

**ANNUAL DEVELOPMENT ACTIVITY  
AND DISCLOSURE REPORT**

**For the Period Ending December 31, 2008**

*\$8,295,000 Town of Tiverton, Rhode Island  
Special Obligation Tax Increment Bonds, 2002 Series A  
(Village of Mount Hope Bay)*

Prepared by

**MUNICAP, INC.**

March 3, 2009

# ANNUAL DEVELOPMENT ACTIVITY AND DISCLOSURE REPORT

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## ***I. UPDATED INFORMATION***

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Information updated as of December 31, 2008 is as follows:

- The developer reports that a total of 164 building permits have been issued as of December 31, 2008.
- As of December 31, 2008, the developer reports the number of residential units sold was 143, compared to 134 for the period ending December 31, 2007.
- As of December 31, 2008, the developer reports the number of units closed with a third party was 142, compared to 126 for the period ending December 31, 2007.
- As of December 31, 2008, the developer reports the cumulative average sales price was \$636,473, compared to \$633,819 for the period ending December 31, 2007.
- The developer reports that \$35 million construction loan from GMAC was repaid in full in February 2008.
- According to the Town of Tiverton, the real property tax rate per thousand dollars of assessed value for fiscal year 2009 was \$11.26, compared to \$9.62 for fiscal year 2007.
- According to the Town of Tiverton, the assessed value of the real property in the tax increment area was \$115,494,750 as of December 31, 2007, compared to \$105,552,073 for the period ending December 31, 2006.
- According to the Town of Tiverton, estimated ad valorem taxes totaling \$1,300,471 are to be collected on the taxable property within the district for fiscal year 2009. Reducing this amount by the first \$200,000 that the town retains results in estimated tax increment revenues of \$1,100,471 for fiscal year 2009. The Town of Tiverton provided for the collection of Betterment Fees totaling \$125,000 for fiscal year 2009.
- According to the Town of Tiverton, ad valorem taxes in the amount of \$1,300,471 are to be collected for fiscal year 2009. The ad valorem taxes are due in four equal installments on July 1, 2008, October 1, 2008, January 1, 2009, and April 1, 2009. The Town of Tiverton reports that fiscal year 2009 ad valorem taxes in the amount of \$1,007,385.05 have been collected as of January 31, 2009, representing 77.46 percent of the ad valorem taxes for fiscal year 2009.
- The Town of Tiverton provided for the collection of Betterment Fees totaling \$125,000.00 for fiscal year 2009. As of October 31, 2008, the Town of Tiverton reports collecting \$125,000 in Betterment Fees, representing 100 percent of Annual Betterment Fee for fiscal year 2009.

## ***II. INTRODUCTION***

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The Village at Mount Hope Bay Tax Increment Area was created and the Village of Mount Hope Bay Tax Increment Area Special Obligation Tax Increment Bonds, Series 2002A, in the amount of \$8,295,000 were issued pursuant to an Ordinance that was adopted by the Town of Tiverton, Rhode Island Town Council on March 11, 2002, and § 33.2 of Title 45 of the State of Rhode Island General Laws (the “TIF Act”) and pursuant to the Trust Indenture dated as of October 1, 2002, as amended (the “Master Indenture”), by and between the Town and Citizens Bank of Rhode Island, as trustee and paying agent (the “Trustee), and a 2002 Series A Indenture, dated as of October 1, 2002 (the “Series Indenture”), by and between the town and the trustee (such Master Indenture and Series Indenture to be collectively referred to hereinafter as the “Indenture”).

Betterment Fees were authorized to be imposed and collected pursuant to the Betterment Fee Ordinance, which was adopted by the Town of Tiverton, Rhode Island Town Council on May 6, 2002. The bonds are to be repaid from net tax increment payments and to the extent net tax increment payments are not sufficient to pay debt service and administrative expenses, Betterment Fees, which have been levied in the aggregate amount of \$8,295,000 on the obligated property within the tax increment area until such a date that net tax increment payments provide 125 percent coverage of the maximum annual debt service on the Series 2002A Bonds.

