Tools for Financing Community and Economic Development: Case Studies

State College, PA

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Paul Lundeen is a partner at Rhoads & Sinon LLP in Harrisburg, where he has concentrated his practice in public finance for the past 31 years. He has served as bond counsel or counsel to the underwriter, borrower, trustee or lender in a wide variety of bond issues and loan transactions for the Commonwealth of Pennsylvania and its agencies, counties, municipalities, schools districts, sewer and water authorities, general purpose municipal authorities, redevelopment authorities, industrial and commercial development authorities, hospitals, continuing care retirement communities, nursing homes, and private businesses, in borrowings ranging in size from $100,000 to $800,000,000.

Mr. Lundeen has lectured on the topic of public finance for several organizations, including the Pennsylvania Bar Institute, the Pennsylvania State Association of Township Supervisors, the Pennsylvania League of Cities and Municipalities, the Pennsylvania Association of Bond Lawyers, the Pennsylvania Association of School Business Officials, PANPHA-An Association of Nonprofit Senior Services, and the Office of General Counsel for the U.S. Department of Agriculture.

A graduate of the University of Delaware (B.A. *with Highest Honors*, 1974) and the Dickinson School of Law (J.D., *magna cum laude*, 1977), where he served as Articles Editor of the *Dickinson Law Review*, Mr. Lundeen is currently a member of the Pennsylvania Bar Association, the National Association of Bond Lawyers, and the Pennsylvania Association of Bond Lawyers, and is a past President of the Pennsylvania Association of Bond Lawyers.

David O. Twaddell, Esquire
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Since joining Rhoads & Sinon LLP in 1981, David Twaddell has served a wide range of clients with their special financing needs. Acting as bond counsel, bank counsel, underwriters' counsel, and special project counsel, he has managed public offerings and private placement of bonds and notes, bank loans, industrial and commercial development projects, and state and federal grants and loans. His experience includes issuance of general obligation bonds and notes and revenue based financing for the Commonwealth and its agencies and for municipalities, school districts, hospitals, colleges, and other nonprofit organizations, as well as for private businesses. In addition to providing traditional finance structures, Mr. Twaddell has assisted clients in the development of innovative programs including bond pools, non-debt lease financing, and variable tender bonds.

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A graduate of Bard College (B.A., 1976) and the Dickinson School of Law (J.D., 1980), Mr. Twaddell is currently a member of the National Association of Bond Lawyers and the Pennsylvania Association of Bond Lawyers, and is a current Member of the Board and immediate past President of the Pennsylvania Association of Bond Lawyers.

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Mr. Cox is a bond attorney in Rhoads & Sinon's municipal finance practice group where he assists municipalities, school districts and other public entities in the tax-exempt financing of capital projects, such as schools, sewer, water and other public facilities, as well as certain taxable or tax-exempt private projects, such as hospitals, continuing care retirement communities, manufacturing facilities. Mr. Cox's experience includes work on community and economic development projects, including financings under the Neighborhood Improvement District Act and the Tax Increment Financing Act.

Mr. Cox has lectured on the topic of public finance for several organizations, including the Pennsylvania State Association of Township Supervisors and the Pennsylvania League of Cities and Municipalities.

He is a graduate of Dickinson College (B.S., *magna cum laude,* 1997) and the Dickinson School of Law of the Pennsylvania State University (J.D. 2006).

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Established in 1935, and located in the heart of Harrisburg's commercial and government districts, Rhoads & Sinon LLP is one of Central Pennsylvania's premiere regional firms providing sophisticated counsel to corporate, municipal, governmental and individual clients throughout the Commonwealth of Pennsylvania.

As one of only a handful of regional firms of its size, Rhoads & Sinon is large enough to handle the most complex and sophisticated legal matters, yet small enough to provide the personal attention that clients expect and deserve.

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Rhoads & Sinon's attorneys practice in the following areas:

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CASE STUDY 1: Old Shopping Center

Within the municipality there is an older, underutilized, strip shopping center containing numerous vacant store fronts as well as vacant land that could be developed. Over the past 5 years the owners of the shopping center have tried to recruit new tenants, but have only been marginally successful. The site, which contains approximately 20 acres, is served by public utilities and transit, but most of the utilities were installed in the 1950s and need to be upgraded to accommodate redevelopment. The property has frontage on two arterial streets.

As part of a redevelopment of the site, the municipality would like to relocate a local street that is adjacent to one side of the site and close a second local street to improve traffic flow and pedestrian safety in this section of the community. If this street relocation is not possible, an alternative method for improving vehicular and pedestrian movement would be to widen the smaller arterial street and install traffic signals at one of more of the entrance driveways to the center.

