Final
July 19, 1999

CITY OF AUGUSTA
TAX INCREMENT FINANCING
(TIF) POLICY

OVERVIEW

Tax increment financing (TIF) is a local economic development tool, permitted under Maine law, that allows a municipality to use all, or a portion, of the tax revenues generated from new capital investment (the "increment") to assist in that project's financing. 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 help offset the project's costs.

TIFs are widely used throughout Maine and the U.S. to support job creation, capital investment and broadening of the local tax base. They have the advantage of sheltering new tax revenues generated in a TIF district against adverse adjustments to the municipality's state subsidies and county taxes, based on total valuation.

Use of TIF revenues allowed under Maine Law include: capital costs for construction or upgrading of public facilities and infrastructure; training for employees of businesses located within the District; construction or improvements of buildings; acquisition of business equipment; financing costs; technical and administrative costs; direct payments to businesses located within the District; and, support for economic development outside the district.

CRITERIA FOR DISTRICT DESIGNATION

? don't have 25% of my district

At least 25% of the District area must be:

- Blighted; or
- In need of rehabilitation, redevelopment or conservation; or
- Suitable for industrial (commercial) uses.

TIF LIMITATIONS

- No single district may exceed 2% of the total acreage of the municipality and the total area of all districts may not exceed 5% of the total acreage of the municipality.
- The total value (as of April 1 preceding designation) of all taxable property within a district to be designated, plus the value of all existing TIF districts, cannot exceed 5% of the municipality's total equalized value as of the current property tax year.
- The total amount of municipal debt financed through TIF districts within any county may not exceed $50 million.

AUTHORITY

The Authority for creation of Tax Increment Financing Districts is established in 30A MRSA §5251 – 5261.

PURPOSE

The purpose of this Policy is to articulate to existing or potential businesses the City of Augusta's (the City's) desire to encourage and support economic development which is determined by the City Council to be compatible with all existing applicable state laws and local ordinances and which provides a community benefit. It also serves to provide a framework for the City by which applications for a TIF can be evaluated.

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 City Council. 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 Council, however, reserves the right to consider any TIF proposal (regardless of whether it meets the criteria below), provided a majority of the Council believes that acceptance of the TIF is in the best interest of the City of Augusta.

GENERAL PROVISIONS:

Absent a waiver or modification of the same by the Augusta City Council, applicants for the creation of a TIF district, and subsequent approval of the required financial plan and development program, should adhere to the following policies:

1. The City of Augusta TIF mechanism may be utilized as an economic development incentive for the City's many existing businesses as well as for attracting desirable new commercial establishments to the area. The City will accept and review TIF applications for projects creating $500,000 or more of new taxable value. When considering whether to award a TIF, the Council will 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.

2. In order to minimize risk to the citizens of Augusta, tax increment financing through credit enhancement agreements is preferred, except that the City Council reserves 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 City that will protect the city's economic and financial position, and/or that conforms to both the letter and the spirit of the underlying credit enhancement agreement between the applicant and the City.

3. The applicant may propose that any amount up to 100% of the additional tax value generated by the proposed activities be sheltered from Augusta's tax valuation for any period up to 20 years. However, shorter terms are preferred, and the Council will favorably consider returning a higher percentage of the captured value to the applicant for credit enhancement agreements of less than 20 years. Absent any extenuating circumstances, the term of the TIF will not exceed the expected useful life of the improvements proposed. The Council may approve incentives to businesses on a straight line or decreasing basis and may recommend separate schedules for real property and personal property within the same TIF District.

The Council determines the appropriate percentage to be returned to the applicant based on the community benefit of the project. The number of quality jobs created/retained, the extent to which the project broadens the tax base, and the value of public infrastructure improvements (which will serve businesses in addition to the applicant) will be among the Council's top priorities when determining the appropriate percentage. (See Approval Criteria section of this Policy.) The remaining "captured value" retained by the City will be placed in the General Fund and/or in a Development Fund to be used at the City Council's discretion to benefit further economic development as permitted under Maine Law.

In most cases, however, the annual flow of unsheltered tax revenues to the General Fund, when discounted for changes in State subsidies and county taxes, should be greater than any anticipated increase in service costs to the City resulting from activities in the TIF district. For each TIF being considered, a break-even analysis shall be performed by the city's Finance Director.

4. 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 City 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 by the City Council.

5. The City's participation must be an economic 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 Augusta; 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.

6. Financial capability to complete the project must be fully documented prior to the City Council's review as follows:

   A. A letter from a financial institution, governmental agency, or other funding source 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. If an annual report is unavailable, audited financial reviews from the 3 years previous to the date of application may be substituted.

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

7. 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 City in writing prior to public approval of the District.

8. 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 and BETR. While the Council will consider direct payments to businesses for projects with a high community benefit and which would not go forward absent such direct payments, generally direct payments to businesses as part of a TIF financing plan will not be allowed for improvements paid for with a State or Federal grant or which are subject to a state property tax reimbursement program.

