

Order 78-18/19

Passage: 8-0 (Strimling absent) on 10/15/2018

Effective 10/25/2018

ETHAN K. STRIMLING (MAYOR)  
BELINDA S. RAY (1)  
SPENCER R. THIBODEAU (2)  
BRIAN E. BATSON (3)  
JUSTIN COSTA (4)

**CITY OF PORTLAND**  
IN THE CITY COUNCIL

KIMBERLY COOK (5)  
JILL C. DUSON (A/L)  
PIOUS ALI (A/L)  
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER AMENDING**  
**THE DOWNTOWN TRANSIT ORIENTED DEVELOPMENT AND OMNIBUS**  
**TAX INCREMENT FINANCING DISTRICT TO ADD MORE PUBLIC INVESTMENT**  
**OPTIONS AND TO INCREASE THE CAPTURE RATE**

**ORDERED**, that the Downtown Transit Oriented Development and Omnibus Tax Increment Financing (TIF) District, as adopted by Order 139-14/15 and amended by Order 99-17/18, is hereby amended to increase public investment options in substantially the form attached hereto as Exhibit A; and

**BE IT FURTHER ORDERED**, that the Downtown Transit Oriented Development and Omnibus TIF District is further amended to increase the allowable district annual capture rate from up to Twenty-Two Percent (22%) to up to One Hundred Percent (100%); and

**BE IT FURTHER ORDERED**, that the City Council hereby authorizes the City Manager or his or her designee to execute said documents and any other related documents necessary or convenient to carry out the intent of said documents.

**9/2018 PROPOSED DOWNTOWN/TRANSIT TIF AMENDMENT #2 - CITY INVESTMENT OPTIONS AND CAPTURE RATE AMENDMENTS**

**I. Introduction – Portland Downtown Transit Oriented Municipal Development and Omnibus Tax Increment Financing District Amendment #2**

On February 19, 2015, the City of Portland (the “City”) designated the Portland Downtown Transit Oriented Municipal Development and Omnibus Tax Increment Financing District (the “District”) and adopted this Development Program (the “Development Program”) for the District in an effort to fully realize the visions and goals of the City of Portland Downtown Revitalization Investment Plan (“Downtown Plan”); the Downtown Plan is attached as Exhibit A. The duration of this District will be 30 years beginning July 1, 2015 (Tax Year 4/1/2015; FY2015-16) ending June 30, 2045 (Tax Year 4/1/2044; FY2044-45).

a. District Amendment #1 Approved by MDECD February 27, 2018: The purpose of this District amendment ~~is-was~~ to remove the parcel designated by the City Assessor as 22-F-1 at 54 Lancaster – a tax exempt parcel (so no value attributed to the Original Assessed Value) with approximately .48 acres, which will be turned into a free-standing Affordable Housing TIF District. Portland’s amended District remainededs the same at approximately 422 acres and ~~is~~-bounded by Washington Avenue to the east, State Street to the west, following the edges of the adjacent Bayside and Waterfront Capital Improvement TIF Districts to the north and south. The District encompasses the central business district of Portland and the abutting east and west ends of the District. In creating the District, the outlying residential areas of the Eastern and Western Promenades have been purposely excluded.

b. Proposed District Amendment #2: District Amendment #2 is to increase the allowable uses for Municipal TIF Revenue and increase the percentage capture from 22% to 100%, all as more detailed in Section II below.

The Downtown Plan includes a listing of current projects and categories of future investment. It is recognized that meeting the infrastructure needs of Portland’s downtown will be a dynamic process that will be updated locally on an annual basis or as needed. Though the specific public projects prioritized and undertaken from year to year will change, with the exception of this District funding up to \$100,000 annually for the Creative Portland Corporation, categories of investment for the purpose of eligible uses of the TIF Revenues will remain consistent. Actual project selections and prioritization for funding will continue to be made on an annual basis during the City budget and Capital Improvements Plan (CIP) process, based on categories contained in Table 1 hereinbelow. The CIP is the document that presents the City’s capital needs in the current year and plans for capital needs in future years. As a five year plan that is annually updated, the CIP is a dynamic planning document; the FY2015 to 2019 CIP document is included in the Downtown Plan as an appendice.

**II. Development Program Narrative**

**A. The Development Program as Amended with Amendment #2**

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The Amended Development Program for the Downtown Transit Oriented Municipal Development and Omnibus TIF District is structured and proposed pursuant to Chapter 206 of Title 30-A of the Maine Revised TIF Statutes, as amended (the “TIF Statute”); ~~and remains the same~~. The City’s designation of the District, combined with the adoption of this Amended Development Program, creates a single municipal TIF district in order to capture the value of the real property improvements made within the District and enable the use of TIF revenues for various municipal and other development projects.

