

Development Finance Toolbox

December 2019

Kara A. Millonzi, Robert W. Bradshaw Distinguished Professor of Public Law and Government

UNC-Chapel Hill School of Government

millonzi@sog.unc.edu



WHAT DEVELOPERS WANT?









PUBLIC CAPITAL









AGENDA

Funding Considerations

Borrowing Money

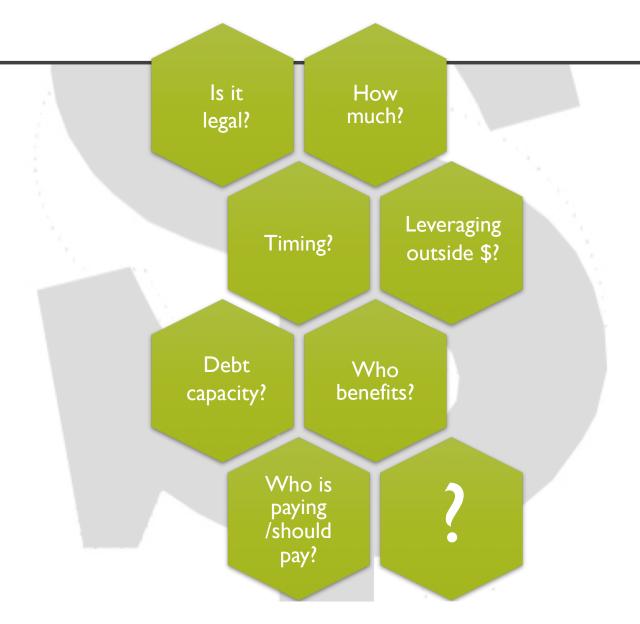
Special Levies

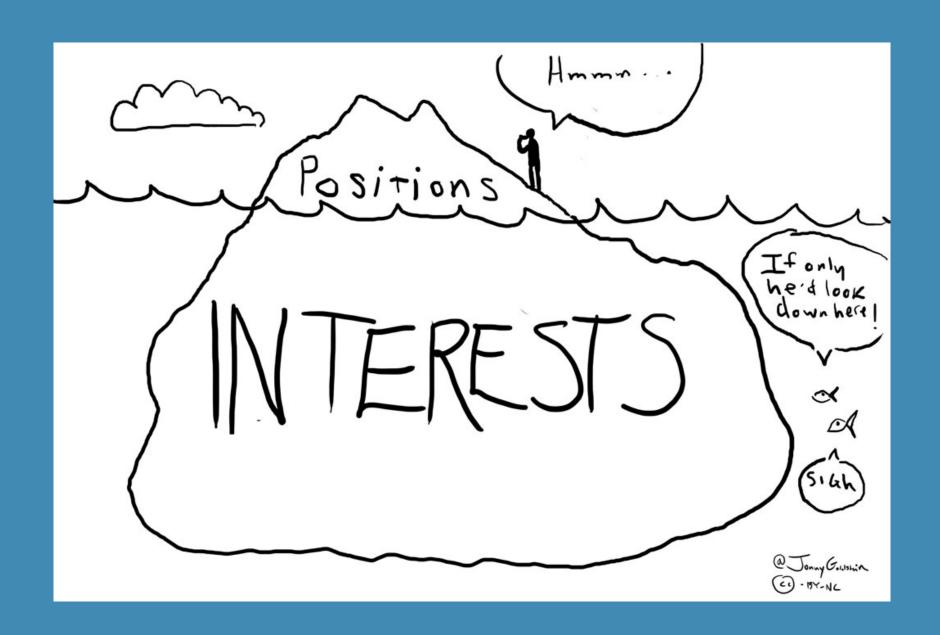
Leases, Reimbursements, P3s

Water & Sewer Funding



FUNDING CONSIDERATIONS?







