



**City of Biddeford
City Council**

September 2, 2025 at 6:00 PM
City Hall Council Chambers & Zoom

[Click to Join Zoom Meeting Online](#)

Or call in by phone: +1 312 626 6799

Meeting ID: 944 1969 1491

Passcode: 541647

1. Roll Call
2. Pledge of Allegiance
3. Adjustment(s) to Agenda
4. Appointments
 - 4.a 2025.116 Approval/Mayoral Appointments to a Committee- Citizen
 - 4.b 2025.117 Approval Planning Board-Removal of Member
5. Public Addressing the Council
(3 minute limit per speaker for up to a total of 15 minutes)
6. Consideration of Minutes
 - 6.a Council Minutes 8-19-25
 - 6.b Special Council Meeting minutes 8-26-25
7. Second Reading
 - 7.a 2025.112 Approval / Amend Code of Ordinances, Chapter 42 - Motor Vehicles and Traffic, Article IV - Specific Street Regulations, Sec. 42-92 Limited Parking - Main Street
 - 7.b 2025.108 Amend/Part II: Code of Ordinances, Chapter 42 Motor Vehicles and Traffic, Article IV Specific Street Regulations, Sec. 42-90(a) - No Parking Hill Street from Birch/Granite Streets to West Street.
8. Orders of the Day
 - 8.a 2025.106 Approval Resolution for Westbrook Development Corporation
 - 8.b 2025.107 Bid Approval – Lead Hazard Reduction at 146 Cleaves Street

- 8.c 2025.113 Approval Allocation No. 2 of FY26 Capital Improvement Funds
- 8.d 2025.114 Approval Reallocation of FY26 CIP Funds
- 8.e 2025.115 Approval Resolution for Avesta Housing
- 8.f 2025.119 Approval of Funds for Paving-Playground Project, J. Richard Martin Community Center
- 8.g 2025.118 Approval of Change Order - Irrigation System - J. Richard Martin Community Playground Project
- 9. Public Addressing the Council
(5 minute limit per speaker)
- 10. City Manager Report
- 11. Committee Updates by Council
- 12. Other Business
- 13. Council President Addressing the Council
- 14. Mayor Addressing the Council
- 15. Executive Session
 - 15.a Executive Session 1 MRS 405 (6) e Legal Matters
- 16. Adjourn

City of Biddeford



2025. 116 IN BOARD OF CITY COUNCIL... SEPTEMBER 2, 2025
BE IT ORDERED, that I Martin Grohman, Mayor of Biddeford, do hereby appoint:

Michael Tarquinio
Ward
To Project Canopy
for a term to expire December 31, 2030

Attest by: _____
Robin Patterson, City Clerk

Committee, Board, and Commission Application Form

Application

Name MICHAEL TARQUINIO

Pronouns Field not completed.

Ward 5

Need to find your Ward?

[Click here to find your Ward on a map or a list of streets.](#)

(Section Break)

Which City Committee, Board or Commission do you request to be appointed to?

Project Canopy Committee

If other, please list below. Field not completed.

Why are you interested in serving the City of Biddeford? I am a particular fan of Abraham Lincoln's quote: "I like to see a man proud of the place in which he lives. I like to see a man live so that his place will be proud of him." As I enter a new phase of professional career, I would like to give that knowledge back to the city I call home.

Please list any experience that may be pertinent to the Board or Committee in which you are requesting to serve. I am Maine intern forester (#4336) and am approaching professional licensure in Sept 2025. I have a strong interest in street trees.

Please list any prior experience serving on any public Boards, Commissions or Committees (and approximate dates). (none)

City of Biddeford



2025.117 IN BOARD OF CITY COUNCIL... SEPTEMBER 2, 2025
BE IT ORDERED that Roch Angers is removed from the Planning Board.

Attest by: _____
Robin Patterson, Clerk

To: Biddeford City Council

From: Alexa Plotkin, Chair, Planning Board

Date: August 21, 2025

Subject: Removal of Planning Board Member

Dear Councilors,

I write in my capacity as Chair of the Biddeford Planning Board in support of the Mayor's request to remove member Roch Angers from the Board.

On August 5, 2025, the evening before the Board's scheduled vote on the University of New England pier project, Mr. Angers addressed the City Council. In his remarks, he characterized the project as "tainted," alleged a lack of transparency, questioned prior reviews, and announced his intent to table the Board's vote.

Although he claimed to speak personally, the Planning Board's Code of Ethics makes clear that such disclaimers do not excuse prejudgment or advocacy. His conduct demonstrated bias, ex parte advocacy, and a disregard for the requirement of impartiality. This not only violates the Code but undermines the credibility of the Board and public trust in its decisions.

For these reasons, I respectfully urge the City Council to remove Mr. Angers to preserve the integrity of the Planning Board's process.

Sincerely,

Alexa Plotkin

Chair, Biddeford Planning Board

MEMORANDUM

To: Mayor Martin Grohman
Alexa Plotkin, Chair, Biddeford Planning Board

From: Harry B. Center, II, Esq., City Solicitor

Date: August 19, 2025

Re: Procedure & Reasons for Removal of a Planning Board Member

PROCEDURE

The process for removing a planning board member is set forth in Article X of the Land Use Code, §1(E) (1–3). A member of the planning board may be removed by the municipal officers for the reasons as set at Section (1), (a-d). It is my opinion, based on my review of the code provisions on removal of a member of the planning board, that the municipal officers have the authority to remove a member from the planning board. The removal action may be initiated by the mayor, the city council, or a member of the planning board. Once the removal action is initiated, the board member is then provided an opportunity to reply, and removal is done by the municipal officers. For your review, the applicable provision is attached.

With respect to municipal government, the power to appoint includes the inherent power to remove. *Am Jur 2d, Municipal Corporations* §309. In the absence of an express statutory or code provision limiting the power of removal, the mayor of a municipality has the general governing authority and controlling power to remove any individual who is subject to an appointment to a municipal position. *Am Jur 2d, Municipal Corporations* §311. Notwithstanding this legal principle, Biddeford's Land Use Ordinance does provide the authority to the Municipal Officers to remove a planning board member.

Public employees in Maine have a constitutionally protected property interest in their employment, and they may not be removed without due process, including a hearing. *Moen v. Town of Fairfield, 1998 ME 135*. However, it is my opinion that planning board members are not entitled to those protections. Members of the planning board are not compensated, they are not City of Biddeford employees, they do not receive a W-2, and they have no constitutionally protected interest in continued employment. Pursuant to council rules which provide that when

required to act as municipal officers, the City Council acts as municipal officers. In this matter, once the removal action is initiated by the mayor and planning board chairperson, the council will listen to the board member should that board member exercise their opportunity to reply as set forth at section (E)(3) of the code.

This process is conducted pursuant to the Council Rules. There is no public comment on appointments, therefore there should be no public comment on removals. The only way the municipal officers/council can act is by vote, therefore there must be an order simply stating that the member is being removed and the vote is by a simple majority.

Notwithstanding the fact that the planning board member is not entitled to a due process hearing, this matter is subject to being held in executive session. Pursuant to 1 M.R.S. §405(6)(A), the removal of a planning board member is discussion and consideration of an appointee and may legally be done in executive session. However pursuant to section (6)(A)(3), the board member may choose to have the process in open session. Should that occur, I caution the council members to be mindful of any comments, and I note that generally, there are no council comments on appointments. The council will have the Mayor and Planning Board Chair's reasons for initiating removal in writing. Anything the board member submits as well as the board member's prior email and comments in prior public session are before the council.

STANDARD FOR REMOVAL

The removal ordinance in the land use code requires that a planning board member must conduct themselves in a matter consistent with the official position of the planning board and consistent with the public interest. Board members must act with professional behavior, and board members are required to abide by a code of ethics. (See Land Use Code (E)(d). The City of Biddeford Planning Board acts as a quasi-judicial body. ("When planning boards act on an application...that body is acting in a quasi-judicial capacity.") *Cunning v. Kittery Planning Bd.*, 400 A.2d 1070, 1077 (Me. 1979)). When an entity acts in a quasi-judicial capacity, persons whose rights are affected by the entity's actions are entitled to greater constitutional protections (as opposed to when an entity acts in a legislative capacity). *Crispin v. Town of Scarborough*, 1999 ME 112. I have shared this legal principle with the planning board and this member on numerous occasions.

I have advised the Planning Board with this member present that only information contained in the record may be considered when deliberating and determining whether to approve any given matter. It is impermissible for a planning board member to rely on extrinsic evidence when adjudicating issues before the board. *Town of Baldwin v. WMTW Holding Corp.* 2000 ME 91. Further, in the context of municipal planning boards, due process entitles a party to a fair and unbiased hearing. *Duffy v. Town of Berwick*, 2013 ME 105. Communication between one party and a decision-maker, outside of the hearing and without providing the opportunity for the other party to be heard is an ex parte communication that is a violation of the due process rights of the unheard party. *Mutton Hill Estates, Inc. v. Town of Oakland*, 468 A.2d 989 (1983).

Lastly and perhaps most importantly, the Maine Supreme Court has held that ex parte communications implicate the due process rights of the excluded party and provide grounds to

vacate a decision, as such communications call into question the integrity and fairness of the decision. *Wolfram v. Town of North Haven 2017 ME 114*.

CONCLUSION

1. The Mayor and Planning Board Chair are authorized to initiate the removal of a planning board member.
2. That member may “reply” to the City Council.
3. The municipal officers (City Council) remove the member by simple majority vote.
4. The process is not a due process legal hearing, but rather a council order on an appointment.
5. The matter may be held in executive session, and the subject member may ask for open session.

City of Biddeford, ME
Tuesday, August 19, 2025

Article X. Planning Board

Section 1. Planning Board.

[Ord. No. 2002.67, 9-3-2002]

- A. **Authority.** The City of Biddeford Planning Board (hereafter the "board"), originally established under the provisions of 30-A M.R.S.A. § 4326, is hereby continued as provided by law, 30-A M.R.S.A. § 4313 [now repealed]. The powers and responsibilities of the board allowed under the pre-1971 legislation (30 M.R.S.A. § 4964) are maintained.
- B. **Duties and responsibilities.** The board shall have the following duties and responsibilities:
1. Prepare, and revise a comprehensive plan in accordance with 30-A M.R.S.A.
 2. Review and approve, approve with conditions, or disapprove subdivision and other development plans that deal with specific real estate. This includes site reviews and conditional uses.
 3. Review and approve, approve with conditions, or disapprove development plans in the Shoreland Zone as required by Article XIV of this ordinance.
[Amended 2-2-2010 by Ord. No. 2009.98]
 4. Draft for approval by the municipal officers, ordinances and other provisions to facilitate Subsections 1 through 3 above.
- C. **Membership.**
1. The Board shall consist of seven members, five voting members and two associate members. Each member shall be nominated by the Mayor, confirmed by the City Council, for a three year-term. Members may be reappointed at the end of their terms, not to exceed three consecutive terms. All current appointments shall have a term of office expiring no later than December 31, 2005. The Mayor shall have the discretion of appointing members and associate members to the Planning Board with terms expiring after two years but less than three years for the purpose of staggering appointments throughout a calendar year.
 2. Associate members may be made voting members of the Board upon the retirement or nonappointment of a voting member.
 3. All members of the Board shall be registered voters and residents of the City of Biddeford. No serving municipal officer or official of the City of Biddeford shall serve as a member of the Board.
 4. Members of the Board shall reflect as much as possible several geographic areas of the City, and shall have diverse professional or employment backgrounds. This is to insure as much as possible that the interests of the City and applicants are fairly and reasonably represented. In no case shall more than two members be from the same ward.
 5. Members of the Board are required to sign the Biddeford Planning Board Rules of Procedure and Code of Ethics prior to taking the oath of office. Any individual appointed to the Board shall not be administered the oath of office and shall not be seated until the Rules of Procedure and

Code of Ethics have been signed. Failure to sign will invalidate the appointment and shall require a replacement appointment.

[Added 2-21-2012 by Ord. No. 2012.8

D. Term of office.

1. Members of the Board shall be appointed for a three-year term. No member shall serve more than three consecutive terms, including any term or part of a term served under any predecessor in this section. Any member appointed to fill a vacancy for which more than half of the unexpired term remains, for purposes of this provision, shall be deemed to have served one full term.
2. When there is a permanent vacancy, the Mayor shall nominate with confirmation by the City Council a new member to serve for the remainder of the unexpired term.

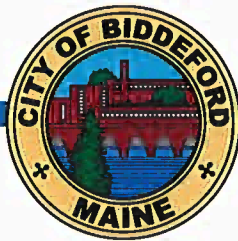
E. Removal from office.

1. Members of the Board may be removed from office by the municipal officers for the following reasons:
 - a. A member is no longer a resident of the City of Biddeford; or
 - b. A member is absent from three consecutive regular Board meetings without prior satisfactory explanation; or
 - c. A member is absent from six meetings or workshops of the Board without prior satisfactory explanation; or
 - d. A member conducts himself/herself in a manner that is inconsistent with the official position of the Planning Board, i.e. consistent conflicts of interest or unprofessional behavior toward applicants, City employees or members of the public.
2. Removal action may be initiated by the Mayor, the City Council or a member of the Board. A letter shall be submitted to the municipal officers stating the reasons for the removal request.
3. The Board member in question shall be provided a copy of the letter and shall be given the opportunity to reply to the municipal officers.

F. Board officers.

1. A Chairperson shall be appointed by the Mayor and confirmed by the Council each January. The Board shall elect from its voting membership the following officers:

Vice Chairman;
Secretary.
2. The terms of these officers shall be one year. The Chairperson may not be reelected for more than two consecutive terms. The Board shall hold elections during the January meeting, the results of which shall be submitted to the municipal officers.
3. Elected officers shall be responsible for the following:
 - a. Chairman: Conduct of meetings, scheduling and announcing meetings, signing official correspondence for the Board. The Chairman shall vote only in case of a tie.
 - b. Vice Chairman: acts in place of the Chairman when he/she is absent or required to leave the Chair because of conflict; acts as Chair for special subcommittees of the Board as needed.
 - c. Secretary: ensures that the records of meetings are accurate and available for the Board's review and reference.



August 20, 2025

Mr. Roch Angers
26 Cathedral Oaks Drive
Biddeford, ME 04005

RE: Initiation of Removal from Planning Board

Dear Mr. Angers,

Thank you for your many years of service to the City of Biddeford — as a City Councilor, Council President, member of numerous boards and commissions, and as Treasurer of the Société St-Jean-Baptiste de Bienfaisance. Your dedication and willingness to serve our community are very strong.

Members of the Planning Board take an oath to uphold the standards of ethics that protect the integrity of our land use process and ensure public confidence in the Board's decisions. This includes remaining impartial, avoiding even the appearance of bias, and conducting all deliberations in a properly noticed public forum where the applicant and the public can be present and heard.

On August 5, 2025, you addressed the City Council during public comment regarding a pending application before the Planning Board, and later that evening sent an email to Councilors, planning staff, and fellow Board members advocating against that application. These actions are inconsistent with the Planning Board's Rules of Procedure and Code of Ethics, which specifically prohibit ex parte communications, and require that deliberations occur only within the public meeting process with the applicant present. Additionally, it is clear in the Code of Ethics that members of the Planning Board are not able to comment on a pending application on a "personal" basis.

Therefore, pursuant to Section E of the Planning Board enabling ordinance, I am initiating the process for your removal from the Planning Board and referring this matter to the City Council for action. A copy of this letter will be provided to the Council.

This is not a step taken lightly, but it is necessary to maintain fairness, transparency, and legal compliance in our land use process, and to ensure continued public trust in the important work of the Planning Board.

Sincerely,

A handwritten signature in black ink, appearing to be "Martin Grohman", with a long, sweeping horizontal line extending to the right.

Martin Grohman
Mayor, City of Biddeford

MEMORANDUM

To: Mayor Martin Grohman
City Council Members
Biddeford Planning Board Member

From: Harry B. Center, II, Esq., City Solicitor

Date: August 29, 2025

Re: Procedure for Removal of a Planning Board Member

The process for removing a Planning Board member is established pursuant to Article X of the Land Use Code, §1E (1-3). A member of the Planning Board may be removed by the Municipal Officers for the reasons set forth therein. The removal process was initiated by the Mayor and Planning Board Chair pursuant to the applicable Ordinance provisions.

Because the Ordinance provides that removal of a member is accomplished by the “Municipal Officers”, the City Council shall act with a majority vote, to determine whether the Planning Board member shall be removed pursuant to the Mayor and Planning Board Chair’s request.

Pursuant to Council Rule 1(j), when an Ordinance provides that the City Council must act as municipal officers, they do so during a council meeting. This is a personnel matter, pursuant to confidentiality laws and Executive Session laws. This is not a due process hearing, as membership on a Planning Board is not a position of employment and does not enjoy constitutionally protected property rights protections.

The process and vote on whether to remove the Planning Board member is conducted pursuant to the rules of the City Council. Pursuant to Rule 3(q)(1), no public comment is permitted on personnel matters. Further, while not binding precedent, the council generally does not comment on mayoral appointments, but rather simply votes. It is my recommendation that this precedent be followed on a removal as well. However, let me make it absolutely clear that it is up to the entire council as a body to determine their own rules and procedures in this matter. I am simply giving a recommendation.

I note Council Rule 6(a) which provides that the rules of the council may be suspended for a specific purpose by a vote. Because the rule is silent on the votes required, it is my opinion that the rules may be suspended by a majority vote.

City of Biddeford
City Council
August 19, 2025 at 6:00 PM
City Hall Council Chambers & Zoom

1. Roll Call - all present

Council President LaFountain
Councilor Lessard
Councilor Ortiz
Councilor Emhiser
Councilor Whiting
Councilor Beaupre
Councilor Gross
Councilor Belanger
Councilor Doughty

2. Pledge of Allegiance

3. Adjustment(s) to Agenda

A third executive session has been added.

A third presentation has been added.

Mayor Grohman welcomed the new City Manager, Truc Dever and she was sworn in.

4. Public Hearing

4.a K-Thai Kitchen Liquor License

Open at 6:06 pm

Comments: none

Close at 6:07 pm

5. Liquor License Consideration

5.a K-Thai Kitchen Liquor License Application

Motion: Councilor Beaupre

Second: Councilor Belanger

Vote: Unanimous in favor.

Motion passed.

6. Presentation

6.a Saco-Biddeford Multi-modal Bridge

Tracey Desjardins and Liz Brownell presented options and the timeline on the project.

6.b Legislative Session Wrap Up

State House Representatives Marc Malon and Ryan Fecteau shared information on the recent Legislative Session.

6.c. J. Richard Martin Community Center Park Renovation Project

Public Works Director Jeff Demers and Recreation Director Lisa Thompson reviewed progress on the new playground.

7. Appointments

7.a 2025.110 Approval / Mayoral Appointment to Committee-Citizen

Motion: Councilor Belanger

Second: Councilor LaFountain

Vote: Unanimous in favor.

Motion passed.

8. Public Addressing the Council

One citizen spoke about the success of River Jam and thanked the city staff who helped.

One citizen spoke about the UNE pier.

One citizen spoke about the Save our Shores initiatives.

One citizen spoke about the unhoused.

One citizen spoke about the trees taken down at the playground.

One citizen spoke about safe biking.

9. Consideration of Minutes

9.a Council Minutes 8-5-25

Motion: Councilor Belanger

Second: Councilor Lessard

Vote: Unanimous in favor.

Motion passed.

10. Orders of the Day

10.a 2025.112 Approval / Amend Code of Ordinances, Chapter 42 - Motor Vehicles and

Traffic, Article IV - Specific Street Regulations, Sec. 42-92 Limited Parking - Main

Street

Motion: Councilor Whiting

Second: Councilor Beaupre

Councilor Beaupre – motion to amend to have two spaces between the hours of 8:00 am and 6:00 pm and two spaces between the hours of 8:00 am and 10:00 pm.

Second: Councilor LaFountain

Vote on the amendment: Unanimous in favor.

Amendment passed.

Vote on the order as amended: Unanimous in favor.

Motion passed.

10.b 2025.108 Amend/Part II: Code of Ordinances, Chapter 42 Motor Vehicles and Traffic,

Article IV Specific Street Regulations, Sec. 42-90(a) - No Parking Hill Street from

Birch/Granite Streets to West Street.

Motion: Councilor Whiting

Second: Councilor LaFountain

Public comment: Eight citizens spoke in favor of the proposal. One citizen would prefer more sidewalks.

Councilors mentioned several emails from constituents against the proposal.

Councilors discussed the traffic plans and parking issues in that area and asked Director Demers questions about the timing and locations.

Councilor Belanger said that it needed more time and public input.

Councilor Beaupre reminded everyone that it will have a second reading at the next meeting.

Vote: 6 yeas – Councilors Ortiz, Doughty, Beaupre, Whiting, Emhiser and LaFountain.

3 nays – Councilors Lessard, Belanger and Gross.

Motion passed.

10.c 2025.109 Approval Award Finance Payroll Software RFP to Paylocity

Motion: Councilor LaFountain

Second: Councilor Lessard

Vote: Unanimous in favor. Councilor Belanger absent for the vote.

Motion passed.

10.d 2025.111 Direct City Manager to Evaluate Conservation Commission

Recommendation to Place Tax-Acquired Property Map-1, Lot-19 in Conservation

Motion: Councilor LaFountain

Second: Councilor Whiting

Public comment: five members of the conservation commission spoke in favor of this.

Councilor Emhiser explained that the City Manager would need time to review this proposal with the conservation groups, have the legal research done and come back with a formal proposal for Council.

Councilor LaFountain – motion to amend the report back date to the first regular Council meeting in November 2025.

Second: Councilor Emhiser

Vote on the amendment: 7 yeas – Councilors Ortiz, Belanger, Doughty, Beaupre, Whiting, Emhiser and LaFountain.

2 nays – Councilors Lessard and Gross.

Amendment passed.

Vote on the order as amended: Unanimous in favor.

Motion passed.

Councilor Belanger – motion to extend the meeting past 9:00 pm

Second: Councilor Lessard

Vote: 8 yeas – Councilors Lessard, Belanger, Gross, Doughty, Beaupre, Whiting, Emhiser and LaFountain.

1 nay – Councilor Ortiz.

Motion passed.

10.e 2025.97 Approval Special Event Biddeford Oktoberfest

Motion: Councilor LaFountain

Second: Councilor Belanger

Vote: Unanimous in favor.

