Project Development Financing Legislation

I – Bond-Related Provisions

G.S. Chapter 159, Article 6 – Project Development Financing Act

§ 159-101. Short title.

This Article may be cited as the "North Carolina Project Development Financing Act."

§ 159-102. Unit of local government defined.

For the purposes of this Article, the term "unit of local government" means a county or a municipal corporation.

§ 159-103. Authorization of project development financing debt instruments; purposes.

(a) Each unit of local government may issue project development financing debt instruments pursuant to this Article and use the proceeds for one or more of the purposes for which any unit may issue general obligation bonds pursuant to the following subdivisions of G.S. 159-48: (b)(1), (3), (7), (11), (12), (16), (17), (19), (21), (23), (24), or (25), (c)(1), (4), (4a), or (6), or (d)(3), (4), (5), (6) or (7), or (b)(13) excluding stadiums, arenas, golf courses, swimming pools, wading pools, or marinas. In addition, the proceeds may be used for any service or facility authorized by G.S. 160A-536 to be provided in a municipal service district, but no such district need be created.

For the purpose of this Article, the term "capital costs" as defined in G.S. 159-48(h) also includes (i) interest on the debt instruments being issued or on notes issued in anticipation of the instruments during construction and for a period not exceeding seven years after the estimated date of completion of construction and (ii) the establishment of debt service reserves and any other reserves reasonably required by the financing documents. The proceeds of the debt instruments may be used either in a development financing district established pursuant to G.S. 160A-515.1 or G.S. 158-7.3 or, if the use directly benefits private development forecast by the development financing plan for the district, outside the development financing district. The proceeds may be used only for projects that enable, facilitate, or benefit private development within the development financing district, the revenue increment of which is pledged as security for the debt instruments. This subsection does not prohibit the use of proceeds to defray the cost of providing water and sewer utilities to a private development in a project development financing district.

(b) Subject to agreement with the holders of its project development financing debt instruments and the limitation on duration of development

financing districts set out in this Article, each unit of local government may issue additional project development financing debt instruments and may issue debt instruments to refund any outstanding project development financing debt instruments at any time before the final maturity of the instruments to be refunded. General obligation bonds issued to refund outstanding project development financing debt instruments shall be issued under the Local Government Bond Act, Article 4 of this Chapter. Revenue bonds issued to refund outstanding project development financing debt instruments shall be issued under the State and Local Government Revenue Bond Act, Article 5 of this Chapter.

Project development financing debt instruments may be issued partly for the purpose of refunding outstanding project development financing debt instruments and partly for any other purpose under this Article. Project development financing debt instruments issued to refund outstanding project development financing debt instruments shall be issued under this Article and not under Article 4 of this Chapter.

(c) If the private development project to be benefited by proposed project development financing debt instruments affects tax revenues in more than one unit of local government and more than one affected unit of local government wishes to provide assistance to the private development project by issuing project development financing debt instruments, then those units may enter into an interlocal agreement pursuant to Article 20 of Chapter 160A of the General Statutes for the purpose of issuing the instruments. The agreement may include a provision that a unit may pledge all or any part of the taxes received or to be received on the incremental valuation accruing to the development financing district to the repayment of instruments issued by another unit that is a party to the interlocal agreement.

§ 159-104. Application to Commission for approval of project development financing debt instrument issue; preliminary conference; acceptance of application.

A unit of local government may not issue project development financing debt instruments under this Article unless the issue is approved by the Local Government Commission. The governing body of the issuing unit shall file with the secretary of the Commission an application for Commission approval of the issue. At the time of application, the governing body shall publish a public notice of the application in a newspaper of general circulation in the unit of local government. The application shall include any statements of facts and documents concerning the proposed debt instruments, development financing district, and development financing plan, and the financial condition of the unit, required by the secretary. The Commission may prescribe the form of the application.

Before accepting the application, the secretary may require the governing body or its representatives to attend a preliminary conference in order to discuss informally the proposed issue, district, and plan and the timing of the steps to be

taken in issuing the debt instruments. The development financing plan need not be adopted by the governing body at the time it files the application with the secretary. However, before the Commission may enter its order approving the debt instruments, the governing body must adopt the plan and make the findings described in G.S. 159-105(b)(1) and (5).

After an application in proper form and order has been filed, and after a preliminary conference if one is required, the secretary shall notify the unit in writing that the application has been filed and accepted for submission to the Commission. The secretary's statement is conclusive evidence that the unit has complied with this section.

§ 159-105. Approval of application by Commission.

(a) In determining whether to approve a proposed project development financing debt instrument issue, the Commission may inquire into and consider any matters that it considers relevant to whether the issue should be approved, including:

(1) Whether the projects to be financed from the proceeds of the project development financing debt instrument issue are necessary to secure significant new project development for a development financing district.

