



**CITY
COUNCIL
AGENDA**

AGENDA
CITY COUNCIL OF THE CITY OF BATH, MAINE

Special Meeting

Wednesday, July 17, 2024, 6:00pm

In-Person: Council Chambers, Bath City Hall, 55 Front Street

Television: BCTV Channel 14

Live Stream: [BCTV 14 \(castus.tv\)](https://www.castus.tv)

ZOOM: <https://us02web.zoom.us/j/87604874516>

Call to Order

Pledge of Allegiance

Roll Call

Presentations

Hiring of Martin Kinsman, Firefighter; Bath Fire Department

Manager's Report

Public Hearing

2024-82) Anchorage South Affordable Housing Municipal Development
and Tax Increment Financing District

Unfinished Business

New Business

2024-83) Approving Mobile Vehicle Barrier Bid Award

2024-84) Order: Approving extension of contract with Pine Tree Waste

2024-82) Order: Anchorage South Affordable Housing Municipal
Development and Tax Increment Financing District

2024-85) Ordinance: 80 Congress Ave Bath Housing Project Contract
Rezoning

Executive Session

Real Estate per 1 MRS §405(6)(C)

Adjournment



PUBLIC HEARINGS

CITY OF BATH MAINE
CORRECTED NOTICE OF PUBLIC HEARING

Regarding
An Affordable Housing Development and Tax Increment Financing District
To Be Known As The

“Anchorage South Affordable Housing Municipal Development and Tax Increment Financing District”

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

Wednesday, July 17, 2024
at 55 Front Street, Bath, ME 04530
at 6:00 p.m.

The purpose of the public hearing is to receive public comments on the designation of the Anchorage South Affordable Housing Municipal Development and Tax Increment Financing District (the “District”) and the adoption of a development program for the District pursuant to the provisions of 30-A M.R.S. § 5250-A of the Maine Revised Statutes, as amended.

The proposed District consists of approximately .74 acres located at 80 Congress Street, Tax Map 29 Lot 14. This District authorizes the City Manager to enter into a credit enhancement agreement with the developer, as described in the proposed development program.

A copy of the proposed Development Program will be on file with the City during normal business hours of 7:30 am – 12:00 pm and 1:00 pm to 5:30 pm, they can also be found at cityofbathmaine.gov or one can call 207-443-8332 during normal business hours to request that a copy be mailed to you. All interested persons are invited to attend the public hearing and will be given an opportunity to be heard at that time.

Public comments will be taken at the hearings and written comments should be submitted to City Clerk *Darci Wheeler* at dwheeler@cityofbath.com Written comments will be accepted until 4:00 PM on July 16, 2024.



NEW BUSINESS

7/17/2024

2024-83

**CITY COUNCIL ACTION**

Meeting Date

Item No.

Requested Council Meeting Date: July 17, 2024

Responsible Dept: Police

Requested Action: Approval

Title

Mobile Vehicle Barrier bid award

Summary

The police department has worked with Sagadahoc County Emergency Management Agency in seeking federal grant money to purchase mobile vehicle barriers for the last year and a half. We were notified earlier this year that we had received that federal grant money. The city council approved the use of this grant earlier in May. Invitations to bid were sent out and we received two replies, one of which exceeded the grant amount of \$115,000. The winning bid was from Meridian Rapid Defense Group in the amount of \$113,877.66. Request council approval to award this bid.

Staff Comments

Action: Select

City Manager

Introduced for: New Business



CITY OF BATH

Date:

Mobile Vehicle Barrier bid award

7/17/2024

2024-84

**CITY COUNCIL ACTION**

Meeting Date

Item No.

Requested Council Meeting Date: July 17, 2024

Responsible Dept: Public Works

Requested Action: Order

Title

Approving extension of contract with Pine Tree Waste

Summary

The City's contract with Pine Tree Waste for curbside collection of trash and recycling expired on June 30, 2024. This action will continue service with Pine Tree Waste for six months while the city explores the path forward for curbside collection.

Staff Comments

This extension will provide time for public information and feedback this fall related to Pine Tree Waste's proposed transition to automated waste collection.

Action: Recommend for passage

City Manager

Introduced for: New Business



CITY OF BATH

Date: 07/17/2024

Approving extension of contract with Pine Tree Waste

Be it ordered by the City Council of the City of Bath that the six (6) month extension to the collection and processing contract with Pine Tree Waste, Inc., an wholly owned subsidiary of Casella Waste Systems, Inc., is accepted and the City Manager is authorized to execute the agreement and any other documents necessary related to the proposal.



ESTABLISHED 1975

June 3, 2024

City of Bath
Lee Leneir, Public Works Director
55 Front St.
Bath, Maine 04530

Six (6) Month Extension to the Collection and Processing Contract

Dear Lee,

Pine Tree Waste, Inc, and wholly owned subsidiary of Casella Waste Systems Inc, ("Casella") is pleased to provide the City of Bath ("City") with a price proposal for the curbside collection of municipal solid waste and recycling and the processing of recyclable materials. As the leading resource management company in the Northeast, we have nearly five decades of experience in collecting, hauling, and processing services, as such, we believe Casella is the most qualified partner to meet the City's material management needs.

In conjunction with Casella's longstanding environmental service expertise, Casella recovers over one million tons of recyclables and organic residuals for beneficial use each year. We are committed to working collaboratively with the City's to meet its goals; both environmentally and economically. We are committed to building a diverse workforce that is passionate about serving our customers, adhering to the highest ethical standards, complying with all state and federal regulations, all the while improving our communities and environment.

In addition to solid waste and recycling services, we often deploy education and other value-added services such as mattress recycling and new technology to our customers, as desired. Our proposal outlines the pricing for services for a 6-month extension to the current agreement, commencing on July 1, 2024.

We feel that this proposal reflects our strong desire to continue our partnership and take the necessary steps to move towards an automated collection contract with the City of Bath. If at any time you have any questions, please feel free to reach me at (207) 604-4522.

Sincerely,

Chris McHale

Chris McHale
Market Area Manager

Scope of Services

Curbside Collection Services

The City of Bath will be serviced by our local hauling division located at 64 Arthur J Reno Sr Rd, Bath, ME, where our administrative offices and fleet vehicles are dispatched. Casella is fully equipped to provide and maintain equipment to service the City of Bath in addition to being fully qualified and licensed in accordance with all applicable Federal, State, and local laws. Our trucks are routinely serviced and inspected. We will plan on utilizing our existing fleet to provide hauling services and have ample backup equipment in our existing fleet located at our local division.

Disposal

All Municipal Solid Waste collected locally will be delivered to the City of Bath's Landfill located at 11 Detritus Drive, Bath, ME

Processing

All Zero-Sort recycling collected locally will be delivered to Casella's West Bath Transfer Station where it will be loaded and transported to one of our state-of-the-art Material Recovery Facility ("MRF") located in Lewiston, ME for processing.

Our Team

The City's Public Works Department and City Officials will have a direct line to our local operations team to ensure any daily service issues are resolved promptly. Casella will have the following resources overseeing the contract and supporting the City's needs:

Chris McHale: Market Area Manager

Will provide general oversight for all aspects of this contract and ensure all of Bath's expectations are exceeded by Casella.

✉ christopher.mchale@casella.com
☎ (207) 604-4522

Mark Haley: Operations Manager

Will provide direct operational management for all day-to-day hauling, operation, equipment, and maintenance service needs.

✉ mark.haley@casella.com
☎ (603) 365-9420

Talya Bent: Municipal Account Manager

Will serve as a primary point of contact for the contract and will ensure Casella fulfills the needs and goal objective set forth by the partnership.

✉ talya.bent@casella.com
☎ (603) 327-9098

Customer Service

Casella's local Commercial Service Representatives are available to take the City employee's calls to assist with any scheduling or service needs.

Commercial Services

✉ laurie.richards@casella.com
☎ (207) 510-4839

Price Proposal: July 1, 2024-December 31, 2024

Curbside Collection

Municipal Solid Waste: \$26,944.75 per month
Zero-Sort Recycling: \$11,547.75 per month

Processing of Recyclables

Threshold: \$160

Transportation & Handling: \$35

Formula: $ACR - (\$160 + \$35)$

**See attachment A for formula explanation*

Leaf & Yard/ Christmas Tree Collection

Labor Provided: One (1) driver, one (1) laborer

Per Hour Rate: \$265.00/hr

Commercial Front Load Containers

Location	Size/Material	Frequency	Price Per Month
Rec Field Congress Ave	6 yd MSW	1x per week	\$104.00
Mid Coast Community Old Brunswick Rd.	6 yd MSW	1x per week	\$0.00
Rec Dept. Sheridan St.	6 yd MSW	1x per week	\$104.00
Fire Dept. High St.	8 yd MSW	Ever other week	\$58.00
Waste Water Town Landing Rd.	6 yd MSW	1x per month	\$0.00
Bath Community Center-Office Dr.	4 yd MSW	1x per week	\$104.00
Cemetery & Parks Office Oak Grove Ave.	6 yd MSW	1x per week	\$104.00
Public Works Oak Grove Ave.	8 yd MSW	1x per month	\$40.00
Public Works Oak Grove Ave.	6 yd MSW	1x per week	\$104.00
Bath Water District Oak Grove Ave.	4 yd MSW	1x per month	\$0.00
Bath Police Station-Water St.	4 yd MSW	1x per month	\$104.00

Proposal Terms

1. The term of of this extension will be for six (6) months, from July 1, 2024 until December 31, 2024.
2. The per hour cost of leaf and yard, and Christmas tree collection will be \$265.00/hr with no maximum cap.
3. Recyclables Processing pricing will be based on the Average Commodity Revenue (ACR) formula, see Attachment A for an explanation.
4. Mutually Agreeable Fuel Surcharge: Contractor may assess a fee (the "Fuel Adjustor") on a monthly basis to cover increases in Contractor's costs caused by increases in the cost of diesel fuel over a floor price of \$4.45 per gallon (the "Floor Price") based on the listed average price for diesel fuel for the month of service, as set forth on the EIA Retail On Highway Diesel Prices index for New England PADD 1A (the "Index") or a successor index. Each month Contractor will assess a Fuel Adjustor whenever the average monthly Index fuel price listed for the month of service (the "Service Month Index Price") exceeds the Floor Price." The Service Month Index Price can be located on the internet at the following web site: <http://www.eia.gov/petroleum/gasdiesel/> and is listed in the spreadsheet link titled "full history". The Fuel Adjustor will be made according to the following formula:
$$((\text{Service Month Index Price} - 4.45) / 4.45) (7.4\%) (\text{Monthly Fee}) = \text{Fuel Adjustor}$$

ATTACHMENT A

Single Stream Recycling Formula

ACR - Threshold = Rebate (Charge)

Definitions:

Average Commodity Revenue (ACR) means the current market value for each recyclable commodity (including residue tons) multiplied by the product mix percentage of each recyclable commodity tons from that facility for the residential line of business over the same month, less any direct costs of Processor related to transportation, storage, or marketing of product. In addition, if there is a material change in the ACR during any thirty-day period, the Processor reserves the right to make the immediate adjustment to the ACR.

Rebate (Charge) means the percentage of value paid to the Generator when the ACR is greater than the Threshold. When the Rebate is negative, each dollar below the ACR will be charged to the Generator.

Rebate Split = 50% to Generator when ACR is above Threshold

Threshold (\$160/ton) means the base rate required to process Recyclable Materials (including increases in labor expenses and to cover capital investments) Threshold shall be updated periodically to account for these changes in costs.

Trans and Handling (\$35.00/ton) means the cost to transport and reload the recyclables from the local transfer station to the Materials Recovery Facility (MRF).

Example (Current) Pricing Scenarios:

Based on Today's Market	Based on a Better Market
ACR: \$64.41 Threshold: \$160 Trans & Handling: \$35	ACR: \$85.77 Threshold: \$160 Trans & Handling: \$35
Pricing formula: $\$64.41 - (\$160 + \$35) =$ \$130.59/ton	Pricing Formula: $\$85.77 - (\$160 + \$35) =$ \$109.23/ton
Rebate/Charge: 50% over Threshold (to Generator) and dollar for dollar below the Threshold (to Processor)	Rebate/Charge: 50% over Threshold (to Generator) and dollar for dollar below the Threshold (to Processor)
Net charge to Generator is \$130.59/ton (\$130.59 x 100%)	Net charge to Generator is \$109.23/ton (\$109.23 x 100%)

ATTACHMENT B

List of Acceptable Materials

- Newspaper
- Magazines
- Cardboard boxes
- Brown bags
- Junk mail
- phone books
- Catalogs
- Soft cover books
- Envelopes
- Advertisements & inserts
- Boxboard & paperboard
 - Cereal boxes
 - Pasta boxes
 - Shoe boxes
- Mixed Office Paper
- Plastic Bottles
 - Milk jugs
 - bleach/detergent bottles
 - soda-juice bottles
 - shampoo bottles
 - water bottles
 - cottage cheese containers
 - margarine containers
 - yogurt containers
- Rigid Plastics
 - large buckets
 - laundry baskets
 - plastic chairs
- Aluminum cans
 - pie plates/trays/foil
- Tins cans
 - steel
- Glass bottles & jars

List of Unacceptable Materials

- Plastic bags or bagged recyclables
- No coated paper items
 - waxed coffee or soda cups
 - waxed paper plans
 - items with any type of plastic coated lining
- No disposable items
 - polystyrene (styrofoam)
 - Napkins
 - Tissues
 - Paper towels
 - Plastic utensils
 - Dirty recycling
 - Register tape
 - Condiment packets
 - Straws
 - Stirrers
 - Coffee pods
- No toys, clothing, or hangers
- No wood stove or waste (bodily or food)
 - Rope
 - Twine
 - Diapers
 - Food
 - Pet waste
 - Yard Waste
- No plastic wrap, film, or tarps
 - Food bags
 - Wrappers
 - Plastic or shrink wrap
 - Tarps
- No hazardous material
 - Fire extinguishers
 - Propane tanks
 - Paint cans
 - Held a toxic substance
- No rubber or scrap metal
- No medical waste
- No ceramics, pots, pans or baking glass
 - No window glass
 - Mirrors
- No electronic items, batteries, or bulbs
- No appliances
- Recyclables less than 2" in size in any dimension.



CITY COUNCIL ACTION

Meeting Date

Item No.

Requested Council Meeting Date: July 17, 2024



Responsible Dept: Community & Economic Development



Requested Action: Order



Title

Anchorage South Affordable Housing Municipal Development and Tax Increment Financing District

Summary

BHDC Anchorage South, LP has requested the City adopt a TIF District and TIF District and Development Program as well as the credit enhancement agreement to support the redevelopment of the Anchorage Apartments at 80 Congress Ave.

Council will consider adopting the proposed TIF District and Development Program as well as the credit enhancement agreement with BHDC Anchorage South, LP. The Development Program (attachment 7 of the TIF application) outlines how the City plans to utilize the sheltered TIF revenues, which includes the 75% credit enhancement to the developer. Also as part of adopting the TIF District & Development Program Council the same Order includes approval of the credit enhancement agreement because the terms of the agreement are intertwined with the Development Program. The credit enhancement agreement is included in attachment 8 of the TIF application.

The Council will hold a Public Hearing on the proposed Anchorage South Affordable Housing Municipal Development and TIF District to review the project and receive public comments on the project. Later in the meeting Council shall consider all information provided as well as the draft application and materials in consideration of adoption.

Staff Comments

Action: Recommend for passage



City Manager

Introduced for: Select



CITY OF BATH

Date:

Anchorage South Affordable Housing Municipal Development and Tax Increment Financing District

BHDC Anchorage South, LP is proposing to develop a four-story, up to forty-eight unit, multi-family residential apartment building that will consist of all one-bedroom units at 80 Congress Ave. The proposed project will replace the existing Anchorage Apartments located at 100 Congress Ave that are functionally obsolete and experiencing physical distress warranting replacement as the only financially viable option.

In order to preserve much needed affordable housing in the City and add additional needed affordable units, the Developer is requesting an affordable housing TIF District and Development Program be created to shelter the increased assessed value from the project. The Developer is also requesting a credit enhancement agreement (attachment 8 of the TIF Application) to provide 75% of the increased tax revenues from the project return to the developer each year for a period of 30 years. The proposed credit enhancement agreement terms would allow the developer to access an additional \$900,000 in debt for the project as well as assist in competitiveness for the Low Income Housing Tax Credit Application through MaineHousing needed to finance the project.

The remaining 25% of the TIF revenues would be utilized to support infrastructure investments, like sewer, pedestrian, and intersection improvements outside of the District but related to the project, as noted in attachment 7, Development Program of the TIF Application.

Council will consider adopting the proposed TIF District and Development Program as well as the credit enhancement agreement with BHDC Anchorage South, LP. The Development Program (attachment 7 of the TIF application) outlines how the City plans to utilize the sheltered TIF revenues, which includes the 75% credit enhancement to the developer. Also as part of adopting the TIF District & Development Program Council the same Order includes approval of the credit enhancement agreement because the terms of the agreement are intertwined with the Development Program.

