

Maine Tax Forum 2012

Maine Business Tax Incentives

BERNSTEIN SHUR

COUNSELORS AT LAW

Robert Crawford
Shana Cook Mueller
N. Joel Moser
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Introduction

- What's in the toolbox?
- Tax Increment Financing
 - TIF Basics
 - Credit Enhancement Agreement TIFs
 - Concept of Tax Shift Benefit
 - 4 Examples: From Simple to Complex
- Pine Tree Development Zones & Other Maine Business tax Incentives

TIF Basics

Tax increment financing is an economic development tool for municipalities.

- Allows municipality to “capture” new property tax value.
- Property taxes on new value are “TIF Revenues.”
- TIF Revenues can be used to fund a wide variety of authorized project costs, including direct payments to developers for costs of capital improvements.
- Statutory procedure for creating a TIF district.
- Required documentation.
- Statutory criteria and program limits apply.

Credit Enhancement Agreement TIFs

- A municipality may provide payments of TIF revenue to a developer/property owner through a ***Credit Enhancement Agreement*** (CEA).
- Developers use CEAs to convince lenders of positive future cash flow.
- CEAs are often assigned to banks as part of finance closing.
- Common misconception: CEAs are the only purpose of all TIFs. TIFs often allow municipalities to complete substantial municipal economic development projects and enjoy financial benefits.

Tax Shift Benefit Overview

- TIFs shelter new value from a municipality's "State Valuation."
- A municipality's State Valuation effects 4 important areas of municipal finance:
 1. State Education Subsidy
 2. County Taxes
 3. State Revenue Sharing Subsidy
 4. Additional Local Education Contribution

Examples

1. BASIC - No CEA example
2. DIRECT BASIC - Direct CEA basic example
3. DIRECT COMPLEX – Area-wide TIFs
4. COMPLEX – Multiple layers

Example 1: BASIC

- No credit enhancement agreement
- Infrastructure needs that the municipality funds

Oxford Casino



Example 2: DIRECT BASIC

Direct credit enhancement agreement (property tax reimbursement agreement)