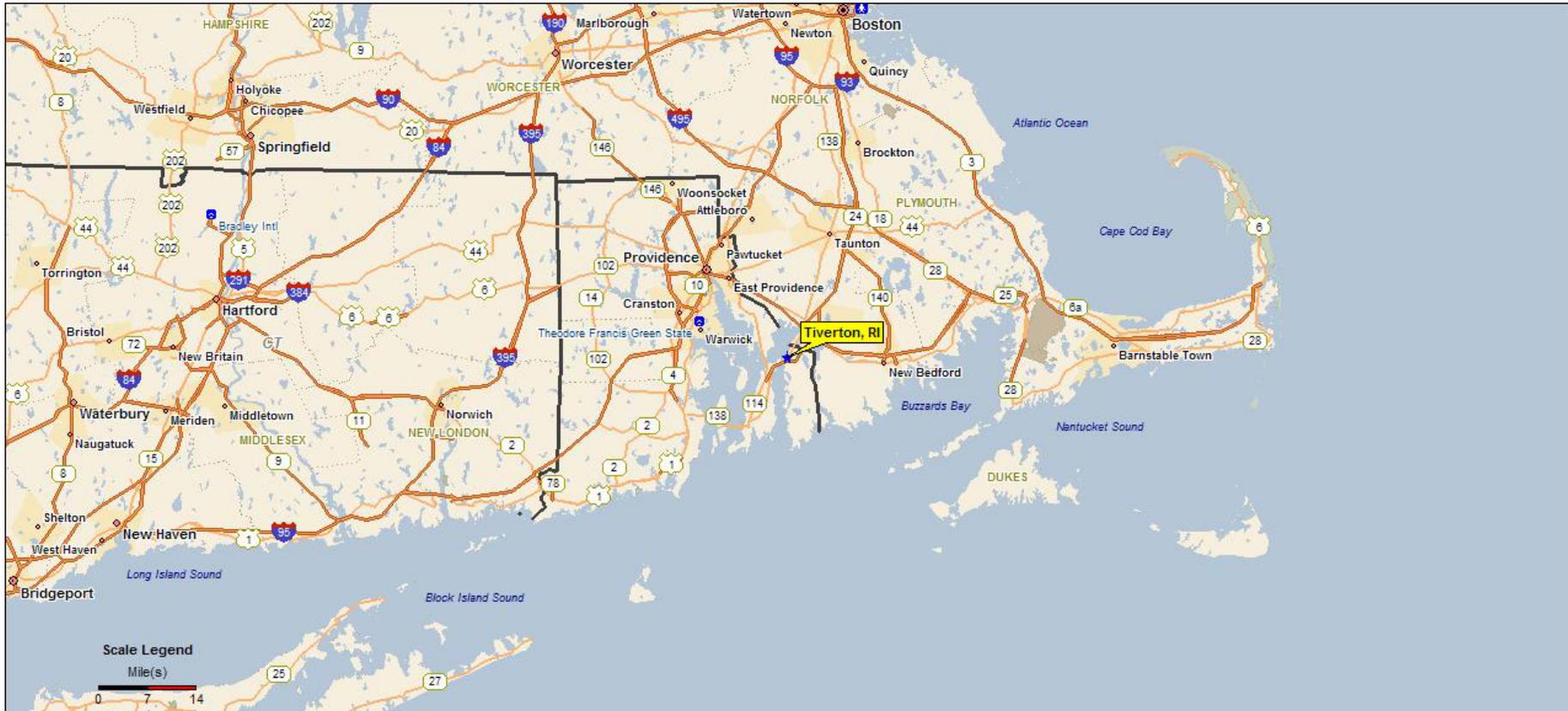
The Town of Tiverton is located in Newport County, Rhode Island, which is approximately 25 miles southeast of Providence, Rhode Island, and consists of 29.7 square miles. It is bounded by Fall River, Massachusetts on the north, Fall River and Westport, Massachusetts on the east, the Town of Little Compton, Rhode Island on the south, and the Sakonnet River and Mount Hope Bay on the west.

The Tax Increment Area consists of approximately 106 acres and includes: a 10 acre parcel that will be developed as commercial/retail space; the proposed Village of Mount Hope Bay, which will consist of approximately 96 acres and will include a proposed residential age-restricted mixed-use community of 290 dwelling units on 80 acres and approximately 16 acres reserved for future mixed-use commercial waterfront development. The developer is Starwood Tiverton, L.L.C.

