

**South Portland City Council**  
***Position Paper of the City Manager***

***Subject:***

**ORDER #14-17/18– Adopting the Eighth Amendment to the Fairchild Semiconductor Tax Increment Financing (TIF) District Development Program. Passage requires majority vote.**

***Position:***

A Tax Increment Finance (TIF) district is a geographic location within a community with the boundaries designated by the elected officials. A TIF district can be as small as a single building or as large as an industrial park (or larger). The taxable value of property within the district at the time of its designation is called the Original Assessed Value (OAV). Property tax revenue from the OAV continues to flow into the City's general fund. However, revenue any new (or incremental) taxable value created within the district as the result of investment is deposited into a separate TIF account. These funds can be used for a variety of purposes, mostly within the district itself, but must have been included in the original TIF document that is filed with and approved by the State. One of the eligible uses of these funds is to provide a Credit Enhancement Agreement (CEA) to a business within the district. A CEA essentially reimburses a company for a set percentage of the property taxes they pay each year, with the theory being that the new investment that generated the additional tax revenue may not have been possible without the CEA. A community without a TIF district could not provide such an incentive.

Another benefit of a TIF is the "tax shift". All new taxable value created within the district is sheltered from State calculations for aid to communities and county tax assessments. This means that the State provides us with more revenue sharing and aid to education than we would if this value was created outside of a TIF district. It also means our tax assessment from Cumberland County is lower. This benefit goes away when the TIF district expires (TIFs can last up to 30 years).

Although the City has numerous TIF districts today, the first one created was with Fairchild Semiconductor in March 1994. Both the City and Fairchild (now ON Semiconductor) have received significant benefits as a result of this economic development tool. ON has made substantial investments in their plant, have employed (and continue to employ) hundreds of local works, and have paid considerable property taxes to the City. For doing so, they have received a partial reimbursement of their annual property taxes. The City has utilized funds within the TIF to make considerable investment in numerous TIF-related public projects. As an example, the City invested several million dollars in sewer and storm water improvements over the past 20-plus years, all paid from the Fairchild TIF. Those improvements have resulted in South Portland's sewer rate being one of the lowest in the state.

Because this TIF was created prior to 2008, it also contains a unique benefit to the City that is no longer available from the State. As a pre-2008 TIF, the City is able to take advantage of the “Enhanced” Business Equipment Tax Exemption (BETE) reimbursement, receiving 100% State BETE reimbursement. Over time as investment in the Plant has qualified for BETE exemption, the City has continued to receive full 100% benefit on those company investments in the plant (as opposed to 50%). In FY17, for example, the City received \$985,794 of Enhanced BETE reimbursement from the State as a result of the Fairchild TIF. In the prior year, that amount totaled \$1,087,867. Under State statute no funds from the BETE reimbursement can go back to the company. Over time, as the older taxable assets continue to depreciate or are disposed of and new investments qualify as exempt, the Company’s overall tax requirements are reduced.

In 2016, Fairchild Semiconductor solicited a buyer and was ultimately purchased by ON Semiconductor. The City and ON have been working together on a proposed amendment to the TIF that could result in additional investment and job creation during the next several years. Looking forward, the proposal that is before the Council would put in place a tiered credit enhancement structure that continues to provide benefits to both the City and the company. This tiered approach would be similar to the tiered approach in place for the National Semiconductor TIF (now Texas Instruments). Additionally, the City has proposed waiving the current \$12 million average annual investment requirement in order to receive the CEA for the new fiscal year ending June 30, 2018. Last year, during the period leading up to the sale, and immediately following the sale, new investment in the plant was limited and the three-year average investment fell to around \$10 million, which is below the threshold for receiving the credit enhancement payment. The amendment proposes a 100% credit enhancement for the current year, which is estimated to be approximately \$70,000-\$75,000. The amount is still only an estimate as the State budget delay has impacted the City’s FY18 budget and an amended appropriation resolve is anticipated to be required and still undetermined. Going forward, through the 2023-24 fiscal year, which is the final year of the TIF district term, the percentage reimbursement and ultimate payment would be proportional to the level of investment at the plant according to the table in Section II.B of the proposed Eighth Amendment to the Development Program.

