

TOWN OF WINDHAM
MUNICIPAL DEVELOPMENT DISTRICT #4
GATEWAY NORTH A INFRASTRUCTURE OMNIBUS MUNICIPAL
TAX INCREMENT FINANCING DISTRICT
DEVELOPMENT PROGRAM

December 3, 2014

MUNICIPAL TAX INCREMENT FINANCING

APPLICATION COVER SHEET

**Gateway North A Infrastructure Omnibus Municipal
Tax Increment Financing District Development Program**

A. General Information

- 1. Municipality Name: Town of Windham 2. Address: 8 School Road, Windham, ME 04062
- 3. Telephone: (207) 892-1907 4. Fax: (207) 892-1910
- 5. E-Mail: atplante@windhammaine.us
- 6. Municipal Contact Person: Anthony Plante, Town Manager
- 7. Business Name: Not applicable 8. Address: Not applicable
- 9. Telephone: Not applicable 10. Fax: Not applicable'
- 11. E-Mail: Not applicable 12. Business Contact Person: Not applicable
- 13. Principal Place of Business: Not applicable
- 14. Company Structure (e.g. corporation, sub-chapter S, etc.): Not applicable
- 15. Place of Incorporation: Not applicable 16. Names of Officers: Not applicable
- 17. Principal Owner(s) Name and Address: Not applicable 18. Address: Not applicable

Note: This Development Program creates an omnibus TIF District and Development Program authorizing multiple Credit Enhancement Agreements with companies or developers of individual lots in the District. The amount of the Captured Assessed Value to be reimbursed to developers and companies will be determined by investment and job criteria established by the Town.

B. Disclosure

- 1. Check the public purpose that will be met by the business using this incentive (any that apply):
 job creation job retention capital investment training investment tax base improvement public facilities improvement other (list):
- 2. Check the specific items for which TIF revenues will be used (any that apply):
 real estate purchase machinery & equipment purchase training costs debt reduction other: See Development Program

C. Employment Data List the company's goals for the number, type and wage levels of jobs to be created or retained as a result of (please use next page). Not applicable

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Town of Windham Municipal Development District #4

**Gateway North A Infrastructure Omnibus Municipal
Tax Increment Financing District Development Program**

Article I: Introduction and Summary of Benefits.

Section 1.01: Municipal Development District. The Town desires to create a municipal development and tax increment financing district located along a portion of Route 302 in Windham in order to expand and diversify the Town's tax base and improve its economy. This Development Program will provide the infrastructure and planning necessary for commercial development of property in the District. This Development Program will finance certain public improvements which will lead to additional commercial development, thereby expanding and diversifying the Town's tax base.

Section 1.02. Benefits of the District. A. New Tax Dollars for the Town. The District will expand and diversify the tax base of the Town, resulting in substantial new property tax revenues which will be used to pay costs of the Public Facilities, Improvements and Programs described herein.

B. Economic Development; New Jobs; Retention of Jobs. The District will facilitate the development of property in the District, which will result in the creation of new jobs in the Town and the retention of existing jobs. The Public Facilities, Improvements and Programs are also anticipated to create additional economic development and jobs in the Town.

C. Savings for Town from Shelter of New Tax Base Growth. The District will create more net tax revenue for the Town, the Public Facilities, Improvements and Programs described herein than would result if such development were to occur without the creation of the District. This favorable situation is the result of the State formulas which, when a Development District is created, shelter the Increased Assessed Value of the District from the increased county taxes and loss of State aid to education and municipal revenue sharing that results when new development occurs without the creation of a Development District.

D. Public Facilities, Improvements and Programs. The District will provide the Public Facilities, Improvements and Programs described in Table #1 of Section 2.03 hereof, which will lead to further commercial development in the Town.

Article II. Development Program Narrative and Designation of the District.

Section 2.01: Statement of Means and Objectives. The Town of Windham desires to create new employment opportunities and commercial development in the Town, to improve, broaden and maintain a healthy tax base, to improve the economy of the Town and the State, to provide the impetus for new commercial development and to provide the facilities described in this Development Program. The Town has decided to take a number of steps in order to increase its commercial tax base.

In order to fulfill these goals, certain property has been proposed as Development District #4, the Gateway North A Infrastructure Omnibus Municipal Tax Increment Financing District (the "District"). The Development Program described herein will serve the purpose of administering the District as a Municipal Development District and Tax Increment Financing District pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended (the "Development Program"). Upon approval by the Town Council of the Town designating the District and adopting this Development Program, the designation of the District and adoption of the Development Program will become final immediately, subject only to approval by the Maine Department of Economic and Community Development. The Development Program provides for economic development incentives called municipal tax increment financing similar to that previously adopted by a number of

municipalities in the State. A tax increment financing development district involves creation of a geographically defined district in the Town and the “capture” or reinvestment of some of the new increased or “incremental” tax revenues generated by new development and business expansion in the District to pay certain costs of development and certain costs of new public facilities, improvements and programs.

(a) the Development Program, consisting of the Public Facilities, Improvements and Programs described in Section 2.03 hereof; and (b) construction and development of the Capital Program described in Section 2.04 hereof by certain developers or companies (hereinafter called “developers”) of lots in the District. Costs of the Public Facilities, Improvements and Programs described in Section 2.03 hereof will be financed by the tax increment revenues from the District. The Town needs to increase its commercial tax base. Improvements to municipal infrastructure in commercially zoned areas at and near Route 302 are needed to facilitate commercial development in the District. Under the Development Program, pursuant to Credit Enhancement Agreements, the Town may also make available to certain developers of lots in the District other portions of the tax increment revenues as set forth in Sections 2.04 and 3.04, subject to further approval by the Town Council (the “Credit Enhancement Agreements”).

Adoption of this Development Program will lead to creation of the necessary public facilities within and directly related to the Development District that will provide appropriate infrastructure for development of the District.

The Development Program thus will provide significant economic benefit to the Town by providing new public infrastructure that will facilitate additional commercial development. Such infrastructure and programs will help to expand and diversify the commercial tax base of the Town and to provide new employment opportunities in the Town. The means and objectives of the Development Program thus are to provide financing for the Public Facilities, Improvements and Programs. The Town by adopting this Development Program finds that the Development Program described herein, consisting of the Public Facilities, Improvements and Programs, will provide substantial new employment opportunities, will significantly improve and broaden the Town’s tax base and will improve the general economy of the Town.

Section 2.02: Brief Discussion of Financial Plan. The Financial Plan, as set forth in Article III hereof, consists of the costs estimates for the Development Program, the amount of public indebtedness to be incurred, the sources of anticipated revenues, a description of the terms and conditions of any agreements, contracts or other obligations related to the development program, estimates of increased assessed values of the District, the portion of the increased assessed value to be applied to the Development Program as captured assessed values and resulting tax increments in each year of the program and a calculation of the tax shifts resulting from designation of the tax increment financing district.

The District is expected to generate certain incremental or additional tax revenues, which will be captured or retained to pay the costs of this Development Program. The real property taxes assessed upon the Increased Assessed Value of property in the District (the “Tax Increment”) will be captured or used by the Town under the Development Program to pay costs of the Public Facilities, Improvements and Programs described in Section 2.03 hereof. All tax revenues presently generated on existing property in the District will continue to be paid to the General Fund of the Town. The Development Program costs will be paid only from the Tax Increment on the increased assessed value in the District occurring after the tax year ending on the March 31st (March 31, 2014; April 1, 2013) prior to adoption of this Development Program.

Adoption of this Development Program will lead to creation of the necessary public facilities within and directly related to the Development District that will provide appropriate infrastructure for development of the District. In addition, the Development District will provide a framework to provide certain additional development incentives. By adoption of this Development Program, the Town is not promising to provide tax increment financing to the developer of any lot in the District. However, adoption of the Development Program

will put in place a structure and framework, so that the Town Council can evaluate whether to provide such tax increment financing in specific cases and can respond in a timely manner to specific development proposals. It is anticipated that a portion of the tax increment revenues may be used either to pay or reimburse the certain lot developers, when approved by the Town Council, for certain costs of the Capital Program directly or to pay debt service on funds borrowed privately by such lot developers to finance the cost of the Capital Program. The costs so financed will represent only a portion of the total costs of the Capital Program to be financed. All additional costs of the Capital Program will be the responsibility of the lot developers.

Section 2.03: Public Facilities Descriptions. The Gateway North A Omnibus Tax Increment Financing (TIF) Districts is intended to provide funding dedicated to furthering the implementation of the improvements to along the North Route 302 corridor called for in the 21st Century Downtown Plan and the 2010 Route 302 Corridor Study. In addition, funding would be used to maintain a level of effort in Economic Development including program funding and loan capitalization. While Credit Enhancement Agreements will be enabled within the TIF, any request for a Credit Enhancement Agreement in the future would be subject to the sole discretion of the Town Council deliberation and approval, and may include, at the discretion of the Town Council, for up to 100% of the tax increment to be paid to the developer or company, for up to the remaining term of the District although as a general rule, the developer's share of the dedicated revenues for the project shall not exceed 50% of the incremental taxes over the life of the District.