(2) Whether the proposed projects are feasible. In making this determination, the Commission may consider any additional security such as credit enhancement, insurance, or guaranties.

(3) The unit of local government's debt management procedures and policies.

(4) Whether the unit is in default in any of its debt service obligations.

(5) Whether the private development forecast in the development financing plan would likely occur without the public project or projects to be financed by the project development financing debt instruments.

(6) Whether taxes on the incremental valuation accruing to the development financing district, together with any other revenues available under G.S. 159-110, will be sufficient to service the proposed project development financing debt instruments.

(7) The ability of the Commission to market the proposed project development financing debt instruments at reasonable rates of interest.

(b) The Commission shall approve the application if, upon the information and evidence it receives, it finds all of the following:

(1) The proposed project development financing debt instrument issue is necessary to secure significant new economic development for a development financing district.

(2) The amount of the proposed project development financing debt is adequate and not excessive for the proposed purpose of the issue.
(3) The proposed projects are feasible. In making this determination, the Commission may consider any additional security such as credit enhancement, insurance, or guaranties.
(4) The unit of local government's debt management procedures and policies are good, or that reasonable assurances have been given that its debt will henceforth be managed in strict compliance with law.
(5) The private development forecast in the development financing plan would not be likely to occur without the public projects to be financed by the project development financing debt instruments.
(6) The proposed project development financing debt instruments can be marketed at reasonable interest cost to the issuing unit.
(7) The issuing unit has, pursuant to G.S. 160A-515.1 or G.S. 158-7.3, adopted a development financing plan for the development financing district for which the instruments are to be issued.

§ 159-106. Order approving or denying the application.

(a) After considering an application, the Commission shall enter its order either approving or denying the application. An order approving an issue is not an approval of the legality of the debt instruments in any respect.

(b) Unless the debt instruments are to be issued for a development financing district for which a project development financing debt instrument issue has already been approved, the day the Commission enters its order approving an application for project development financing debt instruments is also the effective date of the development financing district for which the instruments are to be issued.

(c) If the Commission enters an order denying the application, the proceedings under this Article are at an end.

§ 159-107. Determination of incremental valuation; use of taxes levied on incremental valuation; duration of the district.

(a) Base Valuation in the Development Financing District. – After the Local Government Commission has entered its order approving a unit of local government's application for project development financing debt instruments, the unit shall immediately notify the tax assessor of the county in which the development financing district is located of the existence of the development financing district. Upon receiving this notice, the tax assessor shall determine the base valuation of the district, which is the assessed value of all taxable property

located in the district on the January 1 immediately preceding the effective date of the district. If the unit or an agency of the unit acquired property within the district within one year before the effective date of the district, the tax assessor shall presume, subject to rebuttal, that the property was acquired in contemplation of the district, and the tax assessor shall include the value of the property so acquired in determining the base valuation of the district. The unit may rebut this presumption by showing that the property was acquired primarily for a purpose other than to reduce the incremental tax base. After determining the base valuation of the development financing district, the tax assessor shall certify the valuation to: (i) the issuing unit; (ii) the county in which the district is located if the issuing unit is not the county; and (iii) any special district, as defined in G.S. 159-7, within which the development financing district is located.

(b) Adjustments to the Base Valuation. – During the lifetime of the development financing district, the base valuation shall be adjusted as follows:

(1) If the unit amends its development financing plan, pursuant to G.S. 160A-515.1 or G.S. 158-7.3, to remove property from the development financing district, on the succeeding January 1, that property shall be removed from the district and the base valuation reduced accordingly.

(2) If the unit amends its development financing plan, pursuant to G.S. 160A-515.1 or G.S. 158-7.3, to expand the district, the new property shall be added to the district immediately. The base valuation of the district shall be increased by the assessed value of the taxable property situated in the added territory on the January 1 immediately preceding the effective date of the district.

Each time the base valuation is adjusted, the tax assessor shall immediately certify the new base valuation to: (i) the issuing unit; (ii) the county if the issuing unit is not the county; and (iii) any special district, as defined in G.S. 159-7, within which the development financing district is located.

(c) Revenue Increment Fund. – When a unit of local government has established a development financing district, and the project development financing debt instruments for that district have been approved by the Commission, the unit shall establish a separate fund to account for the proceeds paid to the unit from taxes levied on the incremental valuation of the district. The unit shall also place in this fund any moneys received pursuant to an agreement entered into under G.S. 159-108.

(d) Levy of Property Taxes Within the District. – Each year the development financing district is in existence, the tax assessor shall determine the current assessed value of taxable property located in the district. The assessor shall also compute the difference between this current value and the base valuation of the district. If the current value exceeds the base value, the difference is the incremental valuation of the district. In each year the district is in existence, the county, and if the district is within a city or a special district as defined by G.S.

