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## RAD financing: A method to avoid developer - municipality stand-offs

In New Jersey, Revenue Allocation District or "RAD" financing provides a means to avoid the conflict between a developer and a municipality over the funding of a pro forma busting public infrastructure improvement. Developers frequently encounter situations where they are unable to undertake an otherwise viable redevelopment project; because the costs of the infrastructure improvements that the municipality is requiring in connection with the project are too high. These improvements can include major and costly repairs to or replacements of, antiquated roads, highways, water systems or sewer systems. They can also include building a parking structure to replace existing surface parking.

RAD financing allows a municipality to utilize the increase in tax revenues that a redevelopment creates, in a delineated portion of the municipality, called a "District," to fund the public infrastructure improvements, called a "Project," that redevelopment requires to proceed. The municipality funds the Project by issuing tax-exempt bonds. The municipality uses the increase in tax revenues from the redevelopments within the District to pay the principal and interest on the bonds. The Revenue Allocation District Financing



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Act ("RADFA") and the February 22, 2005 rules ("Rules"), which implement it, set forth the standards and requirements for RAD financing.

In order for a municipality to utilize RAD financing, there must be a development planned within the District, such as a shopping center, a distribution center or a residential development. This development must be "likely to be realized" by a private developer. However, the developer must be unable to accomplish the development without the Project. A Project can be a major road, sewer, water or parking improvement or an environmental clean up. If the Project meets this "but for test," and the private development and the Project promote the principles of "Smart Growth," then, subject to meet-

ing the other requirements of RADFA and the Rules, a municipality can implement a RAD. The Local Finance Board of the New Jersey Department of Community Affairs must also approve the RAD.

The RAD District must have specific boundaries and should include all of the properties, within its borders, that the Project benefits. However, the Project itself does not have to be within the boundaries of the District. The District must be located in an "Area in Need of Redevelopment," as defined in the Local Redevelopment and Housing Law, and the Redevelopment Plan for the Area in Need of Redevelopment must include the District, the Project and the planned development.

A municipality can utilize several sources of revenue within the District in order to meet the debt service on the bonds it issues to finance the Project. The municipality can use the increase in real property taxes in the District created by the redevelopment, called the "property tax increment." The municipality can also use the incremental revenue from payments in lieu of taxes or "PILOTS." It can also use the incremental revenues from wage or payroll taxes from activities generated in the District. Moreover, if the District is located in an Urban Enterprise Zone or "UEZ," it can use

a portion of the sales and excise taxes on activities in the District.

A RAD provides substantial benefits to both the developer and the municipality. The Developer is able to finance a major infrastructure project with no additional costs to its redevelopment. The developer pays for the financing through paying taxes it would have paid in any event.

The municipality gains a major redevelopment project that would not otherwise have been built. This redevelopment beautifies the municipality, brings jobs to the municipality, stabilizes the municipality and makes it a more attractive place in which to live and work. Thus, the redevelopment project will attract other high quality projects to the community and bring in new residents. The municipality will also obtain a needed public infrastructure improvement. Finally, once the bonds are retired, the municipality will also gain a substantial increase in tax revenues. Accordingly, RAD financing provides a powerful and mutually beneficial tool to municipalities and developers interested in promoting redevelopment and Smart Growth.

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