

**Economic Development and Affordable Housing Tax Increment Financing (TIF)
and Credit Enhancement Agreement (CEA) Guidelines**

Adopted April 5, 2023

Tax Increment Financing (TIF) Districts Overview

Background

Maine state law has established Development Districts - 30-A M.R.S. §5221 et seq. and 30-A M.R.S. §5245 et seq. (the “TIF Statute”), also referred to as Tax Increment Financing (TIF) Districts, as a program to promote local economic development and support municipal projects. TIF Districts allow municipalities to provide financial assistance to support:

1. Local economic development projects and programs including public infrastructure, public safety facilities, municipal economic development programs and staff, and business expansions.
2. Affordable housing projects including capital and operating costs of affordable housing and related public infrastructure improvements, support services for residents, costs of recreational and childcare facilities, public safety, and costs to establish a permanent housing development revolving loan or investment fund.

The City has the option of using the “incremental” taxes for:

- Economic development projects and activities
- To retire bonds the City has issued related to authorized projects within a TIF District
- Reimburse a developer or business for development project costs relating to a specific project using a Credit Enhancement Agreement (CEA).

A municipality’s total equalized assessed value is used to calculate General Purpose Aid to Education (subsidy), State Revenue Sharing (subsidy) and County taxes (expense). When a municipality’s equalized assessed value increases, State Aid for Education decreases, municipal revenue sharing decreases, and the municipality pays a greater portion of County taxes. TIF allows municipalities to “shelter” new value resulting from private investment from the calculation of its State subsidies (education and revenue sharing) and County taxes. Specific municipal shelter benefits for the term of the TIF include: No reduction in State aid for education, no reduction in municipal revenue sharing, and no increase in County taxes (assuming 100% capture).

Purpose

The purpose of these Tax Increment Financing (TIF) and Credit Enhancement Agreement (CEA) guidelines is to outline standards and processes that will be used by the City, in initiating or considering applications to establish Tax Increment Financing (TIF) Districts and to enter into Credit Enhancement Agreements (CEA) within a newly established or existing TIF District. Notwithstanding these guidelines, the creation of a TIF District or authorizing a CEA is a policy decision of the Bath City Council made on a case-by-case basis. The City Council may override these guidelines if it determines that a project merits such treatment. The approval of a TIF District application is not a right under Maine law and these

guidelines do not create a right or entitlement for any application, nor should they be interpreted to encourage any application.

Guiding Principles

The City of Bath's Tax Increment Financing District (TIF) and Credit Enhancement Agreement (CEA) Guiding Principles support investment in municipal economic development programs and activities, infrastructure investments, and site-specific project infrastructure or financing needs.

The primary principles for establishing a TIF District include:

1. To support Bath's Comprehensive Plan and other related plans and policies;
2. To stimulate the expansion of the City's property tax base;
3. To create and retain quality employment opportunities;
4. To encourage new affordable and market rate housing investment; and
5. To facilitate infrastructure improvements.

Establishing a Tax Increment Financing (TIF) District

Application Process

TIF District applications may be either requested by a business owner or developer, or initiated by City staff. TIF District applications will be considered by the Community & Economic Development Director, Assistant City Manager, and City Manager, as well as the Economic Development Committee, Community Development Committee, and City Council. The Community & Economic Development Director will coordinate all activities regarding TIF applications and will assist the applicant throughout the TIF District application and approval process. The terms and specific details of each TIF District and any related CEA(s) will be developed on a case-by-case basis. City staff will develop an application, based on the merits of the project and this policy, following the process outlined within these guidelines. All representations of the Community & Economic Development Director and City staff are subject to approval by the City Council.

There are two types of TIF Districts: Economic Development TIFs and Affordable Housing TIFs. Each has a different application and are overseen by different State agencies. Economic Development TIFs are managed by the Maine Department of Economic & Community Development. Affordable Housing TIFs are managed by the Maine State Housing Authority.

The process in creating a TIF district, is as follows:

1. If initiated by a developer, the developer meets with City staff and has an initial conversation about the project and TIF process. Developer then submits a formal letter of interest and/or preliminary proposal to City staff. If initiated by the City, staff will develop concept.
2. City staff meet to discuss TIF concept, including proposed district area, capture rate, and if there would be a CEA.
3. Staff present TIF concept to city council for initial approval for Committee review.
4. Economic Development Committee and Community Development Committee review TIF concept and provide feedback.