159-7, the city or the special district shall levy taxes against property in the district in the same manner as taxes are levied against other property in the county, city, or special district. The proceeds from ad valorem taxes levied on property in the development financing district shall be distributed as follows:

(1) In any year in which there is no incremental valuation of the district, all the proceeds of the taxes shall be retained by the county, city, or special district, as if there were no development financing district in existence.

(2) In any year in which there is an incremental valuation of the district, the amount of tax due from each taxpayer on property in the district shall be distributed as provided in this subdivision. The net proceeds of the following taxes shall be paid to the government levying the tax: (i) taxes separately stated and levied solely to service and repay debt secured by a pledge of the faith and credit of the unit; (ii) nonschool taxes levied pursuant to a vote of the people; (iii) taxes levied for a municipal or county service district; and (iv) taxes levied by a taxing unit in a development financing district established by a different taxing unit and for which there is no increment agreement between the two units. All remaining taxes on property in the district shall be multiplied by a fraction, the numerator of which is the base valuation for the district and the denominator of which is the current valuation for the district. The amount shown as the product of this multiplication shall, when paid by the taxpayer, be retained by the county, city, or special district, as if there were no development financing district in existence. The net proceeds of the remaining amount shall, when paid by the taxpayer, be turned over to the finance officer of each issuing unit, who shall place this amount in the special revenue increment fund required by subsection (c) of this section. As used in this section, "net proceeds" means gross proceeds less refunds, releases, and any collection fee paid by the levying government to the collecting government.

(e) Increment Agreements. – Effect of Annexation on District Established by a County. – If a city annexes land in a development financing district established by a county pursuant to G.S. 158-7.3, the proceeds of all taxes levied by the city on property within the district shall be paid to the city unless the city enters into an agreement with the county pursuant to this subsection, and the annexed land in the county's district that subsequently becomes a part of the city does not count against the city's five-percent (5%) limit under G.S. 158-7.3 or G.S. 160A-515.1 unless the city and the county enter into an agreement pursuant to this section. The city and the county may enter into an increment agreement under which the city agrees that city taxes on part or all of the incremental valuation in

the district shall be paid into the revenue increment fund for the district. An increment agreement may be entered into when the district is established or at any time after the district is established. The increment agreement may extend for the duration of the district or for a shorter time agreed to by the parties.

(f) Use of Moneys in the Revenue Increment Fund. – If the development financing district includes property conveyed or leased by the unit of local government to a private party in consideration of increased tax revenue expected to be generated by improvements constructed on the property pursuant to G.S. 158-7.1, an amount equal to the tax revenue taken into account in arriving at the consideration, less the increased tax revenue realized since the construction of the improvement, shall be transferred from the Revenue Increment Fund to the county, city, or special district as if there were no development financing district in existence. Any money in excess of this amount in the Fund may be used for any of the following purposes, without priority other than priorities imposed by the order authorizing the project development financing debt instruments:

(1) To finance capital expenditures (including the funding of capital reserves) by the issuing unit in the development financing district pursuant to the development financing plan.

(2) To meet principal and interest requirements on project development financing debt instruments and debt instrument anticipation notes issued for the district.

(3) To repay the appropriate fund of the issuing unit for any moneys actually expended on debt service on project development financing debt instruments pursuant to a pledge made pursuant to G.S. 159-111(b).

(4) To establish and maintain debt service reserves for future principal and interest requirements on project development financing debt instruments and debt instrument anticipation notes issued for the district.

(5) To meet any other requirements imposed by the order authorizing the project development financing debt instruments.

If in any year there is any money remaining in the Revenue Increment Fund after these purposes have been satisfied, it shall be paid to the general fund of the county and, if applicable, of the city and any special district as defined by G.S. 159-7, in proportion to their rates of ad valorem tax on taxable property located in the development financing district.

(g) Duration of District. – A development financing district shall terminate at the earlier of (i) the end of the thirtieth year after the effective date of the district or (ii) the date all project development financing debt instruments issued for the district have been fully retired or sufficient funds have been set aside, pursuant to the order authorizing the debt instruments, to meet all future principal and interest requirements on the instruments.

§ 159-108. Agreements with property owners.

(a) Authorization. – A unit of local government that issues project development financing debt instruments may enter into agreements with the owners of real property in the development financing district for which the instruments were issued under which the owners agree to a minimum value at which their property will be assessed for taxation. Such an agreement may extend for the life of the development financing district or for a shorter period agreed to by the parties. The agreement may vary the agreed-upon minimum assessed value from year to year.

(b) Filing and Recording Agreement. – The unit shall file a copy of any agreement entered into pursuant to this section with the tax assessor for the county in which the development financing district is located. In addition, the unit shall cause the agreement to be recorded in the office of the register of deeds of that county, and the register of deeds shall index the agreement in the grantor's index under the name of the property owner. Once the agreement has been recorded in the office of the register of deeds, as required by this subsection, it is binding, according to its terms and for its duration, on any subsequent owner of the property.