The Council will hold a Public Hearing on the proposed Anchorage South Affordable Housing Municipal Development and TIF District to review the project and receive public comments on the project. Later in the meeting Council shall consider all information provided as well as the draft application and materials in consideration of adoption. City Solicitor, Philip Saucier will be present for the public hearing and meeting to discuss the proposal.

CITY OF BATH COUNCIL ORDER
Anchorage South Affordable Housing
Municipal Development and Tax Increment Financing District

WHEREAS, the City of Bath (the “City”) is authorized pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, to designate the **Anchorage South Affordable Housing Municipal Development and Tax Increment Financing District** (the “District,”) and the Development Program (the “Development Program,”) for the District; and

WHEREAS, there is a need for economic development and affordable housing in the City, in the surrounding region, and in the State of Maine; and

WHEREAS, there is a need to improve and broaden the tax base of the City; and to improve the general economy of the City and the surrounding region, and to provide impetus for affordable housing development within the City; and

WHEREAS, implementation of the Development Program will help to improve and broaden the tax base in the City and improve the economy of the City and the region by attracting business development in the area and creating affordable housing in the District; and

WHEREAS, there is a need to implement continued economic development initiatives in the District through the Development Program in accordance with the provision of Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended; and

WHEREAS, it is expected that approval will be obtained from the Maine State Housing Authority (“MaineHousing”), approving the **Anchorage South Affordable Housing Municipal Development and Tax Increment Financing District** and the Development Program related thereto;

ORDERED AS FOLLOWS:

Section 1. The City of Bath hereby designates the District and adopts the associated Development Program for the District; such designation and adoption to be pursuant to the following findings, terms, and provisions:

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

- a. At least twenty-five percent (25%), by area, of the real property within the District, as hereinafter designated, is suitable for residential use, blighted area, or is in need of rehabilitation; and
- b. The total area of the District does not exceed two percent (2%) of the total acreage of the City, and the total area of all existing and proposed development districts within the City (including the District) does not exceed five percent (5%) of the total acreage of the City; and
- c. The original assessed value of all existing and proposed affordable housing tax increment financing districts (including the District) does not exceed five

percent (5%) of the total value of equalized taxable property within the City as of April 1, 2023; and

- d. The District and pursuit of the Development Program will make a contribution to the expansion of affordable housing opportunities within the municipality, the economic growth and well-being of the City and the surrounding region, and will contribute to the betterment of the health, welfare and safety of the inhabitants of the City, including a broadened and improved tax base and economic stimulus, and therefore constitutes a good and valid public purpose. The City has considered all evidence, if any, 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 Development Program.

Section 3. Pursuant to the provisions of 30-A M.R.S. § 5250-A, 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.

Section 4. The City Manager, or his duly appointed representative, is hereby authorized, empowered and directed to submit the proposed Development Program for the District to MaineHousing for review and approval pursuant to the requirements of 30-A M.R.S. § 5250-A.

Section 5. The foregoing designation of the District and adoption of 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 MaineHousing, without requirement of further action by the City, the City Council, or any other party.

Section 6. The City Manager, or his duly appointed representative, is hereby authorized and empowered, at his discretion, from time to time, to make such revisions to the District and Development Program as the City Manager may deem reasonably necessary or convenient in order to facilitate the process for review and approval of the District by MaineHousing, 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.

Section 7. The City Manager, or his duly appointed representative, is hereby authorized, delegated and directed to submit any reports to MaineHousing regarding the District and Development Program.

Section 8. The City Manager, or his duly appointed representative, in the name and on behalf of the City, is hereby authorized and directed to enter into a credit enhancement agreement between the City and the developer of the project to be located in the District, in substantially the form as presented to the City Council in conjunction with this Order and on terms as described in the Development Program and any other negotiated agreements between the City and the Developer.

Dated: July 17, 2024

MAINE STATE HOUSING AUTHORITY

APPLICATION

Affordable Housing Tax Increment Financing

The Municipal Affordable Housing Development Districts statute, 30-A M.R.S.A. §§5245 – 5250-G, referred to as the "TIF Statute" in this Application, applies to affordable housing tax increment financing in Maine. The TIF Statute provides that before a municipality's designation of an affordable housing development district and its adoption of the associated affordable housing development program for the district become effective, MaineHousing must review the proposed district and development program to ensure compliance with the TIF Statute.

All applications to MaineHousing for review of an affordable housing development district and its associated development program must be on this form and include all eight Attachments noted below.

Sections 1 and 2 below are in fillable PDF format and may be completed on-line. After you have completed Sections 1 and 2, please print the Application and sign where indicated in Section 1.

This Application, with Attachments 1 through 8, may be submitted to MaineHousing in one of two ways:

By Email to Donald Guild, Esq. sent to dguild@mainehousing.org, *or*

By mail to: Donald Guild, MaineHousing, 26 Edison Drive, Augusta, Maine 04330

In this Application "district" means an affordable housing development district and "development program" means an affordable housing development program.

SECTION 1 – APPLICANT INFORMATION

1-1 Name of applicant city or town: _____

1-2 Municipal official submitting this Application:

Printed name

Title

Mailing address

Phone number

E-mail address

The municipal official named above certifies that he/she has the authority to submit this Application to MaineHousing and further certifies that to the best of his/her knowledge, the information contained in this Application and its Attachments is true.

Signature

Date

1-3 Municipal official with authority to submit annual reports to MaineHousing on the status of the district:

Printed name

Title

Mailing address

Phone number

E-mail address

SECTION 2 – NOTICE AND HEARING

Before designating a district or adopting a development program, the municipal legislative body must

- (a) hold at least one public hearing,
- (b) publish notice of the hearing at least 10 days before the date of the hearing in a newspaper of general circulation in the municipality,
- (c) at the hearing, consider
 - (i) whether the district and development program will contribute to the expansion of affordable housing or the betterment of the health, welfare or safety of the residents,
 - (ii) any claim by a party that the district or development program will be detrimental to that party's property interests for which substantial evidence is produced, and whether any adverse economic effect is outweighed by the availability of affordable housing or the betterment of resident health, welfare or safety.

2-1 Date of public notice: _____

Attachment 1 – Newspaper Notice

Include as ***Attachment 1*** a copy of the newspaper page showing the public notice and the newspaper name and date.

2-2 Date of public hearing: _____

Attachment 2 – Public Hearing Record

Include as **Attachment 2** the record of the meeting at which the public hearing was held, certified by the municipal clerk.

Attachment 3 – Additional Documents

Include as **Attachment 3** all documentation submitted to, or prepared by, the municipality relating to items (c)(i) and (c)(ii) above.

SECTION 3 – MUNICIPAL APPROVAL

Conditions of municipal approval of district and development program

The TIF Statute sets out conditions for the designation of a district and adoption of a development program by a city or town. A municipality must designate a district and adopt a development program meeting these conditions.

To assist municipalities in ensuring that districts and development programs comply with the conditions of the TIF Statute, we have set out below a **Checklist in Appendix A** that can be used in designating a district and adopting a development program. The Checklist covers the conditions in the TIF Statute that need to be met in approving the district and development program. While MaineHousing does not require municipalities to fill in or follow the format of the Checklist, in reviewing a district and development program approved by a municipality, we will look for specific information in the Application materials (including the Attachments) the city or town submits to us showing compliance with all the conditions of the TIF Statute.

IMPORTANT NOTE: Because the TIF Statute defines a district as "a specified area within the corporate limits of a municipality that has been designated . . . to be developed" under a development program, a development program must, at a minimum, include new construction of affordable housing or rehabilitation of existing housing *inside* the district, or both. A municipality may not create a district for the sole purpose of capturing tax increment revenues that would result only from inflationary adjustments to property values with no development of new housing or rehabilitation of existing housing in the district.

Attachment 4 – Municipal Approval

Include as **Attachment 4** a copy of the order or resolution and vote of the municipal legislative body approving the district and development program, certified by the municipal clerk.

Attachment 5 – District Maps

Include as **Attachment 5** a municipal map and tax map showing the district boundaries.

Attachment 6 – Certification of Original Assessed Value of District

Include as **Attachment 6** a dated certification signed by the municipal assessor showing the original assessed value of the district. "Original assessed value" means the taxable assessed value of the district as of the March 31st before municipal approval of the district.

Attachment 7 – Development Program

Include as **Attachment 7** a copy of the development program approved by the municipality's legislative body.

Attachment 8 – Credit Enhancement or Other Agreement

Include as **Attachment 8** a copy of the credit enhancement agreement or other tax increment revenue sharing agreement, whether or not executed.

**See Appendix A below for
Checklist for Approval of District and Development Program**

DRAFT

Appendix A
Checklist for Approval of District and Development Program

The TIF Statute sets out conditions for the designation of a district and adoption of a development program by a city or town. A municipality must designate a district and adopt a development program meeting these conditions.

To assist municipalities in ensuring that districts and development programs comply with the conditions of the TIF Statute, we have set out below a **Checklist** that can be used in designating a district and adopting a development program. The Checklist covers the conditions in the TIF Statute that need to be met in approving the district and development program. While MaineHousing does not require municipalities to fill in or follow the format of the Checklist, in reviewing a district and development program approved by a municipality, we will look for specific information in the Application materials (including the Attachments) the city or town submits to us showing compliance with all the conditions of the TIF Statute.

- District description
 - _____ Physical description of district
 - _____ Municipal map showing district boundaries
 - _____ Tax map showing district boundaries

- At least 25% of district acreage is suitable for residential use, blighted, or in need of rehabilitation/redevelopment
 - _____ % acreage suitable for residential use
 - _____ % blighted
 - _____ % in need of rehabilitation/redevelopment
 - _____ Physical description of district to support above
 - _____ Zoning designation where district is located
 - _____ Allowed uses in that zone

- District acreage divided by total municipal acreage is not more than 2%
 - _____ Total district acreage
 - _____ Total municipal acreage
 - _____ District acreage as a percent of total acreage

- Total acreage of all existing and proposed development districts (affordable housing and DECD districts) in municipality divided by total municipal acreage is not more than 5%

_____ Total acreage of all development districts
_____ Total municipal acreage
_____ Total development district acreage as a percent of total acreage

- Original assessed value (OAV)* of district

_____ Dated certification signed by municipal assessor showing OAV amount and date

* OAV means the taxable assessed value of the district as of the March 31st before municipal approval of the district.

- OAV of all existing and proposed affordable housing development districts in the municipality divided by aggregate taxable property value as of the April 1st before MaineHousing approval is not more than 5%

_____ Aggregate OAV of existing and proposed districts
_____ Aggregate taxable property value as of the April 1st before MaineHousing approval
_____ Aggregate OAV as a percent of total taxable value

- Development program start and end dates

_____ First tax year (i.e., April 1 – March 31) of development program *

* May be any tax year specified in municipal approval. If none is specified, the development program will start during the tax year of approval.

_____ Last tax year of development program **

** Not more than 30 years after tax year of MaineHousing approval.

_____ Municipal fiscal year ***

*** Example: July 1 – June 30

- The development program meets an identified housing need in municipality

_____ Description of need
_____ Description of how development program meets need
_____ Number of new rental units to be constructed

- _____ Number of existing rental units to be rehabilitated
- _____ Number of new single-family homes, including condominiums, to be constructed
- _____ Number of existing single-family homes, including condominiums, to be rehabilitated

District must be a primarily residential * development

- _____ Description of residential and non-residential uses in district and acreage of each
- _____ Description of accessory uses relating to residential use

* A district is primarily residential if the overall character of the uses in the district is residential. Residential uses include both housing and uses related to residential uses, such as recreational facilities and child care facilities available to the residents of the district and small-scale nonresidential uses that are intended to provide services primarily to the residents of the district.

At least 33% of the housing units in the district must be affordable housing *

- _____ Number of affordable single-family owner-occupied homes, including condominiums, in district
- _____ Number of affordable rental units in district
- _____ Total number of housing units in district
- _____ Affordable housing units as a percent of total units

* Affordable housing is an owner-occupied single-family home or condominium or a rental unit for a household earning no more than 120% of area median income (AMI). The housing must be decent, safe and sanitary. Affordable housing does not include facilities such as emergency shelters, nursing homes, convalescent homes, hospitals, residential treatment facilities, correctional facilities, or student dormitories, regardless of income level. No purchase price limits on homes or rent restrictions on rental units are required to establish that a unit is affordable.

HUD updates AMI annually. The AMI for counties and other designated areas in Maine can be found at <https://www.huduser.gov/portal/datasets/il.html>. Select the tab for the most current Year for which data is available. Click the link under Individual Income Limits Areas (“FY ____ IL Documentation”). Scroll and select the State of Maine. Scroll and select the appropriate municipality. Click “View County Calculations”. Use the Median Family Income figure in the first column. Multiply that MFI figure by 120% to determine the maximum income level.

- Mechanism to ensure ongoing affordability of 33% of the housing units in district for required time

_____ Length of affordability period for owner-occupied single-family homes and condominiums *

* The minimum affordability period for single-family owner-occupied homes and condominiums is 10 years.

_____ Description of affordability mechanism for single-family owner-occupied homes and condominiums

_____ Length of affordability period for rental units **

** The minimum affordability period for rental units is 30 years.

_____ Description of affordability mechanism for rental units

A district may contain only homeownership units or only rental units or a combination of both, but a minimum of 33% of the total number of housing units in the district must be affordable for the required time, i.e., 10 or 30 years, depending on the housing type.

The affordable units can be fixed (particular units are subject to the affordability requirements and never change, i.e., those specific units must remain affordable during the applicable affordability period and other units cannot be substituted for them) or they can float (units initially designated as affordable may change over time and other affordable units can be substituted in their place) provided that at least 33% of the total number of housing units in the district are affordable housing at any given point in time.

Whether the units are rental or homeownership units, the affordability period begins to run when the units have been constructed or rehabilitated into decent, safe and sanitary housing and (i) are available for occupancy if the development is subject to a declaration of covenants and restrictions that requires the units to be affordable (i.e., restricted to households with income not exceeding 120% of AMI), or (ii) when the units are occupied by a household with income not exceeding 120% of AMI if the development is not subject to a declaration. The development program needs to include timing information on the development and availability for occupancy of the affordable units in the district. To comply with the TIF Statute's requirement that at least 33% of the housing units in the district be affordable housing, in a mixed-income development, the development program must provide for the construction/rehabilitation of the affordable units within a reasonable timeframe during the construction phase of the project and not leave them to the end of the project if the units will be made available for occupancy or sale as they are constructed or rehabilitated.

- Operation of housing and facilities in district

- _____ Description of how housing and facilities in the district will be operated after completion
- _____ Entity responsible for operation
- _____ Source of operating funds

Specific planned uses of tax increment revenues from the district *

* See §5249 of the TIF Statute for eligible uses of tax increment revenues from the district.

IMPORTANT NOTE: Municipalities are cautioned that a broad recitation in a development program of all or substantially all the authorized project costs listed in the TIF Statute will not be accepted by MaineHousing.

A non-residential use included in a development program may be funded with tax increment revenues from the district, provided that the non-residential use contributes to a specific, identified improvement of the health, welfare or safety of the residents of the municipality, including a specific, identified benefit to the residents of the district, or to the expansion of affordable housing within the municipality. The district and development program must otherwise comply with the requirements of the TIF Statute, including the requirement that the district be a primarily residential development. Tax increment revenues may not be used to construct new "pure" commercial facilities within a district or to rehabilitate those facilities.

- _____ Description of each improvement, facility, program, or other activity included in the development program that may or will be funded in whole or in part with tax increment revenues *

* Include all intended uses and potential alternative uses.

- _____ List which of these improvements, facilities, programs, or other activities are inside the district

- _____ List which of these improvements, facilities, programs, or other activities are outside the district **

** To be funded with tax increment revenues, costs outside the district must be ***directly related to or made necessary*** by the creation or operation of the district. Include any supporting studies, research, estimates, and assumptions.

- _____ Amount of tax increment revenues to be used for each improvement, facility, program or other activity inside and outside the district ***

*** Only the proportion of costs outside the district that are ***directly related to or made necessary*** by the creation or operation of the district may be paid with tax increment revenues.

- _____ Amount and source of other funding for the development program
- _____ Timing of each planned improvement, facility, program, or other activity

A municipality may use tax increment revenues from a district to establish a permanent housing development revolving loan fund or investment fund. *

- _____ A description of the fund, including type, purpose, operation, and provisions for repayment or return of fund proceeds to the fund
- _____ The timing of the establishment and use of the fund
- _____ The property to be purchased with investment fund proceeds and the housing to be developed with revolving loan fund proceeds and timing
- _____ The location of the property and the housing

* A permanent housing development revolving loan fund or investment fund must be used solely for the development of affordable housing as defined above.