The community's comprehensive plan has identified the site as a candidate for redevelopment in a mix of commercial and residential uses, including single-family townhouses, high-rise owner-occupied condominiums, and retail/commercial uses. The site is zoned commercial.

The Governing Body of the Municipality would like to see the area revitalized.

What can the Municipality and other local governmental bodies do to encourage the revitalization of the area, apart from any needed changes in zoning, development and land use regulations?

The following, in order of increasing governmental involvement:

<u>TRADITIONAL FINANCING OF PUBLIC IMPROVEMENTS</u>

Parties: Municipality or Municipal Authority; Lender or Underwriter

- General obligation bonds (or notes) of municipality issued to fund street improvements
  - Municipality pledges its full faith, credit and taxing power
  - Municipal taxes increased as needed to cover debt service
  - Bonds Qualify as tax-exempt
  - Build America Bonds (35% Direct Pay or Tax Credit)

- Water and Sewer Revenue Bonds issued by Municipality or Authority to fund sewer and water improvements
  - Municipality (or sewer and water authority) pledges its sewer and water revenues

- Water and sewer user charges increased as needed
- Municipal guaranty may be required to market bonds
- Bonds Qualify as tax-exempt
- Build America Bonds (35% Direct Pay or Tax Credit)

TAX INCENTIVE FOR PRIVATE IMPROVEMENTS

Parties: Municipality, School District, County

- Create special Local Economic Revitalization Tax Act (LERTA) District
  - No public financing involved
  - New improvements in special tax district eligible for reduced real estate taxes for up to 10 years following the year in which improvements are completed
  - Up to 100% of new assessed value
  - Fixed or sliding scale?
  - Taxpayers must make application for tax reduction

TAX INCREMENT FINANCING OF PUBLIC IMPROVEMENTS

Parties: Municipality, Planning Commission, Redevelopment Authority or Industrial Development Authority, County, School District; Lender or Underwriter

- Issuing Authority (redevelopment or industrial development authority) issues Special Revenues Bonds payable from taxes (tax increment) to be collected on new construction and improvements in a designated "tax increment district"
  - Area must be declared "blighted" and designated as a redevelopment area
  - Tax increment plan must be prepared
  - Public Hearing must be held
  - Participation by all taxing bodies?
  - Establishment of Tax Increment District and allocation of tax increments to issuing Authority
  - Credit Enhancement?
  - Municipal guaranty?

- State TIF guaranty program?
- Developer / Occupant guaranty or support agreement
- Taxable or Tax-exempt Bonds?
- If bonds qualify as tax-exempt, Build America Bonds may be an option

"FULL- SCALE" REDEVELOPMENT PROJECT

Parties: Municipality, Planning Commission, Redevelopment Authority, Redeveloper

- Planning commission certifies an area as a redevelopment area (based upon a finding of "blight") and prepares a redevelopment area plan
    - Redevelopment plan must be made in conformance with the comprehensive general plan
    - Redevelopment area plan sets the boundaries of the redevelopment area, shows existing uses and proposed uses, indicates any proposed zoning changes or changes in street layouts and traffic regulation, etc.
- Redevelopment Authority prepares a proposal for redevelopment of all or part of redevelopment area established by planning commission
    - Authority may hold a public hearing prior to its final determination of the redevelopment proposal
- Redevelopment proposal is submitted for review to planning commission, which has 45 days to make its recommendations on the proposal to the governing body of the Municipality
- Authority submits redevelopment proposal to governing body of the Municipality, with any planning commission recommendations
- Municipality holds a public hearing on the redevelopment proposal and then acts to approve or disapprove the proposal. If approved, the redevelopment authority is authorized to take such action as is necessary to carry it out.
- Redevelopment Authority may enter into contracts with individuals, governments, partnership or public or private corporations for the redevelopment of a redevelopment area or any portion thereof, or any building or structure thereon

- Authority may deed or lease property to the redeveloper in furtherance of redevelopment project
- Redevelopment contract to include nondiscrimination clause, plans and other documents to show type, material structure and general character of the redevelopment project and intended use for each part thereof
- Redevelopment contract to include a guaranty of completion within specified time frame, including forfeiture of title if project not completed timely, plus requirements for contractors' bonds
- Redevelopment contract is subject to approval by governing body of the Municipality
    - May be submitted as part of the redevelopment proposal
    - If not submitted and approved as part of the redevelopment proposal, may be submitted later and approved by Municipality if found to be in substantial conformity with previously approved proposal (no additional hearing required)

- Property Acquisition
    - Redevelopment authority may assemble, purchase, obtain options upon or otherwise acquire real or personal property within the redevelopment area (may not acquire real property outside the redevelopment area unless necessary to the successful redevelopment of the redevelopment area
    - Authority may exercise the power of eminent domain within the redevelopment area

Kelo v. City of New London, 525 US 469 (2005) – U.S. Supreme Court upheld condemnation of property for economic development purposes under 5th Amendment of U.S. Constitution; acknowledges states' rights to impose more stringent condemnation requirements.