(c) Minimum Assessment of Property. – An agreement entered into pursuant to this section establishes a minimum assessment of the real property subject to the agreement. If the county tax assessor determines that the real property has a true value less than the minimum established by the agreement, the assessor shall nevertheless assess the property at the minimum set out in the agreement. If the assessor, however, determines that the real property has a true value greater than the minimum established by the agreement, the assessor shall assess the property at the true value.

(d) Effect of Reappraisal. – If an agreement entered into pursuant to this section continues in effect after a reappraisal of property conducted pursuant to G.S. 105-286, the minimum assessment established in the agreement shall be adjusted as provided in this subsection. After the issuing unit of local government has adopted its budget ordinance and levied taxes for the fiscal year that begins next after the effective date of the reappraisal, it shall certify to the county tax assessor the total rate of ad valorem taxes levied by the unit and applicable to the property subject to the agreement. It shall also certify to the assessor the total rate of ad valorem taxes levied by the unit and applicable to the property in the immediately preceding fiscal year. The assessor shall determine the total amount of ad valorem taxes levied by the unit on the property in the immediately preceding fiscal year, based on the tax rate certified by the issuing unit. The assessor shall then determine a value of the property that would provide the same total amount of ad valorem taxes based on the tax rate certified for the fiscal year beginning next after the effective date of the reappraisal. The value so determined is the new minimum assessment for the property subject to the agreement.

(e) Agreement Effective Regardless of Improvements. – An agreement entered into pursuant to this section remains in effect according to its terms regardless of whether the improvements anticipated in the development financing plan are completed or whether those improvements continue to exist during the duration of the agreement. However, if any part of the property subject to the agreement is acquired by a public agency, the agreement is automatically modified by removing the acquired property from the agreement and reducing the minimum assessment accordingly.

§ 159-109. Special covenants.

A project development financing debt instrument order or a trust agreement securing project development financing debt instruments may contain covenants regarding:

(1) The pledge of all or any part of the taxes received or to be received on the incremental valuation in the development financing district during the life of the debt instruments.

(2) Rates, fees, rentals, tolls, or other charges to be established, maintained, and collected, and the use and disposal of revenues, gifts, grants, and funds received or to be received.

(3) The setting aside of debt service reserves and the regulation and disposition of these reserves.

(4) The custody, collection, securing, investment, and payment of any moneys held for the payment of project development financing debt instruments.

(5) Limitations or restrictions on the purposes to which the proceeds of sale of project development financing debt instruments may be applied.

(6) Limitations or restrictions on the issuance of additional project development financing debt instruments or notes for the same development financing district, the terms upon which additional project development financing debt instruments or notes may be issued or secured, or the refunding of outstanding project development financing debt instruments or notes.

(7) The acquisition and disposal of property for project development financing debt instrument projects.

(8) Provision for insurance and for accounting reports, and the inspection and audit of accounting reports.

(9) The continuing operation and maintenance of projects financed with the proceeds of the project development financing debt instruments.

§ 159-110. Security of project development financing debt instruments.

Project development financing debt instruments are special obligations of the issuing unit. Moneys in the Revenue Increment Fund required by G.S. 159-107(c) are pledged to the payment of the instruments, in accordance with G.S. 159-107(f). Except as provided in G.S. 159-111, the unit may pledge the following additional sources of funds to the payment of the debt instruments, and no other sources: the proceeds from the sale of property in the development financing district; net revenues from any public facilities, other than portions of public utility systems, in the development financing district financed with the proceeds of the project development financing debt instruments; and, subject to G.S. 159-47, net revenues from any other public facilities, other than portions of public utility systems, in the development financing district constructed or improved pursuant to the development financing plan.

Except as provided in G.S. 159-111, the principal and interest on project development financing debt instruments do not constitute a legal or equitable pledge, charge, lien, or encumbrance upon any of the unit's property or upon any of its income, receipts, or revenues, except as may be provided pursuant to this section. Except as provided in G.S. 159-107 and G.S. 159-111, neither the credit nor the taxing power of the unit is pledged for the payment of the principal or interest of project development financing debt instruments, and no holder of project development financing debt instruments has the right to compel the exercise of the taxing power by the unit or the forfeiture of any of its property in connection with any default on the instruments. Unless the unit's taxing power has been pledged pursuant to G.S. 159-111, every project development financing debt instrument shall contain recitals sufficient to show the limited nature of the security for the instrument's payment and that it is not secured by the full faith and credit of the unit.

§ 159-111. Additional security for project development financing debt instruments.