Motion passed.

11. Committee of the Whole

11.a Update - Main Street Pump Station Project Funding

Motion to enter by Councilor Lessard at 9:05 pm

Second: Councilor Belanger

Vote: Unanimous in favor.

Motion passed.

Public Works Director Jeff Demers gave an overview of the project.

COO Brian Phinney discussed the procurement procedures.

Councilors discussed these two items and asked questions.

Motion to exit by Councilor Belanger at 9:33 pm

Second: Councilor Lessard

Vote: Unanimous in favor.

Motion passed.

12. Public Addressing the Council

none

13. City Manager Report

City Manager Truc Dever spoke about her positive experience the first week and thanked everyone for the warm welcome. She thanked Interim City Manager Brian Phinney for his kindness and support. She will work on the item discussed at the last Council meeting regarding City Hall hours. The Economic Development Director position has been posted to reach a wide audience.

14. Committee Updates by Council

Councilor Beaupre said that the Traffic Committee meeting on Tuesday 8/26/25 is cancelled, they will meet again in September.

15. Other Business

None.

16. Council President Addressing the Council

Council President LaFountain did not address the council at this time.

17. Mayor Addressing the Council

Mayor Grohman reminded everyone of the Special Council meeting next Tuesday 8/26/25 at 5:30pm.

He commented on the success of River Jam.

He reminded everyone that school is opening soon.

He is planning to bring back Project Canopy and will have more details soon.

18. Executive Sessions

18.a Executive Session 1 MRS 405 (6) d Labor Negotiations

18.b Executive Session 1 MRS 405 (6) e Legal Matters

18.c. Executive Session 1 MRS 405 (6) a Personnel Matters

Motion to enter by Councilor Belanger at 9:42 pm

Second: Councilor Whiting

Vote: Unanimous in favor.

Motion passed.

Motion to exit by Councilor Belanger at 10:42 pm

Second: Councilor Lessard.

Vote: Unanimous in favor.

Motion passed.

19. Adjourn

Motion to adjourn by Councilor Belanger at 10:42 pm

Second: Councilor Lessard

Vote: Unanimous in favor.

Meeting adjourned.

City of Biddeford

City Council

August 26, 2025 at 5:30 PM

City Hall Council Chambers & Zoom

1. Roll Call

Council President LaFountain - present

Councilor Lessard - present

Councilor Ortiz - present

Councilor Emhiser - present

Councilor Whiting - present

Councilor Beaupre - present

Councilor Gross - excused

Councilor Belanger - present

Councilor Doughty - excused

2. Pledge of Allegiance

3. Adjustment(s) to Agenda

Item 6.a. executive session was added.

4. Public Hearing

4.a Bond Question 1 - Combined Sewer Overflow (CSO)

Public Hearing opened at 5:33 pm

Public comments:

Brad Cote, Ward 7, asked a question about the impact on the credit rating.

Sam Pecor, Ward 7, commented about the description of pay as you go.

Public hearing closed at 5:36 pm

4.b Bond Question 2 - Recreation Facilities

Public Hearing opened at 5:36 pm

There were no public comments.

Public Hearing closed at 5:36 pm

4.c Charter Revision Referendum Question

Public hearing opened at 5:36 pm

Public comments:

Brad Cote, Ward 7, asked the Council why they wanted to open it up for revision.

Public hearing closed at 5:38 pm.

5. Second Reading

5.a 2025.101 Approval Bond Question 1 - Combined Sewer Overflow (CSO) Bond

Motion: Councilor LaFountain

Second: Councilor Lessard

Councilor LaFountain asked for details about the credit rating.

COO Brian Phinney explained that as previously reported the rating has been withdrawn for lack of information and will be reset once the FY24 and FY25 audits are completed.

Councilor Lessard reminded everyone that this work is mandated by the state.

Councilor Emhiser explained that the bond would be used in stages and would get the best rate at that time.

Councilor Belanger said the rating by Moody's was AA. This is the type of project that fits a bond to spread the payments out over time versus a few years.

Councilor LaFountain asked the City Manager to make sure there is a good communication plan in place.

Vote: Unanimous in favor.

Motion passed.

5.b 2025.102 Approval Bond Question 2 - Recreation Facility Improvements

Motion: Councilor LaFountain

Second: Councilor Lessard.

Councilor Belanger thinks the project is worthy but does not want to risk the voters choosing the lowest option.

Councilor Emhiser wants to make sure there is a solid communication plan. He will not support it at the six million dollar level.

Councilor LaFountain would like the voters to decide.

Councilor Lessard supports it, the citizens want recreation. There needs to be a good communication plan.

Vote: 5 yeas – Councilors Lessard, Ortiz, Beaupre, Whiting and LaFountain.

2 nays – Councilors Belanger and Emhiser.

Motion passed.

The Mayor reminded everyone that school starts this week.

Public Works Director Jeff Demers said the staff would be coming back to Council to approve funding for the bond communications plan.

6. Executive Session

6.a Executive Session 1 MRS 405 (6) c Real Estate Matters

6.b Executive Session 1 MRS 405 (6) d Labor Negotiations

Councilor Belanger - motion to enter executive session at 5:56 pm

Second: Councilor Lessard

Vote: Unanimous in favor.

Motion passed.

Motion to exit the executive session by Councilor Lessard at 7:12 pm

Second: Councilor Whiting

Vote: Unanimous in favor.

Motion passed.

7. Adjourn

Motion to adjourn by Councilor Lessard at 7:12 pm

Second: Councilor Whiting

Vote: Unanimous in favor.

Meeting adjourned.



City Council

Meeting September 2, 2025

Date:

Meeting 6:00 PM

Time:

Agenda 7.a

Item No:

Item 2025.112 Approval / Amend Code of Ordinances, Chapter 42 - Motor Vehicles and

Description: Traffic, Article IV - Specific Street Regulations, Sec. 42-92 Limited Parking - Main Street

Submitted JoAnne W. Fisk, Chief of Police

By:

Key Terms:

Executive Summary:

This Order amends the Code of Ordinances to create two additional 15-minute limited parking spaces on the southerly (odd-numbered) side of Main Street as it intersects with Washington Street. With Council approval, this will provide a total of four, 15-minute parking stalls (two existing plus two new spaces).

At the August 19, 2025 Council meeting, Council approved an amendment to the Order to have two spaces with limited parking between the hours of 8:00am and 6:00 pm and two spaces between the hours of 8:00 am and 10:00 pm.

Detailed Review:

Several quick-turnover businesses along this section of Main Street have requested more short-term parking to better serve customers making brief visits, such as picking up food or retail items during daytime business hours. The proposed change seeks to balance the needs of these businesses with those of longer-term parking users by designating two additional 15-minute spaces between the hours of 8:00 A.M. and 6:00 P.M. The spaces will extend from the intersection of Main and Washington westerly (back towards City Hall).

Funding Source:

The only funding required will be the cost of sign materials through the Public Works Department.

Staff Recommendation:

The proposed amendment was reviewed by the City's Traffic Committee at its July 29, 2025, meeting. The Committee unanimously supported this change, recognizing the benefit to both businesses and customers by accommodating a wider range of parking needs in this busy section of the city's downtown area.

Next Steps:

If Order 2025.112 is approved, the ordinance change will be in effect 30-days after adoption.

Attachments:

1. 15 Minute Spaces, Main Street - LOCUS MAP
2. 15 Min Spaces, Main Street - STREET VIEW
3. 2025.112 Amend Code of Ordinances, Chapter 42, Article IV, Sec 42-92 - Limited Parking (Main St) - ORDER 2nd



Locus Map
City Council – August 19, 2025
Item 10.e – Amend Code of Ordinances, Chapter 42, Article IV,
Sec. 42-92 Limited Parking (Main Street)





City Council

Meeting September 2, 2025

Date:

Meeting 6:00 PM

Time:

Agenda 7.b

Item No:

Item 2025.108 Amend/Part II: Code of Ordinances, Chapter 42 Motor Vehicles and

Description: Traffic, Article IV Specific Street Regulations, Sec. 42-90(a) - No Parking Hill Street from Birch/Granite Streets to West Street.

Submitted JoAnne W. Fisk, Chief of Police

By:

Key Terms:

Executive Summary:

This item reflects an ordinance change to eliminate parking on Hill Street, both even and odd sides from Birch/Granite Streets to West Street to accommodate new sidewalk area's as well as bicycle lanes.

Detailed Review:

Code of Ordinance, Chapter 42 Motor Vehicles and Traffic, Article IV Specific Street Regulations, Section 42-90 NO PARKING. This item reflects a motion from the Chair of the Traffic Committee to accelerate and advance to Council a request from the Department of Public Works to eliminate parking on Hill Street, even numbered side, beginning at the intersection with Birch Street southerly to the intersection with West Street and odd-numbered side, beginning at the intersection with Granite Street southerly to the intersection with West Street. This change is proposed to accommodate the proposed bike lane(s) and sidewalk expansion projects. The section of Hill Street under consideration is a heavily traveled residential area leading to three of the city's public schools as well as recreational fields.

At its July 29, 2025, meeting, the Traffic Committee unanimously approved this parking restriction. It should be noted that the Committee did recognize this item was not on the agenda and the lack of notice likely impacted public awareness and the potential for public

comment. The Committee also acknowledged that the ordinance change requires two readings with an opportunity for public comment at that time.

Further, at the direction of the Traffic Committee, City staff took the following steps to notify Hill Street residents of the proposed parking change:

- Sent out a mailing to addresses on file for properties within the affected area noting the proposed change and encouraging feedback to the Council
- Shared in article in the Biddeford Beat
- Posted on social media about the proposed change
- Posted a message on NextDoor to the Hill Street neighborhood

Funding Source:

Signage will be the only cost for this request and will come from the Department of Public works sign budget.

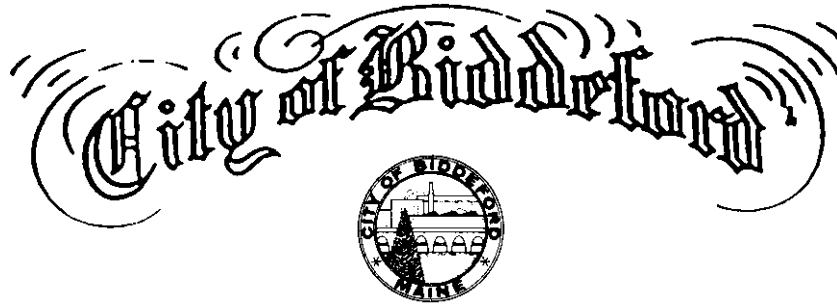
Staff Recommendation:

Staff are not opposed to this change.

Next Steps:

Attachments:

1. 20250819 2025.108 Amend Chapter 42-90(a) No Parking, Hill Street - ORDER 2nd
2. Hill Street map
3. 2025-07-28_Hill Street Striping Exhibit



2025.108 In Board of City Council August 19, 2025

BE IT ORDAINED, by the City Council of the City of Biddeford that the Code of Ordinances, Chapter 42, Motor Vehicles and Traffic, Article IV Specific Street Regulations, **Section 42-90 NO Parking**, be amended by adding or ~~deleting~~ to read as follows:

Hill Street, even numbered side, beginning at the intersection with Birch Street, thence southerly to the intersection with West Street.

Hill Street, odd-numbered side, beginning at the intersection with Granite Street, thence southerly to the intersection with West Street.

NOTE: This action will accommodate a proposed bike lane and sidewalk expansion program.

The Traffic Committee unanimously approved this parking restriction at its July 29, 2025 meeting, and to forward it to the City Council for approval.

August 19, 2025

Motion: Councilor Whiting

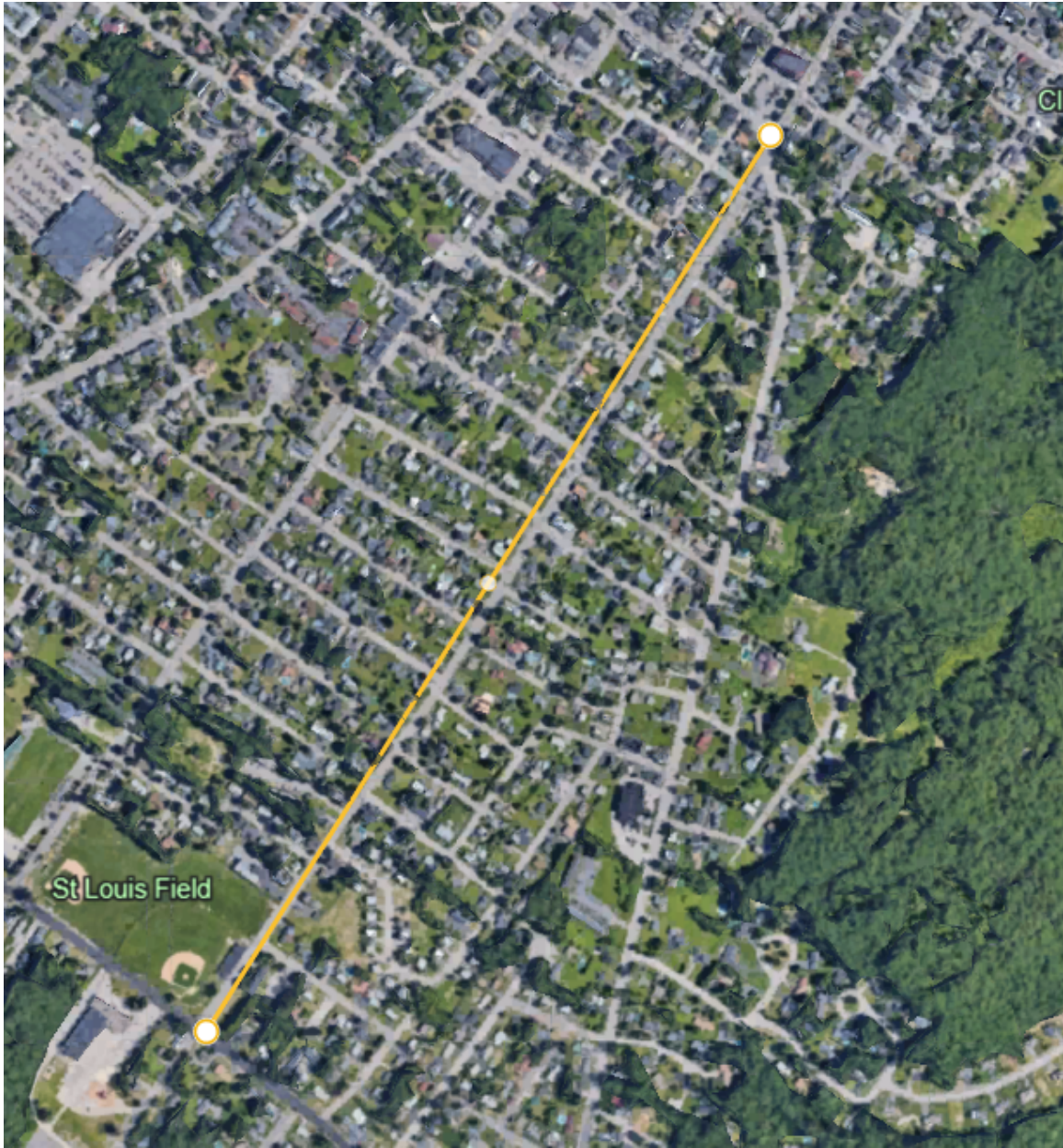
Second: Councilor LaFountain

Vote: 6 yeas – Councilors Ortiz, Doughty, Beaupre, Whiting, Emhiser and LaFountain.

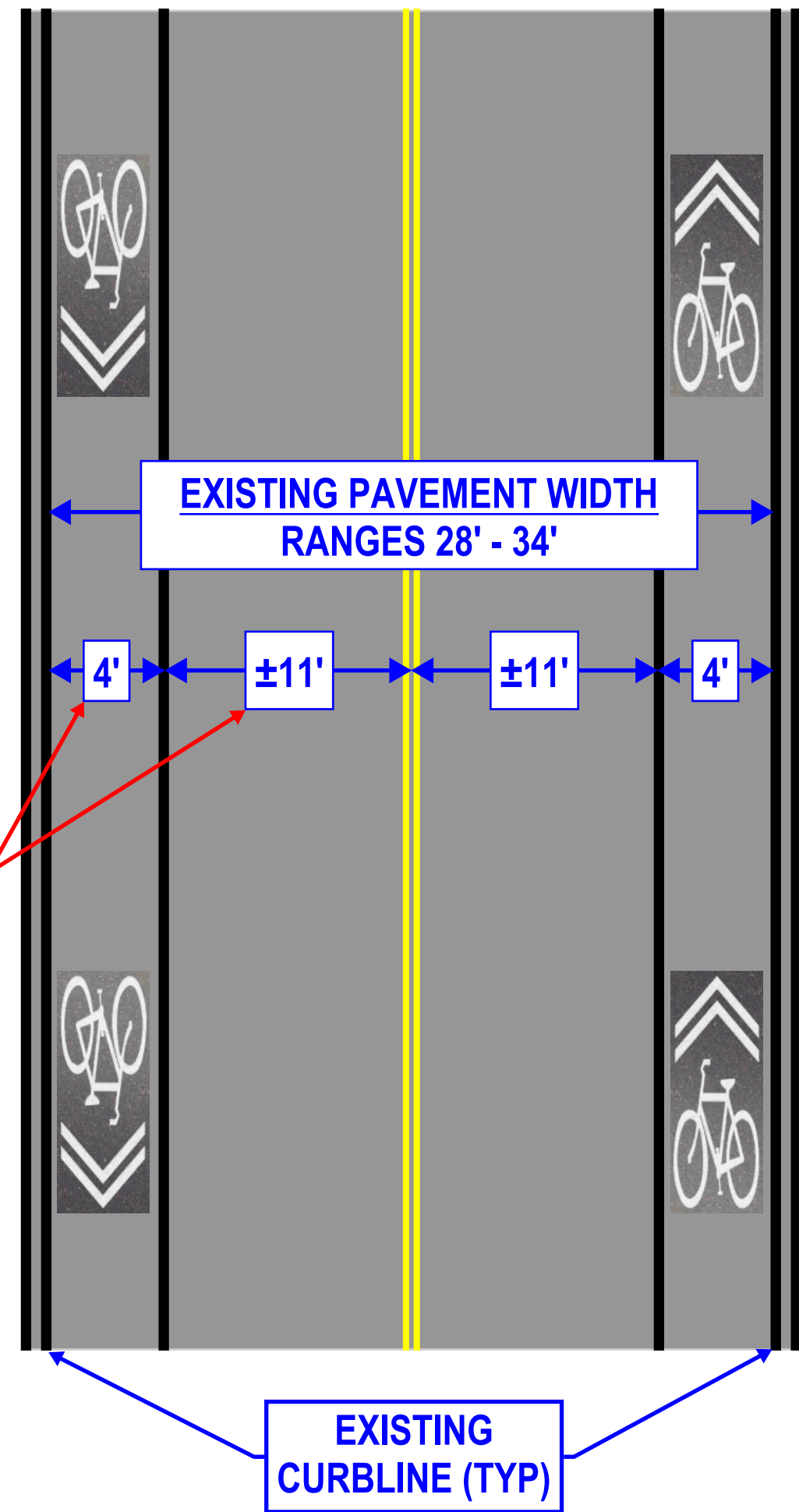
3 nays – Councilors Lessard, Belanger and Gross.

Motion passed.

September 2, 2025



The area of Hill Street under consideration in this agenda item is located between 136 to 284 Hill Street // 145 to 283 Hill Street. The distance of roadway is 0.77 mi.



HILL STREET - STRIPING EXHIBIT
2025-07-24



City Council

Meeting Date: September 2, 2025
Meeting Time: 6:00 PM
Agenda Item No: 8.a
Item Description: 2025.106 Approval Resolution for Westbrook Development Corporation
Submitted By: Brian S. Phinney, Acting City Manager

Key Terms:

Executive Summary:

Approval of this item designates the former Maine Energy Recovery site as a blighted area or for redevelopment to remediate risk to occupants. The designation allows Westbrook Development Corporation the ability to claim an additional point in Maine State Housing Authority's Low Income Housing Tax Credit Program application process, improving the chances of the project receiving a funding award during this round of funding and increasing the potential for the development to proceed along the earliest timeline contemplated in the Development Agreement.

Detailed Review:

The Biddeford City Council authorized execution of a development agreement with Westbrook Development Corporation (WDC) for the development of Lots 1B and 1C of the former Maine Energy Recovery Company site on Pearl Street. As part of the development project, WDC plans to construct affordable housing units at the site and intends to apply for affordable housing tax credits through Maine Housing's Low Income Housing Tax Credit Program (LIHTC). As has been presented to the City Council, affordable housing tax credits are awarded to projects throughout the State on a competitive basis under Maine Housing's LIHTC Program. Projects score points for various criteria established within the scoring matrix. A copy of Maine Housing's LIHTC Qualified Allocation Plan is included in the packet as *ATTACHMENT A*.

In order to maximize points, WDC asked the City Council to assist with increasing the potential points for the project under Section 6(A)(5) - Rehabilitation or Reuse of Existing Housing, Structure or Site, which states:

"5. Specifically designated by a municipality for redevelopment to renew a blighted area or

remediate environmental risks to the occupants."

WDC requested support for a resolution at the August 5, 2025 meeting of the City Council. The meeting video and supporting documents can be viewed via this [link](#).

The City Council voiced concern relative to the "blighted area" designation. WDC offered comment that the points are the same for the renewal of a blighted area or the "remediate environmental risks to the occupants" option, suggesting they do not have a preference should the City Council be more comfortable with the remediation designation. A map designating the site and blighted area parcel locations is provided as ATTACHMENT E. The City Council voted to table the item until the first meeting in September to allow staff time to explore both options. The City Council vote is recorded in the minutes from August 5, 2025, attached to this agenda.

Included in the packet are two resolutions. The first resolution represents the tabling motion from the August 5th meeting and the second represents the "remediate environmental risks to the occupants" option. Please note that the resolution number "106" does not appear in either draft. The City Council may adopt either option or reject both options. If either the blight designation or remediation of environmental risks option is approved, the approval motion should include reference to Resolution 2025.106.

