

**Authorization to Use Incremental Municipal Property Tax and Incremental State
Education Property Tax Revenue for a Tax Increment Financing District**

TOWN OF KILLINGTON

**TIF DISTRICT MASTER DETERMINATIONS, EXCLUSIONS,
CONDITIONS, AND OBLIGATIONS**

Master Determination



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I. Master TIF District Determination:

This TIF District application was considered and approved by the Vermont Economic Progress Council (VEPC or Council) utilizing the [Master TIF Plan Determination Policy and Procedure](#) developed by the Council. This policy and procedure provides for approval of applications with complex TIF Plans that are expected to proceed in phases or have a great degree of implementation variability. In order for VEPC to consider a Master TIF Plan Determination, the applicant has filed a complete application in accordance with the established application requirements and procedures and provided evidence sufficient for the Council to make positive determinations, demonstrating at least *general* compliance with all approval criteria. Determinations regarding some criteria may be partial and not conclusive. Subsequently, the municipality must file information regarding phases as they are ready to proceed and the phase must be considered and approved, finalizing that portion of the application.

Any references to infrastructure projects, real property development, parcels, values, increments, etc. contained in this document are stated as represented in the revised Killington TIF District application submitted on April 6, 2022, with final consideration by the Council on June 30, 2022, and which may be adjusted by the subsequent filing of project phases and/or substantial change filings. Further detail on review of the Approval Criteria may be found in the Final VEPC staff write-up and any documents referenced there, as well as the third-party analysis by Economic & Policy Resources (EPR).

II. Project Summary:

The Killington TIF District Plan, Financing Plan, and Application are summarized below for convenience. Refer to the Killington TIF District Plan, Financing Plan, and Application for further details on these documents.

A. Description:

On January 4, 2022, the Town of Killington (hereafter called “Town”) created a Tax Increment Financing District. During the course of the review of the TIF District Application by VEPC staff, there were indications that the District would not meet the compact or high-density location criteria. In response, the Town of Killington revised the boundary of their TIF District and updated their TIF District Application, approving those revisions on May 2, 2022.

The following is summarized from Killington’s revised TIF District Plan and Application:

The Town of Killington is home to Killington Mountain and Killington Resort – one of Vermont’s premier ski resorts and a major economic driver in the Rutland County region. Since the 1980s, plans to construct a ski village at the base of the Resort have been thwarted for a variety of reasons, primarily the significant initial infrastructure investment required to launch. The Town is home to the Region’s second largest employer and is a year-round destination for in and out-of-state visitors.

Two key infrastructure barriers inhibit growth: lack of a safe and reliable source of water, and outdated Killington Road design that creates unsafe travel conditions, does not accommodate multiple modes of transportation, and does not allow for additional capacity.

The Town of Killington lacks a municipal water system. There are existing water quality issues along Killington Road including groundwater contamination from man-made sources (i.e., petroleum contamination and PFAS) and naturally occurring elements (i.e., radium, arsenic, iron, and manganese). Future development along Killington Road including needed affordable and workforce housing, and the development of Six Peaks Village, cannot be built unless there is a safe and reliable water system.

Killington Road is a major traffic collector that connects US Route 4/VT Route 100 from the north to East Mountain Road and the Resort to the south, providing access to most of the businesses and residential neighborhoods in Town. Additionally, the Town currently does not own all of Killington Road, a major Town artery. The Town has an easement for the southernmost portion of Killington Road and the section of East Mountain Road from the Killington Road intersection to the Killington Grand Hotel. For Six Peaks Killington

to develop, SPLC would transfer ownership of these road sections to the Town. The Town also needs to reconstruct the balance of Killington Road to address safety concerns and to render the road a complete street. It is unwise and unsafe, as well as inconsistent in character, to have an investment of this scale at the end of such an insufficient and unwelcoming travel connector like the current Killington Road.

Adding density and vitality to the base of the mountain, creating water access, improving water quality, providing a safe and multimodal transportation corridor in this hub will have region-wide and statewide benefits including increased job opportunities, sales and rooms and meals tax revenue, and access to the natural beauty and recreational opportunities of Killington Mountain.

The proposed Killington TIF District is consistent with the goals of the Killington Town Plan: “To encourage planned growth and concentrated development in those areas of the Town which provide for higher density, and which can develop the necessary infrastructure to more readily support such development than in other sections of Town.” The resulting development from these TIF investments would be compact, high-density development in the locations the Town and region have identified developments to preserve the other areas of the region for natural habitat, recreation, and open space.

The TIF District is approximately 577 acres, includes 27 parcels, and represents \$12,989,730 in total appraised Grand List value (2021). The following compares these figures to the totals for the entire Town of Killington.

	Total Town	TIF District	Percent of Town
Acres	24,044	577	2.4%
Parcel	2,943	27	0.9%
Assessed Value	\$743,004,410	\$12,989,730	1.7%

B. Infrastructure Projects:

The Town’s TIF District Plan includes water and transportation infrastructure improvements of approximately \$62.3 million (including soft costs, contingency, and a 2.5% inflation factor) in phases, listed below. Total TIF-financed infrastructure costs, including cost of financing and related costs, are estimated at \$83,076,249 million (see summary on page 7). The projects that would catalyze the private development projects anticipated by the town are outlined in section C. Real Property Development/Redevelopment.

- **Water System Phase 1:** Creation of water system supply, storage, and transmission to include the Valley Wells, well house, pump station, storage tank(s), and all

transmission mains from the wells to the storage tank(s). This phase also includes the transmission main from the storage tank to the Six Peaks Village and continuing to the Lookout/Glazebrook location along Killington Road. This project will also require land acquisition and easements.

- **Road Reconstruction:** Killington Road will be reconstructed in four phases over a 6-year time frame as depicted on the “Killington TIF Infrastructure Phasing Map.” A study by VHB included a conceptual plan that contains specific corridor-wide enhancements that will increase capacity, improve the operations and safety for all users, and maintain efficient travel through the corridor. These improvements will serve to enhance pedestrian, bike, and bus travel thereby contributing to the town center essential amenities needed for more connectivity between parcels. These improvements include adding an 8-foot shared use path along the west roadway, a 5-foot sidewalk along the east roadway, bus pull-offs, pedestrian crosswalks, intersection improvements, lighting and landscaping improvements, and the reconstruction of the lower portion of the roadway to eliminate the unsafe grade. As part of the reconstruction of Killington Road, upgrades will be made to the stormwater management system to better control flows and provide for enhanced treatment.

Additionally, the intersection of Killington Road and East Mountain Road may be redesigned to include a roundabout. Road H and Old Mill Road will be upgraded to provide secondary access in the event the roundabout is blocked. The Town will assume ownership of the unowned sections described above, plus the two secondary Roads know as Road H and Old Mill Road.

- **Killington Road Phase 1:** Lookout to Vale Road; East Mtn. Road to the Grand; Road H/Old Mill Road; Anthony Way to Route 4.
- **Killington Road Phase 2:** Lookout - Dean Hill Road.
- **Killington Road Phase 3:** Dean Hill Road - West Hill Road
- **Killington Road Phase 4:** West Hill Road - Anthony Way

Summary of Infrastructure and Other Costs:

Conceptual Project:	Construction/ Soft Costs
Water System -- Phase 1	\$26,675,811
Killington Road -- Phase 1	\$14,010,593
Killington Road -- Phase 2	\$7,497,638
Killington Road -- Phase 3	\$7,453,212
Killington Road -- Phase 4	\$6,689,837
Subtotal	\$62,327,091
Other Costs:	
Financing Costs	\$19,819,008
Related Costs	\$930,150
Total Estimated TIF Revenue Required:	\$83,076,249

C. Real Property Development/Redevelopment:

As a result of the implementation of the TIF District and the resultant private real property development, the tax base will expand considerably over the next twenty years. The TIF Plan describes the development opportunities by Six Peaks Killington and is anticipated to include 36,622 sq. ft. of commercial/retail spaces, 268 condo units, 46 townhomes, 9 single-family homes, and a 140-room hotel. The added commercial and retail activity will also provide additional state tax revenues through income, sales and use, and payroll taxes. Six Peaks Killington will be constructed in consecutive phases based on pre-sales and absorption as units are sold and square footage is occupied.

D. Grand List Value and Incremental Revenues:

The total assessed value of all the parcels within the TIF District is \$12,989,730 (2021). Killington estimates the grand list will increase by \$285.5 million due to the projected private developments, which is estimated to generate \$115.5 million in incremental property tax revenues (\$26.5 million municipal and \$89 million education) during over the life of the District, estimated to be 2023-2042.

Killington's TIF District application requests splitting the incremental Education Property Tax incremental revenues 70%/30% and Municipal Property Tax incremental revenues 85%/15%. With these shares, the retention periods, and the projected build out schedule, \$84.8 million in incremental property tax revenue would be available to service TIF infrastructure debt and pay related costs. Total infrastructure costs are estimated at \$62.3 million and the town projects about \$0 in non-TIF revenue. Total principal debt will be \$62.75 million, plus \$19.82 million in interest for total debt of \$82.57 million to be covered by the expected TIF revenue with a margin of \$1.32 million, a 97.3% debt to revenue ratio. While this is enough revenue to cover potential debt, the municipality will

have deficits in the first few years due the timing of debt versus improvements and development, which cause a delay in revenue generation.

