

# 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 e-mail to Anne Paré sent to [apare@mainehousing.org](mailto:apare@mainehousing.org), *or*  
By mail to: Anne Paré, MaineHousing, 353 Water Street, 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 31<sup>st</sup> 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**

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

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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 31<sup>st</sup> 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 1<sup>st</sup> before MaineHousing approval is not more than 5%

\_\_\_\_\_ Aggregate OAV of existing and proposed districts  
\_\_\_\_\_ Aggregate taxable property value as of the April 1<sup>st</sup> 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.

2015 AMI for counties and other designated areas in Maine can be found at [http://www.huduser.org/portal/datasets/il/il15/Section8\\_IncomeLimits\\_Rev.pdf](http://www.huduser.org/portal/datasets/il/il15/Section8_IncomeLimits_Rev.pdf). After scrolling down to the Maine pages, use the information in the first column at "FY 2015 MFI: \_\_\_\_\_" for the county or other area of interest. Multiply that MFI figure by 120% to determine the maximum income level.

HUD updates AMI annually. 2015 AMI will remain in effect until HUD publishes AMI for 2016.

- 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 1<sup>st</sup> 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 fiscal year 2015 – 2016 and each subsequent 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.

**CITY OF BELFAST  
NOTICE OF PUBLIC HEARING**

**regarding**

**The Designation of an Affordable Housing Municipal Development and Tax Increment Financing District to Be Known as the “Wight Street Affordable Housing Development And Tax Increment Financing District” and the Adoption of a Development Program:**

Notice is hereby given that the Belfast City Council will hold a public hearing on Tuesday, November 5<sup>th</sup>, 2019, as part of its regularly-scheduled City Council meeting which begins at 7:00 PM, to be held in the Belfast City Hall Council Chambers, located at 131 Church Street, Belfast, Maine.

The purpose of the public hearing is to receive public comments on the designation of a new affordable housing municipal development and tax increment financing district called the Wight Street Affordable Housing Development and Tax Increment Financing District, located on approximately 42.87 acres, and the adoption of a development program therefor, all in accordance with Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended. The District consists of 37 parcels that abut the north, south, and west sides of Wight Street. Such development program will include authorizing credit enhancement agreements with two developers of the affordable housing projects in the District.

A copy of the proposed Development Program and related materials will be on file at the Planning & Codes Department, top floor, Belfast City Hall, 131 Church Street, Belfast, Maine, and may be reviewed there during the hours of 8:00 AM and 5:00 PM, Monday through Thursday. Persons may also submit comments at any time up until 3:00 PM on Tuesday, November 5<sup>th</sup>, 2019, either in writing to: Thomas Kittredge, Economic Development Director for the City of Belfast, Belfast City Hall, 131 Church Street, Belfast Maine, 04915; or via email to: [economicdevelopment@cityofbelfast.org](mailto:economicdevelopment@cityofbelfast.org).

All interested persons are invited to attend the public hearing and will be given an opportunity to be heard at that time.

# Attachment 2

## Public Hearing Record

# Attachment 3

## Additional Documents

**CITY COUNCIL  
RESOLUTION #\_\_\_\_\_**

**WHEREAS**, the City of Belfast (the “City”) is authorized pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended (“M.R.S.A.”), to designate a new affordable housing municipal development and tax increment financing district entitled the Wight Street Affordable Housing Development and Tax Increment Financing District (the “District”) and adopt a development program (the “Development Program”) for the District; and

**WHEREAS**, there is a need for economic development and for the development of affordable, livable 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

**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 to and creating affordable housing in the area of the District; and

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

**NOW, THEREFORE, BE IT ORDERED AS FOLLOWS:**

**Section 1.** The City of Belfast hereby adopts the Wight Street Affordable Housing Development and Tax Increment Financing District and associated Development Program; described as more particularly set forth in the documents presented to the City Council in conjunction with this Order;

**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, a blighted area, or is in need of rehabilitation or redevelopment; and

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

c. The original assessed value of the District plus the original assessed value of all existing affordable housing municipal development and tax increment financing districts within the City does not exceed five percent (5%) of the total acreage of the City.

d. The District and pursuit of the Development Program will contribute to the expansion of affordable housing opportunities within the municipality or to the betterment of the health, welfare, or safety of the inhabitants of the City. The City has considered all evidence, if any, presented to it with regard to any substantial detriment to another party's existing property interests in the City and has found and determined that any adverse economic effects against such interested party's property interests in the City are outweighed by the contribution made by the District or Development Program to the availability of affordable housing within the City or to the betterment of the health, welfare, or safety of the inhabitants of the City.

Attachment 5

**Section 3.** Pursuant to the provisions of Title 30-A M.R.S.A. § 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 designation of the District and pursuit of the Development Program will create affordable, livable housing within the City, and therefore constitutes a good and valid public purpose.

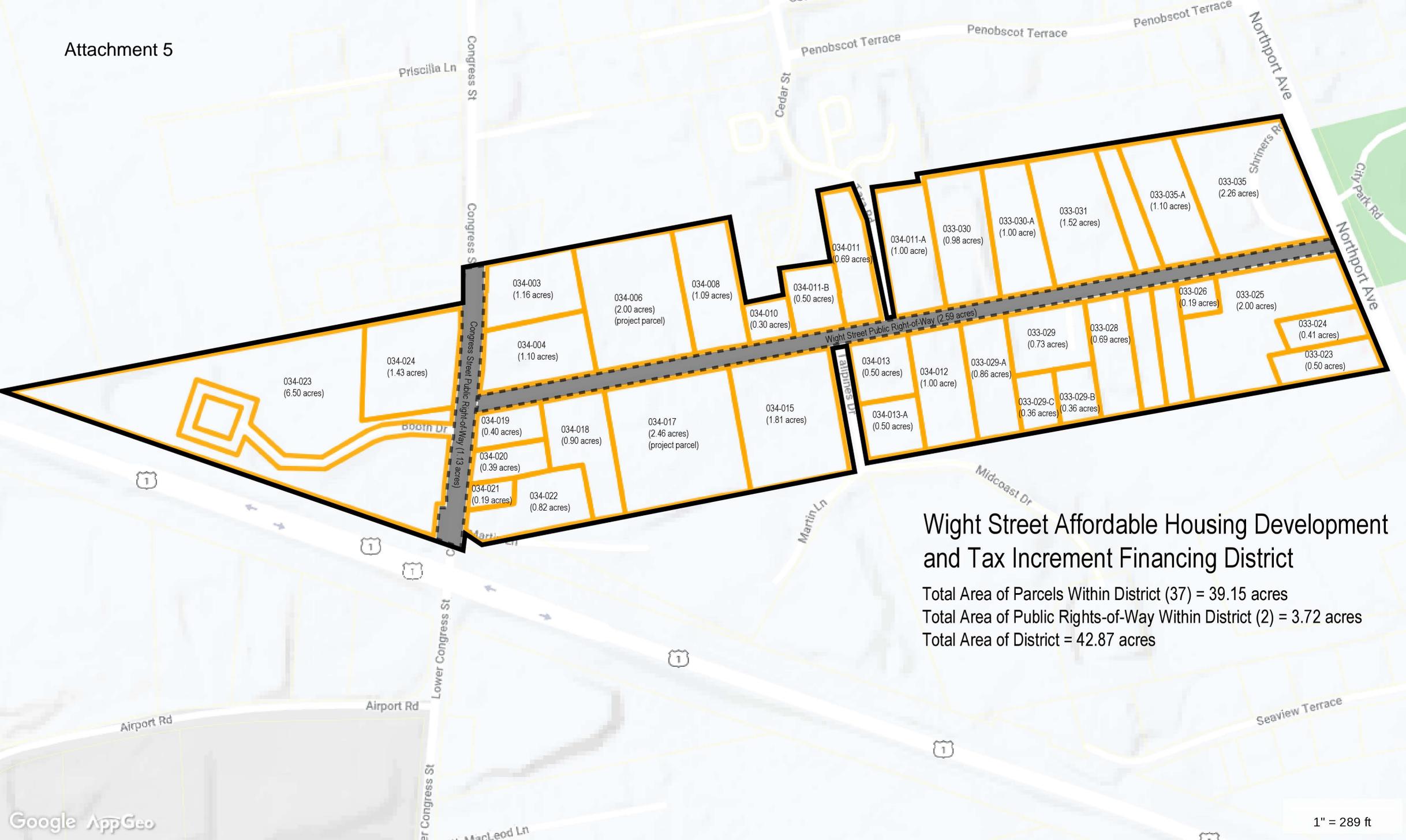
**Section 5.** The City Manager, or his duly appointed representative, is hereby authorized, empowered and directed to submit the proposed District and Development Program for the District to MaineHousing for review and approval pursuant to the requirements of Title 30-A M.R.S.A. Chapter 206, Subchapter 3; and further is authorized and directed to execute credit enhancement agreements consistent with the provisions of the Development Program as presented and approved herein and to create the accounts and take all the actions described in such agreements, if and when the City Manager is presented with a written copy of the MaineHousing "Notice to Proceed" with respect to the Projects to be located in the District.

**Section 6.** The foregoing designation of the District and Development Program for the District shall automatically become final and shall take full force and effect upon receipt by the City of approval of the by MaineHousing, without requirement of further action by the City, the City Council, or any other party.