WDC submitted a review of the blight vs. remediation designations via email on August 26. A copy of the email is included as ATTACHMENT C. In summary, WDC's legal team reviewed Chapter 34, Article VII-Downtown Blight, of the City's Code of Ordinances. A copy of Article VII is included as ATTACHMENT B. WDC concluded that a "site" may be designated as blighted but is concerned that the ordinance's reference to "downtown" is specific to Zoning District MSRD-1 and the site is located in Zoning District MSRD 3. WDC stated further concern that in order for the site to be designated as being "downtown" an ordinance change may be required. There is ambiguity within the Code of Ordinance on this matter. The City Council adopted a map of the Downtown District and Downtown Development District in 2017 to address the question of "what is downtown?" A copy of the district map is included as ATTACHMENT D. From a policy perspective, the City Council may determine whether the "MSRD-1" exclusion is applicable given the ambiguity or if the "blight" designation is appropriate.

Alternatively, the City Council may consider the "remediation of environmental risks to the occupants" designation. The site has been remediated as part of the closure agreement with Maine Energy Recovery Company. The development site meets the "residential standard" for remediation from the communications stack to Lincoln Street. WDC will be required to comply with the terms and conditions of the existing Declaration of Environmental Covenants and Soil and Groundwater Management Plan, but is not required to perform additional cleanup that would reduce risks past current standards. The site has remained vacant since 2013 and the City has desired to encourage redevelopment of the site since that time. WDC has applied for a Brownfields Remediation Grant from Southern Maine Planning and Development to assist in complying with the requirements of the Declaration of Environmental Covenants and associated Soil and Groundwater Management Plan. This provided support for the remediation

designation. Similar to the blight designation, the City Council will need to make a policy decision on designating the site "for redevelopment to remediate risks to the occupants".

At the Council's discretion, the body may adopt a resolution designating the site as blighted or in need of remediation or fail to adopt either. If either resolution is adopted, the resolution will be included in the WDC application, allowing WDC the ability to claim an additional point in the competitive application process.

It should also be noted that WDC has indicated that their preference is to limit the resolution(s) to their respective lots - 1B and 1C. Staff recommends providing reference to all lots subject to redevelopment as depicted in ATTACHMENT E. This will ensure that the designation applies to any developer that may apply for affordable housing tax credits at the site, eliminating the need to duplicate City Council action should WDC's or 3 Lincoln LLC's projects not proceed and other development at the site include affordable housing.

Funding Source:

N/A

Staff Recommendation:

Staff see no negative impacts to the city by providing either declaration and the action may help improve project scoring in the hopes of WDC receiving an award during this round of applications, thus ensuring the project is constructed along the earliest timeline.

Next Steps:

The City Council may approve the resolution designating blighted conditions, the resolution designating remediating environmental risk to the occupants, or may choose not to support either option. If one of the resolutions is adopted, the resolution will be endorsed and provided to WDC for submission to the Maine State Housing Authority as part of the developer's low income tax credit application.

Attachments:

1. 2025.xxx Designation as Blighted Site in Need of Development - RESOLUTION
2. 2025.xxx Designation for Redevelopment to Remediate Environmental Risks to Occupants - RESOLUTION
3. Maine Housing 2025-2026 Low Income Housing Tax Credit Qualified Allocation Plan - ATTACHMENT A
4. City of Biddeford Code of Ordinances - Chapter 34, Art. VII Downtown Anti-Blight - ATTACHMENT B
5. 20250826 EMAIL - WDC Transmittal and Review of Blight and Remediation Resolutions - ATTACHMENT C
6. 20170815 Downtown District Map - ATTACHMENT D
7. Site Map - Blighted Area Designation - ATTACHMENT E



RESOLUTION

2025.{xxx}

RESOLUTION DESIGNATING LOTS 1A, 1B, 1C, AND 3 OF THE FORMER MAINE ENERGY RECOVERY COMPANY SITE, MAP 71-2 AS BLIGHTED AND IN NEED OF REDEVELOPMENT FOR PURPOSES OF MAINE STATE HOUSING AUTHORITY LOW INCOME HOUSING TAX CREDIT SCORING

WHEREAS, the lots identified as 1A, 1B, 1C, and 3 were formerly occupied by the Maine Energy Recovery Company (MERC) waste-to-energy facility, which operated as a regional incinerator adjacent to Biddeford's downtown core and riverfront; and

WHEREAS, the City of Biddeford purchased the MERC facility in 2012 and undertook significant environmental remediation in 2013, cleaning the property to residential standards from the former smokestack to Lincoln Street and to public park standards from the smokestack to the Saco River; and

WHEREAS, while the City has taken steps to activate portions of the site—including through a public-private partnership that resulted in construction of a multi-level parking facility that became operational in July 2021—large portions of the site have remained vacant and underutilized since the demolition of the plant and have not achieved meaningful reinvestment or reuse; and

WHEREAS, despite adjacent redevelopment progress—including private mixed-use and residential developments—these remaining parcels have persisted as visible evidence of underutilization and disinvestment in the heart of the community; and

WHEREAS, the location of Lots 1A, 1B, 1C, and 3 represents a key opportunity for equitable reinvestment, especially in support of affordable housing and nonprofit-led development initiatives; and

WHEREAS, the Maine State Housing Authority's Qualified Allocation Plan for the Low Income Housing Tax Credit Program awards scoring preference to properties that are designated by municipalities as "in need of redevelopment to renew a blighted area or to remediate environmental risks to occupants"; and

WHEREAS, it is in the public interest for the City to support nonprofit development entities seeking to reinvest in this location utilizing such State programs and other redevelopment tools;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BIDDEFORD:

1. That Lots 1A, 1B, 1C, and 3 (Map 71-2)—located at the site of the former MERC facility—are hereby formally designated as blighted properties in need of redevelopment;
2. That this designation is intended to satisfy the requirements set forth in Maine State Housing Authority's Low-Income Housing Tax Credit Qualified Allocation Plan for competitive scoring purposes, particularly for nonprofit-sponsored affordable housing proposals;
3. That the City of Biddeford affirms its commitment to the long-term redevelopment of these lots in a manner that advances public goals, including affordability, and economic inclusion;
4. That this resolution shall be made available to the Maine State Housing Authority and provided to applicants seeking support for redevelopment of the designated site.

Adopted by the City Council of Biddeford, Maine on _____, 2025.

*In Witness Whereof, We the undersigned have herewith affixed
our signatures this _____ day of August 2025.*

Mayor, Martín Grohman

Attest: Robin Patterson, City Clerk



RESOLUTION

2025.{xxx}

RESOLUTION DESIGNATING LOTS 1A, 1B, 1C, AND 3 OF THE FORMER MAINE ENERGY RECOVERY COMPANY SITE, MAP 71-2, FOR REDEVELOPMENT TO REMEDIATE ENVIRONMENTAL RISKS TO THE OCCUPANTS FOR PURPOSES OF MAINE STATE HOUSING AUTHORITY LOW-INCOME HOUSING TAX CREDIT SCORING

WHEREAS, the lots identified as 1A, 1B, 1C, and 3 were formerly occupied by the Maine Energy Recovery Company (MERC) waste-to-energy facility, which operated as a regional incinerator adjacent to Biddeford's downtown core and riverfront; and

WHEREAS, the City of Biddeford purchased the MERC facility in 2012 and undertook significant environmental remediation in 2013, cleaning the property to residential standards from the former smokestack to Lincoln Street and to public park standards from the smokestack to the Saco River; and

WHEREAS, the property is governed by a Declaration of Environmental Covenants requiring compliance with a Soil and Groundwater Management Plan to ensure risks are sufficiently remediated to allow for the intended future use of the property; and

WHEREAS, Westbrook Development Corporation has applied for a Brownfields Remediation Grant from Southern Maine Planning and Development to assist with redevelopment; and

WHEREAS, despite adjacent redevelopment progress—including private mixed-use and residential developments—these remaining parcels have persisted as visible evidence of underutilization in the heart of the community; and

WHEREAS, the location of Lots 1A, 1B, 1C, and 3 represents a key opportunity for equitable reinvestment, especially in support of affordable housing and nonprofit-led development initiatives; and

WHEREAS, the Maine State Housing Authority's Qualified Allocation Plan for the Low Income Housing Tax Credit Program awards scoring preference to properties that are designated by municipalities as "in need of redevelopment to renew a blighted area or to remediate environmental risks to occupants"; and

WHEREAS, it is in the public interest of the City to support nonprofit development entities seeking to reinvest in this location utilizing such State programs and other redevelopment tools;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BIDDEFORD:

1. That Lots 1A, 1B, 1C, and 3 (Map 71-2)—located at the site of the former MERC facility—are hereby formally designated for redevelopment to remediate environmental risks to the occupants;
2. That this designation is intended to satisfy the requirements set forth in the Maine State Housing Authority's Low Income Housing Tax Credit Qualified Allocation Plan for competitive scoring purposes, particularly for nonprofit-sponsored affordable housing proposals;
3. That the City of Biddeford affirms its commitment to the long-term redevelopment of these lots in a manner that advances public goals, including affordability, and economic inclusion;
4. That this resolution shall be made available to the Maine State Housing Authority and provided to applicants seeking support for redevelopment of the designated site.

Adopted by the City Council of Biddeford, Maine on _____, 2025.

*In Witness Whereof, We the undersigned have herewith affixed
our signatures this _____ day of August 2025.*

Mayor, Martín Grohman

Attest: Robin Patterson, City Clerk



2025-2026

Low Income Housing Tax Credit

Qualified Allocation Plan



CHAPTER 16 LOW-INCOME HOUSING TAX CREDIT RULE

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APPENDICES:

- APPENDIX A: Definitions
- APPENDIX B: Pre-Application Submission Requirements
- APPENDIX C: Capital Needs Assessment Requirements
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- APPENDIX E: Requirements for Purchase Options and Rights of First Refusal

Chapter 16: LOW-INCOME HOUSING TAX CREDIT RULE

SECTION 1: INTRODUCTION

The federal Low-Income Housing Tax Credit (LIHTC) was created by the Tax Reform Act of 1986 to encourage private capital investment in the development of affordable rental housing. It is governed by [Section 42](#) of the Internal Revenue Code of 1986, as amended, and associated regulations. As the designated housing credit agency for the State of Maine, MaineHousing is required by [Section 42](#) of the Code and [30-A MRS §§4741\(1\) and \(14\)](#) to adopt a Qualified Allocation Plan (QAP) for allocating and administering LIHTC; this rule is the State's QAP.

This rule repeals and replaces in its entirety the prior Chapter 16, *Low Income Housing Tax Credit Rule*, except that the allocation provisions continue to apply to projects that were awarded LIHTC under a prior rule, or a program subject to a prior rule.

Capitalized terms used in this rule are defined in **Appendix A**, unless the context otherwise indicates, or if not defined therein, have the same meaning as set forth in [Section 42](#) of the Code.

SECTION 2: HOUSING NEEDS AND PRIORITIES

MaineHousing and the Department of Economic and Community Development annually complete a statewide needs assessment as part of the Consolidated Housing and Community Development Plan. *Maine Consolidated Plan (2020-2024)* establishes the following housing priorities:

- A. expand affordable housing opportunities;
- B. improve and preserve the quality of housing; and
- C. help Maine people attain housing stability.

SECTION 3: SET-ASIDES AND MAXIMUM CREDIT AMOUNT

- A. Nonprofit Set-Aside. MaineHousing will set aside at least ten percent (10%) of the annual State Ceiling for Projects in which a Qualified Nonprofit Organization owns an interest and materially participates in the development and operation throughout the Compliance Period in accordance with [Section 42\(h\)\(5\)\(B\)](#) of the Code. An Applicant will qualify if it is owned by either a Qualified Nonprofit Organization, or a business corporation which is 100% owned by one or more Qualified Nonprofit Organization(s), and (in accordance with [Section 42\(h\)\(5\)\(C\)](#) of the Code) it is the general partner or manager/managing member and controls the Project's development and day-to-day operation.

- B. **Preservation Set-Aside.** MaineHousing will set aside up to \$750,000 of the annual State Ceiling for the preservation and rehabilitation of one existing multifamily rental housing project if the scope of rehabilitation meets the minimum requirements set forth in Section 5.C.2. and one of the following:
1. at least 25% of its units, or those in a Related Development, are assisted under a Rural Development program; or
 2. at least 25% of its units will be converted to Section 8 under HUD's Rental Assistance Demonstration (RAD) Program, Section 18 Demolition/Disposition Program or other HUD conversion programs.
- Demolition and reconstruction on an existing housing site will be treated as new construction and is not eligible for this set-aside.
- C. **Maximum Credit Amount.** The maximum amount of Credit that will be allocated for each Project is the least of (i) \$30,000 per Credit Unit, (ii) \$1,200,000, and (iii) the amount MaineHousing determines is necessary to ensure the Project's financial feasibility and long-term viability.

SECTION 4: ALLOCATION PROCESS

- A. **Pre-Application Submission.** Each Project must undergo a mandatory Pre-Application review by MaineHousing to assess its feasibility, suitability for housing, and eligibility for Credit. Applicants must submit the information and documents set forth in **Appendix B** with the pre-application fee specified in Section 4.C. to MaineHousing by Wednesday, July 3, 2024 for the 2025 round and by Thursday, July 3, 2025 for the 2026 round. An Applicant will not be eligible for Credit if
1. it fails to provide a complete Pre-Application submission in accordance with this subsection, or
 2. there is any material change in the Project between the Pre-Application submission and the Application unless required by MaineHousing.
- B. **Application.** Applications are subject to the following limitations, conditions and requirements:
1. **Existing Housing.**
 - a) **Acquisition and Rehabilitation Projects.** Projects that involve the acquisition and rehabilitation of Affordable Housing must include the addition of at least 20 new units, or meet the requirements of the Preservation Set-Aside in Section 3.B.

- b) **Demolition of Existing Housing.** Demolition of existing housing that has not been condemned or declared blight by a municipality is not eligible unless approved by MaineHousing.
 - 2. **Deadline.** The deadlines for submitting Applications are Thursday, September 19, 2024 for the 2025 State Ceiling and Thursday, September 18, 2025 for the 2026 State Ceiling.
 - 3. **Format.** The Application must be completed and submitted electronically in the form and manner prescribed by MaineHousing. Submitted exhibits must include documentation such as grant award letters, signed documentation on letterhead or evidence of official municipal action to provide evidence of all funding sources and official approvals. MaineHousing may require the Applicant to submit additional information.
- C. **Fees.** Applicants must pay the following fees when due. All fees are non-refundable.

Type of Fee	Amount	Due Date
Pre-application Fee	\$2,000	By Pre-application deadline in Section 4.A.
Application Fee	\$2,500	Postmarked for delivery by Application deadline in Section 4.B.2
Allocation Fee	7.5% of Credit	Earlier of Carryover Allocation (Section 8.B.) or Final Allocation (Section 8.A.)
Monitoring Fee*	\$1,000 per Credit Unit	Final Allocation (Section 8.A.)

*MaineHousing may charge an additional monitoring fee to cover any increased costs due to income averaging or other extraordinary monitoring requirements during the Compliance Period.

- D. **Ineligible Applicants.** An Application will be deemed ineligible if one or more of the following has occurred:
- 1. The Applicant, any Principal thereof, or Affiliates of either
 - a) has an uncorrected IRS Form 8823 in connection with any LIHTC Project to the extent it is correctable unless previously waived by MaineHousing;
 - b) has been declared in default or has been 60 calendar days or more delinquent on any loan with MaineHousing, unless the default or delinquency has been cured or there is an approved payment or workout plan in good standing prior to the Application deadline;
 - c) has ever been the owner of any project in which MaineHousing has foreclosed a mortgage interest or received a deed-in-lieu of foreclosure of a mortgage interest unless previously waived by MaineHousing;

- d) is presently debarred, suspended, proposed for debarment, or excluded from participation in any federal or state programs;
 - e) has sought to achieve early termination of an Extended Use Agreement through the written request to a housing credit agency to present a Qualified Contract;
 - f) has in the last 10 years either commenced or had commenced against it any proceeding in or for bankruptcy, receivership, reorganization or any other arrangement for relief from creditors commenced against it that affected a MaineHousing-funded project that was not dismissed within 90 calendar days; or
2. The tax credit syndicator, investor, or Affiliates of either
- a) transferred its interest in any LIHTC Project after March 25, 2014 in violation of the Ownership Transfer Rule;
 - b) failed to make any required capital contributions with respect to any LIHTC Project, and has not corrected such actions prior to the Application deadline;
 - c) has sought to achieve early termination of an Extended Use Agreement through the written request to a housing credit agency to present a Qualified Contract; or
 - d) has sought to undermine the exercise of a right of first refusal or purchase option with respect to any LIHTC Project by: (i) refusing to honor a right of first refusal or purchase option; or (ii) involvement in a lawsuit challenging the exercise of a right of first refusal or purchase option.

MaineHousing may reject the Application if it determines the deficiencies are not addressed. MaineHousing may also require financial statements from the Applicant, Principal thereof, or Affiliates of either.

- E. Notice to Local Jurisdiction. Upon receipt of an Application, MaineHousing will notify the Chief Executive Officer of the municipality with jurisdiction over the location of the proposed Project. The notice will provide for a 15-day comment period. MaineHousing will consider any comments received.
- F. Selection Process. Applications for the State Ceiling with the highest scores will be awarded Credit until the applicable State Ceiling is fully awarded.
 - 1. The preservation set-aside is limited to one Project. If the set-aside is not sufficient to complete the Project proposed in the highest scoring eligible Application, MaineHousing may allocate additional Credit, allocate the Credit under the set-aside to the next highest-scoring eligible Application that does not need more than the set aside, or not allocate any Credit under the preservation set-aside. All Applications that participate in the preservation set-aside and do not win will be placed on a waiting list.

2. The highest scoring Qualified Nonprofit Organization will be the winner of the nonprofit set-aside regardless of its ranking among other Applicants. If the set-aside is not fully awarded to the highest scoring eligible Applicant, MaineHousing may allocate additional Credit to the next highest scoring eligible Applicant for the set-aside, not fully allocate Credit under the set-aside, or require an Applicant that has not indicated that it is participating in the set-aside to participate in the set-aside. MaineHousing may, if necessary, require the Applicant to change its ownership structure. All Applications that participate in the nonprofit set-aside and do not win will be scored with the other Applications.
 3. Except as set forth above, MaineHousing will make awards in score order to select threshold-eligible Applications. If the last Application selected for an award of Credit needs more Credit than remains under the applicable State Ceiling, MaineHousing may elect to either (a) not award the remaining Credit to any Application, or (b) award additional Credit under the next annual State Ceiling to the Application. All threshold-eligible Applications that are not selected will be placed on a waiting list. Any Credit that is returned or is otherwise unused will be made available to waiting list Applications using this process.
- G. Notice to Proceed. MaineHousing will meet with each Applicant selected for a Credit award. If the Applicant accepts the Credit award conditions, MaineHousing will issue a Notice to Proceed. Applicants must execute and return the Notice within the time period specified.
- H. Credit Allocation. Upon receipt of the fully executed Notice to Proceed, MaineHousing will evaluate the Application pursuant to Section 7 to determine the amount of Credit, if any, to be allocated.
- I. Termination of Application or Notice to Proceed. MaineHousing will deem an Application withdrawn and any Notice to Proceed cancelled if one or more of the following occur without MaineHousing's written approval after the Application is submitted:
1. The Application or the Notice to Proceed is assigned or the Applicant or any Principal thereof changes;
 2. The location of the Project changes from the location identified in the Application;
 3. There is any change which would result in a net reduction in the Application's score;
 4. There is a change in the Project's design or financing from what was in the Application which results in a substantial increase in the amount of Credit or other MaineHousing funding required;
 5. The Project's TDC Index exceeds the TDC Index Cap;
 6. Failure to meet the threshold requirements in Section 5;

7. Any event in Section 4.D. occurs and is not cured within any applicable cure period; or
8. There is any other material or substantive amendment or change to the Application.

SECTION 5: THRESHOLD REQUIREMENTS

Applications must meet the following threshold requirements to be eligible for Credit:

A. Affordability.

1. The Project will comply with [Section 42](#) of the Code and this QAP for a minimum period of 45 years to maintain the Project as residential rental housing, keep at least 60% of the total Credit Units in a Project occupied by persons with 50% area median income and keep the Credit Units in the Project rent-restricted in accordance with [Section 42](#) of the Code.
2. The Applicant waives the right to request MaineHousing to present a Qualified Contract under [Section 42\(h\)\(6\)](#) of the Code.
3. The Applicant must submit a letter of intent from an investor (and, in the event of any change in investor, the replacement investor) in which the investor agrees to the granting of an option to purchase: (i) the Project; and (ii) the partnership interest of the limited partner(s) or membership interest of the non-managing member(s) of the Project owner (“Purchase Options”), to one or more of the general partner, managing member, developer or sponsor on terms that at a minimum satisfy the threshold requirements set forth in **Appendix E**. The investor must also agree in the letter of intent that the Purchase Options complying at a minimum with the threshold requirements in **Appendix E** will be included in the Project owner’s limited partnership agreement or limited liability company operating agreement.
4. If the Applicant, general partner, managing member, developer, or sponsor of the Project is a Qualified Nonprofit Organization, the Applicant must submit a letter of intent from an investor (and, in the event of any change in investor, the replacement investor) in which the investor agrees to the granting of a right of first refusal (“ROFR”) to the Qualified Nonprofit Organization on terms that at a minimum satisfy the threshold requirements set forth in **Appendix E**. The investor must also agree in the letter of intent that the ROFR complying at a minimum with the threshold requirements in **Appendix E** will be included in the Project owner’s limited partnership agreement or limited liability company operating agreement.

B. Total Development Cost (TDC). Cost reasonableness will be evaluated using an index, which is the weighted average of the TDC per unit and the TDC per bedroom. For mixed-use projects, the TDC for only the residential portion of the project, including common areas, will be used for this calculation. The weighted average will be calculated as follows:

$$([2 \times \text{TDC/unit}] + [\text{TDC/bedroom}]) \text{ divided by } 3.$$

The product of this calculation will be referred to throughout this document as the “TDC Index”. An Application will be rejected if the TDC Index exceeds the TDC Index Cap below for a project of its type at any time prior to the later of the construction loan closing or carryover allocation.