Loans made from a revolving loan fund must be repaid to the municipality, and all loan repayments must be deposited into that loan fund and used for additional loans for the development of affordable housing. Loans may be made from the revolving loan fund for both new construction of affordable housing and the rehabilitation of existing housing.

Funds in an investment fund may be used only for the purchase of property by the municipality for the development of affordable housing by the municipality itself or by a developer to which the municipality sells or leases the property. All sales proceeds or rental revenues must be placed in the investment fund and used for additional purchases of property by the municipality for that purpose.

Creating a district around an existing residential area for the purpose of funding a revolving loan fund or investment fund still requires that there be some development of affordable housing *within* the district, whether new construction or the rehabilitation of existing housing, or both.

Because revolving loan funds and investment funds are capitalized with tax increment revenues resulting from the development of affordable housing in a district and proceeds disbursed from a loan or investment fund are required to be returned to the fund, it is not necessary for a municipality to make any further showing that costs of establishing a permanent housing development revolving loan fund or investment fund are directly related to or made necessary by the district.

A financial plan showing for each year the development program will be in effect

- _____ An estimate of increased assessed value * of the district (including assumptions)

* Increased assessed value is the amount, if any, by which the current assessed value as of the most recent April 1st exceeds OAV.

_____ Amount or percent or method or formula for determining amount or percent of increased assessed value to be retained as captured assessed value ** and applied to pay development program costs and resulting tax increment ***

** Captured assessed value is the portion of increased assessed value that is used from year to year to finance the project costs authorized under the development program.

*** Tax increment means the municipal real estate taxes assessed on the increased assessed value of the property in the district.

_____ Calculation of estimated tax shifts showing the effect on the municipality's state revenue sharing, education subsidies, and county taxes resulting from creation of district and the capture of increased assessed value. ****

**** Use the tax shift formulas in **Appendix B** to this Application to calculate tax shifts.

_____ Allocation of total tax increment revenues from the district

_____ Portion * to be allocated to project owner

_____ Portion * to be allocated to municipality

* May be stated as a percent or amount or by formula.

_____ Copy of credit enhancement or other tax increment revenue sharing agreement (whether or not executed)

Relocation plan for persons temporarily or permanently displaced by development activities

_____ Relocation plan description, or

_____ Statement that no relocation is necessary

Description of environmental controls to be applied

_____ Statement regarding environmental controls, such as permitting and licensing or use of environmental mitigation measures during development and operation of district

Development program consistent with comprehensive planning

_____ Date of comprehensive plan final adoption

_____ Statement of no conflict with comprehensive plan

_____ Statement indicating how development program complies with Maine law limiting growth-related capital investments (see 30-A M.R.S.A. §4349-A)

- District not in conflict with municipal charter

_____ Statement of no conflict with municipal charter

- For municipal debt financing only:** Amount of public debt with maximum 30-year maturity to be incurred to finance development program costs

_____ Principal amount, maturity and type of each municipal debt issuance

_____ List of improvements inside the district * to be financed with municipal debt

<p>* Under §5250-D of the TIF Statute, municipal debt may be issued to finance only development program costs <u>inside</u> the district.</p>

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Appendix B Tax Shift Formulas

To calculate the state education subsidy tax shift: For each fiscal year, the state education subsidy formula is based on the average of the certified state valuations for the three (3) most recent years prior to the most recently certified state valuation. The education tax shift is computed by comparing Maine Department of Education Form ED 279 for the municipality with and without retained captured assessed value. The difference in the actual education subsidy and the adjusted education subsidy represents the projected state education subsidy tax shift for that year.

To calculate the state revenue sharing tax shift: The first step in determining the revenue sharing tax shift is to obtain the total municipal revenue sharing amount from the State Treasurer. The five steps outlined in the following formula are then applied ("CAV" below means projected captured assessed value):

Step 1:
$$\frac{\text{Municipal Population} \times \text{Local Property Tax Levied}}{\text{State Local Valuation}} = \text{Current Factor}$$

Step 2:
$$\frac{\text{Municipal Population} \times \text{Local Property Tax Levied}}{\text{State Local Valuation} + \text{CAV}} = \text{Adjusted Factor}$$

Step 3:
$$\frac{\text{Current Factor} = 1.X}{\text{Adjusted Factor}}$$

Step 4:
$$1.X - 1.0 = .X$$

Step 5:
$$.X (\text{total municipal revenue sharing amount}) = \text{Revenue sharing tax shift}$$

To calculate the county tax shift: The steps in determining the county tax shift are as follows ("CAV" below means projected captured assessed value):

Step 1: Obtain the most recent County State Valuation from Maine Revenue Services.

Step 2: Determine the average CAV for the District over the life of the District.

Step 3: Determine the municipality's current share of the county tax:

$$\frac{\text{Current State municipal valuation}}{\text{Current State county valuation}}$$

Step 4: Determine what the municipality's share of the county tax would be if the new value from the District were added to the municipal valuation without the creation of the District:

$$\frac{\text{Current State municipal valuation} + \text{average new value}}{\text{Current State county valuation} + \text{average new value}} = \% \text{ of county tax shift}$$

Step 5: Determine the estimated average annual county tax over the life of the District. To arrive at this number, determine the average change in county tax for the last five (5) years and the percentage increase projected to the middle of the District's life.

Step 6: Multiply the projected tax from Step 5 by the percent of county tax shift from Step 4 to determine the county tax shift.

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Attachment 1

Notice of Public Hearing

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**CITY OF BATH MAINE
NOTICE OF PUBLIC HEARING**

**Regarding
An Affordable Housing Development and Tax Increment Financing District
To Be Known As The**

**“Anchorage South Affordable Housing Municipal Development and Tax Increment
Financing District”**

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

**Tuesday, July 17, 2024
at 55 Front Street, Bath, ME 04530
at 6:00 p.m.**

The purpose of the public hearing is to receive public comments on the designation of the Anchorage South Affordable Housing Municipal Development and Tax Increment Financing District (the “District”) and the adoption of a development program for the District pursuant to the provisions of 30-A M.R.S. § 5250-A of the Maine Revised Statutes, as amended.

The proposed District consists of approximately .74 acres located at 80 Congress Street, Tax Map 29 Lot 14. This District authorizes the City Manager to enter into a credit enhancement agreement with the developer, as described in the proposed development program.

A copy of the proposed Development Program will be on file with the City during normal business hours of 7:30 am – 12:00 pm and 1:00 pm to 5:30 pm, they can also be found at cityofbathmaine.gov or one can call 207-443-8332 during normal business hours to request that a copy be mailed to you. All interested persons are invited to attend the public hearing and will be given an opportunity to be heard at that time.

Public comments will be taken at the hearings and written comments should be submitted to City Clerk *Darci Wheeler* at dwheeler@cityofbath.com Written comments will be accepted until 4:00 PM on July 16, 2024.

CITY OF BATH MAINE
CORRECTED NOTICE OF PUBLIC HEARING

Regarding
An Affordable Housing Development and Tax Increment Financing District
To Be Known As The

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Attachment 2

Meeting Minutes

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Attachment 3

Additional Documents

Please refer to Attachment 4

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Attachment 4

Municipal Approval

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CITY OF BATH COUNCIL ORDER
Anchorage South Affordable Housing
Municipal Development and Tax Increment Financing District

WHEREAS, the City of Bath (the “City”) is authorized pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, to designate the **Anchorage South Affordable Housing Municipal Development and Tax Increment Financing District** (the “District,”) and the Development Program (the “Development Program,”) for the District; and

WHEREAS, there is a need for economic development and affordable housing in the City, in the surrounding region, and in the State of Maine; and

WHEREAS, there is a need to improve and broaden the tax base of the City; and to improve the general economy of the City and the surrounding region, and to provide impetus for affordable housing development within the City; and

WHEREAS, implementation of the Development Program will help to improve and broaden the tax base in the City and improve the economy of the City and the region by attracting business development in the area and creating affordable housing in the District; and

WHEREAS, there is a need to implement continued economic development initiatives in the District through the Development Program in accordance with the provision of Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended; and

WHEREAS, it is expected that approval will be obtained from the Maine State Housing Authority (“MaineHousing”), approving the **Anchorage South Affordable Housing Municipal Development and Tax Increment Financing District** and the Development Program related thereto;

ORDERED AS FOLLOWS:

Section 1. The City of Bath hereby designates the District and adopts the associated Development Program for the District; such designation and adoption to be pursuant to the following findings, terms, and provisions:

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

- a. At least twenty-five percent (25%), by area, of the real property within the District, as hereinafter designated, is suitable for residential use, blighted area, or is in need of rehabilitation; and
- b. The total area of the District does not exceed two percent (2%) of the total acreage of the City, and the total area of all existing and proposed development districts within the City (including the District) does not exceed five percent (5%) of the total acreage of the City; and
- c. The original assessed value of all existing and proposed affordable housing tax increment financing districts (including the District) does not exceed five

percent (5%) of the total value of equalized taxable property within the City as of April 1, 2023; and

- d. The District and pursuit of the Development Program will make a contribution to the expansion of affordable housing opportunities within the municipality, the economic growth and well-being of the City and the surrounding region, and will contribute to the betterment of the health, welfare and safety of the inhabitants of the City, including a broadened and improved tax base and economic stimulus, and therefore constitutes a good and valid public purpose. The City has considered all evidence, if any, 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 Development Program.

Section 3. Pursuant to the provisions of 30-A M.R.S. § 5250-A, 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.

Section 4. The City Manager, or his duly appointed representative, is hereby authorized, empowered and directed to submit the proposed Development Program for the District to MaineHousing for review and approval pursuant to the requirements of 30-A M.R.S. § 5250-A.

Section 5. The foregoing designation of the District and adoption of 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 MaineHousing, without requirement of further action by the City, the City Council, or any other party.

Section 6. The City Manager, or his duly appointed representative, is hereby authorized and empowered, at his discretion, from time to time, to make such revisions to the District and Development Program as the City Manager may deem reasonably necessary or convenient in order to facilitate the process for review and approval of the District by MaineHousing, 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.

Section 7. The City Manager, or his duly appointed representative, is hereby authorized, delegated and directed to submit any reports to MaineHousing regarding the District and Development Program.

Section 8. The City Manager, or his duly appointed representative, in the name and on behalf of the City, is hereby authorized and directed to enter into a credit enhancement agreement between the City and the developer of the project to be located in the District, in substantially the form as presented to the City Council in conjunction with this Order and on terms as described in the Development Program and any other negotiated agreements between the City and the Developer.

