Portland, Maine Yes. Life's good here.

ECONOMIC DEVELOPMENT COMMITTEE

DATE:	**August 22, 2017 (Tuesday)**
TIME:	**5:30 – 7:30 p.m.**
LOCATION:	**Room 209** **Portland City Hall**

A G E N D A

1. **Review and accept Minutes of previous meeting held on July 25, 2017.**

2. **Presentation on Portland Landing Project for Committee discussion only. No public comment will be taken at this meeting. (15 Minutes)**
   a) See enclosed memo and materials from Ethan Hipple

3. **Review and vote to recommend to the City Council proposed Purchase and Sale Agreement for 56 Parris Street to Jack Soley or entity to be formed, i.e., 56 Parris Street LLC. Public comment will be taken on this action item. (15 Minutes)**
   a) See enclosed memo from Greg Mitchell with proposed purchase and sale agreement.
   Note: Pursuant to 1 M.R.S.A. 405(6)(C), the Committee may go into executive session to discuss the proposed purchase and sale agreement terms.

4. **Continue discussion on Mayor Strimling's proposed amendments to Portland TIF Policy with Mayor update, a panel discussion, and City staff presentations, followed by Committee direction to staff. No public comment will be taken at this meeting. (90 Minutes).**
   a) See enclosed memo from Greg Mitchell with accompanying materials.

Next Committee Meeting: September 5, 2017

Councilor David Brenerman, Chair

Minutes
Economic Development Committee
July 25, 2017

A meeting of the Economic Development Committee (EDC) of the Portland City Council was held on Tuesday, July 25, 2017 at 5:30 p.m. in Room 209 of Portland City Hall. Present from the Committee was its Chair Councilor David Brenerman and members Councilors Pious Ali and Spencer Thibodeau. Also present from the City Council was Mayor Ethan Strimling. Present from the City staff were Deputy Finance Director Anne Bilodeau, Housing and Community Development Division Director Mary Davis, Associate Corporation Counsel Michael Goldman, Economic Development Director Greg Mitchell, and Senior Executive Assistant Lori Paulette.

Item #1: Review and accept Minutes of previous meeting held on June 27, 2017.

On motion made and seconded, the Committee voted unanimously to accept the Minutes as published.

Item #2: Continue discussions regarding Mayor Strimling's Proposed Amendments to City of Portland Tax Increment Financing (TIF) Policy to include presentations from the Mayor, discussion with a panel, and City staff presentations.

Chair Brenerman noted that this is a continuation of discussions regarding the Mayor's proposed TIF Policy amendments as they relate to Credit Enhancement Agreements (CEA).

Mayor Strimling thanked the Chair and said that at the last meeting there were discussions concerning various issues including the Clawback, Local/Diverse/Veteran/Woman Hire, definition of "Good Faith Effort", legal issues, and apprentice program. Mayor Strimling then presented the attached Memo to the EDC, noting that the Clawback could become standardized to link TIF reimbursements to meeting policy requirements. Regarding percentage based hiring preferences, there is precedent with the PDC Business Assistance Program (BAP) for job creation, and also noted that there are a number of communities that have this in place. Mayor Strimling also suggested that the TIF Policy have recipients work with the Greater Portland Career Center (GPCC) for employment opportunities, as was done in the CommTel TIF. He would encourage the TIF policy to include a percentage to reach individuals not readily hired – immigrants and veterans - and acknowledged that legal issues need further research. The Mayor also suggested that a study be done to determine if there are disparities in hiring for these populations in Portland.

Mayor Strimling suggested removing the bonus provision and using the MDOL Definition of a "Registered Apprenticeship Program".

Councilor Thibodeau asked about the cost of the study, and Mayor Strimling said that he was unsure at this time, noting that the Department of Labor may have some information.

There was discussion about this study and the timing for proposed TIF Policy Amendments, noting that further amendments could be discussed when the study was completed, which should include legalities of such hiring preferences.

Councilor Ali asked about the definition of "good faith effort", and Mayor Strimling said he would provide that to him based on Baltimore's definition in his June 1 memo to the EDC.

Chair Brenerman asked the Mayor if the proposed amendments would be for the TIF recipient or its contractor, and Mayor Strimling said for the contractor with the TIF recipient responsible for the requirements to be met.

Regarding the clawback, Chair Brenerman said that the Committee heard from MSHA and General Contractors that it would be difficult to get financing if the clawback provision was in place. There was discussion noting that rather than take back TIF funds provided to a developer that TIF funds be reduced if the TIF Policy conditions were not met. It was also noted that the CommTel CEA had three years and three months to create jobs, and these were not construction jobs but for jobs for CommTel employees. If the number of jobs were not created, TIF funds would be deducted based on each job not created.

Councilor Ali asked why CommTel did not move forward, and Mayor Strimling indicated that there was a downsizing and it did not go through with expansion, noting that it had nothing to do with the CEA.

Chair Brenerman asked if there were other cities in Maine that had such TIF requirements, and Mayor Strimling said that he was not aware of any, but that there are in other states.

Chair Brenerman then said that the Committee will now hear from a panel of three who have been involved with TIFs in one form or another, namely:

> ***Drew Swenson of Swenson and Company***: Mr. Swenson will discuss his involvement in the Ocean Gateway Parking Garage Project. Construction of this parking garage was included in the City Council approved Riverwalk TIF District, and the City Council established a condition within the TIF CEA District requiring the use of union labor.
>
> ***Nathan Szanton of The Szanton Company***. Mr. Szanton is an affordable housing developer which has utilized TIF district revenue to support construction of affordable housing projects.
>
> ***Joan Fortin is an attorney with Bernstein Shur***. Bernstein Shur attorneys have extensive state-wide municipal experience with use of TIF districts.

Chair Brenerman thanked the panel for being here and requested an update to the Committee on their experiences.

Mr. Swenson described his background and the Riverwalk Project which did not come to fruition for a number of reasons, including the national economic recession. It started in 2004 and the garage was for development of condos and retail, estimated at the time to be a $100

Million project. The CEA contained a formula for a reduction – not a clawback - of TIF payments based on Assessed Value, but not on the labor requirement. Mr. Swenson suggested this kind of reduction can be built on a case by case basis rather tie the City's hands. Regarding the job creation requirement, it was for use of union firms "when possible". They worked to do this but it prevented their investors to be involved – so financially they found an equity group who could utilize union labor, noting that there are very few union firms in Maine. This took a year and a 20% cost increase, and then the recession hit and several million dollars were lost. Mr. Swenson also noted that Apprentice Programs in Maine do not have the skill set for larger projects in the City; only out of state unions could do the work to meet the requirements of jobs which only increases costs. For large construction projects, these proposed amendments would have a very chilling effect on construction and future developments in Portland.

Regarding the BAP, Mr. Swenson said that this uses Federal money and for every $10,000 in grant money approved, the recipient is to create one job for a low to moderate income person in Portland. Recently, however, there was an amendment to the Guidelines that grant recipients could employ a greater Portland region low to moderate income person because of difficulties people have been having in hiring Portland residents.

Joan Fortin said that she has been doing TIF work for over 20 years, both for municipalities and companies who utilize TIFs. Ms. Fortin said that the Maine TIF statute is very flexible, and Portland's current Policy is far more restrictive than any other in Maine. Ms. Fortin suggested that any jobs requirement be tailored to an actual project rather than a clawback, and then the City Council would approve the CEA. Ms. Fortin also noted that the TIF statute does not have a financial needs test; in Portland it is a requirement so the margin is smaller. Portland is not a municipality that gives TIF money away easily. With TIFs and a percentage back to the Developer this provides certainty in moving forward with a project. Regarding the jobs requirement, that is one step removed from the Developer who would need to manage the contractor, noting very few TIFs have job requirements.

Nathan Szanton described his background has having done eight Affordable Housing (AH) to date, three being in Portland with no TIF but 4 elsewhere. Mr. Szanton said that he is just speaking to AH TIFs. The Prevailing Wage requirement proposed would be redundant as all AH TIFs get funds from MSHA which already has State prevailing wage requirements. This would increase paperwork and be burdensome. Regarding hiring preferences for both General Contractors and subs, Mr. Szanton said that his projects range about 25 subs on each – from large to small. This year, contractors are having hard time finding any workers and did not think they should be pushed to look for particular kinds of people. Regarding Apprentice Program and job training, this is happening anyway. Contractors create on-the-job training and having this requirement would only increase costs. Instead, there should be an investment to expand vocation training at high schools. The proposed clawback would create financing problems. This would put the risk on developers who may pass on projects in Portland because of this.

Councilor Thibodeau asked the panelists about jobs and Apprentice Programs and if they thought this should be done on a cases-by-case basis for each CEA rather than in the TIF policy, and all panelists agreed on a case-by-case basis. Mr. Szanton added that his remarks have nothing to do with the Mayor’s goals rather the methods.

There was then a discussion of union versus non-union and the level of research and administering the requirements by developers, general contractors, and subs could result in backing away from projects in Portland. It would provide for a lot bureaucracy with no benefit.

Discussion then centered around educational facilities providing more vocational training, and that TIF money can be invested in schools for this purpose. This would provide more choices for hiring with more people being trained. It was also noted that some general contractors and subs are already fully staffed and would not need to hire so this would need to be taken into account, noting the case-by-case basis for requirements, which could include having developers partner with educational facilities. It was also suggested that Apprentice Programs be through educational facilities and not through this policy. Contractors provide on-the-job training and invest in their employees in that fashion.

Ms. Fortin suggested that perhaps Contractors get together with educational facilities to pay for scholarships for vocational training.

Discussion then centered around AH TIFs and the clawback would cause issues with MSHA. Mr. Szanton said that AH projects apply to MSHA for financing. If the project has an AH TIF from the community, it would earn extra points from MSHA. With the clawback, MSHA would not give extra points and this would be a disadvantage to a Portland project.

Mayor Strimling noted that the last panel that the EDC heard from was balanced on both sides of the topic, and expressed dismay that this panel was not as balanced.

Chair Brenerman noted that this panel includes various experts in their field expressing their thoughts about the proposed amendments.

Mayor Strimling asked Mr. Szanton if he did not meet the provisions of MSHA for an AH projects would there any payback to MSHA. Mr. Szanton said that if the project is not AH, then there would be conditions, but the project is in his control. General contractors, subs, and Apprentice Programs are out of his control.

There was then discussion of the City's Green Building Code, with Mr. Goldman noting that any condition for a TIF to be tied to it could be clarified in CEAs.

Regarding prevailing wages, Ms. Davis said that when her office is reviewing payrolls on CDBG projects, they have to meet Davis Bacon wages. If they do not, the company has to make a make correction to the employees. This does not go through the developer but through the contractor.

Mayor Strimling said that he appreciated more vocational training at educational facilities, but not in place of including Apprentice Program requirements in the TIF policy, as well as paying prevailing wages.

Chair Brenerman thanked the panel, and, given the time, there was Committee consensus to postpone the City staff presentations.

Ms. Bilodeau noted that Mr. O'Connell, City Finance Director, talked with several major contractors who have worked on $.5 Million to $20 Million projects who indicated that they would not bid if these requirements were in place City-wide. She also noted, most recently, the City received 2 bids for the Hall School project and those contractors would not have qualified if these were City-wide requirements.

Chair Brenerman said that the City staff panel would be invited back and he would think about another panel that may provide a balance that the Mayor referred to.

Mayor Strimling noted that the hiring percentage may go away, and would look to Corporation Counsel for legal analysis on the issues, and Mr. Goldman indicated that they should meet to discuss further, noting that he had provided a memo to the EDC previously on various legal issues for the hiring preference.

Chair Brenerman, seeing Carol McCracken of Munjoy Hill News with her hand up, noted that public comment was not being taken.

Ms. McCracken agreed that the panel was not balanced, and asked if the Chair would accept suggestions for a future panel, and the Chair indicated he would discuss with the Mayor.

Councilor Thibodeau said that he did not see a need for another panel and that he was looking forward to proceeding to make recommendations to the Council.

Chair Brenerman said that ultimately the Committee will provide an updated set of possible TIF Policy amendments to present to the Council. In the meantime, he will look further into a panel, as well as invite City staff back for their presentations.

There being no further business, the meeting was then adjourned at approximately 8:15 p.m.

Respectfully, Lori Paulette

Portland, Maine | Yes. Life's good here.

Office of the Mayor, Ethan K. Strimling

MEMORANDUM

To: Economic Development Committee Chair David Brenerman
Councilors Pious Ali and Spencer Thibodeau
From: Ethan K. Strimling, Mayor
Date: July 25, 2017
Re: TIF Policy Changes

As a result of additional research and the feedback provided at your June 6th panel discussion on TIF reform, I'm pleased to offer the below suggestions that, in my firm view, would strengthen and make more actionable our TIF reform goals. I look forward to the Committee's continued work on this important issue.

1. Clawback. Instead of the clawback language developed in the initial proposal, and on the advice of Corporation Counsel, I suggest we utilize the language in the CommTel agreement (see Article IV, Section 4.1 of the CommTel agreement). So rather than claw back, the city would link the TIF reimbursements directly to the recipient's meeting of the policy requirements.

2. Local/Diverse/Veteran/Woman Hire. If the committee feels that requiring percentage-based hiring preferences are too problematic legally (though our PDC guidelines provide local precedence for doing so), I suggest we mirror and expand upon the CommTel language in part, stating that TIF recipients must work with the Greater Portland CareerCenter (see Article IV, Section 4.3 of CommTel agreement), and do specific outreach to the immigrant and Veteran communities. See especially the language about failing to comply with those requirements - though our penalty would be the holding back of the reimbursement (see #1 - Clawback).

3. I would suggest that the Committee explore a definition of "Good Faith Effort" in regard to #2. Perhaps we can turn to Baltimore for inspiration. From my June 1 memo to the Committee: "Good Faith Effort is defined as a set of activities conducted by the contractor/vendor or other person which demonstrate multiple types of outreach efforts have been made to City residents including, but not limited to: ads in local papers, paid local job boards, information to local

educational and workforce organizations, as well as an objective review and rating of resumes of city residents."

4. If the committee moves forward with the language outlined in #2 above that removes percentages in hiring due to possible legal challenge, I would suggest that the committee seek the hard data Corporation Council suggested to determine if hiring disparities are occurring in Portland. If the data comes back showing that there are not hiring disparities, than the above language can suffice. If it comes back that disparities do exist for local/Veteran/women and minority hires, then a future committee can revisit the TIF policy. To that end, I would ask the committee to pass a companion resolve for the Council to direct the City Manager or his designee to undertake a disparity study such as the ones completed by other jurisdictions as they implemented their hiring preference policies (numerous jurisdictions across the country have local/disadvantaged hiring regulations).

5. I suggest removal of the bonus provision, since my suggested changes above include the removal of specific hiring targets for TIF recipients.

6. In order to define "Apprenticeship," we should look to the Maine Department of Labor. From my June 1 memo to the Committee: "According to the Maine Department of Labor, a Registered Apprenticeship Program (the standard we require in this proposed policy) is, "Formal, nationally-recognized, occupational training provided primarily through structured on-the-job learning and supplemented with formal courses in theory, academics and technology. The on-the-job learning component is provided by the employer and follows specific occupational skill standards. Required courses may be taken at a community college, but in some cases may be provided directly by the sponsor or other training institutions. Apprenticeable occupations are those that require a minimum of one year, but up to five or more years of hands-on practical learning to become proficient."

7. A "TIF Assisted Project" should be defined as one that engages in a Community Enhancement Agreement (CEA) with the City.

Portland Landing Project Timeline

Economic Development Committee
August 2017

Staff Workgroup:

- Bill Needelman, Chair
- Sally DeLuca, Director of Parks, Recreation and Facilities Department
- Ethan Hipple, Parks Director
- Kathy Alves, Public Facilities Director
- Caitlin Cameron, Urban Designer
- Christine Grimando, Senior Planner
- John Peverada, Parking Director
- Justin Pellerin, Public Works

Stakeholder Group

- 60+ individuals representing diverse organizations that utilize or are adjacent to Portland Landing site (Amethyst Lot)
- Groups include: Sail Maine, Parks Commission, Portland Trails, Friends of Ft Gorges, Munjoy Hill Neighborhood Association, Harbor Commission, Public Art Committee, Ripple Effect, Hamilton Marine, and adjacent businesses and property owners.