The Town will retain the Tax Increment from the District to finance some or all of the costs of the following public facilities, improvements or programs (the “Public Facilities, Improvements and Programs”):

TABLE NO. 1: POTENTIAL PUBLIC FACILITIES, IMPROVEMENTS AND PROGRAMS

<u>Project</u>	<u>Estimated Cost Over 30 Years</u>	<u>Statutory Citation</u>
Roadway and intersection improvements in the District	200,000	30-A MRSA §5225(1)(A) and/or 30-A MRSA §5230
Roadway and intersection improvements along Route 302	500,000	30-A MRSA §5225(1)(B); and/or 30-A MRSA §5230
<p>The improvements to roads will include Route 302, including from Anglers Road to the Raymond Town line, and such improvements may include road construction and paving, curbing, walkways, catch basins, landscaping, lighting, signals acquisition of land and easements for such roads, and related improvements and facilities.</p> <p>The costs of any improvements described above that are outside the tax increment financing district shall be qualified project costs on which the tax increment revenues may be expended only to the extent that such improvements are directly related to or are made necessary by the establishment or operation of the District, including, but not limited to: (a) that portion of the costs reasonably related to the construction, alteration or expansion of any facilities not located within the District that are required due to improvements or activities within the District; or (b) costs of public safety improvements made necessary by the establishment of the District.</p>		
Wastewater facilities engineering and construction in the District and along Route 302	800,000	30-A MRSA §5225(1)(A); and 30-A MRSA §5225(1)(B); and/or 30-A MRSA §5230
Utility services extensions and relocation, including sewer, water, electric, cable, broadband internet and telephone, either	1,000,000	30-A MRSA §5225(1)(A); and 30-A MRSA §5225(1)(B); and/or 30-A MRSA §5230

above or underground in the District and along Route 302		
Corridor Planning Studies relating to economic development along the Route 302 corridor and implementation of the Town's 21 st Century Plan	300,000	30-A MRSA §5225(1)(C)(1)
Sidewalk extensions and streetscape improvements in and/or adjacent to the District and along Route 302	645,000	30-A MRSA §5225(1)(A); and 30-A MRSA §5225(1)(B); and/or 30-A MRSA §5230
Staffing and programming of the Windham Economic Development Corporation and Windham Economic Development Office, including salaries and operations	750,000	30-A MRSA §5225(1)(C)(1)
Business Improvement Loan Fund Capitalization, with the details to be determined by the Town Council	100,000	30-A MRSA §5225(1)(C)(3)
Note: A capital contribution to a revolving loan fund will be provided in an amount of \$100,000 out of tax increment revenues from the District. The loan fund will be used to assist business, primarily with funding of improvements such as but not limited to façade improvements, sewer connections, and other infrastructure and utility improvements.		
Total Project Costs:	\$4,295,000	
Note: None of the foregoing are funded by other Tax Increment Financing Districts of the Town.		

The projects currently under consideration to be undertaken pursuant to the Development Program are identified in Table No. 1 above. The Town recognizes that it needs to expand and diversify its tax base. In order to achieve these goals, the Town must provide new public infrastructure in commercial zones in the Town to facilitate new commercial development. This Development Program will provide revenues to fund only a portion of such costs. The specific Public Facilities, Improvements and Programs to be financed with the tax increment financing revenues will be approved through subsequent or separate action of the Town.

The Town finds that each of the Public Facilities, Improvements and Programs described herein, and the Project Costs thereof, will either directly or indirectly provide or encourage new employment opportunities within the Town or encourage and promote economic development that will broaden the Town's tax base and improve the general economy of the Town. The Development Program thus will provide financing for certain important Public Facilities, Improvements and Programs currently under consideration by the Town. These projects either are related to the Development Program or are otherwise qualifying projects under Chapter 206 of Title 30-A of the Maine Revised Statutes.

Section 2.04: Commercial Facilities. The commercial facilities, improvements, programs and projects to be financed by the Development Program may include costs of the developers of specific commercial development of lots in the District (collectively the "Capital Program"). The Town anticipates that the Capital Program will include project costs, which will be financed through a combination of loans, tax increment revenues and the developer funds.

A proposed development of a specific lot in the District should be anticipated to meet, at a minimum in the judgment of the Town Council, the following guidelines in order to be eligible for consideration by the Town Council for approval of a Credit Enhancement Agreement:

- (a) the Town's provision of tax increment financing must be economically necessary in the judgment of the Town Council in order for the project to be undertaken;
- (b) the total project costs of the development of the lot must exceed \$500,000; and
- (c) the project must involve commercial development and be anticipated to create or maintain permanent employment, improve the general economy of the Town, and/or improve and broaden the tax base.

In addition, a Credit Enhancement Agreement for any specific lot development proposal or use will not be entered by the Town unless such development proposal and use is specifically approved by the Town Council after public hearing. No property owner is entitled to a Credit Enhancement Agreement and the above referenced criteria are simply minimum criteria to be eligible for consideration by the Town Council. Approval or disapproval of any request for any Credit Enhancement Agreement will be in the sole discretion of the Town Council and may include reimbursement up to the percentage described in Section 3.05 hereof.

Section 2.05: Relocation Plan. No businesses or persons will be displaced or relocated as a result of the development activities proposed in the District.

Section 2.06: Transportation Improvements. Except for the Public Improvements contemplated by this Development Program, the existing transportation facilities of the Town will be adequate to accommodate the improvements contemplated by this Development Program.

Section 2.07: Environmental Controls. All environmental controls required by law shall apply to development in the District, including any applicable requirements of the Town of Windham Zoning Ordinance and all applicable State and federal environmental laws and regulations.

Section 2.08: District Operation. The day-to-day operations of the District will require no substantial efforts by the Town other than staffing and programming of the economic development office and supporting staff and the Windham Economic Development Corporation funded by this Development Program to the extent described in Table 1 of Section 2.03 hereof.

Section 2.09: Program Duration. The duration of the District will be 30 years from the beginning of the first tax year (July 1, 2015) after designation of the District and the effective date of the approval of the District by the Commissioner of the Maine Department of Economic and Community Development requested to be granted by March 31, 2014.

Section 2.10: Approval Considerations and Characteristics of the District. A. Statutory Considerations for Approval. Before designating the District and before establishing this Development Program, the Town held a public hearing at which interested parties were given a reasonable opportunity to present testimony concerning the District and Development Program. The Town has considered any evidence presented at such public hearing. Notice of the hearing was given as referenced in this Development Program. Before designating the District and before establishing this Development Program, the Town determined and hereby finds and determines that the District created hereunder and this Development Program will contribute to the economic growth or well-being of the Town and to the betterment of the health, welfare or safety of the inhabitants of the Town, including employment opportunities, broadened and improved tax base and economic stimulus, constituting good and valid public purposes and any adverse economic effect on or detriment to any existing business is outweighed by the

contribution made by the District and the Development Program to the economic growth or well-being of the Town and the betterment of the health, welfare and safety of its inhabitants, and the Town further makes the other findings and determinations as set forth in this Development Program and the Exhibits hereto.

B. Statutory Conditions for Approval; Physical Characteristics. The Town hereby finds and determines that the District satisfies the conditions imposed under Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, as a prerequisite to designation of the District, including those relating to the physical description of the District and to certain financial and statistical information as more particularly described in Exhibit H hereof:

(i) All of the land in the District is suitable for commercial uses and is in need of rehabilitation, redevelopment or conservation work and therefore at least 25%, by area, of the real property within the District meets at least one of the following statutory criteria: (1) must be a blighted area; (2) must be in need of rehabilitation, redevelopment or conservation work; or (3) must be suitable for commercial uses;

(ii) The total area of the District is 99.77 acres and thus such area represents 0.28% of the total acreage of the Town (which total acreage is approximately 35,572 acres) and does not exceed 2% of the total acreage of the Town. The total area of the District and the total area of all other development districts in the Town (which combined total is 144.21 acres) is 0.40% of the total acreage of the Town and thus does not exceed 5% of the total acreage of the Town;

(iii) The taxable Original Assessed Value of the District is \$1,864,200 and the taxable Original Assessed Value of all existing tax increment financing districts within the Town is \$28,900 and such combined amounts of taxable Original Assessed Values thus represent 0.107% of the total value of taxable real property within the Town as of April 1st preceding the date of the designation of the District and thus do not exceed 5% of the total value of taxable property within the Town as of April 1st preceding the date of the designation of the District (excluded from the calculation in this paragraph is any district that meets the following criteria: (1) the development program contains project costs, authorized by title 30-A MRSA section 5225, subsection 1, paragraph A, that exceed \$10,000,000; (2) the geographic area consists entirely of contiguous property owned by a single taxpayer; (3) the assessed value exceeds 10% of the total value of taxable property within the municipality; and (4) the development program does not contain project costs authorized by section 5225, subsection 1, paragraph C; for the purpose of this paragraph, "contiguous property" includes a parcel or parcels of land divided by a road, power line or right-of-way).