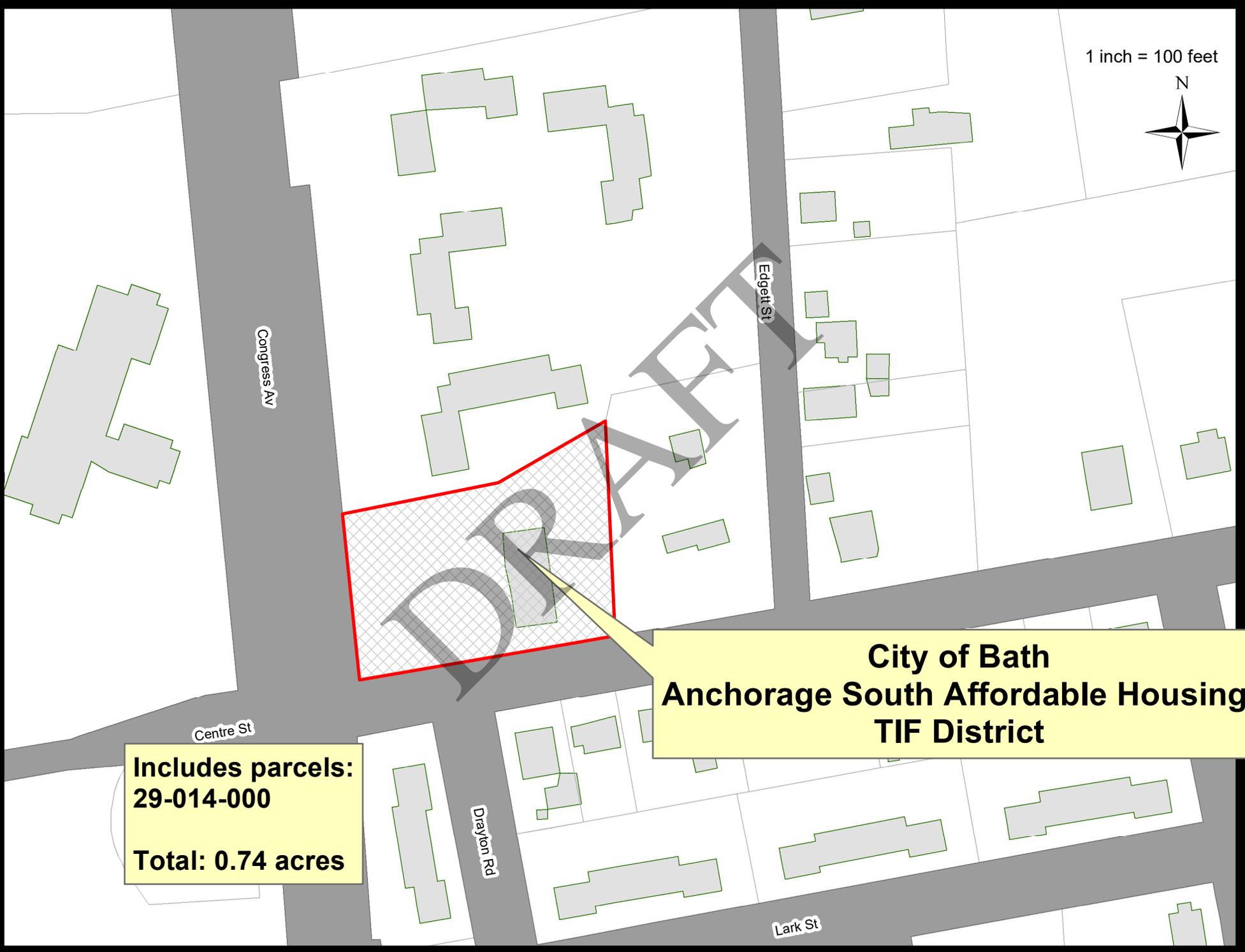
Dated: July 17, 2024

Attachment 5

District Maps

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1 inch = 100 feet

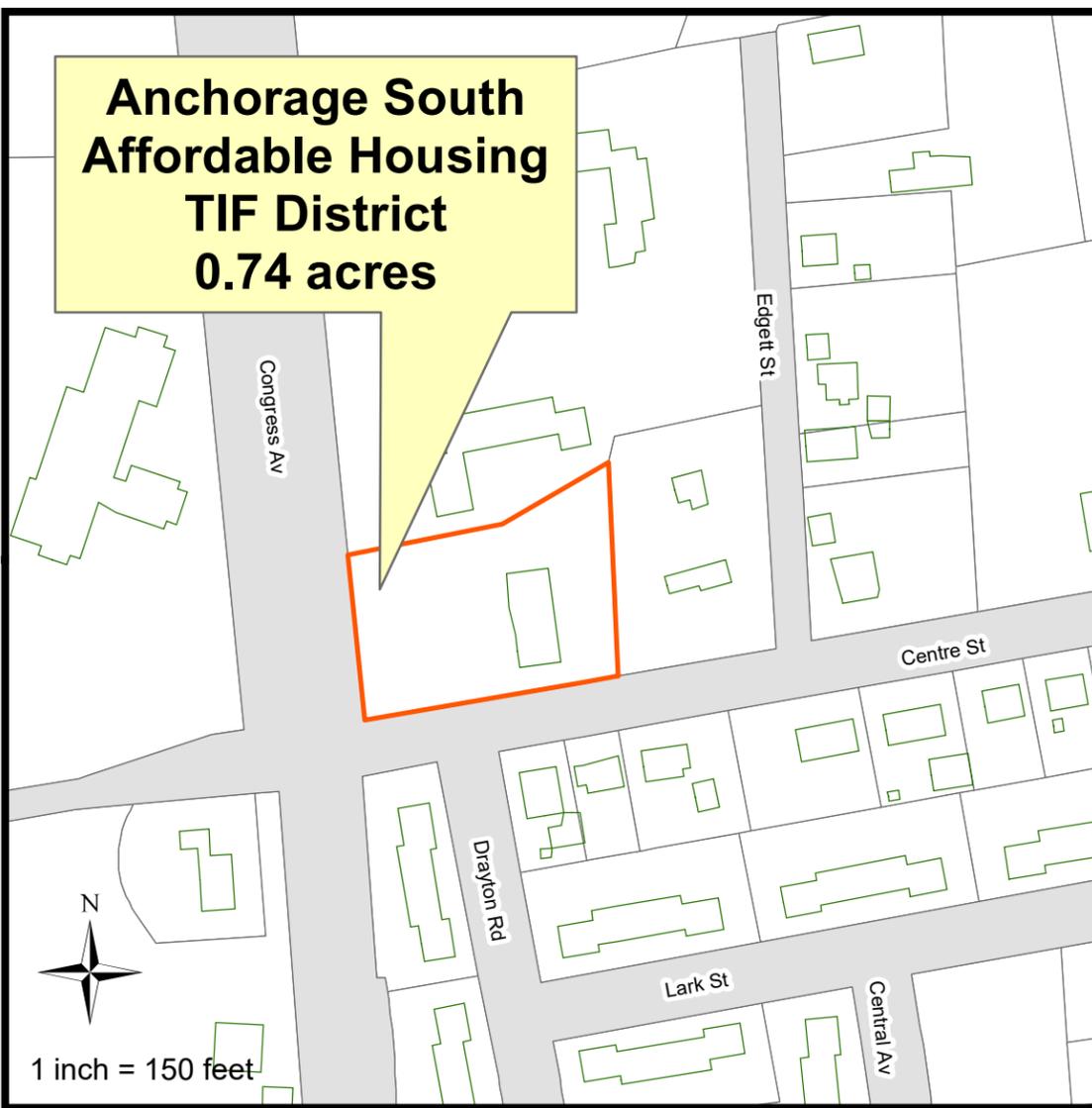


**City of Bath
Anchorage South Affordable Housing
TIF District**

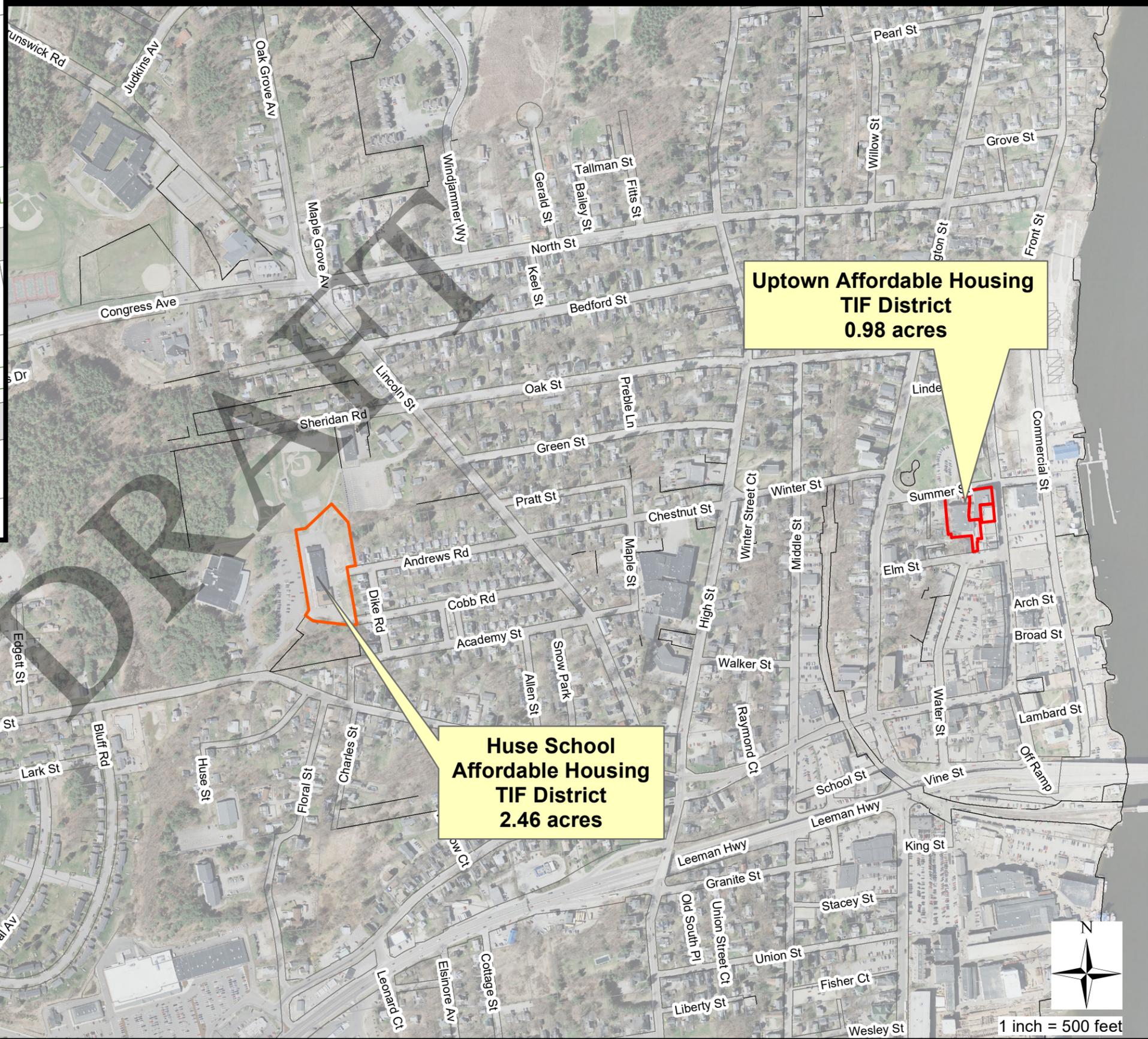
**Includes parcels:
29-014-000
Total: 0.74 acres**

City of Bath Affordable Housing TIFs

**Anchorage South
Affordable Housing
TIF District
0.74 acres**

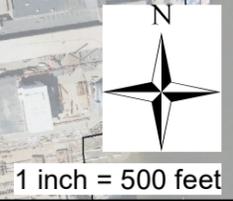


**Uptown Affordable Housing
TIF District
0.98 acres**



**Huse School
Affordable Housing
TIF District
2.46 acres**

**Anchorage South
Affordable Housing
TIF District
0.74 acres**



Attachment 6

Assessor's Certificate

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**ASSESSORS' CERTIFICATE OF ORIGINAL ASSESSED VALUE
CITY OF BATH
ANCHORAGE SOUTH AFFORDABLE HOUSING MUNICIPAL DEVELOPMENT
AND TAX INCREMENT FINANCING DISTRICT**

The undersigned Assessor for the City of Bath, Maine, does hereby certify pursuant to the provisions of 30-A M.R.S. §5250-A that the assessed value for taxable real property within the Anchorage South Affordable Housing Municipal Development and Tax Increment Financing District, as delineated on a map included in the Development Program to which this Certificate is included as Tax Map 29 Lot 14 and consisting of .74 acres, was \$0.00 of March 31, 2024 (April 1, 2023).

IN WITNESS WHEREOF, This Certificate has been executed as of this 3rd day of July, 2024.

By: Brenda E Cummings

Printed name: Brenda Cummings, CMA

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Attachment 7

Development Program

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**ANCHORAGE SOUTH AFFORDABLE HOUSING MUNICIPAL DEVELOPMENT AND
TAX INCREMENT FINANCING DISTRICT
DEVELOPMENT PROGRAM**

Summary:

BHDC Anchorage South, LP (the “Developer”), a Maine limited partnership, is proposing to develop a four-story, up to forty-eight (48) unit, multi-family residential apartment building that will consist of all one-bedroom units (the “Project”) in the City of Bath (the “City”). The Project is located at 80 Congress Avenue, more specifically described as Tax Map 29 Lot 14.

In order to help provide much needed affordable housing options in the City, the Developer is requesting Tax Increment Financing to allow the project to support approximately \$900,000 in additional permanent debt, which fills a crucial gap in the Project’s overall financing. The Developer is requesting a credit enhancement agreement (the “CEA”), pursuant to which 75% of the “tax increment revenues” (as defined in legislation creating the Affordable Housing Tax Increment Financing Program) to be returned to the Developer each year for a 30-year period following the completion of the proposed construction. The obligation to pay such tax increment revenues would be set for in the CEA between the City and the Developer, on usual and customary terms. A copy of the proposed CEA is included as **Attachment 8** to this application.

The following questions are responsive to the checklist for Approval of District and Development Program set forth in Appendix A to the Maine State Housing Authority Affordable Housing Tax Increment Financing Application.

1. Description of the Anchorage South Affordable Housing Municipal Development and Tax Increment Financing District.

The Anchorage South Affordable Housing Municipal Development and Tax Increment Financing District (the “District”) consists of a .74-acre parcel of land located at 80 Congress Avenue, more specifically described as Tax Map 29 Lot 14 and as shown on **Attachment 5** hereto. The acreage within the District is zoned as C2 – Mixed Commercial and Residential District, which allows for the following uses: Site-built single and two-family housing (with CEO approval), and multi-family housing (with site-plan approval). The Project is proposed to be an up to forty-eight (48) unit, multi-family residential apartment building. All of the apartments will be one-bedroom units and will be reserved for households earning at or below 60% of the area median income (AMI).

2. Is at least 25% of district acreage suitable for residential use, blighted, or in need of rehabilitation/redevelopment?

All of the acreage in the District is suitable and will be used for residential purposes.

3. Does the District acreage divided by total municipal acreage exceed 2%?

The acreage in the District is 0.74 acres and the total municipal acreage is 4,480 acres, yielding a District of .017% of the total municipal acreage.

4. Does the total acreage of all existing and proposed development districts (affordable housing and DECD districts) in municipality divided by total municipal acreage exceed 5%?

The total acreage of all existing and proposed development districts in Bath is 172.47 acres, and the total municipal acreage is 4,480 acres. The existing development districts and the acreage of each are listed below:

- | | |
|---------------------------------------|-------------|
| 1. Bath Iron Works I TIF District: | 14.07 acres |
| 2. Bath Iron Works II TIF District: | 48.5 acres |
| 3. Downtown Improvement TIF District: | 68.03 acres |
| 4. Wing Farm/Enterprise TIF District: | 37.66 acres |
| 5. Huse School AHTIF District: | 2.49 acres |
| 6. Uptown AHTIF District: | .98 acres |

The proposed Anchorage South Affordable Housing Development District will be 0.74 acres. The Downtown District is exempt from the calculations of maximum acreage and original assessed values, thus the total acreage of all development districts that count toward the caps is 104.44 acres. The total City development district acreage (that is not exempt from the calculations) as a percentage of the City's total acreage is 2.33%.

5. Original assessed value (OAV) of the district

The original assessed value of the district is \$0 as of March 31, 2024 (April 1, 2023). Attachment 6 is a certification of such original assessed value from the Assessor of Bath.

6. Does the OAV of all existing and proposed affordable housing development districts in Bath divided by aggregate taxable property value as of the March 31, 2024 exceed 5%

No. The existing development districts and the original assessed value of each are listed below:

- | | |
|--------------------------------|-------------|
| 1. Huse School AHTIF District: | \$0.00 |
| 2. Uptown AHTIF District: | \$1,334,500 |

The proposed District will have an original assessed value of \$0 as of March 31, 2024 (April 1, 2023). The total OAV of all existing and proposed affordable housing development districts in the City is \$1,334,500. The total amount of taxable property in the City as of the most recent municipal valuation return is \$1,245,908,300. The total existing and proposed development district original assessed values as a percentage of the City's total taxable value is .107 %.

7. Development program start and end dates.

The City's Fiscal Year runs from July 1 – June 30. The Development Program shall begin in the April 1, 2025 – March 31, 2026 tax year, upon the approval by the Director of MaineHousing of the City's application for Tax Increment Financing, and continue for a

30-year period thereafter, ending on March 31, 2055. This length is meant to accommodate the possibility that BHDC may not be successful in receiving an award of Low-Income Housing Tax Credits or other financing in its current efforts and may need to apply for Low-Income Housing Tax Credits in 2026, or delays are otherwise encountered. This would allow the proposed Credit Enhancement Agreement to be executed and fully implemented even if the Developer fails to receive tax credits or other financing in the current round of applications. The Credit Enhancement Agreement would also have a 30-year term, beginning in the April 1, 2025 – May 31, 2026 Tax Year, as defined in Credit Enhancement Agreement. In the event that the Developer is unsuccessful in obtaining an award of Low-Income Tax Credits under both the 2025 Qualified Allocation Plan and the 2026 Qualified Allocation Plan, the Development Program will terminate.

8. What housing needs in Bath does the Development Program meet?

Focusing on addressing the "missing middle" in housing, this initiative responds to Maine's escalating housing needs. Bath, serving as a strategic regional employment center, recognizes that the lack of adequate housing hampers local employers' ability to fulfill their workforce requirements. This scarcity undermines the vision of ensuring that all who wish to reside in Bath have viable housing options. By offering a spectrum of housing choices tailored to shipyard workers and other community members—both rental and ownership—we aim to stabilize the regional workforce, mitigate turnover, shorten commuting times, lessen transportation demands, and enable workers who aspire to contribute to the Bath community but are currently priced out.

The construction of new housing in Bath promises substantial positive impacts on the local economy and workforce in several ways.

- *Lowering Housing Costs:* Despite competitive wages offered by regional employers, many workers still face housing cost burdens due to the scarcity of housing. In Bath, a significant portion of the population—56.45%—is rent-burdened, surpassing figures for Sagadahoc County (49.89%) and the state (47.59%). The city has witnessed a staggering 100% increase in rents over a mere six-year span.
- *Increasing Spending Power:* Reducing housing costs can alleviate financial strain on workers, enabling them to afford essential needs like food, transportation, and healthcare, thereby enhancing their productivity.
- *Community Investments:* Bath welcomes over 8,000 daily commuters, many of whom aspire to reside in the city but are deterred by affordability constraints. Providing housing options within the town encourages workers to invest in and actively contribute to its growth and prosperity, fostering a cohesive and supportive community where everyone has a vested interest in its advancement.

Additionally, The proposed Anchorage South development will replace 39 affordable housing units in the community as well as add approximately 8 new affordable housing units to the market. The Developer has identified significant physical deterioration of the existing Anchorage Apartments and identified the need to replace this development with a new, affordable, energy efficient building.

9. Is the District a primarily residential development?

The District will be used for primarily for residential purposes. There is an existing office building on the property that will be torn down as a part of the construction of the Project.

10. Are at least 33% of the housing units in the district affordable housing?

The Developer proposes to develop up to 48 one-bedroom apartments, all of which will be affordable and restricted to occupancy by households with income not exceeding 60% of AMI.

11. What is the mechanism to ensure ongoing affordability of 33% of the housing units in District?

The property contained within the District will be subject to a long-term restrictive covenant required by MaineHousing as a condition of receiving Low-Income Housing Tax Credits. The restrictive covenant will require that the affordable units in the District be restricted to households with income not exceeding 60% of area median, and that the rent levels that can be charged will be limited as provided by MaineHousing, the U.S. Department of Housing and Urban development, and the Low-Income Housing Tax Credit Program. The restrictive covenant will be the senior encumbrance on the property and will run for a 45-year period after the completion of the project.

12. How will the housing in the District be operated?

The project in the District will be owned by BHDC Anchorage South, LP, a Maine limited partnership, and managed by Bath Housing Authority. The general partner of the project will be BHDC Anchor Corporation, a Maine Corporation wholly owned by Bath Housing Development Corporation, a not-for-profit corporation dedicated to advancing housing solutions to ensure that people from all backgrounds and income levels can live, work and thrive in the greater Bath region. Funding during operations will come from revenue generated by rental of the units in the project.

13. What are the specific planned uses of tax increment revenues from the District?

The City intends to capture 100% of the tax revenue on the increased assessed value in the District each tax year. The captured revenue will be split between the City and the Developer pursuant to the terms of the Credit Enhancement Agreement, which provides for up to 75% of the captured revenue associated with each building/phase to be reimbursed to the Developer.

All of the tax increment revenues being returned to the Developer shall be utilized as an operating subsidy to fund operating costs, including without limitation property management and administration, utilities, routine repairs and maintenance, insurance, real estate taxes, and the Project’s replacement reserve account.

The operating subsidy provided enables the Developer to sustain the Property at restricted rent level while also freeing net operating funds to support payable debt.

The City will use its share of the Retained Tax Increment Revenues to pay the following costs (which constitute both costs reasonably related to the improvements in the District as well as made necessary by the establishment of the District):

PROJECT	STATUTORY CITATION	COST ESTIMATE	ANTICIPATED AMOUNT TO BE FUNDED BY TIF REVENUES
Pump Station and Sewer Line Upgrades: Hyde Park Pump Station at 1 Drayton Road and surrounding sewer lines.	30-A M.R.S. §5249 (1)(A)(1) & (1)(B)(1)	\$3,000,000	\$230,030
Intersection Improvements: Centre Street and Congress Ave. Intersection.	30-A M.R.S. §5249 (1)(A)(1) & (1)(B)(1)	\$500,000	\$500,000
Pedestrian Improvements: Centre Street sidewalk to downtown.	30-A M.R.S. §5249 (1)(A)(1) & (1)(B)(1)	\$100,000	\$75,000
TOTAL		\$3,600,000	\$805,030

The City project costs listed above are made necessary by the establishment of the District as the City anticipates increased vehicle and pedestrian traffic in the area when adding up to 48 new apartments. With regard to the pump station and sewer line upgrades, this will be made necessary by the establishment of the District as the small office building currently on the lot will be replaced by the up to 48 unit apartment building, thus increasing the amount of sewage in the area. The City anticipates these projects will begin no sooner than Spring of 2026.