Pursuant to the limited offering memorandum, \$8,295,000 in special obligation tax increment bonds (2002 Series A) were sold. Bond proceeds in the amount of \$5,808,193 are to be used to finance the acquisition of certain sewer trunk line improvements (this figure excludes interest earnings on the improvement fund, which will also be used to fund public improvements).

The information regarding development activity was provided by the developer and is believed to be accurate; however, no effort has been made to independently verify the information. The information provided herein is not intended to supplement or otherwise relate to the information provided in the Limited Offering Memorandum and any such intent is expressly disavowed. Rather, this report responds to the specific requirements of the continuing disclosure agreement.

**No representation is made as to the materiality or completeness of the information provided herein or as to whether other relevant information exists with respect to the period covered by this report. Other matters or events may have occurred or become known during or since that period that may be material. All information is provided as of December 31, 2008, unless otherwise stated, and no representation is made that the information contained in this report is indicative of information that may pertain since the end of the period covered by this report or in the future.**



### **III. DEVELOPMENT ACTIVITY**

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#### **A. OVERVIEW**

The Tax Increment Area consists of a Residential Portion, a commercial Waterfront, and an East Parcel. The Residential Portion of the Development is planned to include 290 dwelling units, of which 168 units will be in a townhouse configuration and 122 units will be in five four-story condominium buildings. It is anticipated that the Commercial Waterfront and the vacant East Parcel will be developed primarily for commercial use at some point in the future. It is currently contemplated that the Commercial Waterfront would include nine buildings, the largest of which would be a 4-story, 36-room inn and restaurant. The current plans provide for a smaller one-story building for a lobster pound/fish market and seven two-story buildings to house fifteen units with retail shops located on the bottom floors and residential units located on the upper floors. At build out, the developer expects the total square feet to be 88,000 square feet. The East Parcel is currently zoned "General Commercial." General Commercial uses include, but are not limited to, offices, restaurants and entertainment, service businesses, retail businesses, transportation uses, wholesale business, and storage and industrial uses. Preliminary planning and discussions with town officials have focused on mixed-use development for the East Parcel with a retail/commercial development of approximately 35,000 square feet on 5.5 acres. The developer reports that total expected build out of the East Parcel to be 90,000 square feet.

#### **B. STATUS OF DEVELOPMENT**

##### **(i) Status of the Residential Portion**

The table below shows the number of buildings, the number of units planned, number of units for which building permits issued, units sold and units closed by residential unit type as of December 31, 2008.

**Table III-1**  
**Building Permits Issued and Residential Units Sold and Closed**

<b>Unit Type</b>	<b>Number of Buildings</b>	<b>Number of Units Planned</b>	<b>Number of Building Permits Issued</b>	<b>Units Sold</b>	<b>Units Closed</b>
Mansion (A&B)	5	122	52	37	36
Townhouse A	13	45	34	29	29
Townhouse B	28	99	54	53	53
Townhouse C & D	5	24	24	24	24
<b>Total:</b>	<b>51</b>	<b>290</b>	<b>164</b>	<b>143</b>	<b>142</b>

Table III-2 shows the initial year average sales price, the average sales price as of December 31, 2008, and percent change by residential unit type. The average sales prices are for a 12-month period.

**Table III-2**  
**Average Residential Sales Price**

<b>Unit Type</b>	<b>Initial Year Average Sales Price</b>	<b>Average Sales December 31, 2008</b>	<b>Percent Change</b>
Mansion (A&B)	\$650,000	\$468,560	(27.91%)
Townhouse A	\$791,250	\$1,067,000	34.85%
Townhouse B	\$612,654	\$734,500	19.89%
Townhouse C	\$512,500	Sold-out	N/A
Townhouse D	\$501,875	Sold-out	N/A

Table III-3 shows the cumulative average sales prices as of September 30, 2003 and December 31, 2008.