Section 2.11: Designation of the District. The Town hereby designates Development District #4, the Gateway North A Infrastructure Omnibus Municipal Tax Increment Financing District as a Municipal Development District and a Tax Increment Financing District. The area of the Town of Windham shown as the Gateway North A Infrastructure Omnibus Municipal Tax Increment Financing District as more particularly described in this Development Program is hereby designated as a development district and a tax increment financing district and such designation shall automatically become final and shall take full force and effect upon receipt by the Town of approval of the District by the Maine Department of Economic & Community Development, without the requirement of any further action by the Town, the Municipal Officers or any party. A plan depicting the District is attached hereto as Exhibit A and the District is further described in Exhibit B.

Article III. Financial Plan.

Section 3.01: Cost Estimates for the Development Program. The estimated costs of the Public Facilities, Improvements and Programs are set forth in Section 2.03.

Section 3.02: Amount of Indebtedness to be Incurred. The Town will not incur any indebtedness at this time in connection with the Capital Program. The Developers of privately owned property in the District will finance the Capital Program through a combination of the developers' funds, various loans and a portion of

the Tax Increment of the District. The Town, however, anticipates that it may elect at a future date to incur indebtedness to finance a portion of the Public Facilities, Improvements and Programs but no such additional indebtedness is authorized at this time.

Section 3.03: Sources of Anticipated Revenues. The source of the revenue to be used to pay the costs of this Development Program is the Tax Increment on the Increased Assessed Value of the District. Tax Increment means all Property Taxes assessed by the Town, in excess of any state, county or special district tax, upon the Increased Assessed Value of all real property in the District. Increased Assessed Value means the valuation amount by which the Current Assessed Value of the District exceeds the taxable Original Assessed Value of the real property in the District. Current Assessed Value means the taxable assessed value of the real property in the District certified by the municipal assessor as of April 1st of each year that the District remains in effect. Property Taxes means any and all ad valorem property taxes levied, charged or assessed against real property by the Town. Original Assessed Value means the taxable assessed value of the real property in the District as of March 31, 2014 (April 1, 2013). Attached hereto as Exhibit B is the anticipated form of certification of Original Assessed Value by the Assessor of the Town of Windham in accordance with the requirements of Title 30-A § 5227 of the Maine Revised Statutes. All Property Tax on the Original Assessed Value shall continue to be deposited in the general fund of the Town.

Section 3.04: Estimated Increased Assessed Value; Portion Applied to Development Program. The Town hereby designates, as Captured Assessed Value, 100% of the Increased Assessed Value as the portion of the Increased Assessed Value to be applied or retained each year to pay costs of the Public Facilities, Improvements and Programs and the Capital Program. The amount of the total Tax Increment that is to be used each year to pay or reimburse the Town's costs of the Public Facilities, Improvements and Programs and the Capital Program is the entire Tax Increment of the entire District.

The amount of the total Tax Increment that is to be paid each year to any developer under a Credit Enhancement Agreement to pay or reimburse costs of the Capital Program, however, shall be the percentage set forth in Section 3.05 hereof and shall be limited to the percentage as hereafter designated by the Town Council of the Tax Increment from the Increased Assessed Value solely of the assessed value of the real property owned by the developer (or for which it is otherwise obligated to pay property taxes) (hereinafter the "Tax Increment (the Developer's Share)") and such Tax Increment (Developer's Share) shall specifically exclude any tax increment on any other real estate in the District and on any personal property now or hereafter located in the District. Thus the Tax Increment (Developer's Share) for each year of the term of each Credit Enhancement Agreement shall be calculated as follows: First, the amount of the Tax Increment solely on the assessed value of the real property of the Developer (such lot being hereinafter called "the Developer's Property") shall be determined (the result being hereinafter called the "the Developer's Property Tax Increment"); Second, the applicable percentage designated by the Town Council for the project in question shall be multiplied by the Developer's Property Tax Increment, and the product thereof shall constitute the Tax Increment (Developer's Share) for such year. Notwithstanding the foregoing, the total Credit Enhancement Agreement payments by the Town to the Developer of each lot, determined on a cumulative basis separately for each developer or project, shall not exceed the maximum amount, if any, for such lot as may hereafter be designated by the Town Council, and thus as soon as the cumulative amounts of Tax Increment (Developer's Share) paid to the Developer pursuant to a Credit Enhancement Agreement equals any such maximum amount, thereafter the Tax Increment (Developer's Share) shall equal zero (0).

The amount of the total Tax Increment that is to be used each year to pay or reimburse the Town's costs of the Public Facilities, Improvements and Programs is the entire Tax Increment of the entire District minus the amount of all of the Tax Increment (Developer's Share) for each project for which the Town hereafter enters a Credit Enhancement Agreement.

Exhibit C sets forth: (i) the annual estimates of the Increased Assessed Value of the District resulting from implementation of the Development Program; and (ii) the estimated annual Tax Increment per year on the Increased Assessed Value following implementation of the Development Program, that will be used to finance the Public Facilities, Improvements and Programs.

A Development Program Fund shall be established by the Town consisting of a Project Cost Account and a Sinking Fund. The Development Program Fund Project Cost Account shall consist of and be separated into separate subaccounts or funds consisting of a separate Developer's Project Cost Account for each Credit Enhancement Agreement entered by the Town (each, a "Developer's Project Cost Account") and the Town's Project Cost Account (the "Town's Project Cost Account"). Each Developer's Project Cost Account will be pledged to and charged with payment of amounts due to the applicable Developer under the Credit Enhancement Agreement entered with that Developer. Upon receipt of each payment of property tax from the Developer on its property, the Town shall deposit into such Developer's Project Cost Account that portion of each payment constituting the Tax Increment (Developer's Share). The amounts in each Developer's Project Cost Account shall be used and applied solely to fund the payments to the applicable Developer under its Credit Enhancement Agreement. The Town shall deposit the balance of the property taxes paid by each Developer and all other property taxes with respect to other property in the District in the Town's Project Cost Account (the "Tax Increment (Town Share)").

All funds deposited into the Town's Project Cost Account will be used to pay costs of the Public Facilities, Improvements and Programs described in Section 2.02 hereof or will be deposited into the reserve fund(s) hereafter described. The Town will establish the Town Project Cost Account or a series of Town Project Cost Accounts for the Town, as one or more permanent municipal reserve funds created and administered pursuant to the provisions of Title 30-A Section 5801 of the Maine Revised Statutes, as amended, which funds shall be dedicated to the financing and payment of costs of the Public Facilities, Improvements and Programs. Upon each payment of Property Tax with respect to property in the District, the Town shall deposit to the Town Project Cost Account all of the Tax Increment except for the portion thereof consisting of the Tax Increment (Developer's Share) applicable to each Credit Enhancement Agreement, which shall be deposited into the applicable Developer's Project Cost Account. As the deposit and investment of funds in the Town Project Cost Account accrue and increase to a level which permits implementation of a portion of the Public Facilities, Improvements and Programs, the Public Facilities, Improvements and Programs will be undertaken and funded from such reserve fund(s). Accordingly, all Tax Increment deposited into the Town's Project Cost Account reserve fund(s) shall be deemed to have been expended and used to satisfy the obligations of the Town's Project Cost Account with respect to the Public Facilities, Improvements and Programs described in the Development Program when deposited into such reserve fund(s). If the Town determines to issue any bonds or indebtedness to pay for costs of the Public Facilities, Improvements and Programs, a development Sinking Fund account shall be created and amounts sufficient to satisfy all annual debt service on such bonds and indebtedness shall be transferred to such Sinking Fund from the Town's Project Cost Account but no amounts shall be transferred to the Sinking Fund from the Developer's Project Cost Accounts.

Section 3.05: Description of Terms and Conditions of Agreements. This Development Program creates an "omnibus" TIF district and development program, which authorizes the Town Council, in its sole discretion and without the need for further Town Meeting approval but following a public hearing, to execute Credit Enhancement Agreements with developers or companies, providing for up to 100% of the tax increment to be paid to the developer or company, for up to the remaining term of the District although as a general rule, the developer's share of the dedicated revenues for the project shall not exceed 50% of the incremental taxes over the life of the District. The actual share shall be determined, as deemed necessary for the project, in negotiations between the applicant and the Town.