As previously noted, the Town of Killington has not identified other resources of revenue at this time that could be potentially used to help pay for improvement costs, but they have stated that they are actively pursuing other sources of funding for the improvement projects, particularly for the water system project. A potential source of funding that has been identified is the American Rescue Plan Act (ARPA) through the Agency of Natural Resources (ANR) to assist in the first phase of the water system. VEPC staff were notified by ANR on June 8, 2022, that Killington had received a pre-award notification for \$2.3 million in funding for their water project.

III. TIF Revenue and Debt Summary:

Town of Killington TIF District Summary of Revenue and Debt	
Original Taxable Value (2022):	
Total Base Taxable Value (Original Taxable Value)	\$12,989,730
Homestead	\$0
Non-Homestead	\$12,989,730
Total Base Annual Property Tax Revenues	\$304,556
Municipal	\$69,910
Education Total	\$234,646
Homestead	\$0
Non-Homestead	\$234,646
Projected Revenue:	
Total Estimated Incremental Property Tax Revenue	\$115,492,490
Municipal Increment	\$26,499,289
Total Education Increment	\$88,993,201
Homestead	\$22,287,074
Non-Homestead	\$66,706,127
Incremental Revenue Split	
Total Incremental Revenue to Service TIF Debt	\$84,819,637
Municipal to TIF (85%)	\$22,524,396
Education to TIF (70%)	\$62,295,241
Total Incremental Revenue to Municipal General Fund (15%)	\$3,974,893
Total Incremental Revenue to Education Fund (30%)	\$26,697,960
Projected Improvement Costs	
Total Estimated Costs	\$63,257,241
Estimated Improvement Costs	\$62,327,091
Less: Estimated Non-TIF Sources of Revenue	\$0
Related Costs	\$930,150
Total Debt Service	\$82,569,008
Total to be Financed (Principal)	\$62,750,000
Total Estimated Cost of Financing (Interest)	\$19,819,008
Potential Excess Revenue (End of Life of the District)	\$1,320,479

IV. Timeline:

A. **Application Timeline:**

Municipal Notice of Intent to Apply Filed:	November 5, 2021
Earliest Date Application Could be Filed:	January 4, 2022
Municipal Notice of Hearing on TIF District Plan:	November 22, 2021
Municipal Hearing(s) on TIF District Creation and Plan:	January 4, 2022
Municipal Legislative Body Vote on TIF District Creation:	January 4, 2022
Municipal Legislative Body Vote on TIF District Plan:	January 4, 2022
TIF Plan Filed and Recorded with Town Clerk:	January 5, 2022
Assessed Values Certified by Town Assessor:	January 4, 2022
Life of TIF District Starts:	April 1, 2022
TIF District Application Filed with VEPC:	January 5, 2022
Application Certified as Administratively Complete:	January 7, 2022
Preliminary Review by VEPC	January 27, 2022
Public Comment	January 27, 2022
Continued Review of Application	March 3, 2022
TIF District Revised Application Filed with VEPC:	April 11, 2022
Municipal Notice of Hearing on Revised TIF District Plan:	April 15, 2022
Municipal Hearing(s) on Revised TIF District Plan:	May 2, 2022
Municipal Legislative Body Vote on Revised TIF District:	May 2, 2022
Municipal Legislative Body Vote on Revised TIF District Plan:	May 2, 2022
Revised TIF Plan Filed and Recorded with Town Clerk:	May 3, 2022
Revised Application Certified as Administratively Complete:	May 11, 2022
Preliminary Review of Revised Application by VEPC	May 26, 2022
Public Comment on Revised Application	May 26, 2022
Final Determination of TIF District Application by VEPC	June 30, 2022

B. **Power and Life of District Timeline:**

Date TIF District Life Began: (12:01 a.m. on):	April 1, 2022
Deadline to Incur Debt to Avoid Termination (Unless extended by VEPC):	March 31, 2027
Deadline to Incur Debt That Can be Paid with Incremental TIF District Revenues:	March 31, 2032
Period During Which Any TIF Debt Must be Retired:	As Authorized by Select Board
Length of Debt Service for each Debt instrument:	As Authorized by Select Board
Twenty Year Period During Which Incremental Municipal and Education Property Tax Revenues May be Retained to Finance TIF District Debt and Related Costs:	20 years from the year first TIF debt incurred
Date TIF District Ends	Date/Hour all TIF debt and related costs are retired

V. TIF District Application Review Criteria - Summary:

(Note that this is a summary only and each determination is subject to the conditions, limitations, and/or exclusions detailed in Section VI.)

- A. Purpose:** The Council determines that the Killington TIF District Plan, as presented, fulfills the statutory purpose of a TIF District as required by 24 VSA §1893. The Council conditions this determination with a requirement that the annual reporting on the TIF District includes job creation data with detailed information on employers such as type of business (NAICS code), number of employees, and previous location (if any).
- B. But For Criteria:** The Council determines that the Killington TIF District Plan, as presented, meets the But For criteria as required by 32 VSA §5404a(h)(1).
- C. Nexus:** The Council determines that for the Killington TIF District, nexus is established between the proposed infrastructure projects and the real property development projects as required by 24 VSA §1894(e).
- D. Proportionality:** The Council determines that proportionality is set at 100% for all infrastructure projects as presented in the Killington TIF District application as required by 24 VSA §1894(e), with the condition that the Town seek any available and appropriate non-TIF funding sources to offset TIF revenue.
- E. Process Criteria:** The Council determines that the Killington TIF District has met the Process Criteria as required by 24 VSA §1892 and 32 VSA §5404a(h)(2) and approve 70% share of the education property tax increment, and 85% share of the municipal property tax increment.
- F. Location Criteria:** The Council determines that the Killington TIF District meets one of the three economic distress criteria contained in 32 VSA §5404a(h)(3)(c) and the development proposed within the TIF District is compact or high density. Therefore, the Council determines the TIF District meets two of three Location Criteria as stated in 32 VSA §5404a(h)(3), specifically (A) and (C).
- G. Project Criteria:** The Council determines that the Killington TIF District meets the Project Criterion regarding “Need” as stated in 32 VSA §5404a(h)(4)(A), Project Criterion regarding “Business Development” as stated in 32 VSA §5404a(h)(4)(D), and Project Criterion regarding “Transportation” as stated in 32 VSA §5404a(h)(4)(E).

H. Market and Fiscal Viability: The Council determines that the TIF District Plan and TIF Financing Plan, as presented, generally indicates fiscal and market viability. However, this determination is considered partial and fiscal viability will be re-examined incrementally as subsequent project development phases are filed by the Town of Killington, and with the receipt of additional information and data, including a complete and fully executed development agreement and any additional corroborating information or developments. The Town of Killington is also required to seek any and all appropriate non-TIF revenue sources, such as state and federal grants.

I. TIF District Financing Plan: The Council determines that the TIF Financing Plan is consistent with the TIF District Plan, as presented. However, this determination is considered partial, and the viability and reasonableness of non-bonded debt will be determined as subsequent project phases are filed by the Town of Killington.

VI. TIF District Application Review Criteria: Detail of Determinations:

(Note that further detail on the Review Criteria may be found in the Final VEPC Staff Write-up and any documents referenced there, as well as the third-party analysis by EPR.)

A. Purpose: (24 VSA §1893)

“...to provide revenues for improvements that serve the district and related costs, which will stimulate development or redevelopment within the district, provide for employment opportunities, improve and broaden the tax base, or enhance the general economic vitality of the municipality, the region, or the state.”

“provide revenues:” The municipality projects that during the 20-year Education Tax Increment Retention Period (estimated to be 2023-2042), the development that is expected to occur will generate a total of \$89 million in incremental Education Property Tax revenues. The municipality proposes to split the incremental Education Property Tax revenues 70%/30% and Municipal Property Tax revenues 85%/15%. With these shares, the retention periods, and based on the projected build out schedule, \$84.8 million in incremental property tax revenue would be generated to service TIF infrastructure debt and pay related costs. Total infrastructure costs are estimated at \$62.3 million and the town projects about \$0 in non-TIF revenue. Total principal debt will be \$62.75 million, plus \$19.82 million in interest for total debt of \$82.57 million to be covered by the expected TIF revenue with a margin of \$1.32 million.

“improvements that serve the District:” All the proposed public investments serve the TIF District, with some components of the public investments being located outside of the District. Town officials, developers, and others providing comments to the Council have stated that the investments are necessary to encourage and enable, the projected private developments within the TIF District.

“stimulate development and redevelopment within the District:” The expected development includes a mix of retail, service, commercial, and residential. The application includes letters from developers, a cross-reference of the infrastructure that is required for each project and testimony was also provided at the January 27, 2022, and May 26, 2022, public hearings regarding the need for public infrastructure to stimulate and encourage these projects to occur.