The following table shows the anticipated reimbursements to the company under an amended CEA assuming \$75,200 total TIF revenues are available in each year and that there is an annual average investment by the company of between \$12 million and \$12,999,999 following 2017-2018.

<b><i>Fiscal Year</i></b>	<b><i>Estimated Reimbursement</i></b>
2017-2018	\$72,500
2018-2019	\$58,000
2019-2020	\$58,000
2020-2021	\$58,000
2021-2022	\$58,000
2022-2023	\$58,000
2023-2024	\$58,000

The City’s TIF Legal Counsel (Shana Cook Mueller) and City Finance Director (Greg L’Heureux) will be on hand, as well as Director of Operations Joshua Madore and Sr.

Manager/Controller Bill Johnston of ON Semiconductor South Portland, to help answer any questions.

***Requested Action:***

Council passage of ORDER #14-17/18.



---

City Manager

**ECONOMIC DEVELOPMENT PROJECT**

**CITY OF SOUTH PORTLAND, MAINE**

*An Application for a Municipal Development and Tax Increment Financing District*

---

---

**EIGHTH AMENDMENT TO THE FAIRCHILD SEMICONDUCTOR MUNICIPAL  
DEVELOPMENT AND TAX INCREMENT  
FINANCING DISTRICT DEVELOPMENT PROGRAM**

---

---

*Presented to:*

**The City of South Portland City Council**

**Public Hearing July 17, 2017**

**Adopted by City Council July 17, 2017**

**(Original development program approved by the State of Maine Department of Economic  
and Community Development on March 30, 1994)**

## TABLE OF CONTENTS

	<b>Page</b>
<b>I. Introduction and Background</b>	<b>1</b>
<b>II. Amendment to the TIF Agreement</b>	<b>2</b>
<b>A. Investment Waiver for FY 2017-2018</b>	<b>2</b>
<b>B. Payment Schedule for Remaining Term</b>	<b>2</b>
<b>III. Municipal Approvals</b>	<b>3</b>
<b>A. Notice of Public Hearing</b>	<b>3</b>
<b>B. Minutes of Public Hearing</b>	<b>3</b>
<b>C. City Council Approval</b>	<b>3</b>
<b>D. Statutory Compliance</b>	<b>3</b>

## EXHIBIT LIST

<b>Exhibit A</b>	<b>Notice of Public Hearing</b>
<b>Exhibit B</b>	<b>Minutes of Public Hearing</b>
<b>Exhibit C</b>	<b>City Council Order of Approval</b>

## **I. Introduction and Background**

On March 28, 1994, the City Council of the City of South Portland (the “City”) designated the National Semiconductor Municipal Development and Tax Increment Financing District (the “District”), and adopted a Development Program for the District (the “Original Development Program”), which received the approval of the Department of Economic and Community Development (“DECD”) of the State of Maine on March 30, 1994;

On October 16, 1995, July 7, 1997, May 15, 2000, March 25, 2008, June 16, 2009, April 4, 2011, and December 9, 2015 the City Council amended the Original Development Program (referred to as the “Prior Amendments”), which Prior Amendments generally:

- (i) renamed the District the Fairchild Semiconductor Municipal Development and Tax Increment Financing District and changed all references to National Semiconductor to references to Fairchild Semiconductor (“Fairchild” or the “Company”) and reconfigured the District,
- (ii) removed certain caps on the amount of captured assessed value that could be used as the basis of the allocation of TIF revenues to the Company, conditioned, however, on the requirement that the Company annually make \$10 million of taxable investment at its manufacturing facility in the City,
- (iii) extended the term of the District through and including the City’s 2010-2011 fiscal year,
- (iv) extended the term of the District through and including the City’s 2023-2024 fiscal year,
- (v) added some additional City projects to the approved project list and clarified the treatment of business property that is exempt from property taxation under the Business Equipment Tax Exemption law,
- (vi) extended and altered the terms of the authorized Credit Enhancement Agreement with the company,
- (vii) added to the list of approved project costs.