**Section 7.** 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 for the District 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.

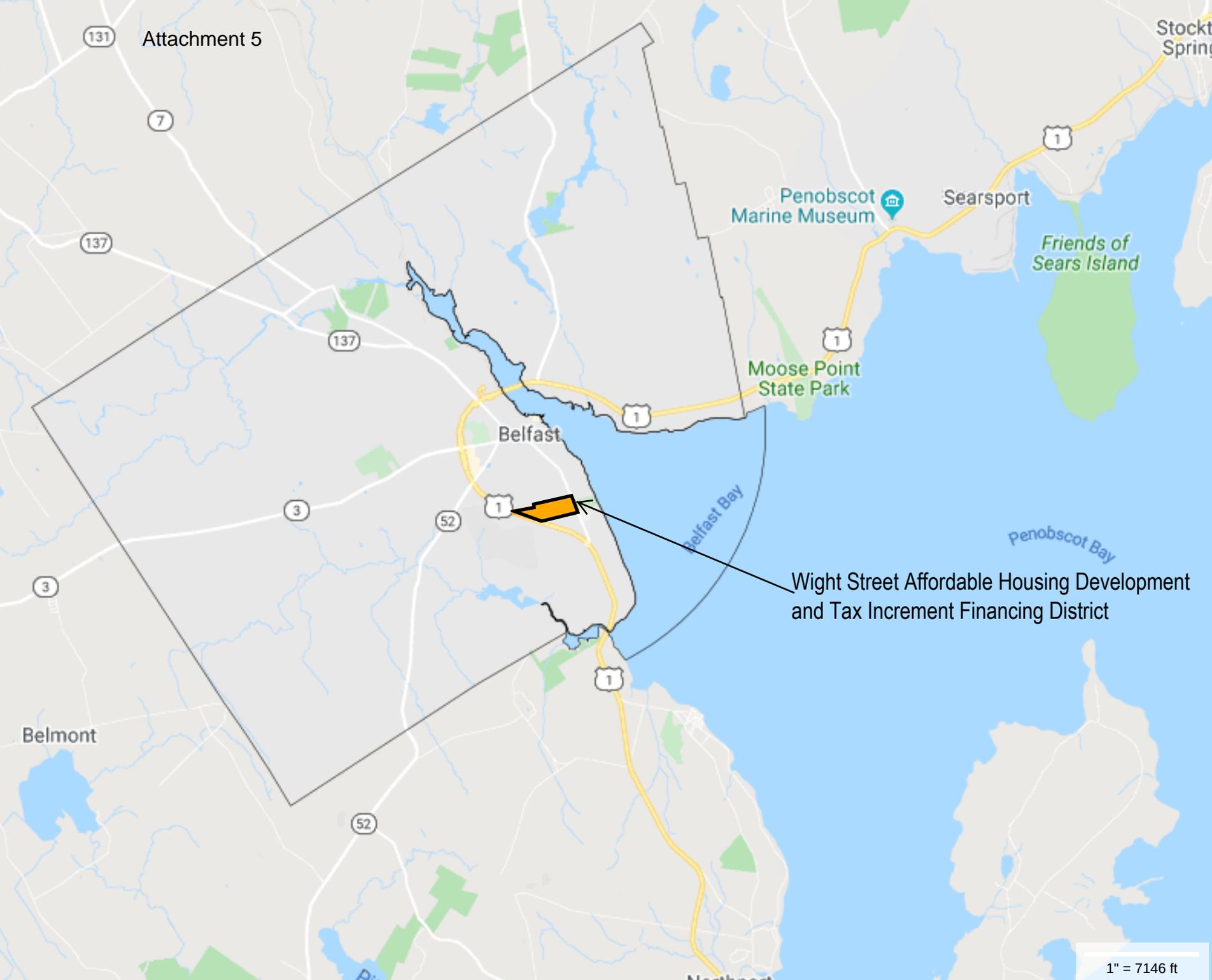
**Section 8.** The City Manager is authorized to file, or designate a qualified City employee to file, the yearly reports required by Title 30-A M.R.S.A. § 5250-E and otherwise to take all lawful actions required in the administration of the District and Development Program.

Dated:



### Wight Street Affordable Housing Development and Tax Increment Financing District

Total Area of Parcels Within District (37) = 39.15 acres  
Total Area of Public Rights-of-Way Within District (2) = 3.72 acres  
Total Area of District = 42.87 acres



Attachment 5

Penobscot Marine Museum

Searsport

Friends of Sears Island

Moose Point State Park

Belfast

Wight Street Affordable Housing Development and Tax Increment Financing District

Belmont

1" = 7146 ft

**CITY OF BELFAST  
WIGHT STREET AFFORDABLE HOUSING DEVELOPMENT AND  
TAX INCREMENT FINANCING DISTRICT**

**ASSESSOR'S CERTIFICATE**

The undersigned Assessor for the City of Belfast, Maine, does hereby certify pursuant to the provisions of Title 30-A M.R.S. § 5254 that the assessed value for all taxable real and personal property within the Wight Street Affordable Housing Development and Tax Increment Financing District, as described in the Development Program, to which this Certificate is attached, was \$4,340,900 as of March 31, 2019 (April 1, 2018). Personal property has no reported taxable assessed value in this district as of March 31, 2019 (April 1, 2018).

**IN WITNESS WHEREOF**, This Certificate has been executed as of this \_\_\_\_ day of November, 2019.

ASSESSOR

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

Printed name:

**Original Assessed Values for Individual Parcels**

Map/Lot Number	Acreage	Real Property Assessed Value as of March 31, 2019 (April 1, 2018)
033-023	0.50	\$127,800
033-024	0.41	\$196,000
033-025	2.00	\$407,800
033-026	0.19	\$106,200
033-027	0.48	\$169,400
033-027-A	0.47	\$101,600
033-028	0.69	\$114,700
033-029	0.73	\$51,400
033-029-A	0.86	\$128,300
033-029-B	0.36	\$88,200

033-029-C	0.36	\$56,900
033-030	0.98	\$0
033-030-A	1.00	\$75,100
033-031	1.52	\$313,800
033-033	0.50	\$106,200
033-035	2.26	\$0
033-035-A	1.10	\$0
034-003	1.16	\$148,400
034-004	1.10	\$144,300
034-006	2.00	\$90,900
034-008	1.09	\$66,500
034-010	0.30	\$62,900
034-011	0.69	\$98,700
034-011-A	1.00	\$127,100
034-011-B	0.50	\$96,900
034-012	1.00	\$138,300
034-013	0.50	\$133,600
034-013-A	0.50	\$149,800
034-015	1.81	\$112,500
034-017	2.46	\$111,500
034-018	0.90	\$143,400
034-019	0.40	\$64,800
034-020	0.39	\$88,000
034-021	0.19	\$157,100
034-022	0.82	\$126,500
034-023	6.50	\$0
034-024	1.43	\$236,300
Public Rights-of-Way	3.72	\$0
Total (37 parcels):	42.87 acres	\$4,340,900

WIGHT STREET AFFORDABLE HOUSING DEVELOPMENT  
AND TAX INCREMENT FINANCING DISTRICT DEVELOPMENT PROGRAM &  
FINANCIAL PLAN MATERIALS

1. The Wight Street Affordable Housing Development and Tax Increment Financing District (the "District") is comprised of parcels along Wight Street and two additional parcels on Congress Street as well as a portion of roadway including Wight Street itself and a portion of Congress Street. Two affordable housing projects are currently proposed to be located within the District. The first project by Developers Collaborative is located at 75 Wight Street in Belfast (Tax Map 034, Lot 006), is comprised of approximately 2 acres of land, including an existing single-family home. The second project by Realty Resources is located at 80 Wight Street (Tax Map 034, Lot 017), is comprised of approximately 2.46 acres of land, including one existing store building used previously as a ceramic shop.

A close-up City-wide map close-up showing District boundaries is included at Attachment 5 to the Maine State Housing Authority Application for Affordable Housing Tax Increment Financing.

2. 81.2% of District acreage is suitable for residential use, and 12.1% of District acreage is in need of rehabilitation/redevelopment. The City removed three of the parcels from consideration as suitable for residential use despite their residential zoning simply because their current uses are not residential (the public right-of-way acreage was also removed as non-residential for purposes of this calculation). The District is well suited for housing, being a residential neighborhood located inside the U.S. Route 1 Bypass. The District area includes established residential neighborhoods and is within a safe walking distance of Waldo County General Hospital and its associated facilities.

The District is serviced by City of Belfast sewer services and Belfast Water District water services and will be primarily residential use. The District is located entirely within the Residential 3 Zone, which is one of three urban residential zoning districts located in the Inside the Bypass area. All of the Inside the Bypass area is identified as a growth area by the City. In 2014, the City reduced minimum lot sizes for all zoning districts in the Inside the Bypass area to encourage greater housing densities, and specifically increased the allowed density for multifamily housing in both the Residential 2 and Residential 3 zoning districts to encourage the construction of new multifamily housing. The City also adopted standards to support the construction of detached accessory dwelling units.

The Residential 3 District allows a wide range of residential development: single family, two-family and multifamily housing, and attached and detached accessory dwelling units.