(a) In order to provide additional security for debt instruments issued pursuant to this Article, the issuing unit of local government may pledge its faith and credit for the payment of the principal of and interest on the debt instruments. Before such a pledge may be given, the unit shall follow the procedures and meet the requirements for approval of general obligation bonds under Article 4 of this Chapter. The unit shall also follow the procedures and meet the requirements of this Article. If debt instruments are issued pursuant to this Article and are also secured by a pledge of the issuing unit's faith and credit, the debt instruments are subject to G.S. 159-112 rather than G.S. 159-65.

(b) In order to provide additional security for debt instruments issued pursuant to this Article, and in lieu of pledging its faith and credit for that purpose pursuant to subsection (a) of this section, a unit of local government may pledge or grant a security interest in any available sources of revenues of the unit, including special assessments against property within the development financing district

made by the unit pursuant to Article 9 of Chapter 153A of the General Statutes or Article 10 of Chapter 160A of the General Statutes, as long as doing so does not constitute a pledge of the unit's taxing power. In addition, to the extent the generation of the revenues is within the power of the unit, the unit may enter into covenants to take action in order to generate the revenues, as long as the covenant does not constitute a pledge of the unit's taxing power. In addition, the unit may pledge, mortgage, or grant a security interest in all or a portion of the real and personal property being financed or improved with the proceeds of the project development financing debt instrument. Property subject to a mortgage, deed of trust, security interest, or similar lien pursuant to this subsection may be sold at foreclosure in any manner permitted by the instrument creating the encumbrance, without compliance with any other provision of law regarding the disposition of publicly owned property.

(c) No agreement or covenant may contain a nonsubstitution clause that restricts the right of the issuing unit of local government to replace or provide a substitute for any project financed pursuant to this subsection.

(d) The obligation of a unit of local government with respect to the sources of payment shall be specifically identified in the proceedings of the governing body authorizing the unit to issue the debt instruments. The sources of payment so specifically identified and then held or thereafter received by the unit or any fiduciary of the unit are immediately subject to the lien of the proceedings without any physical delivery of the sources or further act. The lien is valid and binding as against all parties having claims of any kind against a unit without regard to whether the parties have notice of the lien. The proceedings or any other document or action by which the lien on a source of payment is created need not be filed or recorded in any manner other than as provided in this Article.

§ 159-112. Limitations on details of debt instruments.

In fixing the details of project development financing debt instruments, the governing body of the issuing unit of local government is subject to these restrictions and directions:

(1) The maturity date shall not exceed the shorter of (i) the longest of the various maximum periods of usefulness for the projects to be financed with debt instrument proceeds, as prescribed by the Local Government Commission pursuant to G.S. 159-122, or (ii) the end of the thirtieth year after the effective date of the development financing district.

(2) The first payment of principal shall be payable not more than seven years after the date of the debt instruments.

(3) Any debt instrument may be made payable on demand or tender for purchase as provided in G.S. 159-79, and any debt instrument may be made subject to redemption prior to maturity, with or without premium, on such notice, at such times, and with such

redemption provisions as may be stated. Interest on the debt instruments shall cease when the instruments have been validly called for redemption and provision has been made for the payment of the principal of the instruments, any redemption, any premium, and the interest on the instruments accrued to the date of redemption.

(4) The debt instruments may bear interest at such rates payable semiannually or otherwise, may be in such denominations, and may be payable in such kind of money and in such place or places within or without this State as the issuing unit may determine.

§ 159-113. Annual report.

In July of each year, each unit of local government with outstanding project development financing debt instruments shall make a report to any other unit, and to any special district as defined in G.S. 159-7, in which the development financing district for which the instruments were issued is located. This report shall set out the base valuation for the development financing district, the current valuation for the district, the amount of remaining project development financing debt for the district, and the unit's estimate of when the debt will be retired. The unit of local government may meet this requirement by reporting this information in its annual financial statements required by G.S. 159-34.

§ 159-114: Reserved for future codification purposes.

§§ 159-115 through 159-119: Reserved for future codification purposes.

II – Project Development Districts – Outside of Redevelopment Areas

G.S. 153A-7.3

§ 158-7.3. Development financing.

(a) Definitions. – The following definitions apply in this section:

(1) Development project. – A capital project that includes capital expenditures by both private persons and one or more units of local government and that increases net employment opportunities for residents of the development district or within a two-mile radius of the project, whichever is larger, and increases the local government tax base.

If the district in which such a project will occur is outside a city's central business district (as that district is defined by resolution of the city council, which definition is binding and

conclusive), then, of the private development forecast for a development project by the development financing plan for the district in which the project will occur, a maximum of twenty percent (20%) of the plan's estimated square footage of floor space may be proposed for use in retail sales, hotels, banking, and financial services offered directly to consumers, and other commercial uses other than office space. The twenty percent (20%) limitation in the preceding sentence does not apply to development financing districts located in a development tier one area, as defined in G.S. 143B-437.08 and created primarily for tourism-related economic development, such as developments featuring facilities for exhibitions, athletic and cultural events, show and public gatherings, racing facilities, parks and recreation facilities, art galleries, museums, and art centers.