Type of Project	TDC Index Cap
Adaptive Reuse	\$395,000per unit
New construction	\$370,000per unit
Acquisition and rehabilitation of existing housing	\$340,000 per unit

Demolition and reconstruction of all housing on the same site or another site will be treated as new construction. If a Project involves more than one project type, the TDC Index Cap for the Project is the average of the TDC Index Caps allocable to each type, weighted by the number of units of each type.

- C. Acquisition and Rehabilitation of Existing Housing. Projects that involve the acquisition and rehabilitation of existing multifamily housing are subject to the following:
1. Capital Needs Assessment. The Application must include a capital needs assessment satisfying the requirements set forth in **Appendix C**.
 2. Minimum Rehabilitation Requirements. The Rehabilitation Costs per unit of existing housing must be at least \$75,000.
 3. Relocation/Displacement. The Project must comply with MaineHousing’s *Temporary Relocation and Permanent Displacement Policies* and, if the Project is federally-assisted, all applicable federal requirements, including the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. The Applicant must take reasonable steps to minimize the displacement of existing tenants of the Project. The Application must identify any tenants who will be permanently displaced and the reason for the displacement. The Project’s TDC must include all costs associated with permanent and temporary displacement or relocation. MaineHousing will not allocate Credit until it has approved a project’s relocation plan.
- D. Development and Management Experience and Capacity. Applicant teams must have sufficient knowledge, experience and capacity to adequately design, develop, complete, maintain, manage, and operate LIHTC Projects and to provide related services, such as accounting, tax and legal advice, and resident service coordination. If the Project will involve multiple subsidy sources in addition to LIHTC which results in overlapping targeting and rental restrictions, the Applicant team must have sufficient knowledge, experience and capacity to handle the increased complexity. If MaineHousing determines the Applicant’s team lacks sufficient qualifications, the team may be required to

1. hire a qualified consultant,
2. hire additional qualified staff, or
3. replace a team member.

E. **Site Control.** The Applicant must have site control of the Project throughout the Application process in the form of an option, a purchase and sale contract, ownership, or long-term lease. The Applicant, its agents, and MaineHousing must have access to the Project site, and if the Project is an existing occupied property, access to records and other information about the existing tenants, including current rent and income information.

F. **Growth Management Limitations.** A Project that involves the new construction or acquisition of newly-constructed residential rental property or the conversion of existing buildings to residential rental property must comply with the State's Growth Management Law, [30-A M.R.S. §4349-A](#), as amended. Projects must meet one of the following two sets of criteria to be eligible for a Credit allocation:

1. If the municipality in which the Project is located has adopted a comprehensive plan or growth management plan that is consistent with applicable State law, then the Project must be in a designated growth area as identified in such plan; or
2. Otherwise the Project must be located in an area
 - a) served by a public sewer system with existing capacity for the Project,
 - b) identified as a census-designated place in the latest Federal Decennial Census, or
 - c) in an urban municipality and defined under [23 M.R.S. §754](#) as compact.

The law exempts projects that exclusively serve certain populations, such as persons with disabilities, who are homeless, or are wards of the State.

G. **Project Feasibility.** The Applicant must have the financial ability to develop and complete the Project and to operate it throughout the Compliance Period.

1. **Development Budget.** The Applicant must identify
 - a) all sources of funding for development and completion, whether direct or indirect, including the amount, timing, terms, conditions, and status (e.g. "applied for" or "committed") as of the date of the Application and uses of the funding based on the projected costs of and schedule for developing and completing the Project; and
 - b) all sources and uses of funding for the Project, whether direct or indirect and whether they are included in the development budget for the Project.

2. Operating Budget. The Applicant must identify all
 - a) sources of income, including rent from the residential units, any income from commercial or non-residential space, and the amount, terms and conditions of rental or operating assistance; and
 - b) costs of operating the Project as projected over the Compliance Period. The Applicant also must identify all forms of property tax relief (such as a PILOT, tax abatement or exemption, or Tax Increment Financing) and other assistance that reduces operating costs.
3. Related Development. Any Related Development must be completed prior to or concurrently with the completion of the Project, and there must be sufficient funding to operate the Related Development.

If MaineHousing determines that the Application includes information that is inconsistent with applicable requirements or is unreasonable based on comparable LIHTC projects, industry standards, or market conditions, MaineHousing may where it deems appropriate re-characterize such information to assess Project Feasibility notwithstanding the identified issue with the information provided.

- H. Project Design and Construction Requirements. The design and construction or rehabilitation of the Project must comply with MaineHousing's Construction Standards and all applicable local, state and federal codes, regulations, statutes and ordinances. The latest version of Construction Services' *Quality Standards and Procedures Manual* can be found here: <https://www.mainehousing.org/programs-services/housing-development/construction-services>

Of particular note are updates to MaineHousing's energy efficiency standards.

When applicable, Projects must also comply with:

1. The Build America, Buy America Act (BABA), enacted as part of the Infrastructure Investment and Jobs Act, [Infrastructure Investment and Jobs Act, Pub. L. 117-58](#) and [2 CFR 184](#). BABA established a domestic content procurement preference for all Federal financial assistance obligated for infrastructure projects after May 14, 2022. The domestic content procurement preference requires that all iron, steel, manufactured products, and construction materials used in covered infrastructure projects are produced in the United States. This requirement is known as the "Buy America Preference" (BAP).

BABA FAQs

https://www.hudexchange.info/baba/faqs/?utm_source=HUD+Exchange+Mailing+List&utm_campaign=87c88d5f1e-BABA-FAQs-Now-Available-3.4.24&utm_medium=email&utm_term=0_-87c88d5f1e-%5BLIST_EMAIL_ID%5D

2. Section 3 of the Housing and Development Act of 1968 (12 U.S.C § 1701u) and its associated regulations (24 C.F.R. Part 75). The Section 3 program requires that recipients of certain HUD financial assistance, to the greatest extent possible, provide training, employment, contracting and other economic opportunities to low- and very low-income persons, especially recipients of government assistance for housing, and to businesses that provide economic opportunities to low- and very low-income persons.

Please refer to the *Section 3 Contractor, Subcontractor and Subrecipient Package* on our website: https://mainehousing.org/docs/default-source/development/construction-services/other-documents/section-3-contractor-subcontractor-subrecipient-package.pdf?sfvrsn=26f28615_5

I. Project Amenities. The Project must have the following amenities and services:

1. Community Room. The Project must include an on-site community room with sufficient capacity to serve tenants' needs. For a scattered-site Project, only one community room is required and should be centrally located to the greatest extent possible to best serve all tenants.
2. Laundry Facilities. The Project must include either a washer/dryer hook-up in each unit or a fully accessible, centrally located laundry facility with sufficient capacity to serve all tenants.
3. Broadband Access. The Project must include broadband infrastructure with capacity sufficient to support the provision of Telehealth services.

Broadband infrastructure includes cables, fiber optics, CAT5e (or greater) interior wiring, or other permanent (integral to the structure) infrastructure, including wireless infrastructure, as long as the installation results in broadband infrastructure in each dwelling unit sufficient for the build-to standard of The Maine Connectivity Authority.

Healthcare service providers and the tenants receiving care may not be charged for the use of the internet or wireless and telephone services provided for telemedicine services.

4. Shared Facilities. An amenity will meet the requirements if the amenity:
 - a) is fully accessible and located on an accessible path to the Project,
 - b) is within an existing multifamily housing project adjacent to the subject site,
 - c) has sufficient capacity to serve both the Project's tenants and the existing project,
 - d) will be available to the Project's tenants during the Compliance Period on the same terms as the residents of the existing multifamily project, and

- e) will not charge the tenants to use the shared amenity other than a reasonable fee that does not exceed the amount charged to any others for the same use.
- 5. **Recreational Activities.** An area(s) of recreational activity must be located on the Project site or within a ½ mile. The area(s) and activities must be free of charge to the tenants and not require membership. Projects with single-family detached style units satisfy this requirement if each unit has a private lawn with sufficient room for playground equipment, gardening or other activities acceptable to MaineHousing.
- 6. **Exceptions.** The requirements of this subsection do not apply to existing multifamily housing projects if the Applicant cannot comply with the requirements because of the nature of the site, structural limitations, zoning restrictions or other land use limitations.
- J. **Resident Service Coordination.** The Applicant must make a resident service coordinator available twice weekly to the tenants on-site a minimum of one (1) hour per week for every five (5) Credit Units. The coordinator shall meet with tenants in a private and confidential manner to evaluate individual needs and make appropriate referrals. The services provided must be free of charge to the tenants. The Applicant must maintain adequate funding throughout the Compliance Period.
- K. **Smoke-free Housing.** The Applicant must
 - 1. implement a written occupancy policy prohibiting smoking in the units and common areas,
 - 2. include a non-smoking clause in the lease for every household, and
 - 3. make educational materials on tobacco treatment programs (including the phone number for the statewide Maine Tobacco HelpLine) available to all tenants through the resident service coordinator.
- L. **Waiting List Preference.** The Applicant must give an occupancy preference to eligible persons whose names are on a public housing or Section 8 waiting list, except for Projects: (i) financed by Rural Development, or (ii) with Section 8 Project-Based Rental Assistance (preference will apply to any Credit Unit without project-based rental assistance).

SECTION 6: SCORING CRITERIA

The Applicant must complete all information and submit all documentation required to be eligible for points.

Project Characteristics

- A. **Rehabilitation or Reuse of Existing Housing, Structure or Site.** **5 Points**

The Project site exhibits one or more of the following characteristics (1 point for each that applies):

1. Replacement or rehabilitation of existing rental housing containing 5 or more units without permanently displacing any existing tenants or increasing their housing costs (including rent and all other charges paid by the tenant) by more than 10%;
2. Rehabilitation, remediation, or reuse of an existing building or structure that has a current use other than multifamily rental housing;
3. One or more buildings or structures used for purposes other than single family residential housing or agriculture purposes, have been or will be demolished or removed for purposes of redeveloping the site;
4. Lots left vacant or nearly vacant in the development of a downtown or other city or town center, such as vacant lots or parking lots abutting commercial buildings and/or multifamily rental housing. Vacant lots in single-family residential areas are not eligible for points under this subsection. Undeveloped portions of existing sites are not eligible for points unless the existing project on the site previously satisfied one of the above criteria.

or

5. Specifically designated by a municipality for redevelopment to renew a blighted area or remediate environmental risks to the occupants.

B. Historic Rehabilitation. 5 points

The Project includes the rehabilitation of a certified historic structure using capital contributions generated from federal and state historic rehabilitation tax credits.

C. Populations with Special Needs. 6 points

The Project provides a set-aside for at least 20%, but not less than 4 of the units, for Persons Experiencing Homelessness or persons who have disabilities, are victims of domestic violence, or have other special housing needs, to create permanent supportive housing for persons who require that level of intervention within the special needs populations.

The Applicant must set aside units for the specific population(s) that qualify for the set-aside, maintain a separate waiting list for these units and make appropriate, voluntary services available through a qualified third-party provider other than the resident service coordinator required under Section 5.J. Additional funding from the Housing Trust Fund and/or Project-based Vouchers will be made available as necessary.

D. Family Housing. **Up to 6 points**

The Project is for families and a minimum percentage of the Credit Units are two and/or three or more bedroom units as follows:

Project for Families with Minimum Percentage of Credit Units by Bedroom Size	Points
At least 50% of the Credit Units are two or more bedroom units and at least 20% of the Credit Units are three or more bedroom units	6 points
At least 70% of the Credit Units are two or more bedroom units	3 points

E. Accessibility. **Up to 12 points**

One (1) point for each unit that

1. exceeds the minimum number of such units required by applicable federal and state accessibility laws, and
2. meets the requirements for a Type A unit under ANSI Standard A117.1-2009, up to the maximum points by project type below.

Type of Project	Maximum Points
Projects providing Housing for Older Adults	12 points
Projects that are not specifically for Older Adults or Families, having only 1 BR and/or efficiency units	9 points
Family Projects	6 points

Financial Characteristics

F. National Housing Trust Fund. **2 points**

The Applicant agrees to accept and use any funding from MaineHousing's National Housing Trust Fund program for the Project. Any funding award will require a certain number of units in the Project to be affordable to and occupied by Extremely Low Income households. Awarding points is not a commitment of funding from the National Housing Trust Fund.

G. Acquisition Cost. **Up to 5 points**

Points are based on the percentage by which the acquisition costs are less than the average acquisition costs for a project of its type as follows:

Type of Project	Average Acquisition Cost
Acquisition and rehabilitation of existing housing	\$60,500 per unit

New construction	\$7,500 per unit
Adaptive Reuse	\$10,500 per unit

For purposes of this subsection, acquisition costs include

1. the purchase price for all of the land and any existing building(s) even if donated or leased to the Applicant at below market value,
2. the cost of razing or demolishing any building(s) and structure(s), or any part thereof, on the Project site, and
3. the Capitalized Lease Value of all leases of land or land and building(s) that are part of the Project, with the exception of parking spaces.

The value of any project reserves transferred to the Project as part of the acquisition and included in the purchase price will not be included for purposes of this subsection.

Percentage of Project's Acquisition Cost as compared to Average Acquisition Cost	Points
0% to 1% (nominal)	5 points
>1% to 20%	4 points
>20% to 40%	3 points
>40% to 60%	2 point
>60% to 80%	1 point

H. **Property Tax Relief.** **Up to 3 points**

Points are based on the percentage of the Project's annual incremental property tax revenue returned to the Applicant or foregone by the taxing authority as follows:

Percentage and Duration of Tax Benefit or Relief	Points
50% to <75% for at least 15 years	1 point
50% to <75% for at least 30 years	2 points
≥ 75% for at least 15 years	2 points
≥ 75% for at least 30 years	3 points

Only Tax Increment Financing, payment in lieu of taxes, abatement, or other property tax relief arrangement approved by the taxing authority and all other applicable governing entities is eligible. A Project that is either a) located in a jurisdiction that does not assess property taxes or b) exempt from property taxes will be awarded one (1) point.

Funding made possible by an Affordable Housing TIF will not be eligible unless the Applicant submits a complete application for the TIF at least 30 calendar days before the

applicable Application deadline (Tuesday, August 20, 2024 for the 2025 State Ceiling and Tuesday, August 19, 2025 for the 2026 State Ceiling.

Project Location

I. Housing Need.

Up to 10 points

Points are based on the need for the type of housing in an area as follows:

1. Projects providing Housing for Older Adults located in the following Service Center Communities:

Projects providing Housing for Older Adults			
Service Center Community			Points
Auburn Augusta Bangor Bath Biddeford Brunswick Falmouth Freeport	Kennebunk Kittery Lewiston Old Orchard Beach Portland Presque Isle Saco Sanford	Scarborough Skowhegan South Portland Topsham Waterville Westbrook Windham Yarmouth	10 points
Bar Harbor Belfast Blue Hill Brewer Bridgton Camden Caribou Damariscotta	Dexter Dover-Foxcroft Ellsworth Fort Kent Gardiner Hallowell Madawaska Mexico	Norway Oxford Rockland Rockport Rumford Southwest Harbor Van Buren Wiscasset	8 points
Bethel Bingham Guilford Boothbay Harbor Calais Cornish Danforth Eastport	Farmington Greenville Houlton Jackman Limestone Lincoln Mars Hill Millbridge	Millinocket Newport Paris Pittsfield Rangeley Stonington Thomaston Winter Harbor	6 points

2. Other Housing Projects in the following Service Center Communities:

Other Housing Projects (not specifically for Older Adults)			
Service Center Community			Points
Auburn Augusta Bangor Bath Biddeford Brewer Brunswick Caribou	Farmington Lewiston Old Orchard Beach Orono Portland Rumford Saco Sanford	Scarborough Skowhegan South Portland Waterville Westbrook Windham	10 points
Bar Harbor Blue Hill Dexter Ellsworth Falmouth Fort Kent Millinocket Gardiner	Hallowell Houlton Kittery Limestone Madawaska Mexico Yarmouth Newport	Norway Paris Presque Isle Rockland Rockport Topsham	8 points
Ashland Bethel Lincoln Bridgton Calais Columbia Falls Cornish Damariscotta	Danforth Dover-Foxcroft Greenville Machias Oxford Patten Rangeley Southwest Harbor	Stonington Thomaston Van Buren Winter Harbor Wiscasset	4 points

3. Projects located on Native American tribal lands will be awarded **8 points**.

For each QAP round, municipalities receive their Housing Need score from the immediately preceding QAP if that score was higher.

J. Community Revitalization. **Up to 5 points**

Two (2) points if the Project is located within the boundaries of and contributes to the revitalization goals and efforts identified in a Community Revitalization Plan.

Two (2) points if the Project is located in a QCT and at least 20% of the units are market rate.

One (1) extra point if the Project also involves the preservation of existing Affordable Housing.

K. Smart Growth.

Up to 15 points

Smart Growth Feature	Points
Access to Public Transportation. The Project is located within a Safe Walking Distance (½ mile or less) of a designated pick-up location for existing Fixed-route Public Transportation.	5 points
Demand Response Transportation. Demand Response Transportation is available to all tenants with no eligibility criteria that would limit or deny service.	5 points
Proximity to Activities Important to Daily Living. Activities Important to Daily Living are located within not more than a ½ mile of the Project. (1 point per Activity)	Up to 5 points

Sponsor Characteristics

L. Readiness.

Up to 10 points

MaineHousing must approve both the design to be submitted to the municipality and the State and the final design, including all plans, details and specifications. The Project and any Related Developments must have all

1. municipal land use approvals (except building and other permits customarily issued during construction), and 5 points
2. State land use approvals (such as site plan, subdivision, storm water, or wetlands approvals) required to proceed with and complete construction. 5 points

As of the Application date, the timeframe to appeal all such approvals must have expired with no appellate action being taken, or all appeals have been resolved.

M. Developer Capacity.

Up to 5 points

Points are based on the development experience of the Applicant, any Principal thereof, or Affiliates of either as follows:

Successfully completed at least one multifamily rental housing project with MaineHousing funding or completed at least one LIHTC Project in another state(s).	5 points
Experience successfully developing and operating multifamily rental housing or experience managing Affordable Housing, <i>and</i> the Applicant has a contract with a qualified LIHTC consultant to develop the Project.	4 points
Experience successfully developing and operating multifamily rental housing.	3 points

N. Owner Performance.

Up to a 5 Point loss

Points reductions are based on the recent performance of the Applicant. MaineHousing may reject the Application if it determines outstanding deficiencies are not addressed, or require financial statements from the Applicant, Principals thereof, or Affiliates.

Has been 60 calendar days or more delinquent in the payment of any MaineHousing loan since September 22, 2014 (except delinquencies resulting from the delay or loss of Section 8 housing assistance payments), was declared in default by MaineHousing, or needed a financial workout for any project within the last 5 years.	-2 points
Had LIHTC Projects still in their Compliance Period had a year-end operating deficit, in the last full Fiscal Year, unless the operating deficit was fully funded by the Application deadline.	-2 point
Was (a) issued an IRS Form 8823 from owner non-performance; or (b) had an IRS audit finding resulting in a recapture event, since September 22, 2016. MaineHousing may consider, in its sole discretion, whether (a) or (b) resulted directly from: the Applicant's non-performance, the performance of an unaffiliated third-party, or something outside the control of any affiliated party provided it was corrected appropriately within a reasonable timeframe.	-1 point

O. Management Experience.

Up to 2 points

The company that will manage the Project has at least

one (1) staff person with a minimum of three (3) years of experience successfully managing: (a) at least one (1) LIHTC Project; or (b) at least one (1) low income housing property developed under a Federal program that is substantially similar to LIHTC, to be determined at MaineHousing's sole discretion.	1 point
one (1) staff person with LIHTC training for every 150 units in LIHTC Project(s) the company plans to manage.	1 point

P. Management Performance.

Up to a 3 point loss

Management Companies which have shown instances of poor performance in their management of LIHTC Projects still in their Compliance Period may lose points as follows.

The average of the most recent physical plant inspection scores as of June 30 before the Application deadline is below Above Average.	-1 point
The average of Project Reports submission scores for the last reporting period as of June 30 before the Application deadline is below Above Average.	-1 point

The average of the most recent Management and Occupancy Review scores as of June 30 before the Application deadline is below Above Average.	-1 point
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Q. Tie Breaker.

If more than one Application has the same score, the Application for the least amount of Credit and 0% deferred debt from MaineHousing per unit will have priority. If the Applications request the same amount of these resources, the Application with the most acceptable plan to convert the Project to affordable homeownership for the residents after the Extended Use Period will have priority. The plan must describe the process for transferring ownership to the residents, the purchase price or process for determining it, any financial assistance available for residents (including any reserves), how the affordability will be maintained, and must provide for homebuyer counseling and professional representation of the residents at the time of the conversion.

R. Review Process.

MaineHousing will notify each Applicant of its initial score in writing. If MaineHousing assigns a score in a scoring category which is lower than the score the Applicant assigned itself in the scoring category, the Applicant will have five business days from such written notice to demonstrate to MaineHousing that the Application as submitted should receive the higher score. MaineHousing will then make a final determination of scores and the ranking of Applications.

