

CITY OF AUBURN, MAINE

MALL AREA HOTEL  
MUNICIPAL TAX INCREMENT FINANCING DISTRICT #15  
DEVELOPMENT PROGRAM

October 15, 2007

Revised February 12, 2008

## **ARTICLE I: DEVELOPMENT PROGRAM NARRATIVE**

### **Section 1.01. Introduction**

#### **A. Background Information and General Description of the District**

The City of Auburn desires to attract and retain quality jobs and commercial development, create and maintain a healthy tax base, improve the economy of the City and the State of Maine, and provide for construction of new public infrastructure improvements to facilitate economic development. In order to fulfill these goals, certain properties are being designated as the Mall Area Hotel Tax Increment Financing District, an area consisting of approximately 1.50 acres, comprising a portion of the City as shown on **Exhibit A** attached hereto and incorporated herein by reference (the "District"). This new proposed Tax Increment Financing District is adjacent to two previously approved Tax Increment Financing District's (TIF#9 and TIF#14) which were established to fund infrastructure improvements necessary for the future development of this area of Auburn and, under TIF#14, to provide a credit enhancement incentive for a private developer to invest in this area. Combined these three tax increment districts encompass the Auburn retail center.

The Development Program described herein is identical to that proposed under the previously State approved TIF#14. There have been no amendments to the Development Program of TIF#14. The administration of the District will be consistent with provisions of state law as a Municipal Development and Tax Increment Financing District pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended (the "Development Program"). Upon resolution of the Auburn City Council designating the District and adopting this Development Program on October 15, 2007, the designation of the District and the adoption of the Development Program became final subject only to approval by the Maine Department of Economic and Community Development ("DECD").

The purpose of the District is (a) to assist the property Developer with the development of this parcel into a hotel and service center; (b) to finance costs associated with certain public improvements, within the District consisting of infrastructure improvements, including, but not limited to, roadways, access roadways, water, sewer, storm drains, road junctions and landscaping (the "Public District Improvements"); and (c) to finance costs associated with certain economic development and infrastructure improvements within the City (the "Public Improvements") as hereinafter identified.

#### **B. The Project -- Hotel Development**

The City of Auburn needs to expand its tax base by attracting additional economic development to the City. The District impacts economic development in several ways. First, establishment of a hotel complex in the District will be the catalyst for major commercial development on land within the immediate area and in other areas of the City. New development projects in the District will also require certain improvements through an expansion of public infrastructure. Second, the District provides a source of funds to finance new economic development programs with respect to the City's desire to become a regional shopping destination.

Improvements): 1) to fund infrastructure improvements, and other Project Costs, all as permitted under 30-A MRSA Subsection 5225(1)(A) (hereinafter collectively called the "Project Costs", see **Exhibit B & C**). These improvements within and abutting the District, include but are not limited to, roadways, access roads, intersections, sidewalks, bike routes, street lights, traffic signals, sewer, water, storm drains and landscaping; 2) to develop new employment opportunities in the City and to pay other Project Costs as described in 30-A MRSA Subsection 5225(1)(B); 3) to provide for costs reasonably related to the construction, alteration or expansion of facilities not located within the District that are required due to improvements or activities within the District as described in 30-A MRSA Subsection 5225(1)(C)(D), including but not limited to road, water, sewer, storm water and environmental protection such as wetland mitigation improvements (hereinafter called the Public District Improvements); 4) to fund the City's economic development programs including, but not limited to, implementation of the Mall Area Hotel Municipal Development and Tax Increment Finance District (TIF #14); to fund wetland mitigation improvement programs.

#### **D. Findings of the City Council**

The City Council finds that each of the specific projects described herein will either directly or indirectly provide or encourage new employment opportunities within the City, encourage and promote economic development that will broaden the City's tax base, and improve the general economy of the City.

The estimated costs of the projects that may be included as a part of the Development Program are identified in **Exhibit B** attached hereto. The specific public improvement projects to be financed with the City's portion of the tax increment financing revenues will be approved through subsequent City Council action pursuant to the City's Charter.

The Project and all associated improvements financed under this Development Program other than the Public Improvements and other Project Costs will be located within the District, adjacent to the District or are impacted directly by activity within the District. The proposed District will encompass approximately 1.50 acres.