“provide for employment opportunities:” According to data provided by the applicant (See Table 7K in the TIF Data Workbook), there is currently one business within the TIF

District with about 360 full-time year-round employees. During the winter season, the number of full-time employees increases to 1,400. The development projects will provide additional jobs primarily in hospitality and tourism. In addition, Killington is proposing to meet the Business Development project criteria which requires at least one entirely new business or business operation, or expansion of an existing business within the TIF District.

“improve and broaden the tax base and enhance general economic vitality of the municipality, the region, or the state.” As a result of the implementation of the TIF District and the resultant private real property development, the tax base will expand considerably over the next twenty years. Killington and the State will realize incremental tax revenues. Prior to the TIF, the annual base of property tax revenue from the TIF District going to Killington and the Education Fund is \$304,556 million per year (\$69,910 municipal and \$234,646 education). During the 20-year TIF retention period, because of the 70/30 share of the increment, the 30% share of the education increment is estimated to send \$26.7 million in total incremental property tax revenues to the Education Fund. After the retention period, the annual property tax revenue to the municipality and the education fund is estimated to increase by \$6,697,751 annually. The TIF Plan describes the development opportunities by Six Peaks Killington and is anticipated to include 36,622 sq. ft. of commercial/retail spaces, 268 condo units, 46 townhomes, 9 single-family homes, and a 140-room hotel. The added commercial and retail activity will also provide additional state tax revenues through income, sales and use, and payroll taxes.

Determination to be made:

Will the TIF District generate incremental revenues sufficient to finance public infrastructure that serves the District and which stimulates real property development that will add jobs, broaden the tax base, or enhance the general economic vitality of the municipality, region, or state?

Determination:

Therefore, based on the Killington TIF District Plan and TIF Financing Plan as presented and amended, and testimony before the Council, the Council determines that the Killington TIF District meets the statutory purpose of a TIF District as stated in 24 VSA §1893. The Council conditions this determination with annual reporting that includes job creation data with detailed information on employers such as type of business (NAICS code), number of employees, and previous location (if any), for tracking purposes only.

B. But For:

(32 VSA §5404a(h)(1))

“Review each application to determine that the new real property development would not have occurred or would have occurred in a significantly different and less desirable manner but for the proposed utilization of the incremental tax revenues. A district created in a designated growth center under 24 V.S.A. § 2793c shall be deemed to have complied with this subdivision. The review shall take into account:

(A) The amount of additional time, if any, needed to complete the proposed development within the tax increment district and the amount of additional cost that might be incurred if the project were to proceed without education property tax increment financing.

(B) How the proposed development components and size would differ, if at all, without education property tax increment financing.

(C) The amount of additional revenue expected to be generated as a result of the proposed development; the percentage of that revenue that shall be paid to the education fund; the percentage that shall be paid to the municipality; and the percentage of the revenue paid to the municipality that shall be used to pay the municipal tax increment bonds.”

Determination to be made:

A positive But For determination means that the State is getting infrastructure and development, and more importantly, the resulting incremental revenues, which would not have occurred without the ability of the applicant to utilize incremental property tax revenue. Review of this criterion is similar to the review for the “Need” Project Criterion. One of the major differences, however, is that the But For determination is two-fold. The Council must determine:

- Whether the infrastructure development would occur without the utilization of the incremental education tax revenues; and
- Whether the real property development would occur without the infrastructure development.

Both findings can also be met if the development would occur in a significantly different and less desirable manner.

Can Killington build this level of infrastructure without the incremental property tax revenues?

In their analysis, EPR states, “The Killington Master TIF application plan narrative clearly states that the needed infrastructure investments would not otherwise occur (and indeed have not actually occurred in the past) without the upfront infrastructure development funding assistance that is to be provided through the Master TIF application approval subject to subsequent phased filings with further details regarding the plans for issuance

of municipal TIF-supported debt. The application cites as evidence the multiple previous unsuccessful attempts to execute on many past development plans in and around the base of the ski mountain since the 1980s—all of which have failed because of the substantial upfront financial costs associated with building a municipal-like water system that would be capable of serving the planned private developments. In particular, the narrative speaks to the lack of significant private development at the base of the mountain and constraints on further development along the Killington access road down to the intersection of Route 4—primarily because of the lack of upfront and catalyzing water and transportation infrastructure development.”

Would the private development and redevelopment occur without the proposed infrastructure?

In their analysis, EPR states, “The application materials present information and analysis from the Town’s most recent private partner (S P Land), which includes a multi-year, comprehensive, and already permitted ski village development plan which has clearly identified the need for a municipal water system as the key up-front, private sector development catalyst for that under-developed area. The application also extends that same argument in support of the need for additional transportation infrastructure investments to be financed by the Master TIF approval, and the subsequent phased filings for the municipal debt issuance associated with road infrastructure improvements to the Killington Access Road corridor through the border of the amended TIF District from the base of the mountain towards U.S. Route 4.”

“The application does not contain specific information about the scale, nature and timing of additional private investments, which is represented as potentially catalyzed by the road improvements and eventual completion of municipal water system access (Phases 2, 3, and 4, which are not included in TIF-funded infrastructure projects) along the Killington Access Road, other than to indicate that such development is likely should the applicant receive Master TIF approval to use the TIF financing tool. Even though the updated Master TIF application only includes Phase 1 of the water system improvements, the application also emphasizes the substantial water quality enhancements that would occur with the potential access to a municipal water system along the Killington Access Road. The Master TIF application also emphasizes the “complete streets,” multimodal, and safety enhancing nature of the transportation infrastructure investments Phase 1 through Phase 4 included in the Master TIF application—again assuming sufficient levels of positive “Master TIF” findings to enable the Town to utilize the State TIF financing tool.”

In conclusion, EPR states, “From the above and based on the information and analysis provided by the Town, EPR believes there is sufficient information and analysis in the

application to conclude that, without the significant infrastructure investments into the amended TIF District area's water and transportation systems, the private development which would generate the incremental property tax revenue would not likely occur as envisioned, and would very likely proceed in a materially different and less desirable manner than is proposed in the Master TIF application materials. In fact, without the municipal water system and transportation improvements, the only presently available alternative is for water requirements to be met through a system of on-site, individual wells (despite existing water quality issues), and for development to occur along the Town's major transportation corridor that already has safety issues, and includes a substantial amount of lower density, strip-like development."

Determination:

Therefore, based on the Killington TIF District Plan and TIF Financing Plan as presented and amended, third party analysis, and testimony before the Council, the Council determines that it is very unlikely that most of the proposed infrastructure would be built without the use of incremental property tax revenue and without the public provision of certain infrastructure, the expected private development would not occur or would occur in a significantly different and less desirable manner, and therefore, the But For is met.

C. Nexus:

(VSA 24 §1897)

"The legislative body may pledge and appropriate in equal proportion any part or all of the state and municipal tax increments received from properties contained within the tax increment financing district for the financing for improvements and for related costs in the same proportion by which the infrastructure or related costs directly serve the district at the time of approval of the project financing by the council, and in the case of infrastructure essential to the development of the district that does not reasonably lend itself to a proportionality formula, the council shall apply a rough proportionality and rational nexus test..."

Determination to be made:

The actual location of expected infrastructure improvements does not matter. Infrastructure can be located outside the TIF District, providing that the Council determines that there is nexus to the projected real property development and/or the purpose and goals of the TIF District. However, the portion of the infrastructure costs that can be paid with TIF revenues must be in proportion to the extent that the infrastructure serves the District. There must be nexus or connection between the proposed infrastructure and the development that is expected to occur.

Nexus can be viewed from several perspectives:

First, from the infrastructure perspective: What areas within the TIF District are being served by which proposed infrastructure projects? If there is infrastructure proposed that does not serve the TIF District or would not have anything to do with causing the development to occur, the Council should question whether it be financed, in any proportion, by TIF revenues.

Second, from the TIF area perspective: Are there areas (parcels) included in the TIF District that apparently are not being served by any of the infrastructure projects? Or are there areas that are already developed to their full market potential? If so, the Council should ask why those areas are included in the TIF District.

Finally, from the development perspective: Are there private development projects that are expected to occur regardless of the infrastructure improvements? If so, there may be an issue with the But For and the Council should ask whether there is truly any nexus between the infrastructure and the development project if the project is already developed or started.

Determination:

In their analysis, EPR states, “We observe that the wells, pumping, piping, and storage infrastructure which are part of Phase 1 are planned as primary components of the water system which provide water services to the area within the amended TIF district. Lack of sufficient and affordable water sources have historically been a significant barrier to private sector development within the district area—even though most of that infrastructure is physically located outside of the proposed amended TIF district. The amended Master TIF application plan retains Phase 1 through Phase 4 of the proposed improvements to the road infrastructure, and much of Phase 2 through 4 is located outside of the amended Master TIF area. Since all Phases of the road improvement project are also necessary to improve capacity, safety, and access to and along the Killington Access Road, which is the main transportation artery in the immediate area of the district and one of the key transportation assets of the Town and the Killington Resort as a whole, the nexus with amended Master TIF area development appears established.”