The Developer will fund the additional cost of the sidewalk improvements directly in front of the Project. The City anticipates additional funds to pay for the full costs of the upgrades will come from bonds and/or grants.

14. Is Bath intending to use tax increment revenues from the District to establish a permanent housing development revolving loan fund or investment fund?

Bath does not intend to use the revenues in this manner.

15. A financial plan showing for each year the development program will be in effect.

Please see attached tables showing projections of tax increment revenues and tax shift benefits.

16. What are the relocation plans for persons temporarily or permanently displaced by development activities?

No persons will be displaced by the development activities. However, the office building currently located on the property will be demolished and the offices will be moved to a location at 520 Centre Street.

17. Describe the environmental controls to be applied to the Project

The project will be subject to a permitting process in the City of Bath and will be required to demonstrate compliance with applicable federal, state and local environmental and land use laws and regulations.

18. Is the development program consistent with Bath’s comprehensive planning?

The City’s comprehensive plan was adopted on November 1, 2023. Based on information provided by the City’s Planning and Development department, the Development Program does not conflict with the Bath Comprehensive Plan.

The District and the Development Program conform to the requirements of 30-A M.R.S. Section 4349-A. The District and the Development Program comply with Maine law limiting growth-related capital investment because the District is located entirely within a designated Growth Area as identified in the Bath Comprehensive Plan adopted pursuant to and consistent with the procedures, goals and guidelines of 30-A M.R.S. Chapter 104, Subchapter 2.

19. Is the District in conflict with Bath’s municipal charter?

The District and Development Program are not in conflict with Bath’s municipal charter.

20. For municipal debt financing only: Amount of public debt with maximum 30-year maturity to be incurred to finance development program costs

Not applicable.

Captured Assessed Value & TIF Revenue Projections
Anchorage South Affordable Housing TIF District

Fiscal Year	TIF Year	Original Assessed Value	Increased Assessed Value	Estimated Assessment Ratio	Percent Captured	Projected Captured Assessed Value	2023-2024 Mill Rate 16.90	Total Projected TIF Revenue	TIF Revenue to Developer 75%	TIF Revenue to City 25%
2025-2026	1	\$0	\$0	100%	100%	\$0	16.90	\$0	\$0	\$0
2026-2027	2	\$0	\$4,911,800	100%	100%	\$4,911,800	16.90	\$83,009	\$62,257	\$20,752
2027-2028	3	\$0	\$5,010,036	100%	100%	\$5,010,036	16.90	\$84,670	\$63,502	\$21,167
2028-2029	4	\$0	\$5,110,237	100%	100%	\$5,110,237	16.90	\$86,363	\$64,772	\$21,591
2029-2030	5	\$0	\$5,212,441	100%	100%	\$5,212,441	16.90	\$88,090	\$66,068	\$22,023
2030-2031	6	\$0	\$5,316,690	100%	100%	\$5,316,690	16.90	\$89,852	\$67,389	\$22,463
2031-2032	7	\$0	\$5,423,024	100%	100%	\$5,423,024	16.90	\$91,649	\$68,737	\$22,912
2032-2033	8	\$0	\$5,531,485	100%	100%	\$5,531,485	16.90	\$93,482	\$70,112	\$23,371
2033-2034	9	\$0	\$5,642,114	100%	100%	\$5,642,114	16.90	\$95,352	\$71,514	\$23,838
2034-2035	10	\$0	\$5,754,957	100%	100%	\$5,754,957	16.90	\$97,259	\$72,944	\$24,315
2035-2036	11	\$0	\$5,870,056	100%	100%	\$5,870,056	16.90	\$99,204	\$74,403	\$24,801
2036-2037	12	\$0	\$5,987,457	100%	100%	\$5,987,457	16.90	\$101,188	\$75,891	\$25,297
2037-2038	13	\$0	\$6,107,206	100%	100%	\$6,107,206	16.90	\$103,212	\$77,409	\$25,803
2038-2039	14	\$0	\$6,229,350	100%	100%	\$6,229,350	16.90	\$105,276	\$78,957	\$26,319
2039-2040	15	\$0	\$6,353,937	100%	100%	\$6,353,937	16.90	\$107,382	\$80,536	\$26,845
2040-2041	16	\$0	\$6,481,016	100%	100%	\$6,481,016	16.90	\$109,529	\$82,147	\$27,382
2041-2042	17	\$0	\$6,610,636	100%	100%	\$6,610,636	16.90	\$111,720	\$83,790	\$27,930
2042-2043	18	\$0	\$6,742,849	100%	100%	\$6,742,849	16.90	\$113,954	\$85,466	\$28,489
2043-2044	19	\$0	\$6,877,706	100%	100%	\$6,877,706	16.90	\$116,233	\$87,175	\$29,058
2044-2045	20	\$0	\$7,015,260	100%	100%	\$7,015,260	16.90	\$118,558	\$88,918	\$29,639
2045-2046	21	\$0	\$7,155,565	100%	100%	\$7,155,565	16.90	\$120,929	\$90,697	\$30,232
2046-2047	22	\$0	\$7,298,676	100%	100%	\$7,298,676	16.90	\$123,348	\$92,511	\$30,837
2047-2048	23	\$0	\$7,444,650	100%	100%	\$7,444,650	16.90	\$125,815	\$94,361	\$31,454
2048-2049	24	\$0	\$7,593,543	100%	100%	\$7,593,543	16.90	\$128,331	\$96,248	\$32,083
2049-2050	25	\$0	\$7,745,414	100%	100%	\$7,745,414	16.90	\$130,897	\$98,173	\$32,724
2050-2051	26	\$0	\$7,900,322	100%	100%	\$7,900,322	16.90	\$133,515	\$100,137	\$33,379
2051-2052	27	\$0	\$8,058,329	100%	100%	\$8,058,329	16.90	\$136,186	\$102,139	\$34,046
2052-2053	28	\$0	\$8,219,495	100%	100%	\$8,219,495	16.90	\$138,909	\$104,182	\$34,727
2053-2054	29	\$0	\$8,383,885	100%	100%	\$8,383,885	16.90	\$141,688	\$106,266	\$35,422
2054-2055	30	\$0	\$8,551,563	100%	100%	\$8,551,563	16.90	\$144,521	\$108,391	\$36,130
30-year total:								\$3,220,121	\$2,415,091	\$805,030
30-year average:								\$107,337	\$80,503	\$26,834

Assumptions:

- The above projections show the anticipated increased assessed values, captured assessed values, and TIF revenues throughout the term of the District. The Assessor has estimated the projected increased assessed value based on available project plans and currently available information. The final assessed value will be determined based on the actual land and improvement values after construction of phase one and phase two on the applicable April 1st, with a 2% growth factor in the District. The Original Assessed Value for the relevant parcel is \$0.00 as the lot is currently exempt as it is owned by a non-profit organization.
- Projections assume a 30-year district term.
- The City Assessor reports the mill rate is \$16.90.
- Projections assume 100% of the increased assessed value is captured in the District and that TIF revenue is available for municipal project costs.
- The preceding financial information contains projections and forward-looking statements that are subject to a number of risks and uncertainties that could cause the actual results, performance, or achievements to differ materially from any future results, performances, or achievements expressed or implied by the financial information reported in this projection. The model is not, nor is it intended to be, an appraisal or guarantee of an assessed value, and there may be positive or negative variations in the actual assessment of the project due to variety of factors, including without limitation, the employment of alternative methods of valuation and then-current market conditions.

Tax Shift Benefits
Anchorage South Affordable Housing TIF District

Fiscal Year	TIF Year	State Aid to Education Benefit	County Tax Benefit	State Revenue Sharing Benefit	Total Tax Benefit
2025-2026	1	-	-	-	\$0
2026-2027	2	-	-	-	\$0
2027-2028	3	-	\$0	\$0	\$0
2028-2029	4	\$0	\$6,496	\$14,417	\$20,913
2029-2030	5	\$32,516	\$6,626	\$14,705	\$53,846
2030-2031	6	\$33,166	\$6,758	\$14,998	\$54,922
2031-2032	7	\$33,830	\$6,893	\$15,297	\$56,020
2032-2033	8	\$34,506	\$7,031	\$15,602	\$57,139
2033-2034	9	\$35,196	\$7,171	\$15,913	\$58,280
2034-2035	10	\$35,900	\$7,315	\$16,230	\$59,445
2035-2036	11	\$36,618	\$7,461	\$16,553	\$60,632
2036-2037	12	\$37,351	\$7,610	\$16,883	\$61,844
2037-2038	13	\$38,098	\$7,762	\$17,219	\$63,079
2038-2039	14	\$38,860	\$7,917	\$17,563	\$64,339
2039-2040	15	\$39,637	\$8,075	\$17,912	\$65,625
2040-2041	16	\$40,430	\$8,237	\$18,269	\$66,936
2041-2042	17	\$41,238	\$8,401	\$18,633	\$68,273
2042-2043	18	\$42,063	\$8,569	\$19,004	\$69,636
2043-2044	19	\$42,904	\$8,740	\$19,383	\$71,027
2044-2045	20	\$43,762	\$8,915	\$19,769	\$72,446
2045-2046	21	\$44,638	\$9,093	\$20,163	\$73,893
2046-2047	22	\$45,530	\$9,274	\$20,564	\$75,369
2047-2048	23	\$46,441	\$9,460	\$20,973	\$76,874
2048-2049	24	\$47,370	\$9,649	\$21,391	\$78,410
2049-2050	25	\$48,317	\$9,841	\$21,817	\$79,975
2050-2051	26	\$49,284	\$10,038	\$22,251	\$81,573
2051-2052	27	\$50,269	\$10,239	\$22,694	\$83,202
2052-2053	28	\$51,275	\$10,443	\$23,145	\$84,863
2053-2054	29	\$52,300	\$10,652	\$23,606	\$86,558
2054-2055	30	\$53,346	\$10,864	\$24,076	\$88,286
2054-2056		\$54,413	\$11,081	\$24,555	\$90,049
2056-2057		\$55,501	\$11,303	\$25,043	\$91,847
2057-2058		\$56,611	-	-	\$56,611
Totals:		\$1,261,373	\$251,913	\$558,628	\$2,071,913
Averages:		\$42,046	\$8,397	\$18,621	\$69,064

Assumptions:

1. Data sources include the Sagadahoc County Commissioner's FY 2023-2024 Budget, the State Treasurer's Revenue Sharing projections for FY2025 07/01/24 - 06/30/25 Published 05/07/24, the Maine Department of 01/17/24 2024-2025 ED 279 form for RSU 01.
2. Tax shift losses are comprised of declining subsidies in revenue sharing and increasing obligations to pay. Tax shift losses occur a couple of years following the year in which the new assessed value is first recognized assessment. No tax shift losses occur when a TIF captures all of the new value.
3. These projections assume that the formulas and general inputs for state subsidies and county taxes do not and they assume that all other values in other communities are static relative to one another except for the new value. The projections are less likely to be accurate farther into the future.
4. Assumes the assessment ratio in the City is 100% when new property value arrives, such that the market value of the property is used for assessment purposes.
5. The projections above assume that no tax increment financing district is put in place, thus the mil rate is based on the total assessed value in the City. This analysis factors in tax shift impacts resulting from the project's new assessed value, future commitments and mil rate calculations to arrive at projected property tax payments.

Attachment 8

Credit Enhancement Agreement

DRAFT

CREDIT ENHANCEMENT AGREEMENT

between

THE CITY OF BATH, Maine

and

BHDC ANCHORAGE SOUTH LP

DATED: _____, 2024

DRAFT

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EXHIBITS:

Exhibit 1 Copy of District Map

THIS CREDIT ENHANCEMENT AGREEMENT dated as of _____, 2024, between the City of Bath, Maine (the “City”), a municipal corporation and political subdivision of the State of Maine, and BHDC Anchorage South LP, a Maine limited partnership (the “Developer”).

WITNESSETH:

WHEREAS, the City designated the Anchorage South Affordable Housing Municipal Development and Tax Increment Financing District (the “District”) pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, by action of the City Council at a meeting of the City Council held on July 17, 2024 (the “Vote”) and pursuant to the Vote adopted an affordable housing development program, including a financial plan, for the District (the “Development Program”); and

WHEREAS, the City received the approval of the District and the Development Program from the Maine State Housing Authority on _____, 2024 (“MaineHousing”); and

WHEREAS, during the Vote, the City Council also authorized the execution of a credit enhancement agreement with the Developer as contemplated by the Development Program in the name of and on behalf of the City; and

WHEREAS, the City and the Developer desire and intend that this Credit Enhancement Agreement be and constitute the credit enhancement agreement contemplated by and described in the Development Program.

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:

ARTICLE I DEFINITIONS

Section 1.1. Definitions.

The terms defined in the above recitals and this Article I shall, for all purposes of this Agreement, have the meanings herein specified, unless the context clearly requires otherwise:

“Act” means chapter 206 of Title 30-A of the Maine Revised Statutes and regulations adopted thereunder, as amended from time to time.

“Agreement” shall mean this Credit Enhancement Agreement between the City and the Developer dated as of the date set forth above, as such may be amended from time to time.

“Captured Assessed Value” means the amount, stated as a percentage, of the Increased Assessed Value of the District that is retained in each Tax Year during the term of the District, as specified in Section 2.3 hereof, to fund Project costs authorized in the Development Program.

“City” shall have the meaning given such term in the first paragraph hereto.

“City Project Cost Subaccount” means that portion of the Project Cost Account of the Development Program Fund for the District set aside for the City established and maintained according to Article II hereof.

“Current Assessed Value” means the then-current assessed value of the real property in the District as determined by the City Tax Assessor as of April 1 of each Tax Year that the District remains in effect.

“Development Program” shall have the meaning given such term in the recitals hereto.

“Development Program Fund” shall have the meaning assigned to such term in Section 2.1 below.

“Developer Project Cost Subaccount” means that portion of the Project Cost Account of the Development Program Fund for the District set aside for the Developer established and maintained according to Article II hereof.

“Director” means the Director of the Maine State Housing Authority.

“District” shall have the meaning given such term in the first recital hereto, which is more specifically comprised of approximately .74 acres of real property and identified in an attachment to the Development Program and any future improvements to such real property. A copy of the District map is attached hereto as Exhibit 1 for convenience.

“Effective Date of the Development Program” means _____, 2024.

“Fiscal Year” means July 1 to June 30 each year or such other fiscal year as the City may from time to time establish.

“Increased Assessed Value” means, for each Fiscal Year during the term of this Agreement, the amount by which the Current Assessed Value for such year exceeds the Original Assessed Value. If the Current Assessed Value is less than or equal to the Original Assessed Value in any given Tax Year, there is no Increased Assessed Value in that year.

“Original Assessed Value” means zero dollars (\$0) the taxable assessed value of the District as of March 31, 2024 (April 1, 2023).

“Project” means the planned up to 48-unit multi-family affordable housing project located in the District to be undertaken by the Developer that Developer anticipates will be issued a Notice to Proceed by MaineHousing and will be subject to an Extended Use Agreement and Program Declaration of Covenants placing affordability restrictions on the Project for a minimum of forty-five (45) years.

“Project Cost Account” means the project cost account described in the Development Program and established and maintained pursuant to Title 30-A M.R.S. § 5250-A(3)(A)(1) and Article II hereof.

“Property Taxes” means any and all *ad valorem* property taxes levied, charged or assessed against all property located in the District by the City, or on its behalf.

“State” means the State of Maine.

“Tax Increment Revenues” means that portion of all real property taxes assessed and paid to the City in any Tax Year, in excess of any state, or special district tax, upon the Captured Assessed Value.

“Tax Payment Date” means the later of the date(s) on which property taxes levied by the City are due and payable from owners of property located within the City, or are actually paid to the City with respect to taxable property located within the District.

“Tax Year” shall have the meaning given such term in 30-A M.R.S. § 5246(16), as amended, to wit: April 1 to March 31.

Section 1.2. Interpretation and Construction.

In this Agreement, unless the context otherwise requires:

(a) The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms, as used in this Agreement, refer to this Agreement, and the term “hereafter” means after, and the term “heretofore” means before, the date of delivery of this Agreement.

(b) Words importing a particular gender mean and include correlative words of every other gender and words importing the singular number mean and include the plural number and vice versa.

(c) Words importing persons mean and include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public or governmental bodies, as well as any natural persons.

(d) Any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

(e) All approvals, consents and acceptances required to be given or made by any signatory hereto shall not be withheld unreasonably.