### **Section 1.02. Statement of Means and Objectives**

#### **A. Municipal Development District**

The City desires to attract quality jobs and economic development into the community in order to create additional employment opportunities, to maintain a healthy tax base, to promote community well being, to provide for the City's revitalization, and to provide the facilities outlined in this Development Program. By providing for the reinvestment of the new or incremental tax revenues, the City will facilitate new private investment within and adjacent to the District, create additional infrastructure capacity through certain important public improvements, thereby providing new employment opportunities in the City, while improving and broadening the City's tax base and the economy of the City and the State of Maine.

The project site within the Development District has significant challenges to support redevelopment due to topography challenges and wetland mitigation requirements. It is the

finance public improvements in the area. The remaining tax revenue from the unsheltered assessed valuation will go to the General Fund.

#### **Section 1.04. Description of Project Costs and Public Facilities to Be Constructed**

The Project costs are defined in section 1.01 (C) above and itemized in **Exhibit B**.

The City intends to provide improvements to the public infrastructure outside the boundaries of the District, but related to the District (see attached **Exhibit C** - Public District Improvements). These may include but not be limited to public sewer, water, storm water management, and transportation system (vehicle, pedestrian and bicycle) capacities and landscaping. The public improvements will be completed to assist the City in efforts to increase employment and economic development in general.

#### **Section 1.05. Uses of Private Property**

The project involves the rehabilitation of the Auburn Mall and Androscoggin Plaza, business recruitment of new mall tenants, and the recruitment of new restaurants and new opportunities on property included in Districts #14 and #15.

The proposed use of the project site (the District) is in keeping with current zoning requirements in that a hotel development is permitted within the zone.

#### **Section 1.06. Relocation of Displaced Persons**

Not applicable

#### **Section 1.07. Proposed Facilities to Improve Transportation**

The development, as it is currently proposed, will require the City to construct various public infrastructure improvements to serve the District and to promote further economic development.

#### **Section 1.08. Environmental Controls**

The redevelopment, development, and improvement project will comply with all requirements of the City's ordinances, including its Zoning Ordinance. With the exception of any building, site plan, traffic and other construction permits to be applied for, no further zoning permits, licenses or other local approvals are anticipated to be necessary in conjunction with the improvements.

The Developer will take all steps required by the Maine Department of Environmental Protection ("DEP") in order to ensure that the installation, construction, and operation of the improvements comply with all State of Maine environmental rules and regulations. The City of Auburn has secured a permit to fill wetlands on the project site. The Developer will be responsible to comply with all permit conditions, including wetland mitigation, that are set forward in the permit. All air emission, wastewater discharge, and other licenses required in



### Section 2.03. Indebtedness

The City's retained earnings from the tax increment revenues will be transferred to the Mall Area Hotel TIF District #15 sinking fund account and combined with retained earnings from Auburn Mall Revitalization Municipal Development and Tax Increment Financing District Development Plan TIF #14 sinking fund account to fund public improvements including but not limited to transportation system improvements. If the Developer incurs indebtedness with respect to the project, the funds in the Developers Project Cost Account of the Development Program Fund established hereunder consisting of the Developers allocable share of tax increment revenues on the captured assessed values of the District and any earnings thereon, may be applied to such indebtedness.

### Section 2.04. Sources of Anticipated Revenues

The sources of anticipated revenues generated by the District and to be used to pay the Developer under the credit enhancement agreement are: 1) municipal tax increment revenues on captured assessed value for the real estate within the District, which will be deposited as received into the Developers Project Cost Account of the District's Development Program Fund, and 2) earnings on such amounts. The Developer will be responsible for making all arrangements for payments with respect to all additional moneys needed to fund the Project. See summary of financial information in **Exhibit D**.

Separate sub accounts in the Project Cost Account shall be established for the Project (credit enhancement agreement) and funds to be transferred to the Mall Area Hotel Municipal Development and Tax Increment Financing District Development Plan (TIF #15). Upon receipt of each payment of property tax from the Developer, the City shall, within 15 days: 1) deposit that portion of each property tax payment allocated to the Project to the Project Cost Account; and 2) deposit that portion of each payment of property tax allocated for public improvements into the Project Cost Account established under the Mall Area Hotel Municipal Development and Tax Increment Finance District Development Plan (TIF #15). As noted in Section 1.01, TIF#15 and TIF#14 are adjacent to each other and the credit enhancement and infrastructure funding will benefit both Districts. The municipal tax increment revenues from the separate accounts for TIF #15 and TIF #14 are to be paid to the Developer under the Credit Enhancement Agreement for 20 years (or until the Developer reaches the upset limit for reimbursement).

