TOWN OF FARMINGTON

Tax increment Financing (TIF) Policy

Adopted by the Board of Selectmen on March 31, 1998

OVERVIEW

Tax Increment Financing (TIF) is a State sanctioned economic development incentive tool which allows municipalities to use all, or a portion of, the new property taxes that result from a commercial investment project within a designated district to assist in that project's financing. To accomplish this, the municipality has the option of issuing bonds which are retired using the tax increment, or paying the tax increment directly to the investing business to cover project costs through a credit enhancement agreement (CEA). When CEA's are utilized, municipalities incur no financial liability for the costs of the TIF project. In accordance with state law, TIF Districts may be designated for a period of up to 30 years. Bonds may be issued under this program for up to 20 years. TIFs must be approved by the municipal legislative body and the State of Maine, Office of Economic and Community Development.

Since increased value within the TIF District is not included in the State valuation, the TIF designation allows the Town to avoid decreases in revenue sharing and increases in the school and county assessment which would occur if the value of the improvements was not sheltered by the TIF. The State law allows the municipality to pass along to the investing business the benefits of that sheltered value at no net financial loss to the municipality as well as any additional portion of the taxes assessed on the increased value which the Town deems appropriate. The balance of the taxes on the increased value which the Town retains may be designated as a Development Fund Account and/or may be placed in the General Fund.

PURPOSE

The purpose of this Policy is to articulate to existing or potential businesses Farmington's desire to encourage and support economic development which is determined by the Board of Selectmen to be compatible with the Comprehensive Plan and/or existing local ordinances and which provides a community benefit.

Notwithstanding compliance with any or all of the guidelines below, the creation of a TIF District is a policy choice to be evaluated on a case-by-case basis by the Board of Selectmen, and upon the Board's recommendation, placed upon an annual or special town warrant for approval at town meeting. A TIF is not a right under Maine law and meeting the State TIF requirements or the criteria established in this Policy does not create a right or entitlement for any applicant.

In the absence of extraordinary circumstances, the burden of establishing the public value of a TIF shall be placed upon the applicant and the application must substantially meet the criteria contained herein. The Board, however, reserves the right to bring <u>any</u> TIF proposal (regardless of whether it meets the criteria below) to town meeting for public vote provided a majority of the Board believes that acceptance of the TIF is in the best interest of the Town of Farmington.

AUTHORITY

The authority for creation of Tax Increment Financing Districts is established in 30-A Maine Revised Statutes Annotated, Section 5252-5254.

This Policy may be modified at any time by a majority of the Board of Selectmen after the Board has entertained comments and concerns at a properly advertised public hearing to be held prior to, or simultaneously with, the Board meeting at which the proposed amendment will be considered.

APPROVAL AT TOWN MEETING

A TIF application may only be approved at a Town Meeting. Whenever practical, a TIF application shall be considered at the Annual Town Meeting, however, if the Board determines there is a clear and pressing community need to act immediately, or if the applicant provides evidence that delayed approval will be detrimental to the proposed project, the application may be voted upon at a Special Town Meeting.

A TIF shall only be presented to the public for vote if a majority of the Board recommends adopting the TIF District. In the event the Selectmen desire to present to the public a proposal which is different from the original application, the Selectmen shall work with the applicant to create a proposal which is agreeable to all parties concerned and the negotiated proposal shall be submitted to the public for vote. (See note below.)

The TIF Article to be voted upon shall contain language giving the Board of Selectmen the authority to modify the CEA during the term of the agreement provided such modifications are in accordance with the provisions of this Policy and such changes do not increase any annual tax benefit to the applicant.

Note: Nothing herein shall be interpreted to be contrary to the public's right to petition to place an issue on a Warrant for public vote under 30-A MRSA Section 2522.

BASIC PROVISIONS

1. The Town of Farmington TIF mechanism shall be utilized as an economic development incentive for the Town's many existing businesses as well as for attracting desirable new commercial establishments to the area. The Board shall accept and review TIF applications for projects creating $100,000 or more of new taxable value. When determining whether the project should be presented to the public for approval, the Board shall consider the value of the proposed improvements and increased/retained employment or other public benefits in relationship to the size, profitability and business environment of the applicant. The Board may determine that a modest financial investment and creation of one or two new quality jobs constitutes significant growth (and community benefit) for a particular small business, however, the Board may require a proportionally larger economic development effort from larger businesses.