Funding Methods

CURRENT REVENUES	SAVINGS	SPECIAL LEVIES	BORROWING MONEY	LEASES	GRANTS AND PARTNERSHIPS
CURRENT YEAR GENERAL FUND REVENUES	FUND BALANCE	USER FEES	GENERAL OBLIGATION BONDS	TRUE LEASE	GRANTS
CURRENT YEAR ENTERPRISE FUND REVENUES	CAPITAL RESERVE FUND	SPECIAL TAXING DISTRICTS	INSTALLMENT FINANCINGS	TRUE LEASE WITH OPTION TO PURCHASE	GIFTS/ DONATIONS (CROWD- FUNDING)
		SPECIAL ASSESSMENTS	REVENUE BONDS	LEASE- PURCHASE (Limited Authority)	REIMBURSEMENT AGREEMENTS
		CRITICAL INFRASTRUCTUR E ASSESSMENTS	SPECIAL OBLIGATION BONDS		URBAN REDEVELOPMENT AREAS
			PROJECT DEVELOPMENT FINANCINGS (TIFs)		P3 AGREEMENTS
			URBAN REDEVELOPMENT BORROWINGS		



AUTHORIZED BORROWING STRUCTURES Local Government Bond Act

(G.S. 159, Art. 4)

Revenue Bond Act

(G.S. 159, Art. 5)

Special Obligation Bonds

(G.S. 1591)

Installment Financings

(G.S. 160A-20)

Project Development Financing Act (G.S. 159, Art. 6)

Urban Redevelopment Area Borrowings (G.S. 160A-512(8))

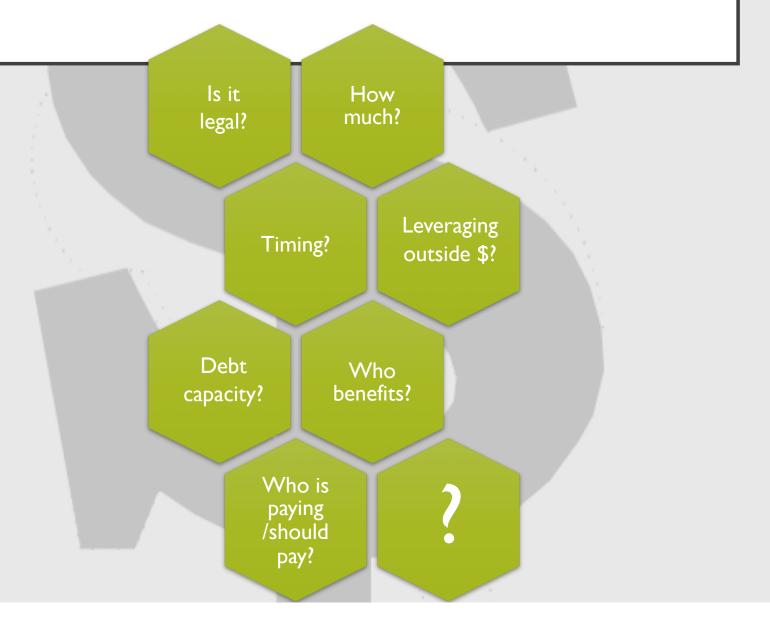
Borrowings from State or Federal Government (G.S. 160A-17.1)



SECURITY

What the lender can require the borrower to do or require the borrower to give up if the borrower does not repay the loan.

FUNDING CONSIDERATIONS?









General Resources	Targeted Revenues	New Revenues
General Revenues	User Fees	Critical Infrastructure Assessments
Savings	Special Taxing Districts	Project Development Financings (or TIFs)
General Obligation Bonds	Special Assessments	Synthetic TIFs
Installment Financings	Revenue Bonds	Leases
Leases	Special Obligation Bonds	
	Leases	

TRADITIONAL BORROWING METHODS



Installment Financings	General Obligation Bonds	Revenue Bonds	Special Obligation Bonds
Fund any capital project	Fund any capital project	Fund only G.S. 159- 81 projects	Fund solid waste, water, wastewater, and MSD projects
Pledge asset being financed	Pledge full faith and credit	Pledge revenues from asset	Pledge any unrestricted non- unit levied tax revenues
No voter approval	Voter approval generally req'd	No voter approval	No voter approval
LGC approval sometimes req'd	LGC approval req'd	LGC approval req'd	LGC approval req'd
Debt capacity limitation	Debt capacity limitation	Rate covenants	Rate covenants
Generally repaid with general funds of unit	Generally repaid with general funds of unit	Repaid with revenues from financed asset	Repaid with any unrestricted non-unit levied tax revenues
Includes Synthetic TIFs	Includes Synthetic TIFs		

