.”



# THE MIDDLE MARKET

- MUCH IS MADE TODAY OF P3 OPPORTUNITIES
- IN REALITY, THE UPPER END OF THE MARKET IS CONCENTRATED
  - THE MARKET IS DOMINATED BY A FEW OPPORTUNITIES HANDLED BY A FEW PARTICIPANTS
- BUT MANY OPPORTUNITIES EXIST IN THE MIDDLE MARKET, CLOSE TO HOME FOR ECONOMIC DEVELOPERS, COMMUNITY DEVELOPERS, AND REAL ESTATE DEVELOPERS.
- EXAMPLES-





# THE MIDDLE MARKET

- **COMMUNITY DEVELOPMENT AND REDEVELOPMENT**
  - Examples:
    - Monetization of property taxes to pay costs of infrastructure supporting new City Hall. See “Teachable Moments.”
    - Use of TIF/TAD and NMTC to finance hotel as part of downtown redevelopment. See “Teachable Moments.”
- **STREET AND HIGHWAY INFRASTRUCTURE**
  - Example: development authority road project to support new shopping center. See “Teachable Moments”
- **PARKING**
  - Example: Park Atlanta parking enforcement contract with City of Atlanta (contract amended for better customer service)



# THE MIDDLE MARKET

- **AIR TRANSPORTATION**

- Example: Illinois' 2013 S.B. 20 allowing Illinois Department of Transportation to use P3 for South Suburban Airport (Chicago regional airport in Will County)

- **UTILITIES**

- **WATER**

- Example: Bayonne, N.J. 2013 water and sewer plant privatization with KKR and United Water

- **TRADITIONAL PORTS**

- Example: master operating lease between Illinois International Port District and Broe Group (up to \$500 million investment in infrastructure serving Lake Michigan and Lake Calumet)



# THE MIDDLE MARKET

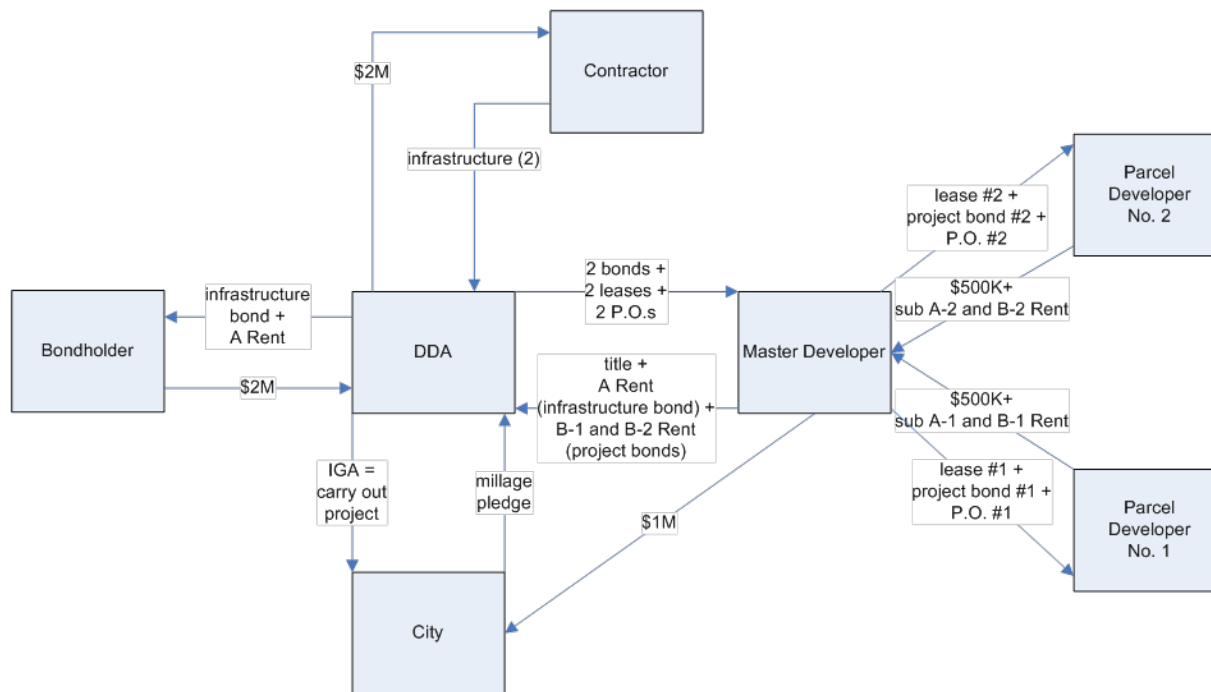
- **HIGHER PROFILE PUBLIC ASSETS**
- Example: Florida's HB 85 for P3's for "qualifying projects" that include, among other things, "any ferry or mass transit facility, vehicle parking facility, airport or seaport facility, rail facility or project, fuel supply facility, oil or gas pipeline, medical or nursing care facility, recreational facility, sporting or cultural facility, or educational facility or other building or facility"
- **PUBLIC SAFETY, JUDICIAL, AND CORRECTIONS**
- Example: private prisons- 48 correctional and detention facilities operated (2011 statistics) by CCA in 15 states and the District of Columbia
- **GREEN ENERGY**
- Example: 2013 solar installation for Georgia school district financed in P4 structure. See "Teachable Moments."