(f) All notices to be given hereunder shall be given in writing and, unless a certain number of days is specified, within a reasonable time.

(g) If any clause, provision or Section of this Agreement shall be ruled invalid by any court of competent jurisdiction, the invalidity of such clause, provision or Section shall not affect any of the remaining provisions hereof.

**ARTICLE II
AFFORDABLE HOUSING DEVELOPMENT PROGRAM FUND AND FUNDING
REQUIREMENTS**

Section 2.1. Creation of Development Program Fund.

Within sixty (60) days after the Effective Date of the Development Program, the City shall create and establish a segregated fund in the name of the City designated as the “Anchorage South Affordable Housing Municipal Development and Tax Increment Financing District Program Fund” (hereinafter the “Development Program Fund”) pursuant to, and in accordance with the terms and conditions of, the Development Program and 30-A M.R.S. § 5250-A(3). The Development Program Fund shall consist of the Developer Project Cost Subaccount and the City Project Cost Subaccount, both of which are pledged to and charged with the payment of Project costs described in the Development Program, as provided in 30-A M.R.S. § 5250-A(3)(A)(1). The Development Program Fund is pledged to and charged with the payment of costs in the manner and priority provided in Section 3.1(b) below.

Section 2.2. Liens.

The City shall not create any liens, encumbrances or other interests of any nature whatsoever, nor shall it hypothecate the Developer Project Cost Subaccount described in Section 2.1 hereof or any funds therein, other than the interest in favor of the Developer hereunder; provided, however, that nothing herein shall prohibit the creation of property tax liens on property in the District in accordance with and entitled to priority pursuant to Maine law.

Section 2.3. Captured Assessed Value; Deposits into Development Program Fund.

(a) Each year during the term of this Agreement, commencing with Tax Year 2025 – 2026 and continuing for a period of thirty (30) years (the “CEA Years”), the City shall capture in the District one hundred percent (100%) of the Increased Assessed Value as Captured Assessed Value.

(b) For each of the CEA Years, the City shall deposit into the Development Program Fund contemporaneously with each payment of Property Taxes during the term of this Agreement an amount equal to one hundred percent (100%) of that portion of the property tax payment constituting Tax Increment Revenues. The City shall allocate seventy-five percent (75%) of the Tax Increment Revenues so deposited in the Development Program Fund to the Developer Project Cost Subaccount and the remaining twenty-five percent (25%) of the Tax Increment Revenues so deposited in the Development Program Fund shall be allocated to the City Project Cost Subaccount. Notwithstanding anything herein to the contrary, the City shall have the option to capture a percentage of Increased Assessed Value as Captured Assessed Value of less than one hundred percent (100%) so long as the total amounts as set forth above the City is obligated to be paid to the Developer are not impacted by such reduction.

Section 2.4. Use of Monies in Development Program Fund.

All monies in the Development Program Fund that are allocable to and/or deposited in the Developer Project Cost Subaccount shall in all cases be used and applied to fund fully the City's payment obligations to the Developer as described in Articles II and III hereof. The Developer shall be obligated to use such payments for operating costs of the Project pursuant to the Development Program and Title 30-A M.R.S. § 5249. All monies allocable to and/or deposited in the City Project Cost Subaccount shall be used and applied by the City as set forth in the Development Program.

Section 2.5. Monies Held for Benefit of the Developer.

All monies required to be deposited with or paid into the Developer Project Cost Subaccount under the provisions hereof and the provisions of the Development Program, and any investment earnings thereon, shall be held by the City for the benefit of the Developer.

**ARTICLE III
PAYMENT OBLIGATIONS**

Section 3.1. Developer Payments.

(a) The City agrees to pay the Developer, within thirty (30) days following the Tax Payment Date, all amounts then on deposit in the Developer Project Cost Subaccount so long as (i) a Notice to Proceed has been issued to the Project by MaineHousing and a copy of such Notice to Proceed has been delivered to the City and (ii) an Extended Use Agreement and Program Declaration of Covenants has been executed with MaineHousing and recorded in the registry of deeds and a copy of which has been delivered to the City.

(b) All payments made by the City to the Developer hereunder shall be used to pay directly or to reimburse the Developer for operating costs of the Project as set forth in the Development Program.

(c) Notwithstanding anything to the contrary contained herein, if, with respect to any Tax Payment Date, any portion of the property taxes assessed against the real or personal property located in the District remain unpaid, for any reason other than a bona fide valuation dispute described above, the property taxes actually paid with respect to such Tax Payment Date shall, first, be applied to taxes due on account of Original Assessed Value; and second, shall constitute payment of Property Taxes with respect to Captured Assessed Value, to be applied first to payment in full of the amount to be deposited in the City Project Cost Subaccount for the year concerned (or to the general fund if the City has reduced its capture percentage). In such case, no payment of the Developer's share of the Tax Increment Revenues for the year concerned will be deposited into the Developer Project Cost Subaccount until such property taxes assessed against real or personal property located in the District are paid in full.

Section 3.2. Failure to Make Payment.

In the event the City should fail to, or be unable to, make any of the payments at the time and in the amount required under the foregoing provisions of this Article III including in the event that the amount deposited into the Developer Project Cost Subaccount is insufficient to reimburse the Developer for the full amount due to the Developer under this Agreement, the amount or installment so unpaid shall continue as a limited obligation of the City, under the terms and conditions hereinafter set forth, until the amount unpaid shall have been fully paid. The Developer shall have the right to initiate and maintain an action to specifically enforce the City's obligations hereunder, including without limitation, the City's obligation to deposit Tax Increment Revenues to the Developer Project Cost Subaccount and its obligation to make payment out of the Developer Project Cost Subaccount to the Developer.

Section 3.3. Manner of Payments.

The payments provided for in this Article III shall be paid directly to the Developer at the address specified in Section 8.7 hereof in the manner provided hereinabove by check drawn on the City.

Section 3.4. Obligations Unconditional.

Subject to compliance with the terms and conditions of this Agreement, the obligations of the City to make the payments described in this Agreement in accordance with the terms hereof shall be absolute and unconditional, and the City shall not suspend or discontinue any payment hereunder or terminate this Agreement for any cause, other than pursuant to this Agreement or by court order or by reason of a final judgment by a court of competent jurisdiction that the District is invalid or otherwise illegal.

Section 3.5. Limited Obligation.

The City's obligations of payment hereunder shall be limited obligations of the City payable solely from Tax Increment Revenues pledged therefor under this Agreement. The City's obligations hereunder shall not constitute a general debt or a general obligation or charge against or pledge of the faith and credit or taxing power of the City, the State of Maine, or of any municipality or political subdivision thereof, but shall be payable solely from that portion of Tax Increment Revenues payable to the Developer hereunder, whether or not actually deposited into the Developer Project Cost Subaccount in the Development Program Fund. This Agreement shall not directly, indirectly or contingently obligate the City, the State of Maine, or any other City or political subdivision to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment, excepting the pledge of the Tax Increment Revenues established under this Agreement.

**ARTICLE IV
PLEDGE AND SECURITY INTEREST**

Section 4.1. Pledge of and Grant of Security Interest in the Developer Project Cost Subaccount.

In consideration of this Agreement and other valuable consideration and for the purpose of securing payment of the amounts provided for hereunder to the Developer by the City, according to the terms and conditions contained herein, and in order to secure the performance and observance of all of the City's covenants and agreements contained herein, the City does hereby grant a security interest in and pledge the Developer Project Cost Subaccount described in Section 2.1 hereof and all sums of money and other securities and investments therein to the Developer.

Section 4.2. Perfection of Interest.

(a) Upon written request by the Developer, the City will establish the Developer Project Cost Subaccount described in Section 2.1 hereof as a segregated fund under the control of an escrow agent, trustee or other fiduciary selected by the Developer so as to perfect the Developer's interest therein. The cost of establishing and monitoring such a fund (including the cost of counsel to the City with respect thereto) shall be borne exclusively by the Developer. In the event such a fund is established under the control of a trustee or fiduciary, the City shall cooperate with the Developer in causing appropriate financing statements and continuation statements naming the Developer, or its designee, as pledgee of all such amounts from time to time on deposit in the fund to be duly filed and recorded in the appropriate state offices as required by and permitted under the provisions of the Maine Uniform Commercial Code or other similar law as adopted in the State of Maine and any other applicable jurisdiction, as from time to time amended, in order to perfect and maintain the security interests created hereunder.

(b) In the event the Developer requires the establishment of a segregated fund in accordance with this Section 4.2, the City's responsibility shall be expressly limited to delivering the amounts required by this Agreement to the escrow agent, trustee or other fiduciary designated by the Developer. The City shall have no liability for payment over of the funds concerned to the Developer by any such escrow agent, trustee or other fiduciary, or for any misappropriation, investment losses or other losses in the hands of such escrow agent, trustee or other fiduciary. Notwithstanding any change in the identity of the Developer's designated escrow agent, trustee or other fiduciary, the City shall have no liability for misdelivery of funds if delivered in accordance with the Developer's most recent written designation or instructions actually received by the City.

Section 4.3. Further Instruments.

The City shall, upon the reasonable request of the Developer, from time to time execute and deliver such further instruments and take such further action as may be reasonable and as may be required to carry out the provisions of this Agreement; provided, however, that no such instruments or actions shall pledge the credit of the City except to the extent provided for in this

Agreement; and provided further that the cost of executing and delivering such further instruments (including the reasonable and related costs of counsel to the City with respect thereto) shall be borne exclusively by the Developer.

Section 4.4. No Disposition of the Developer Project Cost Subaccount.

Except as permitted hereunder, the City shall not sell, lease, pledge, assign or otherwise dispose, encumber or hypothecate any interest in the Developer Project Cost Subaccount and will promptly pay or cause to be discharged or make adequate provision to discharge any lien, charge or encumbrance on any part thereof not permitted hereby.

Section 4.5. Access to Books and Records.

All books, records and documents in the possession of either of the parties to this Agreement relating to the District, the Development Program, this Agreement and the monies, revenues and receipts on deposit or required to be deposited into the Developer Project Cost Subaccount shall at all reasonable times and upon reasonable notice be open to inspection by both parties to this Agreement, and the agents and employees of the parties to this Agreement.

**ARTICLE V
DEFAULTS AND REMEDIES**

Section 5.1. Events of Default.

Each of the following events shall constitute and be referred to in this Agreement as an “Event of Default”:

- (a) Any failure by the City to pay any amounts due to the Developer when the same shall become due and payable;
- (b) Any failure by the City to make deposits into the Developer Project Cost Subaccount as and when due;
- (c) Other than as provided in paragraph (a) and (b) above, any failure by the City or the Developer to observe and perform in all material respects any covenant, condition, agreement or provision contained herein on the part of the City or the Developer to be observed or performed, which failure is not cured within thirty (30) days following written notice thereof; and
- (d) If a decree or order of a court or agency or supervisory authority having jurisdiction in the premises of the appointment of a conservator or receiver or liquidator of, any insolvency, readjustment of debt, marshaling of assets and liabilities or similar proceedings, or for the winding up or liquidation of the Developer's affairs shall have been entered against the Developer or the Developer shall have consented to the appointment of a conservator or receiver or liquidator in any such proceedings of or relating to the Developer or of or relating to all or substantially all of its property, including without limitation the filing of a voluntary petition in

bankruptcy by the Developer or the failure by the Developer to have an involuntary petition in bankruptcy dismissed within a period of ninety (90) consecutive days following its filing or in the event an order for release has been entered under the Bankruptcy Code with respect to the Developer.

(e) If any written representation or warranty given to the City by the Developer is knowingly incorrect or incomplete in any material respect, other than statements made about or in agreements with the City that were later changed by mutual consent.

(f) If the property in the District is not developed and maintained substantially consistently with MaineHousing requirements and City codes and regulations, and such failure to develop or maintain the property in the District is not cured within thirty (30) days after written notice from the City to the Developer.

(g) Any discontinuance of the District property as “affordable housing,” pursuant to the definition contained in Title 30-A M.R.S.A. Section 5246.

(h) Any discontinuance by Developer of compliance with the Extended Use Agreement and Program Declaration of Covenants with MaineHousing which requires affordability of the Project for a minimum of 45 years.

Section 5.2. Remedies on Default.

Subject to the provisions contained in Section 8.13, whenever any Event of Default described in Section 5.1 hereof shall have occurred and be continuing, the nondefaulting party, following the expiration of any applicable cure period, shall have all rights and remedies available to it at law or in equity, including the rights and remedies available to a secured party under the laws of the State of Maine, and may take whatever action as may be necessary or desirable to collect the amount then due and thereafter to become due, to specifically enforce the performance or observance of any obligations, agreements or covenants of the nondefaulting party under this Agreement and any documents, instruments and agreements contemplated hereby or to enforce any rights or remedies available hereunder. Further, the non-defaulting party may elect to terminate this Agreement upon 30 days’ written notice to the defaulting party.

Section 5.3. Remedies Cumulative.

Subject to the provisions of Section 8.13 below concerning dispute resolution, no remedy herein conferred upon or reserved to any party is intended to be exclusive of any other available remedy or remedies but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law, in equity or by statute. Delay or omission to exercise any right or power accruing upon any Events of Default to insist upon the strict performance of any of the covenants and agreements herein set forth or to exercise any rights or remedies upon the occurrence of an Event of Default shall not impair any such right or power or be considered or taken as a waiver or relinquishment for the future of the right to insist upon and to enforce, from time to time and as often as may be deemed expedient, by injunction or other appropriate legal or equitable remedy, strict compliance by the

parties hereto with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies, if such Events of Default be continued or repeated.

ARTICLE VI EFFECTIVE DATE, TERM AND TERMINATION

Section 6.1. Effective Date and Term.

Notwithstanding any other provision of this Agreement, this Agreement is conditioned upon receipt of the Director's unconditional approval of the City's designation of the District and adoption of the Development Program. Following execution and delivery of this Agreement, the Agreement shall not be or become binding and enforceable until receipt of such unconditional approval. Upon receipt of such approval, this Agreement shall remain in full force from the Effective Date of the Development Program and shall expire June 30, 2055 or sooner upon the payment of all amounts due to the Developer hereunder and the performance of all obligations on the part of the City hereunder, unless even sooner terminated pursuant to Section 3.4 or any other applicable provision of this Agreement.

Section 6.2. Cancellation and Expiration of Term.

At the acceleration, termination or other expiration of this Agreement in accordance with the provisions of this Agreement, the City and the Developer shall each execute and deliver such documents and take or cause to be taken such actions as may be necessary to evidence the termination of this Agreement.

ARTICLE VII ASSIGNMENT AND PLEDGE OF DEVELOPER'S INTEREST

Section 7.1. Consent to Pledge, Collateral Assignment Or Grant of a Security Interest.

The City hereby acknowledges that the Developer may pledge, assign and grant a security interest in its right, title and interest in, to and under this Agreement as collateral for financing by a bank or financial institution to the Developer for the Project, although no obligation is hereby imposed on the Developer to make such assignment or pledge. Recognizing this possibility, the City does hereby consent and agree to the pledge and assignment of and the grant of a security interest in all the Developer's right, title and interest in, to and under this Agreement and in, and to the payments to be made to the Developer hereunder, to third parties as collateral or security for indebtedness or otherwise, on one or more occasions during the term hereof. The City agrees upon request to execute and deliver any assignments, pledge agreements, consents or other confirmations required by the prospective pledgee or assignee or secured party, including without limitation recognition of the pledgee or assignee or secured party as the holder of all right, title and interest herein and as the payee of amounts due and payable hereunder and any and all such other documentation as shall confirm to such pledgee or assignee or secured party the position of such assignee or pledgee or secured party and the irrevocable and binding nature of this Agreement, and provide to the pledgee or assignee such rights and/or remedies as the parties may reasonably deem necessary for establishing, perfection

and protection of its interest herein. The Developer shall be responsible for the City's necessary and reasonable costs of counsel with respect to any such pledge or assignment.

Section 7.2. Transfer.

Except as specified in Section 7.1 hereof, the Developer shall not transfer or assign any portion of its rights in, to and under this Agreement without the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed.

**ARTICLE VIII
MISCELLANEOUS**

Section 8.1. Successors.

In the event of the dissolution, merger or consolidation of the City or the Developer, the covenants, stipulations, promises and agreements set forth herein, by or on behalf of or for the benefit of such party shall bind or inure to the benefit of the successors and assigns thereof from time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of such party shall be transferred.

Section 8.2. Parties-in-Interest.

Except as herein otherwise specifically provided, nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person, firm or corporation other than the City and the Developer any right, remedy or claim under or by reason of this Agreement, it being intended that this Agreement shall be for the sole and exclusive benefit of the City and the Developer.

Section 8.3. Severability.

In case any one or more of the provisions of this Agreement shall, for any reason, be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement and this Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

Section 8.4. No Personal Liability of Officials of the City.