This Eighth Amendment to the Fairchild Semiconductor Municipal Development and Tax Increment Financing District Development Program will amend the threshold and reimbursement conditions to the Company (which is now owned by ON Semiconductor) under the Amended and Restated Credit Enhancement Agreement dated May 15, 2000, amended on March 31, 2008, and April 4, 2011 (collectively the “TIF Agreement”).

**II. Amendment to the TIF Agreement**

**A. Investment Waiver for FY 2017-2018**

In order for the Company to receive reimbursement of fifty percent (50%) of the Retained Tax Increment Revenues not relating to “Special New Property,” the Company has been obligated under Article X of the TIF Agreement to average an investment of at least \$12 million (whether taxable or not) at its South Portland manufacturing facility. Such \$12 million threshold was to be measured as an annual average over the most recent three years as of April 1 of each year. This amendment waives this Article X requirement under the TIF Agreement for fiscal year 2017-2018. In addition, the City shall allocate and pay all (100%) of the Retained Tax Increment Revenues not relating to “Special New Property” to the Company for the fiscal year 2017–2018.

**B. Payment Schedule for Remaining Term**

For the remaining term of years of the Development Program, Article X of the TIF Agreement shall be amended to include the following: Notwithstanding any other provision of the Development Program, for the fiscal years starting with the 2018-2019 fiscal years through the end of the District term, the City agrees to allocate and pay to the Company that portion of Retained Tax Increment Revenues not relating to “Special New Property” which is equal to the applicable percentage, according to the table below. Following fiscal year 2023-2024, absent any further amendment to the District and the Development Program, the City shall not owe and shall not make any additional allocations or payments to the Company.

<i>Average Annual Investment by the Company in the South Portland manufacturing facility within the District<sup>1</sup></i>	<i>Percentage of Retained Tax Increment Revenues for Company</i>
<i>Less than \$6,000,000</i>	<i>0%</i>
<i>\$6,000,000 to \$7,999,999</i>	<i>20%</i>
<i>\$8,000,000 to \$9,999,999</i>	<i>40%</i>
<i>\$10,000,000 to \$11,999,999</i>	<i>60%</i>
<i>\$12,000,000 to \$12,999,999</i>	<i>80%</i>
<i>\$13,000,000 to \$13,999,999</i>	<i>90%</i>

Except as expressly amended hereby, the Development Program, as previously amended, is hereby ratified and confirmed in all respects.

<sup>1</sup> The Average Annual Investment (whether taxable or not) by the Company at its South Portland manufacturing facility within the District shall be measured as an annual average over the most recent three years as of April 1 of each year.

### **III. Municipal Approvals**

#### **A. Notice of Public Hearing**

Attached as Exhibit A is a certified copy of the Notice of Public Hearing held in accordance with the requirements of 30-A M.R.S.A. 5226(1). The notice was published in a newspaper for general circulation in the City on or before a date at least ten (10) days prior to the public gathering.

#### **B. Minutes of Public Hearing**

Attached as Exhibit B is a certified copy of the minutes of the public hearing and City Council Meeting, at which time this Eighth Amendment to the Fairchild Semiconductor Municipal Development and Tax Increment Financing Development Program was discussed and approved.

#### **C. City Council Approval**

Attached as Exhibit C is a copy of the Order approved by the City Council at a City Council meeting.