In re: Condemnation by the Redevelopment Authority of Lawrence County, 962 A.2d 1257 (Pa. Commw. 2008). December 2008 decision of the Commonwealth Court finding that to certify a redevelopment area under the "economically undesirable use"

standard an objective reasonable person analysis is required with evidence that the properties in the redevelopment area inflict affirmative harm to the community due to the physical condition or the use of those properties.

Current PA Law on the exercise of eminent domain. Following Kelo, in 2006 Pennsylvania amended the Eminent Domain Code, effectively removing a Redevelopment Authority's ability to condemn properties in a redevelopment area for private enterprise (several exceptions, including for purely public charities, low-moderate income housing projects; and redevelopment areas certified before the effective date of the amendment, *i.e.* before May 1, 2006). Now essentially must satisfy Eminent Domain Code's definition of "blight." Least stringent condemnation standard probably a property having three or more of the following characteristics:

(i) has unsafe or hazardous conditions that do not meet current use, occupancy or fire codes;

(ii) has unsafe external and internal access ways;

(iii) is being served by an unsafe public street or right-of-way;

(iv) violates the applicable property maintenance code adopted by a municipality and is an immediate threat to public health and safety;

(v) is vacant (all units if "condominium" property);

(vi) is located in a redevelopment area with a density of at least 1,000 people per square mile or a redevelopment area with more than 90% of the units of property being nonresidential or a municipality with a density of at least 2,500 people per square mile.

CASE STUDY 2: Downtown Hotel

The private owner of a 1-acre site in downtown has approached the community with a proposal to redevelop the site with a mixed use development anchored by a 12-story, 150-room, conference center hotel. The property currently contain several 1- and 2-story buildings the majority of which are occupied by businesses leasing space from the owner. The owner's proposed redevelopment will require relocating some or all of these businesses, either temporarily or permanently. The site is served by public transit and public utilities, but public water and sewer mains will need to be upgraded to service the site, particularly if the owner/developer needs to improve water pressure to accommodate fire flow in hotel.

Due to site limitations, parking for the facility will provided through a 200-car underground parking garage that will be located under the building. The municipality has indicated an interest in expanding this parking garage to provide additional public parking in this section of downtown to help address a perceived shortage of convenient public parking.

A traffic impact study for the project indicates that improvements to 3 intersections are needed to correct level of service deficiencies, including signalization of 2 intersections of local streets with state routes that bisect downtown. In addition, studies of pedestrian circulation in the area suggest that sidewalks will need to be widened to accommodate the increased pedestrian traffic to be generated by the retail and commercial businesses that will be incorporated into the first 3 floors of the hotel. The owner has indicated interest in pursuing certification under either LEEDS or Green Globes.

The Governing Body of the Municipality is in favor of the Project, what can it and other local governmental entities do to enable the Project? The Municipality wishes to take a site-specific approach, with as little impact on general taxes and revenues or water, sewer or other utility revenues.

TAX INCREMENT FINANCING OF PRIVATE IMPROVEMENTS

Parties: Municipality, Planning Commission, Redevelopment Authority, County, School District

- Redevelopment area declared and tax increment district created as discussed in Case Study #1
- Plan must include provisions with respect to relocation of displaced persons and businesses
- School District, County and Municipality pledge Tax Increments
- Proceeds of tax increment bonds used to finance part of the Company's project costs
- Taxable or tax-exempt bonds?
- Prevailing Wages?

INFRASTRUCTURE AND FACILITIES IMPROVEMENT PROGRAM (IFIP)

Parties: Redevelopment Authority; Owner/Developer; DCED

- A State program under which grants are made to qualified projects in amounts related to the additional state taxes (tax increment) that will be generated by the Project
- If approved, grants can be received annually for up to 20 years (hotel and convention center projects) to cover all or portion of debt service on debt issued to finance eligible project costs
- Initial grant for four (4) years
- Grants for subsequent years based upon applicant's demonstration that tax revenues from sales taxes, hotel occupancy taxes, and employer-withheld personal income taxes from the project will exceed the amount of the grant awarded in the prior year
- Grants may not exceed amount of debt service paid in the fiscal year on the project
- Qualified projects include hotels associated with a convention center
- Applicant must be a redevelopment authority, an industrial development authority, PEDFA or a convention center authority
- Number of net new full-time jobs to be created or preserved by the project must be set forth in the application
- Project user (Owner/Developer) must submit financial information with CPA- prepared projection of expected 3-years' collections from sales taxes, hotel occupancy taxes and personal income tax withholdings from activities resulting from the project
- Project user (Owner/Developer) must provide firm commitment for project completion
- Project financing must identify a party other than the Commonwealth that will be responsible for repayment of debt
- All grant funds must be used to pay project debt service
- Applicant must satisfactorily demonstrate to DCED that the full amount of debt service will be paid, regardless of the amount of grant received
- Guarantees? Owner/Developer? Municipality?