(a) No covenant, stipulation, obligation or agreement of the City contained herein shall be deemed to be a covenant, stipulation or obligation of any present or future elected or appointed official, officer, agent, servant or employee of the City in his or her individual capacity, and no such person shall be liable personally with respect to this Agreement or be subject to any personal liability or accountability by reason hereof.

(b) No covenant, stipulation, obligation or agreement of the Developer contained herein shall be deemed to be a covenant, stipulation or obligation of any present or future officer, agent, servant or employee of the Developer in his or her individual capacity, and no official,

officer, employee or agent of the Developer shall be liable personally with respect to this Agreement or be subject to any personal liability or accountability by reason hereof.

Section 8.5. Counterparts.

This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same Agreement.

Section 8.6. Governing Law.

The laws of the State of Maine shall govern the construction and enforcement of this Agreement.

Section 8.7. Notices.

All notices, certificates, requests, requisitions or other communications by the City or the Developer pursuant to this Agreement shall be in writing and shall be sufficiently given and shall be deemed given when mailed by first class mail, postage prepaid, addressed as follows:

If to the City:

City of Bath
55 Front Street
Bath, ME 04530
Attn.: Marc Meyers, City Manager

With a copy to:

Bernstein Shur
P.O. Box 9729
Portland, ME 04104-5029
Attn: Philip R. Saucier, Esq.

If to the Developer:

Bath Housing Development Corporation
80 Congress Avenue
Bath, ME 04530
Attn: Debora Keller, Executive Director

With a copy to:

Maurice A. Selinger, III, Esq.
Curtis Thaxter LLC
P.O. Box 7320
Portland, Maine 04112

Either of the parties may, by notice given to the other, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent hereunder.

Section 8.8. Amendments.

This Agreement may be amended only with the concurring written consent of both of the parties hereto.

Section 8.9. Records.

The City shall maintain records which are adequate in all respects to make the calculation of Increased Assessed Value and Tax Increment Revenues required to calculate the deposits into the Development Program Fund hereunder, and shall provide to the Developer, upon request by the Developer, a summary of such calculations.

Section 8.10. Reserved.

Section 8.11. Integration.

This Agreement completely and fully supersedes all other prior or contemporaneous understandings or agreements, both written and oral, between the City and the Developer relating to the specific subject matter of this Agreement and the transactions contemplated hereby.

Section 8.12. Reserved.

Section 8.13. Dispute Resolution.

In the event of a dispute regarding this Agreement or the transactions contemplated by it, the parties hereto will use all reasonable efforts to resolve the dispute on an amicable basis. If the dispute is not resolved on that basis within sixty (60) days after one party first brings the dispute to the attention of the other party, then either party may refer the dispute for resolution by one arbitrator mutually agreed to by the parties, and judgment on the award rendered by the arbitrator may be entered in any Maine state court having jurisdiction. Any such arbitration will take place in Portland, Maine or such other location as mutually agreed by the parties. The parties acknowledge that arbitration shall be the sole mechanism for dispute resolution under this Agreement. Provided however, that in the event the parties are unable to agree, within a reasonable period, on the selection of an arbitrator, either party may file suit to resolve the dispute in any court having jurisdiction within the State of Maine. This arbitration clause shall not bar the City's assessment or collection of property taxes in accord with law, including by judicial proceedings, including tax lien thereof, nor shall it bar the Developer from seeking abatement of property taxes as a result of claimed over-assessment, which shall be handled according to applicable law.

Section 8.14. Tax Laws and Valuation Agreement.

The parties acknowledge that all laws of the State now in effect or hereafter enacted with respect to taxation of property shall be applicable and that the City, by entering into this Agreement, is not excusing any non-payment of taxes by the Developer. Without limiting the foregoing, the City and the Developer shall always be entitled to exercise all rights and remedies regarding assessment, collection and payment of taxes assessed on the Developer's property. In addition, the Development Program makes certain assumptions and estimates regarding valuation, depreciation of assets, tax rates and estimated costs. The City and the Developer hereby covenant and agree that the assumptions, estimates, analysis and results set forth in the Development Program shall in no way (a) prejudice the rights of any party or be used, in any way, by any party in either presenting evidence or making argument in any dispute which may arise in connection with valuation of or abatement proceedings relating to the Developer's property for purposes of ad valorem property taxation or (b) vary the terms of this Agreement even if the actual results differ substantially from the estimates, assumptions or analysis.

[remainder of page left blank intentionally—signatures appear on next page]

DRAFT

IN WITNESS WHEREOF, the City and the Developer have caused this Agreement to be executed in their respective corporate names and their respective corporate seals to be hereunto affixed and attested by the duly authorized officers, all as of the date first above written.

WITNESS:

CITY OF BATH

_____ By: _____
Marc Meyers, its City Manager

DRAFT

WITNESS:

BHDC ANCHORAGE SOUTH LP, Developer

BY: BHDC Anchor Corporation, its General Partner

_____ By: _____, its _____

DRAFT

EXHIBIT 1

Copy of District Map

DRAFT



CITY COUNCIL ACTION

Meeting Date

Item No.

Requested Council Meeting Date: July 17, 2024

Responsible Dept: Planning

Requested Action: Ordinance

Title

80 Congress Ave Bath Housing Project Contract Rezoning

Summary

Staff are requesting City Council review, and if agreeable, approve contract rezoning conditions for 8.20, D with or without the proposed staff amendment. Please see attached memo, draft ordinance, and Zoning Summary Plan C-3.2

Staff Comments

Please consider the proposed staff amendment, intended to clarify the relationship of the proposed development to the master zoning plan incorporating other nearby parcels.

Action: Recommend for passage

City Manager

Introduced for: Select



CITY OF BATH

Date:

80 Congress Ave Bath Housing Project Contract Rezoning



MEMO

To: Marc Meyers, City Manager

From: Jenn Curtis, Director of Planning

Date: July 9, 2024

Re: Bath Housing Development Corporation Application for Contract Rezoning at Map 29, Lot 14 (80 Congress Ave)

Requested Action:

Staff are requesting City Council review, and if agreeable, approve conditions for 8.20, D below. Land Use Code §8.20,F,1 reads, “The scope of the review by the City Council in granting contract rezoning is limited to the Conditions contained in D, herein above, and only if these conditions are not otherwise required for Historic District Approval, Site Plan Approval, or Subdivision Approval.”

The Council may also wish to consider including a clarification recommended by staff underlined below as part of the discretionary conditions agreed to per 8.20,E.

Set aside 10.52 acres on a neighboring parcel as permanent open space conservation land with Kennebec Estuary Land Trust. The applicant proposes to make this designation as part of the master plan zoning for the overall 17.24 acres, which encompasses 80 Congress Avenue (Map 29, Lot 14), 100 Congress Avenue (Map 29, Lot 13), 150 Congress Avenue (Map 24, Lot 1), and the back land (Map 24, Lot 1-1) as depicted on the Zoning Summary Plan C-3.2

The amendment is intended to clarify that the open space listed as an enhancement related to this development project, is part of a master plan for zoning that incorporates several parcels. Collectively, the anticipated developments on the included parcels propose to bring approximately 197 units of critically needed, mixed-income housing to the City, including some housing that would be targeted to meet the needs of BIW workers.

By the process laid out in the Land Use Code at 8.20,F,2., if the City Council votes to recommend modifying any of the Discretionary Conditions per D,2, and if any of these recommended modifications affect the Historic District, Site Plan, or Subdivision approvals granted by the Planning Board, the modifications to the Discretionary Conditions must be referred back to the Planning Board for its review and approval prior to final approval of the contract rezoning being granted by the City Council.

Staff note that the Zoning Summary Plan C-3.2 was included in the application package, and the Site Plan and Subdivision approvals incorporated the information therein, and so the proposed recommended change is only a clarification and does not affect the Site Plan or Subdivision approvals.

Overview:

Description existing/proposed: The applicant is being represented by Stephen Bushey of Gorrill Palmer Consulting Engineers. The site is currently occupied by the Bath Housing Development Corporation office building, which will be demolished to make way for a new 4-story structure containing 48 deed-restricted affordable housing units.

Applicant RTI: The applicant is owner of record and provided a warranty deed as proof of ownership.

District conformance: The parcel is in the C2 – Mixed Commercial & Residential District. This district allows multi-family buildings with a minimum density of 6,000 sf/unit. Section 8.26 allows affordable housing units a minimum density of 2,400 sf/unit. The project height, lot coverage, and residential density will conform to the contract zone, as proposed.

Review history: Code Enforcement Officer Adam Jones determined the project was of a scope and scale that required Planning Board review and approval. The applicant came before the Planning Board on May 7th for pre-application workshop. On May 21st the application was presented to the City of Bath department heads responsible for development review. On June 4th the applicant came before the Planning Board for Pre-Application Site Plan Review and Subdivision Sketch Plan Review. A site walk for the Planning Board was held on June 4th, and applications for Final Subdivision Approval, Site Plan Approval, and Contract Rezoning were received on June 4th. Staff found the application complete with regard to the submission item checklist as of June 21, 2024.

At the regular meeting of the Planning Board on July 2, 2024, the Site Plan and Subdivision Applications were found complete, and subsequently **APPROVED with conditions** by the City of Bath Planning Board.

Public Hearing: A public hearing for the Contract Rezoning was held on July 2, 2024 at the Planning Board meeting. One member of the public spoke at the public hearing, expressing displeasure with the building design and the applicant's attitude. Multiple written public comments about the project were received by the planning office; one abutter was concerned about drainage; a Solid Waste Committee member was suggesting a recycling plan be required; and five comments were in favor of the project and the proposed structure.

The contract zoning language was recommended for approval by the Planning Board in a 3-2 vote, with two members absent (Bob Oxton, and Cal Stilphen), three in favor (Phyllis Bailey, Greg Johnson, and Jim Hopkinson) and two opposed (Haley Blanco and Andy Omo). Planning Board member Andy Omo expressed in conversation with the Planning Director after the meeting that his opposition was due to the outstanding need to clarify the language regarding how the open space was intended to be related to the proposed Zoning Summary Plan incorporating the proposed master plan for density on other lots. The Planning and Development team agree that clarification should be made, and have proposed an amendment to the Council for that purpose.

Findings of Fact

30-A M.R.S.A. Section 4352(8) and Article 8: §8.20 Contract Rezoning

Contract Rezoning is allowed by State statute under 30-A M.R.S.A. Section 4352(8) and is allowable to certain zoning districts within the City of Bath as a provision of §8.20. The Mixed Commercial & Residential District (C2) is included in the areas where contract rezoning is allowed.

Contract rezoning request:

The applicant is proposing a contract rezoning for the site to accommodate reduced setbacks, additional building height, and lower minimum density requirements, as follows:

1. Minimum Lot Area per dwelling unit to be reduced from 6,000 sf to 2,400 sf as depicted on the Zoning Summary Plan C-3.2, which shows additional land to be placed in conservation on Map 24, Lot 1-1 as part of a master zoning plan also incorporating the parcels at Map 29, Lot 13 and Map 24, Lot 1.
2. Maximum Lot Coverage to be increased the requirement from 60 percent to 70 percent, as depicted on the site plan C-3.0.
3. Maximum Height to be increased from 40 feet to 50 feet.

The state statutory requirements for rezoning at 30-A M.R.S.A. Section 4352(8) are:

A. Be consistent with the growth management program adopted under this chapter;

Staff note that the C2 District is in an identified growth area, so the proposal is in accordance with the growth management program.

B. Establish rezoned areas that are consistent with the existing and permitted uses within the original zones; and

Staff note that the applicant is proposing a use that is consistent with existing and permitted uses within the original zone.

C. Only include conditions and restrictions that relate to the physical development or operation of the property.

The applicant is not proposing any restrictions.

Bath Land Use Code 8.20:

D,1 Mandatory Conditions:

1. Mandatory Conditions All rezoning under this Section must:

(a) be consistent with the Comprehensive Plan of the City of Bath and any other supporting documents pertinent to the Plan.

Staff note that the proposal is consistent with the Actions recommended by the 2023 City of Bath Comprehensive Plan (Plan). The proposed project is applicable to meeting all five housing policies listed in the Implementation Matrix of the Plan as well as other Comprehensive plan goals.

(b) includes only conditions and/or restrictions that relate to the physical development or operation of the property

The applicant is not proposing any restrictions.

D,2 Discretionary Conditions

- a. Creates up to 48 new, sustainable deed-restricted housing units.
- b. Improves a section of sidewalk along Centre Street.
- c. Provides a new bus/shuttle stop on Centre Street.
- d. Set aside 10.52 acres on a neighboring parcel as permanent open space conservation land with Kennebec Estuary Land Trust. The applicant proposes to make this designation as part of the master plan zoning for the overall 17.24 acres, which encompasses 80 Congress Avenue (Map 29, Lot 14), 100 Congress Avenue (Map 29, Lot 13), 150 Congress Avenue (Map 24, Lot 1), and the back land (Map 24, Lot 1-1) as depicted on the Zoning Summary Plan C-3.2
- e. The applicant agrees to contribute \$5,000 to study and improve the intersection of Centre Street and Congress Avenue.

8.20, E. Planning Board Recommendation to the City Council and Findings of Fact

Staff note that in accordance with 8.20,E, when recommending contract rezoning approval to the City Council, the Planning Board must make findings of fact consistent with Site Plan and Subdivision Approval criteria of this Code, and that the following criteria are met. An amendment to what was recommended for approval that is proposed by staff is underlined below:

1. The approval is consistent with the mandatory conditions set forth in Paragraph D 1 herein above.

Finding: The applicant is proposing a project that is compliant with the comprehensive plan, and the applicant is not proposing restrictions for the project to adhere to.

2. The applicant is willing to meet certain community objectives contained in the Comprehensive Plan due to additional flexibility being allowed, the applicant has employed innovative design, or that there exists an unusual nature, condition, or location relative to the property being considered for rezoning.

Finding: The applicant outlined the consistency of their proposed plans with City of Bath Comprehensive Plan goals under their Contract Zone Agreement Draft [Attachment B (B)(8)(e)]

3. In addition to compatibility with the neighborhood, the building must be consistent in terms of colors, materials, and other design items with the Gateway or Downtown goals of the City, if applicable.

Finding: There are no applicable Gateway or Downtown goals that apply to this project.

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THE LAND USE CODE OF THE CITY OF BATH ADOPTED JULY 19, 2000, AND SUBSEQUENTLY AMENDED, BE HEREBY FURTHER AMENDED AS FOLLOWS:

Amend Article 16, by adding Section 16.33, as follows:

SECTION 16.33 80 CONGRESS AVE CONTRACT ZONE

A. District Designation

The property designated for contract rezoning is located at 80 Congress Ave, identified as Lot 14, on City of Bath Tax Map 29 dated April 1, 2023.

B. Findings

The City Council makes the following findings:

1. The property is located in the Mixed Commercial and Residential (C2) District.
2. Contract Rezoning is allowed in the Mixed Commercial and Residential (C2) District.
3. The project consists of a proposal to demolish the existing Bath Housing Development Corporation office building and build a new 4-story structure containing 48 deed-restricted affordable housing units.
4. Without the contract zone, the allowed minimum lot area per dwelling unit would be 2,400 sf (6,000 sf per 8.08, reduced to 2,400 by 8.26)
5. The applicant proposes to develop the project at 2,400 sf as depicted on the Zoning Summary Plan C-3.2, which shows additional land to be placed in conservation on Map 24, Lot 1-1 as part of a master zoning plan also incorporating the parcels at Map 29, Lot 13 and Map 24, Lot 1.
6. Without contract rezoning, the maximum lot coverage would be 60 percent.
7. The applicant proposes maximum lot coverage would be increased to 70 percent, as depicted on the site plan C-3.0.
8. Without contract rezoning the maximum height would be 40 feet.
9. The applicant proposes the maximum height be increased to 50 feet.

10. The rezoning of the parcel is consistent with the Comprehensive Plan and there are no other applicable City plans.
11. The project is consistent with the mandatory conditions set forth in Land Use Code Section 8.20 paragraph D. 1.
12. The project will create up to 48 new, sustainable deed-restricted housing units at 80 Congress Avenue.
13. The project will improve a section of sidewalk along Centre Street.
14. The project will provide a new bus/shuttle stop on Centre Street.
15. The project will set aside 10.52 acres on a neighboring parcel as permanent open space conservation land with Kennebec Estuary Land Trust.
16. The applicant agrees to contribute \$5,000 to study and improve the intersection of Centre Street and Congress Avenue.

C. Zoning Provision Affected

This contract zoning amendment is intended to accommodate, additional lot coverage, additional building height, and lower minimum density requirements pursuant to Section 8.08 of the Land Use Code, allowing the construction of the structure and other site improvements depicted on the Site Plan approved with conditions, by the Bath Planning Board on July 2, 2024.