OFF-BOOK BORROWING METHODS

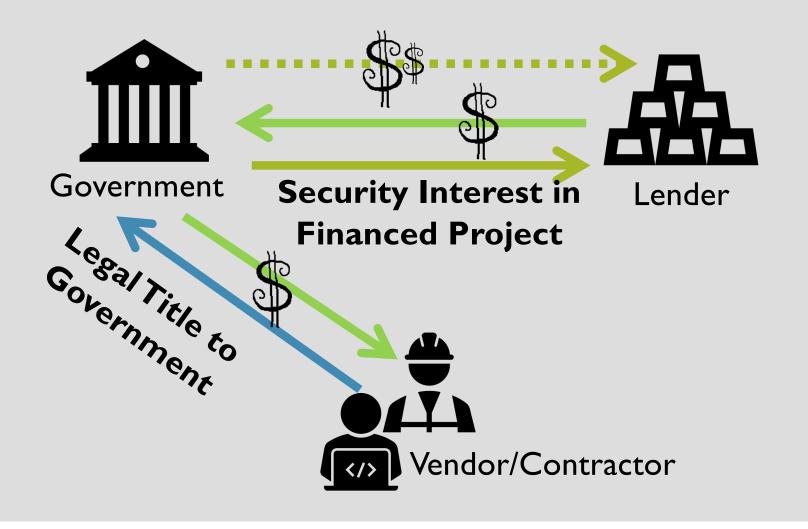


Critical Infrastructure Assessment Bonds	TIFs (Project Development Financings)	
Fund special assessment projects listed in G.S. 160A, Art. 10A or G.S. 153A, Art. 9A	Fund specified projects in G.S. 159-103 (done in conjunction with private development)	
Pledge special assessment revenue	Pledge incremental property tax revenue due to increased valuation	
No voter approval	No voter approval	
LGC approval req'd	LGC approval req'd	
Covenants	Enhanced security likely required	
Only repaid from special assessment revenue	Only repaid from incremental property tax revenue	

INSTALLMENT FINANCINGS STRUCTURE G.S. 160A-20

- (a) A unit of local government may purchase, or finance or refinance the purchase of, real or personal property by installment contracts that **create in some or all of the property purchased a security interest** to secure payment of the purchase price to the seller or to an individual or entity advancing moneys or supplying financing for the purchase transaction.
- (b) Improvements. A unit of local government may finance or refinance the construction or repair of fixtures or improvements on real property by contracts that **create in some or all of the fixtures or improvements, or in all or some portion of the property on which the fixtures or improvements are located, or in both, a security interest** to secure repayment of moneys advanced or made available for the construction or repair.

INSTALLMENT FINANCING



INSTALLMENT FINANCINGS

Simple Installment Financings

- Unit borrows no more than \$10 million (tax-exempt) in calendar year (bank qualified)
- Borrow directly from vendor, bank, or lending institution
- Simple borrowing transaction

Certificates of Participation (COPs) Limited Obligation Bonds (LOBs)

- Unit borrows more than
 \$10 million (tax-exempt) in calendar year
- Sell loan off to investors
- Complicated borrowing transaction (more like issuing debt)