SECTION 7: PROJECT EVALUATION

A. Amount of Credit. The amount of Credit allocated will be determined as follows:

1. The calculation of the amount of Credit will be based on 130% of Eligible Basis. MaineHousing has designated the entire State as a DDA under [Section 42\(d\)\(5\)\(B\)\(v\)](#) of the Code because of the high cost of developing housing, the low median income, and the high annual operating costs for housing relative to other states;
2. To determine the amount of Credit, MaineHousing will use the lesser of (a) the market rent, based on the Application market study as approved by MaineHousing, and (b) the maximum Credit rent. For three or more bedroom units MaineHousing will use the maximum Credit rent for two-bedroom units plus \$50.00;
3. The amount of Credit allocated for a Project will not exceed the least of
 - a) the amount the Project is eligible to receive under [Section 42](#) of the Code,
 - b) the amount MaineHousing determines is necessary for financial feasibility and viability throughout the Credit Period, and
 - c) the Maximum Credit Amount;

4. The Applicant must submit financial and all other required information. MaineHousing will evaluate the need for Credit based on
 - a) all sources of financing, including the terms and conditions,
 - b) equity expected to be generated by reason of tax benefits, and
 - c) the uses of funds, including the reasonableness of development costs and operating expenditures; and
 5. In order to determine the amount of Credit, MaineHousing must identify a gap between development sources and uses absent a Credit allocation. MaineHousing may limit recognition of Intermediary Costs, re-characterize Project sources and uses and make reasonable assumptions with respect to projected revenues and expenses. MaineHousing will also take into consideration any federal limitations when combining the Credit with other federal assistance (i.e. “subsidy layering” guidelines).
- B. Developer Fee. Developer Fee will be determined as follows:
1. Maximum Developer Fee. The total Developer Fee may not exceed the sum of 15% of the Housing Development Costs, plus 10% of the costs of acquisition of land, existing buildings and equipment, determined without regard to the Developer Fee.
 2. Net Developer Fee. The amount of Developer Fee not deferred may not exceed \$750,000 plus any unused construction contingency returned to the Applicant after completion.
 3. Additional Developer Fee. An Applicant is eligible for Developer Fee in excess of the Net Developer Fee calculated above only if it is deferred and used to increase the tax credit basis.
- C. General Contractor Intermediary Costs. The general contractor’s Intermediary Costs must be:
1. separated from other construction and rehabilitation costs,
 2. with general conditions and overhead and profit parsed out, and
 3. no more than 14% of the Total Construction Cost, within the following ranges:
 - a) General conditions up to 6% of Total Construction Cost, and
 - b) Overhead and profit up to 8% of Total Construction Cost
- D. Time of Credit Determination. MaineHousing will determine the amount of Credit at the time of
1. Application, which will be evidenced by the Notice to Proceed;

2. the allocation of Credit, including any carryover allocation;
3. the date each Qualified Building is Placed in Service; and
4. if a Qualified Building is allocated Credit pursuant to Section 9, the date of issuance of the tax-exempt bonds.

Prior to each determination, the Applicant must certify the full amounts of all funding sources and provide any other information required by MaineHousing.

- E. **Market Study.** The applicant must submit a comprehensive market study prepared by a qualified professional in accordance with the *National Council of Housing Market Analysis Model Standards for Market Studies for Rental Housing*. MaineHousing may require the Applicant to either correct any inadequacies it identifies or submit a new market study. MaineHousing also may elect to commission its own market study.
- F. **Construction Cost Increases.** MaineHousing may allocate additional Credit to a Project if its construction costs increase after the Application date and the increase is the result of market conditions or other circumstances beyond the Applicant's control. Any additional Credit will not exceed an amount necessary to generate equity equal to 5% of the Total Construction Cost based on construction bids.

SECTION 8: ALLOCATION OF CREDIT

- A. **Allocation.** MaineHousing will issue one or more IRS Form(s) 8609 after receipt of the following:
 1. A complete request for allocation of Credit in a form prescribed by MaineHousing.
 2. An audit report on the schedule of project costs prepared by an independent, third party certified public accountant including all associated costs (such as commissions, due diligence, legal, accounting, reserves, and other similar items).
 3. Certification of the Project's sources, including all federal, state and local subsidies in any stage of commitment. This certification must include income, operating and development cost projections and methods for satisfying any deficits.
 4. The allocation fee and monitoring fee less the amount of any allocation fee paid in connection with the issuance of a carryover allocation.
- B. **Carryover Allocation.**
 1. The Applicant must submit the following to receive a carryover allocation:

- a) A complete request for carryover allocation in the form prescribed by MaineHousing no later than the first day of December of the year in which the carryover allocation is made.
 - b) Certification of the Project's sources, including all federal, state and local funding. This certification must include income, operating and development cost projections and methods for satisfying any deficits.
 - c) Development progress report, including completion likelihood.
- 2. The applicant must execute a carryover allocation and return it to MaineHousing, together with the allocation fee, no later than December 31 of the year in which the carryover allocation is made.
- 3. A carryover allocation will be subject to the following conditions:
 - a) satisfactory evidence that more than 10% of the Project's reasonably expected basis is incurred within 12 months of the carryover allocation, including an audit report prepared by an independent, certified public accountant; and
 - b) any performance conditions MaineHousing may require.

Failure to comply with these conditions may result in termination of the carryover allocation.

- C. **Tax Credit Compliance Experience.** Prior to an allocation the Applicant must demonstrate that the entity managing the Project has sufficient Credit compliance experience and training. The entity must complete a Credit compliance training or receive a certification from a MaineHousing-approved trainer.
- D. **Extended Use Agreement.** Prior to an allocation of Credit, the Owner must enter into an Extended Use Agreement with MaineHousing obligating the Owner to comply with [Section 42](#) of the Code, the threshold requirements in Section 5, and commitments for which the Application was awarded points. The Extended Use Agreement must be recorded in the appropriate registry of deeds prior to all mortgage liens and encumbrances on the Project and before MaineHousing issues any IRS Form 8609 for the Project.
- E. **Converting a Carryover Allocation.** MaineHousing may convert a carryover allocation to the year in which it is terminated or the following year if there are extenuating circumstances beyond the Applicant's control. The carryover allocation must be rescinded by the mutual consent of MaineHousing and the Applicant. There can be no change in the design or financing that would render the Application withdrawn under Section 4.I. The Project will be subject to the QAP in effect at the time of the original allocation.

- F. Forward Allocation of Credit. MaineHousing may issue a binding commitment to allocate State Ceiling available in the subsequent year upon determining that the amount of Credit in the current year's State Ceiling is insufficient.

SECTION 9: TAX-EXEMPT BOND FINANCED PROJECTS

Projects financed with tax-exempt bond proceeds must satisfy all QAP requirements except

- A. the Maximum Credit Amount limitation in Section 3.C.,
- B. the application limits in Section 4.B.1.,
- C. the application deadlines in Section 4.B.2.,
- D. the selection process described in Sections 4.F.,
- E. the affordability threshold requirement set forth in Section 5.A.,
- F. the requirement of a minimum \$75,000 per unit of Rehabilitation Costs for Projects involving the acquisition and rehabilitation of existing housing in Section 5.C.2.,
- G. the scoring criteria in Section 6, and
- H. the Developer Fee limits in Section 7.B.

SECTION 10: MONITORING

- A. Compliance with Applicable Laws. Owners must comply with all local, state and federal laws and regulations, including without limitation:
 - 1. [Section 42](#) of the Code and associated regulations and guidance;
 - 2. UPCS and all other local, state and federal health, safety and building codes applicable to the Project;
 - 3. the [Federal Fair Housing Act, Title VIII of the Civil Rights Act of 1968](#), as amended by the Fair Housing Amendments Act of 1988 ([42 U.S.C. §3601 et seq.](#)), Title II of the Americans with Disabilities Act of 1990 ([42 U.S.C. §12101 et seq.](#)), and the Maine Human Rights Act ([5 M.R.S., Chapter 337, Subchapter IV](#)) and all other applicable federal, state and local fair housing and accessibility requirements, and the regulations, guidance and standards associated with all of the foregoing; and
 - 4. Title VI of the Violence Against Women Reauthorization Act of 2013, [42 USC Chapter 136, Subchapter III, Part M](#), and all associated regulations and guidance, as may be amended (VAWA).

B. Recordkeeping and Record Retention. Each Owner must keep on file and available to MaineHousing upon request the following records for each Qualified Building in its LIHTC Project(s) for each year in the Extended Use Period:

1. The total number of residential rental units including the number of bedrooms and the square footage of each unit;
2. The number of low-income units;
3. The rent charged for each unit including any utility allowances;
4. The number of occupants in each low-income unit;
5. The number of low-income unit vacancies and information showing when, and to whom, the next available units were rented;
6. Income certification and third-party documentation verifying the income of each household occupying a Credit Unit at the time of initial occupancy and for each new person added to the household after initial occupancy;
7. Annual income certifications and third-party documentation verifying the income of each household occupying a Credit Unit in a LIHTC Project are required if not all of the units in the LIHTC Project are Credit Units, or the LIHTC Project is financed or assisted under a state or federal program that requires annual certifications.

For a LIHTC Project with 100% Credit Units that are subject to more than one income limit, annual income certifications are only required for the households occupying the Credit Units subject to the lower income limits. The annual certification may be a self-certification, except that third-party documentation verifying the income of the household is required every 6 years from the date the LIHTC Project is Placed in Service and otherwise upon request by MaineHousing. The self-certification must be

- a) in writing,
- b) include the size of the household and annual household income,
- c) state that the information is complete and accurate,
- d) indicate that third-party source documentation will be provided if requested by the Owner or MaineHousing, and
- e) witnessed.

Annual income certifications are not required for a LIHTC Project with 100% Credit Units subject to the same income limit.

8. The Eligible Basis and Qualified Basis of each Qualified Building at the end of the first year of the Credit Period;
9. The character and use of the nonresidential portion of a Qualified Building included in its Eligible Basis;
10. A determination of the student status of the resident household;
11. The tenant occupancy policies and procedures and lease. The lease form and content must be acceptable to MaineHousing and comply with all applicable federal, state and local laws (including VAWA); and
12. All other disclosures to tenants, certifications and other records required by applicable local, state and federal laws.

Owners must maintain these records throughout the Extended Use Period for at least 6 years after the due date (with extensions) for filing the federal income tax return for that year, except that the records for the Credit Period's first year must be retained at least 6 years beyond the due date (with extensions) for filing the federal income tax return for the last year of the Compliance Period.

- C. Annual Reports. Each Owner must submit the following to MaineHousing by March 1st of each year throughout the Extended Use Period:
 1. Certification for the prior calendar year that the Owner's LIHTC Project(s) comply with IRS Treasury Regulation §1.42-5(c)(1) and *MaineHousing's Low Income Housing Tax Credit Program Owner's Certificate of Continuing Program Compliance* attached hereto as **Appendix D**. A completed and executed IRS Form 8609 for each Qualified Building must be submitted with the first certification; and
 2. Certain information and data about the tenants in Credit Units for the prior calendar year, including household income; monthly rental payments; family composition; use of Section 8 rental assistance and other similar assistance; the race, ethnicity, age and disability status of the members of the households; and all other occupancy information required by MaineHousing.
- D. Review. For new LIHTC Projects, MaineHousing will complete a review of tenant records within two (2) years following the year the last Qualified Building is Placed in Service. MaineHousing will give owners reasonable prior written notice of a review. To the extent required by the Internal Revenue Service (IRS), MaineHousing will inspect low income certifications and tenant records in accordance with IRS Treasury Regulation §1.42 5(c)(2)(iii)(A) through (D) and §1.42 5(d) and will give no more than 15 calendar days prior notice.

E. Inspections. Every one to three years after a Project is Placed in Service, MaineHousing will inspect LIHTC Projects. For new LIHTC Projects, MaineHousing will inspect Credit Units by the end of the second calendar year following the year the last Qualified Building is Placed in Service. MaineHousing will give reasonable prior written notice. To the extent required by the Internal Revenue Service, MaineHousing will inspect the LIHTC Projects in accordance with IRS Treasury Regulation §1.42 5(c)(2)(iii)(A) through (D) and §1.42 5(d) and will give no more than 15 calendar days prior notice.

F. Utility Monitoring

For all projects funded in Year 2 of this QAP, monitoring of all utilities for all units will be required based on the HUD submission model for PHAs.

G. Notification of Noncompliance. MaineHousing will notify an Owner in writing of any failure to

1. submit any complete certifications or information required by MaineHousing when due,
2. allow MaineHousing to perform any review or inspection required under this Section, or
3. comply with [Section 42](#) of the Code or any others requirements under this QAP.

The Owner will have a reasonable period of time to correct the noncompliance identified in the notice. MaineHousing will file a Form 8823, “Low-Income Housing Credit Agencies Report of Noncompliance” with the Internal Revenue Service within 45 calendar days of the end of the correction period.

SECTION 11: GENERAL

A. Conflicts. If this rule conflicts with [Section 42](#) of the Code or any other provision of federal or State law, the federal or State law shall control.

B. Full Discretion. MaineHousing is entitled to the full discretion allowed by law in making all decisions and interpretations under this rule.

C. Not an Entitlement. This rule establishes a pool of eligible Applicants but does not preclude additional reasonable criteria and does not confer any automatic right or entitlement to Credit on any person or entity eligible hereunder. MaineHousing may reject any and all Applications and may refuse to award any or all of the Credit.

D. Final Agency Action. The director of MaineHousing, individually or by exercise of the delegation of powers contained in the Act, shall make all decisions and take all action necessary to implement this rule. Such action of the director shall constitute final agency action.

- E. Waiver. Upon a determination of good cause, the director of MaineHousing or the director's designee may, subject to statutory limitations, waive any provision of this rule. The waiver must be in writing and must be supported by documentation of the pertinent facts and grounds.
- F. Freedom of Access Act. MaineHousing is subject to the Freedom of Access Act, [1 M.R.S. §401 et seq.](#), which requires the disclosure of all information provided to MaineHousing that is not specifically excluded, such as confidential information under the Act. MaineHousing shall not be liable for the disclosure of any information that it determines must be disclosed under the Freedom of Access Act.
- G. Liability. Compliance with [Section 42](#) of the Code is the responsibility of the Owner. MaineHousing is in no way responsible for an Owner's compliance or liable for an Owner's noncompliance. Any allocation, review or inspection by MaineHousing and any determination made by MaineHousing pursuant to this QAP is for the sole benefit of MaineHousing. No liability or responsibility for Owner compliance with [Section 42](#) of the Code or other applicable requirements and no representation or warranty of a Project's feasibility or viability, eligibility for Credit, or compliance shall be implied or construed from any such actions and determinations by MaineHousing.
- H. Headings/Context. The headings in this rule are for convenience only and do not define or limit the scope of the provisions of this rule. The use of Section, Subsection or Appendix without a reference to another document or source refers to a section, subsection and Appendix of this rule. All Appendices attached to this Rule are incorporated herein and made a part of this Rule.

STATUTORY AUTHORITY: 30-A MRS §§4741(1) and 4741(14), §4726, Section 42 of the Internal Revenue Code of 1986, as amended

BASIS STATEMENT: This rule is the qualified allocation plan for allocating and administering federal low income housing tax credits ("LIHTC") in the State of Maine, which MaineHousing, as the State's designated housing credit agency, is required to adopt pursuant to [Section 42](#) of the Internal Revenue Code and the above-referenced sections of the Maine Housing Authorities Act.

This rule replaces the prior rule and includes the following changes:

Throughout:

- Updated deadlines
- Updated Section number references
- Repaired grammatical errors (punctuation, typos, correcting defined terms, etc.)

Section 3A: Added "at least" to clarify that MaineHousing can set aside more than 10% for the Nonprofit Set-Aside.

- Section 3B: Updated Preservation Set-Aside amount to \$750,000.
- Section 3C: Increased the amount of credit per unit to \$30,000 from \$20,000, and changed the maximum amount of credit per project to \$1,200,000.
- Section 4A: Pre-apps due July 3, 2024 and July 3, 2025.
- Section 4B2: Applications due September 19, 2024 and September 18, 2025.
- Section 4B3: Added language: “Submitted exhibits must include documentation such as grant award letters, signed documentation on letterhead or evidence of official municipal action to provide evidence of all funding sources and official approvals.”
- Section 4I4: Updated language to clarify.
- Section 4I5: Added language “in the case of a TDC Index Cap waiver, the TDC Index increases substantially”
- Section 5A: Removed Section 811 language.
- Section 5A3 Revised to revert the language back to the language that was adopted in the 2023-2024 QAP. MaineHousing had made changes to the 2023-2024 QAP after a public hearing and those changes were adopted, however in the version MaineHousing published for the 2025-2026 QAP, those changes were inadvertently left out. MaineHousing did not intend to make any changes to this Section.
- Section 5A4 Revised to revert the language back to the language that was adopted in the 2023-2024 QAP. MaineHousing had made changes to the 2023-2024 QAP after a public hearing and those changes were adopted, however in the version MaineHousing published for the 2025-2026 QAP, those changes were inadvertently left out. MaineHousing did not intend to make any changes to this Section.
- Section 5B: Increased the TDC Index caps.
- Section 5C: Increased Rehabilitation Costs per unit of existing housing from \$50,000 to \$75,000.
- Section 5G: Updated and clarified re-characterization language.
- Section 5H: Added a link to the latest version of the Quality Standards and Procedures Manual and noted energy efficiency standards. Additionally, updated Build America, Buy America requirements, removed electrical raceway/conduits language and relocated and updated Section 3 language.

- Section 5I3: Revised to revert the language back to the language that was adopted in the 2023-2024 QAP then revised to update the language to be consistent with the changes that were provided in the 2025-2026 version of the QAP that was published. Changed Broadband Capabilities to “Broadband Access” and indicated that the project must include broadband infrastructure with capacity sufficient to support the provision of Telehealth services. Separated out the definition of Broadband infrastructure and removed “ConnectMaine”. Deleted “If the broadband capabilities are used for telemedicine services”.
- Section 5J: Added that the resident service coordinator must be available twice weekly which is the appropriate number of days each week acceptable to MaineHousing.
- Section 6: Renumbered and reorganized the scoring criteria.
- Section 6A: Increased the scoring points for Rehabilitation or Reuse of Existing Housing, Structure or Site from 4 to 5.
- Section 6B: Increased the scoring points for Historic Rehabilitation from 4 to 5.
- Section 6E: Updated the scoring points for Accessibility to increase 6 points to 9 points for Projects that are not specifically for Older Adults or Families, having only 1 BR and/or efficiency units and to add 6 points for Family Projects.
- Section 6F: Increased the scoring points for National Housing Trust Fund from 1 to 2.
- Section 6G: Increased the scoring points for Acquisition Cost from 4 to 5, increased the average acquisition cost per unit and increased the percentage of project’s acquisition cost as compared to average acquisition cost and the associated points.
- Section 6I: Decreased the scoring points for Housing Need from 10 to 8 and updated the Service Center Community Cities/Towns for both Project providing housing for Older Adults and Other Housing Projects and the associated points. Additionally, adjusted the points for Projects located on Native American tribal lands from 10 points to 8 points.
- Section 6J: Increased the scoring points for Community Revitalization from 3 to 5 and added two points for Projects located in a QCT with at least 20% of the units at market rate.
- Section 6K: Adjusted the scoring points and criteria for proximity to activities important to daily living to up to 5 points for activities important for daily living that are located within not more than a ½ mile of the Project, 1 point per activity.
- Section 6L: Increased the scoring points for Readiness and provided a breakdown of the points for different categories.

- Section 6M: Added the word “successfully” to the scoring criteria for two categories.
- Section 6N: Changed to negative points for bad performance. Added language clarifying that MaineHousing has the discretion to consider whether non-compliance was a direct result of the Applicant’s non-performance, the performance of an unaffiliated third-party, or a result of something outside the control of any affiliated party provided it was corrected appropriately within a reasonable timeframe.
- Section 6O: Reduced the weight of the scoring criterion from 5 points to 2. Added language clarifying that experience successfully managing at least one (1) low income housing property developed under a Federal program that is substantially similar to LIHTC, to be determined at MaineHousing’s sole discretion, is experience that qualifies for 1 point.
- Section 6P: Changed to negative points for bad performance.
- Section 10F: Added Utility Monitoring to begin in Year 2 of the QAP.
- Section 11H: Added a reference to Appendices for clarity.
- Appendix A: Change made to “Activities Important to Daily Living” definition adjusting retail store to a store that offers regularly purchased household supplies.
- Deleted the definition for “Telemonitoring.”
- Appendix B: Language was added to require any available radon test results for the Project site.
- Appendix E: Revised to revert the language back to the language that was adopted in the 2023-2024 QAP. MaineHousing had made changes to the 2023-2024 QAP after a public hearing and those changes were adopted, however in the version MaineHousing published for the 2025-2026 QAP, those changes were inadvertently left out. MaineHousing did not intend to make any changes to Appendix E.

PUBLIC COMMENT:

Process:

Notice of Agency Rule-making Proposal (MAPA-3) was submitted to the Secretary of State for publication in the March 27, 2024 edition of the appropriate newspapers. Additionally, MaineHousing sent the proposed rule to Interested Parties on March 27, 2024 and published the proposed rule on its website on March 27, 2024. MaineHousing held a public hearing on April 16, 2024. The comment period was held open until April 26, 2024 at 5:00 PM.

A second Notice of Agency Rule-making Proposal (MAPA-3) was submitted to the Secretary of State for publication in the May 15, 2024 edition of the appropriate newspapers. Additionally, MaineHousing sent the proposed rule to Interested Parties on May 15, 2024 and published the proposed rule on its website on May 15, 2024. No public hearing was held. The comment period was held open until June 14, 2024 at 5:00 PM.

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Summary of Comments and Responses to Comments:

Comment: Brian Kilgallen, Development Officer for Community Housing of Maine, submitted written comments and questions as follows:

- 1) If a property uses the ODE account to fund a YE operating deficit before the application deadline, would the application lose a point in Owner Performance?
- 2) Can Management Company and Ownership scores be available before the Pre-application deadline?
- 3) What is the process for MaineHousing to approve the building design prior to a project submitting for readiness points?
- 4) Is the Maine Construction General Permit required to earn the readiness points? Typically, this is done closer to construction.
- 5) Section H references dates from 2023 and 2024.
- 6) Was any consideration given to phased projects that can run relatively concurrently?

Response:

- 1) No.
- 2) Applicants are encouraged to connect with management companies and owners prior to Pre-application and perform due diligence in gathering information regarding performance. Currently MaineHousing does not publish scores on its website.
- 3) There is no process by which MaineHousing would approve a building design prior to the submission of an application. The Pre-application review is generally a site visit (sometimes a walk-through if the project is an adaptive reuse) and potentially a brief review of conceptual plans and specifications. Construction Analysts are not assigned until an application is awarded funding and MaineHousing does not have the resources to conduct detailed building design reviews beforehand for all applicants. MaineHousing can try to answer general questions a developer might have about specific items, but cannot provide full review in advance of an award.
- 4) No. It is typically done closer to construction.
- 5) This has been corrected.
- 6) The QAP scoring currently does not award points for phased projects that can run relatively concurrently. MaineHousing intends to retain that position.

Comment: Amanda Bartlett, Chief Operating Officer of Developers Collaborative, submitted written comments asking MaineHousing to further amend Section 6(N), Owner Performance, to better align with the intent of the scoring in the category.

Response: MaineHousing has added clarifying language to Section 6(N), Owner Performance, explaining that MaineHousing has the discretion to consider whether non-compliance was a direct result of the Applicant's non-performance, the performance of an unaffiliated third-party, or a result of something outside the control of any affiliated party provided it was corrected appropriately within a reasonable timeframe.