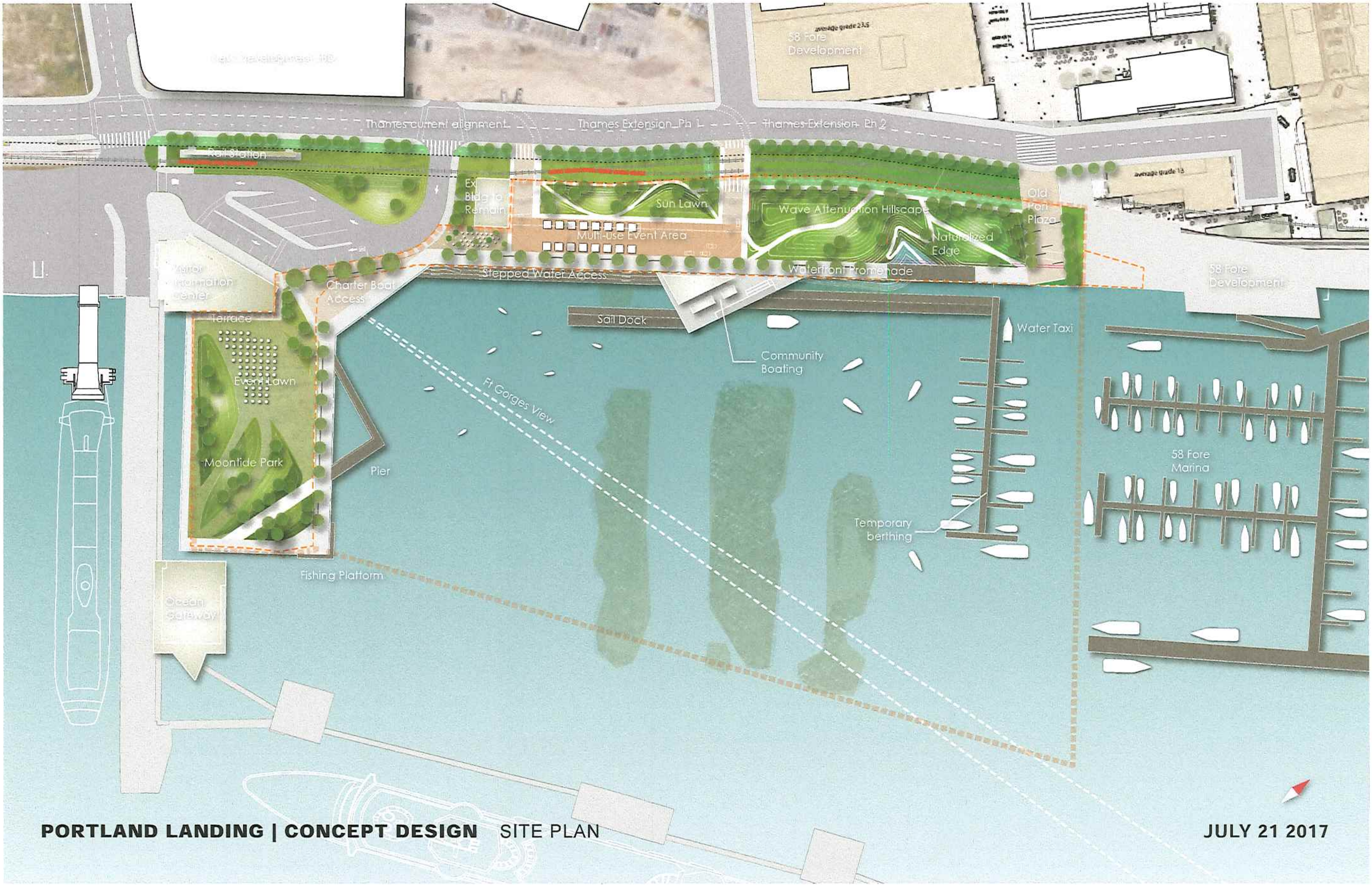
Project Timeline and Public Input

- September 2016: Staff site walk, development of RFP scope
- October 2016: RFP for design firms, Interviews with design finalists
- November 2016: Design firm chosen: Stantec
- January 2017: Stakeholder Kickoff Meeting and Program Development
- February 2017: Program Development and Schematic Design
- March 2017: Stakeholder Workshop, Staff Workshops
- April 2017: Staff refinement of Schematic Design
- April 2017: Staff presentation of Schematic Design to City Manager
- May 2017: Public Meeting for Schematic Design at Ocean Gateway
- June 2017: Staff Meetings to incorporate feedback from Public Meeting
- August 2017: Staff presentation of design to Economic Development Committee

PORTLAND LANDING | MOONTIDE PARK
CONCEPT DESIGN

REVISIONS FOLLOWING THE CITY OF PORTLAND PUBLIC MEETING

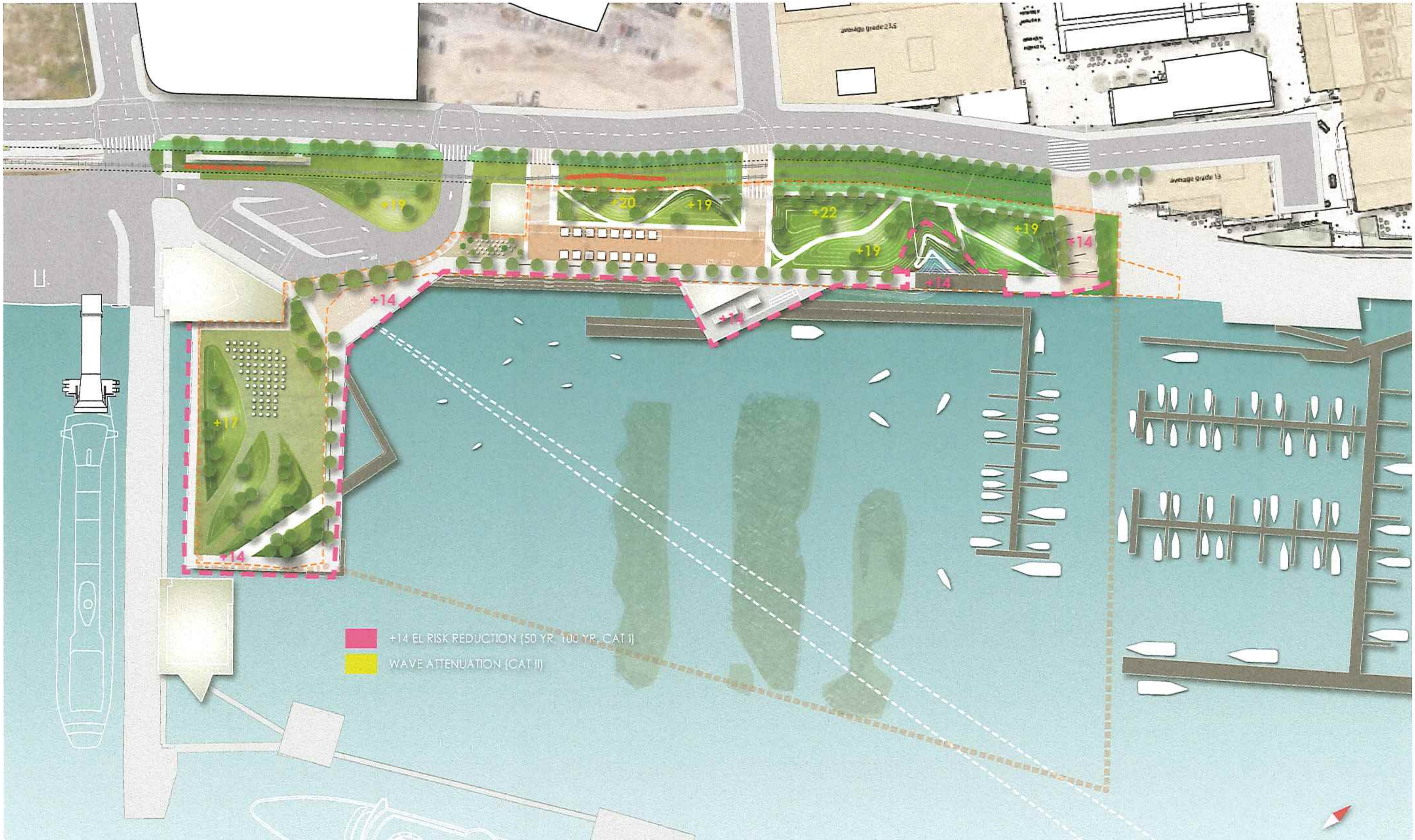
JULY 21 2017



PORTLAND LANDING | CONCEPT DESIGN SITE PLAN

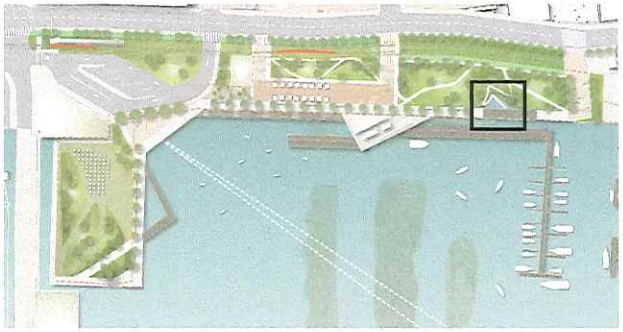
JULY 21 2017

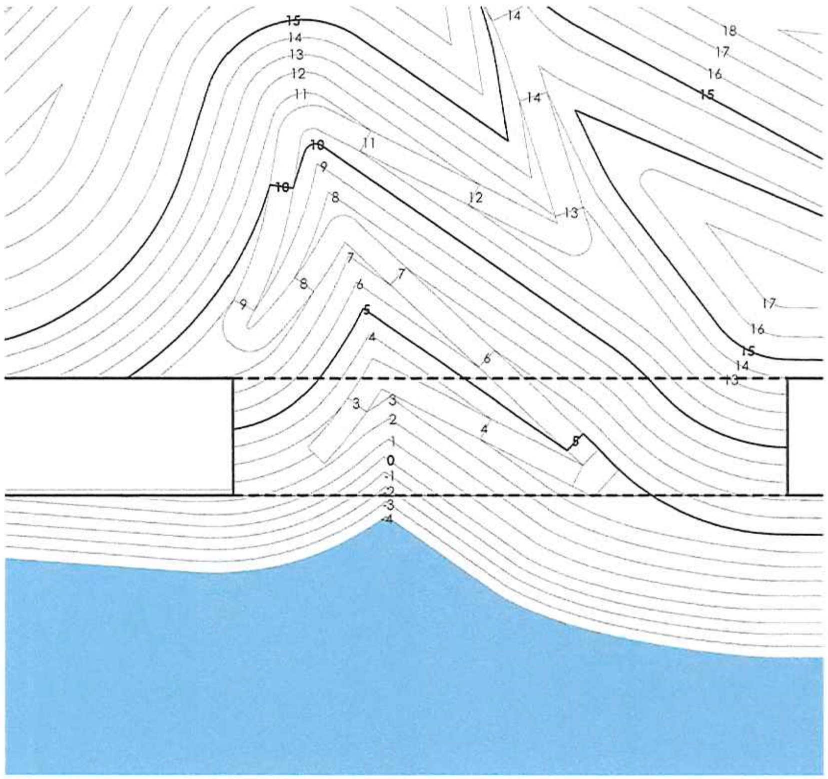
3

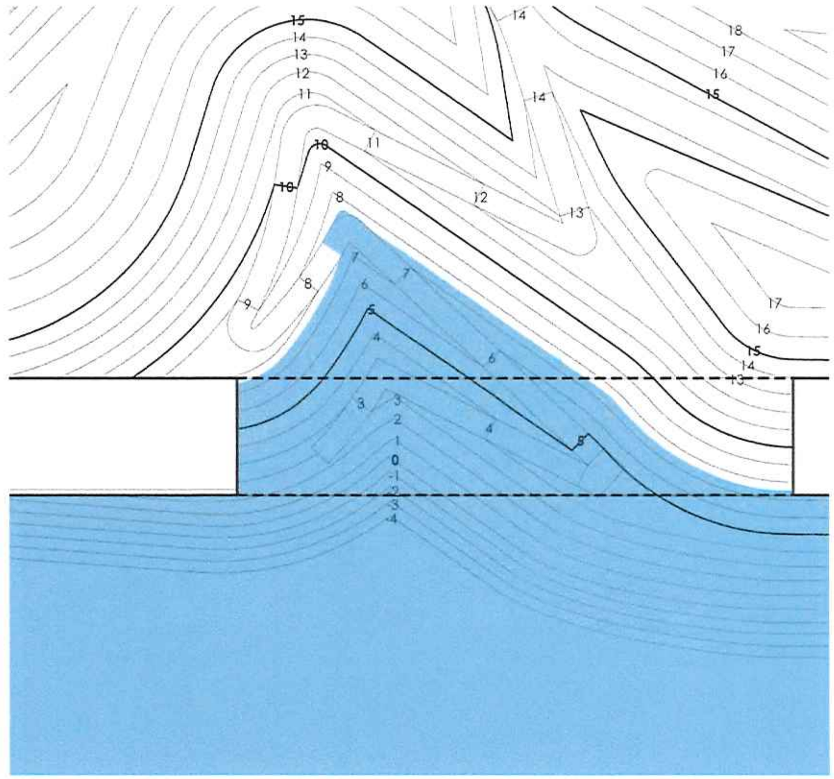


PORTLAND LANDING | CONCEPT DESIGN RESILIENCY

JULY 21 2017







PORTLAND LANDING | CONCEPT DESIGN TIDAL FLUCTUATION AT NORTH PARK

JULY 21 2017

5

PORTLAND LANDING | CONCEPT DESIGN AERIAL VIEW

JULY 21 2017

6

PORTLAND LANDING | CONCEPT DESIGN PROMENADE FROM THE PINCH POINT **JULY 21 2017**

7

PORTLAND LANDING | CONCEPT DESIGN FESTIVAL PLAZA FROM WAVE ATTENUATION HILLSCAPE **JULY 21 2017**

8

PORTLAND LANDING | CONCEPT DESIGN NATURALIZED EDGE

JULY 21 2017

PORTLAND LANDING | CONCEPT DESIGN MOONTIDE PARK EVENT LAWN **JULY 21 2017**

10

Amethyst Site

6/20/2017

Opinion of Probable Construction Cost - Concept Design (Prepared by Stantec)

Item Description	Phase	Unit Cost	Unit	Quantity	Cost	Cost Allocation by Location/Use: Upland Park	Moon Tide Park	Community Boating	Marine
Fill Soil Material									
Moon Tide Park	1	$ 45.50	CY	5000	$ 227,500.00		$ 227,500.00		
Pinch Point	1	$ 45.50	CY	1600	$ 72,800.00	$ 72,800.00			
Community Boating/Wharf	1	$ 45.50	CY	3500	$ 159,250.00			$ 159,250.00	
Boardwalk (Full Depth Fill)	1	$ 45.50	CY	6800	$ 309,400.00	$ 309,400.00			
Sun Lawn and Wave Hillscape	1	$ 45.50	CY	7000	$ 318,500.00	$ 318,500.00			
Topsoil/Horticultural Soil									
Moon Tide Park	1	$ 60.00	CY	2400	$ 144,000.00		$ 144,000.00		
Sun Lawn and Wave Hillscape	1	$ 60.00	CY	3400	$ 204,000.00	$ 204,000.00			
Bulkhead									
Moon Tide Park (Steel Seawall/Bulkhead including structural appurtenances)	1	$ 770.00	LF	760	$ 585,200.00		$ 585,200.00		
Moon Tide Park (Bulkhead Backfill) (incl in Fil Soil Material)		$ -	CY	0	$ -		$ -		
Waterfront (Steel Seawall/Bulkhead)	1	$ 770.00	LF	800	$ 616,000.00	$ 616,000.00			
Waterfront (Bulkhead Backfill) (incl in Fill Soil Material)		$ -	CY	0	$ -	$ -			
Waterfront Pedestrian Bridge	2	$ 275.00	SF	2200	$ 605,000.00	$ 605,000.00			
Excavation									
Sun Lawn and Wave Hillscape	1	$ 30.00	CY	1000	$ 30,000.00	$ 30,000.00			
Select Pile Removal (Allowance - Adjacent to Bulkhead)	3	$ 50,000.00	ALLOW	1	$ 50,000.00		$ 50,000.00		
Rock Revetment	1	$ 250.00	CY	600	$ 150,000.00	$ 150,000.00			
Boardwalk, Walks and Paths									
Sun Deck at Pinch Point (Granite Pavers)	1	$ 45.00	SF	3150	$ 141,750.00	$ 141,750.00			
Community Boating/Wharf (Concrete Plank Pavers)	1	$ 27.00	SF	4025	$ 108,675.00			$ 108,675.00	
Moon Tide Park (Perimeter - Concrete Plank Pavers)	3	$ 27.00	SF	4370	$ 117,990.00		$ 117,990.00		
Moon Tide Park (Cross Path - Concrete Plank Pavers)	3	$ 15.00	SF	1940	$ 29,100.00		$ 29,100.00		
Waterfront (Concrete Plank Pavers)	1	$ 27.00	SF	22710	$ 613,170.00	$ 613,170.00			
Pathways / Distinctive (Colored Concrete)	1	$ 15.00	SF	7500	$ 112,500.00	$ 112,500.00			
Event Plaza (Granite Pavers)	1	$ 45.00	SF	16080	$ 723,600.00	$ 723,600.00			
The Old Port Plaza (Granite Pavers)	3	$ 45.00	SF	6000	$ 270,000.00	$ 270,000.00			
Docks and Wood Structures									
Transient Dock (Decking) (Incl. Gangways)	4	$ 115.00	SF	11870	$ 1,365,050.00				$ 1,365,050.00
Transient Dock (Piles)	4	$ 62.50	VLF	2600	$ 162,500.00				$ 162,500.00
Step Seating (Decking)	4	$ 285.00	SF	3300	$ 940,500.00	$ 940,500.00			
Step Seating (Piles)	4	$ 62.50	VLF	4200	$ 262,500.00	$ 262,500.00			
Fishing Pier (Decking)	3	$ 285.00	SF	2420	$ 689,700.00	$ 689,700.00			
Fishing Pier (Piles)	3	$ 62.50	VLF	3050	$ 190,625.00	$ 190,625.00			
Floating Dock (Community Boating) (Decking)	5	$ 115.00	SF	1160	$ 133,400.00			$ 133,400.00	
Floating Dock (Community Boating) (Piles)	5	$ 62.50	VLF	600	$ 37,500.00			$ 37,500.00	
Dock Amenities (Cleats)	1	$ 110.00	LS	200	$ 22,000.00	$ 22,000.00			
Structure									
Community Boating Facility	6	$ 250.00	SF	2000	$ 500,000.00			$ 500,000.00	
Edge									
Thames Street Curb (Granite)	1	$ 60.00	LF	775	$ 46,500.00	$ 46,500.00			
Plaza Site Curbing (Granite)	1	$ 60.00	LF	880	$ 52,800.00	$ 52,800.00			

Amethyst Site

6/20/2017

Opinion of Probable Construction Cost - Concept Design (Prepared by Stantec)

Item Description	Phase	Unit Cost	Unit	Quantity	Cost	Cost Allocation by Location/Use: Upland Park	Moon Tide Park	Community Boating	Marine
Utilities									
Water (Allowance)	1	$ 50,000.00	ALLOW	1	$ 50,000.00	$ 50,000.00			
Force Main Relocation	1	$ 1,500.00	LF	400	$ 600,000.00	$ 600,000.00			
Electric (Allowance)	1	$ 50,000.00	ALLOW	1	$ 50,000.00	$ 50,000.00			
Lighting									
Decorative/Security (Incl. Foundation)	1	$ 5,500.00	EA	23	$ 126,500.00	$ 126,500.00			
Bollard (Incl. Foundation)	1	$ 2,500.00	EA	50	$ 125,000.00	$ 125,000.00			
Railing									
Waterfront Boardwalk Rail	1	$ 150.00	LF	1800	$ 270,000.00	$ 270,000.00			
Landscape									
Shade Trees	3	$ 1,200.00	EA	120	$ 144,000.00	$ 144,000.00			
Lawn (Sod)	1	$ 1.00	SF	88000	$ 88,000.00	$ 88,000.00			
Ornamental grasses / native grasses	3	$ 30.00	EA	2500	$ 75,000.00	$ 75,000.00			
Site Furnishings (Allowance for benches/trash receptacles)	3	$ 2,500.00	EA	40	$ 100,000.00	$ 100,000.00			
Sub-Total					$ 11,620,010.00	$ 7,999,845.00	$ 1,153,790.00	$ 938,825.00	$ 1,527,550.00
Mobilization 5%					$ 581,000.50	$ 399,992.25	$ 57,689.50	$ 46,941.25	$ 76,377.50
Contingency 25%					$ 3,050,252.63	$ 2,099,959.31	$ 302,869.88	$ 246,441.56	$ 400,981.88
Design Contingency 10%					$ 1,525,126.31	$ 1,049,979.66	$ 151,434.94	$ 123,220.78	$ 200,490.94
Total					$ 16,776,389.44	$ 11,549,776.22	$ 1,665,784.31	$ 1,355,428.59	$ 2,205,400.31

Portland, Maine Yes. Life's good here.

Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

TO: Economic Development Committee

FROM: Greg Mitchell, Economic Development Director

DATE: August 17, 2017

SUBJECT: **Sale of 56 Parris Street (Parcel 3 in Bayside)**
Discussion and Vote to Recommend Purchase and Sale Agreement to the City Council

I. One Sentence Summary

Vote to recommend to the City Council a Purchase and Sale Agreement to sell City property of approximately .23 acres of land located at 56 Parris Street to Jack Soley (56 Parris Street, LLC) for $175,000.

II. Background

It has been the long-term goal to sell this and other Public Works Bayside properties per the Year 2000 Bayside Vision. To support these property sales, the City Council approved the acquisition of property along Canco Road which has been and continues to be redeveloped to support the relocation of Public Works operations from Bayside and other City Departments.

The subject property is currently used as a surface parking lot to support 55 Portland Street employees. See attached property location map.

Public meetings to discuss the sale of Bayside former Public Works Properties have been held on 1/3/2017, 1/31/2017, 2/27/2017, 3/7/2017, 6/272017, and 7/19/2017.

Under the direction of the EDC, staff has negotiated this Purchase and Sale Agreement with Jack Soley. Mr. Soley's proposal includes new construction for upwards of 20 one-bedroom workforce condominium units for affordable housing ownership at under $200,000 per unit, with one parking space on-site per unit, elevator, and storage for each unit.

III. Intended Result and/or Council Goal Addressed

The intended result would be the sale of this property for development of affordable home ownership. It also supports the Council's long-term goal to sell Public Works Bayside properties to support Public Works relocation out of Bayside.

IV. Financial Impact

If sold, the City would realize property sale proceeds in the amount of $175,000 and future new taxes from the proposed development.

The appraised value of this property in an "as is, where is" condition is $310,000. Buyer will provide the City with environmental indemnification and be responsible for any site environmental remediation costs.

Proceeds from the sale of this and other Bayside property will be utilized to fund the relocation of remaining Public Works operations out of Bayside.

V. Staff Analysis and Recommendation

Staff recommends that the EDC vote to recommend approval of the proposed Purchase and Sale Agreement, in substantial conformance as attached, to the City Council.

Attachments: Concept of Development of "Periscope Lofts" by Jack Soley
Proposed Purchase and Sale Agreement
Bayside Parcel Map

PERISCOPE LOFTS

BAYSIDE PARCEL #3

- *Twenty - One Bedroom Workforce Condominiums*
- *Cost below $200,000.00 per unit*
- *One parking space on-site per unit*
- *Elevator*
- *Storage for each unit*

KAPLAN THOMPSON ARCHITECTS

MALONE COMMERCIAL BROKERS
CONNECTED, LOCAL, SAVVY.

Twenty Workforce Homeownership Condominium Units

About the Developer

Jack Soley is the co-founder of East Brown Cow Associates, owner and manager of over 1.4 million square feet of office and retail space in the greater Portland area. Jack is a successful developer of condominium projects on the Portland peninsula and has been involved in many commercial mixed use and residential projects in southern Maine. Jack is also a former member of the Portland Planning Board.

About the Project

We propose to build **twenty - one bedroom condominium workforce units for sale**. All units will be affordable to buyers at or below 120% of the area medium income (AMI). Accordingly, all units have a target purchase price below **$200,000**, the maximum sale price allowable calculated by HUD for affordability to 120% AMI for 2017.

We are seeking **no federal public assistance construction funding or municipal tax increment financing** (TIF), which will allow for project completion considerably faster than a comparable subsidized development.

The one bedroom condominiums will have tall ceiling heights and **average 400 square feet**. All units will be fully appointed with quality appliances and amenities typical of condos at higher price points, including balconies. The top floor will also have a communal balcony with great views of the Back Cove and sunsets. Exterior siding will utilize durable materials (no corrugated metal). The scale, architectural detail and window plan will be compatible with surrounding residential and commercial properties. The building will be sited and oriented towards the street to create an active, urban wall which interacts with Parris Street. Fencing will be used to screen the surface parking lot from the street or neighboring properties. In addition, there will be owner storage units and an area for bicycles on the ground floor.

Although we have included **one parking space on site for each unit**, we anticipate that the urban location will allow and encourage residents to use other forms of transportation. Our anticipated demographic will likely include a higher percentage of pedestrian and bicycle transit due to the unit sizes.

The modest site plan will keep Home Ownership Association (HOA) fees low. Heating and cooling will be provided by efficient mini split heat pumps. Ownership expenses will be kept low due to unit size and a well insulated building envelope.

[redacted] We believe that there will be considerable environmental mitigation work necessary as a result of historical use of fire debris fill on the site. Consistent with other area sites, we expect to find arsenic and lead on the lot and anticipate that the project will require a VRAP application. Appropriate remediation and institutional controls will include a Phase 2 Environmental Assessment report as well as potentially expensive capping and disposing of contaminants.

LEVEL ONE

- Parking for each unit
- Storage for each unit
- Lobby area
- Mail room

KAPLAN THOMPSON ARCHITECTS

MALONE COMMERCIAL BROKERS CONNECTED, LOCAL, SAVVY.

LEVELS TWO & THREE

- 7 units - 400 SF each

KAPLAN THOMPSON ARCHITECTS

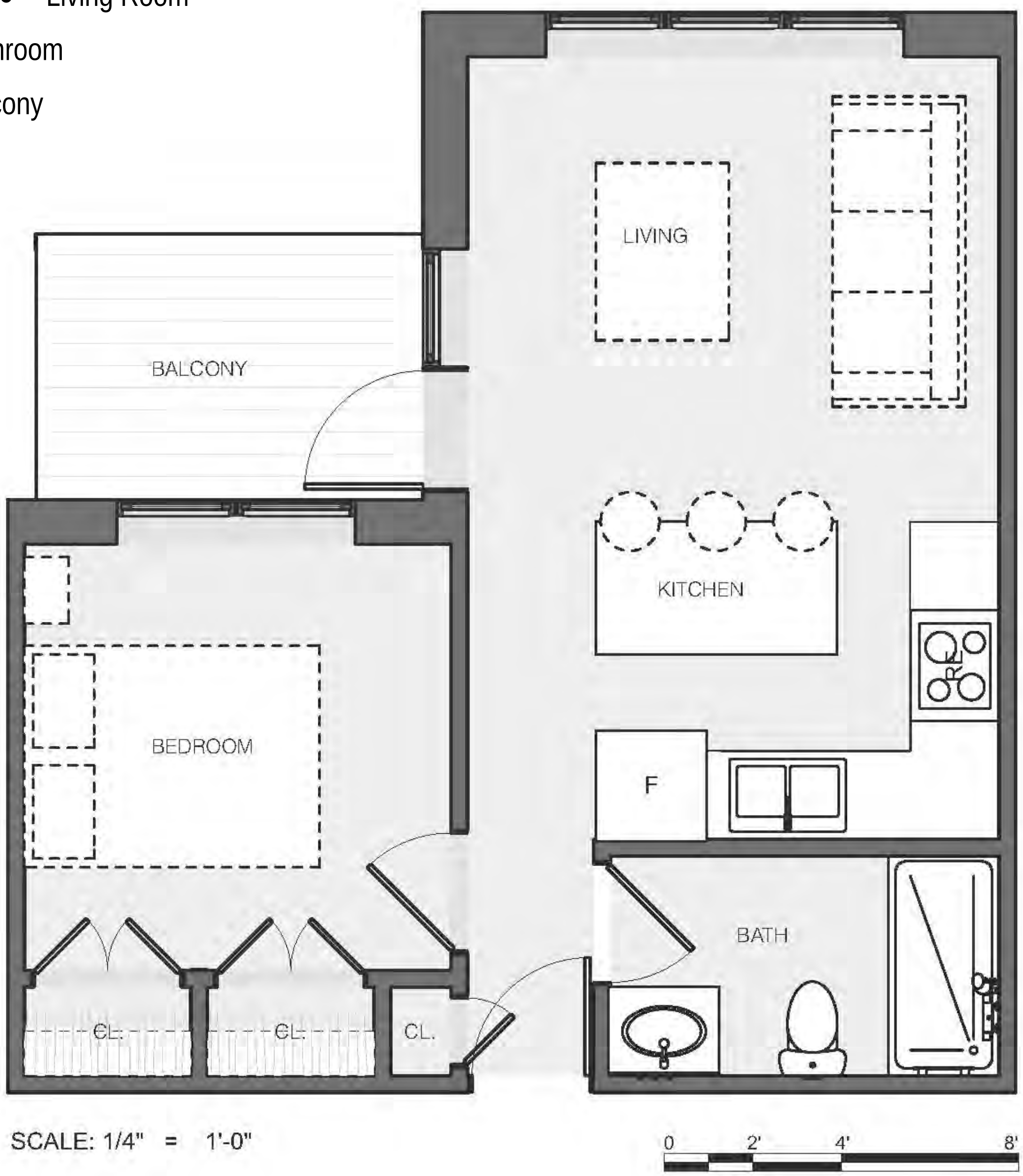
MALONE COMMERCIAL BROKERS
CONNECTED, LOCAL, SAVVY.

LEVEL FOUR

- 6 units - 400 SF each
- Common area deck

TYPICAL LAYOUT

- 1 Bedroom
- Open Concept
  - Kitchen
  - Living Room
- Bathroom
- Balcony



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Parcel 3

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT IS made this ______ day of _____, 2017 by and between the City OF PORTLAND, a body politic and corporate located in Cumberland County, Maine, (hereinafter referred to as “Seller” or “City”), and Jack Soley [56 Parris Street, LLC], or assigns, a Maine limited liability company having a mailing address of 100 Commercial Street, Box 411, Portland, ME 04101 (hereinafter referred to as “Buyer” or “56 Parris Street, LLC”).

RECITALS

WHEREAS, the CITY is the owner of approximately .23 acres of land at or near 56 Parris Street, Portland, Maine as generally depicted on the plan attached hereto as Exhibit A (the “Premises”) and incorporated herein; and

WHEREAS, Buyer desires to purchase the Premises, and the City desires to convey the Premises to Buyer, subject to all easements of record and any other existing easements burdening the Premises;

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

1. **SALE.** City agrees to sell the Premises to Buyer, and Buyer agrees to purchase the Premises in accordance with the terms and conditions set forth in this Agreement. This Agreement is for the sale of land only.

2. **CONSIDERATION**. The purchase price for the Premises shall be One Hundred Seventy-Five Thousand Seven Hundred Dollars ($175,000) (the “Purchase Price”), subject to the following cost adjustments and conditions:

    a. Buyer shall deposit in the sum of Five Thousand Dollars ($5,000.00) (the “Deposit”) within 3 business days after the full execution of this Agreement that the parties agree will be held in escrow as of the date of this Agreement, in a non-interest bearing account with CBRE | The Boulos Company; the Deposit shall be fully refundable until the end of the Due Diligence Period and the Financing Period as both are described herein; after both such Periods, the Deposit shall be non-refundable; and

    b. The Buyer shall pay the remainder of the Purchase Price to the City by wire transfer (or as otherwise reasonably requested by the City) at closing.

3. TITLE AND DUE DILIGENCE.

a. Due Diligence Period. Buyer will have from the date of this Agreement until 4:00 PM Eastern Daylight Savings Time on the day that is sixty (60) calendar days after the date of this Agreement (the "Due Diligence Period") to complete any survey, environmental review and title examinations.

b. Property Description. The property description contained in the deed will be a survey description based upon a survey plan (the "Premises") that will more specifically describe the property shown on Exhibit A hereto. The Premises will be distributed to the parties hereto prior to expiration of the Due Diligence Period and the parties will agree on the property description prior to closing.

c. Financing Contingency. Buyer shall have from the date of this Agreement until 4:00 PM Eastern Daylight Savings Time on the day that is thirty (30) calendar days after the date of this Agreement (the "Financing Period") to obtain commercially reasonable financing, and shall take timely and commercially reasonable steps to secure such financing.

d. Title and Survey Objections. Buyer will have until the end of the Due Diligence Period to deliver to City any written objections to title, environmental, or survey matters (other than the permitted exceptions identified herein) that materially affect marketability or use. Objections not made prior to the end of the Due Diligence Period will be deemed waived; provided, however, that objections pertaining to matters of record first appearing after the end of the Due Diligence Period may be made at any time prior to the closing.

e. Option to Cure. In the event of a title or survey objection, City will have the option, but not the obligation, to cure the objection and will notify Buyer of its election within ten (10) business days after receipt of the objection. In the event that the City elects to cure the objection, it will have sixty (60) days from the date of the notice of election, or such other reasonable time as the parties may agree, to cure the objection. In the event that the City does not elect to cure the objection, or, having elected to cure the objection fails to timely do so to Buyer's reasonable satisfaction, Buyer will have the option to (1) terminate this Agreement and obtain a refund of the Deposit (after which neither party will have any further obligation or liability to the other under this Agreement), (2) waive the objection and close, or (3) undertake the cure of such objection at its own expense (in which case it shall have 60 days to do so).

f. Deed. City shall convey the Premises to Buyer at the closing in fee simple by a municipal quitclaim deed without covenant. Title shall be good and insurable title, free and clear of all encumbrances except (i) easements described herein; (ii) easements for utilities servicing the property, (ii) zoning ordinances, and (iii) real estate taxes not yet due and payable. Further, Buyer acknowledges that the deed shall contain a restriction stating that in the event that the Premises or any portion thereof shall be exempt from real and personal property taxes, by transfer, conversion, or otherwise, then the then-owner of the exempt portion shall make annual payments to the City in lieu of taxes in the amount equal to the amount of property taxes that would have been assessed on the exempt portion of the real and personal property situated on the Premises had such property remained taxable. Such restriction shall also confirm that Buyer and its successors and assigns shall possess and be vested with all rights and privileges as to abatement and appeal of valuations, rates, and the like as are accorded owners of real and personal property in Maine.

4. <u>INSPECTIONS</u>.

a. During the Due Diligence Period, Buyer and its employees, consultants, contractors and agents shall have the right, at Buyer's expense, to enter on the Premises at reasonable times in order to (i) inspect the same, (ii) conduct engineering studies, percolation tests, geotechnical exams, environmental assessments, and other such studies, tests, exams, and assessments, and (iii) do such other things as Buyer determines, it is sole discretion, to be required to determine the suitability of the Premises for Buyer's intended use (collectively, the "Inspections"). The City acknowledges that such Inspections may include the digging of test pits, which the City hereby approves.

b. Buyer agrees to defend, indemnify and hold harmless the City against any mechanics liens that may arise from the activities of Buyer and its employees, consultants, contractors and agents on the Premises.

c. Buyer shall exercise the access and inspection rights granted hereunder at its sole risk and expense, and Buyer hereby releases the City from, and agrees to indemnify, defend, and hold the City harmless against, any and all losses, costs, claims, expenses and liabilities (including without limitation reasonable attorney fees and costs) (collectively, "Damages") suffered by the City on account of any injury to person or damage to property arising out of the exercise by Buyer of its rights hereunder, except to the extent that such Damages result from the act or omission of the City.

d. Buyer shall cause any contractors, consultants or any other party conducting the Inspections to procure automobile insurance, if applicable, and general public liability insurance coverage in amounts of not less than Four Hundred Thousand Dollars ($400,000.00) per occurrence for bodily injury, death and property damage, listing the City as an additional insured thereon, and also Workers' Compensation Insurance coverage to the extent required by law; the forms of all such insurance to be subject to City's Corporation Counsel's reasonable satisfaction.

e. In the event that Buyer does not purchase the Premises, Buyer agrees to either return the Premises as nearly as possible to its original condition after conducting the Inspections, or, at the City's option, reimburse the City for any physical damage caused to the Premises in connection with the Inspections; provided, however, the City hereby acknowledges and agrees that the term "physical damage" does not include any disturbance of any pre-existing environmental contamination on the Premises caused by such inspections, studies, tests, exams, and assessments, and that Buyer shall have no obligation to clean-up, remove or take any other action with respect to any pre-existing environmental contamination disturbed thereby.

f. The parties hereto acknowledge and agree that it is a condition to Buyer's obligations under this Agreement that the results of the Inspections be acceptable to Buyer in its sole discretion. If the results of such due diligence are not acceptable to Buyer in its sole discretion, and if Buyer exercises its right to terminate this Agreement, then the City shall refund to Buyer the Deposit, if previously paid, without interest, within ten (10) days after receipt of Buyer's termination notice, and neither party shall have any further obligations or liabilities under this Agreement except as expressly set forth in this Agreement.