A description of the terms and conditions of the agreements, contracts and obligations to be entered by the Town is set forth in the model Credit Enhancement Agreement that may be entered by the Town and one or

more Developers which will be in the form attached hereto as Exhibit D, with such changes thereto as determined appropriate by the Town Council. The Credit Enhancement Agreement sets forth the obligations of the Town to pay to the applicable Developer each year during the term of that Agreement the applicable Tax Increment (Developer’s Share) described in Section 3.04 hereof. The obligations of the Town to make such payments shall be a limited obligation payable solely from that portion of the Tax Increment constituting the Tax Increment (Developer’s Share) actually paid by the applicable Developer as property tax, and shall not constitute a general debt or obligation on the part of the Town or a general obligation or charge against or pledge of the faith and credit or taxing power of the Town. The Town will also enter construction contracts and similar agreements relating to construction of the Public Facilities and Improvements described in Section 2.02 hereof.

Section 3.06: Calculation of Tax Shifts. In accordance with Maine statutes governing the establishment of tax increment financing districts, the table set forth below identifies the estimated tax shifts, as more particularly described in Exhibit E hereto, which will result during the term of the District from the establishment of the District.

<u>Tax Shift Item</u>	<u>Estimated Average Annual Amount</u>	<u>Estimated Total Amount</u>
Educational Aid	\$64,931.73	\$1,947,952
County Tax	\$ 9,074.17	\$ 272,225
Revenue Sharing	<u>\$ 9,475.70</u>	<u>\$ 284,271</u>
	\$83,481.60	\$2,504,448

Article IV: Municipal Approvals.

Section 4.01: Public Hearing. Before designating the District and adopting the Development Program, the Town Council, as the legislative body of the Town, held a public hearing. Notice of the hearing was published on December ___, 2014, a date that was at least 10 days before the hearing, in The Portland Press Herald, a newspaper of general circulation within the Town. A copy of the Notice of Public Hearing is attached hereto as Exhibit F. The Public Hearing was held in accordance with the requirements of 30-A M.R.S.A. § 5226 on December 23, 2014. At the public hearing, interested parties were given a reasonable opportunity to present testimony concerning the District and the Development Program.

Section 4.02: Authorizing Votes. The Town Council Orders, designating the District and approving this Development Program, as proposed for adoption by the Town Council of the Town at a meeting thereof duly called and held on December 23, 2014, are attached hereto as Exhibit G. The Town Manager is hereby authorized and directed, on behalf of the Town to execute and submit to the Commissioner of Economic and Community Development for approval such applications and further documentation as may be necessary or appropriate for final approval and establishment of this Development Program and financial plan pursuant to 30-A M.R.S.A. Chapter 206; and the Town Manager be, and hereby is, authorized and empowered, in his discretion, from time to time, to make such technical revisions to this Development Program for the District as he deems reasonably necessary or convenient in order to facilitate the process for review and approval by the Department of Economic and Community Development, so long as such revisions are not inconsistent with the basic structure and intent of this Development Program.

EXHIBIT A

PROPERTY DESCRIPTION AND CONFIGURATION OF DISTRICT

Development District #4, the Gateway North A Infrastructure Omnibus Municipal Tax Increment Financing District is located in Windham, Maine and includes the parcels shown on the Map or Plan of the District attached hereto, said parcels being further described in the Certificate of the Assessor (Exhibit B to this Development Program).

EXHIBIT B

**TOWN OF WINDHAM
CERTIFICATE OF ASSESSOR**

The undersigned assessor of the Town of Windham, Maine, does hereby certify pursuant to the provisions of Title 30-A M.R.S.A. Section 5227 that the Original Assessed Value of the taxable real property within the boundaries of Development District #4, the Gateway North A Infrastructure Omnibus Municipal Tax Increment Financing District, as described in the Development Program for the District, was \$1,864,200 as of March 31, 2014 (April 1, 2013), such value being determined or allocated as follows:

Map - Lot	Address	Description	Total Value
21/18	989 Roosevelt Trail	Land & Building	\$145,500.00
21/19/A	965 Roosevelt Trail	Vacant Land	\$141,100.00
21/19/2/A	968 Roosevelt Trail	Land & Building	\$247,300.00
21/19/A04	6 Storm Drive	Vacant Land	\$72,700.00
21/19/A06	Storm Drive	Vacant Land	\$123,300.00
80/66	905 Roosevelt Trail	Vacant Land	\$000.00
21/1	932 Roosevelt Trail	Land & Building	\$168,900.00
21/1B	932 Roosevelt Trail	Land & Building	\$334,800.00
21/1C	932 Roosevelt Trail	Land & Building	\$229,000.00
21/1D	932 Roosevelt Trail	Land & Building	\$167,500.00
18/14B	920 Roosevelt Trail	Vacant Land	\$166,000.00
18/12	33 White Bridge Rd	Vacant Land	\$58,900.00
21/15(p/o)	Enterprise Drive	Vacant Land	<u>\$ 9,200.00</u>
Totals			\$1,864,200.00

IN WITNESS WHEREOF this Certificate has been executed as of this ___ day of December 2014.

Municipal Assessor

EXHIBIT D
[Model]
CREDIT ENHANCEMENT AGREEMENT

This Credit Enhancement Agreement is dated as of _____, ____, and is made between the Town of Windham, Maine (the "Town"), a municipal body corporate and politic and a political subdivision of the State of Maine, and _____ (the "Developer"), a _____ with a place of business in Windham, Maine,

WITNESSETH THAT

WHEREAS, the Town designated Municipal Development District #4 (Gateway North A) as a Municipal Development and Tax Increment Financing District (the "District") pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, by action of the Town Council on December 23, 2014 and pursuant to the same actions adopted a development program and financial plan for the District (the "Development Program"); and

WHEREAS, the Maine Department of Economic and Community Development has reviewed and accepted the District and the Development Program; and

WHEREAS, the Development Program contemplates the execution and delivery of a credit enhancement agreement between the Town and the Developer, and the Town and the Developer desire and intend that this Credit Enhancement Agreement be and constitute a credit enhancement agreement contemplated by and described in the Development Program; and

WHEREAS, the Town Council of the Town has approved the execution of this Credit Enhancement Agreement, and the Project described herein.

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual promises and covenants set forth herein, the parties hereby agree as follows:

ARTICLE I: DEFINITIONS; INTERPRETATIONS

Section 1.1. Definitions. The terms defined in this Article I shall, for all purposes of this Agreement, have the meanings herein specified, unless the context clearly requires otherwise:

"Agreement" shall mean this Credit Enhancement Agreement between the Town and the Developer.

"Current Assessed Value" shall mean the assessed value of the land only portion of the Developer's Property, as certified by the municipal assessor as of April 1st of each year of the term of this Agreement. For purposes of this Agreement, the Current Assessed Value shall specifically exclude the assessed value of any personal property now or hereafter located in the District.

"Developer" means _____, a _____, its successors and assigns.

"Developer's Project Cost Account" means the Developer's Project Cost Sub-Account established and maintained pursuant to Article II hereof and the Development Program that is applicable to the Developer's Property and this Credit Enhancement Agreement.

"Developer's Property" means the real estate shown as Lot ___ on Tax Map _____ of the Town[, which is the property shown as _____ on the [Plan]].

"Development Program" means the development program for the District as adopted by the Windham Town Council as referenced above.

"Development Program Fund" means the development program fund described in the Financial Plan section of the Development Program.

"District" means Municipal Development District #4 (Gateway North A) designated by the Town pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, pursuant to the Development Program.

"Financial Plan" means the financial plan described in the "Financial Plan" Section of the Development Program.

"Fiscal Year" means July 1 to June 30 of each year or such other fiscal year as the Town may from time to time establish; for purposes of this Agreement, the first Fiscal Year or Fiscal Year 1 means the Fiscal Year commencing July 1, ____ and ending June 30, ____.

"Increased Assessed Value" means the valuation amount by which the Current Assessed Value of the Developer's Property exceeds the Original Assessed Value. For purposes of this Agreement, the Increased Assessed Value shall specifically exclude any tax increment on any property in the District other than Developer's Property, and shall also exclude any personal property now or hereafter located in the District. If the Current Assessed Value is equal to or less than the Original Assessed Value, there is no Increased Assessed Value.

"Original Assessed Value" means initially \$_____, the original assessed value of the Developer's Property determined as of March 31, 20____, as the same may be adjusted from time to time in accordance with Section 3.7 hereof.

"Project" means the following improvements to be constructed on Developer's Property: _____, which improvements shall be used for the following purposes: _____.

"Project Costs" means any expenditures or monetary obligations incurred or expected to be incurred that are authorized by section 5225, subsection 1 of Title 30-A of the Maine Revised Statutes and included in the Project.

"Property Taxes" means any and all ad valorem real property taxes levied, charged or assessed against the Developer's Property (but excluding personal property taxes) by the Town, or on its behalf.

"Qualified Investments" shall mean any and all securities, obligations or accounts in which municipalities may invest their funds under applicable Maine law.