SYNTHETIC TIFS

Marketing tool

Use traditional borrowing method

But expect new growth to generate more general fund revenue





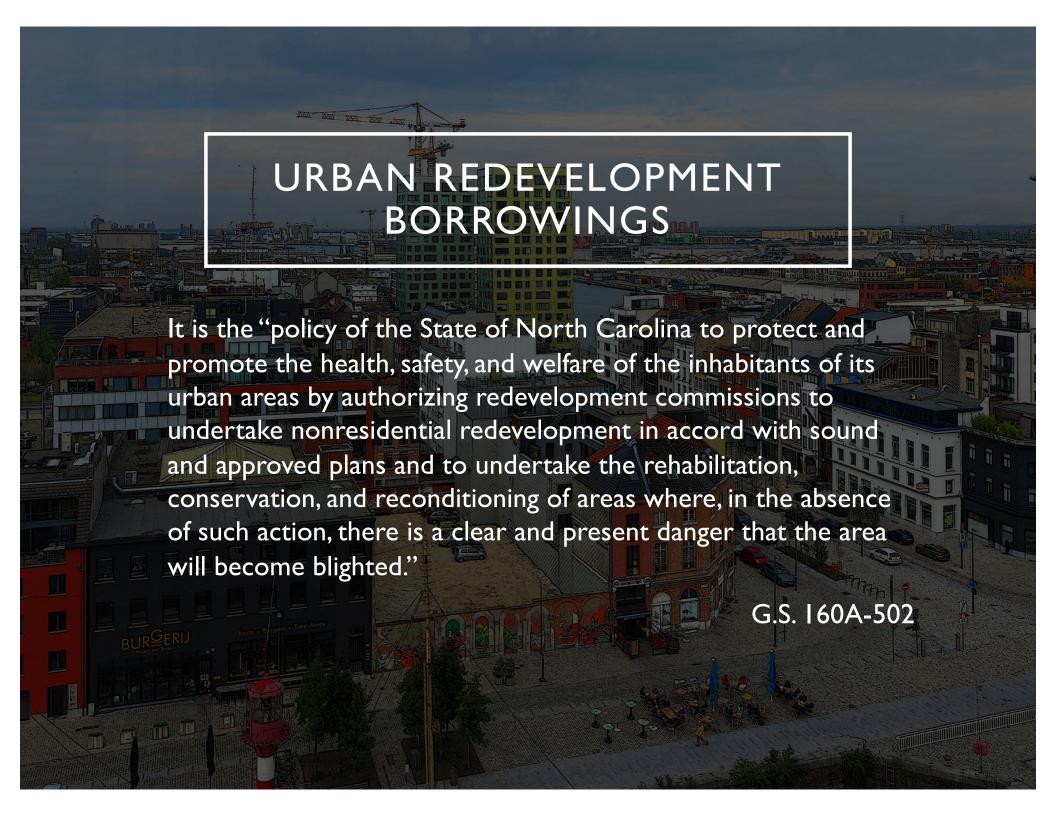
BORROWING FROM STATE/FEDERAL GOVERNMENT

§ 160A-17.1. Grants from other governments.

(a) Federal and State. – The governing body of any city or county is hereby authorized to make contracts for and to accept grants-in-aid and loans from the federal and State governments and their agencies for constructing, expanding, maintaining, and operating any project or facility, or performing any function, which such city or county may be authorized by general law or local act to provide or perform.

In order to exercise the authority granted by this section, the governing body of any city or county may:

- (I) Enter into and carry out contracts with the State or federal government or any agency or institution thereof under which such government, agency, or institution grants financial or other assistance to the city or county;
- (2) Accept such assistance or funds as may be granted or loaned by the State or federal government with or without such a contract;
- (3) Agree to and comply with any lawful and reasonable conditions which are imposed upon such grants or loans;
- (3a) Agree to and comply with minimum minority business enterprise participation requirements established by the federal government and its agencies in projects financed by federal grants-in-aid or loans, by including such minimum requirements in the specifications for contracts to perform all or part of such projects and awarding bids pursuant to G.S. 143-129 and 143-131, if applicable, to the lowest responsible bidder or bidders meeting these and any other specifications.
- (4) Make expenditures from any funds so granted.



REDEVELOPMENT COMMISSION BORROWING AUTHORITY

"To borrow money and to apply for and accept advances, loans evidenced by bonds, grants, contributions and any other form of financial assistance from the federal government, the State, county, municipality or other public body or from any sources, public or private for the purposes of this Article, to give such security as may be required and to enter into and carry out contracts in connection therewith; and, notwithstanding the provisions of any other law, may include in any contract for financial assistance with the federal government for a redevelopment project such conditions imposed pursuant to federal law as the commission may deem reasonable and appropriate and which are not inconsistent with the purposes of this Article."



SPECIAL ASSESSMENTS



Charges levied against property to pay for a specific public capital project that benefits the properties



Treated like property taxes for collection purposes

SPECIAL ASSESSMENT PROJECTS

Counties

- Water systems
- Wastewater/septic systems
- Beach erosion and flood and hurricane protection
- Watershed improvement, drainage, water resources development
- Subdivision streets*
- Subdivision street lights and lighting

Municipalities

- Streets
- Sidewalks in any public street
- Water systems
- Wastewater/septic systems
- Stormwater and drainage systems
- Beach erosion and flood and hurricane protection