5. City drafts TIF application.
6. Staff present concept to City Council.
7. City Council approve TIF District concept and application.
8. City staff submit application to state department (either Department of Economic & Community Development or Maine State Housing Authority). Required application fees must be paid prior to application submission.

Application requirements

TIF District applications that are initiated by a Developer (not initiated by the City) are subject to the following provisions:

1. Application fee. All interested parties requesting the designation of a TIF District shall pay a non-refundable application fee of \$1,000 at the time of application.
2. Documentation. An interested party must submit a letter with all supporting documents to the Community & Economic Development Department outlining the proposed project.
3. Costs and fees. Interested parties shall pay for the City of Bath's legal fees and any other out-of-pocket costs associated with the development and approval of a TIF District regardless of whether it is approved or not.
4. Must meet the applicable statutory TIF District requirements

Approval Process

A two-step approval process is required to designate and approve any TIF District within the City. This process includes obtaining a recommendation from the Economic Development Committee and Community Development Committee and subsequent approval by the Bath City Council, including a First Reading, Public Hearing, and Second/Final Reading.

Following municipal support of the application, the City will submit the application to the applicable state review body for approval.

- Economic Development TIF District approval body – Maine Department of Economic and Community Development (DECD)
- Affordable Housing TIF District approval body – Maine State Housing Authority (MaineHousing)

Tax Increment Financing Expenditures

There are four categories of expenditures for revenues generated through Tax Increment Financing:

1. Municipal economic development programs funded directly through annual funding requests and/or appropriations. Examples of municipal economic development programs include but not limited to, administration and program costs, annual funding to Main Street Bath, the Bath Development Corporation, City and regional marketing/branding, and other activities allowed within the TIF District(s).
2. Municipal infrastructure and capital improvement investments can be funded directly through annual funding requests and appropriations. Additionally, projects that are financed by City

bond or debt issuance may use TIF revenue to pay the debt service. Allowable uses are spelled out in the TIF Statute.

3. Credit Enhancement Agreements (CEA). A CEA is a contract between a municipality and developer or other party to assist an individual development project by using an agreed-upon portion (up to all) of the tax revenue generated by the investment to pay certain authorized project costs, including site specific infrastructure or private individual project financing needs. Allowable project costs are spelled out in the TIF Statute.
4. Costs related to affordable housing development:
 - a. Costs inside the AHTIF district: Capital and operating costs of affordable housing and public infrastructure improvements, related soft costs, support services for residents of the affordable housing, and costs of recreational and child care facilities.
 - b. Costs outside the AHTIF district: Costs outside the AHTIF district can be funded with tax increment revenues from the district only if those costs are directly related to or made necessary by the establishment or operation of the district, and then only to a proportional extent. Examples include but are not limited to; infrastructure and public safety improvements, costs to mitigate adverse impacts (including to local schools), and costs to establish a permanent housing development revolving loan or investment fund.

Guidelines for municipal economic development programs

The process of allocating TIF revenues to approved project costs requires City staff to develop economic development programs and budgets to be approved through City Council financial appropriations.

Guidelines for Municipal infrastructure and capital improvement projects financed by City bond or debt issuance

Infrastructure investments should have applications beyond one individual project. Emphasis should be placed on supporting business and commercial development, redevelopment, or to support buildings in need of redevelopment. If one District is meant to fund a particular project under Tier 1 or Tier 2 of the TIF statute, then the infrastructure project would need to be directly related to or made necessary by such project in compliance with the TIF statute. In Affordable Housing TIF Districts, this would include housing development, address blight, or historic preservation in conformance with the TIF statute.

Guidelines for Credit Enhancement Agreements (CEA)

A Credit Enhancement Agreement (CEA) within a TIF district will be considered for investment in infrastructure or project financing needs. The process and guidelines for issuing a CEA are outlined in the next sections of this document: Credit Enhancement Agreement Overview.

Credit Enhancement Agreement (CEA) Overview

Background

A Credit Enhancement Agreement (CEA) is a financial mechanism that may be used within a TIF district to compensate a developer or business fully or partially for approved development project costs using TIF funds. The CEA is a contract between the municipality and developer or business to assist the development project by using some or all the incremental tax revenues generated by the new

investment to pay certain authorized project costs with payments made directly to the developer or business.