**Table III-3**  
**Cumulative Average Sales Price**

<b>Unit Type</b>	<b>As of September 30, 2003</b>	<b>As of December 31, 2008</b>	<b>Percent Change</b>
Total:	\$590,813	\$636,473	7.72%

**(ii.) Status of the Commercial Waterfront Parcel**

The developer reports that an estimated 88,000 square feet consisting of several new buildings of commercial and retail space will be created upon completion of the Commercial Waterfront Parcel. The developer reports that a single 4,000 square foot building has been completed. A lease was signed with Newport Harbor Club for this 4,000 square foot facility and the tenant opened for business in July 2005.

**(iii.) Status of the East Parcel**

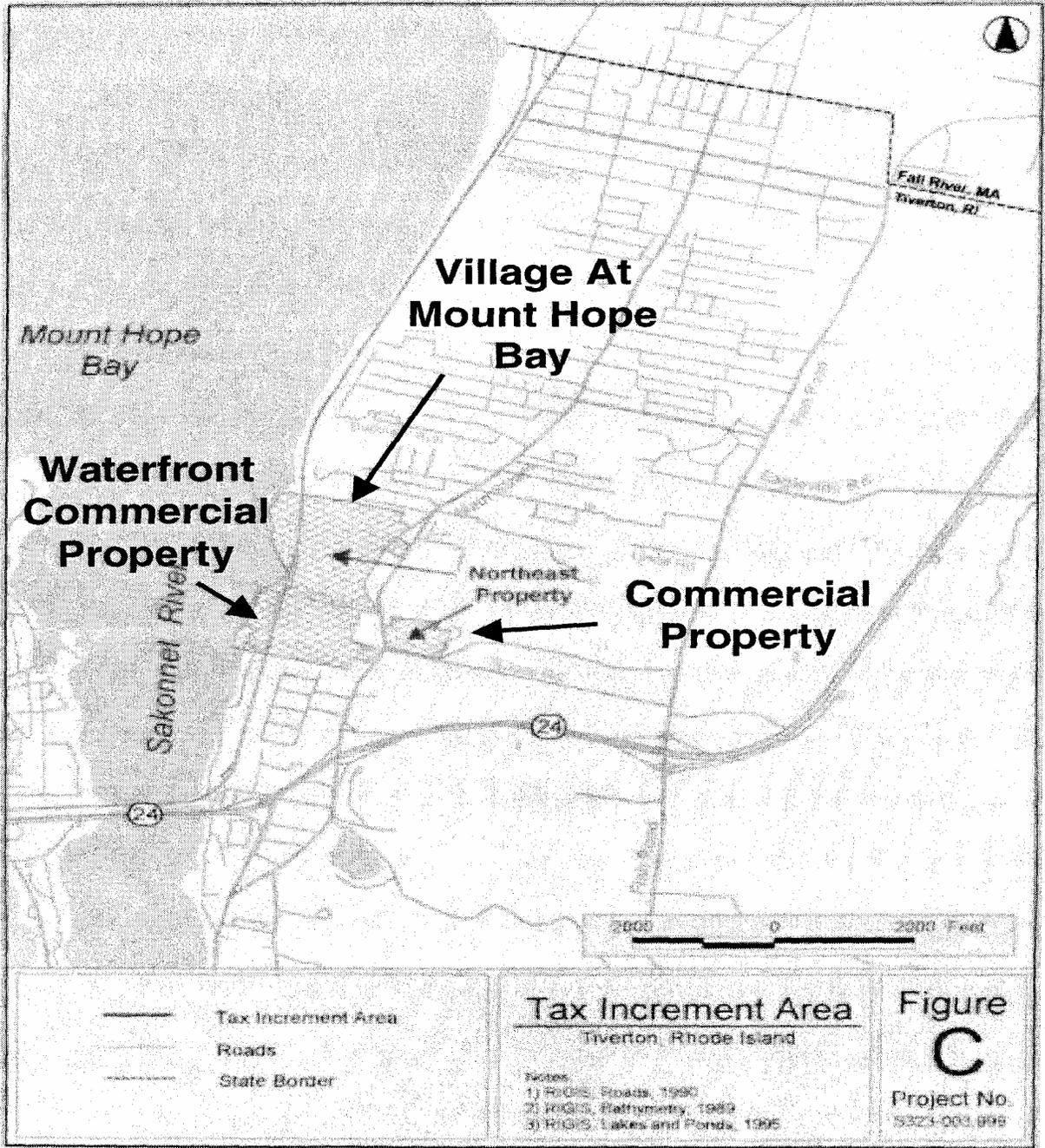
The developer reports that an estimated 90,000 square feet of commercial and retail space will be created upon completion of the East Parcel. The developer reports that construction of this parcel has been deferred.