5. **REAL ESTATE TAXES, PRORATIONS AND TRANSFER TAX.** Buyer shall be liable for all real estate taxes beginning as of the start of fiscal year following the closing and continuing thereafter. Because the Property is currently owned by the City of Portland, which is exempt from real estate taxes, no taxes were assessed or will be due for any portion of the current fiscal year, and no taxes will be prorated at the closing. Any utilities for the Property shall be prorated as of the closing. The Maine real estate transfer tax shall be paid for by Buyer in accordance with 36 M.R.S.A. § 4641-A. City is exempt from paying the transfer tax pursuant to 36 M.R.S.A. § 4641-C. The recording fee for the deed of conveyance and any expenses relating to Buyer's financing or closing shall be paid for by Buyer.

6. **DEFAULT AND REMEDIES**. In the event that Buyer defaults hereunder for a reason other than the default of the City, City shall retain the deposit as its sole remedy. In the event City defaults under this Agreement, and if Buyer is not then in default hereunder, Buyer shall have the right to pursue specific performance, but at all times may elect in substitution therefor, as its sole remedy, the right to a return of its deposit.

7. **RISK OF LOSS.** The risk of loss or damage to the Premises by fire, eminent domain, condemnation, or otherwise, until transfer of title hereunder, is assumed by the City. The Premises is to be delivered in substantially the same condition as of the date of this Agreement unless otherwise stated. In the event City is not able to deliver the Premises as stated, Buyer may terminate this Agreement and receive a refund of the Deposit without interest, and neither party shall have any further obligations or liabilities under this Agreement except as expressly set forth in this Agreement.

8. **PROPERTY SOLD "AS IS, WHERE IS**." Buyer acknowledges that Buyer has had an opportunity to inspect the Premises, and to hire professionals to do so, and that Premises will be sold "as is, where is" and "with all faults." City, and its agents, make no representations or warranties with respect to the accuracy of any statement as to boundaries or acreage, or as to any other matters contained in any description of the Premises, or as to the fitness of the Premises for a particular purpose, or as to development rights, merchantability, habitability, or as to any other matter, including without limitation, land use, zoning and subdivision issues or the environmental, mechanical, or structural condition of the Premises. Acceptance by Buyer of the Deed at closing and payment of the purchase price shall be deemed to be full performance and discharge by the City of every agreement and obligation contained herein.

9. **ENVIRONMENTAL INDEMNIFICATION**. Buyer covenants and agrees to indemnify, defend, and hold the City harmless from and against any and all claims, damages, losses, liabilities, obligations, settlement payments, penalties, assessments, citations, directives, claims, litigation, demands, defenses, judgments, costs, or expenses of any kind, including, without limitation, reasonable attorneys', consultants', and experts' fees incurred in investigating, defending, settling, or prosecuting any claim, litigation or proceeding, that may at any time be imposed upon, incurred by or asserted or awarded against Buyer or the City and relating directly or indirectly to the violation of or compliance with any federal, state, or local environmental laws, rules, or regulations governing the release, handling or storage of hazardous wastes or hazardous materials and affecting all or any portion of the Premises, except to the extent that such a claim results directly from the City's release, handling or storage of hazardous wastes or hazardous materials on the Premises. This duty to indemnify, defend, and hold harmless shall be included in a covenant in the deed and shall run with the land conveyed and be binding upon Buyer's successors, assigns, and transferees.

10. **CLOSING**. Time is of the essence in the performance of this agreement. The closing shall be held at the offices of Buyer's counsel at a time agreeable to the parties on or before the day that is five months after the date of this Agreement (the "Closing Date"). At the Closing:

    a. the City shall execute, acknowledge and deliver to Buyer a municipal quitclaim deed conveying to Buyer good and marketable title to the Premises, free and clear of all encumbrances except as otherwise set forth herein.

    b. Buyer shall deliver the balance of the Purchase Price to the City by wire transfer (or as otherwise reasonably requested by the City); and

    c. Each party shall deliver to the other such other documents, certificates and the like as may be required herein or as may be necessary to carry out the obligations under this Agreement.

    d. Buyer shall deliver evidence, reasonably satisfactory to City's Corporation Counsel, that the entity receiving title to the Premises is in good standing under Maine law, and that the individuals acting to Closing and executing documents on behalf of Buyer are authorized to do so.

11. **ENTIRE AGREEMENT.** This Agreement represents the entire and complete Agreement and understanding between the parties and supersedes any prior agreement or understanding, written or oral, between the parties with respect to the acquisition or exchange of the Property hereunder. This Agreement cannot be amended except by written instrument executed by City and Buyer.

12. **NON-WAIVER**. No waiver of any breach of any one or more of the conditions of this Agreement by either party shall be deemed to imply or constitute a waiver of any succeeding or other breach hereunder.

13. **HEADINGS AND CAPTIONS.** The headings and captions appearing herein are for the convenience of reference only and shall not in any way affect the substantive provisions hereof.

14. **BINDING EFFECT**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, administrators, successors and assigns.

15. **TIME.** The City and Buyer each confirm and agree that each of the time periods set forth herein are essential provisions of the terms of this Agreement.

16. **GOVERNING LAW**. This Agreement shall be construed in all respects in accordance with, and governed by, the laws of the State of Maine. All parties hereto hereby consent to the exclusive jurisdiction of the Superior Court for the County of Cumberland in the State of Maine, for all actions, proceedings and litigation arising from or relating directly or indirectly to this Agreement or any of the obligations hereunder, and any dispute not otherwise resolved as provided herein shall be litigated solely in said Court. If any provision of this Agreement is determined to be invalid or unenforceable, it shall not affect the validity or enforcement of the remaining provisions hereof.

17. **NOTICE**. All notices, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the first business day after mailing if mailed to the party to whom notice is to be given by first class mail, postage prepaid, certified, return receipt requested, addressed to the recipient at the addresses set forth below. Either party may change addresses for purposes of this paragraph by giving the other party notice of the new address in the manner described herein.

FOR THE City: City of Portland
ATTN: City MANAGER
389 Congress Street
Portland, ME 04101

With a copy to:	The Office of the Corporation Counsel at the same address.
FOR Buyer:	Jack Soley 100 Commercial St., Box 411 Portland, ME 04101
With a copy to:	Michael G. Friedman, Esq. P.O. Box 10 Bridgton, ME 04009

18. SIGNATURES; MULTIPLE COUNTERPARTS. This Agreement may be executed in any number of counterparts and by different parties in separate counterparts. Each counterpart when so executed shall be deemed to be an original and all of which together shall constitute one and the same agreement.

19. BROKERS. City shall pay CBRE | The Boulos Company at closing a brokerage commission equal to five percent (5%) of the Purchase Price at closing. The CITY and Buyer each represent and warrant that they have not dealt with a real estate broker in connection with this transaction other than CBRE | The Boulos Company. Buyer agrees to indemnify and hold harmless City from any claims made by any broker should Buyer's representation in this paragraph be false. Subject to the limitations of liability set forth in the Maine Tort Claims Act, City agrees to indemnify and hold harmless Buyer from any claims made by any broker should City's representation in this paragraph be false. The foregoing indemnities shall include all legal fees and costs incurred in defense against any such claim, and shall survive closing.

20. RECITALS INCORPORATED BY REFERENCE. The recitals set forth above are incorporated herein by reference and made a part of this Agreement.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed on their behalf by their duly authorized offices or representatives, on the day and year first written above.

City OF PORTLAND

____________________ WITNESS	________________________________ Jon P. Jennings Its City Manager

BUYER, LLC

__________________________ WITNESS	________________________________ Printed Name:____________________ Its ______________________________

Approved as to Form:

____
Corporation Counsel's Office

EXHIBIT A


Parcel Map
1 55 Portland Street
2 44 Hanover Street
3 56 Parris Street
4 82 Hanover Street
5 65 Hanover Street
6 178 Kennebec Street
Parcel 5
Parcel 4
Parcel 2
Parcel 1
Parcel 3
Parcel 6

Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

TO: Economic Development Committee (EDC)

FROM: Greg Mitchell, Economic Development Director

DATE: August 16, 2017

SUBJECT: **Mayor's Proposed Amendments to Portland's Tax Increment Financing Policy - August 22, 2017 EDC Meeting Format and Approach**

This memo outlines the August 22, 2017 EDC meeting format and approach to continue a discussion regarding the Mayor's proposed amendments to the City's Tax Increment Financing (TIF) Policy to establish amendments for Credit Enhancement Agreements (CEA). No public comment will be taken at this meeting.

MEETING FORMAT AND APPROACH

Mayor Strimling

Mayor Strimling will be provided with the opportunity to present any new information.

Panel

EDC Chair Brenerman has invited the following individuals to serve on a panel to discuss this topic:

Tom Driscoll, with E.S.Boulos. Tom is a contractor who uses apprentices.

Troy Fogg is an apprentice.

There will be a Committee question and answer session with the panel.

City Staff Presentations

EDC Chair Brenerman has invited the following staff to provide presentations:

Michael Goldman, Associate Counsel with the City, will present legal concerns related to the City establishing municipal hiring requirements without conducting research. See enclosed memo from Michael Goldman.

Kristin Styles, with the Housing and Community Development Division. Kristin is responsible for management of the Community Development Block Grant Program which is funded through the U.S. Department of Housing and Urban Development (HUD). Kristen will present information on HUD requirements regarding labor and employment standards. See attached memo from Mary Davis.

Greg Mitchell, Economic Development Director, will present information on the past City use of TIF District CEAs. See enclosed memo and attachments from Greg Mitchell.

Brendan O'Connell, Finance Director. Brendan will present information collected from existing TIF recipients and local contractors regarding the TIF proposals.

<u>Next Steps</u>

Three public meetings have been held on this topic on April 18, 2017, June 6, 2017 and July 25, 2017. The April meeting was an opportunity for public comment on the proposed amendments, the June meeting included a panel discussion and the July meeting included a second panel discussion.

After hearing from the above panel on August 22, 2017 and staff presentations, the EDC is expected to provide staff direction related to preparation of specific proposals to present at a future EDC meeting for EDC action.

Attachments:

- Michael Goldman Presentation
- Kristin Styles Presentation
- Brendan O'Connell Presentation
- Greg Mitchell Presentation

Portland, Maine Yes. Life's good here.

Additional Requested Information: Proposed TIF Policy Amendments

GREG MITCHELL – ECONOMIC DEVELOPMENT DIRECTOR

BRENDAN T O'CONNELL - FINANCE DIRECTOR

MATT FITZGERALD – PURCHASING MANAGER

MICHAEL GOLDMAN – ASSOCIATE CORPORATION COUNSEL

MARY DAVIS – HOUSING & COMMUNITY DEVELOPMENT DIRECTOR

KRISTEN STILES – HOUSING & COMMUNITY DEVELOPMENT MANAGER

Outreach on Proposed TIF Requirements Sources of Information

- Contacted all active, non-affordable housing TIF recipients to obtain responses to questions on proposed TIF requirements and discuss potential impact to their projects
- Contacted 15+ contractors on recent large projects in the City obtain responses to questions on proposed requirements and discuss impact to their operations within the City of Portland

Requirements of Proposed TIF Amendments

1. State Prevailing Wages
2. Local, Diverse, Disadvantaged & Veteran Hiring
3. Apprenticeship / Job Training Program
4. Rewards and Clawback Provisions

Summary of comments from TIF recipients and contractors

- What problems currently exist that these TIF regulations would address? Are there any?
- Regulations would deter Economic Development within City, causing developers to look elsewhere
- Regulations would deter local contractors from working in City, they'd look elsewhere for work
- Some components of proposed TIF rules would face legal challenges and be costly to administer

Requirement #1
Pay State Prevailing Wages

- Contractors surveyed noted that in most instances they pay at or above State prevailing wages
- With unemployment rates at 2.5% - 3% contractors MUST pay competitive wages to attract employees
- Those surveyed who noted they did not pay full State prevailing wage noted said offer other benefits to ensure total compensation is competitive

Requirement #2
Local, Diverse, Disadvantaged & Veteran Hiring

- See Corporation Counsel memo – Legality concerns, City could face costly legal challenges in court. Contractors concerned about trying to enforce.
- Unemployment rates are low – contractors are already struggling to find talent, regardless of where they live
- Potential alternatives? Programs targeted at jobs for the above population to give them skills they need

Requirement #3
"Bona-Fide" job training program

- Majority of contractors surveyed already have training programs for their specific trades
- Several contractors surveyed offended by term "responsible contractor" ordinances which would exclude them - they view themselves as very responsible with excellent safety records
- Wording of any "bona-fide" job training program must be examined very carefully so as to not eliminate majority of small local contractors – results could have costly impact on projects
- In an already tight bidding environment nearly every local contractor would be eliminated from Portland TIF work, and have noted they would NOT alter their practices to do business in City.

Practical Examples:
Jetport Parking Garage Repairs – Phase II

Contractor Name	Bid Price	Would contractor qualify under proposed training / wage requirements?
DiMatteo Construction (South Portland)	$1.140M	NO
Hardypond Construction (Portland)	$1.197M	NO
Doten's Construction (Freeport)	$1.275M	NO
ACME Waterproofing (Quincy, Massachusetts)	$1.479M	YES*

If forced to select ACME the contract price would have been 29.7% higher.

Hall School Construction Project

- Only 2 bids received on the project

Contractor Name	Bid Price	Would contractor qualify under proposed TIF requirements?
Arthur C Dudley (Standish)	$21,205,964	NO
Harvey Construction Corporation (Bedford, NH)	$21,998,000	NO

Portland Jetport North Aviation Ramp Rehabilitation Project

Contractor Name	Bid Price	Would contractor qualify under proposed TIF requirements?
Shaw Brothers (Gorham)	$3.236M	NO
A.H. Grover (N. Yarmouth)	$3.968M	NO
Sargent Corporation (Stillwater)	$4.122M	NO
Pike Industries (Belmont, NH)	$4.308M	NO

Deering Street Reconstruction Project

Contractor Name	Bid Price	Would contractor qualify under proposed TIF requirements?
R.E. Coleman (Portland)	$2.128M	NO
D&C Construction (Rockland, MA)	$2.219M	NO
Gorham Sand & Gravel (Buxton)	$2.383M	NO
Sargent Corporation (Stillwater)	$2.423M	NO

Anderson Street Neighborhood Byway Project Phase 1

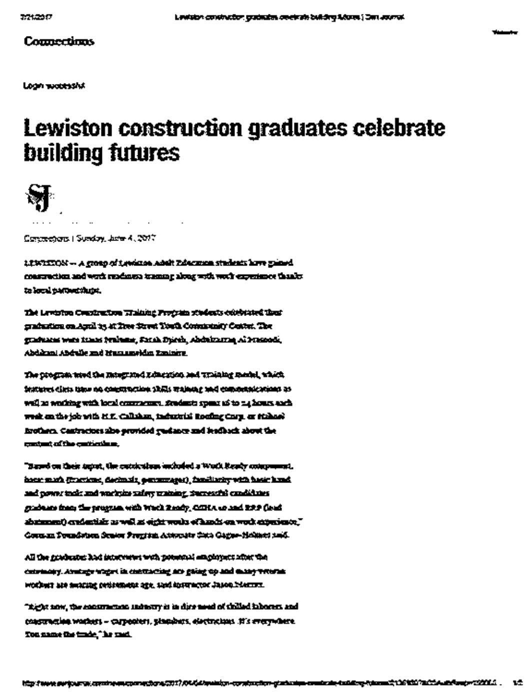
Contractor Name	Bid Price	Would contractor qualify under proposed TIF requirements?
Dearborn Brothers (Buxton)	$632K	NO
Shaw Brothers (Gorham)	$740K	NO
R.E. Coleman (Portland)	$937K	NO
Gorham Sand & Gravel (Buxton)	$944K	NO

Evergreen Cemetery Expansion

Contractor Name	Bid Price	Would contractor qualify under proposed TIF requirements?
R.E. Coleman (Portland)	$452K	NO
Dearborn Brothers (Buxton)	$459K	NO
Shaw Brothers (Gorham)	$494K	NO
Scott Dugas Trucking (Yarmouth)	$495K	NO
Doten's Construction (Freeport)	$526K	NO
Shaw Earthworks (Gorham)	$539K	NO

Requirement #3
"Bona-Fide" job training program

- Potential alternative? Assist in developing program for integrated construction training.
- Successful Lewiston program already in place (first class graduated in June 2017, 100% diverse graduates).
- See attached article from Lewiston-Sun Journal



Connections

Lewiston construction graduates celebrate building futures

SJ

LEWISTON — A group of Lewiston Adult Education students have gained construction and work readiness training along with work experience thanks to local partnerships.