(2) Publish. – Insertion in a newspaper qualified under G.S. 1-597 to publish legal advertisements in the county or counties in which the unit is located.

(3) Unit or unit of local government. – A county, city, town, or incorporated village.

(b) Authorization. – A unit of local government may finance public improvements that are part of a development project with the proceeds of project development financing debt instruments, issued pursuant to Article 6 of Chapter 159 of the General Statutes, together with any other revenues that are available to the unit. Before it receives the approval of the Local Government Commission for issuance of project development financing debt instruments, the unit's governing body must define a development financing district and adopt a development financing plan for the district. The county may act jointly with a city to finance a project, define a development financing district that is within the city, and adopt a development financing plan for the district.

(c) Development Financing District. – A development financing district created pursuant to this section must be comprised of property that is one or more of the following:

(1) Blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth.

(2) Appropriate for rehabilitation or conservation activities.

(3) Appropriate for the economic development of the community.

The total land area within development financing districts in a unit, including development financing districts created pursuant to G.S. 160A-515.1, may not exceed five percent (5%) of the total land area of the unit. For the purposes of this section, land in a district created by a county that subsequently becomes part of a city, town, or incorporated village does not count against the five-percent (5%) limit for the city, town, or incorporated village unless the city, town, or

incorporated village and the county have entered into an agreement pursuant to G.S. 159-107(e). A county may not include in a district created pursuant to this section any land that, at the time the district is created, is inside a city, town, or incorporated village.

(d) Development Financing Plan. – The development financing plan must include all of the following:

(1) A description of the boundaries of the development financing district.
(2) A description of the proposed development of the district, both public and private.
(3) The costs of the proposed public activities.
(4) The sources and amounts of funds to pay for the proposed public activities.
(5) The base valuation of the development financing district.
(6) The projected incremental valuation of the development financing district.
(7) The estimated duration of the development financing district.
(8) A description of how the proposed development of the district, both public and private, will benefit the residents and business owners of the district in terms of jobs, affordable housing, or services.
(9) A description of the appropriate ameliorative activities which will be undertaken if the proposed projects have a negative impact on residents or business owners of the district in terms of jobs, affordable housing, services, or displacement.
(10) A requirement that the initial users of any new manufacturing facilities that will be located in the district and that are included in the plan will comply with the wage requirements referred to in subsection (e) of this section.

(e) Wage Requirements. – A development financing plan shall include a requirement that the initial users of a new manufacturing facility to be located in the district and included in the plan must pay its employees an average weekly manufacturing wage that is either above the average manufacturing wage paid in the county in which the district will be located or not less than ten percent (10%) above the average weekly manufacturing wage paid in the State. The plan may include information on the wages to be paid by the initial users of a new manufacturing facility to its employees and any provisions necessary to implement the wage requirement. The issuing unit's governing body shall not adopt a plan until the Secretary of Commerce certifies that the Secretary has reviewed the average weekly manufacturing wage required by the plan to be paid to the employees of a new manufacturing facility and has found either (i) that the wages proposed by the initial users of a new manufacturing facility are in compliance with the amount required by this subsection or (ii) that the plan is exempt from the

requirement of this subsection. The Secretary of Commerce may exempt a plan from the requirement of this subsection if the Secretary receives a resolution from the issuing unit's governing body requesting an exemption from the wage requirement and a letter from an appropriate State official, selected by the Secretary, finding that unemployment in the county in which the proposed district is to be located is especially severe. Upon the creation of the district, the unit of local government proposing the creation of the district shall take any lawful actions necessary to require compliance with the applicable wage requirement by the initial users of any new manufacturing facility included in the plan; however, failure to take such actions or obtain such compliance shall not affect the validity of any proceedings for the creation of the district, the existence of the district, or the validity of any debt instruments issued under Article 6 of Chapter 159 of the General Statutes. All findings and determinations made by the Secretary of Commerce under this subsection shall be binding and conclusive. For purposes of this section, the term "manufacturing facility" means any facility that is used in the manufacturing or production of tangible personal property, including the processing resulting in a change in the condition of the property.

(f) County Review. – If the unit creating a development financing district and adopting a development financing plan is a city, town, or incorporated village, before adopting the plan the unit's governing body shall send notice of the plan, by first-class mail, to the board of county commissioners of the county or counties in which the development financing district is located. The person mailing the notice shall certify that fact, and the date thereof, to the governing body, and the certificate is conclusive in the absence of fraud. Unless the board of county commissioners (or either board, if the district is in two counties) by resolution disapproves the proposed plan within 28 days after the date the notice is mailed, the governing body may proceed to adopt the plan.