The Developers Collaborative project parcel includes vacant land, which needs redevelopment. The Realty Resources project parcel includes vacant land, which needs redevelopment.

3. District acreage divided by total municipal acreage is not more than 2%. The District is 42.87 acres out of a total 20,769.63 acres in Belfast, representing 0.2%.
4. Total acreage of all existing and proposed development districts (affordable housing municipal development and tax increment financing districts and DECD districts) in the municipality divided by total municipal acreage is not more than 5%. Existing and proposed development districts are 338.95 acres out of a total 20,769.63 acres in Belfast, representing 1.6%. 197.50 acres of the total represents a Downtown TIF District which is not intended to count toward the cap. So, existing and proposed *non-exempt* development districts are 141.45 acres out of a total 20,769.63 acres in Belfast, representing 0.7%.
5. The original assessed value (OAV) of the District is \$4,340,900 as of March 31, 2019 (April 1, 2018) (Certificate of OAV is attached as Attachment 6).
6. The aggregate OAV of all existing and proposed *non-exempt* affordable housing municipal development and tax increment financing districts in the municipality (\$4,340,900) divided by the aggregate taxable property value as of April 1, 2019 (\$759,086,100) is not more than 5%.
7. The Development Program will begin April 1, 2020 and end March 31, 2050. The municipal fiscal year is July 1 to June 30.
8. The Development Program meets an identified housing need in Belfast for both low- and moderate-income households as stated in the 2012 Belfast Comprehensive Plan. The two proposed development projects will add approximately forty-nine units of affordable senior rental housing to Belfast's housing stock.

The Developers Collaborative Project will include approximately twenty-three one-bedroom units and two studio units that will all be targeted to households with incomes at or below 60% of area median income (AMI).<sup>1</sup>

The Realty Resources Project will include two two-bedroom units, where tenants require additional space, such as the composition of the household or in situations for overnight stays from health providers, and twenty-two one-bedroom units, with all units being targeted to households with incomes at or below 60% of AMI.

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<sup>1</sup> Developers Collaborative will also develop twelve units of moderate market rate workforce housing on its property located within the District, but those twelve units will not be subject to the credit enhancement agreement between Developers Collaborative and the City.

9. The District will be primarily residential uses.
10. In regard to the Developers Collaborative Project, twenty-five of the thirty-seven units in the District, or 67.6%,<sup>2</sup> will be occupied by households with incomes not exceeding 60% of AMI. The twenty-five affordable senior housing units will be developed with Low Income Housing Tax Credit (LIHTC) equity and thus subject to an Extended Use Agreement with MaineHousing, which will be executed for the project at loan closing and a copy recorded at the Waldo County Registry of Deeds. The Extended Use Agreement will restrict occupancy of the affordable senior housing units to households with income not exceeding 60% of AMI. The length of the affordability period will be 45 years. When completed, the rental housing units will be managed by an experienced manager of subsidized housing properties with extensive LIHTC training, to be determined. Operating funds will come primarily from tenant rents (approximately 95%) and the remaining 5% will be funded from TIF income.
11. In regard to the Realty Resources Project, all twenty-four units in the District (100%) will be occupied by households with income at or below 60% of AMI. The twenty-four affordable senior housing units will be developed with LIHTC equity and thus subject to an Extended Use Agreement with MaineHousing, which will be executed for the project at loan closing and a copy recorded at the registry of deeds. The Extended Use Agreement will restrict occupancy of the affordable senior housing units to households with income not exceeding 60% of AMI. The length of the affordability period will be 45 years. When completed, the rental housing units will be managed by Realty Resources Management, LLC, an experienced manager of subsidized housing properties specializing in LIHTC projects. Operating funds will come primarily from tenant rents (approximately 85%) and the remaining 15% will be funded from TIF income.
12. Table 1. Specific planned uses of tax increment revenues from the District. The City intends to capture 100% of the taxable real and personal increased assessed value of the District as captured assessed value; however, if the portion of tax increment revenues to be retained by the City cannot be fully expended on the municipal project costs identified below in any particular fiscal year, then the remainder of the tax revenues paid on increased assessed value may be deposited into the City's general fund if the City Council makes such determination. In such circumstance, the City shall ensure that it does not receive the tax shift benefit associated with any portion of tax increment deposited into the City's general fund. The Developers Collaborative 75 Wight Street Project will receive a credit enhancement agreement relating to the affordable housing units of its project at a rate of 50% reimbursement for 30 years. The Realty Resources Belfast Acres Project will receive a credit enhancement agreement relating to the affordable housing project at a rate of 50% reimbursement for 30 years.

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<sup>2</sup> Only the 25 affordable housing units will be subject to the credit enhancement agreement between Developers Collaborative and the City.

Specific improvements or activities to be funded with tax increment revenues	Timing of each planned improvement	Amount (\$) to be funded with tax increment revenues	Amount (\$) to be funded by other sources		Location within or outside District?
			Amount	Source	
<u>75 Wight Street Apartment</u> <u>Operating Costs:</u> Administrative, Utilities, Maintenance, Insurance, Replacements Reserves	Ongoing	Estimated \$17,175/year after project completion  50% for 30 years	Estimated \$290,000 <sup>3</sup>	Project Rents	Inside
<u>Belfast Acres (Realty Resources)</u> <u>Operating Costs:</u> Administrative, Utilities, Maintenance, Insurance, Replacements Reserves <sup>4</sup>	Ongoing	Estimated \$40,075/year after project completion  50% for 30 years	Estimated \$221,487	Project Rents	Inside and Outside

<sup>3</sup> These estimated operating costs apply to both the affordable housing and market rate housing units to be developed by Developers Collaborative. However, the credit enhancement agreement between Developers Collaborative and the City only relates to the affordable housing units.

<sup>4</sup> This excludes debt service costs.

<p><u>City Use of TIF Revenues:</u> Permanent housing development revolving loan fund or investment fund to be used solely for the development of affordable housing with parameters defined by Maine State Housing Authority. <i>(see additional description in below narrative.)</i></p>	<p>Ongoing</p>	<p>Estimated \$556,400</p>	<p>Not known</p>	<p>Municipal funds</p>	<p>Outside</p>
<p><u>City Use of TIF Revenues:</u> Infrastructure to support affordable housing development in the District including paving, utility work, tree removal, sewer infrastructure, stormwater infrastructure, sidewalks, and traffic improvement.</p>	<p>Ongoing</p>	<p>Estimated \$2.1 million</p>	<p>Not known, hopefully \$0</p>	<p>Municipal funds</p>	<p>Inside, or directly related to or made necessary by the District</p>

Upon approval, the City of Belfast will establish a new Permanent Affordable Housing Development Revolving Loan Fund and/or a Permanent Affordable Housing Development Investment Fund with its portion of the TIF revenues, and will utilize such funds for the development of affordable permanent and rental and homeownership housing throughout the City of Belfast. In the establishment of such funds, the City of Belfast will ensure continued compliance with the Affordable Housing TIF Program.

REVOLVING LOANS: Loans will be provided to developers interested in creating affordable permanent housing in the City of Belfast. Loans will be made for both new construction of affordable permanent housing and the rehabilitation of existing housing as long as the rehabilitation results in the creation of affordable permanent housing. All loans made from this fund will be repaid to the City of Belfast and all loan repayments will be deposited into the fund and used for additional loans for the development of affordable permanent housing.

INVESTMENT/REAL ESTATE ACQUISITION: Loans/funds will be used for the purchase of property in the City of Belfast. Property will be purchased by the City of Belfast for the development of affordable permanent housing by the City or by a developer to which the City sells or leases the property. All proceeds of sales of any property purchased or rental revenues from leases into which the City of Belfast enters will be placed in the fund and used for additional purchases of property for the development of affordable permanent housing.

13. A valuation table is attached showing estimates of increased assessed values of the District and showing 100% of the increased assessed values to be applied as captured assessed values and the resulting tax increments in each year of the program. A tax shift table is attached showing a calculation of the tax shifts resulting from designation of the affordable housing development and tax increment financing district. A revenue table is attached showing 50% of total tax increment revenues allocated to each respective project owner with respect to that particular project. Copies of the draft credit enhancement agreements are also attached.

14. No relocation is necessary for either project.

15. The development at 75 Wight Street is committed to following all local and state laws and regulations. Locally, the City of Belfast Planning Board will review the Sketch Plan application for the Project in November 2019, and it expects to undertake all remaining review steps and grant final approval to the Project in 2020. Any environmental issues will be fully remediated as part of the Project. A qualified general contractor will be chosen with the approval of MaineHousing.

The development at 80 Wight Street is also committed to following all local and state laws and regulations. Locally, the City of Belfast Planning Board will review the Sketch Plan application for the Project in November 2019, and it expects to undertake all remaining review steps and grant final approval to the Project in 2020. Any environmental issues will be fully remediated as part of the project. A qualified general contractor will be chosen with the approval of MaineHousing.

16. The Development Program is consistent with Belfast's Comprehensive Plan. The City adopted its Comprehensive Plan in two different sections. The Future Land Use Plan was adopted on October 27, 2009. The remaining elements of the Plan --- Resource Inventory & Analysis, Goals & Policies and such was adopted on

December 18, 2012. The Comprehensive Plan complies with Maine law limiting growth-related capital investments (30-A M.R.S.A. §4349-A).