# THE MIDDLE MARKET

- HIGHER ED
  - Example: University of Kentucky's project (started 2012) with Education Realty Trust for New Central Hall
- MULTIMODAL TRANSPORTATION
  - INLAND PORT
    - Example: MOU signed July 10, 2013 between Georgia Ports Authority and Cordele Intermodal Services providing for a direct 200-mile rail route to and from GPA's Garden City Terminal in Savannah serving southwest Georgia and adjacent regions of Florida and Alabama
- SPACE PORTS
  - Examples: Space Florida's proposal for a commercial spaceport north of Kennedy Space Center; Camden County, Georgia's negotiations with SpaceX regarding commercial spaceport

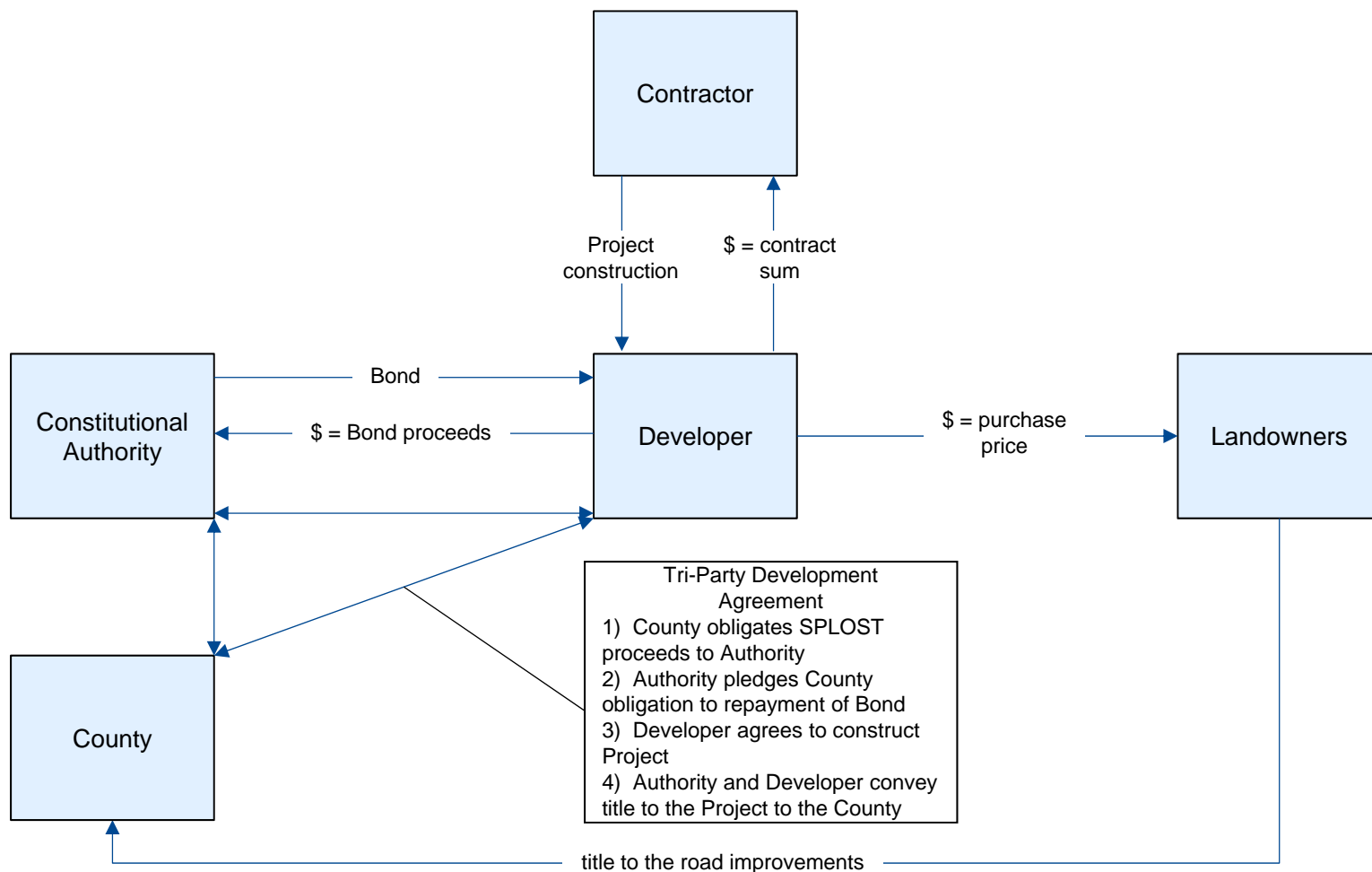
# “TEACHABLE MOMENTS”- City Center Redevelopment (public infrastructure and funding for City Hall)



