

Order 77-18/19

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

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**

Effective 10/25/2018

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

**ORDER AMENDING THE BAYSIDE TAX INCREMENT  
FINANCING DISTRICT TO INCREASE PUBLIC INVESTMENT OPTIONS**

**ORDERED,** that the Bayside Tax Increment Financing (TIF) District approved by City Council Order 135-03/04 and as amended by Orders 255-04/05, 239-05/06, 224-06/07, 242-07/08, 262-08/09, 217-09/10, 86-14/15, 13-15/16, and 266-17/18 is hereby further amended to add more public investment options for the use of TIF income, in substantially the form attached hereto; 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.

**I. Introduction/Updated 2018**

East and West Bayside continue to be gateways to Portland’s peninsula. A lot of changes to East and West Bayside have occurred since the Bayside (West) TIF District was adopted by the City Council on March 17, 2003. Relocation of one scrap yard and the addition of new medical office buildings, new housing for college students, , two new grocery stores, pharmacies, and financial institutions have transformed West Bayside’s industrial heritage to a more compact urban development pattern, which extends the Central Business District to I-295. Additionally, City Council approval, during 2017 and 2018, of the sale of six Bayside properties formerly occupied by the Public Works Department will continue to support area wide economic revitalization.

East Bayside has been experiencing its own transformation with new coffee shops, artist studios, and new housing. Continued attention to the West Bayside TIF District is needed to fulfill the *Bayside Vision*.

History

In 1996, the process began when the City of Portland obtained funding from the Environmental Protection Agency (EPA) to undertake a Brownfield’s Pilot Project in Bayside. The City designated a ten-lot, 14-acre parcel between Oxford Street and Marginal Way as the Bayside Brownfield’s Project Area and has since created a \$500,000 loan fund for the express purpose of cleaning up the site to clear the way for future development. The study area was subsequently enlarged to incorporate the area from Congress Street to I-295, and from Franklin Arterial to Forest Avenue, which is approximately 129 acres.

Since 1996, the City of Portland has been working with a team of consultants on planning for opportunities for the reuse of the Bayside land. An extensive public participation process, which involved hundreds of participants, produced a plan entitled “A New Vision for Bayside”. The Bayside plan identifies the following eleven development principles and five critical actions in order to transform this area into a vital, productive and diverse urban neighborhood:

**Development Principles**

- Urban Gateway
- Economic and Employment Opportunities
- A Walkable District
- A Critical Mass of Dwellings
- Transit Oriented Development
- Multi-level Parking Structures
- A Neighborhood Center
- Recreation and Open Space
- A Social Service Network
- Environmental Remediation
- Scrap yard Redevelopment

**Critical Actions**

- Acquire the Railroad Property
- Redevelop the Scrap yard Parcels
- Build More Housing
- Create Transit Oriented Development
- Secure the Future of Portland’s Social Service Network

Public participation continues to be an ongoing aspect of the Plan’s implementation. The Bayside Neighborhood Association and the Bayside Community Development Corporation include neighborhood property owners, residents, commercial owners and tenants.

Since adopting the Bayside Vision Plan in December 1999 as a part of the Comprehensive Plan, the City has moved forward on several of the identified critical actions. After several years of complex negotiations with Guilford Transportation and the Maine Department of Transportation, the City purchased the Railroad property. Using Housing and Urban Development (“HUD”) and Economic Development Administration (“EDA”) funding, this 6+ acre parcel made the City a major property owner in the area of Bayside slated primarily for commercial redevelopment.

EDA and City Capital Improvement Funds have been used to rebuild the sewer system along Somerset Street, adjacent to the railroad parcel, as well as to extend Chestnut Street from Somerset Street to Marginal Way. These improvements were key infrastructure investments for new development in Bayside. The City continues to be committed to investing in Bayside as funding becomes available, but clearly a variety of financing mechanisms have been and will continue to be needed.

With these first actions completed, attention has been focused on the need for structured parking associated with the Federated Midtown Project. At meeting after meeting, then Bayside Development Committee (BDC) members stated unequivocally that the Bayside Plan cannot be implemented to its fullest without structured parking; and that the entire redevelopment plan hinges upon the relocation of the scrap metal recycling facilities. Furthermore, it is clear that the private sector cannot afford to make new investments in Bayside that include the cost of creating structured parking, nor can the market alone bear the cost of relocating the scrap metal recycling facilities.