Under this Amended Development Program, the City ~~may capture up to~~ 12% in year one, ~~and up to and~~ 22% in years 2 through ~~30~~. This Amended Development Program would now allow for the City to capture up to 100% of the new real property value located in the District for remainder of the term of the District, or through Tax Year April 1, 2044/City Fiscal Year 2044/2045, a total of thirty (30) years. The City may retain those tax revenues generated by the captured assessed value (the “TIF Revenues”) to fund infrastructure improvements and other administrative costs, all as further described in Table 1 hereinbelow. The City reserves the right to capture less than the full ~~100~~12% in ~~year one and less than the 22% in~~ years ~~25~~ through 30, depending on the then-current needs of the City with respect to the approved project costs. Any reduction in the captured value percentage shall adjust the amount of assessed value eligible for sheltering with respect to the tax shift benefit correspondingly. Although all TIF Revenues will be retained by the City at this time, the City reserves the right in the future to negotiate and execute commercial credit enhancement agreements pursuant to City Council approved TIF Policy as may be amended from time to time. CEAs would be limited, however, to the of up to twenty years, or limited to the balance of District term at that time, and up to sixty five percent (65%) of the TIF Revenues, within sole Council discretion. Such future credit enhancement agreements would require a public hearing and City Council approval.

~~Proposed Amendments to City TIF Policy is attached as Exhibit B, and they were approved by the City Council on November 20, 2017. Amendments include allowing Affordable Housing TIF District credit enhancement agreements to have a maximum term allowed as 30 years (or if in this District limited to balance of District term at that time), and also allowing up to 75% capture for the term.~~

In designating the District and adopting this Amended Development Program, the City can accomplish the following goals:

- Maintain existing tax revenues;
- Invest in the Downtown public infrastructure;
- Invest in the Creative Portland Corporation annually;
- Invest in new and enhanced transit services;
- Enjoy enhanced future tax revenues generated by new development within the District; and
- Create long-term, stable employment opportunities for area residents because of these TIF investments.

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In addition, by creating the District, the City will “shelter” the increase in municipal valuation that development in the District will bring about. This tax shift benefit mitigates the adverse effect that the District’s increased assessed property value has upon the City’s share of state aid to education, municipal revenue sharing, and its county tax assessment. An estimate of the tax shift benefits is shown in Revised Exhibit D-2 attached hereto.

The City’s designation of the District and pursuit of this Amended Development Program constitute a good and valid public purpose pursuant to Chapter 206 of Title 30-A because it represents a substantial contribution to the economic well-being of both the City and the region by providing jobs, contributing to property taxes, and diversifying the region’s economic base.

### **B. The Projects**

Development within the District will provide a revenue source for the City’s economic development projects. The City intends to use TIF Revenues to further its overall plan to attract and retain businesses that want to take advantage of Portland’s business-friendly location, while offering their employees a rich, dynamic, and high quality of life. This includes funding of Creative Portland Corporation, of which the City of Portland is the Corporator, of up to \$100,000 annually, as well as City plans to invest in its public infrastructure in these investment focus areas:

- Sidewalk and Other Pedestrian Enhancements
- Streetscape
- Lighting
- Street Alignment
- Utilities
- Bicycle Improvements
- Public Transit
- Wayfinding
- Multi-modal surface and structured parking
- Work force training
- Professional service costs
- Economic Development Department administrative costs and staff salaries, and prorated salaries of the City Manager, Finance Director, ~~and~~ Planning and Urban Development Director, and Planning staff.

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The District projects at this time are highlighted in Table 1 below:

**TABLE 1**

**NOTE 1:** All Citations refer to Title 30-A, Chapter 206, Section 5225

**NOTE 2:** While this Amended Development Program lists particular projects, the Amended Development Program shall not serve as an appropriation of TIF Revenues for any of these specific purposes, nor shall it commit the City to completing any particular project. The projects will only be undertaken following proper appropriation through the annual budget process and any other applicable required approvals.