17. The District is not in conflict with Belfast's municipal charter.

18. The tables following this narrative include the Financial Plan required materials and information from each project developer. No public indebtedness is currently intended to be used for approved project costs; however, the City reserves its right to issue bonds to pay for approved project costs and expects in that case to use TIF revenues to make debt service payments.

**BELFAST WIGHT STREET AFFORDABLE HOUSING TIF DISTRICT**  
**Captured Assessed Value & TIF Revenue Projections**

TIF Year	Fiscal Year	Projected Increased Assessed Value (AH Developers Collaborative Project)	Projected Increased Assessed Value (Market Rate Developers Collaborative Project)	Projected Increased Assessed Value (Realty Resources Project)	TIF District Projected Increased Assessed Value (Total)	Percentage Retained as Captured Assessed Value	Projected Mil Rate (TY 2019: 22.90)	Projected TIF Revenue (AH Developers Collaborative Project)	Projected TIF Revenue (Market Rate Developers Collaborative Project)	Projected TIF Revenue (Realty Resources Project)	Projected TIF Revenue (Total)	Projected Developer TIF Revenue (AH Developers Collaborative Project)	Projected Developer TIF Revenue (Market Rate Developers Collaborative Project)	Projected Developer TIF Revenue (Realty Resources Project)	Projected Developer TIF Revenue (Total)	Projected City TIF Revenue (AH Developers Collaborative Project)	Projected City TIF Revenue (Market Rate Developers Collaborative Project)	Projected City TIF Revenue (Realty Resources Project)	Projected City TIF Revenue (Total)	
1	2020-2021	\$0	\$0	\$0	\$0	100%	22.90				\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
2	2021-2022	\$1,500,000	\$1,500,000	\$3,500,000	\$6,500,000	100%	22.90	\$34,350	\$34,350	\$80,150	\$114,500	\$17,175	\$0	\$40,075	\$57,250	\$17,175	\$34,350	\$40,075	\$91,600	
3	2022-2023	\$1,500,000	\$1,500,000	\$3,500,000	\$6,500,000	100%	22.90	\$34,350	\$34,350	\$80,150	\$114,500	\$17,175	\$0	\$40,075	\$57,250	\$17,175	\$34,350	\$40,075	\$91,600	
4	2023-2024	\$1,500,000	\$1,500,000	\$3,500,000	\$6,500,000	100%	22.90	\$34,350	\$34,350	\$80,150	\$114,500	\$17,175	\$0	\$40,075	\$57,250	\$17,175	\$34,350	\$40,075	\$91,600	
5	2024-2025	\$1,500,000	\$1,500,000	\$3,500,000	\$6,500,000	100%	22.90	\$34,350	\$34,350	\$80,150	\$114,500	\$17,175	\$0	\$40,075	\$57,250	\$17,175	\$34,350	\$40,075	\$91,600	
6	2025-2026	\$1,500,000	\$1,500,000	\$3,500,000	\$6,500,000	100%	22.90	\$34,350	\$34,350	\$80,150	\$114,500	\$17,175	\$0	\$40,075	\$57,250	\$17,175	\$34,350	\$40,075	\$91,600	
7	2026-2027	\$1,500,000	\$1,500,000	\$3,500,000	\$6,500,000	100%	22.90	\$34,350	\$34,350	\$80,150	\$114,500	\$17,175	\$0	\$40,075	\$57,250	\$17,175	\$34,350	\$40,075	\$91,600	
8	2027-2028	\$1,500,000	\$1,500,000	\$3,500,000	\$6,500,000	100%	22.90	\$34,350	\$34,350	\$80,150	\$114,500	\$17,175	\$0	\$40,075	\$57,250	\$17,175	\$34,350	\$40,075	\$91,600	
9	2028-2029	\$1,500,000	\$1,500,000	\$3,500,000	\$6,500,000	100%	22.90	\$34,350	\$34,350	\$80,150	\$114,500	\$17,175	\$0	\$40,075	\$57,250	\$17,175	\$34,350	\$40,075	\$91,600	
10	2029-2030	\$1,500,000	\$1,500,000	\$3,500,000	\$6,500,000	100%	22.90	\$34,350	\$34,350	\$80,150	\$114,500	\$17,175	\$0	\$40,075	\$57,250	\$17,175	\$34,350	\$40,075	\$91,600	
11	2030-2031	\$1,500,000	\$1,500,000	\$3,500,000	\$6,500,000	100%	22.90	\$34,350	\$34,350	\$80,150	\$114,500	\$17,175	\$0	\$40,075	\$57,250	\$17,175	\$34,350	\$40,075	\$91,600	
12	2031-2032	\$1,500,000	\$1,500,000	\$3,500,000	\$6,500,000	100%	22.90	\$34,350	\$34,350	\$80,150	\$114,500	\$17,175	\$0	\$40,075	\$57,250	\$17,175	\$34,350	\$40,075	\$91,600	
13	2032-2033	\$1,500,000	\$1,500,000	\$3,500,000	\$6,500,000	100%	22.90	\$34,350	\$34,350	\$80,150	\$114,500	\$17,175	\$0	\$40,075	\$57,250	\$17,175	\$34,350	\$40,075	\$91,600	
14	2033-2034	\$1,500,000	\$1,500,000	\$3,500,000	\$6,500,000	100%	22.90	\$34,350	\$34,350	\$80,150	\$114,500	\$17,175	\$0	\$40,075	\$57,250	\$17,175	\$34,350	\$40,075	\$91,600	
15	2034-2035	\$1,500,000	\$1,500,000	\$3,500,000	\$6,500,000	100%	22.90	\$34,350	\$34,350	\$80,150	\$114,500	\$17,175	\$0	\$40,075	\$57,250	\$17,175	\$34,350	\$40,075	\$91,600	
16	2035-2036	\$1,500,000	\$1,500,000	\$3,500,000	\$6,500,000	100%	22.90	\$34,350	\$34,350	\$80,150	\$114,500	\$17,175	\$0	\$40,075	\$57,250	\$17,175	\$34,350	\$40,075	\$91,600	
17	2036-2037	\$1,500,000	\$1,500,000	\$3,500,000	\$6,500,000	100%	22.90	\$34,350	\$34,350	\$80,150	\$114,500	\$17,175	\$0	\$40,075	\$57,250	\$17,175	\$34,350	\$40,075	\$91,600	
18	2037-2038	\$1,500,000	\$1,500,000	\$3,500,000	\$6,500,000	100%	22.90	\$34,350	\$34,350	\$80,150	\$114,500	\$17,175	\$0	\$40,075	\$57,250	\$17,175	\$34,350	\$40,075	\$91,600	
19	2038-2039	\$1,500,000	\$1,500,000	\$3,500,000	\$6,500,000	100%	22.90	\$34,350	\$34,350	\$80,150	\$114,500	\$17,175	\$0	\$40,075	\$57,250	\$17,175	\$34,350	\$40,075	\$91,600	
20	2039-2040	\$1,500,000	\$1,500,000	\$3,500,000	\$6,500,000	100%	22.90	\$34,350	\$34,350	\$80,150	\$114,500	\$17,175	\$0	\$40,075	\$57,250	\$17,175	\$34,350	\$40,075	\$91,600	
21	2040-2041	\$1,500,000	\$1,500,000	\$3,500,000	\$6,500,000	100%	22.90	\$34,350	\$34,350	\$80,150	\$114,500	\$17,175	\$0	\$40,075	\$57,250	\$17,175	\$34,350	\$40,075	\$91,600	
22	2041-2042	\$1,500,000	\$1,500,000	\$3,500,000	\$6,500,000	100%	22.90	\$34,350	\$34,350	\$80,150	\$114,500	\$17,175	\$0	\$40,075	\$57,250	\$17,175	\$34,350	\$40,075	\$91,600	
23	2042-2043	\$1,500,000	\$1,500,000	\$3,500,000	\$6,500,000	100%	22.90	\$34,350	\$34,350	\$80,150	\$114,500	\$17,175	\$0	\$40,075	\$57,250	\$17,175	\$34,350	\$40,075	\$91,600	
24	2043-2044	\$1,500,000	\$1,500,000	\$3,500,000	\$6,500,000	100%	22.90	\$34,350	\$34,350	\$80,150	\$114,500	\$17,175	\$0	\$40,075	\$57,250	\$17,175	\$34,350	\$40,075	\$91,600	
25	2044-2045	\$1,500,000	\$1,500,000	\$3,500,000	\$6,500,000	100%	22.90	\$34,350	\$34,350	\$80,150	\$114,500	\$17,175	\$0	\$40,075	\$57,250	\$17,175	\$34,350	\$40,075	\$91,600	
26	2045-2046	\$1,500,000	\$1,500,000	\$3,500,000	\$6,500,000	100%	22.90	\$34,350	\$34,350	\$80,150	\$114,500	\$17,175	\$0	\$40,075	\$57,250	\$17,175	\$34,350	\$40,075	\$91,600	
27	2046-2047	\$1,500,000	\$1,500,000	\$3,500,000	\$6,500,000	100%	22.90	\$34,350	\$34,350	\$80,150	\$114,500	\$17,175	\$0	\$40,075	\$57,250	\$17,175	\$34,350	\$40,075	\$91,600	
28	2047-2048	\$1,500,000	\$1,500,000	\$3,500,000	\$6,500,000	100%	22.90	\$34,350	\$34,350	\$80,150	\$114,500	\$17,175	\$0	\$40,075	\$57,250	\$17,175	\$34,350	\$40,075	\$91,600	
29	2048-2049	\$1,500,000	\$1,500,000	\$3,500,000	\$6,500,000	100%	22.90	\$34,350	\$34,350	\$80,150	\$114,500	\$17,175	\$0	\$40,075	\$57,250	\$17,175	\$34,350	\$40,075	\$91,600	
30	2049-2050	\$1,500,000	\$1,500,000	\$3,500,000	\$6,500,000	100%	22.90	\$34,350	\$34,350	\$80,150	\$114,500	\$17,175	\$0	\$40,075	\$57,250	\$17,175	\$34,350	\$40,075	\$91,600	
<b>Total</b>								<b>\$996,150</b>	<b>\$996,150</b>	<b>\$2,324,350</b>	<b>\$3,320,500</b>	<b>\$498,075</b>	<b>\$0</b>	<b>\$1,162,175</b>	<b>\$1,660,250</b>	<b>\$498,075</b>	<b>\$996,150</b>	<b>\$1,162,175</b>	<b>\$2,656,400</b>	
<b>Average</b>								<b>\$34,350</b>	<b>\$34,350</b>	<b>\$80,150</b>	<b>\$110,683</b>	<b>\$16,603</b>	<b>\$0</b>	<b>\$38,739</b>	<b>\$55,342</b>	<b>\$16,603</b>	<b>\$34,350</b>	<b>\$38,739</b>	<b>\$88,547</b>	