**(iv.) Status of Financing**

At the time the Series 2002A Bonds were issued, the developer had made capital expenditures of approximately \$14.5 million in connection with the proposed development and was negotiating with several commercial banks to obtain construction financing of the residential portion of the development. Until such time that a commercial loan was obtained, the developer was financing the development of the residential portion of the development with a loan from an affiliate of the developer, SOF-VI U.S. Holdings, L.L.C. The terms of the SOF-VI U.S. Holdings construction loan were for a principal loan in the amount up to \$23 million to fund construction of all or any portion of the residential development in accordance with approved development plans. The loan was to be secured by a mortgage lien on all or portions of the development, and the loan was to be repaid over a period of five years at an annual interest rate of 15 percent or refinanced with the proceeds of the commercial bank loan once secured.

On February 13, 2003, the developer obtained a \$35 million construction loan from GMAC. The proceeds from this loan were used to repay the SOF-VI U.S. Holdings construction loan and to finance the development of the residential portion of the project. The terms of this revolving loan is four years with an interest rate of prime plus one quarter percent (1.25%). As of February 23, 2009, the developer reports the loan with GMAC was repaid in full in February 2009.

At the time the Series 2002A Bonds were issued, the developer had not made any arrangements to finance the construction of the commercial East Parcel or the Commercial Waterfront property. There have been no changes reported by the developer as of December 31, 2008.



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### C. PUBLIC IMPROVEMENTS

The proceeds of the Series 2002A Bonds will be used to finance the construction of certain sewer line improvements (the Mount Hope Bay Interceptor) that will convey sewage to the existing Tiverton interceptor for treatment by the Fall River Wastewater Treatment Facility, which will provide sewer treatment service to all or a portion of the property within the tax increment area. Table III-4 shows the budget for the public improvements and construction draws as of December 31, 2008.

**Table III-4**  
**Budget for Public Improvements**

<b>Public Improvement</b>	<b>Original Budget</b>	<b>Budget Revisions</b>	<b>Spent to Date</b>	<b>Percent Complete</b>
Mt. Hope Bay Interceptor	\$5,808,193	\$0	\$5,499,658	94.7%
<b>TOTAL</b>	<b>\$5,808,193</b>	<b>\$0</b>	<b>\$5,499,568</b>	<b>94.7%</b>

#### ***IV. TRUSTEE ACCOUNTS***

The trustee for the Series 1997 bonds is The Bank of New York Trust Company. The balance as of December 31, 2007, interest paid, additional proceeds, disbursements, and account balances for each fund as of December 31, 2008 are shown by the following table:

**Table IV-1**  
**Trustee Accounts**

	<b>Balance 12/31/07</b>	<b>Interest Paid</b>	<b>Additional Proceeds</b>	<b>Disburse- ments</b>	<b>Balance 12/31/08</b>
Interest Account	\$61	\$123	\$932,467	\$932,631	\$20
Debt Service Reserve Fund	\$834,262	\$27,529	\$0	\$30,004	\$831,788
Revenue Fund	\$602	\$6,632	\$923,216	\$769,388	\$161,061
Sewer Project Fund	\$214,682	\$6,074	\$0	\$3,891	\$216,865
Cost of Issuance	\$11,481	\$312	\$0	\$2,000	\$9,794
Erosion Reserve	\$403,154	\$11,352	\$0	\$13,083	\$401,424
Betterment Fee	\$120,641	\$1,843	\$0	\$122,175	\$310
<b>Total</b>	<b>\$1,584,885</b>	<b>\$53,866</b>	<b>\$1,855,683</b>	<b>\$1,873,172</b>	<b>\$1,621,261</b>

The additional proceeds to the Interest Account are transfers of tax increment payments from the Revenue Fund and Betterment Fees from the Betterment Fee Account, transfers of investment income from the Reserve Fund and transfers of surplus funds from the Erosion Reserve Fund for the payment of debt service. The additional proceeds to the Revenue Fund are tax increment payments. The additional proceeds to the Sewer Project Fund are to meet the Project Fund requirement. The disbursements from the Cost of Issuance Account are for annual trustee management fees. The disbursements from the Erosion Reserve are for administrative expenses and debt service payment. The additional proceeds to the Betterment Fee Account are payments of the Betterment Fee.