EPR continues in their review to recommend, “that the Council make positive Master TIF findings that the entirety of the area within the amended TIF district is to be served by both the water system and road infrastructure improvements included in the Master TIF plan. The absence of both infrastructure improvement projects is also clearly represented by the applicant and supporting partners as two of the primary barriers to the parcels contained within reaching their full development potential.”

“For these reasons, EPR believes it is reasonable for the Council to make positive findings under this criterion; thereby concluding that the elements of the proposed TIF development plan, including all infrastructure projects and subsequent private

development projects, do satisfy the Nexus requirements for the planned TIF-financed infrastructure developments as outlined in the Master TIF application.”

Therefore, based on the Killington TIF District Plan as presented and amended, third party analysis, and testimony before the Council, the Council determines that nexus exists, to a sufficient degree, between the proposed public infrastructure projects, the included parcels, and the expected private sector developments.

D. Proportionality:

(24 VSA §1897)

“ The legislative body may pledge and appropriate in equal proportion any part or all of the state and municipal tax increments received from properties contained within the tax increment financing district for the financing for improvements and for related costs in the same proportion by which the infrastructure or related costs directly serve the district at the time of approval of the project financing by the council, and in the case of infrastructure essential to the development of the district that does not reasonably lend itself to a proportionality formula, the council shall apply a rough proportionality and rational nexus test...”

Determination to be made:

What proportion of proposed infrastructure costs can be financed with TIF revenue based on the portion that serves the TIF District? Remember that the proportionality you are determining is what proportion serves the TIF District, regardless of the non-TIF revenue that might be available to the municipality. The proportionality determined by the Council is the maximum level of total project cost that can be financed with TIF revenue.

Determination

Killington has proposed that all infrastructure improvements be approved with 100% proportionality.

The Council’s scoring matrix shows the following:

- Level 1: **Inter Municipal** – The infrastructure will serve only the Town of Killington.
- Level 2: **Location** – While some components of the infrastructure projects are physically located outside of the TIF District, the improvements will 100% serve the TIF District.
- Level 3: **Utilization** – This criterion is the most uncertain. To some extent, some of the infrastructure improvements will benefit and be utilized by developers, local and transient public, and residents other than the clients, residents, and persons utilizing the specific real property projects expected to be developed because of the TIF. This is especially true for the transportation improvements.

- Level 4: **Scoring** – Using the Council’s informal scoring matrix, all projects fall within the scores (9-16) that the Council determined could be considered for 100% proportionality.

In their analysis, EPR states, “...three factors contribute to the calculation of the proportionality estimate: (1) percent of infrastructure that is constructed within the TIF district boundaries; (2) the percent of use of infrastructure within the TIF district; and (3) the percent of increased value that accrues to properties within the TIF district. The first two factors can be determined objectively and, in both cases, the applicant’s representation of the percent of the infrastructure investment both within the boundaries of the proposed TIF district (as amended by the Master TIF application) and the percent of the proposed amended TIF district which will be served by the improvements appears to be reasonable and accurate. While a significant and vital portion of the Water System Phase 1 project, namely the water wells, pumps, and storage components, is located outside of the district boundary, it is also true that 100% of the proposed, amended TIF district’s geography will be served by these improvements. In addition, it is also true that the other 3 remaining phases of the planned Water System, which are not part of the amended TIF plan submitted for Master TIF approval, and will not be funded through TIF, are 100% dependent on the completion of the Phase 1 portion of the infrastructure development plan.”

“The third factor requires some subjective reasoning in order for the Council to make positive Master TIF findings under this criterion. However, it is worth noting that it is widely agreed upon, by both public and private stakeholders, that additional private sector development activity and the corresponding property value increases, will be dependent upon the infrastructure investments being made into public municipal water and transportation infrastructure improvements as presented in the updated Master TIF application’s plan.”

Therefore, based on the Killington TIF District Plan as presented and amended, third party analysis, and testimony before the Council, the Council determines that the maximum proportionality is set at 100% for each infrastructure project as presented in the TIF District application, with the condition that the Town of Killington seek any available and appropriate non-TIF funding sources to offset TIF revenue.

E. Process Criteria:

24 VSA §1892

“(a) Upon a finding that such action will serve the public purposes of this subchapter, the legislative body of any municipality may create within its jurisdiction, special district or districts to be known as tax increment financing districts. They shall describe the district by its boundaries and the properties

therein and shall show the district boundary on a plan entitled "Proposed Tax Increment Financing District (municipal name), Vermont." The legislative body shall hold one or more public hearings, after public notice, on the proposed plan. (b) When adopted by the act of the legislative body of that municipality, the plan shall be recorded with the municipal clerk and lister or assessor."

And...

32 VSA §5404a(h)(2)

"Process requirements. Determine that each application meets all of the following four requirements:

(A) The municipality held public hearings and established a tax increment financing district in accordance with 24 V.S.A. §§ 1891-1900.

(B) The municipality has developed a tax increment financing district plan, including: a project description; a development financing plan; a pro forma projection of expected costs; a projection of revenues; a statement and demonstration that the project would not proceed without the allocation of a tax increment; evidence that the municipality is actively seeking or has obtained other sources of funding and investment; and a development schedule that includes a list, a cost estimate, and a schedule for public improvements and projected private development to occur as a result of the improvements.

(C) The municipality has approved or pledged the utilization of incremental municipal tax revenues for purposes of the district in the same proportion as the utilization of education property tax revenues approved by the Vermont economic progress council for the tax increment financing district.

(D) The proposed infrastructure improvements and the projected development or redevelopment are compatible with approved municipal and regional development plans, and the project has clear local and regional significance for employment, housing, and transportation improvements."

Determination to be Made:

Were statutory steps taken by municipality to create a TIF plan and a TIF District, including public input? Are all required elements included in the TIF Plan? Does the TIF Plan adhere to the local and regional plans? Did the municipality propose an appropriate share of municipal increment, and shall the requested level of education property tax increment be approved?

Determination:

Based on the evidence provided in the application and the revised application, VEPC staff has determined that all process criteria were met. Following the preparation of a TIF Plan and presentation of the plan at a public hearing on January 4, 2022, the municipality voted on a finding of purpose, voted to create the TIF District, certified a municipal share, and approved application to VEPC. The Original Taxable Value and TIF District Plan were appropriately certified and recorded by the Town Clerk.

Killington revised their TIF Plan and TIF Financing Plan based on recommendations made during the TIF Application review. Following the preparation of a revised TIF Plan and Financing Plan, and presentation of those plans at a public hearing on May 2, 2022, the municipality voted to approve the finding of purpose, voted to create the TIF District, certified a municipal share, and approved the revisions and submitted them to VEPC. The revised Original Taxable Value and TIF District Plan were appropriately certified and recorded by the Town Clerk.

The TIF District Plan includes all required elements. The municipality has certified that it is pledging 85% of incremental municipal property taxes. The municipality and regional planning commission certify, and the plans submitted support, that the proposed infrastructure improvements and the projected development are compatible with the approved municipal and regional development plans, and that the District has clear regional significance for employment, housing, and transportation improvements.

It should be noted that the April 1, 2022, Grand List will not be finalized until December 31, 2022. After that time, PVR will perform a complete review of the TIF District before it is “locked”, and tax increment can be retained following first incurrence of debt.

Therefore, based on the Killington TIF District Plan as presented and amended, and testimony before the Council, the Council determines that the Process Criteria as stated in 32 VSA §5404a(h)(2) for a TIF District have been met. Further, the Council approves the proposed 85% share of municipal property tax increment. Council approves the requested 70% share of education property tax increment as it is supported by the data and increment required for viability.

F. Location Criteria:

(32 VSA §5404a(h)(3))

“(3) Location criteria. Determine that each application meets at least two of the following three criteria:

(A) The development is:

(i) compact;

(ii) high density; or

(iii) located in or near existing industrial areas.

(B) The proposed district is within an approved growth center, designated downtown, designated village center, or new town center, or neighborhood development area.

(C) The development will occur in an area that is economically distressed, which for the purposes of this subdivision means that the municipality in which the area is located has at least one of the following:

(i) a median family income that is not more than 80 percent of the statewide median family income as reported by the Vermont Department of Taxes for the most recent year for which data are available;

(ii) an annual average unemployment rate that is at least one percent greater than the latest annual average statewide unemployment rate as reported by the Vermont Department of Labor; or

(iii) a median sales price for residential properties under six acres that is not more than 80 percent of the statewide median sales price for residential properties under six acres as reported by the Vermont Department of Taxes."

Determination to be Made:

Does the TIF District meet two of the three statutory location criteria?

Determination:

For Location Criteria A, VEPC uses Act 250 Criterion 9(L) Guidance to help determine if the proposed development is compact and high density. New construction is predominately vertical rather than horizontal, and configured to make efficient use of land and resources, is consistent with neighboring characteristics and scale and preserves green space. Densities are greater than existing and allowed densities in comparable areas of the municipality that are outside the TIF District, or, in cases of municipalities characterized predominately by areas of existing dense urban settlement, in-fill development and redevelopment of historic districts is encouraged.