- Grants paid one time per fiscal year, upon application from Applicant for reimbursement of paid debt service for project
- State IFIP Guaranty Program available

PARKING FACILITIES

- Borough empowered to create Parking Authority
- Power to lease portions of garage for commercial use (negotiation permitted, bidding not required)
- State law and federal tax law require primary public benefit
- Use defined by time
- First come, first served
- Consolidated parking revenues
- Developer Management Contracts

CASE STUDY 3: New Research Company

Several land owners in the community have formed a partnership and are negotiating with major materials research company to build a turnkey building for the company on land adjacent to the campus of a major university. The company has advised the partnership that it needs 100,000 square feet of building space for phase 1 of its project with the capability of expanding over the next five years to 200,000 square feet. Additional expansion, including adding the capability of prototype manufacturing, may occur. The company has advised the partnership that proximity to campus is crucial to the success of the project because of funded research occurring on campus in the company's area of expertise. The partnership does not control sufficient acreage to accommodate the future growth needs of the company and is in negotiation with other land owners in an effort to gain site control of the 15 acres of land needed to accommodate expansion of the research center and possible manufacture of prototypes. However, most of these sites contain smaller scale income producing rental buildings that inflate land values making site assembly more complex. In order for the project to come to fruition, it will be necessary to alter the street network in the neighborhood, relocate and upgrade water, sewer and storm water management utilities, including moving overhead utilities into underground tunnels, and improve access to telecommunications infrastructure. The company, partnership, and community are interested in revitalizing the neighborhood around the site of the research facility, including improvements to public amenities, attracting retail and commercial businesses, and construction of new housing that would be affordable for entry level employees that will be hired by the research firm.

TAX-EXEMPT INDUSTRIAL DEVELOPMENT AUTHORITY FINANCING

Parties: Industrial Development Authority; Municipality; Developer; Lender or Underwriter; DCED

- Qualified Small Issue Manufacturing Project
- Up to $10 million in tax-exempt loans or bonds
- Project under $20 million, including tax-exempt loans or bonds and capital expenditures by project user within 6-year period (3-years before issuance to 3-years after issuance) with respect to same facility and all other facilities in the same municipality
- Project may include
  - manufacturing facilities (and manufacturing equipment)
  - directly related and ancillary property within a 25% allowance
  - if bonds issued in 2009 or 2010,
    - facilities used in the production of intangible property qualify (added by American Recovery and Reinvestment Act of 2009)

- functionally related and subordinate property qualifies without limit, in place of 25% allowance for directly related and ancillary

- Developer must apply to IDA with project description, schedule of costs and commitment letter or letter of intent to provide financing from lender or underwriter

- IDA must submit Application to DCED for approval to issue bonds undertake financing

- Public hearing required prior to Application

- Municipality (or county) in which project is located must give approval to use tax-exempt financing following hearing

NEIGHBORHOOD IMPROVEMENT DISTRICT FINANCING

Parties: Municipality; Authority or Nonprofit Corporation; Lender

- Neighborhood Improvement District (NID): Area within municipality within which assessment-based programs may be established consistent with neighborhood needs

- Municipality given the power to establish a NID and expend municipal funds to prepare plans and studies, acquire or lease property, advance funds to Neighborhood Improvement District Management Association (NIDMA)

- NIDMA is a governing body that oversees the management of a NID, and may be either incorporated as a nonprofit corporation or a municipal authority (Municipality Authorities Act)

- Creation process:

  - Either governing body of Municipality or local businesses or residents may initiate action to create a NID

  - Petition does not bind municipality to create NID

  - **Preliminary plan** prepared, including map of district, description of services areas, list and cost of proposed improvements, proposed revenue sources, estimated time for implementation of proposed improvements, programs and services, proposed first year budget, identification of the NIDMA, etc., as detailed in the statute.

  - Municipality to hold at least one **public hearing** to receive comment on affected property owners within the proposed NID.

- Municipality to provide notice of hearing and copy of preliminary plan to all property owners and lessees in the proposed NID at least 30 days before first public hearing. Notice of hearing also to be published in newspaper of general circulation at least 10 days in advance

- **Final plan**, incorporating changes made based upon public comment at hearing or at some other time, must be submitted to property owners within the proposed NID, with changes from preliminary plan indicated

- **Public hearing** to be held by municipality to receive public comment on any revisions to the preliminary plan by affected property owners Ten (10) days' published notice.