### Section 2.05. Financial and Statistical Data

A summary of statistical information relating to the District's satisfaction of certain conditions imposed under Chapter 206 of Title 30A of the Maine Revised Statutes, as amended, as a prerequisite to designation of the District, is set forth in **Exhibit E**. Additional information is set out below.

- |    |  |                 |
|----|--|-----------------|
| a. | Total value of taxable property of the City of Auburn<br>as of April 1, 2007 | \$2,074,639,400 |
| b. | Original assessed value of the District as of April 1, 2006                  | \$4,900         |

### **ARTICLE III : PHYSICAL DESCRIPTION**

#### **Section 3.01. Description of the District**

The District consists of a parcel of land that total 1.50 acres.

The District is delineated on **Exhibit A** hereto.

#### **Section 3.02.Site location map**

Set forth on **Exhibit A** is a tax map of the City reflecting the approximate location of the District within the City.

### **ARTICLE IV: MUNICIPAL APPROVALS**

#### **Section 4.01. Public Hearing**

Attached hereto as **Exhibit H** is a copy of the Notice a Public Hearing held in accordance with the requirements of 30-A MRSA Subsection 5253. The Notice was published in the Lewiston Sun Journal, a newspaper of general circulation in Auburn on October 5, 2007 a day at least ten (10) days prior to the public hearing. A public hearing was held at the City Council meeting on October 15, 2007.

#### **Section 4.02. Authorizing Votes**

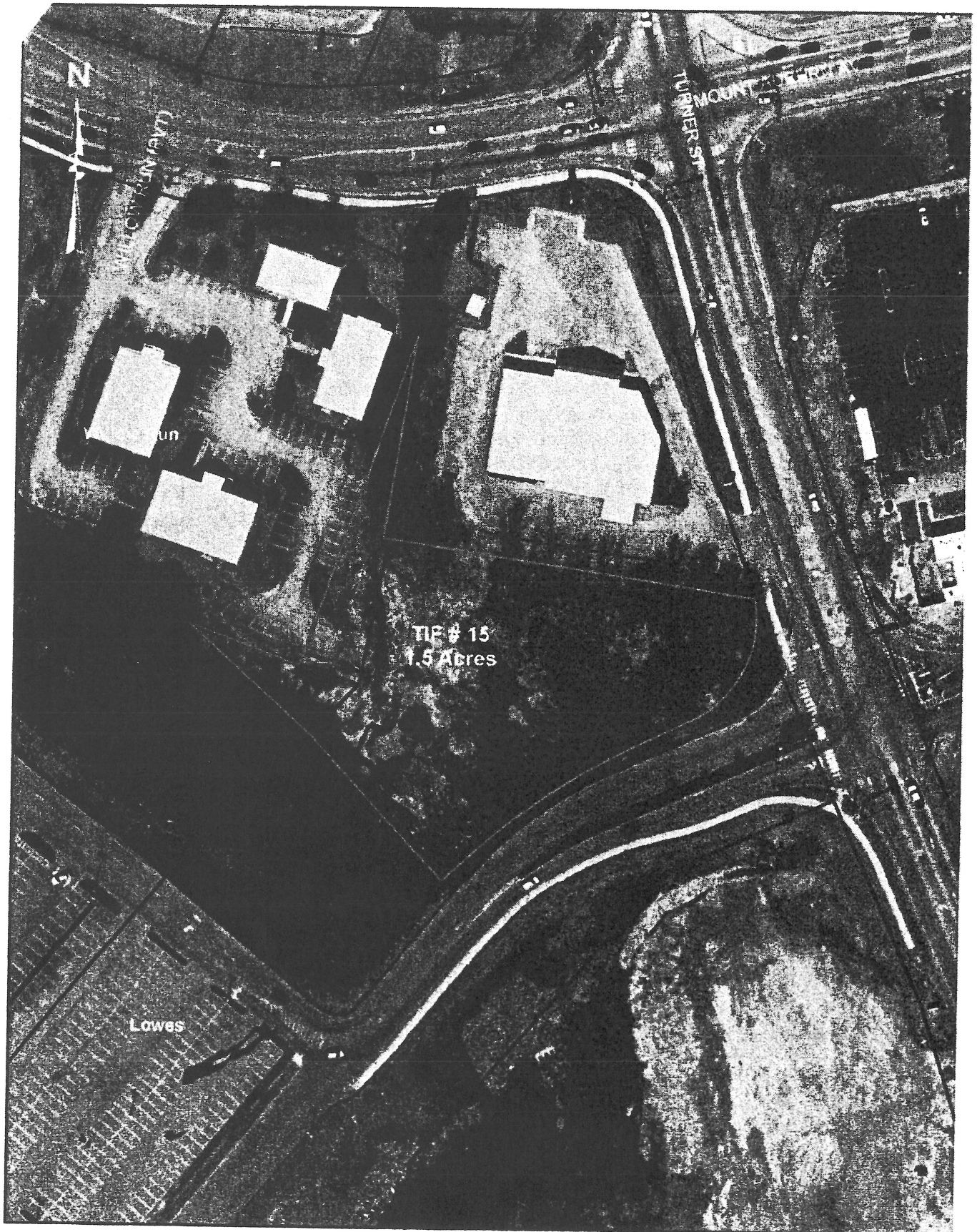
Attached as **Exhibit I** are copies of the votes by the City Council of the City of Auburn meeting thereof duly called and held on October 15, 2007 approving the designation of the District and adoption of this Development Program.