The first such private development project which included constructing garages occurred on property that was sold by the City to two private developers (Capital, LLC and Southern Maine Student Housing, LLC) who planned a then estimated \$38,400,000 in new taxable commercial investment. The project consisted of a 72,000 sq. ft. office building, perched upon a 430 space parking garage with ground floor retail, alongside a 405 bed student housing facility with a 130 space parking garage. The cost of constructing the structured parking added more costs to the project than market rents could support, so financing relief was sought through the use of Credit Enhancement Agreements (Exhibit 5) so that the project moved forward with the density sought for

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Bayside. This entire investment occupies just over 3 acres by reducing the footprint and allowing for vertical expansion.

Amendment #7 Approved by MDECD March 28, 2016

The purpose of ~~this~~ Amendment #7 to this TIF application ~~is~~was to amend the Development Program to include municipal use of TIF funds for costs of public transportation improvement projects – including traffic signals, costs associated with environmental site assessment and remediation work to support commercial development, costs associated with environmental sea level adaptation planning and public infrastructure to support commercial development, as well as other development principles and critical actions items contained in the *Bayside Vision Report I and II*

The public benefits associated with an amended Bayside TIF District include:

- Provide support for Portland’s **continued economic development;**
- Help increase the **vibrancy and stability of the Bayside neighborhood;**
- Create **employment opportunities** for area residents;
- Produce **tax shift benefits** averaging an estimated savings to the City of \$680,307 annually **at that time;**
- Improve the general economy of Portland and the State of Maine;
- Improved public transportation infrastructure investment;
- Clean up contaminated property to support commercial development;
- Planning for environmental sea level adaptation, and public infrastructure to support commercial development.

Amendment #8 ~~Proposed to~~Approved by the Portland City Council July 16, 2018/MDECD Approval Pending

Amendment #8 includes a single property in the Expanded Bayside TIF District located at 178 Kennebec Street, Assessor Chart, Block, and Lot Number 034 F001001. The City is in the process of selling this property to a private developer. This developer proposes an elderly affordable housing project on that property with two condominium units. Unit 1 would be ground level commercial space and Unit 2 (air rights above Unit 1) is proposed to be an elderly affordable housing project.

The amendments will exclude all floors above the first floor in a multi-story building to be constructed on a parcel of approximately 0.22 acres presently owned by the City of Portland located at 178 Kennebec Street, Portland and to be conveyed to 100 Parris Street, LP or its designee (the “Developer”), together with all rights appurtenant thereto including without limitation in the land comprising said parcel. It is the intention of the Developer to declare this specified area as Unit 2 in the Furman at Bayside Condominium following acquisition of the land from the City of Portland. Such specified area is referred to below as “178 Kennebec Street Unit 2” or “Unit 2”.

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The amendments will provide that the following specified area will remain: the first floor in a multi-story building to be constructed on a parcel of approximately 0.22 acres presently owned by the City of Portland located at 178 Kennebec Street, Portland and to be conveyed to 100 Parris Street, LP or its designee (the “Developer”), together with all rights appurtenant thereto including without limitation in the land comprising said parcel. It is the intention of the Developer to declare this specified area as Unit 1 in the Furman at Bayside Condominium following acquisition of the land from the City of Portland.

**II. Amended Development Program**

*A. The Amended Project*

**Amendment #8/Pending Approval By MDECD**

With this amended and restated Development Program, the City of Portland seeks to amend the Bayside Redevelopment Tax Increment Financing District to allow for 178 Kennebec Street, Condominium Unit 1 on the ground level/commercial space to remain in the Bayside TIF District; and, Condominium Unit 2, floors above the ground level commercial space, to be an Affordable Housing TIF District.

The amendments will exclude all floors above the first floor in a multi-story building to be constructed on a parcel of approximately 0.22 acres presently owned by the City of Portland located at 178 Kennebec Street, Portland and to be conveyed to 100 Parris Street, LP or its designee (the “Developer”), together with all rights appurtenant thereto including without limitation in the land comprising said parcel. It is the intention of the Developer to declare this specified area as Unit 2 in the Furman at Bayside Condominium following acquisition of the land from the City of Portland. Such specified area is referred to below as “178 Kennebec Street Unit 2” or “Unit 2”.