Comment: Tyler Norod, Development Director of Westbrook Development Corporation provided testimony at the public hearing and submitted written comments asking MaineHousing to consider removing Brownfield remediation costs from the TDC calculation as the costs are typically paid by outside funds and can be very expensive.

Response: Brownfield remediation is frequently performed outside of and/or prior to the project scope of work and therefore does not contribute to the TDC.

Comment: Tyler Norod also recommended a waiver process for Section 6(N), Owner Performance, whereby an owner could seek a waiver from the negative scoring points for the issuance of an 8823 that was outside of the owner's control.

Response: MaineHousing has added clarifying language to Section 6(N), Owner Performance, explaining that MaineHousing has the discretion to consider whether non-compliance was a direct result of the Applicant's non-performance, the performance of an unaffiliated third-party, or a result of something outside the control of any affiliated party provided it was corrected appropriately within a reasonable timeframe.

Comment: Tyler Norod also recommended that MaineHousing outsource the Environmental Review work to qualified engineers to save MaineHousing staff significant time and remove the risks and barriers associated with Choice Limited Actions for tax credit applications. Norod proposed that applicants could have the checklist completed and included with the submission of a project application for tax credits.

Response: MaineHousing appreciates this recommendation and intends to look into the possibility of outsourcing the Environmental Review work; however, it should be noted that the requirements of an Environmental Review are dependent on the type of Federal funding a project receives. Applicants would not know which type of Federal funding they would receive prior to an award, so requiring Applicants to complete the Environmental Review prior to award could be a cost to the Applicant that would not be an eligible project cost if it turned out an Environmental Review was not required. Additionally, the Choice Limiting Action period does not expire until the project receives a release of funds from the Department of Housing and Urban Development ("HUD"). The completion of the Environmental Review itself does not stop the Choice Limiting Action period and MaineHousing would still have to request a release of funds from HUD and go through the public comment period before an applicant could take any action that would be considered a Choice Limiting Action.

Comment: Cory Fellows, Vice President of Development for Preservation of Affordable Housing ("POAH") submitted written comments asking MaineHousing to replace its project-level \$750,000 Net Developer Fee cap with a \$25,000 per-unit cap that would better reflect the significant overhead and risk associated with larger or more complex Low Income Housing Tax Credit ("LIHTC") projects.

Response: MaineHousing continues to believe that the Net Developer Fee cap of \$750,000 is appropriate. The Net Developer Fee cap is reviewed with each iteration of the QAP and adjustments are made as necessary.

Comment: Corey Fellows also expressed concern regarding the requirement to set aside at least 60% of the units in a LIHTC project for households under 50% AMI. Fellows indicated this requirement is aggressive and undermines project viability, creating a very significant barrier to financing a viable construction or rehabilitation project and substantially weakening a project's long-term financial stability.

Response: MaineHousing designs its financing packages to make its affordability requirements feasible. The need of the State is taken into consideration when determining what is required for affordability. MaineHousing has a long track record and an extremely successful portfolio of projects bolstering the position that its requirements are not burdensome to the properties.

Comment: Corey Fellows also recommended that MaineHousing restore scoring criteria for new Project-Based Rental Assistance ("PBRA") to encourage sponsors to incorporate PBRA which is a sustainable solution for long-term affordability.

Response: MaineHousing removed the scoring criteria for new PBRA as in the past a number of local public housing authorities have pledged Project-Based Vouchers to their own projects, making it an unfair scoring advantage for those Developers that have their own Project-Based Vouchers. Additionally, MaineHousing has committed to providing Project-Based Vouchers for each unit that a developer pledges to set-aside for special needs populations.

Comment: Corey Fellows noted that POAH supports MaineHousing's revisions to the maximum credit amount, including the increased cap per Credit Unit and the imposition of a new \$1.2M total maximum.

Response: MaineHousing appreciates the support for those changes.

Comment: Corey Fellows noted that POAH supports MaineHousing's efforts to ensure its funded costs are reasonable and necessary, but is concerned that the TDC Index Cap will exclude some worthy projects from competing for MaineHousing resources. Fellows commented that the increased New Construction TDC Index Cap still remains too low, particularly for projects where certain desirable characteristics drive higher costs (i.e. projects for special populations with needs for specific physical accommodations or facilities, projects in high opportunity areas where land costs are higher, projects with advanced energy performance, and projects complying with new Build American, Buy American ("BABA") requirements).

Response: MaineHousing took all of these factors into consideration when setting the new TDC caps. MaineHousing's priority is to fund as many new, high quality housing units as possible with its limited resources. Based on the costs in the current pipeline, as well as current labor and materials pricing and trends, MaineHousing is confident that the proposed TDC caps are

reasonable and will eliminate certain projects which would otherwise have a higher per unit cost than necessary. MaineHousing's energy efficiency standards are already quite high and those costs are known; the adjustments to the standards do not add materially to the TDC. The effects of BABA are still unclear at this time.

Comment: Corey Fellows also notes that the QAP's Maximum Credit Amount provisions already serve to limit the LIHTC resources allocable to any given project, ensuring that higher cost developments will not claim a disproportionate share of agency resources, so there is no clear policy benefit from the TDC Index Cap to offset the real harm it may cause by excluding good projects from competing. Fellows recommended MaineHousing either eliminate the TDC Index Caps entirely or implement a waiver process for projects where special characteristics cause them to exceed the caps.

Response: MaineHousing discusses TDC Caps in preparation for each QAP. MaineHousing has determined that the clarity of specific cost targets is helpful to developers and therefore wishes to keep the TDC Caps. During the pandemic MaineHousing chose not to hold developers to hard caps, which resulted in longer negotiations and higher per unit costs. Most additional resources brought to a project are from other public resources and MaineHousing takes its responsibility as stewards of public funds seriously. In very limited circumstances, the Director of MaineHousing has the ability to waive program guidelines for good cause.

Comment: Corey Fellows recommended that MaineHousing take into consideration when considering funding priorities and evaluating project budgets that different towns and regions have different demographics and needs and that the cost of securing local land-use approvals for family housing is often more difficult, time-consuming and expensive than senior housing.

Response: MaineHousing does not prioritize housing for older adults over housing for families, or vice versa. Each housing type is eligible for an equal number of points under the QAP. MaineHousing will continue to track the number of units developed under each type of housing and can make adjustments in the future if the Board of Commissioners and MaineHousing Staff feel there is a trend towards unnecessarily producing more of one type of housing.

Comment: Erinn Roos-Brown, Project Manager of Travois, Inc. submitted written comments stating that the requirements, in Section 4(B1.a) – Allocation Process: Existing Housing, for Acquisition and Rehabilitation Projects to “include the addition of at least 20 new units, or meet the requirements of the Preservation Set-Aside in Section 3.B” effectively eliminates Tribal entities from applying for acquisition and rehab projects under LIHTC in Maine due to: the smaller scale of Tribal projects; the financial feasibility; the limitation of buildable land in assigned Reservations; and the Federal funding available to Tribes which does not qualify for the Preservation Set-Aside. Roos-Brown recommended MaineHousing remove the requirement that 20 new units be developed as part of Acquisition and Rehabilitation projects.

Response: The requirement that 20 new units be developed as part of Acquisition and Rehabilitation projects is aimed at achieving the goal of adding additional housing stock to Maine. MaineHousing believes this strikes the right balance between supporting acquisition & rehabilitation of housing

and creating more affordable housing. MaineHousing continues to search for alternate methods of funding preservation, and increase the ability to do so when more funding is available.

Comment: Erinn Roos-Brown also commented that the TDC Index Caps prescribed by MaineHousing are exceedingly low in comparison to LIHTC QAP TDC Caps nationwide. Roos-Brown requested MaineHousing recognize the calculated maximum unit development costs specifically for Tribal projects developed by HUD and include a reference to PIH-2023-30 as the applicable limits for Tribal projects

Response: MaineHousing believes that the TDC Caps in Maine's QAP are appropriate for Maine projects and allow for the creation of as many safe, efficient, quality units as possible. Based on a review of the projects in MaineHousing's pipeline, developer partners are currently creating units for far less than the new proposed TDC Caps.

Comment: Erinn Roos-Brown stated that MaineHousing's requirement for extensive amenities including a community room, significant broadband infrastructure requirements, and recreational areas at each project is challenging for Tribal developers. Roos-Brown requested MaineHousing eliminate these amenity requirements for Tribal projects or change them from threshold requirements to scoring categories instead.

Response: MaineHousing believes that these amenities provide great benefits to the people MaineHousing serves and it is important that everyone have access to such amenities. If a developer can show readily available alternatives of equal quality and accessibility, MaineHousing may take that into consideration to avoid funding redundant resources.

Comment: Erinn Roos-Brown recommended that MaineHousing change the scoring criteria in the Property Tax Relief category to 3 points for Projects located in areas of the State that do not assess or collect property taxes and Projects that are exempt from property taxes.

Response: The intent of this scoring category within the "Financial Characteristics" section is to reward developers who undertake the work required to bring additional resources to the Project, saving MaineHousing's resources for additional housing production. Both the developer and community in which the housing will be built have undertaken a task for which points will be awarded. While the lack of property taxes on Tribal lands is of value, it is not awarded the maximum points due to the fact that neither the community nor the developer have undertaken a process for which these points are an incentive. MaineHousing welcome suggestions for other forms of funding assistance as an alternative for Tribal developers and communities.

Comment: Erinn Roos-Brown noted that Travois, Inc. supports keeping the language in the QAP that awards 8 points for Projects located on Tribal lands.

Response: MaineHousing appreciates the support.

Comment: Erinn Roos-Brown noted that the 15 points available in the Smart Growth category are typically a major challenge for Tribal projects and requested that this category have a 3-mile radius for Projects located on Tribal land and rural locations to create a fairer scoring opportunity.

Response: MaineHousing believes access to transportation and proximity to activities important to daily living are key factors in making projects successful and accessible to all. The scoring criteria creates an opportunity for projects to provide on-demand transportation to receive points when the other categories are not an option. Additionally, the scoring criteria was adjusted to allow projects to score one point for each walkable activity of daily living rather than requiring at least 3 activities in order to obtain any points.

Comment: Erinn Roos-Brown requested that MaineHousing change the language in Section 6(O), Management Experience, to match the language in Section M (Developer Capacity). Roos-Brown noted that Tribes have long-standing experiencing managing low income housing under other rules and regulations (NAHASDA and the 1937 Housing Act) that are similar to the LIHTC program and requiring property management agents to have previous LIHTC experiences puts Indigenous nations at a distinct disadvantage scoring wise.

Response: MaineHousing has added clarifying language to Section 6(O), Management Experience, stating that experience successfully managing at least one (1) low income housing property developed under a Federal program that is substantially similar to LIHTC, to be determined at MaineHousing's sole discretion, is experience that qualifies for 1 point.

Comment: Nicole McKeith Director of Housing Initiatives at ProsperityME testified at the public hearing and submitted written comments stating that a two-year QAP does not allow for flexibility to change the QAP to reflect current housing priorities and the housing market climate.

Response: MaineHousing has responded to the development community in Maine by implementing a two-year QAP. This allows developers to better plan their projects around MaineHousing requirements. In drafting the QAP MaineHousing considers current housing priorities and climate and projects trends over that two-year period in order to ensure a successful two-year QAP. MaineHousing has the ability, after the first year, to open rulemaking to make substantive changes to the QAP if it is deemed necessary.

Comment: Nicole McKeith commented that MaineHousing should consider QAP incentives or other policy initiatives to ensure New Mainer housing needs are adequately addressed.

Response: MaineHousing is open to, and actively solicits advice on, how it can better serve the New Mainer population. MaineHousing has a variety of programs other than LIHTC including the Rural Affordable Rental Housing Program, the Affordable Homeownership Program, the Supportive Housing Program, the Recovery Housing Program, and special programs to assist individuals and families experiencing homelessness. Additionally, MaineHousing has allocated Emergency Housing Relief Funds to assist the New Mainer population, including assisting individuals and families in gaining access to LIHTC housing units. LIHTC projects must meet certain underwriting criteria, without which they are financially infeasible. Due to the small number of 9% LIHTC projects

funded in Maine annually, MaineHousing does not believe additional set-asides should be established.

Comment: Nicole McKeith commented that ProsperityME believes family projects and larger family units are discouraged through the scoring system as the scoring encourages Senior Projects. McKeith recommended MaineHousing allow exceptions that promote various bedroom size developments which would include exceptions to the TDC.

Response: The QAP provides equal scoring opportunities for family and older adult projects. Additionally, the TDC calculation is indexed to adjust for the number of bedrooms so as not to penalize units with more bedrooms.

Comment: Nicole McKeith expressed concern about the decreased per unit average acquisition cost for new construction from \$14,000 to \$7,500, which eliminates the Greater Portland area for development. McKeith recommended eliminating Section 6(G) to allow scoring to be based strictly on TDC for items included in the eligible basis.

Response: The average acquisition cost number is based off the average cost of recent projects. The average continues to drop which indicates that developers are finding ways to save on the acquisition of properties. The intent of this scoring category is to reduce TDC by requiring more thoughtful use of funds. MaineHousing has seen no signs that developers are developing fewer units in the Greater Portland area, and wants to ensure that all parts of the State are appropriately served with this funding source.

Comment: Nicole McKeith commented it was unclear where the scoring criteria for Section 6, Project Location, was coming from and recommended changing the Section to reflect points for housing need.

Response: The State of Maine determines the Service Center communities each year and makes the information available on its website ([Service Centers: Municipal Planning Assistance Program: Maine DACE](#)). Demand for affordable housing units in each Service Center is determined by subtracting the total number of available units for those at or below 60% of Area Median Income from the total number of households making 60% of Area Median Income or less. This housing needs analysis may result in changes to the scoring of individual municipalities in the Project Location Section of the QAP each time it is compiled. MaineHousing continually looks for better data and expertise in this area, but to date this has presented as the best method to assess housing need. MaineHousing welcomes and suggestions or alternative methods that may better assess housing needs in Maine.

Comment: Nicole McKeith notes that Maine Housing could consider identifying opportunities to encourage more diversity in development and management teams by reducing barriers to entry, facilitating joint ventures, providing predevelopment capital, or creating other incentives for participation by underrepresented groups. McKeith asked for clarification on the term “successfully” that was added to each section.

Response: MaineHousing regularly meets with a Cultural Advisory Board, made up of individuals with diverse cultural backgrounds that provide insight on how MaineHousing can assist in encouraging diversity in its programs. Additionally, MaineHousing encourages partnerships and provides scoring criteria that allows for points to be received based on collective experience of development teams. MaineHousing staff are available to answer questions new developers might have and can assist in linking new developers with experienced developers and consultants. MaineHousing also has engaged and will continue to engage the Genesis Fund to provide technical assistance, which has proven successful in assisting new developers enter MaineHousing programs. Every program MaineHousing offers is sent to Maine Small businesses, Women and Minority Businesses or Labor Surplus Area Firms that provide a similar service/program and a copy of each program is sent to Maine PTAC (Procurement Technical Assistance Center) for publishing on their website for greater outreach.

Comment: Nicole McKeith asked for clarification on the term “successfully” that was added to each section.

Response: Successful development experience means that the team has consistent recent experience delivering projects on budget and on time.

Comment: Nicole McKeith commented that one of the required selection criteria under Section 42 of the Internal Revenue Code is ‘projects intended for eventual tenant ownership’ and recommended that MaineHousing add an additional section of requirements for eventual homeownership, or clarify in Section 6(Q) what is required.

Response: Section 6(Q) states that if there is a need for a tie breaker because applications with the same score request the same amount of Credit and 0% deferred debt per unit, the project with the most acceptable plan to convert the project to affordable homeownership for the residents after the Extended Use Period will have priority. Section 6(Q) outlines that the plan must describe the process for transferring ownership to the residents, the purchase price or process for determining it, any financial assistance available for residents (including any reserves), how the affordability will be maintained, and must provide for homebuyer counseling and professional representation of the residents at the time of conversation. To date, no feasible plan for rental projects to transition to homeownership through the Tax Credit Program has been presented to MaineHousing. Additionally, due to the limited funding available for affordable rental units and the desire to maintain the affordability as rental units, it is most advantageous for projects to remain rental units for a minimum of 45 years. MaineHousing welcomes suggestions as to how to better promote and encourage this concept.

Comment: Nicole McKeith asked if there is a list of approved Market Study analysts that MaineHousing considers qualified professionals.

Response: MaineHousing requires market studies prepared by National Council of Housing Market Analysts (“NCHMA”), the only professional body dedicated exclusively to enhancing the professionalism and standards surrounding residential rental real estate market analysis. NCHMA

can provide professionals in Maine that meet the definition of qualified professional under the QAP.

Comment: Nicole McKeith asks that MaineHousing provide flexibility for Housing Credit owners to utilize the optimal utility allowance for each development and to encourage utility allowances that accurately reflect anticipated utility consumption.

Response: MaineHousing allows developers to use the maximum utility allowances. The QAP has been revised to start requiring utility monitoring which should provide developers and MaineHousing with the ability to better estimate consumption over time.

Comment: Nicole McKeith commented that allowing twinned 4% and 9% projects leverages the benefits of both programs across different portions of the development, offering a nuanced solution to funding challenges and producing more units in a project.

Response: In Maine, both 9% and 4% projects typically need soft money, or subsidy, requiring developers to compete for resources. In competitions, project feasibility is required and thus “twinning” 4% and 9% projects does not work as a project is not guaranteed to be successful in the second competition, thus rendering the project infeasible in the first competition. Twinning is more common where competition for soft money is not required.

Comment: Nicole McKeith noted that average income was not addressed in the QAP and asked if it was allowed.

Response: Income averaging is allowed under the right circumstances. Applicants should have a conversation with MaineHousing’s Asset Management and Development teams before incorporating income averaging in their development pro formas. Considerations include management company willingness and experience with income averaging and the management company’s ability to report required information through their software systems.

Comment: Nicole McKeith commented that the informational sessions regarding the QAP, don’t seem very interactive and recommended that MaineHousing encourage more public involvement in developing policies.

Response: MaineHousing holds several sessions throughout each year to listen to and discuss potential changes and emerging needs in the affordable housing market. For the 2025-2026 QAP MaineHousing received less input than in the past, which suggests that the current QAP is serving the State’s need at this time. MaineHousing encourages all partners to participate and engage with MaineHousing staff at any time.

Comment: Nicole McKeith commented that overall, ProsperityME would like to see more policies to encourage housing development for New Mainers.

Response: MaineHousing is open to, and actively solicits advice on, how it can better serve the New Mainer population. As mentioned in response to McKeith’s earlier comment, MaineHousing has a
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variety of programs, including the Rural Affordable Rental Housing Program, the Affordable Homeownership Program, the Supportive Housing Program, the Recovery Housing Program, and special programs to assist individuals and families experiencing homelessness. Additionally, MaineHousing has allocated Emergency Housing Relief Funds to assist the New Mainer population, including assisting individuals and families in gaining access to LIHTC housing units. MaineHousing encourages developers to provide suggestions on additional steps that could be taken, keeping in mind the economics of the LIHTC projects.

Comment: Claude Rwaganje, Executive Director of ProsperityME, provided testimony at the public hearing asking MaineHousing to look for a balance between senior and family housing to avoid a disproportionate award of senior projects over family projects.

Response: MaineHousing does not prioritize housing for older adults over housing for families, or vice versa. Each housing type is eligible for an equal number of points under the QAP. MaineHousing will continue to track the number of units developed under each type of housing and can make adjustments in the future if the Board of Commissioners and MaineHousing Staff feel there is a trend towards unnecessarily producing more of one type of housing.

Comment: Claude Rwaganje also commented that the two year QAP is problematic for new developers trying to enter the program as they have to wait until 2026-2027 to gain entry. Rwaganje recommended a set-aside for new developers to encourage diversity in MaineHousing's programs.

Response: A two year QAP offers two consecutive years of funding. One is not dependent on the other and new developers can apply in any year.

Comment: Matthew Brock, Kittery Housing Committee Chair, and Kendra Amaral, Town Manager for the Town of Kittery, commented on two areas of the QAP that they felt were a disadvantage to the Town of Kittery:

- 1) The revisions to Section 6, Project Location, reduced the scoring for the Town of Kittery from 10 to 8 points for projects not specifically for older adults. Kittery continues to see an intense demand for housing for younger adults and Brock and Amaral recommended MaineHousing consider maintaining the 10 points in this category.
- 2) Kittery has very few properties that earn maximum points in Section 6(K), Smart Growth, due to the lack of appropriate transit and the fact that properties in Kittery that have public transit are generally in locations that are incredibly valuable. Brock and Amaral recommended MaineHousing reconsider the Smart Growth scoring criteria for rural communities.

Response:

- 1) The State of Maine determines the Service Center communities each year and makes the information available on its website ([Service Centers: Municipal Planning Assistance Program: Maine DACE](#)). Demand for affordable housing units in each Service Center is determined by subtracting the total number of available units for those at or below 60% of

Area Median Income from the total number of households making 60% of Area Median Income or less. This housing needs analysis may result in changes to the scoring of individual municipalities in the Project Location Section of the QAP each time it is compiled. The scoring for the Town of Kittery was adjusted based on this analysis. It should be noted that the Project Location Section allows municipalities to receive their Housing Need score from the immediately preceding QAP if that score was higher.

- 2) MaineHousing believes access to transportation and proximity to activities important to daily living are key factors in making projects successful and accessible to all. The scoring criteria creates an opportunity for projects to provide on-demand transportation to receive points when the other categories are not an option. Additionally, the scoring criteria was adjusted to allow projects to score one point for each walkable activity of daily living rather than requiring at least 3 activities in order to obtain any points.

Comment: Patrick Hess, the Director of Development at Avesta Housing, commented on the change to Section 6(G), Acquisition Cost, asking for clarification on the thinking of the lower per unit costs for new construction and adaptive reuse. Hess commented that the changes seem to incentivize sprawl by pushing development further out. Hess recommended considering scoring that is based on whether a project meets the standards or not, rather than a sliding scale based on percentages of an average.

Response: The average acquisition cost number is based off the average cost of recent projects. The average continues to drop which indicates that developers are finding ways to save on the acquisition of properties. The intent of this scoring category is to reduce TDC by requiring more thoughtful use of funds. MaineHousing wants to ensure that all parts of the State are appropriately served with this funding source.