### **ARTICLE V: AGREEMENT REGARDING VALUATION ISSUES**

#### **Section 5.01. Valuation Issues**

There are certain assumptions regarding valuation and depreciation of assets, which underlie the analysis set forth in this Development Program. The City and the Developer both covenant and agree that the assumptions, analysis and result set forth in this Development Program shall in no way prejudice the rights of either party or be used, in anyway, by either party in either presenting evidence or making argument in any dispute which may arise in connection with valuation of the property within the District.

# TIF #15



**EXHIBIT B**

**PROJECT COSTS - DEVELOPER**

**Improvements to Public Infrastructure**

Access Road (Androscoggin Plaza)	\$500,000
Dedication of Right of Way	\$100,000
New Mall Entrance	\$110,000
Sewer Extension	<u>\$300,000</u>
<b>Sub-Total</b>	<b>\$1,010,000</b>

**Private Costs**

Mall Revitalization	<u>\$2,319,000</u>
<b>Total</b>	<b>\$3,329,000</b>

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**PROJECT COSTS - CITY**

Administrative Cost (\$40,000 x 15 years) & Quality Retail Marketing Study	<u>\$670,000</u>
<b>Total</b>	<b>\$670,000</b>

**EXHIBIT E**

**Summary of Statistical Information**

1.	Total acreage of municipality	41,430
2.	Total acreage of proposed Municipal Tax Increment Financing District	1.5
3.	Percentage of Total Acreage in TIF District #15	0.0001
4.	Total Acreage in All of Auburn's TIF Districts	598.94
5.	Percentage of Total Acreage in all TIF Districts, Including proposed	0.0145
6.	Total Acreage of All Real Property in the Proposed TIF District that is:	
a.	Blighted	0 acres 0%
b.	In need of rehabilitation or conversion	0 acres 0%
c.	Suitable for commercial sites	1.5 acres 100%

The percentage must be equal to or exceed 25%.

## EXHIBIT G

### **Tax Shift Formulas**

Creation of tax increment financing development district affects a municipality's state education subsidies, state revenue sharing, and county taxes, each of which uses municipal valuation as a basis for calculation. The statute allowing the creation of affordable housing development districts refers to this effect as "tax shifts." Presented below are the formulas used in the calculation of each of these tax shifts resulting from the creation of the **Mall Area Hotel Tax Increment Financing District #15 and Auburn Mall Revitalization Municipal Tax Increment Financing District #14**.

#### State Education Subsidy Tax Shift

The current state education subsidy formula based on the Essential Programs and Services approach is adjusted each year that the district is in effect to include the increased valuation within the municipality based on the annual Captured Assessed Value (CAV). All other factors affecting the subsidy calculation are held constant. The difference in the actual education subsidy and the adjusted education subsidy represents the projected state education subsidy tax shift for that year.