The amendments will provide that the following specified area will remain: the first floor in a multi-story building to be constructed on a parcel of approximately 0.22 acres presently owned by the City of Portland located at 178 Kennebec Street, Portland and to be conveyed to 100 Parris Street, LP or its designee (the “Developer”), together with all rights appurtenant thereto including without limitation in the land comprising said parcel. It is the intention of the Developer to declare this specified area as Unit 1 in the Furman at Bayside Condominium following acquisition of the land from the City of Portland.

Municipal uses of TIF revenue consistent *Bayside Vision Plans I and II* are detailed in Table 1 in Section II(D) below.

The success of these efforts will enhance the City’s ability to attract new investment to Bayside, leading to a densely developed commercial district, which will create new taxable value and provide expanded opportunities for employment and housing.

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The City’s Economic Development Department will continue to market other City land as potential building sites to prospective businesses and developers, in addition to promoting Bayside as a whole.

**Amendment #9 – Proposed to Portland City Council**

**Amendment #9 would increase and clarify the allowable uses of Municipal TIF Revenue in the District. Proposed additional uses include:**

- **Professional service costs to administer the TIF District Program and to assist the City’s Economic Development Department to market and prepare for Bayside Redevelopment;**
- **Pro-rated salaries of the City’s Finance Director, and the City’s Planning staff;**
- **Workforce training funds.**

***B. The Development District***

Properties that are to be designated as part of the TIF District are shown on the attached map (Exhibit 4), containing approximately 129.18 acres with an original assessed value as shown on Exhibit 11 as \$122,318,180

The TIF District will apply to only new value generated within the District and will not affect the current property tax base.

***C. The Amended Development Program***

The City of Portland, by designating the Amended Bayside Redevelopment TIF District, will capture all new investments made within the Amended District. The City is projecting to capture up to 100% of the new assessed value over the original assessed value, and retain from the district the new tax revenues generated from that captured assessed value. These revenues will be allocated to the Project Cost Account for the purposes described in II.A. above and further detailed in Section II(D) below. Each year, the City Council may adjust the specific amount to be captured and retained for purposes of this Amended TIF, based upon the needs of the Amended District, and the commitments made through Credit Enhancement Agreements, collateral for loan or bond repayment, and the like.

***D. The Projects***

**The projects/public benefits associated with an amended Bayside TIF District include:**

- **Provide support for Portland’s continued economic development;**
- **Help increase the vibrancy and stability of the Bayside neighborhood;**
- **Create employment opportunities for area residents;**
- **Produce tax shift benefits averaging an estimated savings to the City of \$1.3 Million annually;**

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- Improve the general economy of Portland and the State of Maine;
- Improved public transportation infrastructure investment;
- Clean up contaminated property to support commercial development;
- Planning for environmental sea level adaptation, and public infrastructure to support commercial development.

The City of Portland seeks authorization to utilize the revenues generated from the Amended Bayside TIF District to support economic development in Bayside, all as more detailed in Table 1 below: See Table 1 Below for Municipal Use of TIF Revenues, Statutory Citation, and Cost Estimates – Citations all refer to Title 30-A, Chapter 206, Section 5225.

**Table 1**

<b>Municipal Use of TIF Revenues</b>	<b>Statutory Citation</b>	<b>Cost Estimate</b>
In District: Create Additional Parking Structures	(1)(A) <del>(1)(2)(3)(6)(7)</del>	\$10,000,000
In District: Existing Credit Enhancement Agreements; others as negotiated, executed with public process per <u>Section H-A City of Portland TIF Policy as may be amended from time to time</u>	(1)(A) <del>(1)(2)(3)(6)(7)</del>	\$6,000,000 over life of TIF District for existing CEAs
In District: Relocate one remaining scrap metal recycling facility and acquisition of scrap metal yard site	(1)(A) <del>(1)(2)(3)(6)(7)</del>	T/B/D
In District: <u>Design, upgrades, and construction of public infrastructure, utilities, and financing costs (but not limited to roadway, sidewalk, water, stormwater, sewer systems, telecommunication, electrical distribution upgrades, and transportation improvement projects) located in District</u>	(1)(A) <del>(1)(2)(3)(6)(7)</del>	T/B/D
In District: Pledging TIF revenue as a repayment source to HUD or any other agency or entity that finances public Bayside investment	(1)(A) <del>(2)</del>	\$6,000,000 over life of TIF District
In District: Public infrastructure improvements for both pedestrians and transit, lighting, and open space/trails	(1)(A) <del>(1)(2)(3)(6)(7)(8)</del>	T/B/D
In District: Funding the Economic Development Department, including salaries, to market and prepare for Bayside Redevelopment <u>and professional service costs to administer the TIF District Program</u>	(1)(A) <del>(4)(5)</del>	\$500,000
In and out of District:		