2. In order to minimize risk to the citizens of Farmington, tax increment financing will be provided through credit enhancement agreements only, except that the Board of Selectmen reserve the right to initiate a public infrastructure TIF project which requires bonding. The applicant utilizing a credit enhancement agreement must provide any and all documentation requested by the Town that will protect the Town's economic and financial position, and/or that confirm both the letter and the spirit of the underlying credit enhancement agreement between the applicant and the Town.

3. The applicant may propose that any amount up to 100% of the additional tax value generated by the proposed activities be sheltered from Farmington's tax valuation for any period up to 20 years. Absent any extenuating circumstances, the term of the TIF shall not exceed the expected longevity of the improvements proposed. The Board may approve incentives to businesses on a straight line (i.e. 100% of incremental value retained by applicant in years 1-15) or decreasing basis (i.e. 100% of incremental value retained by applicant in years 1-5; 75% retained in years 6-10; 50% retained in years 11-15) and may recommend separate schedules for real property and personal property within the same TIF District.

4. Up to 100% of the financial benefit associated with the "captured value" as defined in the State TIF guidelines may be utilized for the benefit of the commercial applicant. The Board shall determine the appropriate percentage based on the community benefit of the project. The number of quality jobs created/retained and the value of public infrastructure improvements (which will serve businesses other than the applicant) will be among the Board's top priorities when determining the appropriate percentage. (See Performance Standards and Approval Criteria sections of this Policy.) The remaining "captured value" retained by the Town shall be placed in the General Fund or in a Development Fund to be used at the Board of Selectmen's discretion to benefit further economic development through revolving loan funds, matching grants to encourage facade upgrade and/or improve areas of slum and blight or upgrade of public infrastructure which will enhance future economic development.

5. The credit enhancement agreement (CEA) shall provide for a recapture of the benefits if the project should move to another municipality prior to the end of the TIF term. CEA assignments will be allowed only for conventional, commercial financing purposes and where the proposed assignee agrees to be bound by the same terms and conditions as the original applicant. The initial application shall contain a written statement confirming that:

A. The applicant agrees, if the TIF District is approved, to notify the Town in writing prior to any transfer of ownership of real or personal property within the District and,

B. The applicant will obtain from the new owner a written agreement to accept the provisions of the TIF and credit enhancement agreement as presented to and approved at Town Meeting.

6. In accordance with the State assessing standards and 30-A M.R.S.A. Section 5254, paragraph 4A, nothing in this Policy allows or sanctions unequal apportionment or assessment of the taxes to be paid on real property within the Town of Farmington. Furthermore, all real and personal property within the tax increment financing district shall be assessed real and personal property taxes equitably with real and personal property taxes assessed elsewhere in the municipality. The Board of Selectmen shall make a determination regarding the "frozen" or existing value of the proposed District (based solely upon accepted assessing standards) prior to making final determinations regarding the TIF application. The applicant must provide verified documentation as to the value of the fixed assets, being real and personal property, as of the date of the acceptance of the application.

7. The Town's participation must be an economical necessity for the proposed project to be undertaken. Justification for economic need must be demonstrated by:

A. A need to offset infrastructure costs unique to the site; or

B. A need to offset economic advantages available to the commercial applicant if it should build or expand outside of Farmington; or

C. The unavailability of sufficient private or other public funding sources to meet the full capital investment needs of the corporate entity seeking assistance.

8. Financial capability to complete the project must be fully documented prior to the Board of Selectmen's review as follows:

A. A letter from a financial institution, governmental agency, or other funding agency indicating a commitment to provide a specified amount of funds and the uses for which those funds may be utilized.

B. In cases where funding is required but there can be no commitment of money until approvals are received, a Letter of Intent from the appropriate funding institution indicating the amount of funds and their specified uses will be accepted.

C. The most recent corporate annual report indicating availability of sufficient funds to finance the development together with explanatory material interpreting the report.

D. Evidence indicating availability of funds if the developer will personally finance the development.

9. Applicant must comply with all statutory and regulatory guidelines of the Town and State.

10. All proposed projects must be consistent with the Town Comprehensive Plan, if such Plan has been approved prior to the date of application.

11. All costs of the project which are included in the TIF Proposal must be documented through invoices and other appropriate records from non-affiliated companies. Payments of project costs to affiliated companies will be disallowed unless the applicant makes full disclosure of the relationship between the parties to the Town in writing prior to public approval of the District.