Comment: Laura Mitchell, the Executive Director of the Maine Affordable Housing Coalition, asked MaineHousing to reconsider Total Development Cap figures more frequently within the 2 year QAP process to adjust for inflation, unexpected construction cost changes, and other ongoing shifts in state and national policy/funding.

Response: MaineHousing has responded to the development community in Maine by implementing a two-year QAP. This allows developers to better plan their projects around MaineHousing requirements. In drafting the QAP MaineHousing considers inflation, unexpected construction cost changes and other potential shifts in policies/funding over that two-year period in order to ensure a successful two-year QAP. If an unforeseen circumstance warrants opening rulemaking after the first year, MaineHousing has the ability to do so and make substantive changes to the QAP if necessary.

Comment: Laura Mitchell asked MaineHousing to build in the added cost that EV requirements create in terms of larger transformers in addition to AC use tracking.

Response: The TDC Caps take into consideration greater costs than in the past. The EV requirements have been in other MaineHousing programs since 2022 and have not been a cost

burden. MaineHousing does not require specific AC electricity use tracking outside of the total electricity consumption tracking.

Comment: Laura Mitchell asked MaineHousing to consider that data collection and energy use monitoring has a cost that should be included in the LIHTC eligible expenses.

Response: MaineHousing agrees and those expenses are eligible.

Comment: Laura Mitchell asked that MaineHousing add another priority group to Section 5 to prioritize Section 8 vouchers and those seeking, but ineligible for Section 8.

Response: The QAP gives an occupancy preference to eligible persons whose names are on a public housing or Section 8 waiting list in an attempt to assist those individuals with affordable housing (Section 5(L)). Providing another priority group for individuals seeking Section 8 vouchers and/or individuals who are ineligible for Section 8 vouchers would not result in an increase in access to LIHTC units, without rental assistance or sufficient income to pay LIHTC rents.

Comment: Laura Mitchell recommends that to meet workforce and demographic needs, a balance of senior, 1-bedroom nonage restricted, and family units is needed. Mitchell recommends a regular needs analysis so developers can effectively meet changing needs over time.

Response: MaineHousing does not prioritize housing for older adults over housing for families, or vice versa. Each housing type is eligible for an equal number of points under the QAP. MaineHousing will continue to track the number of units developed under each type of housing and can make adjustments in the future if the Board of Commissioners and MaineHousing Staff feel there is a trend towards unnecessarily producing more of one type of housing. The State of Maine determines the Service Center communities each year and makes the information available on its website ([Service Centers: Municipal Planning Assistance Program: Maine DACE](#)). Demand for affordable housing units in each Service Center is determined by subtracting the total number of available units for those at or below 60% of Area Median Income from the total number of households making 60% of Area Median Income or less. This housing needs analysis may result in changes to the scoring of individual municipalities in the Project Location Section of the QAP each time it is compiled. MaineHousing continually looks for better data and expertise in this area, but to date this has presented as the best method to assess housing need. MaineHousing welcomes and suggestions or alternative methods that may better assess housing needs in Maine.

Comment: Laura Mitchell noted that the proposed QAP's scoring discourages larger bedroom counts. Special populations that need consideration are immigrants in need of large bedroom counts for intergenerational and larger family residence. Mitchell recommends in areas with demonstrated need, exceptions should be allowed to promote various bedroom size developments.

Response: The TDC calculation is indexed to adjust for the number of bedrooms so as not to penalize units with more bedrooms.

Comment: Laura Mitchell commented that the changes to Section 6(G) reduce scoring for projects in high land value areas such as the Portland Labor Market Area making it unclear what Section 6(G) is trying to incentivize.

Response: The average acquisition cost number is based off the average cost of recent projects. The average continues to drop which indicates that developers are finding ways to save on the acquisition of properties. The intent of this scoring category is to reduce TDC by requiring more thoughtful use of funds. MaineHousing has seen no signs that developers are developing fewer units in the Portland Labor Market Area, and wants to ensure that all parts of the State are appropriately served with this funding source.

Comment: Laura Mitchell states that there continues to be a lack of transparency in how project need/location are identified and prioritized. Mitchell recommended leveraging the housing study that identifies housing need by region in addition to regional and local income levels on top of housing need. Mitchell further commented that it was unclear why communities abutting prioritized communities are not also prioritized. Mitchell also recommended adjusting “Other Housing Projects” to include Portland Labor Market area communities or removing overall point scores for town/city location. Mitchell also recommended that MaineHousing clarify why so few communities are listed and encourage greater municipal participation in the project location selection and scoring section.

Response: The State of Maine determines the Service Center communities each year and makes the information available on its website ([Service Centers: Municipal Planning Assistance Program: Maine DACE](#)). Demand for affordable housing units in each Service Center is determined by subtracting the total number of available units for those at or below 60% of Area Median Income from the total number of households making 60% of Area Median Income or less. This housing needs analysis may result in changes to the scoring of individual municipalities in the Project Location Section of the QAP each time it is compiled. MaineHousing continually looks for better data and expertise in this area, but to date this has presented as the best method to assess housing need. MaineHousing welcomes and suggestions or alternative methods that may better assess housing needs in Maine.

Comment: Laura Mitchell commented that adding points for market rate units (Section 6(J)) does not seem fair for rural communities to be able to compete with areas such as Cumberland County where market rate units would be easier to fill. Mitchell recommended adding points for vouchered units instead.

Response: MaineHousing believes offering points for projects in QCTs where at least 20% of the units are market rate is one way to achieve community revitalization.

Comment: Laura Mitchell recommended adding a variance of points to Section 6(K), Smart Growth, to separate out elderly and family to increase the requirement of safe walking distance for families to $\frac{3}{4}$ mile or 1 mile. Mitchell commented that location and smart growth points should focus on suburban areas with good school systems in strong labor markets as important sites for equitable development and distribution of housing.

Response: MaineHousing believes that ½ mile is a reasonable and appropriate walking distance to activities important to daily living for all housing types.

Comment: Laura Mitchell commended that the changes to Section L, Sponsor Characteristics – Readiness, was a positive addition to the QAP.

Response: MaineHousing appreciates the support for those changes.

Comment: Laura Mitchell commended that clarity on the added term “successfully” to Section 6(M) should be provided.

Response: Successful development experience means that the team has consistent recent experience delivering projects on budget and on time.

Comment: Laura Mitchell commended that the required selection criteria under Section 42 of the Internal Revenue Code ‘projects intended for eventual tenant ownership’ should either be added as an additional requirement prior to the Tie Breaker section or clarify as to why it is in the Tie Breaker section should be provided.

Response: “Projects intended for eventual tenant ownership” is included in the Tie Breaker section as MaineHousing believes due to the limited funding available for affordable rental units and the desire to maintain the affordability as rental units, it is most advantageous for projects to remain rental units for a minimum of 45 years. Additionally, to date, no feasible plan for rental projects to transition to homeownership through the Tax Credit Program has been presented to MaineHousing to warrant a change to the current scoring. MaineHousing welcomes suggestions as to how to better promote and encourage this concept.

Comment: Laura Mitchell commended that a list of qualified Market Study Analysts or a definition of “qualified profession” would help new developers engage the right professionals.

Response: MaineHousing requires market studies prepared by National Council of Housing Market Analysts (“NCHMA”), the only professional body dedicated exclusively to enhancing the professionalism and standards surrounding residential rental real estate market analysis. NCHMA can provide professionals in Maine that meet the definition of qualified professional under the QAP.

Comment: Laura Mitchell commented Maine needs a variety of housing types serving a range of income levels and recommended MaineHousing consider new ways in which LIHTC can be used to increase the range of housing opportunities for those at the lower end of the economic spectrum.

Response: Most LIHTC projects currently have mixed incomes which may include Extremely Low Income units, Very Low Income units, Low Income units and/or Market Rate units. Additionally, some funding sources, such as the National Housing Trust Fund create deeper affordability in LIHTC projects. Developers may also elect Income Averaging, in the right circumstances with

approval from MaineHousing, which could be used to address the needs of different income levels. Additionally, MaineHousing offers a number of other programs which have varying income eligibility requirements that provides a wide range of housing to individuals of mixed incomes.

Comment: Laura Mitchell commented that there are a number of ways to achieve a variety of housing types serving a range of income levels such as:

- 1) A set-aside for one housing project targeting tenants within the lower income range each round.
- 2) Providing Project-Based Voucher with LIHTC funding for every unit at the building.
- 3) Leveraging Average Income that enables projects to target a broader mix of tenants.

Response:

- 1) Creating too many set-asides will limit MaineHousing's ability to fund projects as well as developers' abilities to compete for MaineHousing funding. A typical 9% competitive process results in at most four projects being funded and with two already established set-asides, creating a third could limit more than 75% of the funding available through the competitive process. LIHTC projects to some extent already accommodate a range of mixed incomes and other funding sources aid in creating deeper affordability in LIHTC projects. Additionally, Income Averaging, in the right circumstances with approval from MaineHousing, could be used to address the needs of individuals at different income levels. MaineHousing also offers a number of other programs which have varying income eligibility requirements that provides a wide range of housing to individuals of mixed incomes.
- 2) MaineHousing believes in keeping with the Congressional intent of the Housing Choice Voucher Program, spreading Project-Based Vouchers throughout many different types of projects creates a broader reach and provides more opportunity. MaineHousing is currently allocating Project-Based Vouchers appropriately in accordance with funding/availability and MaineHousing's Housing Choice Voucher Plan. Additionally, MaineHousing has committed to providing Project-Based Vouchers for each unit that a developer pledges to set-aside for special needs populations.
- 3) Income averaging is allowed under the right circumstances. Applicants should have a conversation with MaineHousing's Asset Management and Development teams before incorporating income averaging in their development pro formas. Considerations include management company willingness and experience with income averaging and the management company's ability to report required information through their software systems.

Comment: Emily Flinkstrom, Executive Director of Fair Tide and Hershey Hirschkop, Director of Housing for Fair Tide commented that making LIHTC funding more available for individuals making 30%-40% AMI would assist with the growing homelessness crisis. Flinkstrom and Hirschkop recommended a set-aside for one housing project targeting tenants within the lower income range each round, similar to the set-aside for a preservation project. Flinkstrom and Hirschkop commented another approach would be to provide Project-Based Vouchers with LIHTC funding for every unit at the building.

Response: Creating too many set-asides will limit MaineHousing’s ability to fund projects as well as developers’ abilities to compete for MaineHousing funding. A typical 9% competitive process results in at most four projects being funded and with two already established set-asides, creating a third could limit more than 75% of the funding available through the competitive process. LIHTC projects to some extent already accommodate a range of mixed incomes and other funding sources aid in creating deeper affordability in LIHTC projects. Additionally, Income Averaging, in the right circumstances with approval from MaineHousing, could be used to address the needs of individuals in the 30-40% range. MaineHousing also offers a number of other programs which have varying income eligibility requirements that provides a wide range of housing to individuals of mixed incomes. With regards to Project-Based Vouchers, MaineHousing is currently allocating Project-Based Vouchers appropriately in accordance with funding/availability and MaineHousing’s Housing Choice Voucher Plan. Additionally, MaineHousing has committed to providing Project-Based Vouchers for each unit that a developer pledges to set-aside for special needs populations.

Comment: Beth Boutin, Vice President of Community Investments at Evernorth, commented that Appendix E should be revised to remove the “the lesser of fair market value” language so that the exercise price is just the statutory minimum purchase price under Section 42(i)(7) of the Internal Revenue Code. Beth commented if “the lesser of FMV” language is required, a sponsor could purchase a property for less than the outstanding debt on the property which could result in a cancellation of debt income and resulting tax consequences.

Response: The language in Appendix E does not allow a purchase that is less than the outstanding debt. The language specifically says “. . . but in no event less than the outstanding debt secured by the Project, excluding any indebtedness incurred within the 5-year period ending on the date of the sale pursuant to the ROFR” MaineHousing will reevaluate this language as it prepares for the next QAP and clarify the language as necessary.

Comment: Beth Boutin also recommended the removal of “the later of: (i) the public offer of the Project for sale by the general partner or managing member; and (ii)” language in Appendix E so that the Right of First Refusal exercise period ends 36 months after the expiration of the Compliance Period. Beth commented that the language as currently drafted could be interpreted as having an unlimited ROFR exercise period if a public offer of the project for sale is never made as a forced sale is not allowed.

Response: MaineHousing acknowledges that there could be a scenario where a public offer of the project for sale is not made for a long period of time however because the general partner or management member may elect to sell the project to the holder of the ROFR in connection with the exercise of the ROFR following the general partner’s or managing member’s receipt of a bona fide third party offer to purchase the project, MaineHousing feels that the ROFR should not expire 36 months from the end of the Compliance Period if the Project has not been publicly offered for sale.

Comment: Beth Boutin also recommended the removal of the “bona fide” requirement in Appendix E and suggested instead a requirement of only a third party offer because bona fide: (a) is contrary to the public policy underlying the LIHTC statutory scheme; (b) sets an extremely high bar that

makes it very difficult for a nonprofit to exercise a ROFR; and (c) encourages aggregators to challenge the exercise of ROFRs by nonprofits.

Response: The requirement that offers be “bona fide” means the offers must be made in good faith. MaineHousing does not believe this standard is unduly burdensome, extreme or contradictory to public policy. Requiring a good faith offer is standard practice.

Comment: Bill Pearce, Chief Financial Officer at Realty Resources Management provided testimony at the public hearing stating MaineHousing should exercise discretion under Section 6(K), Smart Growth, to allow the proximity to activities important to daily living to be increased from ½ mile to a further distance in certain circumstances. Nichole Lorentzen, Development Officer of Realty Resources Management added to Pearce’s comment asking MaineHousing to look at senior housing vs. family housing and perhaps adjust the distances based on the type of housing.

Response: MaineHousing believes that ½ mile is a reasonable and appropriate walking distance to activities important to daily living for all housing types.

Comment: Bill Pearce also commented that the Nonprofit Set-Aside in Section 3(A) discourages nonprofits from being able to move forward with new construction as the set-aside is only 10% of the annual State Ceiling (approximately \$400,000). Pearce commented this is not an adequate amount of funding for new construction and is small in comparison to the credits that are offered in the competitive programs.

Response: MaineHousing has added language in Section 3(A) to state it will set-aside “at least” 10%, which clarifies that MaineHousing may, in its sole discretion, provide more than 10% for the Nonprofit Set-Aside.

Comment: George Lavigne, Licensed Architect for CWS Architecture and Interior Design, submitted a written comment noting that the QAP references the 2009 edition of ANSI 117.1 twice and asking if this was correct as his understanding was that MaineHousing was moving to a new edition.

Response: This is the correct reference at this time. Once the newest version of the Maine Uniform Building and Energy Code is approved the new edition of ANSI will apply and MaineHousing will update the requirements as necessary.

Comment: Seth Parker, Director of Real Estate Development for Bath Housing, submitted written comments regarding Section 6L, Readiness. Seth noted that the provision for having all local and state approvals in hand plus having any appeals periods expired puts tremendous pressure upon the developer to start the approvals process so far in advance of the tax credit deadline. Seth suggested softening this provision by requiring only approvals in hand by the application deadline, which would give time for the appeals period to expire before the LIHTC award date. Seth also suggested that an alternative might be to require approvals in hand and appeals expired before the LIHTC award date.

Response: The Readiness Scoring Criteria gives points to Developers who are fully prepared to proceed with a project. The requirement that the timeframe to appeal has passed and no actions

have been taken and/or all actions have been resolved supports the notion that a Developer is fully prepared to proceed with a project. Without the passage of the appeal timeframe, there is a risk of the appeal terminating the project or resulting in the project not being able to move forward for a long period of time. For these reasons, MaineHousing believes the requirement is appropriate. It requires preplanning on the Developer's part to ensure all approvals are in place and all appeal timeframes have passed prior to Application, but it does not create an undue burden.

Comment: Brooks More, Director of Development for South Portland Housing Authority, submitted written comments asking MaineHousing to consider removing the TDC Index Cap as a reason for termination of an application in Section 4(I)(5).

Response: MaineHousing's priority is to fund as many new, high quality housing units as possible with its limited resources. MaineHousing takes its responsibility as stewards of public funds seriously and for that reason believes the TDC Index Caps are important. Projects that exceed the TDC Index Cap warrant closer examination and if the costs are too great, MaineHousing needs a mechanism to not move forward with a project. That said, in limited circumstances, projects can request a waiver of the TDC Index Cap for good cause and avoid the termination of an application if the reasons are justified.

Comment: Brooks More commented that the Total Development Cost Section (Section 5(B)) should be removed as the TDC index is a static figure that is based on historic data which does not reflect real-time construction costs. In the alternative, Brooks suggested increasing the cap for new construction above \$370,000, adjust the cap annually using a benchmark such as the Consumer Price Index or a construction price index, and including a percentage increase for Passive House or LEED certified buildings.

Response: The TDC Index is not a static figure. MaineHousing discusses the TDC Index and TDC Caps in preparation for each QAP and takes into consideration characteristics of projects that drive higher costs. MaineHousing looks at the costs of projects in its current pipeline, as well as current labor and materials pricing and trends to propose numbers that are reasonable and allow for increased costs over the short term. MaineHousing believes that the TDC Index and TDC Caps in Maine's QAP are appropriate for Maine projects and allow for the creation of as many safe, efficient, quality units as possible. Currently MaineHousing is not requiring Passive House or LEED certifications due to the fact that MaineHousing's energy efficient standards produce comparable results. For that reason, those costs will not be factored into TDC.

Comment: Brooks More commented that the new design criteria in Section 5(H) for higher efficiency buildings, Build America, Buy America Act and Section 3 requirements are laudable, but increase project costs which supports the removal of the TDC cost cap.

Response: MaineHousing's analysis of the TDC Cost cap in preparation for each QAP takes into consideration characteristics of projects that drive higher costs, such as Build America, Buy America Act and Section 3 requirements. MaineHousing reassess these characteristics periodically and if the TDC Cost caps prove to be too prohibitive given the regulatory requirements, MaineHousing can adjust the caps or consider a waiver for good cause.

Comment: Brooks More commented that community rooms should be made optional particularly for family projects where they do not get much use. Making this requirement in Section 5(I) option would further the goal of lowering costs.

Response: MaineHousing believes the requirement of a community room in all projects is essential to encouraging socialization, collaboration and a sense of community and is for the benefit of the tenants. In certain circumstances a community room may not be feasible and there may be viable alternatives which can be explored through a request for a waiver for good cause.

Comment: Brooks More commented asking MaineHousing what the criteria of a “single-family residential area” in Section 6(A)(3) means.

Response: A “single-family residential area” is an area predominately made up of single family homes, meant to be used as living spaces and not for multiple families or a commercial venture. There may be situations where it is not clear if an area is predominately single family and in those situations MaineHousing would consider the factors and circumstances in making that determination.

Comment: Brooks More commented suggesting the acquisition cost points in Section 6(G) should increase in light of the rising cost of land in Maine.

Response: The average acquisition cost figures are based on recent purchase prices, which have stayed consistent in most areas of Maine. The goal of this point category is to keep acquisition costs down and encourage developers to negotiate for a better price. MaineHousing will continue to review this category in preparation for each QAP and make adjustments as necessary.

Comment: Brooks More commented applauding the separation of points for local and state approvals under Section 6(I).

Response: MaineHousing appreciates the support.

Comment: Brooks More commented the Net Developer Fee in Section 7(B) needs to increase. Maine has the lowest Net Developer Fee in the nation and projects take a long time and considerable resources to develop therefore the fee should reflect this commitment and risk.

Response: MaineHousing reevaluates the Net Developer Fee with every QAP and will continue to do so in the future. MaineHousing believes the New Developer Fee is appropriate at this time.

Comment: Jay Waterman, Director of Real Estate Development for Portland Housing Development Corporation, submitted written comments addressing Section 5B stating that the QAP incentivizes developers to take on brownfield mitigation, which can be very costly, outside of LIHTC deals because of the cost caps. Jay urged MaineHousing to consider removing Brownfield remediation costs from the TDC calculation.

Response: If Brownfield remediation is performed as part of the LIHTC deal it must be included in the TDC calculation as it is part of the total development cost. Developers may, as suggested,

perform Brownfield remediation outside of and/or prior to the project scope of work to avoid inclusion in the TDC.

Comment: Jay Waterman also commented that generally the project cost caps are too low. With higher costs associated with building in Southern Maine's urban areas and the fact that cost caps are fixed for over two years, it leads to developers needing to seek waivers of the cost caps. Jay urged MaineHousing to consider annual increases to the cost caps based on actual costs and/or a recognized inflation index, as well as regional cost caps, splitting the state into lower and higher cost cap areas.

Response: MaineHousing's priority is to fund as many new, high quality housing units as possible with its limited resources. Based on the costs in the current pipeline, as well as current labor and materials pricing and trends, MaineHousing is confident that the proposed TDC caps are reasonable and will eliminate certain projects which would otherwise have a higher per unit cost than necessary. MaineHousing believes that the TDC Caps in Maine's QAP are appropriate for Maine projects.

Comment: Jay Waterman also commented on Section 6(N), Owner Performance, expressing concern regarding negative points for situations where incidents occur that are no fault of the owner or property management company and are quickly remediated, but still result in the issuance of an 8823.

Response: MaineHousing has added clarifying language to Section 6(N), Owner Performance, explaining that MaineHousing has the discretion to consider whether non-compliance was a direct result of the Applicant's non-performance, the performance of an unaffiliated third-party, or a result of something outside the control of any affiliated party provided it was corrected appropriately within a reasonable timeframe.

Comment: Jay Waterman also commented on Section 7B, Developer Fee, stating \$750,000 is still among the lowest in the nation. Jay expressed there is significant financial risk in taking on these projects and the amount should be increased to at least the national median.

Response: MaineHousing continues to believe that the Net Developer Fee cap of \$750,000 is appropriate. The Net Developer Fee cap is reviewed with each iteration of the QAP and adjustments are made as necessary.

Comment: Jay Waterman also commented that MaineHousing should streamline the environmental review process and help mitigate some of the risk that comes with a potential Choice Limiting Action. Jay suggested using qualified third-party engineers to compile the Environmental Review Checklist to submit to MaineHousing for review and approval. Jay commented this would be relatively inexpensive and would save a lot of MaineHousing staff time and remove the regulatory risk of a Choice Limiting Action much earlier in the life of a LIHTC project.