(g) Environmental Review. – Before adopting a plan for development financing districts, the issuing unit's governing body shall submit the plan to the Secretary of Environment and Natural Resources to review to determine if the construction and operation of any new manufacturing facility in the district will have a materially adverse effect on the environment and whether the company that will operate the facility has operated in substantial compliance with federal and State laws, regulations, and rules for the protection of the environment. If the Secretary finds that the new manufacturing facility will not have a materially adverse effect on the environment and that the company that will operate the facility has operated other facilities in compliance with environmental requirements, the Secretary shall approve the plan. In making the determination on environmental impact, the Secretary shall use the same criteria that apply to the determination under G.S. 159C-7 of whether an industrial project will have a materially adverse effect on the environment. The findings of the Secretary are conclusive and binding.

(h) Plan Adoption. – Before adopting a plan for a development financing district, the issuing unit's governing body shall hold a public hearing on the plan. The governing body shall, no more than 30 days and no less than 14 days before the day of the hearing, cause notice of the hearing to be published once and shall cause notice of the hearing to be mailed, by first-class mail, to all property owners and mailing addresses of the development financing district and to the governing body of any special district, as defined by G.S. 159-7, within which the development financing district is located. The notice shall state the time and place of the hearing, shall specify its purpose, and shall state that a copy of the proposed plan is available for public inspection in the office of the unit's clerk. At the public hearing, the governing body shall hear anyone who wishes to speak with respect to the proposed district and proposed plan. Unless a board of county commissioners or the Secretary of Environment and Natural Resources has disapproved the plan pursuant to subsection (f) or (g) of this section, the governing body may adopt the plan, with or without amendment, at any time after the public hearing. However, the plan and the district do not become effective until the unit's application to issue project development financing debt instruments has been approved by the Local Government Commission, pursuant to Article 6 of Chapter 159 of the General Statutes.

(i) Plan Modification. – Subject to the limitations of this subsection, a governing body may, after the effective date of the district, amend a development financing plan adopted for a development financing district. Before making any amendment, the governing body shall follow the procedures and meet the requirements of subsections (e) through (h) of this section. The boundaries of the district may be enlarged only during the first five years after the effective date of the district and only if the area to be added has been or is about to be developed and the development is primarily attributable to development that has occurred within the district, as certified by the Local Government Commission. The boundaries of the district may be reduced at any time, but the unit may agree with the holders of any project development financing debt instruments to restrict its power to reduce district boundaries.

(j) Plan Implementation. – In implementing a development financing plan, a unit may act directly, through one or more contracts with other public agencies, through one or more contracts with private agencies, or by any combination thereof. A private agency that enters into a contract with a unit for the implementation of a development financing plan is subject to the provisions of Article 8 of Chapter 143 of the General Statutes only to the extent specified in the contract.

III – Project Development Districts – Inside Redevelopment Areas

G.S. 160A-515.1

§ 160A-515.1. Project development financing.

(a) Authorization. – A city may finance a redevelopment project and any related public improvements with the proceeds of project development financing debt instruments, issued pursuant to Article 6 of Chapter 159 of the General Statutes, together with any other revenues that are available to the city. Before it receives the approval of the Local Government Commission for issuance of project development financing debt instruments, the city's governing body must define a development financing district and adopt a development financing plan for the district. The city may act jointly with a county to finance a project, define a development financing district, and adopt a development financing plan for the district.

(b) Development Financing District. – A development financing district shall comprise all or portions of one or more redevelopment areas defined pursuant to this Article. The total land area within development financing districts in a city, including development financing districts created pursuant to G.S. 158-7.3, may not exceed five percent (5%) of the total land area of the city. For purposes of this section, land in a district created by a county that subsequently becomes part of a city does not count against the city's five-percent (5%) limit unless the city and the county have entered into an agreement pursuant to G.S. 159-107(e).

(c) Development Financing Plan. – The development financing plan must be compatible with the redevelopment plan or plans for the redevelopment area or areas included within the district. The development financing plan must include all of the following:

(1) A description of the boundaries of the development financing district.
(2) A description of the proposed development of the district, both public and private.
(3) The costs of the proposed public activities.
(4) The sources and amounts of funds to pay for the proposed public activities.
(5) The base valuation of the development financing district.
(6) The projected incremental valuation of the development financing district.
(7) The estimated duration of the development financing district.
(8) A description of how the proposed development of the district, both public and private, will benefit the residents and business owners of the district in terms of jobs, affordable housing, or services.
(9) A description of the appropriate ameliorative activities which will be undertaken if the proposed projects have a negative

impact on residents or business owners of the district in terms of jobs, affordable housing, services, or displacement.

(10) A requirement that the initial users of any new manufacturing facilities that will be located in the district and that are included in the plan will comply with the wage requirements in subsection (d) of this section.

