Burlington 9/10/09
TIF Proposal

Proposal for Implementation of a Payment to the Education Fund in lieu of Tax Increment in Burlington's Waterfront Tax Increment Financing District

August 31, 2009

Section 83 of the Vermont Recovery and Reinvestment Act of 2009 (Act 54) extends Burlington's authority to incur indebtedness in its existing Tax Increment Finance (TIF) district for five years beginning January 1, 2010, subject to approval by the Joint Fiscal Committee of a formula for implementation of a payment to the education fund in lieu of tax increment. The Act requires the City to submit "a business plan and projection of new incremental education property tax revenue growth to be financed by any indebtedness authorized under subsection (a) of this section, and a proposal for implementation of a payment to the education fund in lieu of tax increment which would approximate 25 percent of the new incremental education property tax revenue and the mechanism for payment by the City to the education fund, including payment dates."

Background:

In January 1996, the Burlington City Council established a TIF district that encompassed the downtown waterfront plus the 45 acre "Urban Reserve." The district was created to help finance public infrastructure improvements in the formally industrial and economically depressed Lake Street area, with the goals of securing public access to the Lake Champlain shoreline and incenting private development. The district was expanded in June 1997 to include a block-wide strip extending from Battery Street up to Church Street, in response to the need for public parking to attract an anchor retail store at the Burlington Square Mall, and to develop the last remaining vacant parcels from the city's Urban Renewal district (see attached map of Waterfront TIF District boundaries, Exhibit A).

Since the TIF District's creation, Burlington has utilized tax increment financing to help finance six infrastructure projects as described in the following table, totaling $16.8 million (see combined debt schedule, Exhibit B):

Project	Description	Date	Type of Financing	Amount of TIF Debt
Lake St. Reconstruction	Reconstruction of roadway, infrastructure, & pedestrian amenities along Lake St	1999	HUD Section 108	$ 1,148,350
300 Lake St. Housing	Extension and upgrade of Lake St. to Depot Triangle Housing development	1999	HUD Section 108	$ 495,000
Urban Reserve Acquisition	Acquisition of 45 acres of railroad land, put aside by City Council for future generations	1999	Certificates of Participation	$ 1,390,000
Lakeview Parking Garage	Construction of 401 space parking facility; in conjunction with redevelopment of Burl. Sq. Mall	1999	Certificates of Participation	$ 5,500,000
Waterfront Fishing Pier	Construction of public fishing pier; upland and shoreside improvements.	2000	Certificates of Participation	$ 407,000
Lakeview, Westlake & College Garages	Two level expansion of Lakeview, construction of Westlake, rehab of College St. garage.	2005	Certificates of Participation	$ 7,870,000
			TOTAL	$ 16,810,350

These public infrastructure improvements have resulted in tens of millions of dollars of private investment, including 40 units of affordable housing, market rate condos on Lake Street and Battery Street, a $13.5M office and commercial development at College and Battery, attraction of Filenes (now Macys), the complete rehabilitation of the Burlington Square Mall (now Burlington Town Center), and the construction of the Marriot Hotel. The Marriot is about to expand, and a second hotel is planned for 41 Cherry Street. The improvements also spurred the $17 million renovation of the Hilton Hotel, located outside the district.

These real property developments have resulted in significant property tax increment that has been used to finance the public infrastructure improvements described above. While debt service payments have exceeded total revenues in all but three years since 1999, revenues are projected to cover debt service payments starting in FY2011 (see Exhibit C for existing TIF District debt and revenue payments).

Although TIF has been a very successful economic development tool for Burlington, the window to incur debt in the TIF district closed in March 2006. Yet, some of the city's greatest public infrastructure needs, as well as some of the best opportunities for TIF-incented development continue to be located in the waterfront area.

Proposed Public Infrastructure Improvements:

The City of Burlington anticipates making the following public infrastructure improvements, each of which directly serves the Waterfront TIF District. Without the proposed infrastructure improvements, the real property development and redevelopments described in the following section would not occur, or would occur in a significantly different and less desirable manner. The anticipated debt schedule for these improvements is attached, in Exhibit D.