"Tax Increment" means the Property Taxes assessed by the Town and paid by the Developer within the meaning of Section 3.1 of this Agreement, in excess of any state, county or special district tax, upon the Increased Assessed Value of the Developer's Property but excluding all personal property taxes and also excluding real property taxes on any other real property in the District.

"Tax Increment (Developer's Share)" means that portion of the Tax Increment, for each year during the term of this Agreement, solely with respect to Developer's Property (specifically excluding any tax increment on any other real property now or hereafter located in the District and specifically excluding any Tax Increment on any personal property), which are to be deposited by the Town in the Developer's Project Cost Account, to the extent provided in Section 3.1(b) of this Agreement and paid to the Developer pursuant to this Agreement. The Tax Increment (Developer's Share) for each year of the term of this Agreement shall be calculated as follows with respect to Developer's Property: First, the amount of the Tax Increment shall be determined by subtracting the real Property Tax for such year on the Original Assessed Value from the total real Property Tax for such year on the Current Assessed Value for such year; Second, ___% shall be multiplied by the Tax Increment, and the product thereof shall constitute the Tax Increment (Developer's Share) for such year. Notwithstanding the foregoing, the total payments by the Town to the Developer pursuant to this Agreement, determined on a cumulative basis, shall not exceed \$ _____, and thus as soon as the cumulative amounts of Tax Increment (Developer's Share) equal such \$ _____ amount, thereafter the Tax Increment (Developer's Share) shall equal zero (0).

"Tax Payment Date" means the date(s) on which Property Taxes levied by the Town are due and payable.

"Town" means the Town of Windham, Maine, a municipality duly organized and existing under the laws of the State of Maine.

Section 1.2. Interpretation and Construction. In this Agreement, unless the context otherwise requires:

(a) The terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms, as used in this Agreement, refer to this Agreement, and the term "hereafter" means after, and the term "heretofore" means before, the date of delivery of this Agreement.

(b) Words importing a particular gender mean and include correlative words of every other gender and words importing the singular number mean and include the plural number and vice versa.

(c) Words importing persons mean and include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public or governmental bodies, as well as any natural persons.

(d) Any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

(e) All notices to be given hereunder shall be given in writing and, unless a certain number of days is specified, within a reasonable time.

Section 1.3. Town Costs. The Developer shall pay or reimburse the Town for all reasonable out-of-pocket fees, expenses and other charges of the Town and its outside consultants, including the Town's attorneys and other consultants, in connection with the preparation, review, negotiation, approval, execution, administration, enforcement and carrying out of this Agreement and the preparation, review and approval of the Development Program. Notwithstanding any other provision of this Agreement, this section shall survive any termination of this Agreement.

ARTICLE II: PROJECT COST ACCOUNT AND FUNDING REQUIREMENTS

Section 2.1. Creation of Development Program Fund. The Town hereby confirms the creation and establishment of a segregated fund in the name of the Town designated as "Development District #4 (Gateway North A) Program Fund" (the "Development Program Fund") pursuant to, and in accordance with the terms and conditions of, the Development Program. The Development Program Fund shall consist, as described in the Development Program, of a Project Cost Account and a Sinking Fund. The Development Program Fund Project Cost Account shall consist of and be separated into separate sub-accounts or funds for each Credit Enhancement Agreement entered with respect to property in the District, and one of such sub-accounts shall be the Developer's Project Cost Account and a separate sub-account shall be established as the Town's Project Cost Account. The Sinking Fund, the Town's Project Cost Account and each sub-account for each Credit Enhancement Agreement entered with any person or entity other than Developer shall be the sole and exclusive property of the Town and shall not be subject in any way to the terms or provisions of this Agreement.

Section 2.2. Liens. The Town shall not create any liens, security interests or encumbrances of any nature whatsoever with respect to the Developer's Project Cost Account, other than the interest of the Developer granted under this Agreement in and to the amounts on deposit in the Developer's Project Cost Account, provided, however, nothing herein shall prohibit creation of real and personal property tax liens on the Developer's property in accordance with, and entitled to the priority provided under, Maine law and any trustee process, attachment and judgment liens and other liens obtained in accordance with applicable law.

Section 2.3. Deposits into Developer's Project Cost Account. The Town shall deposit into the Developer's Project Cost Account, within 15 days after each payment of Property Tax and other taxes described in Section 3.1 hereof during the term of this Agreement an amount equal to that portion thereof constituting the Tax Increment (Developer's Share) for the period or year to which the payment relates and shall allocate the amount so deposited to fund fully and pay the payments due to Developer under Article III of this Agreement. All interest and earnings on the Tax Increment (Developer's Share) prior to and after deposit thereof into the Developer's Project Cost Account shall be the sole property of the Town and shall be free and clear of any interest of the Developer under this Agreement.

Section 2.4. Monies Held in Trust. Subject to the terms of this Agreement, all monies required to be deposited into the Developer's Project Cost Account to fund payments to Developer under the provisions hereof and the provisions of the Development Program (excluding all interest and investment earnings thereon), shall be held by the Town, in trust, for the benefit of the Developer in accordance with the provisions of this Agreement.

Section 2.5. Investments. The monies in the Developer's Project Cost Account may be invested and reinvested in Qualified Investments as determined by the Town. The Town shall have discretion regarding the investment of such monies, provided such monies are invested in Qualified Investments. As and when any amounts thus invested may be needed for disbursements, the Town shall cause a sufficient amount of such investments to be sold or otherwise converted into cash to the credit of such account. The Town shall have the sole and exclusive right to designate the investments to be sold and to otherwise direct the sale or conversion to cash of investments made with monies in the Developer's Project Cost Account.

ARTICLE III: PAYMENT OBLIGATIONS

Section 3.1. Credit Enhancement Payments. (a) The term of this Agreement shall commence on July 1, 20__ and shall end on the earlier of (i) June 30, 20__ { *years after the commencement*

date}, or (ii) the date on which the total payments of Tax Increment (Developer's Share) by the Town to Developer, its successors or assigns, pursuant to this Agreement equal \$_____, determined on a cumulative basis. Commencing with the first Fiscal Year, the Town agrees to pay to the Developer within 30 days following each Tax Payment Date or the date payment of Property Tax is actually received by the Town with respect to Developer's Property, whichever is later, payments equal to the Tax Increment (Developer's Share) for each Fiscal Year of the Town during the term of this Agreement.

(b) Notwithstanding Section 3.1(a), the amounts payable thereunder shall be due and payable only if: (i) all real property taxes and assessments and all personal property taxes that are due and payable with respect to the Developer's Property have been paid in full and (ii) all real property taxes and assessments and all personal property taxes that are due and payable with respect to any other real and personal property owned by the Developer, its successors and assigns, in the Town have been paid in full. If any of such property taxes are not paid when due, the property taxes actually paid by Developer, its successors and assigns shall, first, be applied to taxes due on account of Original Assessed Value, second to any personal property taxes with respect to any personal property located on the Developer's Property, third, to any real property and personal property of Developer, its successors and assigns located outside of the District and, fourth, to make the deposits to the Developer's Project Cost Account. If such property taxes and assessments are not paid when due, the Town may withhold and suspend all payments under this Agreement until such property taxes and assessments and all interest thereon and other costs relating thereto are paid in full. In addition, if the Developer institutes any tax abatement proceeding with respect to any Property in the District, the Town may withhold and suspend all payments of the Tax Increment (Developer's Share) with respect to the amount of value of the items of Property subject to the abatement proceeding, and shall deposit the withheld amount into a separate interest bearing escrow account. Upon final action and completion of such abatement proceeding, the proper amount (based on the results of the abatement proceedings plus an allocable share of the interest accrued thereon) held in escrow account shall be paid to the Developer.

(c) The Developer agrees that all payments made by the Town to the Developer pursuant to this Agreement will be used and applied to either pay debt service on indebtedness incurred to finance "Project Costs" as that term is defined under Act and described in the Development Program or used to pay directly, amortize or reimburse Developer for payment of, qualified Project Costs. The Town shall be required to make payments under this Agreement only upon receipt of satisfactory documentation that the amounts are being paid for Project Costs, which documentation shall be in the form of properly completed certificates, executed by the Developer in the form attached hereto as Schedule A.

(d) Developer covenants and agrees that in the event that title to Developer's Property is hereafter transferred to any entity exempt from the payment of Property Taxes, including, without limitation, any charitable corporation or the State of Maine or any agency or authority thereof, then the owner of the Developer's Property, as a covenant running with the land, shall be obligated to pay to the Town each year during and after the expiration or termination of this Agreement through the period ending June 30, 20____, an amount equal to (a) 100% of the Property Taxes that would be assessed by the Town on the Developer's Property, as if and under the assumption that the Developer's Property were fully taxable and owned in fee by Developer and not exempt from Property Taxes, less (b) solely during the term of this Agreement, the portion of the amounts described in the preceding clause (a) that would have been payable to the Developer, or its successors and assigns, under Section 3.1(a) if the Developer's Property had remained taxable. The covenants in this paragraph shall survive expiration or termination of this Agreement.