"Right now, the construction industry is in dire need of skilled laborers and construction workers – carpenters, plumbers, electricians. It's everywhere. You name the trade," he said.

Requirement #4
Rewards and Clawbacks Provisions

- TIF recipients noted that these provisions would have prevented them from receiving financing, potentially crippling their ability to obtain TIF-structured loans
- John Gallagher, MSHA Director, noted to Committee on June 6th that a Clawback Provision would be awarded zero points on the MSHA funding scale.
- Additional details included in backup materials provided by Mary Davis and Kristin Stiles.

Connections

Welcome,

Login successful.

Lewiston construction graduates celebrate building futures

Connections | Sunday, June 4, 2017

LEWISTON — A group of Lewiston Adult Education students have gained construction and work readiness training along with work experience thanks to local partnerships.

The Lewiston Construction Training Program students celebrated their graduation on April 25 at Tree Street Youth Community Center. The graduates were Isaias Mulume, Farah Djireh, Abdulrazzaq Al Masoodi, Abdikani Abdulle and Hussameldin Eminire.

The program used the Integrated Education and Training model, which features class time on construction skills training and communications as well as working with local contractors. Students spent 16 to 24 hours each week on the job with H.E. Callahan, Industrial Roofing Corp. or Hahnel Brothers. Contractors also provided guidance and feedback about the content of the curriculum.

"Based on their input, the curriculum included a Work Ready component, basic math (fractions, decimals, percentages), familiarity with basic hand and power tools and worksite safety training. Successful candidates graduate from the program with Work Ready, OSHA 10 and RRP (lead abatement) credentials as well as eight weeks of hands-on work experience," Gorman Foundation Senior Program Associate Sara Gagne-Holmes said.

All the graduates had interviews with potential employers after the ceremony. Average wages in contracting are going up and many veteran workers are nearing retirement age, said instructor Jason Merritt.

"Right now, the construction industry is in dire need of skilled laborers and construction workers – carpenters, plumbers, electricians. It's everywhere. You name the trade," he said.

Merritt, who also teaches construction trades at Lewiston Regional Technical Center, said he and teachers at Central Maine Community College have gotten calls from contractors looking to make hires. If the construction industry does not find a solution to its shortage of workers, Merritt said jobs could be outsourced to other countries.

Along with members of the graduates' families, the audience had many people who helped the program become a reality. They included contractors Brian Demshar of H.E. Callahan and John Ferland of Hahnel Brothers. Members of Western Maine Community Action, the Root Cellar, Tree Street Youth Center, Maine Immigrant and Refugee Services, Lewiston CareerCenter, the city of Lewiston and the John T. Gorman Foundation also attended the ceremony. The Gorman Foundation provided support for the program.

Workforce coach Kim Sullivan, Lewiston Adult Education Director Bill Grant, instructor Jason Merritt and instructor Greg Yates spoke to the graduates and noted some of the challenges they had overcome. Misty Parker of Lewiston Economic Development and employer liaison Jamie O'Connell also congratulated students during the ceremony.

MEMO

To:	Mayor Ethan Strimling and Members of the Economic Development Committee: Councilor David Brenerman, Councilor Spencer Thibodeau, Councilor Pious Ali
Cc:	Danielle West-Chuhta, Corporation Counsel
From:	Michael Goldman, Associate Corporation Counsel
Date:	June 6, 2017
Re:	**Proposed amendments to TIF policies; preferences for hiring local residents, minorities, and women.**

The current proposed amendments to the City of Portland's TIF policies include, among other recommendations, the requirement that developers who are party to a credit enhancement agreement be subject to hiring preferences favoring local residents, minorities, and women. As explained below, such provisions, are often challenged as unconstitutional under the Privileges and Immunities and Equal Protection Clauses of the United States Constitution, thus potentially making the City liable for attorney's fees and other expenses in the face of a successful claim.

Local Hire Preferences

As one commentator has explained, "[T]he biggest hurdle to the enforceability of a local hire preference is a Privileges and Immunities Clause challenge." Jennifer D. Cantrell, Esq. et al., *Enforceability of Local Hire Preference Programs,* LEGAL RESEARCH DIGEST 59, April 2013 (hereinafter, "Cantrell"). The Privileges and Immunities Clause provides that "The citizens of each state shall be entitled to all privileges and immunities of citizens in several states." (U.S. Const. art. IV, § 2, cl. 1.). In *United Building & Construction Trades Council v Camden,* 465 U.S. 208 (1984), the U.S. Supreme Court made clear that a municipal local hire preference for public works projects triggered analysis under the Privileges and Immunities Clause because it affected the right of out-of-state residents to pursue employment. Under the circumstances, the Court explained that the City of Camden must establish that there is a "substantial reason" for treating residents and non-residents differently. In determining whether a substantial reason exists, “the inquiry in each case must be concerned with whether such reasons do exist and whether the degree of discrimination bears a close relation to them.” The Court further explained that Camden needed to show that nonresidents “constitute a peculiar source of the evil at which the [ordinance was] aimed.”

As Cantrell summarizes the issue, to justify a local hire preference, it is necessary for municipalities to show that (1) they have a substantial reason to discriminate against nonresidents, and (2) that the local hire preference is directed at remedying unemployment. Cantrell at 10. Before adopting such a policy, a municipality should have sufficient data (i.e. a study, investigative report, etc.) establishing, for example, that local unemployment is directly caused by the influx of nonresident labor and is not of the municipality’s own doing. Without this type of justification and evidence showing that nonresidents are the cause of local unemployment, a challenged local hire program and/or policy is unlikely to meet the burden of establishing a substantial reason to discriminate against nonresidents. The Court has not specifically indicated the type of data it would deem sufficient to support such preferences, but it has said that comparative statistics (i.e. on the difference between a municipality's high level of unemployment and unemployment levels in the state or county) are not sufficient without more. Courts have indicated that municipalities (or a third party) should conduct studies of the situation in the municipality as well as quantitative cost-benefit analysis in which the evidence of increased employment among residents is weighed against the costs associated with barring nonresident workers and contractors. As Cantrell warns, “Given that local unemployment can be attributed to a number of different variables besides the influx or presence of nonresidents, this has been a difficult evidentiary burden to meet.” Cantrell at 10.

<u>Minority Hire Preferences</u>

Similarly, municipal preferences for hiring minorities are subject to constitutional challenges under the Equal Protection Clause. In *Richmond v. J.A. Croson Co.,* 488 U.S. 469 (1989), the U.S. Supreme Court considered a Richmond ordinance that required contractors on municipal construction contracts to hire minority businesses enterprises for 30 percent of the work. The Court explained that in order to justify such a discriminatory practice, there must be (1) a compelling government interest to justify the practice, and (2) the 30% set-aside must be narrowly tailored to accomplish a remedial purpose. (This two-prong constitutional test is known as “strict scrutiny.”). Because there was no evidence of prior discrimination against minorities by Richmond, the Court concluded that Richmond had no compelling government interest to justify its hiring ordinance. The Court also concluded that it could not determine whether the ordinance was narrowly tailored to remedy prior discrimination because it was not linked to discrimination in any way. With that said, the Court went on to explain that state and local governments are not precluded from “taking action to rectify the effects of identified discrimination.” Before doing so, however, a municipality must have evidence, that nonminority contractors were excluding minority businesses from subcontracting opportunities. An inference of discriminatory exclusion could be satisfied by showing “a significant statistical disparity between the number of qualified minority contractors willing and able to perform a particular service and the number of such contractors actually engaged by the locality or the locality's prime contractors.” Furthermore, as Cantrell points out, “Consideration of race-neutral alternatives prior to the adoption of race-conscious measures is critical. In Croson, the Supreme Court held that because the City of Richmond failed to consider race-neutral alternatives such as simplifying its bidding procedures, relaxing bonding requirements, or providing training and financial aid to disadvantaged entrepreneurs prior to the adoption of its ordinance, the ordinance was not narrowly tailored.” Cantrell at 16.

Accordingly, based on the reasoning in Croson, before adopting a minority hiring preference, the City must first have evidence of prior discrimination and consider race-neutral alternatives to the preference.

<u>Gender-Based Hiring Preferences</u>

In order to withstand an Equal Protection challenge for a gender-based hiring preference, a municipality satisfy an “intermediate scrutiny” analysis. *Craig v. Boren,* 429 U.S. 190

(1976). This is a lower hurdle than the strict scrutiny analysis for race-based discrimination, but still requires a municipality to have an "exceedingly persuasive justification" for the gender-based preference. "To succeed, the defender of the challenged action must show at least that the classification serves important governmental objectives and that the discriminatory means employed are substantially related to the achievement of those objectives." *United States v. Virginia*, 518 U.S. 515, (1996). As Cantrell explains, "a governmental actor must show that the gender-based measure is based on reasoned analysis rather than through the mechanical application of traditional, often inaccurate, assumptions." Cantrell at 18. Cantrell also points out that the cases are less clear on what evidence is sufficient to support a gender based preference, but some evidence of gender-based discrimination is necessary before establishing one. Cantrell at 18.

Conclusion

As set forth in the case law and commentary summarized above, municipal hiring preferences that are based on residency, minority status, and gender are susceptible to constitutional challenges under the Privileges and Immunities and Equal Protection Clauses. The protections afforded by those clauses are not absolute, but municipalities must gather evidence of discrimination before establishing such preferences, and they must demonstrate that the preferences are specifically targeted to address that discrimination. Although it is not clear exactly what evidence would justify the proposed preferences, it is clear that we would need to conduct a study to gather information on the labor market and local hiring practices that would support a discriminatory preference before adopting one. This memo contains a very brief overview of some of the constitutional issues that arise out of municipal hiring preferences. Please let me know if you have questions or if you would like me to conduct additional research on this matter.

Mary Davis
Division Director, Housing & Community Development Division

TO: Councilor David Brenerman, Chair
Members of the Economic Development Committee

FROM: Mary Davis, Division Director
Housing and Community Development Division

DATE: August 18, 2017

SUBJECT: Proposed TIF Amendments – HUD Program Requirements

The U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) and HOME Investment Partnership (HOME) Programs have regulations that require projects that fund construction activities to meet certain federal requirements regarding labor and employment rules. Among those are the Davis-Bacon Act and Section 3. These requirements are administered by Housing and Community Development (HCD) Division staff.

(1) Section 3 of the Housing and Urban Development Act of 1968 (implemented at 24 CFR Part 135)

Section 3 applies to HUD-assisted housing rehabilitation, housing construction and other public construction projects. It requires that contractors and subcontractors of these type of HUD-assisted activities, *to the greatest extent feasible*, provide job training, employment, and contract opportunities for low or very low income residents or businesses.

(2) Davis-Bacon (40 USC 276(a)-277)

The Davis-Bacon Act requires contractors and subcontractors working on federally-assisted construction projects (including HUD-assisted projects) to pay mechanics and laborers prevailing wage rates and fringe benefits.

In the HOME Program, the Davis-Bacon Act is triggered by any contract for the construction of housing that contains 12 or more HOME-assisted units. When the requirement is triggered, it applies to the entire project not just the HOME-assisted units. The HOME Program requires an analysis and review to determine the allowable level of HOME investment and the number of HOME-assisted units required in each project. The analysis and review include maximum per unit subsidy limits, cost allocation analysis and other underwriting requirements that determine the number of HOME-assisted units in a project.

Since November of 2000, Portland has invested HOME funding in 22 developments which created a total of 677 units, 597 of which are affordable to households at or below 60% of the area median income. Of those 597 affordable units, 82 are designated as HOME-assisted. No one project has contained 12 or more HOME-assisted units and therefore, none have triggered the Davis-Bacon Act requirements.

In the CDBG Program, the Act is triggered when construction work over $2,000 is financed in whole or in part with CDBG funds. Davis-Bacon is not applicable in residential construction projects that have fewer than 8 units or construction projects completed by municipal employees.

There are very limited instances where CDBG funds can be used for new construction of rental housing. An eligible Community Based Development Organization (CBDO) can carry out new construction of rental housing. A CBDO must be a local organization (for-profit or non-profit) with a focus on neighborhood revitalization, community economic development or energy conservation projects.

Portland can use CDBG funds to support new construction of rental housing for certain types of activities such as acquisition costs, site clearance, and site improvements in the public way.

HCD staff spoke with a contractor who works on public infrastructure projects financed with CDBG. This was a small contractor with significant experience with Davis-Bacon requirements. They report that it takes an additional hour each week to fill out and process the payroll forms and maintain the records for CDBG. Without the Davis-Bacon requirements, the payroll process takes about twenty minutes. Larger companies have a greater reporting burden. Once the reports are submitted, city staff must review the reports and confirm that the Davis-Bacon requirements have been met. If the requirements have not been met, city staff work with the contractor to ensure that corrections are made in a timely manner. Staff can spend as little as 20 minutes to as much as many hours reviewing Davis-Bacon reports, depending on the quality and accuracy of the reports submitted by the contractors.

HCD staff have confirmed that Maine State Housing Authority does not have funding programs that require prevailing wage rates. In 2012 the requirements for prevailing wage rates and on-the-job training were removed from the Qualified Action Plan (QAP). The QAP is the application for low income housing tax credits (LITHC) which is the primary funding mechanism for affordable rental housing development.

Mary Davis
Division Director, Housing & Community Development Division

Tax Increment Financing and Affordable Housing:

Portland currently has five Tax Increment Financing (TIF) Districts with credit enhancement agreements (CEA) that support affordable housing. Four of the TIFs are approved through the State of Maine's Municipal Affordable Housing Development District statute (30-A M.R.S. §5245-5250-G). Maine State Housing Authority is the state agency tasked with ensuring compliance with this statute. The Affordable Housing TIF program is one of the tools that municipalities can use to assist in the creation of or to maintain affordable housing within the community. It is an important tool for Portland which is already at a disadvantage in the tax credit allocation process due to higher land costs as compared to other areas of the state.

The four Affordable Housing TIF Districts are: Pearl Place Phase I, 409 Cumberland, 134 Washington and 17 Carleton Street. The revenue returned to the developer under the Pearl Place CEA is being used to pay debt service on a bank loan. In the other three projects, the revenue is being used to pay project operating costs which can include property management and administration, utilities, routine repairs and maintenance, insurance, real estate taxes, and funding of the project's replacement reserve account.

The fifth TIF District, McAuley Place, is an economic development TIF. This TIF is approved through the State of Maine's Development District statute (30-A M.R.S. §5221-5235). The Maine Department of Economic and Community Development is the state agency tasked with ensuring compliance with the statute. The McAuley Place TIF was created, in part, to assist in the renovation of the former Sisters of Mercy Mother House at 605 Stevens Avenue. The TIF revenue returned to the developer is being used to reimburse the capital program or pay debt service.

As mentioned above, the QAP is the application for low income housing tax credits (LITHC). Within the QAP, a developer is awarded points if the project directly benefits from operating assistance or a reduction in operating costs through some form of property tax relief. The points are awarded based on the percentage of tax relief and the number of years the project will receive that relief. The highest number of points (6 points) are awarded for projects that receive 75% tax relief for 30 or more years. Portland's TIF policy caps CEA percentages at 65% for up to 20 years which means that projects in Portland that are approved for a TIF CEA will receive four points in the QAP.

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Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

TO: **Economic Development Committee**

FROM: **Greg Mitchell**

DATE: **August 17, 2017**

SUBJECT: **City of Portland Tax Increment Financing District Activity**

This Memorandum provides an overview of City of Portland Tax Increment Financing (TIF) District activity with an emphasis upon use of Credit Enhancement Agreements (CEAs).

Portland TIF District

Annually, City staff updates and presents a report on Portland TIF District activity to the Portland City Council Economic Development Committee (EDC) and City Council. Attached is the latest Portland TIF District Activity Report for FYE2016, being the fourth year of such Annual Reports. This FYE2016 Annual Report can be accessed, via the city web site, at http://www.portlandmaine.gov/529/Tax-Increment-Financing.

Portland TIF Policy

The City of Portland TIF Policy is located on pages 19 of 35 through 25 of 35 in the attached Annual TIF District Activity Report.

Overview of Portland TIF CEA Activity

Historical activity highlights include:

- 23 total approved TIF CEAs over 22 years:
  - 9 of the 23 are active commercial CEAs;
  - 5 of the 23 are active affordable housing CEAs;
  - 5 of the 23 have expired
  - 2 of the 23 did not pursue projects
  - 1 of the 23 was not approved by MDECD nor project pursued
  - 1 of the 23 pursued the project but chose not to enter into CEA

- 4 of the active commercial CEAs will have expired by FYE2019, leaving 5 active commercial TIF CEAs.

- Increase in property tax base growth associated with all expired TIF CEAs is closed to $98 Million, generating over $2 Million in annual property tax revenue, in addition to new jobs.

- Increase in property tax base growth associated with active TIF CEAs is close to $88 Million, generating $1.8 Million in annual property tax revenue, in addition to new jobs.

- Increase in property tax base growth associated with affordable housing projects with active TIF CEA is $7 Million, which leveraged over $52 Million to other public/private investment to create 227 affordable housing units.

Mayor Proposed TIF Policy Amendments

Mayor's Proposed TIF Policy Amendments fall into four main categories which include:

1. Establishing prevailing wage requirements;
2. Employment hiring preferences;
3. Apprenticeship/Job Training; and,
4. Penalty or Claw Back Provisions.