<u>Waterfront North Transportation Improvements</u>: This project primarily involves the realignment and extension of a 1,355 foot section of Lake Street and a section of the Waterfront Bike path. The area suffers from inadequate or non-existent public infrastructure, which limits economic development potential of the adjacent Moran site, restricts public access, and creates vehicular-pedestrian-bicycle conflicts. Lake Street degrades to a class IV road after the turnoff to the Water Department, the bike path is seriously deteriorated and too narrow for its current level of use, there are no pedestrian accommodations at all, stormwater infrastructure is lacking, and parking is scattered, poorly maintained, and scarce. The City will realign the end of Lake Street to parallel the NECR railroad right-of-way and extend the road to the former Moran plant and the Urban Reserve. Penny Lane, an unofficial road that runs between two Water Department buildings, will be transformed into a non-motorized facility, and the bike path will be improved to accommodate current and projected demand. Parking will be consolidated and expanded in an existing landscaped surface lot, and stormwater will be addressed with innovative on-site enhancements to avoid flooding and to protect Lake Champlain water quality. Without these improvements, the adjacent Moran site simply can not be redeveloped; the road ends before the Moran property, and there is insufficient parking to meet zoning requirements. If the Waterfront North improvements are not built, the short-term economic stimulus and long-term economic recovery potential of the Moran site will go untapped – with the concomitant loss of job creation potential. Total Project Cost: $3,915,000. TIF financed cost: $3,150,000.

Moran Plant: Vacant ever since it was decommissioned in 1986, the former J.E. Moran electric generating plant has long been recognized for its adaptive reuse potential because of its structural integrity and strategic location. The City intends to remediate environmental contamination, and rehabilitate the blighted building as a public facility in order to lease it to three tenants (described in more detail, below). The property is listed with the VT Department of Environmental Conservation's Brownfields Reuse Initiative as a hazardous waste site (#2005-3357); remediation will include clean-up of chrysotile asbestos, arsenic and PAHs in the shallow soils, and chlorinated VOCs in the groundwater. Rehabilitation of the building will involve overhauling the building envelop and building systems (electrical, HVAC, plumbing, etc) to prepare it for tenant fit-up. Without remediation of environmental hazards, and without bringing the Moran building to minimally usable standards, the City can not attract private capital in the form of tenant fit-up and pre-paid lease contributions. Total project cost: $7,139,521. TIF financed cost: $2,091,000.

131 Battery Street: Formally the site of a proposed multi-modal transportation facility, this property was sold to a private developer in 2003. The new owner proposed to raze the structure and construct a new building with a mix of retail and office space, and market rate and affordable housing. The building lies at the three-way intersection of Battery, Main and Lake Streets; the poorly configured intersection, combined with a complete lack of sidewalks along Battery and Lake Street frontages, cause significant safety concerns. In 2006 the City committed to provide $400,000 in financing to the developer, who would then implement over $500,000 worth of public improvements, including new curbing, sidewalks, lighting, reconfiguration an intersection, improved signalization, etc. Since this deal was made before the window to incur new debt in the district had closed, it was the City's intention to service the debt with TIF revenues. Without addressing deficiencies in the public right-of-way, including signalization, curbs, a lack of a sidewalk, the redevelopment of 131 Battery Street may not occur, or would certainly occur in a less desirable manner, particularly in terms of pedestrian safety and convenience. Total project cost: $507,773. Total TIF cost: $400,000.

Improvements to Lower King Street: This area currently services the Burlington-Port Kent ferry, and has minimal pedestrian amenities. Linked to the proposal to redevelop the Lake Champlain Transportation Corporation's holdings (described below), the public street would likely need to be reconfigured, sidewalks and other pedestrian amenities constructed, and upgrades to stormwater management and signalization implemented. Shared public-private structured or surface parking will likely be needed to make the redevelopment of the LCT parcels viable, which would also serve the downtown core of the waterfront. Without reconfiguration of lower King Street for vehicles and pedestrians, and without addressing the lack of parking in the southern end of the downtown waterfront area, the redevelopment of the LCT site is not viable. Total cost: (t.b.d.) Total TIF financed cost: $4,3750,000 (approximate, based on a 175 car garage at $25,000 per space construction cost).