Section 3.2. Failure to Make Payment. In the event the Town should fail to, or be unable to, make any of the payments required under the foregoing provisions of this Article III, the amount so unpaid shall continue as a limited obligation of the Town, under the terms and conditions hereinafter set

forth, until the amount unpaid shall have been fully paid. Developer shall be entitled to initiate an action against the Town to specifically enforce its obligations hereunder, including without limitation the Town's obligation to deposit the Tax Increment (Developer's Share) into the Developer's Project Cost Account established thereunder and make required payments to Developer.

Section 3.3. Manner of Payments. The payments provided for in this Article III shall be paid directly to the Developer in the manner provided hereinabove for the Developer's own use and benefit by check drawn on the Town.

Section 3.4. Obligations Unconditional. Except as otherwise provided in this Agreement or as required by applicable law, the obligations of the Town to make the payments described in this Agreement shall be absolute and unconditional, and the Town shall not suspend or discontinue any payment hereunder or terminate this Agreement for any cause, irrespective of any defense or any rights of setoff, recoupment or counterclaim it might otherwise have against the Developer, other than by reason of and to the extent provided in a final judgment by a court of competent jurisdiction or by reason of an order of Trustee Process or Attachment. The Town hereby acknowledges that the Developer has the right to enforce the contractual obligations of the Town under this Agreement and that the governmental immunity of the Town does not apply to actions to enforce its contractual obligations; provided however, that nothing herein shall constitute a waiver of the Town's tort immunity or any other governmental immunities.

Notwithstanding the foregoing, the Town reserves the right to terminate this Agreement upon receipt of a final judgment by a court of competent jurisdiction to the effect that this Agreement or the Development Program (or the designation of the District) adopted in connection herewith or any payment made thereunder or hereunder is or would be illegal or invalid or not properly authorized. Such termination shall not, however, affect the Developer's obligation to defend and indemnify the Town, which obligations shall survive any such termination. In addition, the Town may setoff any amount found by the court of competent jurisdiction to be due to the Town from the Developer or from the owner of the Developer's Property. Except as provided in subsection 3.1(b) and subsection 2.3, the obligations of the Town to make payments hereunder shall be absolute and irrevocable, irrespective of any rights of set-off, recoupment or counterclaim.

The Developer agrees to defend, indemnify, pay, reimburse and hold the Town, its councilors, officers, agents and employees, harmless from any and all claims, suits, liabilities, actions, proceedings and expenses, including, without limitation, attorneys fees and expenses and accountant's fees and expenses, arising out of this Agreement, the Development Program or any claim of illegality or invalidity of this Agreement or the Development Program or the Town's approval of the District, this Agreement or the Development Program or out of the Town's preparation and participation in this Agreement or the Development Program except that such indemnity shall not apply to the extent that the Town has breached any material obligations hereunder.

Section 3.5. Limited Obligation. The Town's obligations under this Agreement, including the Town's obligations of payment hereunder shall be limited obligations of the Town payable solely from the Tax Increment (Developer's Share) actually paid by the Developer with respect to Property owned by the Developer in the District and actually received by the Town and required to be deposited in the Developer's Project Cost Account in accordance with the terms of this Agreement and pledged therefor under this Agreement. The Town's obligations hereunder shall not constitute a general debt or a general obligation or charge against or pledge of the faith and credit or taxing power of the Town, the State of Maine, or of any municipality or political subdivision thereof, but shall be payable solely from such Tax Increment (Developer's Share) actually paid by the Developer with respect to Property in the District and actually received by the Town. This Agreement shall not directly or indirectly or contingently obligate

the Town, the State of Maine, or any other municipality or political subdivision to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment, excepting the pledge of the Developer's Project Cost Account established under this Agreement.

Section 3.6. Calculation of Retained Tax Increment. The Town and the Developer shall maintain records which are adequate to calculate the Tax Increment and the Tax Increment (Developer's Share), and shall cooperate with each other in making such calculations. Annually, within 30 days of the payment of Property Tax by Developer, the Town shall calculate the amount of Tax Increment and the Tax Increment (Developer's Share) for that year. If the Developer does not object to such calculations within 120 days of receipt thereof or of any payment of Tax Increment (Developer's Share) for such year, the calculations shall be final and binding on all parties.

Section 3.7. Revaluation. In the event there is a Town-wide revaluation of taxable property within the Town, the Original Assessed Value shall be increased in proportion to the Town-wide increase in property values resulting from such revaluation.

Section 3.8. Payments to the Town. The Developer shall pay to the Town an annual administrative fee equal to 1% of the Tax Increment paid by the Town to the Developer pursuant to this Agreement in the year in question, which payment shall be made in equal installments each year in the form of a setoff on the same dates as the Tax Increment for that year is paid by the Town to the Developer.

ARTICLE IV: PLEDGE AND SECURITY INTEREST

Section 4.1. Pledge of Developer's Project Cost Account. In consideration of this Agreement and for the purpose of securing payment of the amounts provided for hereunder to the Developer by the Town, according to the terms and conditions contained herein, and in order to secure the performance and observance of all of the Town's covenants and agreements contained herein, the Town does hereby grant a security interest in and pledge to the Developer the Developer's Project Cost Account and all sums of money and other securities and investments therein. This pledge and the provisions of Section 2.4 hereof shall not apply to any interest and investment earnings on the Developer's Project Cost Account, all of which shall be the absolute property of the Town, free and clear of any interest of the Developer.

Section 4.2. Perfection of Interest. The Town shall cooperate with the Developer, if requested in writing by Developer, in causing appropriate financing statements and continuation statements naming the Developer as pledgee of all such amounts from time to time on deposit in the Developer's Project Cost Account to be duly filed and recorded in the appropriate state offices as required by and permitted under the provisions of the Maine Uniform Commercial Code or other similar law as adopted in the State of Maine and any other applicable jurisdiction, as from time to time amended, in order to perfect and maintain the security interests created hereunder. To the extent reasonably deemed necessary by the Developer, the Town will at such time and from time to time as requested by Developer establish the Developer's Project Cost Account Fund described in Section 2.3(b)(i) hereof as a segregated fund under the control of an escrow agent, trustee or other fiduciary so as to perfect Developer's interest therein on terms reasonably satisfactory to the Town.

Section 4.3. Further Instruments. The Town shall, upon the reasonable request of the Developer, from time to time execute and deliver such further instruments and take such further action as may be reasonable and as may be required to carry out the provisions of this Agreement; provided, however, that no such instruments or actions shall pledge the credit of the Town or require any payment or expense by the Town (unless paid by Developer) or discharge either party or change any provision of this Agreement.

Section 4.4. No Disposition of Developer's Project Cost Account. Except as permitted hereunder, the Town shall not sell, lease, pledge, assign or otherwise dispose, encumber or hypothecate any interest in the Developer's Project Cost Account and will promptly pay or cause to be discharged or make adequate provision to discharge any lien, charge or encumbrance on any part thereof not permitted hereby.

Section 4.5. Access to Books and Records. All books, records and documents in the possession of the Town relating to the District, the Development Program, the Agreement and the monies, revenues and receipts on deposit or required to be deposited into the Development Program Fund and the Developer's Project Cost Account shall at all reasonable times be open to inspection by the Developer and its agents. All books, records and documents of the Developer reasonably necessary to the verification of Project Costs shall at all reasonable times be open to inspection by the Town, and its agents, provided, however, that any information reasonably designated by Developer as proprietary shall be inspected, to the extent permitted by law, in a manner so as to preserve the confidential nature of such information.

ARTICLE V: DEFAULTS AND REMEDIES

Section 5.1. Events of Default. Each of the following events shall constitute and be referred to in this Agreement as an "Event of Default": (a) any failure by the Town or the Developer to pay any amounts due hereunder when the same shall become due and payable except as provided in subsection (c) below; (b) any failure by the Town to make deposits into the Developer's Project Cost Account as and when due; or (c) any failure by the Town or the Developer to observe and perform in all material respects any covenant, condition, agreement or provision contained herein on the part of the Town or Developer to be observed or performed, which failure is not cured within thirty (30) days following written notice thereof; provided, however, that this subsection (c) shall not be construed to include Developer's failure to pay property taxes for any reason as an Event of Default hereunder.

Section 5.2. Remedies on Default. Whenever any Event of Default described in Section 5.1 hereof shall have occurred and be continuing, the nondefaulting party may take whatever action at law in at equity as may appear necessary or desirable to collect the amount then due and thereafter to become due, to specifically enforce the performance or observance of any obligations, agreements or covenants of the nondefaulting party under this Agreement and any documents, instruments and agreements contemplated hereby or to enforce any rights or remedies available hereunder or under applicable law.