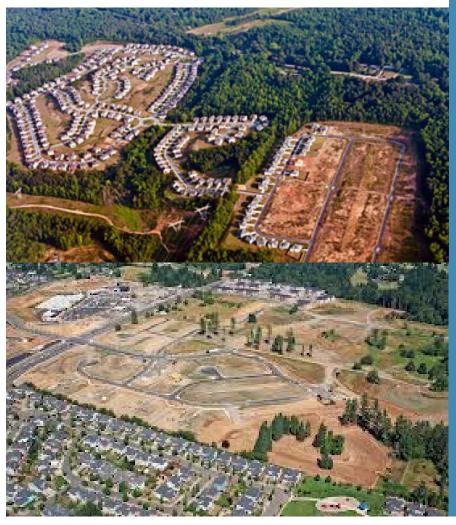
SPECIAL ASSESSMENT PROCESS



- 2. Unit determines scope and cost of project
- 3. Board adopts preliminary assessment resolution
- 4. Unit publishes notice
- 5. Board holds public hearing
- 6. Board adopts final assessment resolution
- 7. Unit completes project
- 8. Unit prepares preliminary assessment roll
- 9. Unit publishes notice of assessment roll
- 10. Board holds public hearing
- 11. Board confirms assessment roll







CRITICAL INFRASTRUCTURE ASSESSMENTS

Substitute for impact fees

Developer gets public improvements now but delays most of payment until properties are developed and sold

Unit borrows money to front costs of project and makes debt payments from assessment revenue

CRITICAL INFRASTRUCTURE ASSESSMENTS

- Expansive Statutory Purposes
- Petition Requirement
- Detailed statutory procedures
- Unit may pledge assessment revenue as security for loan to front project cost
- Unit may impose assessment based on estimated costs
- Assessments may be paid in up to 25 yearly installments
- Currently Expires July 2020

NOTE: TRACT 18 WAS ELIMINATED AND COMBINED WITH TRACT 15. Waterstone MASTER PLAN

Town of Hillsborough

- \$4.63 million at 7.75% for 10 year term
- Funds will be used to establish parks and open space, construct and improve water, wastewater and drainage facilities, construct and improve streets, roads, and rightsof-way in the assessment district
- Assessments totaled \$6.2 million on properties with 210 acre area, with payments over 10.5 years





Municipal Service Districts (MSDs)

- Beach erosion control
- Downtown revitalization
 - Urban-area revitalization
- Transit oriented development
- Drainage projects
- Sewage collection and disposal systems (including septic systems)
- Off-street parking facilities
- Watershed improvement projects



County Service Districts (CSDs)

- Beach erosion control
- Fire protection
- Recreation
- Sewage collection and disposal systems (including septic systems)
- Solid waste collection and disposal systems
- Water supply and distribution systems
- Ambulance and rescue
- Watershed improvement projects
- Cemeteries

Downtown District

Central downtown area

Urban Area District

- Central business district.
- Concentrations of industrial, retail, wholesale, office
- 3. Major transportation corridor; or
- 4. Major concentration of public or institutional uses

DOWNTOWN / URBAN AREA REVITALIZATION IS...

...improvements, services, functions, promotions, and developmental activities intended to further the public health, safety, welfare, convenience, and economic well-being of the central city or downtown area.....

....and that do not violate the NC Constitution!

NC CONSTITUTION

Public Purpose Clause

Expenditure of all public funds must be for the benefit of the unit's citizens generally, and not solely for the direct benefit of a person or private entity

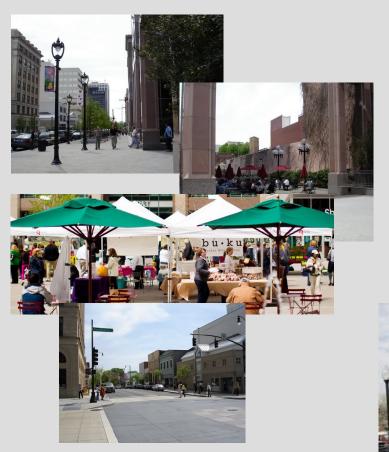
No Exclusive Privileges Clause

No person or private entity may receive exclusive benefits from the government, except in consideration of public services

No Loan or Aid of Credit

A local government may not indemnify or otherwise guarantee the debts / obligations of a private entity