#### **D. Statutory Compliance**

This Eighth Amendment to the Development Program does not alter the boundaries of the District. Title 30-A M.R.S.A. § 5226(5) requires that any amendment to a tax increment financing district and/or development program will not result in a TIF district becoming non-compliant any conditions of 30-A M.R.S.A. § 5223(3) which pertain to the percentage area within a TIF district that is suitable for commercial use, the TIF acreage caps for single TIF districts and for all TIF districts in the City, and the total TIF district valuation cap. This Eighth Amendment does not result in noncompliance with any of these conditions because the City is not changing the District's boundaries.



**Portland Press Herald**  
INC 1802  
**Maine Sunday Telegram**  
pressherald.com

Classified Advertising Proof

**Legal Advertisement**

**Exhibit A**  
Notice of Public Hearing

**CITY OF  
SOUTH PORTLAND  
NOTICE OF  
PUBLIC HEARING  
Regarding**

**An amendment to the  
Municipal Development  
and Tax Increment  
Financing ("TIF") District  
Development Program  
known as:**

**"Eighth Amendment To The  
Fairchild Semiconductor  
Municipal Development  
And Tax Increment  
Financing District  
Development Program"**

Notice is hereby given that  
the City of South Portland  
will hold a public hearing on

**July 17, 2017  
at the**

**South Portland City Hall  
25 Cottage Road  
South Portland, ME 04106  
the Public Hearing will  
be at 7:00 p.m.**

The purpose of the  
hearing is to receive public  
comment on the proposed  
Eighth Amendment to the  
Development Program of  
the Fairchild Semiconductor  
Municipal Development  
Tax Increment Financing  
Development Program  
pursuant to the provisions  
of Chapter 206 of Title 30-A of  
the Maine Revised Statutes,  
as amended. The Eighth  
Amendment will amend the  
City of South Portland's Credit  
Enhancement Agreement  
with Fairchild Semiconductor  
Corporation, now owned by  
ON Semiconductor.

A copy of the proposed  
Amendment to the  
Development Program for  
the District is on file with  
the City Clerk and may  
be obtained from and  
reviewed at the offices of  
the City Clerk during normal  
business hours. All interested  
persons are invited to attend  
the public hearing and will  
be given an opportunity to  
be heard at the hearing.

**Exhibit B**

**Minutes of Public Hearing**

**(Placeholder)**



CITY OF SOUTH PORTLAND

PATRICIA A. SMITH  
Mayor

SCOTT T. MORELLI  
City Manager

SALLY J. DAGGETT  
Jensen Baird Gardner & Henry

EMILY F. SCULLY  
City Clerk

IN CITY COUNCIL  
ORDER #14-17/18

District One  
CLAUDE V. Z. MORGAN

District Two  
PATRICIA A. SMITH

District Three  
EBEN C. ROSE

District Four  
LINDA C. COHEN

District Five  
BRAD FOX

At Large  
MAXINE R. BEECHER

At Large  
SUSAN J. HENDERSON

**ADOPTION OF EIGHTH AMENDMENT TO THE  
Fairchild Semiconductor Municipal Development and Tax Increment  
Financing District (the "District") Development Program.**

**WHEREAS**, the City of South Portland (the "City") is authorized pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, to amend previously established tax increment financing districts and development programs within the City; and

**WHEREAS**, there is a need for economic development in the City of South Portland and the surrounding region; and

**WHEREAS**, there is a need to provide additional employment opportunities for the citizens of the City of South Portland and the surrounding region; to improve and broaden the tax base of the City of South Portland; and to improve the general economy of the City of South Portland and the surrounding region; and

**WHEREAS**, implementation of this Eighth Amendment to the Development Program for the District will help continue the pursuit of these goals in the City and the region; and

**WHEREAS**, it is expected that approval will be obtained from the Maine Department of Economic and Community Development (the "Department"), approving the Eighth Amendment to the Development Program for the District; and

**BE IT ORDERED BY THE SOUTH PORTLAND CITY COUNCIL AS  
FOLLOWS:**

**Section 1.** The City of South Portland hereby adopts the Eighth Amendment to the Fairchild Semiconductor Municipal Development and Tax Increment Financing District Development Program, such designations and adoptions to be pursuant to the findings, terms, and provisions set out below.