Section 5.3. Remedies Cumulative. No remedy herein conferred upon or reserved to any party is intended to be exclusive of any other available remedy or remedies but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law, in equity or by statute. Delay or omission to exercise any right or power accruing upon any Event of Default to insist upon the strict performance of any of the covenants and agreements herein set forth or to exercise any rights or remedies upon the occurrence of an Event of Default shall not impair any such right or power or be considered or taken as a waiver or relinquishment for the future of the right to insist upon and to enforce, from time to time and as often as may be deemed expedient, by injunction or other appropriate legal or equitable remedy, strict compliance by the parties hereto with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies, if such Event of Default be continued or repeated.

Section 5.4. Tax Laws. The parties acknowledge that all laws of the State now in effect or hereafter enacted with respect to taxation of property shall be applicable and that the Town, by entering into this Agreement, is not excusing any non-payment of taxes by Developer. Without limiting the

foregoing, the Town and the Developer shall always be entitled to exercise all rights and remedies regarding assessment, collection and payment of taxes assessed on Developer's property.

ARTICLE VI: TERM AND TERMINATION

Section 6.1. Term. This Agreement shall become effective upon its execution and delivery by the parties hereto and shall remain in full force from the date hereof and shall expire upon the performance of all obligations on the part of the Town and the Developer hereunder or upon any earlier termination as provided in this Agreement. The Town shall have the right to terminate this Agreement by written notice to the Developer in the event of any change in the use of the Developer's Property from its intended use as the Project or in the event of any material expansion of the initial building to be constructed on the Developer's Property.

Section 6.2. Cancellation and Expiration of Term. At the termination or other expiration of this Agreement in accordance with the provisions of this Agreement, the Town and the Developer shall each execute and deliver such documents and take or cause to be taken such actions as may be necessary to evidence the termination of this Agreement.

ARTICLE VII: ASSIGNMENT AND PLEDGE OF DEVELOPER'S INTEREST

Section 7.1 Consent to Pledge and/or Assignment. The Town hereby acknowledges that it is the intent of the Developer to pledge and assign its right, title and interest in, to and under this Agreement as collateral for financing for the Project, although no obligation is hereby imposed on the Developer to make such assignment or pledge. Recognizing this intention, the Town does hereby consent and agree to the pledge and assignment of all the Developer's right, title and interest in, to and under this Agreement (provided that such collateral assignment shall be effective only as long as the assignee holds a first mortgage on the Developer's Property) and in, and to the payments to be made to Developer hereunder, to a bank or other financial institution regularly engaged in making commercial loans as collateral or security for financing the Development Program, on one or more occasions during the term hereof. The Town agrees to execute and deliver any assignments, pledge assignments, consents or other confirmations on terms reasonably satisfactory to the Town (including that any pledge or secured party succeeding to Developer's rights hereunder assume in writing, in form satisfactory to the Town, the obligations of Developer under this Agreement) required by the prospective pledgee or assignee, including without limitation recognition of the pledgee or assignee as the holder of all right, title and interest herein and as the payee of amounts due and payable hereunder and any and all such other documentation as shall confirm to such pledgee or assignee the position of such assignee or pledgee and the irrevocable and binding nature of this Agreement and provide to the pledgee or assignee such rights and/or remedies as the parties may reasonably deem necessary for the establishing, perfection and protection of its interest herein.

Section 7.2. Other Assignments. The Developer shall also have the right and obligation to transfer and assign its rights under this Agreement to any person or entity that acquires title to the Developer's Property, provided, that (a) such owner assumes in writing, in form satisfactory to the Town, the obligations of Developer under this Agreement; and (b) prior to any such assignment, Developer shall obtain the written consent of the Town. In making any request for such written consent of the Town, the Developer shall submit such information as the Town may reasonably request relating to the identity of the proposed assignee and their plans regarding use of the Developer's Property. Such consent shall not be unreasonably withheld, delayed or conditioned. In the event that such written consent is not given, upon transfer of title to the Developer's Property, this Agreement and all rights of Developer, its successors and assigns under this Agreement shall terminate.

Section 7.3. Conditions. Notwithstanding Section 7.1 and Section 7.2, the Developer shall not have the right to transfer and assign all or any portion of its rights in, to and under this Agreement, except to the then owner of, or holder of a first mortgage on, the Developer's Property.

ARTICLE VIII: MISCELLANEOUS

Section 8.1. Successors. In the event of the dissolution of the Town or the Developer, the covenants, stipulations, promises and agreements set forth herein, by or on behalf of or for the benefit of such party shall bind or inure to the benefit of the successors and assigns thereof time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of such party shall be transferred.

Section 8.2. Parties in Interest. Except as herein otherwise specifically provided, nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person, firm or corporation other than the Town and the Developer any right, remedy or claim under or by the reason of this Agreement, it being intended that this Agreement shall be for the sole and exclusive benefit of the Town and the Developer.

Section 8.3. Severability. In case any one or more of the provisions of this Agreement shall, for any reason, be held to be illegal and invalid, such illegality or invalidity shall not affect any other provision of this Agreement and this Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

Section 8.4. No Personal Liability of Officials of the Town. No covenant, stipulation, obligation or agreement of the Town contained herein shall be deemed to be a covenant, stipulation or obligation of any present or future elected or appointed official, officer, agent, servant or employee of the Town in his individual capacity and neither the members of the Town Council of the Town nor any official, officer, employee or agent of the Town shall be liable personally with respect to this Agreement or be subject to any personal liability or accountability by reason hereof.

Section 8.5. Counterparts. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same Agreement.

Section 8.6. Governing Law. The laws of the State of Maine shall govern the construction and enforcement of this Agreement.

Section 8.7. Notices. All notices, certificates, requests, requisitions or other communication by the Town or the Developer pursuant to this Agreement shall be in writing and shall be sufficiently given and shall be deemed given when mailed by first class mail, postage prepaid, addressed as follows:

If to the Town: Town Manager
 Town of Windham
 8 School Road
 Windham, ME 04062

If to the Developer:

Either of the parties may, by notice given to the other, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent hereunder.

Section 8.8. Amendments. This Agreement may be amended only with the written consent of both of the parties hereto.

Section 8.9. Net Agreement. Subject only to the provisions of Article III and 5.2 hereof, this Agreement shall be deemed and construed to be a "net agreement," and the Town shall pay absolutely net during the term hereof all payments required hereunder, free of any deductions, and without abatement, deductions or setoffs.

Section 8.10. Benefit of Assignees or Pledges. The Town agrees that this Agreement is executed in part to assist the Developer in obtaining financing for the Project and accordingly all covenants and agreements on the part of the Town as to the amounts payable hereunder are hereby declared to be for the benefit of any such assignee or pledgee from time to time of the Developer's right, title and interest herein.

Section 8.11. Integration. This Agreement completely and fully supersedes all other prior or contemporaneous understandings or agreements, both written and oral, between the Town and the Developer relating to the specific subject matter of this Agreement and the transactions contemplated hereby.

Section 8.12. Disputes. The Town and the Developer both covenant and agree that the assumptions, analyses and results set forth in this Agreement and in the Development Program shall in no way prejudice the rights of either party or be used, in any way, by either party in either presenting evidence or making argument in any dispute which may arise in connection with valuation of property in the District.

Section 8.13. Valuation Agreement. The Development Program makes certain assumptions and estimates regarding valuation, depreciation of assets, tax rates, estimated amounts of the Increased Assessed Value and the Tax Increment, estimated amounts of the Tax Increment (Developer's Share), estimated development costs and other estimates. The Town and the Developer hereby covenant and agree that the assumptions, estimates, analysis and results set forth in the Development Program shall in no way: (a) prejudice the rights of any party to be used, in any way, by any party in either presenting evidence or making argument in any dispute which may arise with respect to Developer's property for purposes of ad valorem property taxation or any tax abatement proceeding or (b) modify or change in any way the terms of this Agreement even if the actual results differ substantially from the estimates, assumptions or analysis.

IN WITNESS WHEREOF, the Town and the Developer have caused this Agreement to be executed in their respective corporate names and their respective corporate seals to be hereunto affixed and attested by the duly authorized officers, all as of the date first above written.

WITNESS:

Town of Windham

By: _____

Its

Developer:

By: _____

Its

Schedule A

Request for Payment

The undersigned _____ (the "Developer") does hereby request payment in the amount of \$_____ from the Town of Windham out of the Developer's Project Cost Account established under the Development Program of Municipal Development District #4 (Gateway North A) and does hereby certify to the Town of Windham that the amount requested will be used to pay Project Costs as that term is defined in Chapter 206 of Title 30-A of the Maine Revised Statutes, as follows: [check applicable provisions]

Direct payment of Project Costs in the amount of \$_____; and/or

Reimbursement to the Developer for Project Costs previously incurred, in the amount of \$_____

There are attached hereto invoices showing the incurring by the undersigned of Project Costs in the amount of \$_____. None of these invoices have been the subject of a previous request for payment from the Developer's Project Cost Account.