(d) Wage Requirements. – A development financing plan shall include a requirement that the initial users of a new manufacturing facility to be located in the district and included in the plan must pay its employees an average weekly manufacturing wage that is either above the average manufacturing wage paid in the county in which the district will be located or not less than ten percent (10%) above the average weekly manufacturing wage paid in the State. The plan may include information on the wages to be paid by the initial users of a new manufacturing facility to its employees and any provisions necessary to implement the wage requirement. The issuing unit's governing body shall not adopt a plan until the Secretary of Commerce certifies that the Secretary has reviewed the average weekly manufacturing wage required by the plan to be paid to the employees of a new manufacturing facility and has found either (i) that the wages proposed by the initial users of a new manufacturing facility are in compliance with the amount required by this subsection or (ii) that the plan is exempt from the requirement of this subsection. The Secretary of Commerce may exempt a plan from the requirement of this subsection if the Secretary receives a resolution from the issuing unit's governing body requesting an exemption from the wage requirement and a letter from an appropriate State official, selected by the Secretary, finding that unemployment in the county in which the proposed district is to be located is especially severe. Upon the creation of the district, the unit of local government proposing the creation of the district shall take any lawful actions necessary to require compliance with the applicable wage requirement by the initial users of any new manufacturing facility included in the plan; however, failure to take such actions or obtain such compliance shall not affect the validity of any proceedings for the creation of the district, the existence of the district, or the validity of any debt instruments issued under Article 6 of Chapter 159 of the General Statutes. All findings and determinations made by the Secretary of Commerce under this subsection shall be binding and conclusive. For purposes of this section, the term "manufacturing facility" means any facility that is used in the manufacturing or production of tangible personal property, including the processing resulting in a change in the condition of the property.

(e) County Review. – Before adopting a plan for a development financing district, the city council shall send notice of the plan, by first-class mail, to the board of county commissioners of the county or counties in which the development financing district is located. The person mailing the notice shall certify that fact, and the date thereof, to the city council, and the certificate is conclusive in the absence of fraud. Unless the board of county commissioners (or

either board, if the district is in two counties) by resolution disapproves the proposed plan within 28 days after the date the notice is mailed, the city council may proceed to adopt the plan.

(f) Environmental Review. – Before adopting a plan for development financing districts, the city council shall submit the plan to the Secretary of Environment and Natural Resources to review to determine if the construction and operation of any new manufacturing facility in the district will have a materially adverse effect on the environment and whether the company that will operate the facility has operated in substantial compliance with federal and State laws, regulations, and rules for the protection of the environment. If the Secretary finds that the new manufacturing facility will not have a materially adverse effect on the environment and that the company that will operate the facility has operated other facilities in compliance with environmental requirements, the Secretary shall approve the plan. In making the determination on environmental impact, the Secretary shall use the same criteria that apply to the determination under G.S. 159C-7 of whether an industrial project will have a materially adverse effect on the environment. The findings of the Secretary are conclusive and binding.

(g) Plan Adoption. – Before adopting a plan for a development financing district, the city council shall hold a public hearing on the plan. The council shall, no less than 30 days before the day of hearing, cause notice of the hearing to be mailed by first-class mail to all property owners and mailing addresses within the proposed development financing district. The council shall also, no more than 30 days and no less than 14 days before the day of the hearing, cause notice of the hearing to be published once in a newspaper of general circulation in the city. The notice shall state the time and place of the hearing, shall specify its purpose, and shall state that a copy of the proposed plan is available for public inspection in the office of the city clerk. At the public hearing, the council shall hear anyone who wishes to speak with respect to the proposed district and proposed plan. Unless a board of county commissioners or the Secretary of Environment and Natural Resources has disapproved the plan pursuant to subsection (e) or (f) of this section, the council may adopt the plan, with or without amendment, at any time after the public hearing. However, the plan and the district do not become effective until the city's application to issue project development financing debt instruments has been approved by the Local Government Commission, pursuant to Article 6 of Chapter 159 of the General Statutes.

(h) Plan Modification. – Subject to the limitations of this subsection, a city council may, after the effective date of the district, amend a development financing plan adopted for a development financing district. Before making any amendment, the city council shall follow the procedures and meet the requirements of subsections (d) through (g) of this section. The boundaries of the district may be enlarged only during the first five years after the effective date of the district and only if the area to be added has been or is about to be developed and the development is primarily attributable to development that has occurred

within the district, as certified by the Local Government Commission. The boundaries of the district may be reduced at any time, but the city may agree with the holders of any project development financing debt instruments to restrict its power to reduce district boundaries.

(i) Plan Implementation. – In implementing a development financing plan, a city may act directly, through a redevelopment commission, through one or more contracts with private agencies, or by any combination of these. A private agency that enters into a contract with a city for the implementation of a development financing plan is subject to the provisions of Article 8 of Chapter 143 of the General Statutes only to the extent specified in the contract.