- Projections show anticipated increased assessed values, captured assessed values, and TIF revenues. Projections of increased assessed values from the developer's projects were provided by the respective developers.
- Assumes mill rate of 22.90 (2019 Tax Rate Calculation Form) remains constant for the duration of the District.
- Assumes 100% of the increased assessed value is captured in the District and available for municipal project costs and a credit enhancement agreements with the entity owning each respective project. The CEAs for each project include a 50% reimbursement for 30 years.
- Data sources include the 2019 mill rate/commitment reported by the City, Waldo County's FY2018 Tax Commitment, the State Treasurer's Office Municipal Revenue Sharing projections for FY2020 (07/01/19 - 06/30/20) published 08/26/19, the Maine Department of Education 07/19/19 2019-2020 ED 279 form for RSU 71, and the Maine Department of Education's 2019-2020 EM-F-46 form for RSU 71 with Additional Local Education based on Community Valuation Method based on 3-Year Average Valuation presented in the ED 279.
- Projections are much less likely to be accurate farther into the future and are for demonstrative purposes only.

## Tax Shift Benefits

### City of Belfast - Wight Street Affordable Housing TIF District

TIF Year	Fiscal Year	State Aid to Education Benefit	County Tax Benefit	State Revenue Sharing Benefit	Additional Local Education Contribution	Total Tax Shift Benefit
1	2020-2021	-	-	-	-	-
2	2021-2022	-	-	-	-	-
3	2022-2023	-	\$0	\$0	\$0	\$0
4	2023-2024	\$0	\$10,020	\$126	\$6,078	\$16,224
5	2024-2025	\$53,820	\$10,020	\$126	\$6,078	\$70,044
6	2025-2026	\$53,820	\$10,020	\$126	\$6,078	\$70,044
7	2026-2027	\$53,820	\$10,020	\$126	\$6,078	\$70,044
8	2027-2028	\$53,820	\$10,020	\$126	\$6,078	\$70,044
9	2028-2029	\$53,820	\$10,020	\$126	\$6,078	\$70,044
10	2029-2030	\$53,820	\$10,020	\$126	\$6,078	\$70,044
11	2030-2031	\$53,820	\$10,020	\$126	\$6,078	\$70,044
12	2031-2032	\$53,820	\$10,020	\$126	\$6,078	\$70,044
13	2032-2033	\$53,820	\$10,020	\$126	\$6,078	\$70,044
14	2033-2034	\$53,820	\$10,020	\$126	\$6,078	\$70,044
15	2034-2035	\$53,820	\$10,020	\$126	\$6,078	\$70,044
16	2035-2036	\$53,820	\$10,020	\$126	\$6,078	\$70,044
17	2036-2037	\$53,820	\$10,020	\$126	\$6,078	\$70,044
18	2037-2038	\$53,820	\$10,020	\$126	\$6,078	\$70,044
19	2038-2039	\$53,820	\$10,020	\$126	\$6,078	\$70,044
20	2039-2040	\$53,820	\$10,020	\$126	\$6,078	\$70,044
21	2040-2041	\$53,820	\$10,020	\$126	\$6,078	\$70,044
22	2041-2042	\$53,820	\$10,020	\$126	\$6,078	\$70,044
23	2042-2043	\$53,820	\$10,020	\$126	\$6,078	\$70,044
24	2043-2044	\$53,820	\$10,020	\$126	\$6,078	\$70,044
25	2044-2045	\$53,820	\$10,020	\$126	\$6,078	\$70,044
26	2045-2046	\$53,820	\$10,020	\$126	\$6,078	\$70,044
27	2046-2047	\$53,820	\$10,020	\$126	\$6,078	\$70,044
28	2047-2048	\$53,820	\$10,020	\$126	\$6,078	\$70,044
29	2048-2049	\$53,820	\$10,020	\$126	\$6,078	\$70,044
30	2049-2050	\$53,820	\$10,020	\$126	\$6,078	\$70,044
31	2050-2051	\$53,820	\$10,020	\$126	\$6,078	\$70,044
32	2051-2052	\$53,820	\$10,020	\$126	\$6,078	\$70,044
33	2052-2053	\$53,820	-	-	-	\$53,820
<b>Totals:</b>		<b>\$1,560,780</b>	<b>\$290,568</b>	<b>\$3,667</b>	<b>\$176,270</b>	<b>\$2,031,285</b>
<b>Averages:</b>		<b>\$52,026</b>	<b>\$9,686</b>	<b>\$122</b>	<b>\$5,876</b>	<b>\$65,525</b>

**Assumptions:**

1. Data sources include the 2019 mil rate/commitment reported by the City, Waldo County's FY2018 Tax Commitment, the State Treasurer's Office Municipal Revenue Sharing projections for FY2020 (07/01/19 - 06/30/20) published 08/26/19, the Maine Department of Education 07/19/19 2019-2020 ED 279 form for RSU 71, and the Maine Department of Education's 2019-2020 EM-F-46 form for RSU 71 with Additional Local Education based on Community Valuation Method based on 3-Year Average Valuation presented in the ED 279.
2. Tax shift losses are comprised of declining subsidies in revenue sharing and increasing obligations to pay county taxes. Tax shift losses occur a couple of years following the year in which the new assessed value is first recognized in the 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 change over time and they assume that all other values in other communities are static relative to one another except for the new value assessed. 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 new 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 reduced by the influx of new value in the City. This analysis factors in tax shift impacts resulting from the project's new assessed value into future commitments and mil rate calculations to arrive at projected property tax payments.

**CREDIT ENHANCEMENT AGREEMENT**

**between**

**THE CITY OF BELFAST, MAINE**

**and**

**REALTY RESOURCES MANAGEMENT, LLC**

**DATE: \_\_\_\_\_, 2019**

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**EXHIBITS**

Exhibit A Copy of Attachment 5 from Development Program – District Map

Exhibit B Depiction of Realty Resources Property

DRAFT

**THIS CREDIT ENHANCEMENT AGREEMENT** dated as of \_\_\_\_\_, 2019, between the City of Belfast, a municipal corporation located in Belfast, County of Waldo and State of Maine, with offices at 131 Church Street, Belfast, Maine 04915 (hereinafter the “City”), and Realty Resources Management, LLC (the “Realty Resources”), a Maine limited liability company, with an address of 247 Commercial Street, Suite A, Rockport, Maine 04856.

**WITNESSETH THAT**

**WHEREAS**, the City designated the Wight Street Affordable Housing Development and Tax Increment Financing (“TIF”) District (the “District”) pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, by vote of the City Council at a meeting duly called, noticed, and held on November 5<sup>th</sup>, 2019 (the “Vote”) and pursuant to the Vote adopted a development program and financial plan for the District (the “Development Program”); and

**WHEREAS**, the Maine State Housing Authority (the “MaineHousing”) has approved or is expected to approve the District and Development Program as required by law; and

**WHEREAS**, within the Development Program, and as contemplated thereby, the City Council authorized the execution and delivery of the credit enhancement agreements by the City Manager, in the name of and on behalf of the City, if such credit enhancement agreements meet the requirements of the Development Program; and

**WHEREAS**, the City and Realty Resources desire and intend that this Credit Enhancement Agreement be and constitute such a credit enhancement agreement as contemplated by and described in the Development Program; and

**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 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 Realty Resources 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 that is retained in the District in each Tax Year during the term of the District, as specified in Section 2.2 hereof pertaining to the Realty Resources Property only.

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

“Current Assessed Value” means the then-current assessed value of taxable real and personal property located in the Realty Resources Property as determined by the City Tax Assessor as of April 1 of each Tax Year during the term of this Agreement.

“Development Program” means the development program and financial plan for the District adopted by the City.