Kennebec Ice Arena



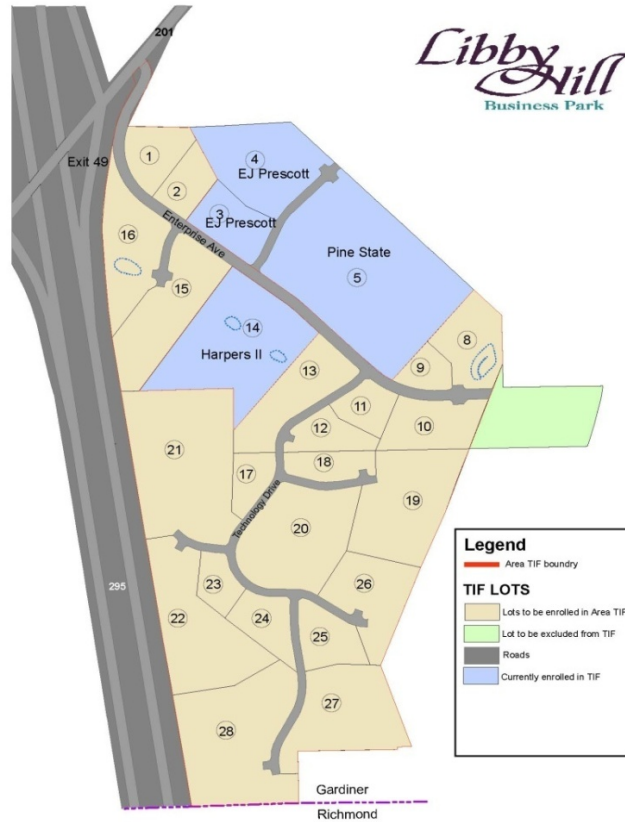
First Wind – Rollins Project

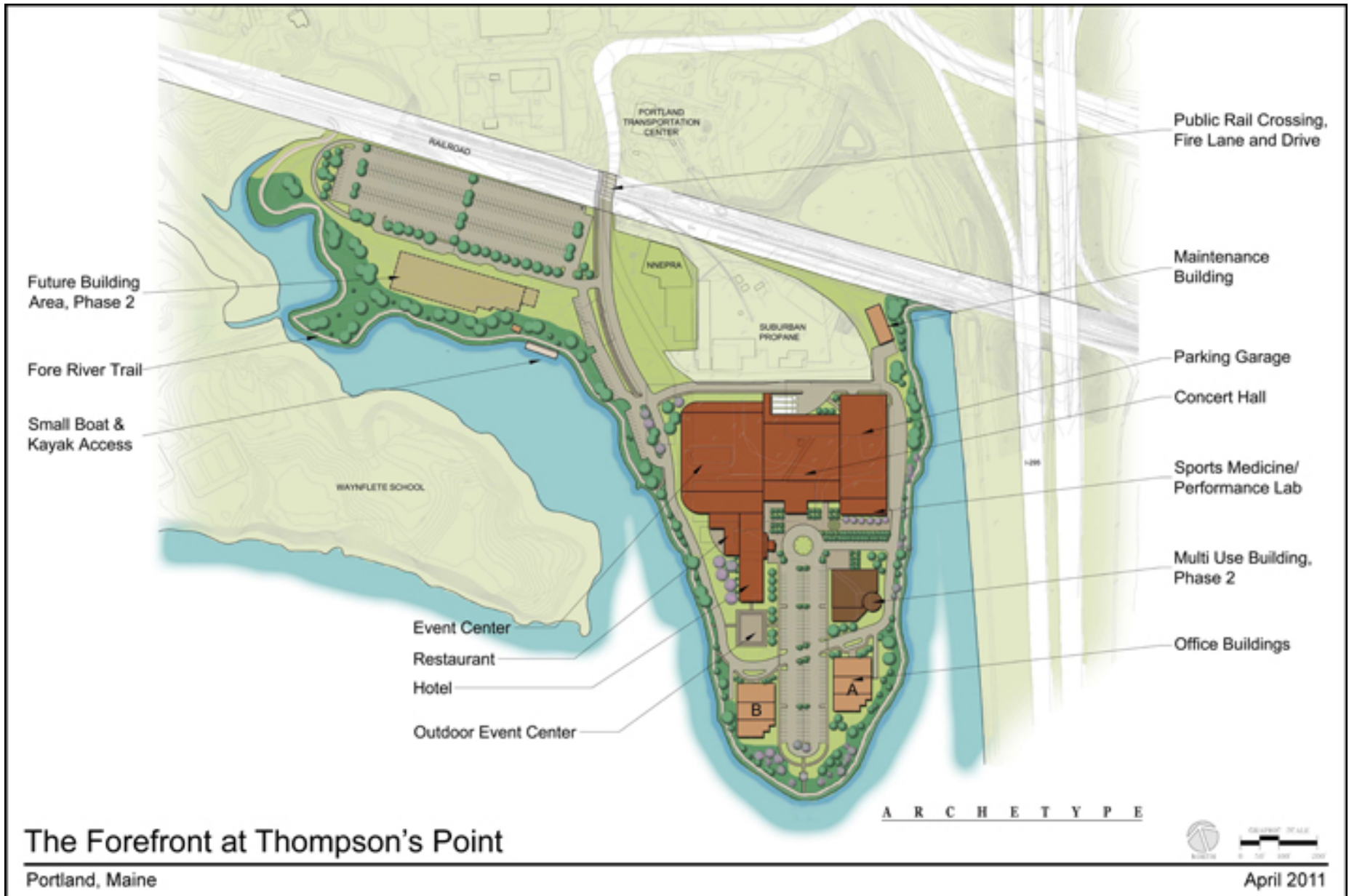


Example 3: DIRECT COMPLEX

- Business Park Tax Increment Financing District
- Advertise to prospective business owners
- Includes some transit and downtown TIFs.

Business Park TIF District





The Forefront at Thompson's Point

Portland, Maine

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Example 4: FULL COMPLEX

- Tax Increment Financing District
- Development District, special assessment
- Municipal Bonds

TIF Summary

- TIFs are a flexible tool for municipalities to promote economic development.
- Education of the legislative body is imperative, especially for municipalities new to TIFs.
- Department of Economic and Community Development determines statutory compliance on all applications.