The interest paid through December 31, 2008 may not include interest accrued but not yet paid. Part of the bond proceeds in the Reserve Fund is invested in Treasury Notes that pay interest semi-annually of 4.25 percent per annum and maturing on October 15, 2010. Other bond proceeds are invested in the money market currently earning approximately 0.99 percent per annum. Table IV-2 shows the rate of return on the funds and accounts held by the trustee.

**Table IV-2**  
**Rates of Return**

<b>Account</b>	<b>Rate of Return</b>
Interest Account	0.99%
Reserve Fund	4.25%
Revenue Fund	0.99%
Sewer Project Fund	0.99%
Cost of Issuance Account	0.99%
Erosion Reserve	0.99%
Betterment Fee Account	0.99%

Investment income in the Reserve Fund will be made available, first, to replenish the Reserve Fund, if the balance in the fund is at less than the reserve requirement; and second, transferred to the Revenue Fund. Investment income in the Revenue Fund will remain in the fund and will be used for the purposes of the fund. Investment income in the sewer project fund will remain in the account until it is closed, and upon the direction of an authorized officer, the remaining balance will be transferred to the Interest Fund.

## ***V. DISTRICT OPERATIONS***

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Information provided under (A) below is based on the report on Estimated Betterment Fees for fiscal year 2009 dated June 18, 2008 prepared by the Town of Tiverton and is believed to be accurate; however, no effort has been made to independently verify the information.

### **A. ESTIMATED BETTERMENT FEES**

Betterment fees to be paid by properties in the tax increment financing (TIF) area are estimated by the TIF Administrator and submitted to the Tiverton Town Council for determination/approval. Subsequently, the TIF area properties are billed in the same manner and at the same time as ordinary real property taxes unless the town council determines that they shall be collected at a different time and in a different manner.

Amendments to the Tiverton's Town Charter were approved by the electors at a special election on November 16, 2004 and included adding duties and responsibilities to the office of Town Treasurer, the pertinent amendment being Section 602 (a).6 which states:

“Working with appropriate financial advisors and counsel to issue general and special obligation bonds for the town and to insure that such debt is properly serviced.”

Accordingly, the Town Treasurer derives his authority ex officio to prepare the betterment fee estimate.

#### Administrative Fees

Typical administrative effort includes the following:

Bond Counsel: provide counsel to Town Treasurer on legal issues such as the Trust Indenture and bond documents, betterment fees and debt service.

Consultant: TIF Administrator, MuniCap, Inc., provides guidance and support to the Treasurer including but not limited to calculating and apportioning betterment fees, and preparing the town's annual continuing disclosure report and other required periodic reports.

Town Treasurer: Because the Town Treasurer is now a full-time position, no fees are required for his/her effort.

For fiscal year 2009, administrative fees would include any fiscal year 2008 costs above the \$8,900 in the Betterment Fee estimate for fiscal year 2007 dated June 1, 2007. However, since all administrative costs for fiscal year 2008 totaled \$5,323.75 through May 31<sup>st</sup> plus an estimated \$387.50 for June for a total of only \$5,711.25, no shortage must be recaptured. Therefore, fiscal year 2009 administrative fees are as follows:

MuniCap, Inc.	\$8,250.00
Bond Counsel	<u>\$1,000.00</u>
Total	\$9,250.00

Annual Obligation

Interest payment on 11/01/08	\$245,609
Interest payment on 05/01/09	\$245,609
2002 Term Bond Principal	\$320,000
2009 Term Bond Principal	<u>\$62,331*</u>
Subtotal annual payment	\$873,549
Administrative expenses FY07	\$9,250
Set off to Town (1 <sup>st</sup> Tier)	<u>\$200,000</u>
Subtotal annual obligation	\$1,082,799
Capitalized Interest	(\$85,000)**
<b>Annual Obligation</b>	<b>\$997,799</b>