For Location Criteria C, for the years for which data are available for 2022 TIF applications, Killington's annual average unemployment rate is 10.1%, which is at least 1 point higher than the statewide average (3.4% for 2021).

Therefore, based on the Killington TIF District Plan as presented and amended, and testimony before the Council, the Council finds that Killington meets at least one out of three economic distress indicators in Location Criterion C, as well as Location Criterion A.

G. Project Criteria:

(32 VSA §5404a(h)(4))

"Project criteria. Determine that the proposed development within a tax incentive financing district will accomplish at least three of the following five criteria:

(A) The development within the tax increment financing district clearly requires substantial public investment over and above the normal municipal operating or bonded debt expenditures.

(B) The development includes new or rehabilitated affordable housing as defined

in 24 VSA §4303.

(C) The project will affect the mitigation and redevelopment of a brownfield located within the district. For the purposes of this section, "brownfield" means an area in which a hazardous substance, pollutant, or contaminant is or may be present, and that situation is likely to complicate the expansion, development, redevelopment, or reuse of the property.

(D) The development will include at least one entirely new business or business operation or expansion of an existing business within the district, and this business will provide new, quality, full-time jobs that meet or exceed the prevailing wage for the region as reported by the department of labor.

(E) The development will enhance transportation by creating improved traffic patterns and flow or creating or improving public transportation systems."

The Killington Downtown TIF District application addressed Project Criteria A (Need), D (Business Development), and E (Transportation):

Project Criteria A: *"The development within the tax increment financing district clearly requires substantial public investment over and above the normal municipal operating or bonded debt expenditures."*

Determination to be made:

Does the proposed infrastructure development within the TIF District clearly require substantial public investment over and above the normal budget of the municipality or the normal bonded debt service of the municipality?

Review of this criterion is similar to the review for the "But For" criterion. In their review, EPR states, "The applicant has presented their annual municipal budget, capital budget, and debt service budget as required in the updated Master TIF application materials. In addition, as noted in the Interim Report of the VEPC Executive Director, the application narrative states that the \$62.3 million estimated total cost of the public infrastructure improvements is not affordable within the town's current and estimated future budget (see Table 1 below)."

Table 1: Town of Killington Proposed TIF Infrastructure Development Costs by Year

		Total Real Infrastructure Costs*
Water Phase 1	2023	\$26,675,811
Road Phase 1	2023	\$14,010,593
Road Phase 2	2025	\$7,497,638
Road Phase 3	2027	\$7,453,212
Road Phase 4	2029	\$6,689,837
	Total	\$62,327,091

*Includes Annual 2.5% cost escalation as per applicant assumption

“Also, as part of our review, EPR compared the budget and estimated project costs and confirmed this statement, finding that the applicant’s narrative on this issue is both reasonable and accurate in stating that the Town lacks the financial capacity within its current operating and capital budgets to undertake these proposed infrastructure enhancement investments in the updated Master TIF application plan according to all available information.”

“For illustrative purposes, Table 2 (below) shows the historical and prospective operating and capital budgets for the Town which clearly demonstrates that these proposed infrastructure development expenditures are well beyond the financial capacity of the applicant municipality—based on previous and current municipal and capital budgets dating back to the 2013 fiscal year—as well as prospectively as demonstrated through an examination of the estimated operating and capital budgets of the Town for the 2022 and 2023 fiscal years (as set forth in the updated Master TIF application materials).”

Table 2: Town of Killington Annual Municipal Budget Summary FY 2013 - 2023

	Year	Total Municipal Budget	General Operating Budget	Capital Plan	Total Annual Taxpayer Debt Service
Year of application	2022				
Next Budget Year	2023	\$6,091,938	\$4,441,401	\$1,650,537	\$883,943
Current Budget Year	2022	\$5,463,186	\$3,963,983	\$1,499,203	\$892,789
Current, -1	2021	\$4,788,644	\$3,401,220	\$1,387,424	\$524,881
Current, -2	2020	\$4,676,767	\$3,371,170	\$1,305,597	\$627,379
Current, -3	2019	\$4,401,641	\$3,533,055	\$868,586	\$654,480
Current, -4	2018	\$4,508,505	\$3,781,312	\$727,193	\$671,662
Current, -5	2017	\$4,155,339	\$3,570,190	\$585,149	\$679,209
Current, -6	2016	\$6,336,139	\$5,395,889	\$940,250	\$821,572
Current, -7	2015	\$0	\$0	\$0	\$0
Current, -8	2014	\$4,042,016	\$3,387,289	\$654,727	\$640,456
Current, -9	2013	\$4,952,517	\$4,537,017	\$415,500	\$690,063
AVERAGE BUDGET		\$4,492,427		Average Debt	\$644,221
NOTES:					
2016 is high because it contained 18 months of activity when switching fiscal year. 2015 is blank due to this change.					
2013 figures include \$186,675 related to FEMA Flood Reimbursement, with a related FEMA Recovery Expense of \$843,112					

“In addition to the above finding that the aggregate infrastructure expenditure amounts would be significantly beyond the fiscal capacity of the Town, it also seems clear from the updated Master TIF application materials that each sequential infrastructure development phase—for both the municipal water investments and for the transportation improvements—would likewise require substantial public investment over and above the normal operating and capital budgets of the municipality.”

“Of additional importance to this discussion and analysis is the relative debt burden borne by the Town of Killington’s taxpayers. Table 3 (below) shows the relative debt

burden of the Town and selected peer municipalities, with data collected for the 2021 fiscal year from the relevant annual reports of each municipality (with fiscal year 2021 being the latest data available as of the time of this review).”

Table 3: Total Bond Debt Burden of Selected Municipalities FY 2021

Debt Burden by Municipality	Total Long-Term Debt	Level of Municipal Debt Per Capita
Stowe	\$ 31,524,461	\$ 6,036
Newport Town	\$ 5,108,170	\$ 3,347
Hartford	\$ 22,813,505	\$ 2,135
St. Albans City	\$ 37,481,308	\$ 5,450
Bennington	\$ 24,907,333	\$ 667
Barre City	\$ 13,410,492	\$ 1,579
Killington	\$ 883,943	\$ 628

“While the data does appear to indicate that the Town could take on some additional general obligation debt without being in a disadvantageous position, it seems clear that funding these expenditures through the issuance of general obligation debt would require a dramatic more than two-fold increase in the Town’s municipal tax rate. This additional burden would be large relative to the applicant’s selected peer municipalities and would likely represent a significant increase in burden relative to its median household income (see Tables 4 and 5 below). Table 4 below shows median household income levels of multiple peer geographic areas relevant for comparison to the applicant for the most recent year where comparable data are available. Table 5 shows the comparative municipal tax rates for those peer communities as well based on these data.”

“To further place the Killington municipal tax rate into the proper context, a 10-cent increase in the municipal tax rate for the Town would roughly result in an increase of available municipal revenues of close to \$1.0 million per year. To fund these projected infrastructure investments via the Town’s municipal tax rate would require a more than roughly 60 cent increase in the municipal tax rate—a more than doubling in the municipal tax rate to a level that would result in a tax rate in excess of \$1.00. That would in fact appear to be a municipal tax rate level well above the Town’s peers and correspond to a level that unacceptable and unsustainable.”

“EPR staff therefore believes that the preponderance of the evidence indicates that the levels of the proposed infrastructure development expenditures as set forth in the updated Master TIF application plan would clearly require substantial public investment over and above the normal operating and capital budgets of the municipality. These data also indicate that the above infrastructure development expenditures would also involve a level of investment expenditures substantially over and above or the normal bonded debt service capacity of the applicant municipality. As a result, EPR believes the Council could make positive findings under this criterion based on our analysis of information

and data provided by the applicant and using data from other publicly available sources.”

Table 4: Median Household Income by Geography, 2019

Municipality	Median Household Income (2019; U.S. Census)
Stowe	\$ 59,770
Hartford	\$ 64,493
St. Albans City	\$ 53,647
Bennington	\$ 50,892
Barre City	\$ 38,142
Killington	\$ 64,231
Rutland County	\$ 56,139
Chittenden County	\$ 73,647
State of Vermont	\$ 61,973

Table 5: Effective Municipal Tax Rate, FY 2021

Municipality	Effective Municipal Tax Rate
Stowe	0.3441
Newport Town	0.5503
Hartford	0.8904
St. Albans City	0.854
Bennington	0.6944
Barre City	1.811
Killington	0.4148

Determination:

Based on the Killington TIF District Plan and TIF Financing Plan as presented and amended, third party analysis, and testimony before the Council, the Council determines that the Project Criterion as stated in 32 VSA §5404a(h)(4)(A) is met.

Project Criteria D: *“The development will include at least one entirely new business or business operation or expansion of an existing business within the district, and this business will provide new, quality, full-time jobs that meet or exceed the prevailing wage for the region as reported by the department of labor.”*

Determination to be made:

Will the real property development result in at least one new business operation within the TIF District, or an expansion of an existing business that is already within the District. Will the business create new, quality, full-time jobs that meet or exceed the prevailing wage for the Killington region as reported by the Department of labor?