- Following the public hearing on the final plan, affected property owners located within the proposed NID shall have **45 days to file objections and to register disapproval** in the office of the clerk of the municipality.

- **If less than 40% of affected property owners register disapproval**, the municipality may, following the 45-day period, enact an ordinance establishing the NID.

- Ordinance may include a "sunset provision" of no less than 5 years (NID automatically to terminate on specified date unless previously renewed)

- Written agreement between municipality and NIDMA describes the parties' respective duties and responsibilities

  - Agreement may provide for the municipality to collect all property assessment fees levied within the NID

- NIDMA assumes powers given by the Act immediately upon the effective date of the ordinance

  - Employ necessary staff

  - Prepare plans and studies or contract for the same

  - Make capital improvements and provide programs and services

  - Expend funds in accordance with any specific provisions contained in enabling ordinance

  - Purchase or lease property

- Make improvements, such as sidewalks, street paving, parks, recreational facilities, street lighting, parking lots, parking garages, trees and shrubbery, sewers, water lines, rehab or demolition of blighted buildings or comparable structures
- Hire security officers or off-duty police to patrol NID
- Designate a District Advisory Committee or Council comprised of property owners in the NID to provide guidance and direction to the NIDMA
- Impose special property assessment fees, upon approval of the municipal governing body, based on the estimated cost of the programs, improvements or services to be provided in the NID as stated in the approved final plan

- In business improvement districts, residential properties may be excluded from assessment
- Assessment may be weighted (higher on business, industrial or institutional properties) in a NID containing a mix of properties, if the basis for calculation of the fee meets the rational nexus test
- Assessment may be by one of several methods, dependent upon nature of improvements and services: assessed value of benefited properties, in proportion to benefits as determined by a board of viewers, any other equitable method or foot-front method in certain cases
- Municipality may provide by ordinance for payment of assessments in installments over time bearing interest, but if bonds, notes or guarantees issued to provide for cost of services and improvements, assessments installments may not be payable beyond the term for which the bonds, notes or guarantees are payable
    - Municipality may issue bonds, notes or guaranteed to finance needed improvements within the NID
        - Bonds or notes to be payable from special assessment fees
        - Municipality may guarantee bonds or notes

TAX INCENTIVE FOR PRIVATE IMPROVEMENTS (LERTA)

TRADITIONAL FINANCING OF PUBLIC IMPROVEMENTS

TAX INCREMENT FINANCING OF PUBLIC IMPROVEMENTS

TAX INCREMENT FINANCING OF PRIVATE IMPROVEMENTS

CASE STUDY 4: Neighborhood Improvement

A neighborhood in the North End of the Municipality was originally developed 85 years ago and contains a mix of residential and commercial uses. The area is frequented by many college students and visitors, particularly on nights and weekends, and many property owners have approached the governing body of the Municipality asking for enhanced street lighting, more frequent cleaning of streets and sidewalks and stepped-up police patrols. The governing body of the Municipality agrees that the area would benefit from these improvements, but citizens of other neighborhoods vehemently oppose any tax increase which would improve only the North End. Citizens of the North End are amenable to a tax increase, if these improvements would be made.

NEIGHBORHOOD IMPROVEMENT DISTRICT FINANCING

(See Case Study 3)

The principal distinction between Case Study 3 and this Case Study is local neighborhood support.

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Municipal Finance - TIF Fact Sheet

Tax Increment Financing Act of 1990, as amended, 53 P.S. § 6930.1 et seq.

Overview: Mechanism for funding public works or improvements for private residential, commercial or industrial development or revitalization through the allocation and dedication of all or a portion of the additional taxes resulting from increases in property values or from the increase in commercial activity as a result of the development or revitalization project.

Project Costs That May Be Funded: Capital costs, including costs of actual construction, rehabilitation, remodeling or repair of buildings, structures or fixtures; acquisition, upgrade or rehabilitation of machinery or equipment; acquisition, clearing or grading of land; financing costs; real property assembly costs; professional fees of architects, planners, engineers, and lawyers; administrative costs; relocation costs; etc. Capital costs may also include costs of construction, rehabilitation or repair of publicly owned infrastructure outside the tax increment district that is of direct benefit to a project.

> (Note that prevailing wages may have to be paid on a project funded in whole or in part with tax increment bond proceeds. See *Penna. State Building and Construction Trades Council, et al. v. Penna. Prevailing Wage Appeals Board*, 2002 Pa. LEXIS 2283 (Pa. Supreme Court, 2002).)