It is noted that the Mayor's Proposed TIF Policy Amendments so far do not apply to all City public infrastructure investment; it applies only to construction employment associated with businesses which receive City TIF CEA financial assistance and not business employment.

I reviewed all City Council approved TIF CEAs and only two (2) included conditions similar to the Mayor's proposed amendments. The two (2) TIF CEAs and associated conditions include:

1. ComTel project (which was not built nor approved by MDECD) conditions previously presented by the Mayor applied to proposed Company employment only; and,

2. Ocean Gateway Parking Garage/Riverwalk TIF District condition in the CEA that Union Labor be utilized, specifically: "All construction jobs related to the Project shall go to City and State of Maine citizens when possible, and all subcontractor work shall go to City and State union firms offering a sustainable, living wage, when possible." It is noted that Drew Swenson will be at the meeting to further discuss this.

I look forward to discussing this with you to answer any questions.

Attachments:

- Matrix of TIF CEAs
- FYE2016 Annual TIF Report

City of Portland

TIF Credit Enhancement Agreements

How many?	23 total approved over 22 years.
How many are expired?	5
How many active Affordable Housing?	5
How many active commercial (non-Affordable Housing)?	9
How many active commercial expire near-term?	1 in 2018
	3 in 2019

Comments:
City Council and Maine DECD or MSHA approval is required to establish TIF Districts.
TIF CEAs must meet a public benefit purpose as defined by State law and City TIF Policy. Examples including redevelopment of blighted property, investing in public infrastructure, supporting targeted technology companies or affordable housing.
A total of twenty-three (23) TIF Districts have been approved by the Portland City Council, including:
- 19 having constructed projects and/or are in contruction mode;
- 1 pursued the project but chose not enter into CEA (BWL, LLC [Regency];
- 2 not pursuing projects (Fore India Middle LLC; Southern Maine Properties Company and Bookland of Maine); and
- 1 with no MDECD approval nor project (ComTel).
TIF Districts are performanced based, meaning that developers receive a percentage of new property taxes based upon actual investment.
After FY19, the City will have five (5) active commercial TIF CEAs.

Portland TIF Credit Enhancement Agreements (CEAs) by the numbers -
Assessed Valuations of EXPIRED COMMERCIAL TIF CEAs as of FY2017

Name	FY2017 Assessed Value	Original Assessed Value	Difference
Shipyard	$4,283,010	$451,200	$3,831,810
Auto Europe	$3,817,360	$376,500	$3,440,860
Bay House	$16,966,700	$915,550	$16,051,150
UNUM	$71,680,400	$1,383,070	$70,297,330
Nichols Portland*	$22,453,850	$18,401,520	$4,052,330
Totals:	**$119,201,320**	**$21,527,840**	**$97,673,480**
FY17 Taxes:	**$2,516,340**	**$454,453**	**$2,061,887**

Comments:
Specific public benefit purposes for Shipyard was to stimulate redevelopment of a blighted and environmentally contaminated property.
Specific public benefit purposes for Auto Europe was to improve a blighted vacant (for more than ten years) property then known as the "Galt Block".
Specific public benefit purposes for the Bay House project was public infrastructure.
Specific public benefit purposes for UNUM and Nichols was to support business attraction and/or manufacturing investment.
The above five (5) TIF Districts today resulted in attracting $98 Million in new municipal tax base generating over $2 Million in annual property tax revenue.

*The FY2017 Assessed Value of the Nichols Portland TIF includes real estate and personal property value; all others are real estate assessed value only.

TIF Credit Enhancement Agreements (CEAs) by the numbers -
Assessed Valuations of COMMERCIAL ACTIVE TIF CEAs as of FY2017

Name	FY2017 Assessed Value	Original Assessed Value	Difference
Holt Hall	$4,956,760	$349,110	$4,607,650
Baxter Library	$2,502,600	0	$2,502,600
Ocean Gateway Garage/Riverwalk	$13,319,200	$1,085,550	$12,233,650
PowerPay/Public Market	$6,259,500	$1,862,600	$4,396,900
Atlantic Bayside Trust/AAA Building	$30,090,600	$0	$30,090,600
Blue Atlantic/Bayside Student Housing	$16,320,830	$0	$16,320,830
Waterfront Maine/Merrill's Wharf	$15,187,300	$950,930	$14,236,370
Thompson's Point	$8,434,470	$4,970,470	$3,464,000
ImmuCell	$52,600	$52,600	$0
Totals:	**$97,123,860**	**$9,271,260**	**$87,852,600**
FY17 Taxes:	**$2,050,285**	**$195,716**	**$1,854,568**

Comments:
Specific public benefit purposes for Holt Hall, Baxter Library, Public Market, and Merrill's Wharf projects supported attracting private sector investment to blighted or declining value properties, in addition to new jobs.
Specific public benefit purpose for Ocean Gateway Garage public infrastructure investments and supported attracting millions of dollars in private investment in adjacent properties.
Specific public benefit for the AAA and Student Housing projects supported new construction, public infrastructure, parking structures, and new jobs.
Specific public benefit for Thompson's point was public infrastructure and new jobs.
Specific public benefit for ImmuCell was targeted technology company and jobs.
Total new property tax value, to date, associated with the above nine (9) TIF Districts is close to $88 Million, generating over $1.85 Million in new annual property tax revenue.

Affordable Housing TIF Credit Enhancement Agreements (CEAs) by the numbers - Assessed Valuations of AFFORDABLE HOUSING ACTIVE TIF CEAs as of FY2017

Name	FY2017 Assessed Value	Original Assessed Value	Difference	Other Public/Private Investment	Number of Affordable Units
Pearl Place	$3,581,560	$646,050	$2,935,510	$12,932,585	60
409 Cumberland Avenue	$3,717,960	$470,200	$3,247,760	$11,120,171	46
134 Washington Avenue	$1,079,400	$155,600	$923,800	$3,685,763	18
17 Carleton Street	$261,600	$261,600	$0	$6,541,370	37
McAuley Place	$0	$0	$0	$18,070,801	66
Totals:	**$8,640,520**	**$1,533,450**	**$7,107,070**	**$52,350,690**	**227**
FY17 Taxes:	**$182,401**	**$32,371**	**$150,030**		

Comments:
The above five (5) Affordable Housing projects to date created over $7 Million in new City tax base and attracted over $52 Million in public/private investments, which created 227 affordable residential units.
All five (5) Affordable Housing projects would not have happened "but for" the City TIF program financing.
Of the 227 affordable units, 58 are affordable at or below 50% of the area median income; the remaining 169 units are affordable at or below 60% of the area median income.

Portland TIF Credit Enhancement Agreements (CEAs) by the numbers -
Overview for last four fiscal years:

	FYE2013	FYE2014	FYE2015	FYE2016
City General Fund-Taxes from OAV:	$5.8 Million	$6.1 Million	$6.3 Million	$22.8 Million
City General Fund-Taxes from Non-Captured Value:	$1.1 Million	$341,000	$720,000	$2.4 Million
Total TIF Taxes From Captured Value:	$2.7 Million	$3.5 Million	$3.2 Million	$1.8 Million
- TIF Taxes to CEAs:	$1.9 Million	$2.0 Million	$2.0 Million	$1 Million
- TIF Taxes to Public Infrastructure/Arts:	$.8 Million	$1.5 Million	$1.2 Million	$.8 Million
Total Tax Sheltering Value:	$143 Million	$180 Million	$160 Million	$87 Million
Estimated Annual Average Tax Sheltering Savings:	$1.3 Million	$1.6 Million	$1.3 Million	$.7 Million

NOTE: Above table explanations follow on next page.

Above Table Explanations:

City General Fund-Taxes from OAV - The table shows a yearly increase in taxes from the OAV into the General Fund. For FYE 2013 through FYE2015, this is based on increases in tax rates. FYE2016's higher increase is due to the Downtown TOD TIF Activation, where the OAV is just under $1 Billion, and associated taxes with that OAV at $20 Million (which also includes the property values previously in the Arts District and associated $5 Million in taxes). As noted earlier in the definition section, all taxes from the OAVs go to the General Fund.

City General Fund-Taxes from Non-Captured Value – This number fluctuates based on each CEA, as well as the City's budget needs for public infrastructure/Economic Development Department staff salaries/debt service. The captured value percentages for the area wide TIF Districts - Bayside and Waterfront - are adjusted yearly based on those needs. The captured value percentage for the Downtown TOD TIF was set at 12% for the first year (FY2016) and then set at 22% for years 2 through 30. The increase in this table for FYE2016, is due to capturing 12% from the Downtown TOD TIF and having the remaining non-captured 88% go into the General Fund. Non-captured increased assessed value taxes flow into the General Fund.

Total TIF Taxes From Captured Value – The percentage of captured value varies yearly based on CEAs and the City's financial needs. This TIF Revenue is then allotted to the various CEAs, and then to the City public infrastructure projects/arts.

Total Tax Sheltering Value – This number represents the total percentage of the increased assessed of value (IAV) all TIF Districts that has been captured. This value decreased from FYE2015, which was largely due to the UNUM TIF District's expiration in FY2015, and a decrease in the captured value percentage from the Bayside TIF District. The captured value percentage for area TIFs is adjusted yearly based on City use of TIF funds needed for public infrastructure projects, as well as debt service for payment of the Bayside HUD loan and for Ocean Gateway associated debt expenses.

Estimated Tax Sheltering Savings – As noted earlier in Section 7, this number decreased by $.7 Million from FYE2015. This is, again, due to the UNUM TIF District expiring, and a smaller percentage of IAV captured from the Bayside TIF.

For Details See:

- City of Portland TIF Annual Report for TIF Public Benefit Purposes and Specific Capture Rates.
  Weblink: http://portlandmaine.gov/529/Tax-Increment-Financing

- FY2017 Matrix

For Questions: Contact Greg Mitchell, gmitchell@portlandmaine.gov, (207) 874-8945.

Portland, Maine Yes. Life's good here.

Tax Increment Financing

Fiscal Year End (FYE) 2016 Annual Report
(July 1, 2015 through June 30, 2016)

Prepared by the Economic Development Department

(Report prepared 10/2016)

Table of Contents

1. Introduction

On February 4, 2013, the City Council adopted revised City Tax Increment Financing (TIF) Policy (Item A in Appendix) in support of investment in municipal economic development programs and infrastructure investment. Revised City Policy favors area-wide TIF Districts to support investment in public infrastructure and economic development programs versus individual site TIF Districts for private project financing needs.

City TIF Policy requires an annual report, to the City Council Committee and full City Council, regarding TIF District activity. This Report provides an overview of the TIF District Program, Portland's utilization of TIF Districts to date, and TIF District financial value impacts.

2. Definitions

Commonly used terms, included in this Report, include:

"***Captured Assessed Value***" means increased assessed value retained in a TIF District each year during its term.

"***Credit Enhancement Agreement (CEA)***" means the agreement between the City and the site specific TIF District Developer whereby it includes the terms under which the City will provide a portion of the Retained Tax Increment Revenue back to the Developer.

"***Current Assessed Value***" means the then current assessed value of the property located in the TIF District to be determined by the City Assessor as of April 1 of each year during the term of the District.

"***District***" means that portion of property depicted on a map to apply to the TIF.

"***Increased Assessed Value (IAV)*** " means the valuation amount by which the Current Assessed Value exceeds the Original Assessed Value. If the Current Assessed Value is less than or equal to the OAV, there is no Increased Assessed Value in that year.

"***Infrastructure***" is defined, but not limited to: traffic upgrades, public parking facilities, roadway improvements, lighting, sidewalks, water and sewer utilities, storm water management improvements, and placing above ground overhead electric and telecommunications lines underground.

"***Original Assessed Value (OAV)***" means the assessed value of the property in the TIF District as of March 31 of the year that it was created. For instance, if a TIF District was approved as of the date of this report, or October 2016, the OAV would be the assessed value of the property on March 31, 2016. All taxes from the OAV go into the City's General Fund for any City use.

"***Property Taxes***" means any and all ad valorem property taxes levied, charged or assessed against the property by the City or on its behalf and actually paid to the City, but excluding any county, state, or special District taxes that are separately levied, charged, or assessed against the property.

"***Retained Tax Increment Revenues***" means that portion of the Property Taxes paid with respect to the Captured Assessed Value.

"***Tax Year***" means April 1 to March 31.

3. Tax Increment Financing Overview and Value

Tax Increment Financing (TIF) is the most flexible economic development program available to municipalities. Associated with private sector or affordable housing investment, TIFs are flexible municipal financing tools to fund the following types of activities to support private sector investment:

- public infrastructure projects;
- economic development programs, including municipal marketing and staff; and,
- support of individual private commercial and affordable housing project financing needs.

The two property tax components associated with TIF Districts include:

- ***New Property Taxes***. TIF revenue is generated from new increased municipal assessed value and associated new property taxes. TIFs can be established for up to thirty (30) years and new or "captured assessed value" in the TIF District can range from 1% to 100% of the amount of new property taxes.

- ***Original Assessed Property Value (OAV)***. The taxes from property base or "Original Assessed Value" reverts to the municipal general fund and is not captured in a TIF District.

4. TIF District Approval Process

There is a three step process to approve establishment of a TIF District. The three steps include:

- Economic Development Committee recommendation for approval to the City Council;
- City Council approval; and,
- State of Maine Department of Economic Development Department approval for commercial TIF districts or Maine State Housing Authority approval for affordable housing TIF Districts.

5. City Council Actions During FY2016

City Council actions taken during FY2016 include:

(a) The Council's Housing and Community Development Committee, at the end FY2015, reviewed and recommended to the Council approval of the 17 Carleton Avenue Affordable Housing TIF and Credit Enhancement Agreement. The City Council's review and approval occurred during FY2016 at its August 3, 2015 meeting. The Council then brought it back for reconsideration on September 9, 2015 and postponed it at that meeting to September 21, 2015, at which meeting it voted to reapprove the District and Credit Enhancement Agreement.

(b) It is noted that during FY2016, the Council's Economic Development Committee reviewed and recommended to the City Council creating a TIF District and associated Credit Enhancement Agreement for ImmuCell. The City Council's review and approval occurred during FY2017 at its September 19, 2016 meeting.

6. Statutory Limits for TIF Districts

There are two State statutory limitations which include:

- ***Acreage***: No single TIF District, including Affordable Housing Districts, can be larger than 2% of a municipality's total acreage, or in the case of Portland, 2% of Portland's 12,386 acres is 247 acres. Also, all active TIF Districts have to be less than 5% of a municipality's total acreage, or in the case of Portland, 5% is 619 acres. Based upon active TIF Districts, including Affordable Housing TIF Districts, as of FYE2016, Portland has the ability to include 471 additional acres in TIF Districts.

- ***Value***:

  - **Commercial/Area Wide TIF Districts:** The OAV of all these TIF Districts in a municipality cannot be more than 5% of its total aggregate value (FY16 aggregate value: $7,996,350,000), or in the case of Portland, 5% is $399,817,500. Based upon active TIF Districts as of FYE2016, Portland has the ability to include an additional $266.5 Million of property value in TIF Districts.

  - **Affordable Housing TIF Districts:** The OAV of all Affordable Housing TIF Districts cannot be more than 5% of the total aggregate value (FY16 aggregate value: $7,996,350,000), or in the case of Portland, 5% is $399,817,500. Based upon active Affordable Housing Districts as of FYE2016, Portland has the ability to include an additional $398 Million of property value in Affordable Housing TIF Districts.

It is noted that the amount of acreage and value to include in TIF Districts fluctuates as TIF districts are created, expired, and/or terminated.

There are exemptions from State limitations for Transit Oriented Development (TOD) and Downtown TIF Districts, for which Portland now has two: Thompson's Point TOD TIF, and the Downtown TOD and Omnibus TIF, the latter created in FY15 and activated in FY16.

7. Tax Sheltering Benefits

Municipalities realize "savings" from the tax sheltering effect of TIF Districts. The following direct financial impacts occur when municipal valuation increases:

- State Education Aid is reduced,
- State Municipal Revenue Sharing is reduced, and
- A municipality pays a higher percentage of the County budget.

This amount of "savings" is significant and one of the most important benefits of establishing TIF Districts.

For Portland, tax shelter savings is conservatively estimated at 30%, meaning that for every new tax dollar, Portland saves 30 cents which would otherwise be lost for property tax value not included in a TIF district. Portland's estimated total tax shelter savings for all active TIF Districts is just over $715,000 for FYE2016, which is approximately $600,000 less than FY2015 due largely to the UNUM TIF expiring in FY2015 with the City not capturing $61 Million of increased assessed value in FY2016, and the City capturing a smaller percentage of the increased assessed value for the Bayside TIF – from 83% in FY15 to 55% in FY16. It is also noted that the total sheltering value decreased by $73 Million from FYE2015 to FYE2016, or $160 Million in FYE2015 and $87 Million in FYE16. Again, this was largely due to the UNUM TIF District's expiration in FY2015, and a decrease in the captured value percentage from the Bayside TIF District. The captured value percentage for area TIFs is adjusted yearly based on City use of TIF funds needed for public infrastructure projects, as well as debt service for payment of the Bayside HUD loan and for Ocean Gateway associated debt expenses.

8. TIF Districts in Portland

A listing of all approved TIF Districts is provided as Item B in the Report Appendix. This listing includes four expired TIF Districts – Auto Europe, Shipyard Brewery, Nichols Portland, and UNUM. This listing also includes two TIF Districts which were terminated by the City Council during FY15 – those being the Village at Oceangate (Bay House), and the Fore India Middle LLC TIF District.

It is noted that after expiration and termination of the above TIF Districts, 100% of their property tax revenue reverts to the City's General Fund.