#### State Revenue Sharing Tax Shift

To determine the state revenue sharing tax *shift*, we collected the following information (available from the office of the Maine State Treasurer and at <http://www.maine.gov/treasurer/revenue.htm>):

1. Projected total municipal revenue sharing pool for the current fiscal year;
2. The City of Auburn's "current factor;"
3. The City of Auburn's "computed number," and the three figures used to calculate the current computed number: The City of Auburn's population, local assessment, and State valuation;

With this information in hand, we proceeded through the steps outlined below:

- **Step One**

Calculate the *Aggregate Computed Number*:

$$\frac{\text{Computed Number}}{\text{Current Factor}}$$

- **Step Two**

Calculate the *Adjusted Local Computed Number*: (CAV=Captured Assessed Value)  
Municipal Population x Local Assessment  
State Local Valuation + Projected Annual CAV

- **Step Three**

Calculate the *Adjusted Aggregate Computed Number*:

- **Step Three**

*Calculate the Municipal Share of County Tax without CAV (Captured Assessed Value):*

Current Percent of County Value x Projected County Budget

- **Step Four**

*Adjust the projected State County Valuation and the State Municipal Valuation to include the projected CAV.*

- **Step Five**

*Using values from Step Four, calculate the Adjusted Municipal Percent of County Value.*

- **Step Six**

*Calculate the average Municipality Share of County Tax with the CAV:*

Adjusted Municipal Percent of County Value x Projected County Budget

- **Step Seven**

*Calculate the County Tax Shift:*

Municipal Share of County Tax with CAV — Municipal Share of County Tax without CAV

This process was repeated for each year's Projected Annual CAV.

EXHIBIT H

CITY OF AUBURN  
PUBLIC NOTICE

Notice is hereby given that the City of Auburn, Maine, will hold a public hearing on Monday, October 15, 2007, at 7 PM at the City Council Chambers in the Auburn Hall building for purposes of receiving public comments on the designation of its proposed Mall Area Hotel Tax Increment Financing District #15 and the adoption of a development program for said Municipal Development and Tax Increment Finance District, pursuant to the provisions of Chapter 207 of Title 30-A of the Maine Revised Statutes, as amended.

The proposed Municipal Development and Tax Increment Financing District consists of certain property, approximately 1.5 acres, located along the east side of Turner Street in the vicinity of the intersection of Turner Street and Mount Auburn Avenue. This acreage is being taken out of TIF #9 and comprises all the land for TIF District #15.

A copy of the proposed development program for the district is on file with the City Clerk and may be reviewed at the offices of the city clerk during normal business hours. All interested parties are invited to attend the public hearing and will be given an opportunity to be heard at that time.



WHEREAS, it is expected that approval will be sought and obtained from the Maine Department of Economic and Community Development approving the designation of the District and the adoption of the Development Program for the District;

NOW, THEREFORE, BE IT HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF AUBURN:

Section 1. The City hereby finds and determines that:

a. At least twenty-five percent (25%), by area, of the real property within the District, as hereinafter designated, is suitable for industrial sites as defined in 30-A M.R.S.A. 5253; and

b. The total area of the District does not exceed two percent (2%) of the total acreage of the City, and the total area of all development district within the City (including the District) does not exceed five percent (5%) of the total acreage of the City; and

c. The total equalized value of taxable property within the District as of April 1, 2006 together with the equalized value of taxable property in other existing districts measured as of the April 1 preceding the designation of each such district, does not exceed five percent (5 %) of the total equalized value of taxable property within the City as of the date hereof, and

d. The aggregate value of municipal indebtedness financed by the proceeds from tax increment financing districts within Androscoggin County, including the proposed District, does not exceed \$50 million; and

e. The designation of the District and pursuit of the Development Program will generate substantial economic benefits for the City and its residents, including employment opportunities, broadened and improved tax base and economic stimulus, and therefore constitutes a good and valid public purpose.

f. The proposed District and Development Program will make a contribution to the economic growth or well-being of the City. The Public Improvements contemplated by the Development Program will enable the City to improve its economic climate and construct improvements and other collateral economic inducements to attract new businesses to the City,

Section 2. Pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, the City hereby designates the Mall Area Hotel and Tax Increment Financing District # 15 Development Program, designated and described as more particularly set forth in the "Mall Area Hotel and Tax Increment Financing District #15 Development Program" presented to the City Council in the form attached hereto and such Development Program is hereby incorporated by reference into this vote as the Development Program for the District.

**EXHIBIT J**  
**Auburn Mall Revitalization**  
**Development Agreement**

This Development Agreement is made and entered into this 30 day of October, 2006, by and between the **City of Auburn**, a municipal body, corporate and politic and political subdivision of the State of Maine, having a mailing address of Auburn Hall, 60 Court Street, Auburn, Maine 04210 (hereinafter called the "City") and **Auburn Plaza, Inc.**, **George Schott and Nobility LLC**, Maine Corporations having a mailing address of 839 Main Street, Lewiston, Maine 04240 (hereinafter called the "Developer").