Tax Increment: The incremental tax revenues (and if determined at creation of the District, incremental PILOT payments) resulting from an increase in the total market value of taxable real property within the TIF District, determined by reference to the market value of taxable real property within the TIF District on the date of its creation. (Tax increment may also include incremental tax revenues from business use and occupancy taxes, sales taxes and Act 511 or Sterling Act taxes, but real property tax increment is the one most commonly used.)

Tax Increment Allocation: Determined by the local taxing bodies (county, school district, municipality) levying taxes in the TIF District. Allocation shall be from the date when the TIF District is created until all improvements specified in the project plan and its amendments have been completed and all project costs and tax increment bonds or notes have been paid. Term of TIF District may not exceed 20 years unless an amendment is made to the initial project plan. Term of tax increment bonds or notes may not exceed 20 years.

TIF District: A contiguous geographic area within a "redevelopment area" which a planning commission has found to be "blighted" in accordance with the Urban Redevelopment Law so as to require redevelopment under that Act or the TIF Act. (Note: Aggregate value of equalized taxable property of all tax increment districts within a county or municipality may not exceed 10% of the total value of equalized taxable property within that county or municipality.)

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Blight: "That there exist in urban communities in this Commonwealth areas which have become blighted because of the unsafe, unsanitary, inadequate or over-crowded condition of the dwellings therein, or because of inadequate planning of the area, or excessive land coverage by the buildings thereon, or the lack of proper light and air and open space, or because of the defective design and arrangement of the buildings thereon, or faulty street or lot layout, or economically or socially undesirable land uses." 35 P.S. § 1702(a).

Initiation: A redevelopment authority or industrial and commercial development authority proposes the tax increment district and its boundaries and prepares a tentative "project plan." Tentative project plan is formally presented to all local taxing bodies; designated representatives of the taxing bodies meet with the authority to discuss the project plan, including the extent of each taxing body's participation and allocation of tax increments; and proposed final project plan is then submitted to the county or municipality that will create the District.

Creation: County or municipality that will create the District must hold a public hearing following not less than 30 days' notice to the public. Each of the local taxing bodies must, by resolution or ordinance, agree to participate or opt not to participate in whole or in part, in the TIF District and give notice of their decision to the creating county or municipality no later than the date of the public hearing. Ordinance creating the District may not be enacted earlier than three weeks following the public hearing. District is created "as of a given date" specified in the creation ordinance.

Issuing Authority: A redevelopment authority, an industrial and commercial development authority or, by agreement with a redevelopment authority, a municipal authority, is designated as the issuer of TIF bonds or notes, receives the allocated tax increments, and deposits them into a tax increment fund.

Guarantees: TIF Act authorizes (does not require) a county, municipality or school district to guarantee the payment of TIF bonds or notes in accordance with the Local Government Unit Debt Act. Pennsylvania Tax Increment Financing Guarantee Program administered by DCED can provide guarantees up to $5,000,000 per project.

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Municipal Finance - LERTA Fact Sheet

Local Economic Revitalization Tax Assistance Act, as amended, 72 P.S. § 4722 et seq.

Overview: LERTA provides a mechanism for local government in "economically depressed communities" (undefined) to encourage new construction and improvements to deteriorated industrial, commercial and business properties by allowing a reduction in real property taxes over a period of up to 10 years on all or a portion of the assessment attributable to such new construction and improvements.

Deteriorated Property: Any industrial, commercial or business property located in a deteriorated area or any property that is the subject of a government order requiring it to be vacated, condemned or demolished by reason of noncompliance with laws, ordinances or regulations.

Improvement: Repair, construction or reconstruction, including alterations and additions, having the effect of rehabilitating a deteriorated property so that it becomes habitable or attains higher standards of safety, health, economic use or amenity, or is brought into compliance with laws, ordinances and regulations governing such standards. Ordinary upkeep and maintenance is not an "improvement."

Deteriorated Area (LERTA District): An area whose boundaries are fixed by ordinance or resolution of a ***municipal governing body*** (city, borough, incorporated town or township) following at least one public hearing and a finding that the area is deteriorated, using the criteria of the Urban Redevelopment Law ("blighted area"), the criteria of the Neighborhood Assistance Act ("impoverished area"), and the following criteria: unsafe, unsanitary and overcrowded buildings; vacant, overgrown and unsightly lots; disproportionate number of tax delinquent properties; excessive land coverage; defective design or arrangement of buildings, streets or lots; economically and socially undesirable land uses.

Properties adjacent to a deteriorated area, but which otherwise would not qualify, may be included within the designated deteriorated area if the local taxing authority determines that new construction on such properties would encourage, enhance or accelerate improvement of the deteriorated properties.