\* The developer is required to make an annual principal payment (third column of Figure No. 1) towards the “Stand Alone Costs”. These “Stand Alone Costs” represent the costs the developer would have incurred to construct a sewer line to service the development and that such cost to the developer would be \$850,000 and payable in four fiscal years, fiscal year 2006 (495K), fiscal year 2007 (110K), fiscal year 2008 (120K) and fiscal year 2009 (125K). Thus, in fiscal year 2009 the developer’s principal payment would have been \$125,000, but the developer has a credit to the town of \$62,330.76 leaving the developer with an owed balance of \$62,669.24. The developer pays the \$72,330.76 in quarterly installments which are due on the same dates as other taxpayers, i.e. July 1<sup>st</sup>, October 1<sup>st</sup>, January 1<sup>st</sup> and April 1<sup>st</sup>.

\*\* Capitalized interest was estimated in the May 21, 2008 Financial Town Meeting Docket to be \$85,000.00.

TIF Revenues

A total fiscal year 2009 net assessment for the TIF properties of \$115,494,750 coupled with a fiscal year 2009 mil rate of \$11.26 produces an estimated \$1,300,471 in fiscal year 2009 TIF revenue from the obligated properties.

Betterment Fee

Since the fiscal year 2009 TIF revenue of \$1,300,471 exceeds the annual obligation of \$997,799, no fiscal year 2009 Betterment Fee (other than the \$62,669.24 principal payment) is imposed on the TIF properties.

## **B. DELINQUENT PROPERTY TAXES**

According to the Town of Tiverton, ad valorem taxes in the amount of \$1,300,471 and annual installment of the betterment fee in the amount of \$125,000 are to be collected for fiscal year 2009. The ad valorem taxes and Betterment Fees are due in four equal installments on July 1, 2008, October 1, 2008, January 1, 2009, and April 1, 2009. The Town of Tiverton reports that fiscal year 2009 ad valorem taxes in the amount of \$1,007,385.05 have been collected as of January 31, 2009, representing 77.46 percent of the ad valorem taxes for fiscal year 2009. According to the town, the Annual Betterment Fees in the amount of \$125,000 have been collected, representing 100 percent of Annual Betterment Fee for fiscal year 2009.

## **C. COLLECTION EFFORTS**

There are no collection efforts underway at this time.

## ***VI. DISTRICT FINANCIAL INFORMATION***

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The information provided in this section is to meet the requirements for the annual report as provided for in Section 2(a) of the Continuing Disclosure Agreement. The items listed below are in the same format and order as the items required for the annual report as listed in the Continuing Disclosure Agreement.

All information in this section is provided as of December 31, 2008, unless otherwise stated.

### **A. FUND BALANCES**

The fund balances as of December 31, 2008 for all of the funds and accounts provided for in the Indenture of Trust are included in Table IV-1 of Section IV, "Trustee Accounts," of this report.

### **B. CHANGES TO THE BETTERMENT FEE METHODOLOGY**

There have been no changes to the Betterment Fees Methodology.

### **C. CHANGES IN THE AD VALOREM TAX RATES**

According to the Town of Tiverton, the real property tax rate per thousand dollars of assessed value has increased from 9.62 for fiscal year 2007 to 11.26 for fiscal year 2009.

### **D. CHANGES IN ASSESSED VALUE OF REAL PROPERTY**

According to the Town of Tiverton, the December 31, 2007 assessed value of the real property in the tax increment area was \$115,494,750, compared to \$105,552,073 for the period ending December 31, 2006, which represents nine percent increase.

### **E. NET TAX INCREMENT PAYMENTS AND BETTERMENT FEES**

The Assessed Value, Estimated Tax Revenues, Estimated Net Tax Increment Revenues, Annual Obligation of the Betterment Fees and the Annual Installment of the Betterment Fees for fiscal year 2009 are provided in the Section V, "District Operations," of this report.