“Development Program Fund” means the development program fund described in the Financial Plan of the Development Program into which the Tax Increment Revenues are to be deposited, established and maintained pursuant to the Development Programs and Article II hereof.

“District” means the Wight Street Affordable Housing Development and Tax Increment Financing District (42.87 acres), a map of which is attached as Exhibit A.

“Effective Date of the Development Program” means the date of final approval of the Development Program by MaineHousing pursuant to the Act.

“Financial Plan” means the financial plan described in the Development Program.

“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 \$111,500 as of March 31, 2019 (April 1, 2018), the real and personal taxable assessed value of the Realty Resources Property as of March 31, 2019 (April 1, 2018).

“Project” means the planned approximately 24-unit elder affordable housing project to located on the Realty Resources Property.

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

“Realty Resources Property” means the real property depicted in Exhibit B attached hereto and shown on the City’s Tax Map as Map 034, Lot 017, consisting of approximately 2.46 acres with a physical address of 80 Wight Street, Belfast, Maine 04915.

“State” means the State of Maine.

“Tax Increment Revenues” means that portion of all real and personal property taxes assessed and paid by Realty Resources 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.A. § 5222(18), 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**

### **DEVELOPMENT PROGRAM FUND AND FUNDING REQUIREMENTS**

#### **Section 2.1. Creation of Development Program Fund.**

The City hereby confirms the creation and establishment of a segregated fund in the name of the City designated as 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 include a project cost account (the “Project Cost Account”) within which the City shall maintain a subaccount for City project costs (the “City Project Cost Subaccount”) and a subaccount for Realty Resources project costs (the “Realty Resources Project Cost Subaccount”). The Realty Resources Project Cost Subaccount is pledged to and charged with the payment of costs in the manner and priority provided in 30-A M.R.S. § 5250-A(3)(A)(1) and as set forth in Section 3.1(b) below.

#### **Section 2.2. Captured Assessed Value; Deposits into Development Program Fund.**

(a) Each year during the term of this Agreement, commencing with the July 1, 2020-June 30, 2021 Fiscal Year and continuing thereafter through the July 1, 2050-June 30, 2051 Fiscal Year (collectively, the “CEA Years”), the City shall retain in the District 100% of the Increased Assessed Value as Captured 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 then allocate fifty percent (50%) of the Tax Increment Revenues so deposited in the Development Program Fund to the Realty Resources Project Cost Subaccount of the Project Cost Account. The City shall allocate fifty percent (50%) of the Tax Increment Revenues so deposited in the Development Program to the City Project Cost Subaccount.

(c) Notwithstanding anything to the contrary contained herein, the City shall have the authority to decide to discontinue all or a portion of the City Project Cost Subaccount deposits and instead make those deposits to the City’s general fund without further action or consents required by Realty Resources.

#### **Section 2.3. Use of Monies in the Realty Resources Project Cost Subaccount of the Development Program Fund.**

All monies in the Realty Resources Project Cost Subaccount of the Development Program Fund that are allocable to and/or deposited in the Realty Resources Project Cost Subaccount of the Development Program Fund shall in all cases be used and applied to fund fully the City’s payment obligations to Realty Resources, as described in Articles II and III hereof. Realty Resources shall use the Tax Increment Revenues solely for the purpose set forth in the Development Program.

**Section 2.4. Monies Held in Segregated Account.**

All monies required to be deposited with or paid into the Development Program Fund under the provisions hereof and the provisions of the Development Program shall be held by the City for the uses specified in the Development Program. Interest earnings thereon shall be retained by the City for the City's own use.

**Section 2.5. Liens.**

The City shall not create any liens, encumbrances or other interests of any nature whatsoever, nor shall it hypothecate the Realty Resources Project Cost Subaccount described in Section 2.1 hereof or any funds therein, other than the interest in favor of Realty Resources 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.

### **ARTICLE III PAYMENT OBLIGATIONS**

**Section 3.1. Realty Resources Payments.**

(a) Within thirty (30) days following the Tax Payment Date, the City agrees to pay Realty Resources in immediately available funds all amounts then on deposit in the Realty Resources Project Cost Subaccount.

(b) Notwithstanding anything to the contrary contained herein, if, with respect to any Tax Payment Date, any portion of the property taxes assessed against the Realty Resources Property remain unpaid, 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 Increased Assessed Value, to be applied first to payment in full of the amount to be deposited in the Development Program Fund for the City's use or to the general fund for the year concerned in accordance with Section 2.3; and third, to payment of Realty Resources' share of the Tax Increment Revenues for the year concerned, to be deposited into the Realty Resources Project Cost Subaccount. In any case where a portion of the property taxes assessed against the Realty Resources Property remain unpaid for any reason other than a bona fide valuation dispute, no payment of Realty Resources' share of the Tax Increment Revenues for the year concerned will be deposited into the Realty Resources Project Cost Subaccount until such property taxes assessed against the Realty Resources Property 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 Realty Resources Project Cost Subaccount is insufficient to reimburse Realty Resources for the full amount due to Realty Resources 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. Realty Resources 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 Realty Resources Project Cost Subaccount and its obligation to make payment out of Realty Resources Project Cost Subaccount to Realty Resources.

**Section 3.3. Manner of Payments.**

The payments provided for in this Article III shall be paid directly to Realty Resources at the address specified in Section 8.11 hereof in the manner provided hereinabove by check drawn on the City.

**Section 3.4. Obligation Unconditional.**

Except as otherwise expressly provided in 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 irrespective of any defense or any rights of setoff, recoupment, or counterclaim it might otherwise have against Realty Resources. The City hereby acknowledges that Realty Resources has the right to enforce the contractual obligations of the City under this Agreement and that the governmental immunity of the City does not apply to actions to enforce its contractual obligations; provided however, that nothing herein shall constitute a waiver of the City's tort immunity or any other governmental immunities.

**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 Realty Resources hereunder, whether or not actually deposited into the Realty Resources 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 Realty Resources 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 Realty Resources 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 Realty Resources Project Cost Subaccount described in Section 2.1 hereof and all sums of money and other securities and investments therein to Realty Resources.

**Section 4.2. Perfection of Interest.**

(a) Upon written request by Realty Resources, the City will establish the Realty Resources 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 Realty Resources so as to perfect Realty Resources' 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 Realty Resources. In the event such a fund is established under the control of a trustee or fiduciary, the City shall cooperate with Realty Resources in causing appropriate financing statements and continuation statements naming Realty Resources, 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. The costs of setting up such a segregated fund, including any and all fees to third parties such as agents, trustees and attorneys, shall be borne by Realty Resources.

(b) In the event Realty Resources 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 Realty Resources. The City shall have no liability for payment over of the funds concerned to Realty Resources 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 Realty Resources' designated escrow agent, trustee or other fiduciary, the City shall have no liability for misdelivery of funds if delivered in accordance with Realty Resources' most recent written designation or instructions actually received by the City.

**Section 4.3. Further Instruments.**

The City shall, upon the reasonable request of Realty Resources, 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; 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 Realty Resources.

**Section 4.4. Access to Books and Records.**

(a) All non-confidential books, records, and documents in the possession of the City relating to the District, the Development Program, this Agreement and the monies, revenues and receipts on deposit or required to be deposited into Development Program Fund shall at all

reasonable times and upon reasonable notice be open to inspection by Realty Resources, its agents, and its employees.

(b) All non-confidential books, records, lease agreements and documents in the possession of Realty Resources relating to the District, the Development Program, this Agreement and the monies, revenues, and receipts used from the Development Program Fund shall at all reasonable times and upon reasonable notice be open to inspection by the City, its agents, and its employees. In addition, inspections of the Realty Resources Property as well as any appraisals related to Realty Resources property shall be made possible by Realty Resources upon the reasonable request of the City for the purpose of assisting the City in the process of creating a Current Assessed Value.

## **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 make payments due when the same shall become due and payable;

(b) Any failure by the City to make deposits into the Realty Resources Project Cost Subaccount as and when due;

(c) Any failure by the City or Realty Resources to observe and perform in all material respects any covenant, condition, agreement, or provision contained herein on the part of the City or Realty Resources to be observed or performed, which failure is not cured within thirty (30) days following written notice thereof;

(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 Realty Resources’ affairs shall have been entered against Realty Resources or Realty Resources shall have consented to the appointment of a conservator or receiver or liquidator in any such proceedings of or relating to Realty Resources or relating to all or substantially all of its property, including without limitation the filing of a voluntary petition in bankruptcy by Realty Resources or the failure by Realty Resources 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 Realty Resources;

(e) If any secured lender of Realty Resources accelerates the indebtedness owed to it;

(f) If any written representation or warranty given to the City by Realty Resources 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;

(g) If Realty Resources fails to maintain adequate surety bonding during construction at the levels and terms as may be required from time to time by Realty Resources' secured lenders and/or Realty Resources allows mechanics' liens to encumber the Realty Resources Property for a period of more than thirty (30) days;

(h) Any discontinuance of the Realty Resources Property as "affordable housing," pursuant to the definition contained in Title 30-A M.R.S.A. Section 5246.

**Section 5.2. Remedies on Default.**

Subject to the provisions contained in Section 8.9, 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.**

(a) Notwithstanding any other provision of this Agreement, this Agreement is conditioned upon receipt of MaineHousing'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.