Project	Downtown Revitalization Plan Reference by page no.	Statutory Citation	Estimated Cost
<p><b>In District: Capital Infrastructure <u>Design and Investments, including Financing Costs, for example:</u></b></p> <ul style="list-style-type: none"> <li>- <u>Multi-modal surface and structured parking</u></li> <li>- Sidewalk and Other Pedestrian Enhancements</li> <li>- Roadway Realignments/Paving</li> <li>- <u>Crosswalks</u></li> <li>- <u>Traffic Signals</u></li> <li>- Intersection Redesigns</li> <li>- Bicycle <u>lanes, racks, and stations</u> Infrastructure</li> <li>- Stormwater Management, including water and sewer upgrades</li> <li>- <u>Telecommunications, lighting, and electrical distribution upgrades;</u> Infrastructure improvements/enhancements</li> <li>- Wayfinding (signage)</li> <li>- Public plaza intersection improvements</li> </ul>	<p><u>19, 47</u></p> <p><u>19, 205, 6, 7, 9, 34, 35, 48</u></p> <p><u>19, 205, 6, 34, 35</u> <u>19, 46</u> <u>34, 46</u> <u>19, 20, 34, 35, 5, 6</u> <u>195, 9, 11, 34, 47</u></p> <p><u>195, 334</u></p> <p><u>195, 363</u></p> <p><u>195, 9, 23, 35, 3, 47</u> <u>228, 46</u></p>	<p><u>(1)(A)(1)(2)(3)(6)(7)</u></p> <p><u>(1)(A)(1)(2)(3)(6)(7)</u></p> <p><u>(1)(A)(1)(2)(3)(6)(7)</u> <u>(1)(A)(1)(a)(i)</u> <u>(1)(A)(1)(2)(3)</u> <u>(1)(A)(1)(2)(3)(6)(7)</u> <u>(1)(A)(1)(a)(i)</u></p> <p><u>(1)(A)(1)(2)(3)(6)(7)</u></p> <p><u>(1)(A)(1)(2)(3)(7)</u></p> <p><u>(1)(A)(1)</u> <u>(1)(A)(1)(2)(3)(6)(7)</u></p>	<p><u>\$150 Million over the life of the District for these Capital Infrastructure Items.</u></p> <p><del>\$200K annually; \$6 Million over life of District</del></p>
<p><b>In and out of District: New and Enhanced Transit Services, including</b></p>			

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<p><b>operational costs, for example (see Exhibit K – Transit Map):</b></p> <ul style="list-style-type: none"> <li>- Creation of high frequency bus service on Congress Street at 15-minute intervals between the Portland Transportation Center (PTC) and Washington Avenue;</li> <li>- Enhancing Stevens Avenue-Allen Avenue- Congress Street bus service areas;</li> <li>- Corresponding costs for these enhancements, including transit operator salaries; transit vehicle fuel, and transit vehicle parts replacements.</li> <li>- Transit capital costs including transit vehicles and related equipment; bus shelters and other related structures; benches; signs, and other transit-related infrastructure.</li> <li>- <u>Shuttle service to downtown businesses.</u></li> </ul>	<p><del>317, 20, 21, 6, 32, 33</del></p> <p><u>20</u></p> <p><u>20</u></p> <p><u>20</u></p> <p><u>17, 20</u></p>	<p>(1)(A) and (1)(C)(7)</p> <p><u>(1)(A)(1)(a) and (1)(C)(7)</u></p> <p><u>(1)(A)(1)(a) and (1)(C)(7)</u></p> <p><u>(1)(A)(1)(a) and (1)(C)(7)</u></p> <p><u>(1)(A)(1)(a) and (1)(C)(7)</u></p>	<p><del>\$110K annually; \$3.3 Million over life of District</del></p> <p><u>\$15 Million for Transit in this category.</u></p>
<p><b>In and out of District: City Marketing and Promotion through Creative Portland Corporation (CPC), for example (see Exhibit M Arts District Map within Downtown TOD TIF District):</b></p> <ul style="list-style-type: none"> <li>- In District: Center for the Arts, including rental residential space;</li> <li>- In District: capital, financing, real property assembly and professional service costs;</li> <li>- <b>In and out of District:</b> CPC staffing, administrative and</li> </ul>	<p><u>20, 21, 47, 7</u></p> <p><u>20, 21, 47</u></p> <p><u>20, 21, 47</u></p>	<p><u>(1)(C)(1)(2)</u></p> <p><u>(1)(C)(1)(2)</u></p> <p><u>(1)(C)(1)(2)</u></p>	<p>Up to \$100K annually; \$3 Million over life of District</p>