The Developer further certifies that all of such Project Costs constitute Project Costs as defined in the Credit Enhancement Agreement, dated _____20__ between the Town of Windham and the undersigned, and that the Developer has complied with all terms, conditions and covenants of such Agreement and that no default or event of default exists under said Agreement.

Dated: _____

Developer:

By: _____
Its

EXHIBIT E

TAX SHIFT COMPUTATIONS

A tax increment financing district will result in certain tax shifts which result because the retained captured assessed value of the District will be excluded from the State Valuation of the property in the Town. These tax shifts are noted in three basis formulae which use local property tax valuation as a basis for calculation. These three formulas are:

- State Aid to Education
- Municipal Share of County Taxes
- Revenue Sharing

The computations are set forth in the attachment to this Exhibit E. The following is the process used to derive each of these tax shifts.

EDUCATION TAX SHIFT: Computed by comparing State Department of Education Form ED 279 for the Town with and without retained CAV.

COUNTY TAX SHIFT: In order to compute this shift, we first obtained the most recent County State Valuation from the State Bureau of Taxation. We then determined the average Captured Assessed Value for the District over the life of the District. We then determined the Town's current share of the County Tax by dividing the current Town Valuation by the Current County Valuation. We then determined what the Town's Share of the County Tax would be if the new value from the District were added by the Town's Valuation without the creation of the District by dividing the sum of the current Town Valuation plus the average new value by the sum of the current County Valuation plus the average new value. The difference is the factor representing the percentage of the County Tax Shift. Next, we determined the estimated average annual county tax over the life of the district. To arrive at this number, the average change in County Tax for the last five years was determined and the percentage increase projected to the middle of the district's life. This projected tax was then multiplied by the factor developed above to determine the County Tax Shift.

REVENUE SHARING SHIFTS: The first step in determining the Revenue Sharing Tax Shifts was to obtain the total Municipal Revenue Sharing Amount from the State Treasurer. The five steps outlined in the following formula were then applied:

STEP ONE: $\frac{\text{Municipal Population} \times \text{Local Property Tax Levied}}{\text{State Local Valuation}} = \text{Current Factor}$

STEP TWO: $\frac{\text{Municipal Population} \times \text{Local Property Tax Levied}}{\text{State Local Valuation} + \text{Captured Assessed Value}} = \text{Adjusted Factor}$

STEP THREE: $\text{Current Factor} = 1.X$
 Adjusted Factor

STEP FOUR: $1.X - 1.0 = .X$

STEP FIVE: $.X (\text{Total Municipal Revenue Sharing Amount}) = \text{Revenue Sharing Shift}$

EXHIBIT F

**TOWN OF WINDHAM
NOTICE OF PUBLIC HEARING**

Notice is hereby given that the Town of Windham will hold a public hearing on December 23, 2014 at 7:00 p.m. at the Council Chambers in the Town Hall, at 8 School Road, in Windham for the purpose of receiving public comments on the designation of its proposed Development District #4, the Gateway North A Infrastructure Omnibus Municipal Tax Increment Financing District (the "District") and the adoption of a Development Program for the said District, pursuant to the provisions of Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended. A copy of the proposed Development Program for the District is on file with the Town Clerk and may be obtained from and reviewed at the offices of the Town Clerk during normal business hours. All interested persons are invited to attend the public hearing and will be given an opportunity to be heard at the hearing.

EXHIBIT G

**TOWN COUNCIL ORDERS
GATEWAY NORTH A OMNIBUS MUNICIPAL
INFRASTRUCTURE TAX INCREMENT FINANCING DEVELOPMENT DISTRICT**

Ordered that the Town hereby (a) designates the Gateway North A Infrastructure Omnibus Municipal Tax Increment Financing District and adopts the Development Program for the District, such designation and adoption to be on the terms and provisions of the Gateway North A Infrastructure Omnibus Municipal Tax Increment District Development Program” (“Development Program”) as presented at this Town Council Meeting, and as has been on file in the Town Clerk’s Office, a copy of which is incorporated herein by reference; (b) makes the findings set forth in the Development Program; (c) adopts the financial plan including the percentage of increased assessed value of said District to be retained as captured assessed value in accordance with the Development Program; (d) authorizes the Town Manager to submit to the State of Maine Commissioner of Economic and Community Development for approval such applications and further documentation as may be necessary or appropriate for final approval and establishment of the Gateway North A Infrastructure Omnibus Municipal Tax Increment Financing District and its Development Program and financial plan pursuant to 30-A M.R.S.A. Chapter 206 and (e) authorizes the Town Council, following public hearing, to authorize and execute Credit Enhancement Agreements substantially in the form attached to the Development Program, for up to 100% reimbursement for durations of up to the total term of the District, all in accordance with the criteria set forth in the Development Program, with any changes to such Credit Enhancement Agreements as approved by the Town Council.

EXHIBIT H
STATUTORY REQUIREMENTS & THRESHOLDS
GATEWAY NORTH A OMNIBUS MUNICIPAL INFRASTRUCTURE
TAX INCREMENT FINANCING DISTRICT DEVELOPMENT PROGRAM

Section A. Acreage Caps		
1. Total Municipal Acreage		35,572 acres
2. Acreage of Proposed Municipal TIF District		99.77 acres
3. Downtown-designation acres in proposed Municipal TIF District		0
4. Transit-Oriented Development acres contained in proposed Municipal TIF District		0
5. Total acreage [=A2-A3:A4] of Proposed Municipal TIF District counted toward 2% limit		99.77 acres
6. Percentage [=A5/A1] of total acreage in proposed municipal TIF District (cannot exceed 2%)		0.28%
7. Total acreage of all existing/proposed municipal TIF districts in municipality including Municipal Affordable Housing Development Districts: District 1 (Pipeline) Acreage: 6 acres District 2 (Roosevelt) Acreage: 34.74 acres; District 3: New Marblehead AH: 3.70 acres; This District 4 (Gateway North) Acreage: 99.77 acres		144.21 acres
30-A 5223(3) EXEMPTIONS		
8. Acreage of an existing/proposed Downtown-designation Municipal TIF District		0
9. Acreage of all existing/proposed Transit-Oriented Development Municipal TIF Districts		0
10. Acreage of all existing/proposed community wind power Municipal TIF District		0
11. Acreage of all existing/proposed single taxpayer/high valuation Municipal TIF District		0
12. Acreage in all existing/proposed Municipal TIF Districts common to Pine Tree Development Zones per 30-A 5250-I(14)(A) excluding any such acreage also factored in Exemptions 8-11 above		0
13. Total acreage [=A13/A1] of all existing/proposed Municipal TIF districts counted toward 5%		144.21 acres
14. Percentage of total acreage [=A13/A1] of all existing/proposed Municipal TIF Districts (cannot exceed 5%)		0.40%
15. Real property in proposed Municipal TIF District that is:		
(Note: a, b, or c must be at least 25%)	Acres	% [=Acres/A2]
a. Blighted	0	
b. In need of rehabilitation/conservation	0	
c. Suitable for industrial/commercial site	99.77	100%
TOTAL [except for 5223(3) exemptions, a, b or c must be at least 25%]	99.77	100%
Section B. VALUATION CAP		
1. Total TAXABLE municipal valuation-use last April 1 and MRS Certified Ratio		\$1,748,070,900
2. Taxable Original Assessed Value (OAV) of proposed Municipal TIF District. <i>Use April 1 before March 31 preceding municipal designation (March 31, 2014, i.e., April 1, 2013)</i>		\$1,864,200
3. Taxable OAV of all existing/proposed Municipal TIF Districts in the municipality: <i>District/ OAV District 1(Pipeline): \$18,000; District 2 (Roosevelt): \$10,900; This District #4: \$1,864,200</i>		Existing: \$28,900 Proposed: 1,864,200 Total: \$1,893,100
30-A 5223(3) EXEMPTIONS		
4. Taxable OAV of an existing/ proposed Downtown-designation Municipal TIF District		0

5. Taxable OAV of all existing/proposed Transit-Oriented Development Municipal TIF Districts	0
6. Taxable OAV of all existing/proposed community wind power Municipal TIF Districts	0
7. Taxable OAV of all existing/proposed single taxpayer/high valuation Municipal TIF Districts	0
8. Taxable OAV of all existing/proposed Municipal TIF Districts common to Pine Tree Development Zones per 30-A 5250-1(14)(A) excluding any such OAV also factored in Exemptions 4-7 above	0
9. Total taxable OAV [=B3-B4:B8] of all existing/proposed Municipal TIF Districts counted toward 5% limit	\$1,893,100
10. Percentage of total taxable OAV [=B9/B1] of all existing/proposed Municipal TIF Districts (cannot exceed 5%)	0.108%