(b) From the date of execution and delivery of this Agreement, the Agreement shall remain in full force and effect until the completion of the CEA Years as herein defined, unless even sooner terminated pursuant to any 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 Realty Resources 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 REALTY RESOURCES'S INTEREST**

### **Section 7.1. Consent to Pledge, Collateral Assignment or Grant of a Security Interest.**

The City hereby acknowledges that Realty Resources 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, financial institution or MaineHousing to Realty Resources for the Project, although no obligation is hereby imposed on Realty Resources 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 Realty Resources' right, title and interest in, to and under this Agreement and in, and to the payments to be made to Realty Resources 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. Realty Resources 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, Realty Resources shall not transfer or assign any portion of its rights in, to and under this Agreement without the prior written consent of the City Council, 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 Realty Resources, 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. Notwithstanding this Subsection 8.1, unless the City affirmatively approves of such action, the City shall have the unilateral right to terminate this Agreement upon the dissolution, merger, or consolidation of Realty Resources, and if it exercises such right shall not be obligated to comply with this Agreement thereafter.

**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 Realty Resources 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 Realty Resources.

**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 neither the City Council nor any official, officer, employee, or agent of the City

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 Realty Resources contained herein shall be deemed to be a covenant, stipulation or obligation of any present or future officer, agent, servant, or employee of Realty Resources in his or her individual capacity, and no official, officer, employee, or agent of Realty Resources 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. Amendments.**

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

**Section 8.8. Integration.**

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

**Section 8.9. 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 Belfast, 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 accordance with law, including by judicial proceedings, including tax lien thereof.

**Section 8.10. 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 Realty Resources. Without limiting the foregoing, the City and Realty Resources shall always be entitled to exercise all rights and remedies regarding assessment, collection and payment of taxes assessed on Realty Resources' property. In addition, the Development Program makes certain assumptions and estimates regarding valuation, depreciation of assets, tax rates, and estimated costs. The City and Realty Resources 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 Realty Resources' 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.

**Section 8.11. Notices.**

All notices, certificates, requests, requisitions or other communications by the City or Realty Resources 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 Manager  
City of Belfast  
Belfast City Hall  
131 Church Street  
Belfast, Maine 04915

With a copy to:

Shana Cook Mueller, Esq.  
Bernstein Shur  
100 Middle Street  
P.O. Box 9729  
Portland, Maine 04104-5029

If to Realty Resources:

Belfast Acres  
c/o Realty Resources Management, LLC  
247 Commercial Street, Suite A  
Rockport, Maine 04856

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.

DRAFT

**IN WITNESS WHEREOF**, the City and Realty Resources 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 BELFAST

\_\_\_\_\_

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

Name:

Its City Manager as Authorized by the City Council  
on November 5<sup>th</sup>, 2019

WITNESS:

REALTY RESOURCES MANAGEMENT, LLC

\_\_\_\_\_

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

Name:

Title:

DRAFT

Exhibit A: Map of District

DRAFT

Exhibit B: Depiction of Realty Resources Property

DRAFT

**CREDIT ENHANCEMENT AGREEMENT**

**between**

**THE CITY OF BELFAST, MAINE**

**and**

**DEVELOPERS COLLABORATIVE PREDEVELOPMENT LLC**

**DATE: \_\_\_\_\_, 2019**

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**EXHIBITS**

Exhibit A Copy of Attachment 5 from Development Program – District Map

Exhibit B Depiction of Developers Collaborative Property

DRAFT

**THIS CREDIT ENHANCEMENT AGREEMENT** dated as of \_\_\_\_\_, 2019, between the City of Belfast, a municipal corporation located in Belfast, County of Waldo and State of Maine, with offices at 131 Church Street, Belfast, Maine 04915 (hereinafter the “City”), and Developers Collaborative Predevelopment LLC (“Developers Collaborative”), a Maine limited liability company, with an address of 100 Commercial Street, Suite 414, Portland, Maine 04101.

**WITNESSETH THAT**

**WHEREAS**, the City designated the Wight Street Affordable Housing Development and Tax Increment Financing (“TIF”) District (the “District”) pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, by vote of the City Council at a meeting duly called, noticed, and held on November 5<sup>th</sup>, 2019 (the “Vote”) and pursuant to the Vote adopted a development program and financial plan for the District (the “Development Program”); and

**WHEREAS**, the Maine State Housing Authority (the “MaineHousing”) has approved or is expected to approve the District and Development Program as required by law; and

**WHEREAS**, within the Development Program, and as contemplated thereby, the City Council authorized the execution and delivery of the credit enhancement agreements by the City Manager, in the name of and on behalf of the City, if such credit enhancement agreements meet the requirements of the Development Program; and

**WHEREAS**, the City and Developers Collaborative desire and intend that this Credit Enhancement Agreement be and constitute such a credit enhancement agreement as contemplated by and described in the Development Program; and

**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 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 Developers Collaborative 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 that is retained in the District in each Tax Year during the term of the District, as specified in Section 2.2 hereof pertaining to the Developers Collaborative Property only.

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

“Current Assessed Value” means the then-current assessed value of taxable real and personal property located in the Developers Collaborative Property, excluding any assessed value of taxable real and personal property associated with market-rate housing units located in the Developers Collaborative Property, all as determined by the City Tax Assessor as of April 1 of each Tax Year during the term of this Agreement.

“Developers Collaborative Property” means the real property depicted in Exhibit B attached hereto and shown on the City’s Tax Map as Map 034, Lot 006, consisting of approximately 2.00 acres with a physical address of 75 Wight Street, Belfast, Maine 04915.

“Development Program” means the development program and financial plan for the District adopted by the City.

“Development Program Fund” means the development program fund described in the Financial Plan of the Development Program into which the Tax Increment Revenues are to be deposited, established and maintained pursuant to the Development Programs and Article II hereof.

“District” means the Wight Street Affordable Housing Development and Tax Increment Financing District (42.87 acres), a map of which is attached as Exhibit A.

“Effective Date of the Development Program” means the date of final approval of the Development Program by MaineHousing pursuant to the Act.

“Financial Plan” means the financial plan described in the Development Program.

“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 \$90,900 as of March 31, 2019 (April 1, 2018), the real and personal taxable assessed value of the Developers Collaborative Property as of March 31, 2019 (April 1, 2018).

“Project” means the planned approximately 25-unit elder affordable housing project to located on the Developers Collaborative Property. The Project does not include the 12-unit market rate rental housing building that is contemplated to be located on the Developers Collaborative Property.

“Property Taxes” means any and all *ad valorem* property taxes levied, charged or assessed against real and personal 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 and personal property taxes assessed and paid by Developers Collaborative 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.A. § 5222(18), 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**

### **DEVELOPMENT PROGRAM FUND AND FUNDING REQUIREMENTS**

#### **Section 2.1. Creation of Development Program Fund.**

The City hereby confirms the creation and establishment of a segregated fund in the name of the City designated as 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 include a project cost account (the “Project Cost Account”) within which the City shall maintain a subaccount for City project costs (the “City Project Cost Subaccount”) and a subaccount for Developers Collaborative project costs (the “Developers Collaborative Project Cost Subaccount”). The Developers Collaborative Project Cost Subaccount is pledged to and charged with the payment of costs in the manner and priority provided in 30-A M.R.S. § 5250-A(3)(A)(1) and as set forth in Section 3.1(b) below.

#### **Section 2.2. Captured Assessed Value; Deposits into Development Program Fund.**

(a) Each year during the term of this Agreement, commencing with the July 1, 2020-June 30, 2021 Fiscal Year and continuing thereafter through the July 1, 2050-June 30, 2051 Fiscal Year (collectively, the “CEA Years”), the City shall retain in the District 100% of the Increased Assessed Value as Captured Value.

(b) For each of the CEA Years, the City shall deposit into the Development Program Fund contemporaneously with each payment of Property Taxes assessed against the Developers Collaborative Property 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 then allocate fifty percent (50%) of the Tax Increment Revenues so deposited in the Development Program Fund to the Developers Collaborative Project Cost Subaccount of the Project Cost Account. The City shall allocate fifty percent (50%) of the Tax Increment Revenues so deposited in the Development Program to the City Project Cost Subaccount.

(c) Notwithstanding anything to the contrary contained herein, the City shall have the authority to decide to discontinue all or a portion of the City Project Cost Subaccount deposits and instead make those deposits to the City’s general fund without further action or consents required by Developers Collaborative.

#### **Section 2.3. Use of Monies in the Developers Collaborative Project Cost Subaccount of the Development Program Fund.**

All monies in the Developers Collaborative Project Cost Subaccount of the Development Program Fund that are allocable to and/or deposited in the Developers Collaborative Project Cost Subaccount of the Development Program Fund shall in all cases be used and applied to fund fully the City’s payment obligations to Developers Collaborative, as described in Articles II and III hereof. Developers Collaborative shall use the Tax Increment Revenues solely for the purpose set forth in the Development Program.

**Section 2.4. Monies Held in Segregated Account.**

All monies required to be deposited with or paid into the Development Program Fund under the provisions hereof and the provisions of the Development Program shall be held by the City for the uses specified in the Development Program. Interest earnings thereon shall be retained by the City for the City's own use.