Purpose

These guidelines outline the standards and processes that the City of Bath will use in initiating or considering credit enhancement agreements (CEAs) within existing or proposed Tax Increment Financing (TIF) Districts. A CEA is as a financial mechanism, if chosen and approved by the City Council, to be one of Bath's economic development tools for business attraction, retention, and expansion.

Notwithstanding these guidelines, the creation of a CEA is a decision made by the City Council on a case-by-case basis after holding a public hearing. Obtaining a CEA is a not a right under Maine law, and meeting these guidelines should not be interpreted as creating any rights or entitlements in any application. The CEA approval process occurs concurrently with the TIF approval process. The CEA is included as a part of the new or revised TIF application.

General priorities

The priorities to consider for determining whether to create a CEA include:

1. Creates new jobs and/or assists existing business to retain jobs
2. Creates or expands public infrastructure beyond project, such as improvements to utilities, telecommunications, traffic patterns, parking facilities, green space, etc.
3. Introduces a unique or prestigious opportunity
4. Improves the local economy
5. Broadens the tax base
6. Improves blighted areas
7. Supports community projects
8. Creates public benefits for other workers and/or businesses

Establishing a Credit Enhancement Agreement (CEA)

Eligibility

The following criteria shall be considered in authorizing Credit Enhancement Agreements for economic development or affordable housing:

1. Project would not likely occur otherwise;
2. Creates or retains employment opportunities;
3. Expands the City's tax base; and
4. Conforms to the quality and types of development sought by the City as outlined in the Zoning Ordinances, Comprehensive Plan, the Tax Increment Financing District Development Programs, and other plans and policies adopted by the City Council; and
5. Developer must be current with payments to the City, including property taxes and permitting fees.

Application process

CEA applications will be considered by the City Manager, Community & Economic Development Director, and the City Council, with all final approvals granted after a public hearing, by the City Council.

The Community & Economic Development Director will coordinate all activities regarding applications and will assist the applicant throughout the process. The terms and specific details of each CEA will be developed on a case-by-case basis. The City Manager or designee will negotiate for the City based on the merits of the project and these guidelines following the process laid out in this document.

1. Developer/Business completes and submits CEA application.
2. Staff present CEA concept to city council for initial approval for Committee review.
3. Economic Development Committee and Community Development Committee review application and make recommendation based on its alignment with CEA priorities.
4. Council workshop to learn about CEA as a component of the TIF application or existing TIF district. The council may discuss details, including sensitive financial information, in Executive Session.
5. Public hearing and council vote on the TIF application if applicable and the CEA.

Application requirements

Applicants for a CEA are subject to the following provisions:

1. Application fee. All applicants requesting the designation of a CEA shall pay a non-refundable application fee of \$500 at the time of application.
2. Documentation. The following documentation shall be included in all applications for a CEA:
 - 2.1. An executed Administrative and Professional Fee Agreement;
 - 2.2. A completed Employment Goals Sheet, if applicable; and
 - 2.3. All financial disclosures, reporting, and other documentation as the City of Bath, the State of Maine, and/or what their legal counsel may require.
3. Capacity. The applicant must demonstrate financial capacity to undertake the project. All financial disclosures and financial capacity determinations will be conducted, reviewed, and certified by Midcoast Council of Governments. The applicant must be compliant with all statutory and regulatory guidelines of the City of Bath and the State of Maine. The applicant shall not have engaged in illegal or unfair labor and employment practices; unsafe employment practices; or adverse or illegal environmental practices.
4. Terms. The specific terms of each CEA are negotiated on a case-by-case basis between the City and the applicant. As a general guideline the tax recapture for any CEA should:
 - 4.1. Be less than any stated financing gap as set forth in an Applicant's Development/Project Financial Plan;
 - 4.2. State of Maine Statute allow for terms of between one (1) and thirty (30) years.
5. Costs and fees. All applicants shall pay for the City of Bath's legal fees and any other out-of-pocket costs associated with the development and approval of a CEA, regardless of whether it is approved or not.

CEA Execution

Upon approval by City Council, the applicant and the City will execute an agreement defining the terms and conditions of the CEA. The terms and conditions will include, but are not limited to:

1. Parcel identification and project description;
2. Term and performance standards;
3. Annual verification and reporting requirements;
4. Payment obligations and timing;

5. Defaults and remedies; and
6. Any other provisions deemed necessary by the City