Real Property Development and/or Redevelopment Potential within the District:

Having administered a TIF district for many years, Burlington has well established TIF policies and guidelines which ensure proper consideration and selection of TIF-financed projects (see

Exhibit E). All projects must meet certain thresholds – primarily that the project would not go forward "but for" the tax incremental financing – before a commitment is made by the City to finance infrastructure improvements. Based on discussions with owners of targeted properties located within the district, there are several real property developments that are expected to occur because of the infrastructure improvements described above. These include:

Moran Center: This $20.3 public-private partnership is one of the City's economic development priorities, and was supported by 65% of Burlington voters in a March 2008 advisory referendum. The City will redevelop the former electric generating plant into a public facility, and will lease three commercial spaces to tenants with whom the City has signed pre-development agreements: Green Mountain Children's Museum, Lake Champlain Community Sailing Center and Ice Factor (a private family adventure center). These fee-based uses will be complemented by public uses, such as lakeshore access, a rebuilt and improved skate park, public restrooms, and a fourth floor observation deck, all free of charge. This project will anchor the north end of the downtown waterfront, enhance the viability of exiting businesses in the district, and will bring a new business to Vermont – which plans on investing over seven million dollars of private equity. The project will create 60-80 permanent jobs and will result in significant local, regional, and statewide economic development benefit: it is estimated to generate two million dollars in gross receipts annually, and almost triple that in the local economy. Pre-development value: $902,600; Post-development value: $4,988,700.

131 Battery Street: The owner of this building was issued a zoning permit in 2006 to construct a four story, steel frame building with brick cladding, with mixed office and residential uses. This would bring additional economic vitality the waterfront, increase the supply of housing downtown, and remove a vacant and underutilized structure. The City negotiated a development agreement with the owner that included a developer contribution to public infrastructure improvements including reconfiguration of the intersection and improved pedestrian amenities. The City had intended to use TIF revenues to finance the public's share of the improvements before the window for incurring debt in the district closed, but the downturn in the economy – as well as other factors – has stalled the project. After many years of being vacant, the owner has now occupied a portion of the exiting building; although the permit for the new building is still current, it is not clear whether the plan will move forward in within the new five year window to incur TIF financed debt. Pre-development value: $958,700; Post-development value: $9,178,500

Inn at foot of King Street: This proposed project involves the construction of a locally-owned waterfront inn, restaurant, and marina, to be located where the operations facility of the Lake Champlain Transportation Company is currently located. The project would result in enhanced public use of the lake shore, and would strengthen the economic vitality of the City and region. However, it would require the relocation of various LCT functions, could necessitate a land swap with the City, and certainly would require the construction of parking that would serve not just the hotel, but other waterfront functions as well. An inn at this location could create 70 jobs, and be comparable to the Marriott in terms of room and meals, sales, and income tax revenues for the State, and have a significant multiplier effect on the local economy, as well. The added hotel room capacity would also enhance the attractiveness of downtown hotels to host conventions. Pre-Development Value: $3,816,400; Post-development value: $12,915,200

Proposal for Implementation of a Payment to the Education Fund:

In a sense, Act 54 creates two "TIF rates" within the district. A grandfathering provision included in Act 60 allows Burlington to use one hundred percent of the education property tax increment to pay for public infrastructure debt, since the City's TIF district was created before there was a statewide education property tax. Our understanding of the intent of Act 54 is that new increment generated in the District as a result of new TIF-financed public infrastructure should be shared between the City and State consistent with the current TIF statute, which only allows municipalities to retain seventy-five percent of the education tax increment.

Because of questions surrounding the administrative practicality of having two TIF rates and two "original taxable bases" within the same district, Section 83(b) included language that would hew to the spirit of the current TIF statute, but would call for *payments in lieu of tax increment* which *approximate* twenty-five percent of the new incremental education property tax revenue generated by new real property development and redevelopment that occurs in the District.

Accordingly, we propose the following mechanism whereby the payment to the Education Fund is based on the increased education property tax revenue generated by the incremental growth in grand list value:

As is currently the case, property taxes generated by the original value at the time the District was created will continue to be distributed to the respective taxing entities (City and State). One hundred percent of the increment created subsequent to the creation of the District will continue to be retained for the Burlington TIF per the grandfathering provision.

In order to calculate the amount of payment to the Education Fund pursuant to §83 of Act 54, the City will track the assessed valuation of properties within the District. On or before July 1, 2010, and each year thereafter on that date, the City will provide the Legislative Joint Fiscal Committee and the Tax Department a list of all TIF District properties, including current fiscal year grand list value (see Exhibit F for FY 2010 information). The annual reports will also describe the application of the formula for implementation of the payment to the education fund in lieu of tax increment (the increased revenue generated by the incremental grand list value) described below.