12. The applicant must declare in the TIF application all State and local economic development programs for which the applicant intends to apply over the term of the District. This disclosure must include information regarding applicant's intent to participate in programs including, but not limited to, ETIF, STIF and BETR. After TIF approval, if the applicant is awarded any State or local economic development incentives (such as those listed above or any newly created programs) which were not disclosed in the application, the Board reserves the right to reconsider the terms of the TIF District and, if appropriate, re-negotiate the terms of the CEA. Applicants are advised to coordinate with the Town before applying for State or local economic development incentives which were not fully disclosed in the original application.

13. All applicants will be required to sign a Professional Fee Consent Form agreeing to reimburse the Town for all reasonable outside professional costs, such as legal and accounting, incurred as a result of the Tax Increment Financing proposal, whether or not the TIF District is approved. In addition, any reasonable out-of-pocket expenses incurred by the Town in connection with the Tax Increment Financing proposal will be reimbursed by the applicant, whether or not the TIF District is approved including, but not limited to, expenses related to calling a Special Town Meeting, advertising, printing and postage.

14. If the Tax Increment Financing proposal is approved, an annual Administrative Fee equal to 1% of the incremental taxes reallocated back to the project will be charged by the Town and credited to the general fund to offset annual administrative costs and overhead associated with overseeing the TIF District.

APPLICATION CONTENTS

Applicants are encouraged to develop applications in consultation with the Town. Members of the Board of Selectmen, Planning Board or Code Enforcement Office may be involved in these preliminary discussions, even when they may be involved in a subsequent review of the application. All TIF applications must:

A. Provide enough detail to clearly describe the scope of the project, beneficiaries and costs;

B. Include a detailed description of any public improvements to be financed using captured funds, and information regarding how the funds will be spent;

C. Compare the impact of the proposed activities on the SAD#9 and County assessment and on state revenue sharing that is based on tax valuation, both with and without a TIF District;

D. Clearly describe the benefits of the TIF to the applicant;

E. Provide a statement explaining the impact of proposed project upon the general community;

F. Present all data required by the State 30-A MRSA, Section 5252-5254; and

G. Provide any additional information the Board of Selectmen deems necessary to review and evaluate the application.

APPLICATION PROCEDURES

Applicants are advised that the process of reviewing, evaluating and scheduling a TIF application for public vote may take up to 60 days. Applications will be accepted at any time, however, applications submitted less than 60 days prior to Annual Town meeting may require a Special Town Meeting, at the Selectmen's discretion. Notwithstanding an applicant's need to present a TIF application when the business is ready to proceed with the proposed project, the Town prefers such applications be voted upon at Annual Town Meeting, whenever possible.

The Board of Selectmen shall solicit non-binding recommendations regarding the TIF proposal from the following: Town Manager, Franklin County Economic Development Director, Assessor, Director of Planning/Code Enforcement, Treasurer and any other Department Head or outside agency whose operations may be affected by the proposal or who may offer relevant advice.

The Town Manager, Assessor and Treasurer shall be responsible for verifying completeness of the application and verifying the assessment, tax shift and other calculations submitted by applicant. The applicant and/or its consultant will be given the opportunity to make an oral presentation to the Selectmen at a regularly scheduled Board meeting and the Town Manager shall advise the Selectmen regarding the major elements of the proposal and the costs and benefits to the community.

The Town will hold a public hearing to solicit public comments and questions regarding the TIF District either immediately prior to the Town Meeting or at a public hearing held no earlier than 30 days prior to the Town Meeting in which the public will vote upon the TIF proposal. The public hearing shall be advertised in a newspaper of general circulation in Farmington at least 10 days prior to the public hearing.

When the application will be considered at the Annual Town meeting, an article containing the appropriate wording shall be included in the Annual Town Warrant and posted in the customary manner. When a TIF application will be considered at a Special Town Meeting, the Town shall advertise that meeting in a newspaper of general circulation in Farmington on at least two occasions, one occasion at least two weeks prior to the Special Town meeting date, and another occasion some time between the meeting date and two weeks prior to the meeting date. The applicant shall pay advertising costs.

If the TIF proposal is approved by the public, the application shall be submitted by the Town after any required public hearings, to the State of Maine Office of Economic and Community Development for final approval within 15 days of the public vote.