**Section 2.5. Liens.**

The City shall not create any liens, encumbrances or other interests of any nature whatsoever, nor shall it hypothecate the Developers Collaborative Project Cost Subaccount described in Section 2.1 hereof or any funds therein, other than the interest in favor of Developers Collaborative 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.

### **ARTICLE III PAYMENT OBLIGATIONS**

**Section 3.1. Developers Collaborative Payments.**

(a) Within thirty (30) days following the Tax Payment Date, the City agrees to pay Developers Collaborative in immediately available funds all amounts then on deposit in the Developers Collaborative Project Cost Subaccount.

(b) Notwithstanding anything to the contrary contained herein, if, with respect to any Tax Payment Date, any portion of the property taxes assessed against the Developers Collaborative Property remain unpaid, 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 Increased Assessed Value, to be applied first to payment in full of the amount to be deposited in the Development Program Fund for the City's use or to the general fund for the year concerned in accordance with Section 2.3; and third, to payment of Developers Collaborative's share of the Tax Increment Revenues for the year concerned, to be deposited into the Developers Collaborative Project Cost Subaccount. In any case where a portion of the property taxes assessed against the Developers Collaborative Property remain unpaid for any reason other than a bona fide valuation dispute, no payment of Developers Collaborative's share of the Tax Increment Revenues for the year concerned will be deposited into the Developers Collaborative Project Cost Subaccount until such property taxes assessed against the Developers Collaborative Property 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 Developers Collaborative Project Cost Subaccount is insufficient to reimburse Developers Collaborative for the full amount due to Developers

Collaborative 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. Developers Collaborative 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 Developers Collaborative Project Cost Subaccount and its obligation to make payment out of Developers Collaborative Project Cost Subaccount to Developers Collaborative.

**Section 3.3. Manner of Payments.**

The payments provided for in this Article III shall be paid directly to Developers Collaborative at the address specified in Section 8.11 hereof in the manner provided hereinabove by check drawn on the City.

**Section 3.4. Obligation Unconditional.**

Except as otherwise expressly provided in 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 irrespective of any defense or any rights of setoff, recoupment, or counterclaim it might otherwise have against Developers Collaborative. The City hereby acknowledges that Developers Collaborative has the right to enforce the contractual obligations of the City under this Agreement and that the governmental immunity of the City does not apply to actions to enforce its contractual obligations; provided however, that nothing herein shall constitute a waiver of the City's tort immunity or any other governmental immunities.

**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 Developers Collaborative hereunder, whether or not actually deposited into the Developers Collaborative 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 Developers Collaborative 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 Developers Collaborative 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 Developers Collaborative Project Cost Subaccount described in Section 2.1 hereof and all sums of money and other securities and investments therein to Developers Collaborative.

**Section 4.2. Perfection of Interest.**

(a) Upon written request by Developers Collaborative, the City will establish the Developers Collaborative 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 Developers Collaborative so as to perfect Developers Collaborative'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 Developers Collaborative. In the event such a fund is established under the control of a trustee or fiduciary, the City shall cooperate with Developers Collaborative in causing appropriate financing statements and continuation statements naming Developers Collaborative, 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. The costs of setting up such a segregated fund, including any and all fees to third parties such as agents, trustees and attorneys, shall be borne by Developers Collaborative.

(b) In the event Developers Collaborative 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 Developers Collaborative. The City shall have no liability for payment over of the funds concerned to Developers Collaborative 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 Developers Collaborative's designated escrow agent, trustee or other fiduciary, the City shall have no liability for misdelivery of funds if delivered in accordance with Developers Collaborative'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 Developers Collaborative, 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; 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 Developers Collaborative.

**Section 4.4. Access to Books and Records.**

(a) All non-confidential books, records, and documents in the possession of the City relating to the District, the Development Program, this Agreement and the monies, revenues and receipts on deposit or required to be deposited into Development Program Fund shall at all reasonable times and upon reasonable notice be open to inspection by Developers Collaborative, its agents, and its employees.

(b) All non-confidential books, records, lease agreements and documents in the possession of Developers Collaborative relating to the District, the Development Program, this Agreement and the monies, revenues, and receipts used from the Development Program Fund shall at all reasonable times and upon reasonable notice be open to inspection by the City, its agents, and its employees. In addition, inspections of the Developers Collaborative Property as well as any appraisals related to Developers Collaborative property shall be made possible by Developers Collaborative upon the reasonable request of the City for the purpose of assisting the City in the process of creating a Current Assessed Value.

## **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 make payments due when the same shall become due and payable;

(b) Any failure by the City to make deposits into the Developers Collaborative Project Cost Subaccount as and when due;

(c) Any failure by the City or Developers Collaborative to observe and perform in all material respects any covenant, condition, agreement, or provision contained herein on the part of the City or Developers Collaborative to be observed or performed, which failure is not cured within thirty (30) days following written notice thereof;

(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 Developers Collaborative’s affairs shall have been entered against Developers Collaborative or Developers Collaborative shall have consented to the appointment of a conservator or receiver or liquidator in any such proceedings of or relating to Developers Collaborative or relating to all or substantially all of its property, including without limitation the filing of a voluntary petition in bankruptcy by Developers Collaborative or the failure by Developers Collaborative 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 Developers Collaborative;

(e) If any secured lender of Developers Collaborative accelerates the indebtedness owed to it;

(f) If any written representation or warranty given to the City by Developers Collaborative 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;

(g) If Developers Collaborative fails to maintain adequate surety bonding during construction at the levels and terms as may be required from time to time by Developers Collaborative's secured lenders and/or Developers Collaborative allows mechanics' liens to encumber the Developers Collaborative Property for a period of more than thirty (30) days;

(h) Any discontinuance of the Developers Collaborative Property as "affordable housing," pursuant to the definition contained in Title 30-A M.R.S.A. Section 5246.

### **Section 5.2. Remedies on Default.**

Subject to the provisions contained in Section 8.9, 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.**

(a) Notwithstanding any other provision of this Agreement, this Agreement is conditioned upon receipt of MaineHousing'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.

(b) From the date of execution and delivery of this Agreement, the Agreement shall remain in full force and effect until the completion of the CEA Years as herein defined, unless even sooner terminated pursuant to any 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 Developers Collaborative 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 DEVELOPERS COLLABORATIVE'S INTEREST**

### **Section 7.1. Consent to Pledge, Collateral Assignment or Grant of a Security Interest.**

The City hereby acknowledges that Developers Collaborative 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, financial institution or MaineHousing to Developers Collaborative for the Project, although no obligation is hereby imposed on Developers Collaborative 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 Developers Collaborative's right, title and interest in, to and under this Agreement and in, and to the payments to be made to Developers Collaborative 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. Developers Collaborative 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, Developers Collaborative shall not transfer or assign any portion of its rights in, to and under this Agreement without the prior written consent of the City Council, which consent shall not be unreasonably withheld, conditioned, or delayed; provided, however, that Developers Collaborative may assign this Agreement to a limited partnership that will develop affordable rental housing and whose general partner is an LLC that is controlled by Kevin R. Bunker without consent of, but with notice to, the City.

**ARTICLE VIII  
MISCELLANEOUS**

**Section 8.1. Successors.**

In the event of the dissolution, merger, or consolidation of the City or Developers Collaborative, 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. Notwithstanding this Subsection 8.1, unless the City affirmatively approves of such action, the City shall have the unilateral right to terminate this Agreement upon the dissolution, merger, or consolidation of Developers Collaborative, and if it exercises such right shall not be obligated to comply with this Agreement thereafter.

**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 Developers Collaborative 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 Developers Collaborative.

**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 neither the City Council nor any official, officer, employee, or agent of the City 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 Developers Collaborative contained herein shall be deemed to be a covenant, stipulation or obligation of any present or future officer, agent, servant, or employee of Developers Collaborative in his or her individual capacity, and no official, officer, employee, or agent of Developers Collaborative 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. Amendments.**

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

**Section 8.8. Integration.**

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

**Section 8.9. 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 Belfast, 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 accordance with law, including by judicial proceedings, including tax lien thereof.

**Section 8.10. 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 Developers Collaborative. Without limiting the foregoing, the City and Developers Collaborative shall always be entitled to exercise all rights and remedies regarding assessment, collection and payment of taxes assessed on Developers Collaborative'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 Developers Collaborative 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 Developers Collaborative'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.

**Section 8.11. Notices.**

All notices, certificates, requests, requisitions or other communications by the City or Developers Collaborative 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 Manager  
City of Belfast  
Belfast City Hall  
131 Church Street  
Belfast, Maine 04915

With a copy to:

Shana Cook Mueller, Esq.  
Bernstein Shur  
100 Middle Street  
P.O. Box 9729  
Portland, Maine 04104-5029

If to Developers Collaborative:

100 Commercial Street, Suite 414  
Portland, Maine 04101

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.

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

**IN WITNESS WHEREOF**, the City and Developers Collaborative 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 BELFAST

\_\_\_\_\_

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

Name:

Its City Manager as Authorized by the City Council  
on November 5<sup>th</sup>, 2019

WITNESS:

DEVELOPERS COLLABORATIVE  
PREDEVELOPMENT LLC

\_\_\_\_\_

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

Name: Kevin R. Bunker

Title: Manager

DRAFT

Exhibit A: Map of District

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Exhibit B: Depiction of Developers Collaborative Property

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