**Section 2.** The City Council hereby finds and determines that:

a. Pursuant to Title 30-A M.R.S.A. Section 5226(5) pertaining to TIF district and development program amendments, the Development Program Amendment does not result in the District being out of compliance with any of the conditions of 30-A M.R.S.A. Section 5223(3) which pertain to the percentage of area within the District that is suitable for commercial use, the TIF acreage caps for single TIF districts and for all TIF districts in the City and the total TIF district valuation cap.

b. The adoption of the Eighth Amendment to the Development Program will contribute to the economic growth and well being of the City of South Portland and the surrounding region, and will contribute to the betterment of the health, welfare and safety of the inhabitants of the City of South Portland, including a broadened and improved tax base and economic stimulus, and therefore constitutes a good and valid public purpose. The City Council has considered all evidence presented to it with regard to any adverse economic effect on or detriment to any existing business and has found and determined that such adverse economic effect on or detriment to any existing business, if any, is outweighed by the contribution expected to be made through the District and the Development Program.

**Section 3.** Pursuant to the provisions of 30-A M.R.S.A. § 5227, the percentage of increased assessed value to be retained as captured assessed value in accordance with the Development Program is hereby established as set forth in the Development Program as amended. To the extent the Eighth Amendment to the Development Program conflicts with anything contained within the original Development Program (or anything contained within any of the previous amendments to original Development Program), the Eighth Amendment to the Development Program shall govern. All other provisions of the original Development Program, as amended, shall remain in effect.

**Section 4.** The City Manager, or his duly appointed representative, is hereby authorized, empowered and directed to submit the proposed Eighth Amendment to the Development Program for the District to the State of Maine Department of Economic and Community Development for review and approval pursuant to the requirements of 30-A M.R.S.A. § 5226.

**Section 5.** The foregoing adoption of the Eighth Amendment to the Development Program for the District shall automatically become final and shall take full force and effect upon receipt by the City of approval by the Department of Economic and Community Development, without requirements of further action by the City, the City Council, or any other party.

**Section 6.** The City Council, or its duly appointed representative, the City Manager, is hereby authorized and empowered, at his/her discretion, from time to time, to make such revisions to the Development Program for the District as the City Council, or its duly appointed representative, deem reasonably necessary or convenient in order to facilitate the process for review and approval of the Eighth Amendment to the Development Program by the Department of Economic and Community Development, or for any other reason, so long as such revisions are not inconsistent with these resolutions or the basic structure and intent of the Development Program, as amended.

**Section 7.** The City Manager, in the name and on behalf of the City is hereby authorized to enter into such amendments to the Amended and Restated Credit Enhancement Agreement dated as of May 15, 2000, as amended by the First Amendment dated as of March 31, 2008, and by the Second Amendment dated as of April 4, 2011, by and between Fairchild Semiconductor Corporation and the City, as the City Manager deems necessary or desirable to effectuate the Eighth Amendment to the Development Program, such amendment to be in such form and to contain such terms and provisions not inconsistent with the Development Program, as amended. The City Manager's approval shall be conclusively evidenced by his execution thereof.

Approved July 17, 2017, by the City Council, at a meeting duly convened and conducted at South Portland, Maine.