Also, this listing provides the following information for each TIF District:

- TIF District duration;
- percentages of taxes allocated to the Recipient/Developer, City, and General Fund;
- TIF District location; and
- brief description.

Item C in the Appendix provides a map showing the location for each active TIF District.

A listing of approved active individual site specific TIF Districts, area-wide TIF Districts, Downtown TOD TIF, Thompson's Point TOD TIF, non-active TIF Districts, and terminated TIF Districts by name are provided below.

Active Approved Individual Site Specific TIF Districts

As of FYE2016, the City has eight, single site active TIF Districts with associated CEAs, namely:

- Holt Hall
- Riverwalk/Ocean Gateway
- PowerPay/Portland Public Market
- Baxter Library
- Avesta/Pearl Place Affordable Housing TIF
- 409 Cumberland Avenue Affordable Housing TIF
- 134 Washington Avenue Affordable Housing TIF
- 17 Carleton Street Affordable Housing TIF

Active Approved Area Wide TIF Districts and Associated CEAs

The City has two active area wide TIF Districts, for which the City retains a portion of the TIF funds for public infrastructure projects, with a portion of the TIF funds targeted to CEAs within those Districts, namely:

- Bayside
    - Capital LLC CEA
    - Bayside Student Housing CEA
- Waterfront (Appendix D and E)
    - Waterfront Maine CEA

Approved Downtown and/or Transit-Oriented Development (TOD) TIF Districts

- Downtown TOD TIF

The City retains a portion of the TIF funds for public infrastructure, Creative Portland, and transit projects for the Downtown TOD TIF. This Downtown TOD TIF was approved during FY2015 and was activated with FY2016. There is no CEA associated with it at this time.

- Thompson's Point TOD TIF and CEA

For the Thompson's Point TOD TIF, the City retains a portion of TIF Funds for transit projects. This TOD TIF also has an associated CEA with Thompson's Point Development Company, Inc. for development of Thompson's Point, which is not yet active. Activation of this TIF CEA will occur when the Increased Assessed Value is at least $5 Million.

Non-Active Approved TIF District

In FY09, the City Council approved a TIF District that is expected to be activated with the McAuley Place senior housing project.

Terminated TIF Districts

The City Council has terminated two TIF Districts, namely:

- Fore India Middle LLC – This TIF project had not come to fruition and, therefore, was terminated by the City Council in November 2014; and,

- The Village at Oceangate, LLC (Bay House) – This TIF District was also terminated by the City Council in November 2014 due to this District's use being converted into residential condominiums which is not an allowable TIF District use.

9. TIF District Financial Overview for FYE2016, including FY2013, FY2014, and FY15

See below for financial comparison of FYE2016, 2015, FYE2014, and FY2013 for then active TIF Districts:

	FYE2013	FYE2014	FYE2015	FYE2016
City General Fund-Taxes from OAV	$5.8 Million	$6.1 Million	$6.3 Million	$22.8 Million
City General Fund-Taxes from Non-Captured Value	$1.1 Million	$341,000	$720,000	$2.4 Million
Total TIF Taxes From Captured Value	$2.7 Million	$3.5 Million	$3.2 Million	$1.8 Million
- TIF Taxes to CEAs	$1.9 Million	$2.0 Million	$2.0 Million	$1 Million
- TIF Taxes to Public Infrastructure/Arts	$.8 Million	$1.5 Million	$1.2 Million	$.8 Million
Total Tax Sheltering Value	$143 Million	$180 Million	$160 Million	$87 Million
Estimated Annual Average Tax Sheltering Savings	$1.3 Million	$1.6 Million	$1.3 Million	$.7 Million

Table Explanations:

City General Fund-Taxes from OAV - The above table shows a yearly increase in taxes from the OAV into the General Fund. For FYE 2013 through FYE2015, this is based on increases in tax rates. FYE2016's higher increase is due to the Downtown TOD TIF Activation, where the OAV is just under $1 Billion, and associated taxes with that OAV at $20 Million (which also includes the property values previously in the Arts District and associated $5 Million in taxes). As noted earlier in the definition section, all taxes from the OAVs go to the General Fund.

City General Fund-Taxes from Non-Captured Value – The number fluctuates based on each CEA, as well as the City's budget needs for public infrastructure/Economic Development Department staff salaries/debt service. The captured value percentages for the area wide TIF Districts - Bayside and Waterfront - are adjusted yearly based on those needs. The captured value percentage for the Downtown TOD TIF was set at 12% for the first year (FY2016) and then set at 22% for years 2 through 30. The increase in this table for FYE2016, is due to capturing 12% from the Downtown TOD TIF and having the remaining non-captured 88% go into the General Fund. Non-captured increased assessed value taxes flow into the General Fund.

Total TIF Taxes From Captured Value – The percentage of captured value varies yearly based on CEAs and the City's financial needs. This TIF Revenue is then allotted to the various CEAs, and then to the City public infrastructure projects/arts.

Total Tax Sheltering Value – This number represents the total percentage of the increased assessed of value (IAV) all TIF Districts that has been captured. This value decreased from FYE2015, which was largely due to the UNUM TIF District's expiration in FY2015, and a decrease in the captured value percentage from the Bayside TIF District. The captured value percentage for area TIFs is adjusted yearly based on City use of TIF funds needed for public infrastructure projects, as well as debt service for payment of the Bayside HUD loan and for Ocean Gateway associated debt expenses.

Estimated Tax Sheltering Savings – As noted earlier in Section 7, this number decreased by $.7 Million from FYE2015. This is, again, due to the UNUM TIF District expiring, and a smaller percentage of IAV captured from the Bayside TIF.

Appendix D is a spreadsheet showing the FYE 2016 TIF Districts funding allocation and individual CEA annual payments.

10. Strategies and Recommendations to Optimize use of TIF Districts

- ***Future public infrastructure investment.*** Align the City's future Capital Improvement Program investments, including utility and transportation investment; and,

- ***Future Growth Areas.*** Decide where the City wants to direct investment by location and type (i.e. commercial and affordable housing).

PORTLAND TIF POLICY

February 4, 2013

INTRODUCTION

Tax Increment Financing (TIF) is an economic development program authorized under state law to support municipal projects. The TIF program allows municipalities to provide financial assistance to local economic development projects and programs – from infrastructure, municipal economic development programs and staff, to business expansions - by using new property taxes that result from new commercial or residential investment associated with the corresponding increase in property value.

Portland TIF Policy supports investment in municipal economic development programs, infrastructure investment (which is generally through the establishment of area wide or neighborhood TIF districts) and individual project site specific TIF districts to support either infrastructure or individual private project financing needs.

The City is committed to invest in infrastructure located within the public rights-of-way that encourage economic development. Use of TIF investment to invest in infrastructure recognizes the savings which occurs through the TIF Program tax sheltering benefits.

"Infrastructure" is defined, but not limited to: traffic upgrades, public parking facilities, roadway improvements, lighting, sidewalks, water and sewer utilities, storm water management improvements and placing above ground overhead electric and telecommunications lines underground.

STATE TIF LIMITATION

There are acreage and value caps limitations for municipalities to establish TIF along with term limits. Term limits include bonds which may be issued for a maximum of 20 years (anticipation notes for three years). TIF districts may be designated for a maximum of 30 years.

PURPOSE

The primary purposes of the TIF Policy include:

1. To support Portland Economic Development and Housing Plans and Policies;
2. To stimulate expansion of the City's commercial and industrial tax base;
3. To stimulate new affordable and market rate housing investment;
4. To retain and create quality employment;
5. To support Portland's Capital Improvement Plan; and,
6. To establish standards upon which the City Council will authorize TIF.

GENERAL PRINICPLES

The three primary general principles for the City Council to establish TIF districts include:

A. Investment

***Minimum Real Property Investment*.** A minimum of $1 million in new taxable investment property value for commercial and industrial development and $500,000 for affordable housing development is needed to qualify for a TIF. This is the minimum amount which makes practical sense to consider use of the TIF program due to the amount of new municipal property tax revenue generated from new private investment.

B. Jobs Associated with Commercial and Industrial Development

Applicants for TIF participation will be required to provide a plan outlining the number and quality of jobs retained or created associated with each TIF district. While there is not a specific formula for the numbers of jobs associated with the amount of TIF financial assistance, the number and quality of the jobs will be taken into consideration for each TIF district. It is recognized that housing projects do not create many permanent jobs.

C. Maximize Tax Sheltering Benefits

A municipality's total equalized assessed value is used to calculate General Purpose Aid to Education (subsidy), State Revenue Sharing (subsidy) and County taxes (expense). When a municipality's equalized assessed value increases, State Aid for Education decreases, municipal revenue sharing decreases, and the municipality pays a greater portion of County taxes. TIF allows municipalities to "shelter" new value resulting from private investment from the calculation of its State subsidies (education and revenue sharing) and County taxes. In other words, specific municipal shelter benefits, for the term of the TIF, include:

1) No reduction in State aid for education,
2) No reduction in municipal revenue sharing and
3) No increase in County taxes.

Annually, the Council Committee with jurisdiction over housing and community development and City Council will evaluate available TIF district capacity related to State acreage and value limitations to determine whether existing TIF districts need amending and/or new TIF district establishment. Scheduled public infrastructure investments included in the City's Capital Improvement Plan will inform decisions about adjustments to existing TIF districts or establishment of new TIF districts.

APPROACH, POLICY, and TERM REQUIREMENTS

Must meet or exceed the below requirements.

A. Approach

There are three approaches to consider establishing TIF districts. They include:

1) ***Municipal Economic Development Programs funded directly through a pay-as-you-go approach.***

   Examples of municipal economic development programs include paying for economic development staff, annual funding to Creative Portland for city marketing/branding, and other TIF law allowable activities.

2) Area wide TIF districts financed by City Bond/Debt Issuance

   Issuance of municipal general obligation bonds or limited obligation bonds is a mechanism that may be used to fund a TIF district program. Allowable uses are spelled out in state TIF law. Generally, municipalities will issue debt to cover the cost of infrastructure investment.

3)Individual Site Specific TIF districts utilizing Credit Enhancement Agreements (CEAs)

   A CEA is a contract between a municipality and developer to assist an individual development project by using a percentage or all of the tax revenue generated by the investment to pay certain authorized project costs which could include site specific infrastructure or private individual project financing needs. Allowable project costs are spelled out in state TIF law.

B. Policy for the Three Approaches

1. **Policy for Municipal Economic Development Programs.**

Requires annual review and City Council financial appropriations.

2. Policy for Area wide TIF District Locations (for City Bond/Debt Issuance)

a) Area wide TIF will be established for infrastructure investment which has applications beyond one individual project.

b) City TIF emphasis will be placed upon the following general “Priority Revitalization Areas” to support commercial development, housing development, redevelopment, or to support buildings in need to redevelopment, address blight or historic preservation:

- Affordable housing projects off peninsula;
- India Street Neighborhood;
- Franklin Street Corridor from I-295 to Commercial Street;
- Riverside Street commercial and industrial zoned areas;
- Forest Avenue corridor from I-295 to Woodfords Corner;
- Washington Avenue corridor from Congress Street to I-295;
- Re-examine the boundary of Bayside TIF District;
- Examine establishing a Downtown TIF district in place of the Arts TIF District;
- Portland Technology Park ;
- Areas in which future significant wastewater and/or stormwater infrastructure investments are planned;
- West Commercial Street vacant property;
- Libbytown;
- St. Johns Street Valley;
- Other areas based upon scheduled public infrastructure investment included in the City's Capital Improvement Plan.

The above list of general priority revitalization areas serve as guides to establish specific boundaries for TIF districts at time of district establishment.

c) <u>Market Rate Housing.</u> Market rate rental housing projects must be located in priority revitalization areas to stimulate housing investment for the purpose of attracting 24/7 pedestrian activity. Pursuant to State Law, TIF for condominium projects are not allowed.

d) <u>Affordable Housing</u>**.** Affordable Housing TIF (AHTIF) may be designated on an area wide or site specific basis.

The relevant City Council Committee will complete an annual assessment of housing needs and priorities. This assessment will include a determination regarding designation of an area wide AHTIF. Site specific AHTIF requests submitted by developers will be considered on a case-by-case basis. Area wide or site specific AHTIF designations must address an identified community need.

State law requires that at least 25% of the district area must be suitable for residential use, development must be primarily residential, and at least 1/3 of the units must be for households at or below 120% of area median income which allows for individual mixed income projects or area wide affordable housing TIF districts.

Allowable uses of AHTIF revenues are defined by State law.

e) City preference is to invest in area wide public infrastructure TIF districts versus establishing individual private site specific TIF districts.

f) Area wide TIF districts also should seek to maximize the benefit of downtown and transit oriented development (TOD) districts which are <u>exempt</u> from State TIF law for acreage and value limitations.

g) Terms for area wide TIF districts will be considered for up to 100% of new tax revenue and upwards of thirty (30) years, the maximum allowed by State law, due to the long-term need to invest in neighborhood infrastrucutre.

<u>NOTE 1</u>: As of this Amended TIF Policy date, there are three existing area wide TIF Districts, i.e., Bayside, Arts, and Waterfront TIF Districts.

<u>NOTE 2</u>: As of this Amended TIF Policy date, there also exists one Transit Oriented Development (TOD) District, namely the Thompson Point TOD TIF District to support new or expanded transit services and improved transit connections between the Portland Transportation Center, Jetport and Downtown.

<u>3. Policy for Individual Site Specific TIF Districts Utilizing Credit Enhancement Agreements (CEAs)</u>

a) CEAs for individual site specific TIF districts will be considered for investment in infrastructure or project financing need and cannot be applied to any agreed upon public infrastructure improvements associated with a City Council approved conditional rezone agreement. Additional provisions related to CEAs include:

i) City Green Building Code

Compliance with the City's Green Building Code is required when TIF assistance is provided to individual private project CEAs.

ii)Affordable Housing

Affordable Housing TIF (AHTIF) may be designated on an area wide or site specific basis. Developments are encouraged to promote economic diversity.

The City Council Committee will complete an annual assessment of housing needs and priorities. This assessment will include a determination regarding designation of an area wide AHTIF. Site specific AHTIF requests submitted by developers will be considered on a case-by-case basis. Area wide or site specific AHTIF designations must address an identified community need.

State law requires that at least 25% of the district area must be suitable for residential use, development must be primarily residential, and at least 1/3 of the units must be for households at or below 120% of area median income which allows for individual mixed income projects or area wide AHTIF districts.

Allowable uses of AHTIF revenues are defined by State law.

b) Applicants for CEA participation must demonstrate and pay the following:

i) Financial Necessity.

The applicant must demonstrate the City's participation is financially necessary in order for the project to proceed.

ii) Financial Capacity**.**

The applicant must demonstrate financial capacity to support their project.

iii) Fees

-- A financial underwriting analysis will be conducted by a third party on all projects requesting CEA participation. Applicants for CEA assistance will be responsible for reimbursing the City for all project third party legal and financial underwriting costs***.***

C. Terms for CEA Projects

1) Maximum Percentages.

A maximum average percentage of 65% for the entire term associated with individual project CEA's.

2) Maximum Number of Years.

Up to twenty (20) years to match individual private sector commercial financing terms. The term of a TIF may start upon agreed trigger event, such as an increased assessed value. This would be included in a CEA on that negotiated triggering event.

3) Use of Maine Services for CEA Projects Encouraged.

TIF APPLICATION AND ADMINISTRATION PROCESS

A. Application Information and Contact.

The Economic Development Department handles all TIF inquires and processes requests for TIF. An applicant must submit a letter to the Economic Development Department outlining the proposed project, including TIF project financial information, along with a plan outlining the number of jobs associated with the proposed project.

B. Approval Process.

There is a two step approval process which includes obtaining a recommendation from the City Council Committee and City Council approval. Two meetings (or readings) by the City Council are needed. The City Council vote on the TIF occurs at the second meeting.

C. Annual Report to City Council.

The Economic Development Department shall provide annual reports to the City Council Committee and City Council regarding TIF district activity.

SUMMARY OF ALL APPROVED

TAX INCREMENT FINANCING (TIF) DISTRICTS

IN THE CITY OF PORTLAND A/O FYE2016 (June 30, 2016)

This provides an overview of tax increment financing districts (TIF's) approved by the City of Portland.

Please note that the City approved fifteen TIF's, with three of these TIFs having separate Credit Enhancement Agreements (CEA) for various projects included in the respective TIF Districts. These three TIF Districts are the Bayside TIF, Waterfront TIF, and Creative Portland Development and Arts TIF District. The separate CEAs are detailed in the listing below.

1. Nichols Portland (Economic Development TIF) **(Expired FY14)**

Duration: 20 year term (FY95 through FY14)
Percentages: Years 1 to 5, 90% to Recipient, 10% to City General Fund; years 6 to 10, 75% to Recipient, 25% to City General Fund; years 11 to 20, 50% to Recipient, 50% to City General Fund.
Location: 2400 Congress Street

This TIF was created to support Nichols Portland expansion of its existing manufacturing facility at 2400 Congress Street and retain 450 jobs.

2. Shipyard/Longfellow (Economic Development TIF) **(Expired FY07)**

Duration: 12 year term (FY96 through FY07). Please note this TIF has expired and the City General Fund is receiving 100% of the real estate taxes.
Percentages: 50% to Recipient; 50% to City General Fund
Location: Newbury Street

This TIF was used to transform the former Crosby-Laughlin site on Newbury Street into the Shipyard Brewing Company.

3. Auto Europe (Economic Development TIF) **(Expired FY11)**

Duration: 15 year term (FY97 through FY11). Please note this TIF has expired and the City General Fund is receiving 100% of the real estate taxes.
Percentages: 75% to Recipient; 25% to City General Fund
Location: Commercial Street across the street from Casco Bay Lines, former Galt Block building.