Designation of LERTA District by Municipality: The ordinance or resolution of the ***municipal governing body*** designating the "deteriorated area" in which tax exemptions may be granted shall (1) describe the boundaries of the "deteriorated area," (2) set forth whether exemption shall be for the assessed valuation of the actual cost of new construction or improvements or a specified, maximum cost, and (3) the schedule of taxes exempted by the municipality. As noted above, at least one public hearing must be held prior to enactment or adoption of the ordinance or resolution.

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Two or more municipalities may join together for the purposes of determining the boundaries of a deteriorated area and to establish the uniform maximum cost per unit.

Participation by Taxing Authorities: Each ***local taxing authority*** (county, city, borough, incorporated town, township, institution district or school district) ***may*** by ordinance or resolution grant tax exemptions within a designated "deteriorated area" by establishing an exemption schedule, which (1) provides for exemptions over a period of not more than 10 years, (2) stipulates the portion of the new construction or improvements to be exempted each year, and (3) limits the exemption to the additional assessment valuation attributable to the actual costs of new construction or improvements or not in excess of the maximum cost per unit established by the ***municipal governing body***.

Requests for Exemptions: An exemption request must be made by the taxpayer, on a form provided by the local taxing authority, when the building permit is secured, or if no building permit or other notice of new construction or improvement is required, when the taxpayer commences construction. A copy of the request is to be forwarded to the tax assessment board or other proper assessment agency, which is to assess separately the new construction or improvements, when completed, calculate the amount of assessment eligible for tax exemption, and notify the taxpayer and the local taxing authority(ies), any of which may appeal from the reassessment and the amounts eligible for exemption.

The exemption period commences in the year after completion of the improvements. The exemption from taxes applies to the property exempted and does not terminate upon sale or exchange of the property.

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Municipal Finance – IFIP Fact Sheet

Infrastructure and Facilities Improvement Program, as amended, 12 Pa.C.S. § 3401 et seq.

Overview: Grant assistance for financing economic development projects for industrial, manufacturing, hospital, retail, research and development, and hotel and convention center uses from multiyear grants of the Commonwealth in amounts based on increased sales taxes, personal income taxes and hotel taxes attributable to the project. Grants reimburse debt service on debt of the Applicant or Project User that finances Eligible Costs.

Applicants: Redevelopment Authorities, Industrial Development Authorities, Municipality Authorities, PEDFA, Convention Center Authorities and certain County authorities.

Eligible Costs: Acquisition, construction, reconstruction, expansion, extension, demolition, improvement, rehabilitation or remodeling of interests in land, buildings, structures, improvements or infrastructure; remediation of environmental hazards on project land; financing charges; administrative and professional services such as engineering, accounting, legal, and financial services; and feasibility studies.

Infrastructure: Drainage and stormwater; energy facilities which distribute electricity; wastewater systems; transportation facilities; natural gas pipelines; information transmission facilities; water supply facilities; interests in land for the above; engineering, design and inspection for the above.

Amount and Length of Grants: Expected sales, PIT and hotel taxes, if applicable, as certified by a CPA, but not greater than annual debt service. Initial grants up to four years; re-evaluated by DCED after fourth year and every year thereafter. Retail (200,000 sq ft facility / at least 200 jobs created), industrial, manufacturing and R&D uses up to 10 years; up to 20 years for hospital, hotel and convention center uses.

Approval and Contract Process: Application requirements reviewed by DCED followed by a discretionary review by Office of the Budget with input from the Department of Revenue. Grant contract then entered into with DCED specifying, among other things, grant amount, potential duration. If the duration is to be more than four years, the contract and program guidelines establish a procedure for awarding the grant after year four, and the Office of the Budget and the Department of Revenue determines for year five whether tax revenues are anticipated to equal or exceed prior year's grant; if not, then grant decreases according to actual taxes generated.

Grants Subject to Annual Appropriation: DCED is required to pro-rate IFIP funds in the event of insufficient appropriations by the Commonwealth to cover all IFIP grants awarded statewide.

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Municipal Finance – Industrial Development Authorities Fact Sheet

Economic Development Financing Law, as amended, 73 P.S. § 371 et seq. (the "Act").

Overview: Authorizes any industrial and commercial development authority ("IDA"), as an instrumentality of the Commonwealth, to acquire, hold, construct, improve, maintain, own, finance and lease certain types of projects, including, among others, industrial facilities, commercial facilities, pollution control facilities, energy conversion facilities, energy-producing facilities, and public facilities for the purpose of maintaining and improving the economic vitality of the Commonwealth.

Creation: IDA may be incorporated by any municipality for a term of fifty years following publication of notice one week in advance of the meeting at which an ordinance or resolution creating the IDA is to be passed (notice must be published in County's legal publication and in a newspaper of general circulation). Following passage of the ordinance or resolution, articles of incorporation must be filed with the Secretary of the Commonwealth A minimum of five board members must be appointed by the incorporating municipality to serve staggered, five-year terms, but members may be removed at any time with or without cause.