Below are VEPC’s published [administrative definitions](#) in the TIF Application Instructions to further refine the requirements of this TIF criteria:

"new business or business operation": A business that does not operate in Vermont at the time the District infrastructure is developed and will not operate in Vermont until the infrastructure is provided within the TIF District, or a new operation of a business that exists within Vermont at the time the TIF District infrastructure is developed, or the addition of new jobs by a business that does operate within the TIF District prior to the infrastructure development. Moving an existing business from other locations in Vermont to the TIF District does not constitute a "new business." Satisfaction of the criteria is reliant on the creation of new jobs whether by a new business to Vermont, a start-up, or the addition of a new division, subsidiary or location of an existing business without the reduction of employment at the business operations within Vermont at the time the infrastructure is developed.

"provide new, quality, full-time jobs": The new business or the expansion of the existing business will generate new jobs at which the employees work at least 37 hours per week and will not be temporary or seasonal.

"prevailing wage for the region as reported by the department of labor": The wages for the full-time jobs created must meet or exceed the prevailing wage as reported by the Vermont Department of Labor in their QCEW data as the "Annual Average Wage" for the county in which the TIF District is located and for the NAICS code for the business involved.

In their review, EPR states, "Under TIF program rules at least one or more new jobs created as a result of the TIF's activities must "meet or exceed the prevailing wages for the region as reported by the Vermont Department of Labor" ("VTDOL"). Since the economic study was performed in 2011 dollar values, Form 7 section J of the application materials also provides an estimate of current dollar (2022) total wages from the retail, hospitality, and property management jobs created by the private development in the TIF plan, which equates to an average annual wage of \$23,922 for those 255 hospitality-related jobs, and \$39,250 for the property management jobs. The approximate economic region analyzed for this metric review is Rutland County, Vermont, which comprises the Rutland Micropolitan Statistical Area, the economic region within which Killington is located.¹ The Vermont Department of Labor does not provide data on prevailing wages at the county level, but the U.S. Bureau of Labor Statistics monitors labor market

¹ As designated by the Executive Office of the President of the United States: Office of Management and Budget.

³ Even though annual estimates and data are presented for two different years, it is likely that QCEW data for calendar year 2022 (when they are available in March 2023), will increase relative to levels presented here for calendar year 2021, further exacerbating the perceived gap between the wage levels estimated by the Economic Study and the prevailing wages presented for the Killington region in Table 6.

conditions at the county level through the Quarterly Census of Employment and Wages (“QCEW”) and provides much of the data underlying Vermont Department of Labor statistics. The most recent publication available on QCEW annual average data is for calendar year 2021 at the State level and the County level and is presented in Table 6 (see below). Chittenden County and the Vermont Total are presented only for the purposes of informational comparison.”

Table 6: Prevailing Regional Wages by Industry Sector and Geography^{5 3}

Employment Sector	Economic Study Estimate (\$2022)	2021 Annual QCEW		
		Rutland County	Chittenden County	Vermont Total
All Private Sectors		\$ 51,172	\$ 63,912	\$ 55,680
Retail Trade	\$ 23,922	\$ 35,937	\$ 40,235	\$ 38,335
Accommodations & Food Services		\$ 25,849	\$ 27,084	\$ 27,736
Real Estate	\$ 39,250	\$ 46,698	\$ 59,530	\$ 54,092

“From the data presented, the estimated wages do not appear to meet or exceed prevailing wage data for the region. However, it is important to note three major issues undercutting the reliability of this analysis: (1) that the wages presented in the economic study are estimated by an economic impact model and not sourced from any business or staffing plan presented with the updated Master TIF application; (2) the wages estimated by the economic impact model are based on labor market characteristics and conditions which existed back in 2011, over a decade ago, and were then escalated to current dollar values – greatly distorting the accuracy of a comparison with actual recent data on wages from the QCEW; and (3) the estimated wage levels represent an average wage for all employees in the entire economic sector, indicating that the figure presented is a midpoint estimate – thus, there will be multiple employees collecting wages which are both higher and lower than the estimated level presented in Table 6. Technically speaking, according to TIF rules, wages for only one employee must meet or exceed “prevailing wages for the region,” and it is very likely that at least one, if not many, employees will collect wages which meet the criteria.”

Determination:

Based on the Killington TIF District Plan and TIF Financing Plan as presented and amended, third party analysis, and testimony before the Council, the Council determines that the Project Criterion as stated in 32 VSA §5404a(h)(4)(D) is met.

Project Criteria E: *“The development will enhance transportation by creating improved traffic patterns and flow or creating or improving public transportation systems.”*

Determination to be made:

Will the public infrastructure projects and the overall TIF development create improved traffic patterns and flow or create improved public transportation systems?

The improvement plan for Killington Road was described in Killington’s TIF District Application. Public transportation systems will be designed to create complete streets with the addition of bus stops, an 8-foot shared use path for pedestrians and cyclists, a pedestrian sidewalk on the opposite side of road, and added crosswalks. The transportation improvements identified in Killington’s narrative and in the VHB study will improve traffic patterns and flow along Killington Road to carry the additional traffic which will be generated due to the private developments that will occur at the south end of Killington Road, within the TIF District.

The regional planning commission has noted the benefits of the improvements to Killington Road in their letter, stating that, “Killington Road is identified as a high crash location with unsafe segments, and improvements to this roadway is identified in this plan,” (the Regional Plan).

The Vermont Agency of Transportation (VTrans) has reviewed the scope and project costs for the proposed transportation improvements along Killington Road. VTrans concluded that the total costs for the transportation improvements were underestimated, and Killington updated these costs in their revised TIF Financing Plan.

Determination:

Based on the Killington TIF District Plan and TIF Financing Plan as presented and amended, and testimony before the Council, the Council determines that the Project Criterion as stated in 32 VSA §5404a(h)(4)(E) is met.

H. Market and Fiscal Viability:

While not a criterion directly required in statute for the application to meet, determining if the TIF District has market and fiscal viability is an implied and prudent task for the Council.

Determination to be made:

Does the TIF Plan have fiscal viability? That is, will the proposed private sector development generate sufficient tax revenues to cover the costs of infrastructure? Does the TIF Plan have market viability? That is, what is the likelihood that the proposed development/redevelopment will occur at the scope and on the timeline presented, thereby generating sufficient incremental revenue during the retention period?

In their review, EPR states, “According to the projections provided by the applicant in the latest updated version of the Master TIF Financing Plan, total infrastructure project cost is estimated to be \$62.3 million. Even though there is the potential for State and Federal Grant allocations, the applicant’s financing plan does not rely on any such grant funding in order to make the financial plan work in making “an appropriately conservative case,” stating that the addition of potential grant funding would only serve to decrease the amount of debt incurred and, correspondingly, decrease the financial risk of the Master TIF financing plan to that degree. Total bond principal is then estimated in the updated Master TIF application to be \$62.8 million after rounding adjustments. In addition, financing costs will accrue to an estimated \$19.8 million in interest payments, resulting in \$82.6 million of total principal and interest debt service costs incurred by the applicant. Related costs that are allowed by statute total an estimated \$930,150 in the updated Master TIF application.”

“The total infrastructure costs, as presented in the applicant’s financial summaries, includes an inflation factor which is reasonable given recent data for prices and behavior of construction and materials markets,²³ but perhaps appears to be relatively conservative given an overall historical, long-term 2.5% inflation factor—when considering medium and long-term expectations within the infrastructure development. The issue has been raised that, with the passage of a more than \$1.0 trillion federal infrastructure spending bill passed at the end of calendar year 2021, there will likely be substantially increased demand and therefore increased competition for materials, supplies and labor. This likely also introduces the potential for scheduling delays that could add to additional cost increases for planned infrastructure projects locally, regionally, and nationwide that would significantly exceed the 2.5% long-term construction cost escalator included in the current version of the TIF Financing Plan. As the State of Vermont has experienced with its planned broadband infrastructure expansion projects and experience with other infrastructure construction projects (such as the so-called Southern Connector Project in the City of Burlington), the Council should be aware that there is significant upside cost risk associated with any cost estimate for public infrastructure spending projects over the next several years. In addition, given current labor market constraints, it also is likely that there will continue to be a scarcity of construction labor for the foreseeable future, further adding to corresponding cost overruns and the potential for scheduling delays over the course of the infrastructure development timeline for this updated application development plan.”

“Looking more specifically at the anticipated revenues and costs in the plan, the applicant proposes the issuance of four 20-year bonds at an average interest rate of 2.6% to finance the water system and road improvement spending, and that results in a sequence of

³ Looking at recent data on construction cost escalators.

annual debt service payments as presented in Table 7 (below). On the revenue side, the Town’s financing plan includes a final assessed value after the infrastructure improvements and redevelopment of \$289.2 million, for a \$285.5 million incremental value (comprised of a split of \$71.4 million homestead and \$214.2 million non-homestead). Summing the anticipated TIF revenues from the applicant’s updated TIF application spreadsheets, the application includes an increase of \$84.8 million in incremental TIF revenue that can be applied to the financial plan during the 20-year retention period covering 2024 to 2042. In the TIF application, the TIF financing plan assumes that the minimum 85% municipal portion of the increment be retained and that 70% of the Education Tax be retained from the increment, which will be used to service the TIF District debt service and related allowable TIF program costs.”