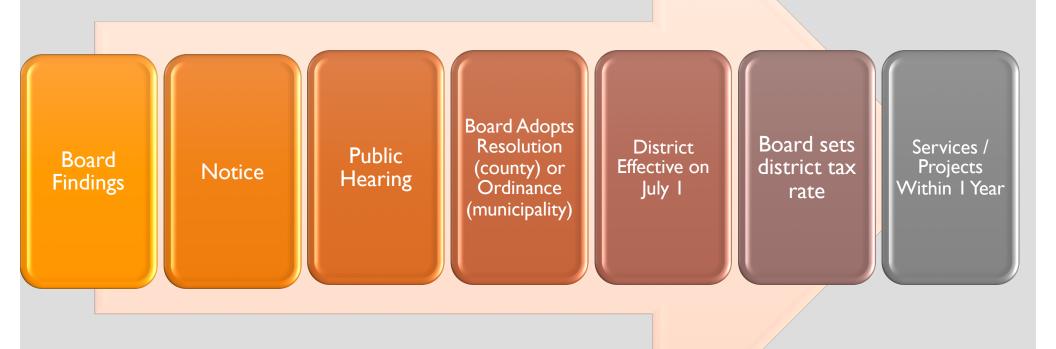
DOWNTOWN/URBAN AREA DISTRICTS











CONTRACTS IN DOWNTOWN AND URBAN AREA DISTRICTS ONLY



Solicit input from residents and property owners



Use bid process to select contracting party



Hold public hearing



Detail specific projects/services in contract



Limit contract to ≤ 5 years

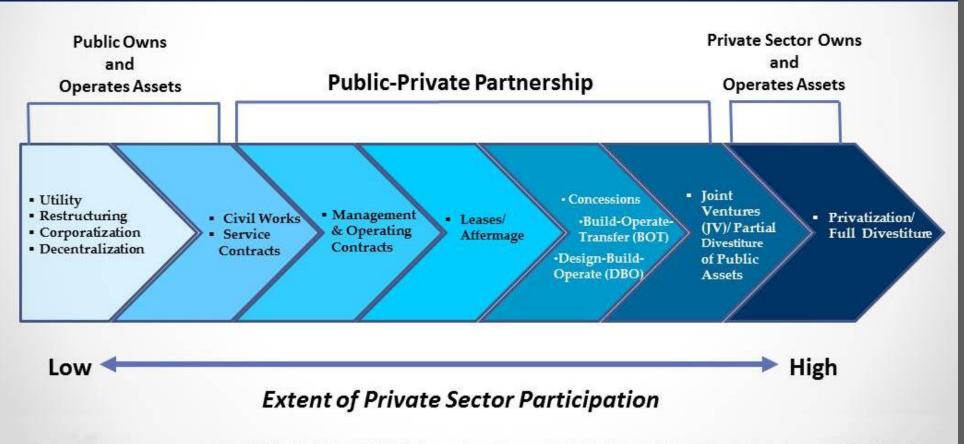


Require at least yearly accounting from private entity



LEASES & OTHER FINANCING ARRANGEMENTS

SPECTRUM OF PRIVATE SECTOR PARTICIPATION IN INFRASTRUCTURE AND DEVELOPMENT PROJECTS



Source: Delmon, Jeffrey (2010) Understanding Options for Public-Private Partnerships in Infrastructure. World Bank.

LEASE AUTHORITY

A county or city "is authorized to lease as lessee, with or without option to purchase, any real or personal property for any authorized public purpose. A lease of personal property with an option to purchase is subject to Article 8 of Chapter 143 of the General Statutes."





Property owner wants to sell property to town at less than fair market value. Property owner will treat a portion of the transaction as a donation to the town. In order for the property owner to maximize her tax benefit, she asks the town to make payments for the property over 3 years.



A village enters into a ten-year contract to lease a building that it will use to house its recreation department. Under the terms of the lease, the village will pay \$750,000 per year for full use of the facility and a private developer (the lessor) will maintain the building and conduct all repair work during the lease period. At the end of the ten year period, the village gets legal title to the building.



Private developer reviews county data and projections for sqft and intake to provide county with a design for building that would fit its needs. Developer builds and funds construction of the building. County enters into a long term lease agreement (25+ years). The County does not own the building and there is no provision for the county to even have the option to buy the property at the end of the lease period. All facility maintenance and building upkeep and improvements would still be taken care of by developer for the life of the lease. The lease payments over the life of the lease cover the full costs of construction.







