

Town of Brunswick

Tax Increment Financing (TIF) and Credit Enhancement Agreement (CEA) Policy

Background

Tax Increment Financing (TIF) is a program authorized under Maine state law to promote economic development and support municipal projects in Maine municipalities. The “TIF Statute” (30-A M.R.S. §5221 et seq. and 30-A M.R.S. §5245 et seq.) authorizes the establishment of Tax Increment Financing Districts and associated Development Programs. TIF Districts allow municipalities to “capture” the increase in assessed property values within the District, and utilize the associated increase in taxes (the “tax increment”) for economic development projects and activities, to make infrastructure improvements related to the District, or to 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, General Purpose Aid to Education decreases, State Revenue Sharing decreases, and the municipality pays a greater portion of County taxes. The captured assessed value within TIF districts is not included in the state valuation, allowing municipalities to “shelter” new value from the calculation of its State subsidies (education and revenue sharing) and County taxes.

Purpose

The purpose of the Tax Increment Financing (TIF) and Credit Enhancement Agreement (CEA) Policy is to outline standards, guidelines and processes that will be used by Town of Brunswick staff and the Town Council in the establishment of TIF Districts and CEAs within a TIF District. Notwithstanding these guidelines, the creation of a TIF District or authorizing a CEA is a policy decision of the Town Council, and is made on a case-by-case basis. The Town Council may override these procedures if it determines that a project merits such treatment. The approval of a TIF District application is not a right under Maine law and meeting these guidelines does not create a right or entitlement for any application, nor should they be interpreted to encourage any application.

Guidelines for TIF Districts and Development Programs

The Town of Brunswick’s TIF Districts are intended to support investment in municipal economic development programs and activities, infrastructure investments, and site-specific improvements or financing needs.

The primary purposes for establishing a TIF District and Development Program include:

- To support Brunswick’s Comprehensive Plan, and other related Town Plans and Policies;
- To stimulate the expansion of the Town’s commercial and industrial tax base;

- To create, retain and support quality employment opportunities;
- To encourage new affordable, work-force and market rate housing investment; and
- To invest in infrastructure improvements.

Guidelines for Credit Enhancement Agreements (CEA)

A Credit Enhancement Agreement (CEA) within a TIF district is an economic development tool to provide incentives to business development which will result in a public benefit. CEAs will be considered for investment in infrastructure or project financing needs. The standards and process for approving CEAs are outlined herein in Section II. Establishing a Credit Enhancement Agreement.

Policy Administration

The Tax Increment Financing and Credit Enhancement Agreement Policy (Policy), and any modifications to the Policy shall be formally approved and adopted by the Town Council. The Town Manager, Economic Development Director and Finance Director will review the Policy annually and make recommendation for any amendments. Procedural and documentation requirements will be adapted to specific situations, and will be determined and defined by the Economic Development Director.

I. Designating a Tax Increment Financing (TIF) District

Application Process

TIF District applications will be administered by the Economic Development, Finance and Planning Departments, with the oversight of the Town Manager and assistance of legal counsel. Final approval is by the Town Council before submission to the Maine Department of Economic and Community Development (DECD) for State approval. The Economic Development and Finance Directors will coordinate all activities regarding applications. The terms and specific details of each TIF District and any related CEA(s) will be developed on a case-by-case basis. With the authorization of Town Council, Town staff will negotiate on behalf of the Town of Brunswick, on the merits of the project and this policy, following the process identified within this policy. If a TIF application is initiated by an entity other than the Town, and the requesting party is proposing a TIF and applying for a CEA at the same time, the proposal requirements and fees for both must be submitted before approval of either. All representations made in negotiations by Town staff are subject to approval by the Town Council.

TIF District applications not initiated by the Town are subject to the following provisions:

1. *Proposal fee.* All parties requesting the designation of a TIF District shall pay a non-refundable proposal fee of \$1,000 at the time of request.
2. *Documentation.* Proposing party must submit a letter with all supporting documents to the Economic Development Department outlining the proposed project.
3. *Costs and fees.* All proposing parties shall pay for the Town of Brunswick'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.

Approval Process

A two-step approval process is required to designate and approve any TIF District and Development Program within the Town.

First, the district and development program requires approval by the Town Council after holding a legally noticed public hearing as required by the TIF Statute.

Second, all municipally approved TIF Districts must also be approved by the State of Maine Department of Economic and Community Development (DECD) to become effective. In the case of Affordable Housing Development Districts, approval is required from the Maine State Housing Authority (MSHA) instead of DECD.