This TIF was used to renovate the former Galt Block Building into the headquarters for Auto Europe. The Galt Block Building had been vacant for over 10 years.

4. Bramhall/Holt Hall (Economic Development TIF)

Duration: 20 year term (FY00 through FY19)
Percentages: 75% to Recipient; 25% to City General Fund, plus a Payment in Lieu of Taxes (PILOT) associated with first floor space.
Location: 794 Congress Street

This TIF was used to renovate Holt Hall, built in the 1860's, and then vacant in excess of 10 years, into 36 market rate rental apartments and office space on the ground floor at a cost of almost $4 Million.

5. UNUM (Economic Development TIF) (**Expired FYE15)**

Duration: 15 year term (FY01 through FY15)
Percentages: 100% capture of increased value with 75% going to the Recipient, and 25% going to economic development projects for the City.
Location: Outer Congress Street.

This TIF was utilized to support expansion of UNUM offices and to build a 1,200 space parking garage.

6. Waterfront TIF (Economic Development TIF)

Duration as originally approved March 18, 2002: 10 year term (FY03 to FY12)
Duration Extended as of June 7, 2010 for a 30-year term: FY03 to FY32
Percentage: 100% TIF capture. Annually, the City Council has adjusted this TIF capture rate to place property tax revenue in the City General Fund.
Location: Selected waterfront properties.

This is a municipal TIF to be used for waterfront projects.

6a. Waterfront Maine LP (Cumberland Cold Storage Building) on Commercial Street (Economic Development TIF)

Duration: 20-year term (FY12 through FY31)
Percentage: 63% years 1 through 5; 64% years 6 through 10; 55% years 7 through 15; 45% years 16 and 17; 40% years 18 and 19; and, 35% year 20 – with a maximum cumulative TIF payment numeric cap not to exceed $2,870,058.
Location: 252 Commercial Street on the Portland waterfront.

The City entered into the TIF in order to support the renovation of the Cumberland Cold Storage building into a Class A office building, with continued marine uses on the first floor and berthing according to zoning regulations. The reuse of this building will accommodate the relocation of Pierce Atwood, bringing its 175 employees to the Portland waterfront.

7. **Bayside TIF** (Economic Development TIF)

Duration: 30 year term (FY04 through FY33)
Percentages: 100% TIF capture. Annually, the City Council has adjusted this TIF capture rate to place property tax revenue in the City General Fund.

The geographic area of this TIF District was expanded by City Council vote on November 17, 2014, expanding it from 62 acres, to 129 acres, to align with the area of Bayside contained in the *Bayside Vision Plans I* and *II.*

This is a municipal TIF to be used for public infrastructure improvements, relocation of the one remaining scrap metal recycling facility and acquisition of the scrap metal yard site, business recruitment marketing for the Bayside area, pledging TIF revenue as a repayment source to HUD or any other agency or entity that finances Bayside investment, and administrative and staff costs for the Economic Development Department. Investments from this TIF also include two Credit Enhancement Agreements (CEA's) with the following:

7a. Capital LLC (Intermed Building) on Marginal Way (Economic Development TIF)

Duration: 15 year term (FY09 through FY23)
Percentage: 100% to return, to Developer, to an annual maximum cap of $355,000 and annual debt service threshold test.
Location: Bayside next to I-295

The City entered into the CEA in order to assist with the development of a parking structure in connection with the office building.

7b. Southern Maine Student Housing on Marginal Way (Economic Development TIF)

Duration: 11 year term (FY08 through FY18)
Percentage: 100% to return, to Developer, to a maximum annual cap of $120,000 and annual debt services threshold test.
Location: Bayside next to I-295

The City entered into the CEA in order to assist with the development of a parking structure in connection with the student housing development.

8. **Riverwalk/Ocean Gateway** (Economic Development TIF)

Duration: 12 year term (FY07 through FY19)
Percentages: Formula based percentages in Credit Enhancement Agreement
Location: Hancock and Fore Street area

The TIF was entered into to assist with the construction of a parking structure for the development plan for the area adjacent to Hancock Street.

9. **<u>Avesta/Pearl Place</u>** (Affordable Housing TIF)

Duration: 30 year term (FY08 through FY37)
Percentages: Various percentages captured value to return to Developer based on Maine State Housing Authority Certificate of Approval, to a maximum of $22,000 annual cap.
Location: Oxford and Pearl Streets

This TIF is an affordable housing TIF to assist in the creation of affordable housing in the City's Bayside area along Oxford and Pearl Streets.

<u>10.</u> <u>Creative Portland Development and Arts</u> (Economic Development TIF)

<u>NOTE:</u> ***This area wide TIF District was reduced/renamed by the City Council on February 19, 2015, reducing the geography to just the Baxter Library property (see #10a below), and renaming it the Baxter Library TIF District with the term ending FY19; this will take effect with FY16).***

Original Duration: 15-year term (FY10 through FY24); ***Term amended as noted above to end FY19.***
Original Percentages: 100% capture; annually, the City Council may adjust this TIF capture rate to place property tax revenue in the City General Fund; ***Percentage amended to reflect the 65% capture for the Baxter Library project***.
Original Location: Multiple properties included in the Downtown Area; ***Location amended as noted above to be only the Baxter Library property.***

This TIF was ***originally*** created to assist in maintaining the creative economy businesses through the creation of the Creative Portland Corporation and TIF funds to assist in funding its administrative personnel and program of activities up to a maximum of $100,000 annually. ***This element of the original TIF District is now included in the recently created Downtown Transit Oriented Development (TOD) TIF District – See Item #18 below.***

10a. Baxter Library LP at 621 Congress Street (Economic Development TIF)

Duration: 9-year term (FY11 through FY19)
Percentage: Lesser of annual 65% to return to Developer or amount necessary to service project debt. Adjustments to annual payment if project refinancing occurs.
Location: 621 Congress Street

The City entered into the CEA in order to assist with the reuse, redevelopment, and preservation of a hallmark downtown building built in 1888, where adaptive reuse of this former library is challenging and expensive. This Project will add $2.5 Million in new municipal assessed commercial valuation and generate an average of $16,000 annually, in funds, to support the Creative Economy TIF Program or the City's General Fund as directed by the City Council. The reuse of this building will accommodate the relocation of the VIA Group, bringing its 64 employees to this upper area of downtown Portland.

11. McAuley Place (Economic Development TIF)

Duration: 30 year term (FY10 through FY29)
Percentages: 60% to Recipient; 40% to City General Fund.
Location: 605 Stevens Avenue

This TIF was created to assist in the renovation of the former Mother House/Convent (built over 100 years ago) on Stevens Avenue into a market rate independent senior living community, including 45 to 50 apartments in the renovated Convent; 25 to 30 apartments (new construction) in an addition to the Convent; and, 36 units (new construction) located in three townhouse/cottages adjacent to the Convent.

12. PowerPay/Portland Public Market (Economic Development TIF)

Duration: 30 year term (FY11 through FY40)
Percentages: Years 1 through 8 – 75% to Developer, 25% to City General Fund; Years 9 through 30 – 50% to Developer, 50% to City General Fund.
Location: 25 Preble Street

This TIF district was created to support the retention and expansion of PowerPay along with redeveloping an important asset in Portland's Downtown that was formerly known as the Portland Public Market. Because of the complex renovation issues and the high cost associated with redeveloping the Portland Public Market property, PowerPay requested TIF assistance to cover the Project financing gap. PowerPay renovated and moved its headquarters to this location with well over 150 employees.

13. Thompson's Point Development Company, Inc. (Transit-Oriented TIF)

Duration: 30 year term (FY15 through FY44).

Percentages:
Phase One of Project*:* Years 1 through 10 – 75% to Developer and 25% to City transit-oriented projects; years 11 through 15 – 60% to Developer, 25% to City transit-oriented projects, and 15% to City's General Fund; years 16 through 20 – 50% to Developer, 25% to City transit-oriented projects, and 25% to City's General Fund; years 21 through 30 – 40% to Developer, 25% to City transit-oriented projects, and 35% to City's General Fund.

Phases Two and Three of Project: Years 1 through 30 – 0% to Developer; 25% to City transit-oriented projects; 75% to City's General Fund.

Location: Thompson's Point

This Transit-Orient Development (TOD) Tax Increment Financing (TIF) District was created to support Thompson's Point Development Company Inc.'s redevelopment of

Thompson's Point into the **Forefront at Thompson's Point.** Additionally, the TOD will assist to expand and improve transit connections between Thompson's Point and key commercial locations within Portland (i.e. Jetport, Portland Transportation Center and Portland's Downtown) and around the region.

Thompson's Point consists of approximately 30 acres of real estate adjacent to the Portland Transportation Center that is home to the Northern New England Passenger Rail Authority, which runs the Amtrak Downeaster and Concord Trailways bus company.

The Forefront at Thompson's Point is a proposed mixed-use development that will transform a blighted and grossly underutilized 30-acre parcel located along Interstate 295 into a highly visible gateway destination event center that is expected to generate significant economic activity within the District and throughout Portland. The Company plans to redevelop Thompson's Point in a manner that includes a substantial investment in public infrastructure, including construction of an above-ground parking garage with approximately 700 spaces, road extensions and widenings, rail crossings upgrade, utility investments, and expanded walking and biking trails.

14. <u>The Village at Oceangate, LLC (Bay House)</u> (Economic Development TIF)

This TIF was terminated by the City Council on November 3, 2014 due to the conversion of market rate apartments into condominiums which is not allowable use of TIF funds.

Duration: 11 year term (FY14 through FY25)
Percentages: Years 1 through 5 – 75% to Developer, 25% to City General Fund; Years 6 through 10 - 65% to Developer, 35% to City General Fund. Total revenue to developer is capped at $647,971 over the term of the District.
Location: Hancock Street, between Newbury and Middle Streets.

This TIF district was created to support the development of The Bay House Project. The Project includes the construction of two new buildings that will contain ninety-four (94) market rate apartments, a parking garage, and approximately 5,700 square feet of commercial retail space. Use of TIF proceeds is directed to support public infrastructure investments.

15. <u>Fore India Middle, LLC (former Jordan's Meat Site)</u> (Economic Development TIF)

This TIF was terminated by the City Council on November 3, 2014 due to the project not coming to fruition.

Duration: 4 year term (FY14 through FY17)
Percentages: Years 1 and 2 – 50% to Developer, 10% to City TIF Project; 40% to City General Fund; Year 3 - 40% to Developer, 10% to City TIF Project; 50% to City General Fund; Year 4 – 40% to Developer, 60% to City General Fund. Total revenue to developer is capped at $650,000 over the term of the District.
Location: Portion of block surrounded by Fore, India, and Middle Streets.

This TIF district was created to support the development of a portion of the former Jordan's Meats site. This development project includes a five-story, approximately 180,000 sf. of mixed-use consisting of 12,300 sf. of retail space on Middle Street, 9,800 sf. of retail space on Fore Street, three levels of office space comprising 63,900 sf. on Middle Street, and 18 residential condominium units along Fore Street and India Street. In addition, there will be two "internal" parking garages behind the retail spaces (not visible from the street), one 110-space garage at the Fore Street level, and another 63-space garage one story above at the Middle Street Level. The Developer expects to have an urban grocery on Middle Street with a variety of produce, meats, food, and household items, with an emphasis on natural, organic and healthy items. The other retail users and the office users have not been identified yet. Use of TIF proceeds is directed to support public infrastructure investments.

16. **409 Cumberland Avenue** (Affordable Housing TIF)

Duration: 22 year term (FY14 through FY35)
Percentage: 50% to Developer; 50% to City Housing Affordable Housing Revolving Loan Fund

Location: 409 Cumberland Avenue

This Affordable Housing TIF District supports the development of 46 affordable units and 11 market rate units of rental housing. TIF revenues will be used by Developer to pay operating costs for the project; City TIF revenues will be used for the establishment of an affordable housing revolving loan fund.

17. **134 Washington Avenue** (Affordable Housing TIF)

Duration: 20 year term (FY15 through FY34)
Percentages: 50% to Developer; 50% to City General Fund.

This Affordable Housing TIF District supports the development of an 18-unit residential rental project. TIF revenues will be used by Developer to pay for operating costs for the project.

18. **Downtown Transit Oriented Development (TOD) TIF** (Economic Development TIF District)

Duration: 30 year term (FY16 through FY45)
Percentages: 12% Year One; 22% years 2 through 30; 88% to General Fund Year One; 78% to General Fund Years Two through Thirty.

This Downtown TOD TIF will support various municipal and other development projects, including sidewalk and pedestrian enhancements, streetscape, lighting, yearly funding of up to $100,000 for Creative Portland to assist in funding its administrative personnel and program of activities (see Item #10 above), street alignment, utilities, bicycle improvements, public transit, wayfinding, and administrative and staff costs for the Economic Development Department.

19. 17 Carleton Street (Affordable Housing TIF)

Duration: 22 year term (FY16 through FY37)
Percentages: Years 1 and 2: 0% to Developer; 100% to City. Years 3 through 22: 65% to Developer; 35% to City General Fund.

This Affordable Housing TIF District supports the development of a 37-unit residential rental project. TIF revenues will be used by Developer to pay for operating costs for the project.

Tax Increment Financing Districts
June 30, 2016
TIF Districts
Downtown TOD
Bayside
Thompson Point
Bramhall/Holt Hall
409 Cumberland Ave Affordable Housing
134 Washington Ave Affordable Housing
Baxter Library
Pearl Place
Power Pay
Riverwalk
17 Carleton St AH
Waterfront
McAuley Place
N
0
1,000
2,000
4,000
Feet

FY16 ANNUAL REPORT TO COUNCIL

FY 16 Tax Rate: 0.02063

TIF Name	Starts/		TIF PLAN	TOTAL	ORIGINAL	Increased	PERCENT	Total Cpt.	PROCEEDS	City TIF	City General Fund
SITE Specific with CEA:	**Ends-FY**	**TERM**	**YEAR**	**ASSESSED**	**ASSESSED**	**Assessed value**	**APPLIED**	**Value**	**TO OWNER**	**Funds**	**(OAV and Non-Captured Taxes from IAV))**
HOLT HALL	00/19	20 YEARS	**17**	4,956,760	349,110	4,607,650	67%	3,070,538	63,345	0	38,913
- FY16 Taxes				102,258	7,202	95,056		63,345			
Baxter Library (f/k/a Arts)	42693	9 YEARS	**6**	2,502,600	0	2,502,600	65%	1,626,690	33,559	0	18,070
- FY16 Taxes				51,629	0	51,629		33,559			
AVESTA	08/37	30 YEARS	**9**	3,576,320	646,050	2,930,270	36%	1,054,897	21,763	0	52,017
- FY16 Taxes				73,779	13,328	60,451		21,763			
OCEAN GATEWAY	07/19	13 YEARS	**10**	12,946,800	1,085,550	11,861,250	52%	6,215,295	128,101	0	138,991
- FY16 Taxes				267,092	22,395	244,698		128,222			
PowerPay/Ptld Pub Mkt	11/40	30 YEARS	**6**	6,259,500	1,862,600	4,396,900	75%	3,297,675	68,031	0	61,102
- FY16 Taxes				129,133	38,425	90,708		68,031			
McAuley/Inactive	10/29	30 YEARS	**6**	0	0	0	60%	0	0	0	0
Thompson's Point TOD	15/44	30 YEARS	**2**	5,516,870	4,970,470	546,400	25%	136,600	0	2,818	110,995
- FY16 Taxes				113,813	102,541			2,818			
409 Cumberland Ave. AH	14/35	22 YEARS	**3**	3,717,960	470,200	3,247,760	100%	3,247,760	33,501	33,501	9,700
- FY16 Taxes				76,702	9,700	67,001		67,001			
134 Washington Ave. AH	15/34	20 YEARS	**2**	184,000	155,600	28,400	50%	14,200	293	0	3,503
- FY16 Taxes				3,796	3,210	586		293			
17 Carleton St. AH	16/37	22 YEARS	**1**	261,600	261,600	0	0%	0	0	0	5,397
- FY16 Taxes					5,397						
Area-Wide TIFs, with CEA											
BAYSIDE	**04/33**	**30 YEARS**	**13**	**189,680,720**	**122,318,180**	**67,362,540**	**55%**	**36,766,474**	**463,749**	**294,743**	**3,154,621**
FY16 Taxes				**3,913,113**	**2,523,424**			**758,492**			
- CEA/Atlantic Bayside Trust	09/23	15 YEARS	8	29,268,370	0	29,268,370	Formula		355,000		
- CEA/Blue Atlantic	08/18	11 YEARS	9	16,312,380	0	16,312,380	Formula		108,749		
WATERFRONT	**03/32**	**30 YEARS**	**14**	**41,426,010**	**7,667,340**	**33,758,670**	**69%**	**23,188,830**	**185,047**	**293,339**	**376,233**
FY16 Taxes				854,619	158,177			478,386			
- CEA/Waterfront Maine	12/31	20 YEARS	5	15,187,300	950,930	14,236,370	63%		185,047		
DOWNTOWN TOD TIF	16/45	30 YEARS	**1**	1,040,381,920	968,136,850	72,245,070	12%	8,669,408		178,850	21,284,229
FY16 Taxes				21,463,079	19,972,663	1,490,416		178,850			

Total Value:				**1,311,149,460**	**1,107,923,550**	**203,487,510**		**87,288,368**			
Total Taxes:				**27,049,013**	**22,856,463**	**4,197,947**		**1,800,759**	**997,388**	**803,251**	**25,253,772**