APPROVAL CRITERIA

The following criteria shall be used to determine the public benefit of the application and whether or not the proposal should be placed before the voters for consideration. It is not mandatory that all criteria be met. The Board may negotiate with the applicant regarding specific elements of the application in an effort to create an amended proposal. (In addition to the provisions contained in this section, the Board of Selectmen shall use the Performance Standards section below to determine the recommended percentage of financial benefit associated with the captured value to be utilized for the benefit of the applicant.)

A. Does the application meet the "Basic Provisions" outlined above?

B. Does the project create or retain long-term permanent employment with wages equal to or higher than the local average? (See Performance Standards below.)

C. Will any new jobs created be advertised and promoted within Farmington? (See Performance Standards below.)

D. Does the proposal improve the general economy of the community?

E. Will the improvements have a net positive impact on Farmington's business community after considering all factors, including affects on established businesses?

F. Does the project minimize traffic impacts and is it designed in a manner which does not contribute to commercial sprawl?

G. Are the structures to be built, if any, which are visible from a public road, compatible with the surroundings with regard to style and setting and in compliance with the Comprehensive Plan as well as State and local ordinances?

H. Does the project create public infrastructure facilities which have applications beyond the particular development such as traffic upgrades, public parking facilities, etc.? (See Performance Standards below.)

I. Does the project improve and/or broaden the tax base?

J. Does the proposal improve blighted buildings or areas in need of redevelopment?

K. Does the proposed District support community projects or create public benefits such as granting access to open spaces, creating student internships, providing job training, supporting local contractors and suppliers?

L. Will this project encourage other businesses to invest in their buildings, purchase equipment or create jobs?

PERFORMANCE STANDARDS

This Section shall be utilized to evaluate the appropriate percentage of financial benefit associated with the captured value to be utilized for the benefit of the applicant.

A. For public infrastructure improvements which are likely to encourage one or two additional businesses to re-locate to, or expand within Farmington as a **direct** result of the proposed TIF improvements, the Board may consider up to 75% of the captured value to be used for the project. A smaller percentage will be appropriate when the potential economic growth will be minimal; the maximum percentage will be appropriate when the potential secondary developments will significantly impact the local economy. Additional consideration may be given when there is convincing evidence that the proposed improvements are likely to encourage **more than two** additional businesses to re-locate to or expand within the Town. General speculation regarding possible future development due to the proposed upgrade will not hold as much weight as professional opinions from AVCOG or the Franklin County Economic Development Director or other knowledgeable source regarding the likelihood of such future development as a direct result of the improvements. The Board may award an additional percentage based on other categories under Performance Standards.

B. For proposed public service or training endeavors which are likely to **directly** encourage one or two additional businesses to re-locate to, or expand within Farmington due to its positive impact on the sphere of influence on the economic viability of the community through enhancing the quality of life or improving marketable natural or human resources, the Board may consider up to 60% of the captured value to be used for the project. A smaller percentage will be appropriate when the potential economic growth will be minimal; the maximum percentage will be appropriate when the potential secondary developments will significantly impact the local economy. Additional consideration may be given when there is convincing evidence that the proposed improvements are likely to encourage **more than two** additional businesses to re-locate to or expand within the Town. Professional analysis of the future impact will be required. The Board may award an additional percentage based on other categories under Performance Standards.

C. For proposed TIF applications retaining or creating quality jobs which are paid equal to or higher than the local average, the Board may consider providing the applicant with a value of $4,000 annually per job retained or created. This

amount may be made in addition to any amounts or percentages awarded pursuant to paragraphs A, B and D of this section.

To obtain an incentive for retained jobs the applicant must provide clear and convincing documentation that the TIF approval will provide the financial incentive which will make the difference between relocating or going out of business. A proforma or business plan will be required to show that a viable alternative location is being seriously considered by the applicant.

To obtain an incentive for jobs created, a hiring and pay schedule must be be presented at the time of application.

Both the retained jobs and newly created jobs shall be monitored by the Town on a monthly, quarterly, semi-annually or annual schedule as determined appropriate by the Town. In the event that any approved TIF District does not meet its job creation/retention obligations under these standards, the Board of Selectmen reserves the right to re-negotiate the CEA to reduce the tax benefit to the applicant accordingly.

D. For proposed projects in which a portion of the improvements are inside the TIF District and a portion are not included in the TIF District, the Board may award the TIF District an amount of the tax increment equal to the amount of taxes which will be levied upon the non-District improvements. This amount may be made in addition to any amounts or percentages awarded pursuant to paragraphs A through C above.