   After TIF approval, if the applicant is awarded any State or Federal economic development incentives (such as those listed above or any newly created programs) which were not disclosed in the application, the Council 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 City before applying for State or local economic development incentives which were not fully disclosed in the original application.

9. All applicants will be required to sign a Professional Fee Consent Form agreeing to reimburse the City 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 City 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 advertising, printing and postage.

10. 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 City and credited to the General Fund to offset annual administrative costs and overhead associated with overseeing the TIF District.

APPROVAL CRITERIA:

The following criteria will be used by the City of Augusta to determine the public benefit of the application and the recommended percentage of captured value to be utilized for the benefit of the project. It is not mandatory that all criteria be met. The City may negotiate with the applicant regarding specific elements of the application in an effort to create an amended proposal.

1. The application meets the TIF policies outlined in the previous section.

2. The application creates or retains long-term, full-time employment with wages and benefits equal to or higher than the local average prevailing in the same industry at the time of application.

   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.

   For jobs created, a hiring and pay schedule must be presented at the time of application.

   Both the retained jobs and newly created jobs shall be monitored by the city on a schedule as determined appropriate by the City (see Compliance Reporting). In the event that any approved TIF District does not meet its job creation/retention obligations under these standards, the City Council reserves the right to re-negotiate the CEA to reduce the tax benefit to the applicant accordingly.

3. The TIF District is revenue neutral, or better, to the City over the life of the District based on the break-even analysis performed pursuant to section 3 of "General Provisions".

4. The creation of the TIF District will diversify the economy and broaden the City's tax base. No

5. The TIF proposal is consistent with all applicable state laws and local plans and ordinances then in effect.

6. The creation of the TIF District is necessary to bring about the proposed investments.

7. The project improves a blighted area or building in need of redevelopment or rehabilitation, or is in an area identified as a priority by the City of Augusta.

8. The project creates public infrastructure facilities which have application beyond the particular development, such as improving traffic flow, upgrading sewer or water capacity, providing public parking facilities, etc.

9. The activities resulting from the creation of the TIF District will generate benefits to the community that exceed any potential for adverse impacts on existing businesses within Augusta.

10. The TIF District supports community projects or creates public benefits, such as access to open space, creating student internships, providing job training, and supporting local contractors and suppliers.

11. A portion of tax increment revenue within the district is set aside for the City of Augusta to support economic development activities.

APPLICATION CONTENTS AND PROCEDURES; FEES

The establishment of a Tax Increment Financing (TIF) District, Development Program, and Financing Plan, can involve complex public policy decisions. To assure the City

considers all of the facets of a development Proposal and that an applicant is treated expeditiously and fairly, the City has adopted an organized approach for reviewing and considering proposals. This section sets out a process for reviewing and acting on development Proposals. The procedure is intended to be a guide for the City and applicant. The City may modify this procedure as necessary to assure thorough but timely consideration of TIF Proposals.

Step 1. Informal Discussion with the Augusta Economic Development Commission

Private parties contemplating the creation of a TIF District are strongly encouraged to meet with the City's Economic Development Commission. The purpose of this meeting is to:

- allow city staff, City Council members and other members of the Economic Development Commission to obtain an understanding of the possible activities and structure of the TIF, or of a specific development proposal;
- allow the applicant to gain an understanding of the City's policy regarding TIF's;
- assure that the applicant understands the process the City will use in considering a TIF request or development application, and the information that will be required as part of the process.

This meeting is not obligatory and shall be informational. No commitments shall be made in conjunction with this meeting.

Step 2. Preliminary Submission

Private entities requesting the creation of a TIF District are encouraged to prepare a preliminary submission prior to drafting the formal application. This step is intended to allow the applicant and City to work together in partnership to shape a proposal that best meets the interests of the community and the applicant.

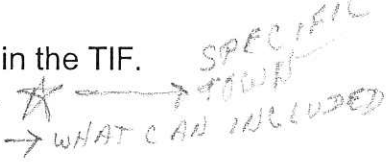
The preliminary submission is intended to be a general outline of a development proposal. It should include the following information and submissions:

A. The area proposed to be included within the TIF District and the rationale for it.

B. A description of the development activities anticipated within the TIF District and the estimated market value of taxable improvements.

C. A general description of the anticipated TIF Development Program and Financial Plan including:

- The share of new valuation proposed to be sheltered in the TIF.
- The proposed utilization of the sheltered tax revenue.
- Any anticipated "credit enhancement" arrangements.



D. A description of the employment anticipated to result from the creation of the TIF District including:

- The estimated number of permanent, full and part-time year-round jobs to be created.
- The estimated number of permanent, full-time and part-time jobs to be retained directly as a result of the activities.
- The number of construction or temporary jobs to be created.
- The average hourly wage or annual wage for permanent jobs that will be created or retained, and benefits offered.