Table 7: Town of Killington TIF Annual and Cumulative Cash Flow Summary

Year	TIF Revenue	TIF Debt Service	Related Costs	Annual Cash Flow - Cumulative
Base Year: 2022	\$0	\$0	\$65,000	(\$65,000)
2023	\$0	\$250,459	\$39,000	(\$354,459)
2024	\$1,484,942	\$1,001,835	\$24,000	\$104,648
2025	\$3,393,596	\$1,037,713	\$39,000	\$2,421,531
2026	\$3,817,308	\$1,145,348	\$24,000	\$5,069,491
2027	\$4,030,048	\$1,554,744	\$49,000	\$7,495,795
2028	\$4,242,788	\$4,053,388	\$143,000	\$7,542,195
2029	\$4,242,788	\$4,419,813	\$39,000	\$7,326,170
2030	\$4,580,865	\$4,472,295	\$24,000	\$7,410,740
2031	\$4,918,942	\$4,761,629	\$24,000	\$7,544,053
2032	\$4,918,942	\$4,709,472	\$34,000	\$7,719,523
2033	\$4,918,942	\$4,654,468	\$10,000	\$7,973,997
2034	\$4,918,942	\$4,596,596	\$10,000	\$8,286,343
2035	\$4,918,942	\$4,532,818	\$133,150	\$8,539,316
2036	\$4,918,942	\$4,460,670	\$10,000	\$8,987,589
2037	\$4,918,942	\$4,381,136	\$10,000	\$9,515,394
2038	\$4,918,942	\$4,295,159	\$10,000	\$10,129,177
2039	\$4,918,942	\$4,203,521	\$10,000	\$10,834,597
2040	\$4,918,942	\$4,107,251	\$10,000	\$11,636,288
2041	\$4,918,942	\$4,006,103	\$10,000	\$12,539,127
2042	\$4,918,942	\$3,900,535	\$133,000	\$13,424,534
2043	\$0	\$3,790,996	\$10,000	\$9,623,538
2044	\$0	\$3,677,744	\$10,000	\$5,935,793
2045	\$0	\$1,193,505	\$10,000	\$4,732,288
2046	\$0	\$1,162,869	\$10,000	\$3,559,419
2047	\$0	\$762,383	\$10,000	\$2,787,036
2048	\$0	\$742,101	\$10,000	\$2,034,936
2049	\$0	\$352,080	\$10,000	\$1,672,856
2050	\$0	\$342,377	\$10,000	\$1,320,479

“As has been the case with other TIF applications, any amounts collected by the value changes related to the private sector developments beyond that required to service debt and pay related costs would be returned to the municipal General Fund and the State Education Fund. The plan includes the expectation that there will be excess cumulative revenue in later years of the plan’s timeline because the 70% maximum allowable retained education increment is intended to cover the highest debt service years which tend to occur early in the municipal bond service timeline.”

“According to the Town’s financial projections over the TIF timeline (see Table 7 above), the applicant is expected to incur an annual deficit in 2022 and 2023 in order to service the TIF related costs (in this case upfront application and consultant fees), and the beginning of TIF-related bond servicing in 2023.⁴ The financing plan next projects that the Town will return to solvency with the initiation of the increment retention period in 2024, beginning a cumulative revenue surplus from the increment that persists until the end of TIF-related debt repayment in 2050, which will reasonably cover all annual deficits anticipated during the remainder of the bond repayment period.”

“The Town expects one year of annual deficit in 2029 in the early stages of the fourth and final bond issue and while the increment benefits from the final property developments outlined in the plan generate revenues and ‘catch-up’ with debt repayments. Again, the cumulative surplus from incremental revenues is adequate during this period to maintain solvency of the plan. The financing plan shows that annual solvency will then be maintained until 2043, when the Education Property Tax and Municipal Tax retention periods are expected to end. At this point, the cumulative surplus begins to decline as TIF revenues ending completely in 2043, and the Town expects a surplus of revenues over expenses totaling \$1.3 million which is required to be distributed to the State education Fund and the Town’s General Fund at the end of the life of the eventual TIF District.”

“With the exception of the first two years of the financial timeline presented by the applicant (2022 and 2023), which occurs prior to the initiation of the TIF retention period beginning in 2024 and includes only one year of debt service in 2023, the cumulative balance of proposed TIF District revenues as presented appears sufficient to “cover” any annual revenue shortfalls. This financing plan, as opposed to several previous TIF applications which have been considered, does not rely on non-TIF funding sources to cover any of the debt service costs. However, the applicant does expect to be allocated State and Federal Grant money for various aspects if its re-development project. After 2024, annual surpluses rise significantly and progressively, reaching nearly \$13.4 million in 2042—assuming that the TIF District’s incremental revenues are generated according to the proposed timeline.”

“As mentioned above, this application is reliant on upfront revenues from the private development activities related to the Six Peaks Killington development plan, especially Phase A, which contributes roughly 60% of all incremental property value included in the TIF plan. Additionally, as noted in the updated Master TIF application materials, the private development which funds the debt servicing can only occur with the completion of the infrastructure projects, according to the schedule laid out in the plan, and which must be financed by the debt. The financial plan thus depends on the execution of three

⁴ The application states that prior to the beginning of increment retention in 2024, Related Costs will be paid by the Town’s general fund and subsequently reimbursed by the first debt incurred.

simultaneous elements of the development plan, each of which depends on the other to be completed according to the presented scheduling sequence. As noted previously, the revenues estimated within the financial plan contains significant risk associated with either potential delays in launching and completing elements of the private development or cost overruns for the key elements of the infrastructure plan, as currently envisioned, especially in the initial years of the updated Master TIF financing plan where a majority of the costs are to be incurred.”

“The progression of the updated TIF financing plan—if achieved as the applicant has presented in the filing documents—indicates that there should be more than sufficient cumulative TIF revenue to cover all annual debt service and related costs after 2024 when the increment is first retained, if the four distinct private development phases (four for Six Peaks Killington) and two areas of infrastructure spending occur as presented in the application. Even so, the initial period of the financing plan is “right on the margin” in terms of being in “cumulative deficit,” with the plan essentially being “in the red” for roughly \$65,000 and \$289,495 in 2022 and 2023, respectively. That deficit condition is expected to continue until revenues bring the cumulative negative balance back into a cumulative surplus by 2024.”

“The TIF financing plan also reports the likelihood of a cumulative surplus continuing to grow to a peak amount of \$13,424,534 in 2042, then proceeds to decline to a final positive balance of \$1,320,479 after the end of the proposed retention period. Even though the cumulative surplus grows to a substantial amount during the middle of the proposed TIF retention period, the initial years and the end years of the retention period show a very narrow cumulative TIF revenue surplus balance. While it is true that: (1) there will be a project by project assessment of each infrastructure bond offering at the municipal level that considers the market conditions at that time for the associated private sector development; (2) there will also likely be an assessment undertaken by Town staff and the Town Selectboard as to the fiscal prudence of each infrastructure investment project and its associated bonding; and (3) the Master TIF designation and phased filing approach will allow the Council to assess the financial plan in more detail prior to issuance of each round of municipal TIF debt, there is still little margin for error in this financing plan. This is especially true, considering potential for cost overruns and potential delays beyond the assumptions built into the plan as presented in the application—even though the applicant makes reference to the fact that the financing plan has been “conservative” by including only roughly 60% of the expected value of the private sector development to be completed in the Six Peaks Killington development activity. That 60% development percentage is thought by both the applicant community and its consulting professionals to be a level of activity during the TIF timeline that will be exceeded by actual development activity—and in some years by a significant amount. However, it is important to note that the Master TIF approach considered for the

Killington TIF program with the prospect of additional phased filings prior to any municipal debt issuance will very likely serve to mitigate the otherwise uncomfortable level of risk—as outlined above.”

“A significant part of the reasoning and assumptions underpinning the timing, the nature, and commercial feasibility of the above-referenced private development is tied to the results and conclusions of a confidential third-party market study that was conducted by a reputable, third-party real estate analysis firm which opined as to the likely success of the private development activity tied to the Killington Master TIF application’s financial plan. It included a comprehensive analysis of the significant market opportunities available to S P Land under the Six Peaks Killington development plan. The study also provided a set of specific estimates regarding the amount and timing of private sector development activity—including unit numbers by second home product type, prospective pricing of those planned units to be developed, and square footage estimates by type of the supporting commercial and retail development that would be needed to adequately sustain that expected second home unit development at the Six Peaks location. These estimates were then translated into estimates of taxable municipal and education grand list values to be added for the Town over the period of the TIF financing plan. The application states that only 60% of the taxable municipal and education grand list value increases were incorporated into the TIF district financing plan numbers—in order to be “conservative.” During our discussions with the applicant and its consultants, it has been pointed out that at least some stakeholders and the Town believe that the market study has substantially under-estimated the amount of private development (and therefore the amount of additional municipal and education grand list value) that will result from the provision of the catalyzing infrastructure envisioned under the TIF financing plan. A significant portion of these “excluded” additional, under-estimated grand list values could come from indirect private sector development outside of the identified Six Peaks development project but still within the proposed boundaries in the amended TIF district area.”