Tips for Developers Seeking TIF Assistance with a Project

- Timing: Talk to us early in the development process – WELL BEFORE any shovels are in the ground.
- A TIF doesn't have to be a benefit ONLY to the Developer.
- TIF statute doesn't require "but for" test be met.
- Advantage of bringing Bernstein Shur municipal attorney to negotiate with the municipality.



“Pine Tree Zones Should Not be Overlooked”

~Mainebiz, March 19, 2012

Goals of Pine Tree Development Zones

- Greatly reduced or virtually eliminated state taxes for up to 10 years.
- Create quality jobs in targeted business sectors throughout Maine
- Targeted Eligible Sectors:
 - Biotechnology, aquaculture, and marine technology
 - Composite materials technology
 - Environmental technology
 - Advanced technologies for forestry and agriculture
 - Information technology
 - Manufacturing
 - Financial Services

Potential Business Benefits

- Corporate Income Tax Credit
- Insurance Premiums Tax Credit
- Income Tax Reimbursement
- Sales and Use Tax
- Access for reduced electricity rates approved by the Public Utilities Commission.

Requirements to qualify

- **2009 law broadened geographic eligibility:** Tier 1 vs. Tier 2
- Effective January 1, 2010, newly-certified businesses located in certain municipalities in York and Cumberland counties are limited to 5 years of benefits. (“Tier 2 ”)
 - **Cumberland County:** Baldwin, Cape Elizabeth, Chebeague, Cumberland, Falmouth, Freeport, Gorham, Gray, Harrison, Long Island, New Gloucester, North Yarmouth, Portland, Pownal, Raymond, Scarborough, South Portland, Standish, Westbrook (not Sappi), Windham, Yarmouth
 - **York County:** Acton, Berwick, Buxton, Dayton, Eliot, Hollis, Kennebunkport, Kittery, Limington, Old Orchard Beach, Shapleigh, York
- Otherwise eligible businesses locating in any municipality not listed below (“Tier 1”) will have access to 10 years of benefits.
- Must be able to state that “**but for**” the benefits, the company would not be able to add the new job(s)

“Quality Job”

- Must create at least one net new “quality job”
- Income requirements by County (taken from Department of Economic and Community Development Website):

County	Annual Income
Androscoggin	\$34,808
Aroostook	\$29,817
Cumberland	\$45,147
Franklin	\$29,636
Hancock	\$36,164
Kennebec	\$35,418
Knox	\$37,563
Lincoln	\$37,229
Oxford	\$29,199
Penobscot	\$33,149
Piscataquis	\$29,950
Sagadahoc	\$37,243
Somerset	\$29,197
Waldo	\$31,457
Washington	\$29,464
York	\$37,316

Application Process

- Company contacts DECD Business Development Specialist
- Company sends “but for” letter to DECD
- Acknowledgment letter is sent to the company from DECD
- Company completed application for certification and submits to DECD
- DECD finalizes review of application
- DECD issues certification letter and certificate to Company.

Concluding Thoughts: Other Business Tax Incentives

Tax Incentives:

- **TIFs**
- **Pine Tree Development Zones**
- Employment Tax Increment Financing
- Business Equipment Tax Exemption
- Jobs and Investment Tax Credit
- Technology Tax Credits (Research Expense; R&D Super Credit; High-Technology Tax Credit)

Direct Grants & Loans

- CBDG Economic Development Program
- Maine Technology Institute Seed Grants & Development Awards
- Economic Recovery Loan Program
- Energy Conversation Loan Program

Equity Financing

- Maine Economic Development Venture Capital Revolving Investment Program (FAME)
- Maine Seed Capital Tax Program
- Small Enterprise Growth Fund
- Maine Investment Exchange

Technical Assistance Programs

- Maine International Trade Center
- Maine Small Business Development Centers
- Regional Councils of Economic Growth

Resources

- Maine Department of Economic and Community Development: <http://www.maine.gov/decd/meocd/>
- DECD “Pocket Guide to Maine’s Business Resources”