E. Statement as to how the proposed TIF conforms to the City's adopted TIF Policy and any other municipal economic development policies or objectives then in existence.

F. An analysis of the impact of the anticipated development activities on municipal services and an assessment of any increase in municipal service costs resulting from the activity.

G. An analysis of the impact of the proposed activities on existing businesses within the community.

H. A statement as to why the creation of a TIF District is necessary for the realization of the project, and that there is a clear economic need for the assistance.

I. A statement outlining other sources of publicly supported financial assistance for proposed project activities.

J. A non-refundable application fee for processing an application of $250.00.

Step 3. Review of the Preliminary Submission

The preliminary submission should be submitted to the Director of Economic Development at Augusta City Center. Upon receipt of a preliminary submission, the Economic Development Director shall:

A. Review the submission for conformance with this Policy statement.

B. Forward said submission and a written review thereof to the City Manager along with a recommendation for any improvements that should be considered in drafting the formal application, together with any questions on issues that should be addressed in the application. If not in compliance, possible changes that could be made to the proposals should also be identified.

Based on the preliminary findings of the Director of Economic Development; the City Manager will either:

1. Make a determination that the submission, along with any changes or recommendations the City Manager and/or city staff may include, is ready to proceed to final application; or,

2. Make a determination that further discussions with the applicant are warranted in the best interests of the City and the applicant. The City Manager may appoint a negotiating team to continue these discussions.

In any case, calculations of tax shift formulas, revenues to be returned to the applicant and/or the City over the life of the TIF, and development costs shall be verified prior to proceeding with the formal application.

Step 4 Submission and Review of a Formal Application

A formal application for the designation of a TIF District shall be submitted to the Augusta Development Commission, through the Office of Economic and Community Development. The application must include all the information required by State law. In addition, the application shall include:

A. A description and analysis of the employment anticipated to result from the development proposal, or the creation of the TIF District.

B. An analysis of how the proposed development program and financing plan conform to this Policy Statement.

C. An analysis of the impact of the anticipated development activities on municipal services and an assessment of any increase in municipal service costs resulting from the activity.

D. An analysis of the impact of the proposed activities on existing businesses within the community.

E. Any other information identified during the preliminary review as being necessary or desirable to obtain a thorough understanding of the proposed TIF District.

The Augusta Development Commission normally will meet within one week of receipt of a formal application to prepare a recommendation to the City Council for approval, approval with conditions or denial of a formal application for the designation of a TIF District. Applicant, and applicant's consultants (if any) may be invited to attend to make a presentation and answer questions.

Upon recommendation of approval, or approval with conditions, or denial of a formal application for the designation of a TIF District, the Chairman of the Augusta Development Commission will:

A. Notify, or cause to be notified, the applicant of the actions recommended by the Augusta Development Commission;

B. Schedule, or cause to be scheduled, an informational meeting with the City Council to discuss the application, if he/she considers it necessary or desirable;

C. If recommended for approval, place or cause to be placed, the item on the City's agenda for public hearing and advertise the hearing as required by State law; and,

D. If recommended for approval, prepare or cause to be prepared a tax increment financing resolution for approval at the City Council's regularly scheduled meeting immediately following the public hearing.

Step 5. Upon a Majority Vote of the City Council to approve the TIF District, the Director of Economic Development will:

A. Forward the application including: a certified copy of the notice of public hearing, published at least 10 days prior to the hearing in a newspaper of general circulation; minutes of the public meeting at which the proposed municipal tax increment financing district was discussed; a copy of the municipal tax increment financing resolution from the governing body; and, the signature of the municipal officer attesting that all information is true and correct to the best of his or her knowledge to the Commissioner of the Maine Department of Economic and Community Development for approval;

B. Upon approval of the Commissioner, cause to have executed any Credit Enhancement Agreement between the City of Augusta and the applicant.

COMPLIANCE REPORTING

Maine State law requires an annual, written report from any employer receiving an economic development incentive, the value of which exceeds $10,000 in one year. That report must contain at a minimum the following information:

1. The amount of assistance received by the employer in the preceding year from each economic development incentive and the uses to which that assistance has been put;

2. The total amount of assistance received from all economic development assistance programs;

3. The number, type and wage level of jobs created or retained as a result of an economic development incentive;

4. Current employment levels for the employer for all operations within the State, the number of employees in each job classification and the average wage and benefits for each classification;

5. Any changes in employment levels that have occurred over the preceding year; and,

6. An assessment of how the employer has performed with respect to the public purpose identified in its application, if applicable

In order to track the effectiveness of TIF Districts within its jurisdiction, the City of Augusta requires that a copy of the annual incentives report to the State be filed concurrently with the City. The City also may request from the employer whatever additional reports it deems necessary to protect the public's interest, at a schedule mutually agreed upon between the employer and the City.