### **F. NET TAX INCREMENT PAYMENT/BETTERMENT FEE BURDEN**

The only taxpayer in the tax increment area responsible for paying five percent or more of the Net Tax Increment Revenues for fiscal year 2009 is the developer, Starwood Tiverton, LLC. Starwood Tiverton, LLC is responsible for paying approximately \$323,655.19 in Net Tax Increment Revenues for fiscal year 2009 based on the list of property owners provided by the Town of Tiverton, representing 24.89 percent of the aggregate Net Tax Increment Revenues for fiscal year 2009. Individual homeowners own the remaining property in the tax increment area. The only taxpayer in the tax increment area responsible for paying five percent or more of the

Betterment Fees for fiscal year 2009 is the developer, Starwood Tiverton, LLC. Starwood Tiverton, LLC is responsible for paying \$125,000.00 of the Betterment Fees for the fiscal year 2009, which is equal to 100 percent of the aggregate Betterment Fees for fiscal year 2009.

#### **G. NET TAX INCREMENT AND BETTERMENT FEE COLLECTIONS**

According to the Town of Tiverton, ad valorem taxes in the amount of \$1,300,471 and annual installment of the betterment fee in the amount of \$125,000 are to be collected for fiscal year 2009. The ad valorem taxes and Betterment Fees are due in four equal installments on July 1, 2008, October 1, 2008, January 1, 2009, and April 1, 2009. The Town of Tiverton reports that fiscal year 2009 ad valorem taxes in the amount of \$1,007,385.05 have been collected as of January 31, 2009, representing 77.46 percent of the ad valorem taxes for fiscal year 2009. According to the town, the betterment fees in the amount of \$125,000 have been collected, representing 100 percent of Annual Betterment Fee for fiscal year 2009.

#### **H. LAND USE AMENDMENTS**

The Administrator has not received formal written notice from the developer of any Amendments to Land Use Entitlements or Legal Challenges to Construction of the Sewer Project or Development.

#### **I. CHANGES TO DEVELOPMENT**

According to the developer, there has been no change to the plan of development as described in the section entitled “development and property ownership” section of the Limited Offering Memorandum.

#### **J. AUDITED FINANCIAL STATEMENTS**

The town’s Audited Financial Statements for the prior year have been provided under separated cover.

## ***VII. SIGNIFICANT EVENTS***

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### **A. DEVELOPER SIGNIFICANT EVENTS**

Pursuant to the Continuing Disclosure Agreement, developer significant events include the following:

- (i) failure to pay any real property taxes (including the Net Tax Increment Payments and Betterment Fees) levied within the Tax Increment Area on a parcel owned by the developer or any Affiliate thereof;
- (ii) material uninsured damage to or destruction of any development or improvements within the Tax Increment Area owned by the developer;
- (iii) the filing by or against the developer, or any Affiliate thereof, or any member of the developer, of any petition or other proceeding under any bankruptcy, insolvency or similar law or any determination that the developer, or any Affiliate thereof, or any member of the developer, is unable to pay its debts as they become due; and
- (iv) the filing of any lawsuit with claim for damages in excess of \$1,000,000 against the developer which may materially adversely affect (a) the completion of the Development or the construction of the Sewer Project or the Development or (b) the financial condition of the developer or any Affiliate of the developer who owns property in the Tax Increment Area.

Inquiries have been made with the developer regarding the occurrence of any significant event and they have reported that no significant events have occurred as of December 31, 2008.

### **B. LISTED EVENTS**

Pursuant to the Continuing Disclosure Agreement, town listed events include the following:

- (i) principal and interest payment delinquencies;
- (ii) non-payment related defaults;
- (iii) modifications to rights of owners of the Bonds;
- (iv) optional, contingent or unscheduled Bond calls;
- (v) defeasances;
- (vi) rating changes;

- (vii) adverse tax opinions or events adversely affecting the tax-exempt status of the Bonds;
- (viii) unscheduled draws on the debt service reserves reflecting financial difficulties;
- (ix) unscheduled draws on credit enhancements reflecting financial difficulties;
- (x) substitution of credit or liquidity providers, or their failure to perform; and
- (xi) release, substitution or sale of property securing repayment of the Bonds.

The administrator does not have knowledge of any listed events as of the date of this report.