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a.) Cover the City’s Economic Development Department costs, including <u>pro-rated salaries of City Manager, Finance Director, and Planning and Urban Development Director and Planning staff*</u> ;	(1)(A)(5) and (1)(C)(1)	\$250,000/annual or \$47,500,000 over life of TIF District (30 Years)
b.) Environmental site assessment and remediation to support commercial development;	(1)(C)(2)	\$150,000
c.) Environmental sea level adaptation planning and public infrastructure to support commercial development;	(1)(C)(2)	T/B/D
d.) <u>Workforce training funds. 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>	(1)(C)(4)	T/B/D
e.) <u>Professional services costs.</u>	(1)(A)(4); (1)(C)(1)	T/B/D
<b>Total:</b>		<b>\$2730,150,000</b>

\*This item is not unique to this TIF District; it is also partially included in the Riverwalk TIF District, and is proposed to be fully included Downtown TIF District and the Waterfront TIF District.

*E. Operational Components*

1. Public Facilities

The City will invest in projects to further goals of the *Bayside Vision*, and as outlined in Table 1 above.

2. Uses of Private Property

The Amended Bayside Economic Redevelopment Program and TIF District includes both public and private property. The funds generated from this district will be used to support commercial investment on both public and private land, the latter through the use of CEA as noted II.(D) above.

3. Plans for relocation of persons displaced by development activities.

Though not contemplated at this point, any possible relocation costs of displaced persons resulted from one or more City projects funded through this Amended Development Program shall be covered by the City as required.

4. Transportation Improvements

A description of the transportation-related improvements to be financed through this Amended Development Program is set forth above in Table 1 of the Development Program Section II(D).

5. Environmental Controls

The Amended Development Program proposes improvements that will comply with all federal, state and local rules and regulations and applicable land use requirements.

6. Plan of Operation of Amended District

During the life of the Amended Tax Increment Financing District, the City of Portland, City Council, or their designee, will be responsible for the administration of the District.

**III. Physical Description**

As noted previously, properties that are to be designated as part of the Amended TIF District are shown on the attached map (Exhibit 4), totaling 129.18 acres. 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 6.

Proposed Amendment #8 does not change the acreage numbers for the Bayside TIF District because the 178 Kennebec Street Unit 1 (ground level commercial space) will remain in the Bayside TIF District and Unit 2 (affordable residential units located in the upper floors) is proposed to be an Affordable Housing TIF District.

Enclosed municipal maps:

1. Area map showing site location of the Amended TIF District in relation to geographic location of municipality (see new Exhibit 3(A)).
2. Site map showing tax map locations of the Amended TIF District (see new Exhibit 4(A)).

**IV. Financial Plan**

A. *Costs and Sources of Revenues*

With Amendment #6 to this TIF District, the acreage was increased to 129.18 acres, with an associated OAV set at \$122,318,180 as set forth in Exhibit 11. Exhibit 11 details the OAV from the inception of the Bayside TIF District, to its 1<sup>st</sup> expansion

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via Amendment 1, and 2nd expansion via Amendment 6. Exhibit 4 is the map which highlights the District encompassing the entire 129.18 acres.

The Amended Development Program provides for the new tax revenues generated by the increase in assessed value of the District to be captured and designated as TIF Revenues. The City will apply the retained revenues to the economic development activities described in the Amended Development Program. To date, these activities are included in Table 1, Section II(D) above.