This contract zone is intended to modify the dimensional standards of the Mixed Commercial and Residential (C2) District):

1. Reduce Minimum Lot Area per dwelling unit to 2,400 sf
2. Increase Maximum Lot Coverage from 60 percent to 70 percent
3. Increase Maximum Height from 40 feet to 50 feet.

D. Conditions of Approval

This Contract Rezoning Ordinance requires full and complete compliance with all conditions of approval, which are part of the Site Plan and Subdivision approval, granted to Bath Housing Development Corporation, by the Bath Planning Board on July 2, 2024, including the following conditions:

Standard Conditions:

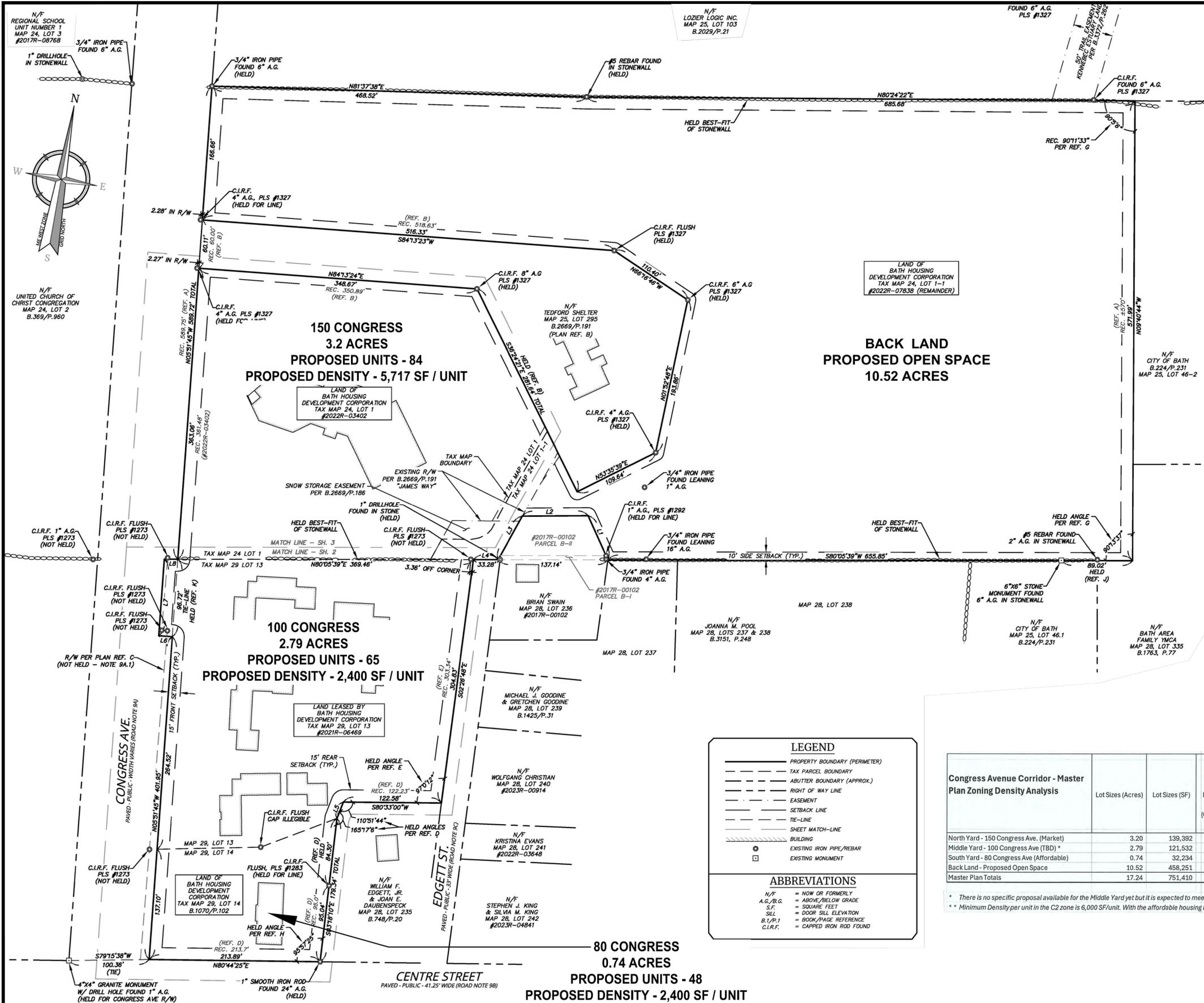
1. Approval is dependent upon and limited to the proposals and plans contained in the application materials, and supporting documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Planning Board, and any variation from such plans, proposals, and supporting documents and representations are subject to review and approval in accordance with the Land Use Ordinance.
2. All work shall be completed in accordance with Best Management Practices for Soil Erosion and Sediment Control. Erosion and sedimentation management measures must be implemented during every phase of construction. The amount of exposed soil throughout construction must be minimized. Any exposed ground area must be temporarily or permanently stabilized within one week from the time it was actively worked by use of riprap, sod, seed, mulch, or other measures.

Additional Conditions (Site Plan):

3. Prior to issuance of building permit, the applicant shall secure easements for utilization of the adjacent parcel to the north for proposed parking, solid waste storage, drive aisle, and vehicle turnaround.
4. Prior to the issuance of a building permit, the applicant shall investigate if the existing sewer service to the private home at #2 Edgett St can be connected to the City sewer main in Edgett Street and propose a resolution satisfactory to the Public Works Director, as determined by the Planning Director.
5. The required discretionary conditions of the proposed contract zone must be approved and adopted into the Land Use Code.

Additional Conditions (Subdivision):

6. Applicant shall provide a letter from MHPC for City of Bath Planning Director review and acceptance prior to building permit issuance. If the Plan requires additional action to ensure appropriate measures for the protection of the historic or prehistoric resources, a plan amendment may be required
7. The lot may not be divided in the future unless the space and bulk regulations of the district in which the lot is located are met (required by 10.05).
8. Prior to issuance of a building permit, the applicant shall pay the required \$16,879.50 sewer impact fee.



PROPERTY LINE TABLE

SEGMENT	BEARING	LENGTH
L1	S34°15'19"E	60.32'
L2	N79°37'02"E	82.13'
L3	N19°08'44"E	62.08'
L4	N80°05'39"E	30.90'
L5	N11°24'44"E	21.92'
L6	N84°08'15"E	17.00'
L7	S5°51'45"E	95.52'
L8	S80°05'39"W	17.04'

LAND USE STANDARDS:

THE SURVEYED PROPERTY IS LOCATED IN THE MIXED RESIDENTIAL AND COMMERCIAL DISTRICT(C2). LAND USE REGULATIONS ARE AS FOLLOWS:

MIN LOT AREA: 6,000 S.F. (PER USE)
 MIN LOT AREA PER DWELLING UNIT: 6,000 S.F. PER UNIT
 MIN LOT WIDTH: 60 FT
 MIN FRONT SETBACK / YARD: 15 FT / 6 FT
 MIN SIDE SETBACK / YARD: 10 FT / 6 FT
 MIN REAR SETBACK / YARD: 15 FT / 6 FT
 MAX BUILDING HEIGHT: 40'
 MAX LOT COVERAGE: 60%

**SEE ORDINANCE FOR MORE PARTICULAR INFORMATION.
 **NO ZONING REPORT/LETTER HAS BEEN PROVIDED TO THIS SURVEYOR. LAND USE REGULATIONS LISTED ABOVE ARE BASED SOLELY UPON A PRELIMINARY REVIEW OF THE CITY OF BATH LAND USE CODE (REVISED SEPTEMBER 27, 2023) AND MAY NOT NECESSARILY REPRESENT ALL LAND USE REGULATIONS APPLICABLE TO THE PROPERTY. ALL LAND USE REGULATIONS MUST BE CONFIRMED WITH THE APPROPRIATE FEDERAL, STATE AND/OR LOCAL REGULATORY ENTITY TO DETERMINE THE EFFECT THESE MAY HAVE ON THE PERMITTED USE OF THE PROPERTY.

GENERAL NOTES:

- THE RECORD OWNERS OF THE SURVEYED PARCELS ARE AS FOLLOWS:
 MAP 24, LOT 1: BATH HOUSING DEVELOPMENT CORPORATION (FEE INTEREST) BY QUITCLAIM DEED DATED MAY 16, 2022, RECORDED AS DOCUMENT NO. 2022R-03402.
 MAP 24, LOT 1-1: BATH HOUSING DEVELOPMENT CORPORATION (FEE INTEREST) BY QUITCLAIM DEED DATED NOVEMBER 2, 2022, RECORDED AS DOCUMENT NO. 2022R-07838.
 MAP 29, LOT 13: BATH HOUSING DEVELOPMENT CORPORATION (LEASEHOLD), EVIDENCED BY MEMORANDUM OF LEASE BETWEEN BATH HOUSING AUTHORITY (LANDLORD) AND BATH HOUSING DEVELOPMENT CORPORATION (TENANT) DATED JULY 29, 2021, RECORDED AS DOCUMENT NO. 2021R-06469.
 NOTE: BATH HOUSING AUTHORITY HOLDS THE FEE INTEREST BY DEED B.445/P.94, B.445/P.96, & B.476/P.15.
 MAP 29, LOT 14: BATH HOUSING DEVELOPMENT CORPORATION (FEE INTEREST) BY WARRANTY DEED DATED JULY 8, 1991, RECORDED IN DEED B.1070/P.102.
- THE TOTAL AREA OF THE SURVEYED PARCELS ARE AS FOLLOWS:
 MAP 24, LOT 1: ±139,309 S.F. (±3.20 ACRES)
 MAP 24, LOT 1-1: ±458,251 S.F. (±10.52 ACRES)
 MAP 29, LOT 13: ±121,345 S.F. (±2.79 ACRES)
 MAP 29, LOT 14: ±32,113 S.F. (±0.74 ACRES)
TOTAL: ±751,019 S.F. (±17.24 ACRES)
- BOUNDARY INFORMATION SHOWN HEREON IS BASED UPON AN ON-THE-GROUND SURVEY COMPLETED BY COLLIER ENGINEERING & DESIGN IN MARCH 2024.
- TOPOGRAPHIC INFORMATION AND ON-SITE IMPROVEMENTS FOR "PHASE 1" ARE SHOWN ON SHEET 2.
- BOOK AND PAGE REFERENCES SHOWN HEREON ARE IN REFERENCE TO THE SAGadahoc COUNTY REGISTRY OF DEEDS (S.C.D.).
- BEARINGS SHOWN HEREON ARE IN REFERENCE TO GRID NORTH, MAINE STATE PLANE COORDINATE SYSTEM, WEST ZONE 1802-NAD83. ELEVATIONS DEPICTED HEREON ARE IN REFERENCE TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88), BASED GPS OBSERVATIONS.
- UTILITY INFORMATION DEPICTED HEREON IS COMPILED USING PHYSICAL SURFACE EVIDENCE LOCATED IN THE FIELD IN CONJUNCTION WITH PLAN REF. M, ALONG WITH ANY OTHER RECORD INFORMATION AVAILABLE AT THE TIME OF THIS SURVEY (SEE LEVEL CL) AND MAY NOT NECESSARILY REPRESENT ALL EXISTING UTILITIES. CONTRACTORS AND/OR DESIGNERS NEED TO CONTACT DIG-SAFE SYSTEMS, INC. (1-888-DIG-SAFE) AND FIELD VERIFY EXISTING UTILITIES PRIOR TO CONSTRUCTION AND/OR EXCAVATION.
- THE SURVEYED PROPERTY DOES NOT FALL WITHIN A SPECIAL FLOOD HAZARD AREA AS DELINEATED ON THE FLOOD INSURANCE RATE MAP FOR THE CITY OF BATH, SAGADAHOC COUNTY, MAINE, COMMUNITY PANEL NUMBER 230118 0212 F, HAVING AN EFFECTIVE DATE OF JULY 16, 2015. THE ENTIRETY OF THE SURVEYED PROPERTY IS LOCATED WITHIN ZONE X (NO SHADING), AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN.
- ROAD NOTES:
 9.A. CONGRESS AVENUE IS A PUBLIC RIGHT OF WAY WITH A VARYING WIDTH, ACCEPTED BY THE CITY OF BATH ON APRIL 20, 1965, AND IS SHOWN PER PLAN REF. K.
 9.A.1. THE LOCATION OF CONGRESS AVENUE SHOWN ON PLAN REF. C DOES NOT MATCH THE DESCRIPTION ON-FILE WITH THE CITY OF BATH, PLAN REF. K, OR ANY OTHER PLANS SHOWING THAT SECTION OF CONGRESS STREET. NO RECORD OF ALTERATION OF CONGRESS STREET MATCHING THAT SHOWN ON PLAN REF. C HAS BEEN FOUND AS OF THE DATE OF THIS SURVEY. THEREFORE, PLAN REF. C HAS BEEN DISCARDED.
 9.B. CENTRE STREET IS A PUBLIC RIGHT OF WAY WITH A WIDTH OF 41.25' (2.5 RODS), ACCEPTED BY THE CITY OF BATH ON JULY 3, 1867, AND IS SHOWN PER PLAN REF. D.
 9.C. EDGETT STREET IS A PUBLIC RIGHT OF WAY WITH A WIDTH OF 33' (2 RODS), ACCEPTED BY THE CITY OF BATH ON JANUARY 6, 1932, AND IS SHOWN BASED ON PLAN REF. D AND MONUMENTS RECOVERED.

Congress Avenue Corridor - Master Plan Zoning Density Analysis

	Lot Sizes (Acres)	Lot Sizes (SF)	C2 Zone - Allowed Residential Density if ALL Market Rate (6,000 SF/Unit Min)	C2 Zone - Allowed Residential Density if ALL Affordable (2,400 SF/Unit Min)	PROPOSED Density - Market Rate & Affordable (Units)	PROPOSED Density w/o Back Land Allocation (SF/Unit)	Needed SF for Proposed Density Under Current C2 Zoning	Available SF from Back Land to Allocate	Proposed Density w/ Back Land Allocation (SF/Unit) **
North Yard - 150 Congress Ave. (Market)	3.20	139,392	23	58	84	1,659	364,608	340,818	5,717
Middle Yard - 100 Congress Ave (TBD) *	2.79	121,532	20	51	65	1,870	34,468	34,468	2,400
South Yard - 80 Congress Ave (Affordable)	0.74	32,234	5	13	48	672	82,966	82,966	2,400
Back Land - Proposed Open Space	10.52	458,251	76	191	0	0	0	0	0
Master Plan Totals	17.24	751,410	125	313	197	1,488	482,041	458,251	3,814

* There is no specific proposal available for the Middle Yard yet but it is expected to meet the affordability definition of the City of Bath (i.e. <= 80% AMI)
 ** Minimum Density per unit in the C2 zone is 6,000 SF/Unit. With the affordable housing bonus of 2.5x, the minimum density is reduced to 2,400 SF/Unit

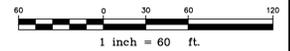
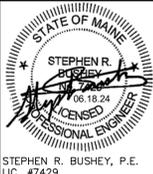
LEGEND

- PROPERTY BOUNDARY (PERIMETER)
- TAX PARCEL BOUNDARY
- ADJUTER BOUNDARY (APPROX.)
- RIGHT OF WAY LINE
- EASEMENT
- SETBACK LINE
- TIE-LINE
- SHEET MATCH-LINE
- BUILDING
- EXISTING IRON PIPE/REBAR
- EXISTING MONUMENT

ABBREVIATIONS

- N/F = NOW OR FORMERLY
- A.G./B.G. = ABOVE/BELOW GRADE
- S.F. = SQUARE FEET
- SILL = DOOR SILL ELEVATION
- B.1/P.1 = BOOK/PAGE REFERENCE
- C.I.R.F. = CAPPED IRON ROD FOUND

NOTE: THIS PLAN SET IS ISSUED FOR PERMITTING PURPOSES & SHALL NOT BE USED FOR CONSTRUCTION.



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Design: SRB Draft: CDD Date: JUNE 2024
 Checked: SRB Scale: AS NOTED Job No.: 4279
 File Name: 4279-SITE.dwg

This plan shall not be modified without written permission from Gorrill Palmer. Any alterations, authorized or otherwise, shall be at the user's sole risk and without liability to Gorrill Palmer.

Rev.	Date	Revision
2	2024.06.18	RESUBMISSION FOLLOWING COMPLETENESS REVIEW
1	2024.06.04	SITE PLAN APPLICATION / CZA SUBMISSION



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 South Portland, ME 04106

Drawing Name:	ZONING SUMMARY PLAN	Drawing No.:	C-3.2
Project:	MULTI-UNIT RESIDENTIAL DEVELOPMENT - BUILDING I 80 CONGRESS AVENUE, BATH, MAINE		
Client:	BATH HOUSING DEVELOPMENT CORP 80 CONGRESS AVENUE, BATH, MAINE 04530		