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marketing expenses; revolving loan or investment fund.			
<p><b>In and out of District:</b>  - Economic Dev. Dept. administrative costs and staff salaries at 100%, and prorated salaries of City Manager,  <u>Finance Director</u>, and Planning Urban Development Director,  <u>and Planning staff</u>*, including  - <u>Professional services costs;</u>  - <u>Workforce training funds.</u>  <u>Costs of services and equipment to provide skills development and training, including scholarships to in-state educational institutions or to online learning entities when in-state options are not available, for jobs created or retained.</u></p>	<p><u>217, Also TIF App. P. 3</u></p> <p><u>See TIF App. P.3</u>  <u>See TIF App. P. 3</u></p>	<p>(1)(A)(5) and  (1)(C)(1)</p> <p><u>(1)(A)(4);(1)(C)(1)</u>  <u>(1)(C)(4)</u></p>	<p><del>\$250K annually;</del>  <del>\$7.5 Million over life of District</del>  <u>\$15 Million over life of the District.</u></p>
<p><b>In District: Small Public Capital Infrastructure and Equipment, for example (Downtown Plan pp. 6 and 7)</b>  - Parking meters  - Vehicles for <del>Public Services Dept.</del> (formerly Public Works Dept.), and Fire Dept., including ambulances</p>	<p><u>197</u>  <u>21, 36 to 44</u></p>	<p>(1)(A)(1)(a)  <u>(1)(A)(1)(a)</u></p>	<p>\$10 <u>Million over life of the District</u>  <del>0K</del></p>
<p><b>In District: Relocation of Displaced Persons (TIF Application, p. 6)</b></p>	<p>(see TIF application, p. 6)</p>	<p>1(A)(6)</p>	<p>Not budgeted/not anticipated at time of TIF application</p>
<p><b>In District: CEAs as Approved by City Council (TIF application p. 2)</b></p>	<p>(see TIF application p. 2)</p>	<p>(1)(A)<u>(1)(2)(3)(6)(7)</u></p>	<p>Unknown at time of TIF application</p>
<p><b>Total Estimate of TIF Revenue Expenditure over 30 year term:</b></p>			<p><del>\$1932019,</del><u>900,000</u></p>

\*This item is not unique to this TIF District, it is also included in the Bayside TIF District, Waterfront TIF District, and partially included Riverwalk TIF District.

**C. Strategic Growth and Development**

This Amended Development Program and the Downtown Plan meld various studies and plans for the District into one document, thereby promoting those studies and plans and making

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investments at the appropriate time. The studies and plans noted in the Downtown Plan represent a series of community initiatives, both completed and underway, or in planning process. The Amended Development Program and Project List (Table 1) noted hereinabove represents the best thinking of City staff about current opportunities for realizing the City's longstanding, evolving vision for its Downtown.

### **D. Improvements to the Public Infrastructure**

As further set forth in Table 1 hereinabove, the City may use certain TIF Revenues for sidewalk and other pedestrian improvements including crosswalks, roadway realignments/paving, intersection redesigns, traffic signals, bicycle infrastructure, stormwater management improvements (including water and sewer maintenance), communications infrastructure improvements/enhancements, wayfinding, multi-modal surface and structured parking, and public plaza intersection improvements that are directly related and made necessary by development in the District.

### **E. Operational Components**

#### **1. Public Facilities**

The City may use a portion of the TIF Revenues to fund certain projects approved within the District, outlined in Table 1 hereinabove.

#### **2. Commercial Improvements Financed through the Development Program**

At this time, no commercial improvements will be financed through the Development Program. The City may, in the future, reimburse a percentage of the TIF Revenues from any particular lot within the District to future developers through a credit enhancement agreement. Future credit enhancement agreements are authorized only if the City Council meets and holds a public hearing and votes to authorize, negotiate, and execute the credit enhancement agreement pursuant to City Council approved TIF Policy. Such credit enhancement agreements would be approved under the City's TIF Policy, as may be amended from time to time ~~may provide a reimbursement of up to sixty-five percent (65%) of the TIF Revenue for up to twenty (20) years in the District~~, but limited to the balance of the term of this District.

#### **3. Relocation of Displaced Persons**

It is not anticipated that any persons will be relocated; however, the City has provided that if, in the future, relocation of persons is necessary to accommodate future redevelopment within the District, the one-time relocation costs of such displaced persons can be paid for with TIF Revenues, exclusive of rent.

#### **4. Transportation Improvements**

The City may fund road/transportation improvements made necessary by the increased traffic to the District. Please see Table 1 hereinabove for more details.

#### **5. Environmental Controls**

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The improvements made under this Development Program will meet or exceed all federal, state, and local environmental laws, regulations, and ordinances and will comply with all applicable land use requirements for the City.

### 6. Plan of Operation

During the term of the District, the City Manager or his designee will be responsible for all administrative matters within the purview of the City concerning the implementation and operation of the District.