Powers: IDA may acquire and sell, option, lease or transfer property acquired; construct, improve, maintain and repair projects; enter into agreements and make loans to finance projects; borrow money and make and issue bonds; and pledge and mortgage its property.

Restrictions: IDA cannot finance the move of a facility within the Commonwealth without approval of the Secretary of Commerce; finance a project in excess of its costs; or engage in business for-profit.

Projects: include, but are not limited to:

1. *Commercial facilities:* wholesale, retail and other mercantile facilities; warehouse and distribution facilities, service facilities, office facilities, hotel or motel facilities, shopping centers, department stores and international, national and regional headquarters facilities, health care facilities, education facilities, facilities for person requiring special care, research and development facilities and recreational and sports facilities.

2. *Energy producing facilities*: facilities to create, extract, transmit or store energy or energy producing substances, except the production of electrical energy by a utility entity.

3. *Industrial facilities:* property, real or personal, which is used for manufacturing, warehousing, transportation of goods for manufacturing or sale, offices, research and

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development and other facilities or trades or services which perform activities ancillary to industrial activity.

DCED Approval of Bond Issues: IDA may not issue bonds prior to obtaining written approval of the Secretary of the Department of Community and Economic Development evidencing a determination that the project is in conformity with the Act.

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Municipal Finance – Redevelopment Authorities Fact Sheet

Urban Redevelopment Law, as amended, 35 P.S. § 1701 et seq. (the "Act").

Overview: Redevelopment Authorities are public entities created by "Cities" (including, for purposes of the Act, Boroughs having a population of at least 10,000), or counties to undertake activities for the elimination of blighted areas, including planning, re-planning, acquisition, rehabilitation, conservation, renewal, improvement, clearance, sale, lease or other disposition of real property, buildings or other improvements in blighted areas or portions thereof for residential, recreational, commercial, industrial or other redevelopment purposes.

Redevelopment Areas: Any area which the City or County planning commission determines to be blighted under the conditions described in the Act, including "economically or socially undesirable land uses."

Authority Members: Five members appointed by the Mayor or the Board of County Commissioners, as applicable, for five-year, staggered terms having perpetual succession, unless Authority is dissolved by City or County.

Authority Powers include, but are not limited to, seeking redevelopment area designations from the planning commission; initiating preliminary studies and feasibility studies; acquiring real property, by eminent domain if necessary (see Eminent Domain below); owning, holding, clearing, improving and managing real property; selling, leasing or transferring real property located outside of a redevelopment area and, subject to approval of the local governing body, any property inside a redevelopment area; loaning funds on a secured or unsecured basis; entering into any contract necessary to accomplish its purposes; relocating affected persons; borrowing from private lenders or from the Commonwealth or Federal Government; conducting hearings; and requesting witnesses and documents by subpoena.

Redevelopment Project Approval Process:

1. Planning Commission certifies a redevelopment area and prepares a redevelopment area plan conforming with its comprehensive plan and setting forth the boundaries, land uses, population and building densities; a preliminary site plan; any zoning changes necessary; changes in vehicle and pedestrian traffic; relocation and re-housing requirements, if any; and costs of acquisition and site preparation;

2. Authority creates a redevelopment proposal and submits to planning commission.

3. Planning commission approves, rejects or modifies redevelopment proposal within 45 days.

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4. Authority submits to the City or County the redevelopment proposal with the planning commission's recommendation, if any.

5. The City or County provides notice once a week for three weeks, followed by ten day public inspection period, culminating in public hearing.

6. The City or County accepts or rejects the redevelopment proposal as submitted and, in any event, must reject the proposal if the municipality in which the project is located files objections.

7. Once approved by the City or County, the Authority proceeds with the project, subject to the approval of the redevelopment contract with the redeveloper by the governing body, if the form of such contract was not included in the redevelopment proposal.

Redevelopment Contract Required Provisions: legal description of property; plans showing type, material, structure and general character of the project; statement of use for each part of project; guaranty of timely completion; payment bond; restriction of sale by redeveloper without prior written consent of Authority; consideration to be paid by the redeveloper to the Authority; maintenance covenant; anti-discrimination covenant.

Blighted Property Removal: Authority can redevelop any individual blighted property (as separately defined for this power) upon designation by blighted property review committee created by governing body of municipality where such property is located.

Issuance of Revenue Bonds: Authority may issue bonds secured by project revenues and mortgages on Authority property.

Redevelopment Cooperation Law: Allows municipalities to provide loan or grant funds to redevelopment authorities for redevelopment projects.

Eminent Domain: Authority's power of eminent domain limited by Property Rights Protection Act of 2006, i.e. the taking of private property for private enterprise use is permitted only as set forth therein.