REIMBURSEMENTS

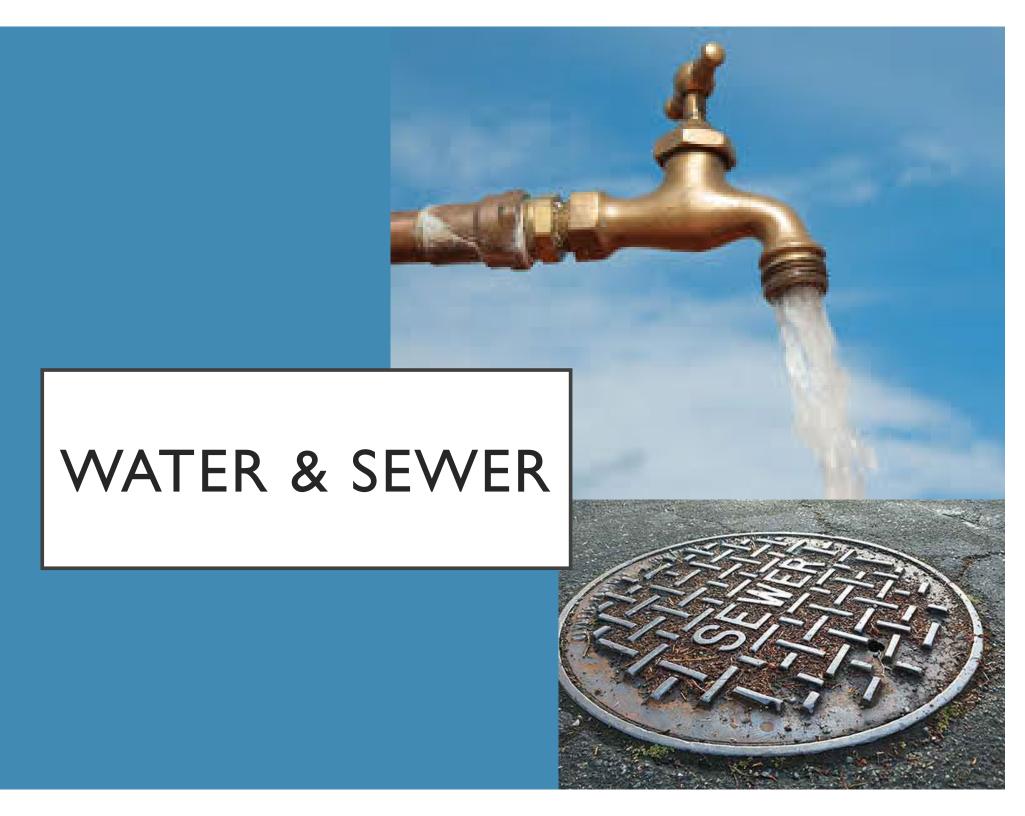
	PUBLIC ENTERPRISE CONTRACT	ROADWAY AND INTERSECTION CONTRACT	REIMBURSEMENT AGREEMENTS
Statute	153A-280; 160A-320	160A-309 (city only)	153A-451; 160A-499
Projects	Public enterprises	 Public intersection or roadway improvements 	 "municipal infrastructure" (e.g. water, sewer, stormwater, streets, curbs, sidewalks, traffic control)
Scope	 Cost of design and construction improvements; must be adjacent or ancillary to private land development; cannot pay for improvement required by development ordinances 	 Must be adjacent or ancillary to a private land development project 	 Improvement must be included in the local government's capital improvement plan and must serve the developer or property owner

P3 AUTHORITY GS 143-128.1C

Contracting Statute

Includes ability to negotiate financing of mixed public / private project

Private developer must fund at least 50% of project



System
Development
Fees

Contractual Charges

Regulatory Fees Availability Fees Connection
/ Tap Fees

User Fees

Assessed on new development

Assessed to cover costs of inspections, plan reviews, etc.

Assessed on property owner at time of connection

Assessed pursuant
to contract to
extend
water/sewer lines
to property or do
system changes/
expansions to
serve property

Assessed on certain properties when water/sewer available but property owners choose not to connect

Assessed on water/sewer utility customers—typically has fixed and variable component



Local government utility may assess a system development fee on "new development" within its territorial boundaries to fund certain capital costs attributable to that new development.

WHAT IS "NEW DEVELOPMENT"?



Subdivision of Land

Construction, or any change to existing structure, that causes increase in need for service



Any use or extension of use of land that increases need for service

SPENDING PROCEEDS

Incremental / Combined Cost Methods

- Costs of construction or expansion that were "necessitated by and attributable to" new development (construction; surveying/engineering; land acquisition; debt service; fee analysis costs)
- If no capital improvements planned for 5 years, debt service on existing "capital improvements"

Buy—in Method

- Specific future capital projects; must be identified in CIP
- Debt service on existing utility infrastructure