Beginning with the fiscal year following the first incurrence of new TIF debt within the District, the City will make an annual payment to the Education Fund, equal to twenty-five percent of the new education property tax revenue generated by the increased assessed value within the District, using the grand list value as April 1 2010 as the baseline, and then applying the current education tax rate to the increased value of properties within the District.

The only properties that will not be included in the formula for payment to the education fund in lieu of tax increment are two projects in the process of development: the expansion of the Marriot Hotel (35 Cherry Street, scheduled to begin this fall) and the second hotel to be built at 41 Cherry Street (scheduled to begin in 2010-11). These developments were made possible by previous investments in public infrastructure under Burlington's prior authority, and the debt was incurred with the expectation that one hundred percent of the property tax increment from these developments would be available to service that debt.

The formula for implementation of the payment to the education fund in lieu of tax increment (the increased revenue generated by the incremental grand list value) is as follows:

- The total Grand List assessed value of properties within the Waterfront TIF district in payment year (excluding the Marriot Hotel and the new hotel at 41 Cherry St); minus
- The total Grand List assessed value of properties within the Waterfront TIF district in base year (excluding the Marriot Hotel and new hotel at 41 Cherry St);
- Multiplied by current education property tax rate;
- Multiplied by .25 to derive the payment to the education fund in lieu of tax increment.

Exhibit G illustrates a sample payment utilizing the above-described method. Under this formula, payments to the Education Fund will capture twenty-five percent of the new incremental education property taxes that are a result of growth in the property value as a result of investment in new public infrastructure. Additionally, the formula captures twenty-five percent of new education property taxes as a result of background growth in property values in the entire District, even if that growth in value is not related to new infrastructure (e.g. from real property developments that do not require public infrastructure, and reassessments that occur as a result of property improvements by current owners).

Payments to the Education Fund would be triggered when and if the City utilizes the authority in Act 54 to incur new debt in the District. Once triggered, the City will continue to make such payments until FY2026 or until all TIF financed debt is paid off – whichever comes first – after which the State will receive one hundred percent of the education property tax from properties within the Waterfront TIF District (e.g. Act 54 simply allows the City to incur new debt in the existing TIF District; it does not extend the life of the District). Payments to the Education Fund, if any, would be made on or before December 10 of each year.

Exhibit H shows the expected increase in property value and the resulting increase in property tax revenue from the three real property developments described in the previous section (Moran, 131 Battery, and King Street Inn). It is expected that these three projects would be the primary drivers of new increment within the district. It is possible that other development will occur in the District as well, which would increase the increment, and the payments to the State.

Exhibit I shows the schedule of projected Education Fund payments generated from the three projects. Again, these payments are derived by the increment from the three projects described in the previous paragraph. The payment schedule also assumes a 3.5% annual average increase in education property tax rates; a 1% annual average increase in municipal tax rates; and a 0.75% per year increase in background growth in property values. We believe these are all conservative estimates – tax rate increases and background growth in excess of these estimates will result in larger payments to the Education Fund.

Exhibit J shows the projected new TIF revenue, derived from calculating seventy-five percent of the expected municipal and educational tax increments from the new developments described above, plus the increment derived by background growth in property values in the District (consistent with current TIF law, the City will contribute not less than seventy-five percent of its new municipal property tax increment towards the repayment of new TIF debt).

Exhibit K compares the projected new TIF district debt (from Exhibit D) to the projected TIF revenue available to service the new debt (from Exhibit J). Exhibit K also shows the projected debt payments and revenue from the existing district, including the tax increment from the Marriot expansion and 41 Cherry Street. It then combines this information to present an overall summary of all projected TIF debt and revenue in the District.

Conclusion:

We believe this proposal for payments to the Education Fund in lieu of tax increment adheres to the intent of Act 54, but avoids the administrative complexities of previous proposals. It allows Burlington to move forward with financing public infrastructure to incent new private development, while satisfying the General Assembly's desire that new tax increment created by new infrastructure investments is shared between the State and City consistent with the current statute. The City estimates that over the life of the TIF District, this proposal will result in the State Education Fund receiving over $1.5 million in revenues that it otherwise would not enjoy.