**Witnesseth:**

WHEREAS, the City has adopted a master plan for the development of the Mall area; and

WHEREAS, the City has adopted a comprehensive land use plan which designates the Mall area for concentrated commercial development; and

WHEREAS, the City is desirous of attracting new investment in the form of commercial projects and solidifying its position as a regional service center for retailing opportunities; and

WHEREAS, the Developer has acquired six strategically located parcels of land for the purpose of accommodating mixed-use commercial development projects; and

WHEREAS, the parcels have significant challenges to overcome in their development and/or redevelopment due to environmental constraints, topographic issues and building obsolescence; and

WHEREAS, the City and the Developer have agreed to enter into a cooperative effort to bring the project to fruition; and

WHEREAS, the City and the Developer are desirous of setting forth the business terms and responsibility of the respective parties in implementing these projects.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, it is hereby agreed as follows:

**1. Scope of Projects**

The projects are proposed to be located on six parcels of land. The site occupied by the Auburn Mall (hereinafter called "Parcel 1"); a currently built out parcel of land located at the southwest corner of the intersection of Mount Auburn Avenue and Turner Street known as Androscoggin Plaza (hereinafter called "Parcel 2"); Two vacant parcels northeast of the intersection of Turner Street in Kings Way (hereinafter called "Parcel 3") and two vacant parcels of land northeast of the intersection of Mount Auburn Avenue and Turner Street (hereinafter called "Parcel 4"). Parcels 1, 2, 3, and 4 are hereinafter referred to as "TIF#14". Although the final scope of the development of all

parcels is still a work in progress the current proposal is to renovate and redevelop 300,000 square feet of leasable commercial space and site redevelopment on Parcel 1, develop up to 100,000 square feet of new leasable commercial space Parcel 3 and develop up to 30,000 square feet of new leasable commercial space on parcel 4. Additional development opportunities are currently being explored which could result in more than a \$10 million investment on Parcel 2, 3 or 4.

The development process includes producing the final engineered designs for both the site development and buildings, securing the necessary financing, obtaining environmental, traffic and construction activity permits and managing the development projects.

## **2. Off-site Infrastructure Impacts**

As major commercial projects continue to be developed in the Auburn Mall area capacity of the transportation network is absorbed. Traffic study data from the original Wal-Mart development project, Home Depot, BJ's, the Super Wal-Mart, Kohl's and Mount Auburn Avenue Plaza and the Willow Run development have resulted in recommendations for significant additions of capacity and traffic control to the original Turner Street and Mount Auburn Avenue corridors. Construction of the overpass on Center Street has made it easier for travelers to access the Mall area and the resulting volumes of traffic have resulted in declining levels of service in the vicinity of the intersection of Mount Auburn Avenue and Turner Street. The redevelopment of the original Wal-Mart site and new development of Mount Auburn Avenue Plaza have brought the existing transportation network to a position of needing increased capacity. This eventuality was envisioned in the Mall area master plan and the City of Auburn created Tax Increment Financing Districts #9 and #13 to fund transportation and other improvements that would be needed to allow for the build-out of this commercial center.

In response to this need the City of Auburn City Council has approved a \$5 million general obligation bond to build new transportation capacity around the Mount Auburn Avenue and Turner Street intersection. New development contemplated under this agreement may result in the need for additional traffic system modifications. On October 30th, 2006, the Auburn City Council approved the development program for TIF#14 that reserved additional funding for transportation system modifications that may result from these new investments.

## **3. Development Program**

In an effort to induce the Developer to incur the costs enumerated below, the object of which is to realize development projects on Parcels 1, 2, 3 and 4 which the City and the Developer estimate will result in new capital investments on the four parcels totaling approximately \$25 million of increased assessed valuation (real estate only) within the next five (5) years, the parties agree as follows:

The Developer agrees as follows:

A. Parcel 1. To cause the renovation and redevelopment of the building and site redevelopment to support up to \$8 million of new investment. Additionally, the reconstruction of the displaced entrance (caused by the traffic system improvements on

Turner Street) on Turner Street will cost of approximately \$110,000.