II. Establishing a Credit Enhancement Agreement (CEA)

A 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 takes the form of 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. These payments are made directly to the developer or business. A CEA is one of Brunswick's economic development tools for business attraction, retention, and expansion.

Notwithstanding these guidelines, the creation of a CEA is a decision made by the Town Council on a case-by-case basis after holding a public hearing. Obtaining a CEA is not a right under Maine law, and meeting these guidelines should not be interpreted as creating any rights or entitlements in any application.

General priorities

When considering whether a CEA is appropriate, the Town should consider the following elements/factors of the development project:

1. Creates new jobs
2. Assists existing business to retain jobs
3. Creates significant long-term employment
4. Provides needed affordable, work-force or market-rate housing
5. Creates or expands public infrastructure beyond project
6. Supports an emerging or growing business sector, as identified in the Maine Council of Governments Comprehensive Economic Development Strategy (CEDS).
7. Introduces a unique or prestigious economic development opportunity
8. Improves the local economy
9. Broadens the tax base
10. Improves blighted areas, particularly in areas of focus such as those identified in the Town's Comprehensive Plan, the Cook's Corner Commercial Corridor Revitalization Plan, and the Master Plan on Downtown Brunswick and the Outer Pleasant Street Corridor
11. Supports community projects
12. Creates public benefits for other residents, workers and/or businesses

Eligibility

The Town will consider the following criteria in authorizing Credit Enhancement Agreements for public benefit:

1. The project would not occur otherwise (the ‘but-for’ test);
2. Creates or retains employment opportunities;
3. Expands the Town’s tax base and brings vacant land/property into productive use;
4. Conforms to the quality and types of development sought by the Town as outlined in the Zoning Ordinances, Comprehensive Plan, the TIF District Development Programs, and other plans and policies adopted by the Town Council.

CEA Application process

The Economic Development Director, Finance Director, Planning Director and Town Manager will review CEA applications and present to the Town Council or a Council Committee. Town Council or Committee will have the opportunity to request a presentation from the applicant prior to the public hearing and will vote to approve the CEA.

Approved CEAs will be submitted to DECD. The 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 Town Manager or designee will negotiate for the Town based on the merits of the project and these guidelines following the process laid out in this document. All representations of Town staff are subject to approval by the Town Council.

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, with specific requirements/forms developed by Town staff:
 1. An executed CEA Application outlining the proposed project;
 2. A completed Goals Sheet, identifying specific public benefit items, and defining the metrics to track performance; and
 3. All financial disclosures, reporting, and other documentation as the Town of Brunswick, 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 disclosure reviews and financial capacity determinations will be conducted by the Economic Development Director. The applicant must be compliant with all statutory and regulatory guidelines of the Town of Brunswick 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 Town and the applicant. As a general guideline the total payment obligation of TIF revenues from the Town to the applicant for any CEA should:
 1. Be less than any stated financing gap as set forth in an applicant’s proposed project and financial plan;
 2. Comply with the TIF Statute’s maximum term limit of 30 years; however, as a general guideline the term of a CEA should not exceed ten (10) years; and
 3. Be consistent with the TIF Statute otherwise.

5. *Costs and fees.* All applicants shall pay for the Town of Brunswick’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.
6. *Performance reporting.* All CEAs shall provide for the applicant to submit reports and documentation in a form satisfactory to the Town supporting applicable performance standards and compliance relating to any amounts to be paid to the applicant per the terms of a CEA.

The following factors shall be considered in determining the level of participation by the Town of Brunswick:

1. The project assists an established business in the Town of Brunswick, thus retaining existing employment opportunities;
2. The project creates long-term, permanent and quality employment opportunities;
3. The project contributes to the revitalization of the TIF District;
4. The project improves a blighted building site in need of rehabilitation;
5. The project brings an under-utilized site or vacant property into productive use;
6. The project creates public infrastructure facilities that have application beyond the particular development such as improvements to utilities, telecommunications, traffic patterns, parking facilities, public restrooms, green infrastructure, etc.;
7. The project supports or will support community projects, provides job training, provides student internships, supports local contractors and suppliers;
8. The project supports or will support local efforts and programs that assist those who are under-employed or low to moderate income (LMI); and
9. The applicant has a responsible history with property tax payment and pledges the continued responsibility.

CEA Execution

Upon approval by the Town Council, the CEA applicant and the Town 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 Town.

Reviewed and recommended by Finance Committee:	May 19, 2022
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