“Without disclosing any of the specifics of a confidential market study, EPR’s review of that market study notes the following issues for consideration by VEPC staff and the Council with respect the key assumptions-underlying premises as set forth in the market study:”

1. “It is noteworthy that the market study is dated May 23, 2019 and was therefore completed prior to the onset of the COVID-19 pandemic. From recent real estate market experience since the onset of the COVID pandemic, we know that there have been some at least temporary, short-term changes in market preferences for second home product demand and pricing—which to-date have mostly been “positive in nature” in comparison to the pre-pandemic “status-quo.” There are some on-going questions and analysis about how long-term or permanent some

of those changes in market preferences are going to turn out to be. Because the study was completed prior to the onset of the COVID pandemic, there is no specific discussion as to how the COVID pandemic may have permanently or at least in the short term affected the market projections included in the study—and therefore how the pandemic may impact the dollar amount and timing of the municipal and education grand list additions in the Town. In effect, to make prospective positive Master TIF findings with respect to this aspect of the “market viability,” the Council would need to be satisfied that the “using 60% of the planned Six Peaks Killington planned development” assumption was sufficient to account for the possible financial uncertainty posed by the possible short-term and long-term impacts of the COVID pandemic and the current inflationary environment on the Six Peaks Killington private sector development plan. This also again highlights the generally inherently riskier proposition of relying on the development plans of only a single private developer to carry the primary burden of providing incremental real estate value and resulting revenues to carry the majority of the financing needs to make the TIF Financing Plan work. However, as recently disclosed, the developer for the mountain base development appears to be a reputable and experienced firm. This disclosure of the Six Peaks developer also appears to reduce the level of portfolio substitution risk (see above) that was evident in our previous TIF District assessment when the identity of the developer was not known.”

2. “The market study's residential-second home product development projections, planned residential unit absorption rates, residential unit pricing assumptions, and projected timeline are all tied to the actual development activities for a group of peer resorts (one in Vermont and two in the western U.S. region) relative to their respective skier visit numbers (as scaled to the visitation numbers for the Killington resort). The market study identified and focused on missing or under-served market segments for a resort of the scale and character of Killington and related those un- or under-served market segments to the skier visitation numbers and accommodation preferences for sufficiently resourced, candidate customer households located within a reasonable driving distance of the resort. The study also included the associated commercial development opportunities (e.g. retail and eating and drinking places) tied to those unit development numbers based on the peer resort areas’ similar and supposedly applicable development activities. This implies the Council would need to accept the market study assumptions—premise that the actual unit development by product type, pricing, and timing at Six Peaks Killington development would in fact be consistent with the scale, type, and timing that has previously occurred at those peer resorts—as adjusted for or scaled to the differential visitor (e.g. skier) visitation numbers. The Council would also have to accept the timeline and scale of the supporting commercial

development would also follow a development paradigm similar to those identified peers.”

“At this time, while the above seems like a reasonable method to initially estimate the scale and timing of the TIF Financial Plan’s projections of additional private sector grand list growth, EPR staff suggests that the Council leave this area of assessment “open”, subject to the receipt of further information, data, and analysis in additional phased filings prior to the issuance of municipal debt to finance any infrastructure expenditures. The receipt of that additional information, data, and analysis with future phased filings would be reviewed within the context of the reasonableness of the financial plan’s “60% of the private sector market value addition” assumption as described above. Reserving the option of the Council to make positive findings on market viability through the receipt of information in future phased filings will allow the Council to consider additional staff review of this information, data, and analysis with respect to the above-referenced key assumptions-premises as contained in the market study and the current TIF financial plan.”

Determination:

Based on the Killington TIF District Plan and TIF Financing Plan as presented and amended, third party analysis, and testimony before the Council, the Council determines that the TIF District Plan and TIF Financing Plan, as presented, generally indicates fiscal and market viability. However, this determination is considered partial and fiscal viability will be re-examined incrementally as subsequent project development phases are filed by the Town of Killington, and with the receipt of additional information and data, including a complete and fully executed development agreement and any additional corroborating information or developments. To alleviate the viability of the District, Killington shall seek any and all appropriate non-TIF revenue sources, such as state and federal grants.

I. TIF Financing Plan:

(24 VSA §1894(c))

“(d) Approval of tax increment financing plan. The Vermont Economic Progress Council shall approve a municipality’s tax increment financing plan prior to a public vote to pledge the credit of that municipality under subsection (h) of this section. The tax increment financing plan shall include all information related to the proposed financing necessary for approval by the Council and to assure its viability and consistency with the tax increment financing district plan approved by the Council pursuant to 32 V.S.A. § 5404a(h). The tax increment financing plan may be submitted to and approved by the Council concurrently with the tax increment financing district plan. If no indebtedness is incurred within five years after the creation of the district, the municipality may submit an updated executive summary of the tax increment

financing district plan and an updated tax increment financing plan to the Council to obtain approval for a five-year extension of the period to incur indebtedness; provided, however, that the updated plan is submitted prior to the five-year termination date of the district. The Council shall review the updated tax increment financing plan to determine whether the plan has continued viability and consistency with the approved tax increment financing plan. Upon approval of the updated tax increment financing plan, the Council shall grant an extension of the period to incur indebtedness of no more than five years. The submission of an updated tax increment financing plan as provided in this subsection shall operate as a stay of the termination of the district until the Council has determined whether to approve the plan.

Determination to be made:

Is the TIF Financing Plan viable and consistent with the TIF Plan?

Determination:

Based on the Killington TIF District Plan and TIF Financing Plan as presented and amended, third party analysis, and testimony before the Council, the Council determines that the TIF Financing Plan is consistent with the TIF District Plan. However, based on the likelihood that cost estimates will be updated before Killington's first bond vote, and based on analyst findings, this determination is partial, and the viability and reasonableness of non-bonded debt will be determined as subsequent project phases are filed by the Town of Killington.

VII. Approval of TIF District Plan and TIF Financing Plan Submitted by the Town of Killington:

Therefore, in accordance with 32 V.S.A. §5404a(h) and 24 V.S.A. Subchapter 5, and the [Master TIF Plan Determination Policy and Procedure](#) adopted by the Council, on June 30, 2022, the Vermont Economic Progress Council voted 8-0-0 to approve the Killington TIF District Plan and TIF District Financing Plan and authorized the TIF District to utilize incremental property tax revenues to finance public infrastructure debt incurred for the Bennington TIF District, as described and conditioned above and subject to the following:

- *No request was made to approve any specific project development phases concurrently with the Master Determination and therefore, none have been approved.*
- *The Council has determined that the following approval criteria are met:*
 - *Statutory Purpose*
 - *But For Criteria*
 - *Process Criteria*
 - *Location Criteria*
 - *Project Criteria: Need*
 - *Project Criteria: Business Development*
 - *Project Criteria: Transportation Improvements*
- *Each subsequent development phase must be consistent with the approved TIF District Plan and TIF Financing Plan and, if appropriate to the phase, address the following criteria which were partially approved:*
 - *Fiscal Viability*
 - *Financial Plan*
- *Each subsequent development phase filing must include, at a minimum:*
 - *Identification of the infrastructure project(s) included in the phase;*
 - *Restatement of the total infrastructure costs, a proportionality proposal, and data supporting proportionality;*
 - *Identification of the real property development(s) included in the phase;*
 - *Identification of the type and amount of debt that will be incurred for the phase, including financing costs;*
 - *A schedule for a public vote on the debt for the phase;*
 - *Recalculation of all TIF debt and revenue spreadsheets to reflect the impact of the actual data from the phase; and*
 - *Any additional information and data, including a complete and fully executed development agreement and any additional corroborating information or developments regarding fiscal viability.*

- *Annual reporting that includes job creation data with detailed information on employers such as type of business (NAICS code), number of employees, and previous location (if any), for tracking purposes only;*
- *To alleviate the marginal viability of the TIF District, Killington shall seek any and all appropriate non-TIF revenue sources, such as state and federal grants. Annual reporting shall include notification to VEPC of all non-TIF sources of funding applied for, approved, and received.*
- *If the phase information includes a substantial change from the approved TIF Plan/TIF Financing Plan, the municipality must also address that change by following the requirements for Substantial Change Request in the [adopted TIF Rule](#).*
- *Subsequent to approval by the Council of any Phase Filing, the Town of Killington must seek a vote on each instance of debt to be financed with incremental property tax revenues and provide notice to voters in accordance with the requirements of 24 VSA §1894(h) and (i) and the adopted TIF Rule.*