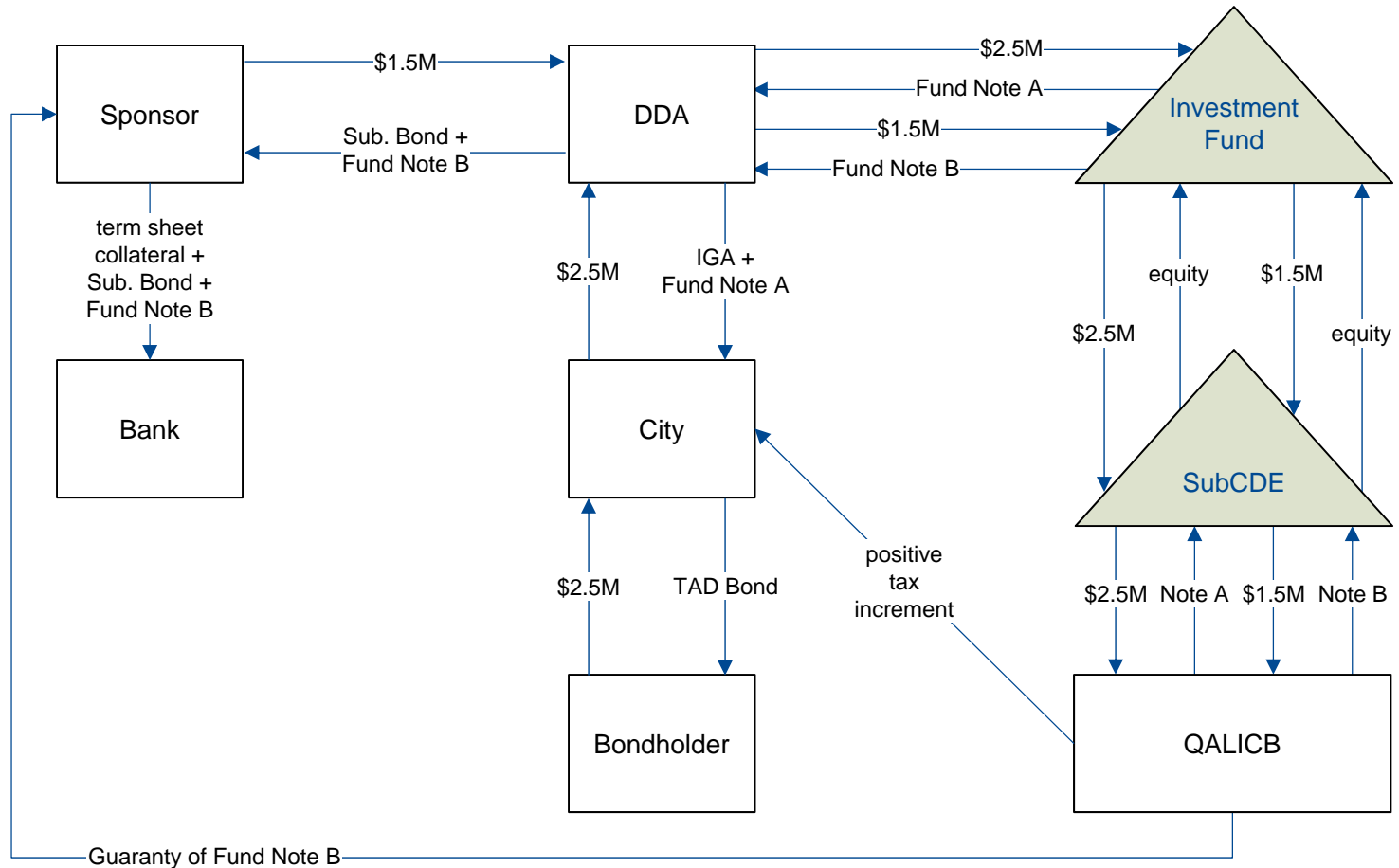
**Notes:**

1. B Rent substitutes for normal taxes which are abated. B Rent is functionally equivalent to PILOT payments.
2. Public infrastructure not subject to property tax.
3. The Master Developer pays both the A Rent and the B Rent. The A Rent services the infrastructure bond. The B Rent services the project bonds and goes back to the respective Parcel Developers as holders of the project bonds. The Master Developer collects sub A-1 and A-2 Rent (uses to pay the A Rent) and sub B-1 and B-2 Rent (uses to pay the B Rent) from each of the Parcel Developers, respectively.

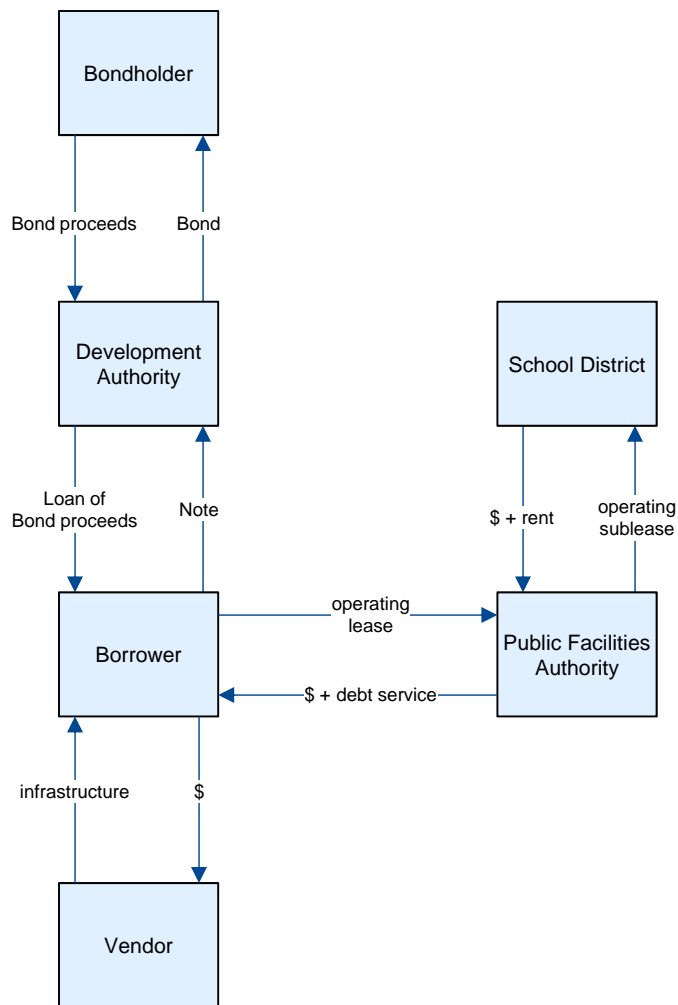
# “TEACHABLE MOMENTS”- ROAD FOR A NEW SHOPPING CENTER



# “TEACHABLE MOMENTS”- hotel for downtown redevelopment (with NMTC and TIF/TAD)



# “TEACHABLE MOMENTS”- SCHOOL DISTRICT SOLAR PROJECT







# MORE MIDDLE MARKET:

## US MILITARY- P4

### (public to public, for public to private)

DEFENSE AUTHORIZATION ACT OF 2013, SEC. 331, INTERGOVERNMENTAL SUPPORT AGREEMENTS WITH STATE AND LOCAL GOVERNMENTS

(a) Agreements Authorized- Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

‘Sec. 2336. Intergovernmental support agreements with State and local governments

‘(a) In General- (1) The Secretary concerned may enter into an intergovernmental support agreement with a State or local government [includes local authority] to provide, receive, or share installation-support services if the Secretary determines that the agreement will serve the best interests of the department by enhancing mission effectiveness or creating efficiencies or economies of scale, including by reducing costs.