---

**THIRD AMENDMENT**  
to  
AMENDED AND RESTATED CREDIT ENHANCEMENT AGREEMENT  
between  
CITY OF SOUTH PORTLAND, MAINE  
and  
FAIRCHILD SEMICONDUCTOR CORPORATION

Dated as of \_\_\_\_\_, 2017

---

**THIS THIRD AMENDMENT TO THE AMENDED AND RESTATED CREDIT ENHANCEMENT AGREEMENT (the “Third Amendment”)** dated as of \_\_\_\_\_, 2017 between the City of South Portland, Maine (the “City”), a municipal body corporate and politic and a political subdivision of the State of Maine, and Fairchild Semiconductor Corporation (“Company”), a Delaware corporation with a place of business in South Portland, Maine,

**WITNESSETH THAT**

**WHEREAS**, on March 28, 1994, the City Council of the City of South Portland (the “City”) designated the National Semiconductor Municipal Development and Tax Increment Financing District (the “District”), and adopted a development program for the District (the “Original Development Program”); and

**WHEREAS**, On October 16, 1995, July 7, 1997, May 15, 2000, March 25, 2008, June 16, 2009, April 4, 2011, and December 21, 2015 the City Council amended the Original Development Program (referred to as the “Prior Amendments”), which Prior Amendments generally:

- (i) renamed the District the Fairchild Semiconductor Municipal Development and Tax Increment Financing District and changed all references to National Semiconductor to be references to Fairchild Semiconductor (“Fairchild” or the “Company”) and reconfigured the District,
- (ii) removed certain caps on the amount of captured assessed value that could be used as the basis of the allocation of TIF revenues to the Company, conditioned, however, on the requirement that the Company annually make \$10 million of taxable investment at its manufacturing facility in the City,
- (iii) extended the term of the District through and including the City’s 2010-2011 fiscal year,
- (iv) extended the term of the District through and including the City’s 2023-2024 fiscal year,
- (v) added some additional City projects to the approved project list and clarified the treatment of business property that is exempt from property taxation under the Business Equipment Tax Exemption law,
- (vi) extended and altered the terms of the authorized Credit Enhancement Agreement with the Company,
- (vii) added to the list of approved project costs.

**WHEREAS**, the City and Company entered into an Amended and Restated Credit Enhancement Agreement dated May 15, 2000 (the “2000 TIF Agreement”) to effectuate the 2000 Amended Development Program; and

**WHEREAS**, the City and Company entered into the First Amendment to the 2000 TIF Agreement (together with the 2000 TIF Agreement, the “2008 TIF Agreement”) as of March 31, 2008;

**WHEREAS**, on April 4, 2011, the City adopted a Sixth Amendment to the Original Development Program, as previously amended (referred to as the “2011 Amendment” and together with the 2009 Amended Development Program, as the “2011 Amended Development Program”), which 2011 Amendment (a) authorized an extension to the 2008 TIF Agreement, (b) changed the allocation of TIF revenues between the City and Company, (c) modified the requirement that Company Semiconductor make a minimum annual investment in property in order to receive its reimbursement of TIF revenues, and (d) provided that if the State changed the Business Equipment Tax Exemption rules relating to reimbursements from the State to the City for exempt property, the City’s payment obligations under the Credit Enhancement Agreement shall be reduced;

**WHEREAS**, the Maine Department of Economic and Community Development reviewed and accepted the 2011 Amendment effective May 19, 2011;

**WHEREAS**, the City and Company entered into the Second Amendment to the 2008 TIF Agreement (together with the 2008 TIF Agreement, the “2011 TIF Agreement”) as of April 4, 2011;

**WHEREAS**, on July 18, 2017 the City adopted an Eighth Amendment to the Original Development Program, as previously amended, (referred to as the “2017 Amendment” and together with the 2011 Amended Development Program, as the “2017 Amended Development Program”), which 2017 Amended Development Program modified the requirement that Company Semiconductor make a minimum annual investment in property in order to receive its reimbursement of TIF revenues;

**WHEREAS**, the Maine Department of Economic and Community Development reviewed and accepted the 2017 Amended Development Program by letter dated \_\_\_\_\_, 2017;

**NOW, THEREFORE**, in consideration of the foregoing and in consideration of the mutual promises and covenants set forth herein, the parties hereby agree as follows:

1. Scope of Third Amendment. Except as amended by this Third Amendment, the 2011 TIF Agreement shall, in all other respects, remain in full force and effect and is hereby ratified, confirmed and approved, the terms of which (as amended hereby) are incorporated herein by reference.
2. Definitions. The terms defined in this paragraph 2 shall, for all purposes of the 2011 TIF Agreement, have the meanings herein specified, unless the context clearly requires otherwise:



(a) “2017 TIF Agreement” means the 2011 TIF Agreement as amended by this Third Amendment.