The attached Revised Exhibit 1, as revised and updated for Amendment 9, details the actual numbers from its inception – Tax Year 2003/City Fiscal Year 2003/2004 – through Tax Year April 1, 2018/City Fiscal Year 2018/2019; and estimates beginning Tax Year April 1, 2019/City Fiscal Year 2019/2020 through the life of District ending with Tax Year April 1, 2032/City Fiscal Year 2032/2033. The projections of retained revenues is based upon the anticipated assessed value increases within the District- for the remainder of the District term. Revised Exhibit 1 is a projection based upon best available information and is included for demonstration purposes only. No assurances are provided as to the results reflected therein.

*B. Development Program Account*

This Development Program requires establishment of a Development Program Account pledged to, and charged with, the payment of the project costs in the manner outlined in 30-A M.R.S.A. §5227(3).

The Bayside TIF Development Program Account is established consisting of a project cost account (“Project Cost Account”) pledged to, and charged with, payment of project costs. The Project Cost Account shall consist of Company Cost Subaccounts (Company Cost Subaccount), pledged to and charged with payment to authorized companies under the terms of an approved Credit Enhancement Agreement for reimbursements for eligible project costs, and a City Cost Subaccount (the “City Cost Subaccount”) pledged to, and charged with, payment to the City for the cost of approved economic development expenses.

*C. Financing Plan*

The original TIF District comprised an area of approximately 11 acres of real and personal property. The value of the real and personal property within the district as of March 31, 2002 was established as the original assessed value. With the subsequent expansion (Amendment 1), the value of the additional real and personal property within the district expansion as of March 31, 2007 was established as the original assessed value, with that value being \$44,066,380. With the additional expansion via Amendment 6 from 62.18 to add 67 acres to the District, for a total of 129.18 acres, the value of real property within the expanded District of 67 acres has a March 31, 2014 date established as the original assessed value, or \$78,251,800 as detailed in Section IV.A. above, for a total OAV of the District at \$122,318,180.

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The developments within the described Amended Bayside TIF District will add significant new taxable value in the City of Portland. TIF revenues will be allocated as described on revised Exhibit 1 to finance the costs described in the Amended Development Program. Actual payments to the Project Cost Account will be adjusted based upon the applicable annual percentage retained, or a specific amount to be retained within the Amended District, and the actual annual assessed value within the Amended District, to be determined by the City Council on a yearly basis.

**V. Amended Financial Data (See Statutory Requirements & Thresholds, Exhibit 6)**

- A. Estimate of increased assessed value by year after implementation of the development program: See Revised Exhibit 1
- B. Percentage of increased assessed value to be applied to the development program fund: See Revised Exhibit 1
- C. Estimated annual tax increment: \$1,~~717,654~~528,312 (Average)
- D. Total average annual value of development program fund: \$1,~~717,654~~528,312 (Average)
- E. Annual principal and interest payment of bonded indebtedness: N/A at this time \$400,000
- F. Financial assumptions and safeguards: The City of Portland is under no obligation to repay any bonds that would involve a pledge of the City's full faith and credit.

**VI. Tax Shifts (See Revised Exhibit 2)**

- A. *Average Annual Amount:*
  - General Purpose Aid to Education Tax Shift: \$~~593,812~~530,331
  - Municipal Revenue Sharing Tax Shift: \$~~47,751~~36,549
  - County Tax Shift: \$~~38,745~~34,468
  - Total Average Annual Savings: \$~~680,307~~601,349

**VII. Municipal Approvals**

- A. *Public Hearing Notice*

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The City of Portland did give proper Notice of Public Hearing in accordance with the requirements of 30-A M.R.S.A. §~~5253~~~~5226~~(1). The notice was published on ~~July 3,~~ July 16, 2018, in a newspaper of general circulation (see new Exhibit 8).

*B. Public Hearing*

A Public Hearing at which the proposed Amended Bayside Municipal Tax Increment Financing District was discussed was held on ~~July 16,~~ July 16, 2018, in the Portland City Council Chambers. A copy of the minutes of that meeting is included as new Exhibit 9.

*C. Authorizing Votes*

An attested copy of the resolution of the Portland City Council designating the Amended Municipal TIF district created for the implementation of the Bayside Redevelopment Program is included as new Exhibit 10.

*D. Assessor's Certification*

An attested copy of the certification by the City of Portland Tax Assessor as to the revised Original Assessed Value of the expanded Bayside Municipal Tax Increment Financing District is included as Exhibit 11.