‘(2) Notwithstanding any other provision of law, an intergovernmental support agreement under paragraph (1)--

‘(A) may be entered into on a sole-source basis;

‘(B) may be for a term not to exceed five years; and

‘(C) may use, for installation-support services provided by a State or local government, wage grades normally paid by that State or local government



# MORE MILITARY P3

## Other military procurement authorities:

- Power Purchase Agreement (10 USC 2922a)
  - Example: May 9, 2013 DLA Energy agency RFP for 15MW of solar generation at Ft. Irwin, CA
- Energy Savings Performance Contracts (42 USC 8287)
- Energy Services Agreement (42 USC 8256)
- Enhanced Use Lease (10 USC 2667)
  - Example: private hotel on military base
- Easement Authority (40 USC 1314)
- Cooperative Agreements (31 USC 6305)



## 2 P3, OR NOT 2 P3? That is the question!

- Biggest execution risk: political will
- How to deter private sector partners:
  - Have an inadequate or opaque legal system
  - Field an inexperienced, poorly advised team
  - Worst of all- Second guess a project and cancel it after the private sector has incurred substantial “pursuit costs” but before award



## HOW 2 P3

1. **PUBLIC SECTOR CHAMPION** – THIS IS A GOT TO HAVE! NO ADVOCATE? NO CLOSING!
2. **STATUTORY ENVIRONMENT** – DOES STATE LAW ALLOW P3? IS IT CLEAR ABOUT P3? DOES IT ALLOW UNSOLICITED PROPOSALS? DOES IT PROTECT PROPRIETARY INFORMATION?
3. **PUBLIC SECTOR'S ORGANIZED STRUCTURE** – DOES THE \_PUBLIC SECTOR\_ HAVE A TEAM? IS IT ANY GOOD? DOES THE PUBLIC SECTOR PRIZE PRICE OVER VALUE OR PROCESS OVER RESULTS?



## HOW 2 P3

**4. DETAILED CONTRACT (BUSINESS PLAN) –ARE THE DEAL DOCUMENTS GOOD ONES? IS DISPUTE RESOLUTION COVERED IN A WAY THAT DISPUTES DON'T TRIGGER DISASTER? REMEMBER- GOOD CONTRACTS ARE NEEDED HORIZONTALLY (AMONG PRIVATE SECTOR TEAM MEMBERS) AS WELL AS VERTICALLY (BETWEEN THE PRIVATE SECTOR AND THE PUBLIC SECTOR).**

**5. CLEARLY DEFINED REVENUE STREAM – REMEMBER: PROJECT REVENUE MUST BE MONETIZED TO PAY PROJECT COSTS. REVENUES MUST BE IDENTIFIED AND BE LEGALLY AVAILABLE. AND THEY MUST BE SUFFICIENT!**



## HOW 2 P3

**6. STAKEHOLDER SUPPORT –YOU CAN'T P3 IN A VACUUM. ENGAGE YOUR STAKEHOLDERS. REMEMBER THAT THE AFFECTED WORKERS ARE ALSO VOTERS!**

**7. PICK YOUR PARTNER CAREFULLY – WHAT'S THE MOST IMPORTANT PART OF P3? PICKING YOUR PARTNER! THE PARTNER MUST BE CAPABLE-FINANCIALLY, AND OTHERWISE. THIS RULE APPLIES BOTH HORIZONTALLY AND VERTICALLY.**

**GOOD LUCK ON ALL YOUR P3 PROJECTS!**



# QUESTIONS?

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

Daniel M. McRae, Partner  
Seyfarth Shaw LLP  
1075 Peachtree Street, N.E.  
Suite 2500  
Atlanta, GA 30309  
404.888.1883  
404.892.7056 fax  
dmcrae@seyfarth.com  
dan@danmcrac.info



# REFERENCES

THIS PRESENTATION AND OTHER REFERENCES CAN BE DOWNLOADED AS FOLLOWS:

- March 2013- “The DNA of Your DDA”
- January 2013- “Development Authorities 101”
- November 2012- "In-Sourcing Capital: EB-5 Loans and Equity; NMTC Tax Credit Equity; and Non-Recourse Project Finance Bonds“
- August 2012- “Bonds 101”
- June 2011- "TIFs and TADs in Tough Times“; TIFs and TADs Questions and Answers
- August 2010 – "Bonds For Title"

at <http://danmcrae.info/whitepapers>

- February 2013 – Quick Takes: “Projects – Money Comes Knocking”
- June 2011 – Quick Takes: “Easy Equity – the NMTC and EB-5 Programs”
- January 2011 – Quick Takes: “After ARRA – What Bonds Can We Use Now to Finance Projects?”

at <http://danmcrae.info/quicktakes>





# MORE INFORMATION

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