### III. Physical Description

The 422-acre District is bounded by Washington Avenue to the east, State Street to the west, following the edges of the adjacent Bayside and Waterfront Capital Improvement TIF Districts to the north and south. The District encompasses the central business district of Portland and the abutting east and west ends of the District. In creating the District, the outlying residential areas of the Eastern and Western Promenades have been purposely excluded. The ~~amended~~-District is shown on Exhibit C. The statutory threshold limits addressing the conditions for approval mandated by 30-A M.R.S.A. Section 5223(3) are set forth in Exhibit E.

### IV. Financial Plan

#### A. Amended Financial Characteristics

The collective original assessed value of the real property in the District is \$968,136,850 as of March 31, 2014 (Tax Year April 1, 2013) remains unchanged. Please see the Assessor's certificate of the original assessed value attached as Exhibit F. It is noted that Downtown TOD/TIF acreage and value calculations are exempt from State TIF law limits.

The City ~~may capture~~d up to 12% in year 1, and ~~up to~~ 22% in years 2 through ~~430~~, of the increased assessed value of the real property located within the District. This Amendment would provide for the City to capture up to 100% for the duration of the 30-year term of the District. Personal property tax value will not be captured within the District. The TIF Revenues so collected will fund and/or contribute to the funding of the approved projects, including each of the projects described on Table 1 hereinabove, which collectively increase the City's ability to stand out in a competitive marketplace as a dynamic municipality in which to grow a business. All assessed real property value captured in the District will be added to the general tax rolls at the end of the District's term. Please note that at any time during the term of the District, the municipality can vote to reduce the captured value percentage and instead deposit the tax revenues into the General Fund so long as the municipality does not receive the tax shift benefit associated with the tax revenues so deposited.

Upon each payment of real property taxes for property located inside the District, the City will deposit into a development program fund (the "Development Program Fund") the entirety of the property tax payments constituting TIF Revenues. The percentage of increased assessed value of real property within the District that will be captured shall be determined annually during the municipal budget process; however, the City may capture up to 100% in

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~~Years 5 through 30~~ ~~12% in year one, and up to 22% in years 2 through 30,~~ of the increased assessed value of real property as captured assessed value. The Development Program Fund is pledged to and charged with the payment of the project costs in the manner and in the order provided in 30-A M.R.S.A. Section 5227(3). The Development Program Fund will consist of a development sinking fund account (the “Sinking Fund Account”) to the extent municipal bonded indebtedness is used to pay for projects costs, and a project cost account (the “Project Cost Account”). From the Development Program Fund, the City will deposit the TIF Revenues into the City’s Sinking Fund Account and/or the Project Cost Account to be used to fund projects listed in Table 1 hereinabove. If future credit enhancement agreements are approved by the City Council, then a subaccount within the Project Cost Account shall be created for any payments required to be made by the City pursuant to such credit enhancement agreement, dedicated to each credit enhancement agreement.

Estimates of the increased assessed property values of the Amended District, the anticipated TIF Revenues generated by the District, and the estimated tax shifts are shown in Revised Exhibit D-1 and Revised Exhibit D-2.

### **B. Costs and Sources of Revenues**

The current and future developers owning or leasing properties located within the Districted are intended to pay for and/or finance all private improvements located in the District through private sources. Table 1 hereinabove provides estimated costs of the municipal projects costs to be undertaken with TIF Revenues.

### **C. Indebtedness**

The City reserves the option to fund the project costs through public indebtedness.

### **V. Statutory Requirements and Thresholds**

The statutory requirements and thresholds for approval required by Section 5223(3) of the TIF Statute are set forth in Exhibit E.

### **VI. Municipal Approvals**

#### **A. Notice of Public Hearing**

Attached as Exhibit G hereto is a copy of the Notice of Public Hearing regarding amending the Development Program for the District, published in the *Portland Press Herald*, a newspaper of general circulation in the City, on November 9, 2017, a date at least ten (10) days prior to the public hearing. The public hearing on the amended District was held on November 20, 2017, in accordance with the requirements of 30-A M.R.S.A. Section 5226(1).

#### **B. Minutes of Public Hearing Held by City Council**

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Attached as Exhibit H hereto is a certified copy of the minutes of the public hearing held on \_\_\_\_\_~~November 20, 2017~~, at which time this amended District was discussed by the public.

**C. Authorizing Votes**

Attached as Exhibit I hereto is an attested copy of the City of Portland Order approving this amended District with the results of the vote noted on this Order duly called and held on \_\_\_\_\_~~November 20, 2017~~.