B. Parcel 2. To incur costs in connection with both on-site and off-site (construction of an access road) improvements needed for this parcel, at the cost of approximately \$500,000 including the following:

(i). Construct a roadway for access to Androscoggin Plaza and Willow Run at a cost of \$350,000.

(ii). Wetland mitigation at a cost of \$150,000.

(iii). Exercise the right of first refusal on any excess right-of-way adjacent to this parcel acquired by the city on a pro-rated basis. Credit against the purchase price will be given for developer right-of-way donation on this parcel.

C. Parcel 3. Extend the sewer line along Turner Street from Mount Auburn Plaza to Kingsway at a cost of \$300,000.

Lastly, the Developer agrees to dedicate sufficient land from Parcel 1,2,3,4 to ensure adequate right away for future transportation system expansions at cost of \$100,000. The developer agrees too participate in newly created off-site improvement apportionment program for transportation system modifications for new developments to be located on Parcels 3 and 4.

The City agrees, in recognition of the extraordinary cost of developing these parcels, as follows:

A. Set forward a comprehensive transportation improvement program for all rights-of-way and intersections impacted by Mall area development.

B. Incrementally fund improvements to transportation system to create additional capacity and provide for intensive development of the remaining parcels.

C. for a study to identify opportunities for regional quality retail recruitment.

D. Enter into a credit enhancement tax increment financing agreement with developers to assist in the recovery of public infrastructure expenditures and extraordinary redevelopment costs over time.

E. To fund the City's economic development programs including, but not limited to, implementation of the Auburn Mall Revitalization Municipal Development and Tax Increment Finance District (TIF #14); to fund environmental improvement programs.

F. Create an apportionment program to charge back developments that absorb capacities created by public investment.

#### 4. Financing

A. Developer will fund all items under developers responsibility noted above.

B. City of Auburn will enter into a tax increment financing credit enhancement agreement with the Developer that will provide for a recovery of a portion of the costs noted above in Section 3. This will be done by providing a tax payment reimbursement based on the amount of new capital investment placed on the parcels of land that are within TIF #14 as determined by the City. Payment under the credit enhancement agreement shall be 40% of the tax revenues generated by development as soon as \$5,000,000 of new increased assessed value (new real estate value only over the baseline value) occurs in TIF#14. The term of this agreement is 20 years or up to a developer recovery threshold not to exceed \$3.329 million, whichever comes first.

#### 5. Design Review Consultation

The Developer will review and consult with the City concerning the design of the projects.

#### 6. Regulatory Compliance

The Developer will construct these projects in conformance with all federal, state and local regulatory requirements.

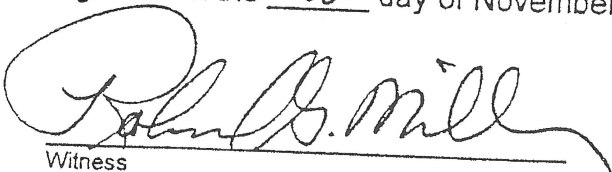
#### 7. Public Disclosure

The Developer shall not make any public release of information regarding the matters contemplated herein except that a joint press release(s), in agreed form, shall be issued by the Developer and City. Developer acknowledges that the City will be issuing public statements concerning the Auburn Mall area development program including information pertaining to the projects.

#### 8. Confidential Information

Developer agrees to treat all information delivered by the City or furnished by the City or its consultants (collectively the "information") as confidential. The information will be used solely for the purposes of evaluating the project and will be kept confidential by the Developer and its officers, directors, employees, representatives, agents and advisers provided that (a) any such information may be disclosed to developers officers, directors, employees, representatives, agents, lenders, fires, brokers, consultants, and advisers who need to know such information for purposes of evaluating the project (b) any disclosure of such information may be made to which the City consents in writing and (c) such information may be disclosed if so required by law. If the development projects are not consummated the Developer will return to the City all material containing or reflecting the information. Provisions of this paragraph shall survive termination of this agreement.

IN WITNESS WHEREOF, the City and the Developer have executed this Development Agreement the 10 day of November, 2006.

  
Witness

City of Auburn

By:   
Its City Manager

Harvey A. Mitchell  
Witness

Auburn Plaza Inc.

By: [Signature]  
Its President

Date: 11-10-06

State of Maine  
Androscoggin County

Before me personally appeared Patricia A. Finnigan, to me known, who swore that the above was her true fact and deed.

[Signature]  
Notary Public

My commission expires: 11/11/07