(b) All references to “the Agreement” or “this Agreement” in the 2011 TIF Agreement shall be deemed to be references to the 2017 TIF Agreement.

(c) All references to “the Development Program” in the 2011 TIF Agreement shall be deemed to be references to the 2017 Amended Development Program.

3. Other Definitions. Capitalized terms not otherwise defined herein in the recitals above, in paragraph 2 above or otherwise, shall have the meaning given such terms in the 2011 TIF Agreement.

4. Investment Requirement. Article X of the 2011 TIF Agreement is replaced in its entirety as follows:

Notwithstanding any other provision of the Development Program, there shall be no minimum investment threshold for the Company for the 2017-2018 fiscal year. The Company shall receive an allocation and payment of one hundred percent (100%) of the Retained Tax Increment Revenues not relating to “New Special Property” for the 2017-2018 fiscal year.

Notwithstanding any other provision of the Development Program, for the fiscal years starting with the 2018-2019 fiscal years through the end of the District term, the City agrees to allocate to and pay the Company that portion of Retained Tax Increment Revenues not relating to “Special New Property” which is equal to the applicable percentage, according to the table below. Following fiscal year 2023-2024, absent any further amendment to the District and the Development Program, the City shall not owe and shall not pay Company any additional Retained Tax Increment Revenues.

<i>Average Annual Investment by the Company in the South Portland manufacturing facility within the District<sup>1</sup></i>	<i>Percentage of Retained Tax Increment Revenues for Company</i>
<i>Less than \$6,000,000</i>	<i>0%</i>
<i>\$6,000,000 to \$7,999,999</i>	<i>20%</i>
<i>\$8,000,000 to \$9,999,999</i>	<i>40%</i>
<i>\$10,000,000 to \$11,999,999</i>	<i>60%</i>
<i>\$12,000,000 to \$12,999,999</i>	<i>80%</i>
<i>\$13,000,000 to \$13,999,999</i>	<i>90%</i>
<i>\$14,000,000 or greater</i>	<i>100%</i>

5. Due Authorization.

(a) The City has full corporate power, authority and legal right to execute and deliver and to perform and observe the terms and provisions of this Third Amendment. This Third Amendment has been duly authorized, executed and delivered by the City.

(b) The Company has full corporate power, authority and legal right to execute and deliver and to perform and observe the terms and provisions of this Third Amendment. This Third Amendment has been duly authorized, executed and delivered by Company.

6. Other Agreements Superseded. The 2017 TIF Agreement completely and fully supersedes all other prior or contemporaneous understandings or agreements, both written and oral, between the City and Company relating to the specific subject matter of the 2017 TIF Agreement.

<sup>1</sup> The Average Annual Investment (whether taxable or not) by the Company at its South Portland manufacturing facility within the District shall be measured as an annual average over the most recent three years as of April 1 of each year.

**IN WITNESS WHEREOF**, the City and Company have caused this Third Amendment to be executed in their respective corporate names and attested by the duly authorized officers, all as of the date first above written.

WITNESS:

CITY OF SOUTH PORTLAND

\_\_\_\_\_

By: \_\_\_\_\_

Scott Morelli  
City Manager, properly authorized by the  
City Council on July 17, 2017

WITNESS:

FAIRCHILD SEMICONDUCTOR  
CORPORATION

\_\_\_\_\_

By: \_\_\_\_\_

Name  
Its