Response: MaineHousing appreciates this recommendation and intends to look into the possibility of outsourcing the Environmental Review work.

FISCAL IMPACT OF THE RULE: The 2025 State of Maine ceiling of federal low-income housing tax credits is projected to raise approximately \$ 34,700,000 of private investor capital, and the 2026 State of Maine ceiling of federal low-income housing tax credits is projected to raise approximately \$ 35,300,000 of private investor capital. The private investor capital generated by the federal low-income housing tax credits will be used to develop affordable housing for low-income persons. Additionally, it is estimated that 1,400 jobs a year will be created with this investment. The rule will not impose any costs on municipalities or counties for implementation or compliance.

EFFECTIVE DATE: JULY 3, 2024

APPENDIX A

Definitions

“Above Average” means an average overall score of 4 in the rating category - Physical plant inspections, Project Reports submissions, or Management and Occupancy Reviews. Physical plant inspections, and Management Occupancy Reviews are scored on the following scale: 1- Unsatisfactory, 2 – Below Average, 3 – Average, 4 – Above Average, and 5 – Superior. Project Reports submissions are scored as 5-Timely Submission and 1-Late Submission for each required submission report – Audited Financial Review (AFR), Budget, and Owner Certification of Continued Compliance.

“Act” means the Maine Housing Authorities Act, [30-A M.R.S. §4701 et seq.](#), as may be amended from time to time.

“Activities Important to Daily Living” means activities or destinations that are important to the course of daily living of the population served by the Project, which include a grocery store, a public school only if the Project is housing for families, a daycare only if the Project is housing for families, a senior center only if the Project is Housing for Older Adults, a pharmacy, a bank or credit union, a post office, a store that offers regularly purchased household supplies, a general health care practitioner’s office, a public library, a location where people socialize, a hospital and other activities or destinations approved by MaineHousing. Convenience stores and gas stations are not eligible destinations for purposes of this subsection. If there is more than one activity or destination important to the course of daily living within a single establishment, each activity or destination will be counted separately (e.g. a retail store that also includes a pharmacy and a bank branch will be treated as 3 destinations important to the course of daily living).

“Adaptive Reuse” means the conversion of an existing non-housing building or structure to multi-family residential rental housing or the reconstruction of existing housing that has become functionally obsolete, as determined by MaineHousing.

“Affiliates” means any person or entity directly or indirectly controlling, controlled by, or under common control with another person or entity.

“Affordable Housing” means multi-family rental housing that has five or more units and is assisted under a HUD or Rural Development program or is subject to a restrictive covenant requiring units in the housing to be restricted to households with income at or below 60% of area median income, as determined by HUD.

“Affordable Housing TIF” means an affordable housing development district and development program approved by MaineHousing pursuant to MaineHousing’s Affordable Housing Tax Increment Financing Program, [30-A M.R.S., Chapter 206, Subchapter 3](#) and the Act, as may be amended.

“Applicant” means the entity applying for Credit, its successors and assigns, which must be the entity that will be the owner of the Project for tax purposes; must be duly organized and validly existing under the laws of the state in which it is formed, and if not formed in this State, must be

duly authorized to conduct business in this State; and must be in good standing under the laws of this State and its state of formation, if not this State.

“Application” means an application to MaineHousing for an allocation of Credit.

“Capitalized Lease Value” means the net present value of all lease payments under a lease calculated over the term of the lease using the 10-year Treasury note rate 60 calendar days before the Application deadline plus 300 basis points.

“Code” means the Internal Revenue Code, Title 26 of the United States Code, and applicable regulations promulgated pursuant thereto, as may be amended.

“Community Revitalization Plan” means (1) a community that has been designated by HUD or RD as an Empowerment Zone, a Renewal Community or Enterprise Community, or a Neighborhood Revitalization Strategy Area; or (2) a written plan that was formally adopted by the governing body of a municipality no more than twelve (12) years prior to the Application deadline following a concerted planning process and public input, specifically targets a neighborhood or area in the community (not a single building or site or the entire municipality) for redevelopment or revitalization, and includes (a) an assessment of the existing physical structures and infrastructure of the area, (b) detailed policy goals with respect to economic redevelopment, the rehabilitation or development of housing (including multi-family rental housing) and the improvement or expansion of infrastructure, and (c) proposed activities and a timetable for implementing the policy goals. Plans for a single development and plans formulated by or on behalf of the Applicant are not Community Revitalization Plans. A comprehensive plan that meets all of the requirements in (2) may qualify.

“Compliance Period” means the period defined in Section 42(i)(1) of the Code.

“Credit” or “LIHTC” means the low-income housing tax credit established pursuant to [Section 42](#) of the Code and allocated pursuant to this rule.

“Credit Period” means the period defined in Section 42(f)(1) of the Code.

“Credit Units” means units in a Project that are eligible for Credit.

“Demand Response Transportation” means on-call transportation services that operate at least 3 days per week and provide service throughout the day.

“Developer Fee” means the total compensation for the work, costs and risks associated with developing a Project, including without limitation, creating the Project concept, identifying and acquiring the Project site, obtaining construction and permanent financing, obtaining necessary subsidies, negotiating the syndication of investment interests in the Project, obtaining all necessary regulatory approvals, constructing and/or rehabilitating the Project and marketing, and includes all amounts paid to consultants to perform this work, except fees for professional services such as environmental assessments, rental market studies, soil tests, and water tests, and includes all reserves, in the form of cash, expected to be paid to the tax credit developer from the Project.

“DDA” means an area of the State that is designated by HUD as a difficult development area

pursuant to [Section 42\(d\)\(5\)\(B\)\(iii\)](#) of the Code or an area of the State that is designated by MaineHousing as a difficult-to-develop area in Section 7.A.3 pursuant to [Section 42\(d\)\(5\)\(B\)\(v\)](#) of the Code.

“Extended Use Agreement” means an agreement that satisfies the requirements of [Section 42\(h\)\(6\)\(B\)](#) of the Code.

“Extended Use Period” means the period of time specified by MaineHousing in the Extended Use Agreement executed in connection with a Project pursuant to [Section 42\(h\)\(6\)\(D\)](#) of the Code, which is the period set forth in Section 5.A. for Projects allocated Credit under the State Ceiling.

“Extremely Low Income” means income that is at or below 30% of the area median income as determined pursuant to the regulations and guidance governing the National Housing Trust Fund.

“Family Housing” means housing for families that qualifies for points under the Family Housing scoring criteria set forth in Section 6.E.

“Fiscal Year” means the fiscal year for a LIHTC Project as defined in the Owner’s organizational documents.

“Fixed-route Public Transportation” means year-round, regularly scheduled public transportation that operates at least 5 days per week and provides regular service throughout the day.

“Housing Development Costs” means the total of all direct and indirect costs incurred in financing, creating, purchasing or rehabilitating a LIHTC Project except the costs attributable to the acquisition of the land and any existing buildings as determined by MaineHousing.

“Housing for Older Adults” means a Project that is designated as elderly or senior housing and receives funding and project-based rental assistance under a RD or HUD multi-family elderly housing program (such as [RD’s Section 515 Rural Rental Housing Program](#) and [HUD’s Section 202 Supportive Housing for the Elderly Program](#)) or that meets the definition of “housing for older persons” under the federal [Fair Housing Act, 42 U.S.C. §3607\(b\)\(2\)](#) and the Maine Human Rights Act, [5 M.R.S. §4581 et seq.](#) and all associated regulations, as may be amended.

“HUD” means the United States of America acting through the United States Department of Housing and Urban Development.

“Intermediary Costs” means all Housing Development Costs except the actual construction costs or eligible rehabilitation costs under [Section 42\(e\)](#) of the Code attributable to the development of the units.

“IRS” means the United States Department of Treasury, Bureau of Internal Revenue Service.

“LIHTC Project” means a qualified low-income housing project as defined in and governed by [Section 42\(g\)](#) of the Code.

“MaineHousing” means Maine State Housing Authority.

“MaineHousing’s Construction Standards” means MaineHousing’s [Quality Standards and Procedures Manual](#) in effect 60 calendar days prior to the applicable deadline for an Application for Credit which include without limitation certain energy efficiency standards and UPCS and incorporate MaineHousing’s accessibility policy and procedures.

“Maximum Credit Amount” means the maximum amount of Credit a Project is eligible to receive pursuant to Section 3.C.

“National Housing Trust Fund” means the Housing Trust Fund established under Title I of the Housing and Economic Recovery Act of 2008, [12 U.S.C. §4568](#), together with associated regulations and guidance now or hereafter promulgated pursuant thereto.

“Net Developer Fee” means the Developer Fee with respect to a Project that does not exceed the applicable limit set forth in Section 7.B.2., including any portion thereof that is deferred or loaned to pay for costs associated with the Project (and does not include any additional Developer Fee allowed under Section 7.B.3).

“Notice to Proceed” means the notice that a Project has been selected for further evaluation to determine the Project’s eligibility for Credit and the amount of Credit to be allocated for the Project. The Notice to Proceed will require the submission of all information necessary for MaineHousing to determine the amount of Credit, if any, to be allocated to the Project, obligate the Applicant to fulfill all commitments made in the Application, and require the Applicant to promptly and diligently develop and complete the Project according to the deadlines specified in the notice.

“Owner” means the legal owner of a LIHTC Project or Qualified Building for which an Application has been submitted to MaineHousing or which has received an allocation of Credit from MaineHousing pursuant to this Qualified Allocation Plan or a prior Qualified Allocation Plan for the State.

“Ownership Transfer Rule” means Chapter 27 of MaineHousing’s rules, *Transfers of Ownership Interests*, and the policies and procedures related thereto, all as may be amended.

“Passive House Certification” means certification from Passive House Institute US, Inc. (PHIUS) or Passive House Institute (PHI) prior to MaineHousing’s issuance of IRS Form 8609.

“Persons Experiencing Homelessness” means persons sleeping in a place not meant for human habitation, in an Emergency Shelter, or in other emergency housing; persons exiting an institution where they resided for 90 days or less and who had resided in an Emergency Shelter, other emergency housing, or place not meant for human habitation before entering that institution; and persons fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions in the individual’s or family’s current housing situation, including where the health and safety of children are jeopardized, and who have no other residence and lack the resources or support networks to obtain other permanent housing.

“Placed in Service” means the date on which a Qualified Building is suitable and available for occupancy as determined in accordance with [Section 42](#) of the Code.

“Principal” means any person or entity with a controlling interest in another entity, including without limitation, a person or entity with an ownership interest in an Applicant that controls the development and day-to-day operation of a Project, such as the general partner(s) of a limited partnership or the manager(s) or member(s) invested with the management authority of a limited liability company, and all persons and entities with an ownership interest in or control of said entity.

“Project” means the property described in the Application, which must be a qualified low-income housing project as defined in and governed by [Section 42\(g\)](#) of the Code.

“Project Reports” means the annual certification and tenant data required under Section 10.C., and if required for the LIHTC Project, the audited financial report (AFR) and the annual project budget.

“QCT” means an area of the State designated by HUD as a qualified census tract pursuant to [Section 42\(d\)\(5\)\(B\)\(ii\)](#) of the Code.

“Qualified Allocation Plan” or “Plan” means the plan for allocating and administering the Credit adopted by the housing credit agency pursuant [Section 42\(m\)\(1\)\(B\)](#) of the Code.

“Qualified Building” means a qualified low-income building as defined in and governed by [Section 42\(c\)\(2\)](#) of the Code.

“Qualified Contract” means a contract as defined in Section 42(h)(6)(F) of the Code.

“Qualified Nonprofit Organization” means a qualified nonprofit organization as defined in Section 42(h)(5)(C) of the Code.

“Rehabilitation Costs” means with respect to a Project (1) the site costs, (2) the costs of complying with the construction requirements of other funding sources except those required by the Applicant, any Principal thereof or Affiliates of either, (3) contractor profit, overhead and general conditions, and (4) certain costs identified in the capital needs assessment required under Section 5.C.1. of the QAP, including (a) the cost of correcting all violations of applicable federal, state and local health, safety and building codes and correcting deferred maintenance, (b) the rehabilitation or replacement of all structures, systems, facilities and components that have reached or exceed their useful life or will reach their useful life within 5 years, (c) the cost of complying with MaineHousing’s Construction Standards, (d) the cost of complying with the most current accessibility requirements for new construction projects under applicable federal, state and local accessibility laws, regulations, standards and guidance, and (e) the remediation and disposal of any environmental or other hazards identified in environmental reports. Rehabilitation Costs do not include construction contingency, relocation costs, or other soft costs.

“Related Development” means any development of which the Project is a part or is related and the Project cannot be completed, either structurally or financially, without the completion of the development.

“RD” or “Rural Development” means the United States of America acting through the United States Department of Agriculture, Rural Housing Services.

“Safe Walking Distance” means a pedestrian route appropriate to the area, as determined by MaineHousing, with sidewalks, crosswalks and traffic signals at busy roads or intersections and year-round walkability, which includes being plowed during the winter.

“Section 8” means Section 8 of the United States Housing Act of 1937, [42 U.S.C. §1437f](#), as may be amended.

“Service Center Community” means an entire municipality that provides jobs and retail to surrounding areas and is a center for education, health care, cultural, recreational and social services, designated pursuant to the Municipal Planning Assistance Program of the State’s Department of Agriculture, Conservation and Forestry as a Regional Service Center as of January 2013.

“State” means the State of Maine.

“State Ceiling” means the State’s housing credit ceiling established pursuant to [Section 42\(h\)\(3\)\(C\)](#) of the Code.

“Tax Increment Financing” means any type of tax increment financing, including without limitation an Affordable Housing TIF, a development district and development program approved by a municipality or a tax increment financing district approved by the State’s Department of Economic and Community Development pursuant to [30-A M.R.S., Chapter 206](#), as may be amended.

“TDC Index” means the calculation described in Section 5.B.

“TDC Index Cap” means the limit on Total Development Cost set forth in Section 5.B.

"Telehealth" means the use of interactive real-time visual and audio or other electronic media for the purpose of consultation and education concerning and diagnosis, treatment, care management, and self-management of a patient's physical and mental health and includes real-time interaction between the patient and the telehealth provider, synchronous encounters, asynchronous encounters, store and forward transfers and remote patient monitoring. Telehealth includes telephonic services when interactive telehealth services are unavailable or when a telephonic service is medically appropriate for the underlying covered service.

“Total Construction Cost” means the sum of site costs, costs of constructing or rehabilitating structures, systems, facilities, units and components, general requirements, bond premiums, and contractor overhead and profit as determined by MaineHousing.

“Total Development Cost” or “TDC” means Total Project Cost less (1) the fees required by MaineHousing, (2) the Project’s operating deficit account to the extent required by MaineHousing and (3) the costs associated with any commercial space developed in connection with the Project.

“Total Project Cost” means the sum of all costs associated with the development, construction and rehabilitation of a Project, as determined by MaineHousing. Total Project Cost includes, without limitation, acquisition costs, the Capitalized Lease Value of all leases of land and building(s), demolition costs, Total Construction Cost, construction contingency, costs associated with community service facilities included in the Eligible Basis of the Project, soft costs (such as permits,

design and engineering fees, environmental reports, appraisals, market studies and legal fees), syndication costs, Developer Fee, financing costs and project reserves. Community service facilities are not considered commercial space for purposes of Total Project Cost.

“UPCS” means the Uniform Physical Conditions Standards established by HUD pursuant to [24 CFR §5.703](#), as may be amended.

APPENDIX B

Pre-Application Submission Requirements

Applicants must submit a request for pre-application review and the following information to MaineHousing **at least 60 calendar days before the applicable Application deadline.**

1. A narrative description of the Project and any Related Development, including, the location, type of housing, total number of units by bedroom size, breakdown of required and/or pledged accessible units by type and location, total number of income-restricted units by bedroom size, proposed affordability, any existing affordability restrictions, any existing or proposed use restrictions, common areas and amenities at the Project, any community service facilities, any commercial space and other unique features of the Project.
2. Conceptual, Diagrammatic Site Plan and Conceptual Floor Plans and Conceptual Building Elevations in accordance with the requirements set forth in MaineHousing's *Quality Standards and Procedures Manual* which can be found at <https://www.mainehousing.org/programs-services/housing-development/construction-services>.
3. The status of applicable federal, State and local land use approvals for the Project and any Related Development, and any site, subdivision and other plans for the Project and any Related Development that have been prepared for submission or have been submitted to applicable municipal, state and federal governmental entities.
4. Details about the parking for the Project, including the number, type and location of all on-site parking and off-site parking and the terms and conditions thereof.
5. An explanation and all supporting documentation for any exceptions from the requirement to provide a community room, laundry facilities, telemedicine facilities or area activities in accordance with Section 5.I of the QAP.
6. All available information about any known or suspected environmental conditions on the Project site and any Related Development or adjacent sites that may impact the Project site or any Related Development, including any environmental reports and all available radon test results for the Project site. To the extent feasible, identify any and all visible (both on and off-site) fuel oil and propane tanks and include them on the site plan
7. A capital needs assessment for any existing housing that meets the requirements in Section 5.C. and Appendix C.
8. A conceptual construction estimate(s) prepared by a qualified general contractor or third-party estimator for the Project and any Related Development, including trade breakdowns in the form of a schedule of values and a reasonable estimating contingency, if applicable, with sufficient detail to demonstrate expected construction-related costs. All exclusions and qualifications, if any, must be clearly stated in the estimate. The estimate is to be the basis of the hard cost line items contained in the project underwriting without exception.
9. A projected development and operating budget(s) for the Project and any Related Development which must be submitted electronically in the format prescribed by MaineHousing.

APPENDIX C

Capital Needs Assessment Requirements

1. The assessment must include a site visit, an interview with the on-site property manager and maintenance personnel concerning prior and pending repairs and improvements and existing or chronic physical deficiencies, and a physical inspection of the interior and exterior of at least 20% of the units and all other structures, facilities, systems and components that will be part of the Project, including the following:

- a) Site, including without limitation topography, drainage, pavement, curbing, walkways, sidewalks, parking, accessible parking, accessible routes, landscaping, amenities, water, sewer, storm drainage, and all utility lines;
- b) Structural systems and components, both substructure and superstructure, including without limitation foundations, exterior walls, balconies, porches, and stairways, exterior doors and windows, chimneys and roofing;
- c) Interiors, including without limitation unit and common area finishes and substrata (e.g. flooring, underlayment, carpeting, plaster or drywall, wall coverings and paint condition), and unit and common area kitchen finishes, cabinets, countertops and appliances, and unit and common area bathroom finishes, fixtures and accessories, laundry facilities, and common area lobbies and corridors; and
- d) Building systems, including without limitation plumbing supplies and drainage, domestic hot water production, heating, ventilating and air-conditioning production and distributions systems, fuel storage and delivery systems, electrical power distribution and metering systems, lighting controls and fixtures, smoke, fire and any other alarm systems, fire protection systems, security systems, and elevators.

The capital needs assessment must specifically identify all structures, systems, facilities, units and components that were inspected and must include a concise overview of the physical and operational condition of the existing housing and a detailed assessment of the expected useful life and the remaining useful life of each structure, system, facility, unit and component inspected. The assessment must also consider the presence of environmental and other hazards, including without limitation, asbestos, lead paint, mold, water damage and insect infestations.

2. The capital needs assessment must include a recommended scope of work and a cost estimate to complete the scope of work that addresses the following capital needs of the Project, without consideration of financial feasibility:

- a) Correction of all violations of applicable federal, state and local building, health and life safety codes and correction of all deferred maintenance;
- b) Rehabilitation or replacement of all structures, systems, facilities, units and components that have reached or exceeded their useful lives or will reach their useful lives within 5 years;
- c) Rehabilitation of all units and common areas and facilities to bring them into compliance with MaineHousing's Construction Standards to the maximum extent feasible;
- d) Rehabilitation of the minimum number of units and all common areas and facilities that are necessary to comply with the most current requirements for new construction projects under applicable federal, state and local accessibility laws, regulations, standards and guidance (which include without limitation, [Section 504 of the Rehabilitation Act of 1973](#), HUD's housing regulations at [24 C.F.R. Part 8](#) and any accessibility standard designated by HUD; Title II and Title III of the Americans with Disabilities Act of 1990 and the 2010 Standards of Accessible Design; and if the Project involves substantial rehabilitation, the Maine Human Rights Act, the Maine Human Rights Commission's Chapter 8, Housing Regulations, and ANSI Standard A117.1-2009); and

e) Remediation and disposal of any environmental or other hazards identified in the assessment.

3. The capital needs assessment must also identify any structures, systems, facilities, units and components with a remaining useful life of less than 30 years. The Application must include a plan for future rehabilitation or replacement of any identified structure, system, facility, unit and component with a useful life of less than 30 years that is not included in the scope of work for the Project, including possible funding sources, which will be considered in establishing the appropriate funding amounts for the Project's reserve accounts.

APPENDIX D
LOW INCOME HOUSING TAX CREDIT PROGRAM
OWNER'S CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE

To: *MaineHousing*
26 Edison Drive
Augusta, ME 04330

Certification Dates:	From: January 1, 20_____	To: December 31, 20_____		
Project Name:			Project No:	
Project Address:		City:	County:	Zip:
Tax ID # of Ownership Entity:				
Building Identification Number(s):	(1)	(2)	(3)	
	(4)	(5)	(6)	
	(7)	(8)	(9)	
	(10)	(11)	(12)	

☐ No buildings have been Placed in Service
☐ At least one building has been placed in Service but owner elects to begin credit period in the following year.
 If either of the above applies, please check the appropriate box, and proceed to page 2 to sign and date this form.

The undersigned_____ on behalf of

_____ (the "Owner"), hereby certifies that:

1. The project meets the minimum requirements of: (check one)
 - ☐ 20 - 50 test under Section 42(g)(1)(A) of the Code
 - ☐ 40 - 60 test under Section 42(g)(1)(B) of the Code
 - ☐ 15 - 40 test for "deep rent-skewed" projects under Section 42(g)(4) and 142(d)(4)(B) of the Code
 - ☐ Income Averaging
2. There has been **no change in the applicable fraction** (as defined in Section 42(c)(1)(B) of the Code) for any building in the project:

☐ **NO CHANGE** ☐ **CHANGE**

If **"Change"**, list the applicable fraction to be reported to the IRS for each building in the project for the certification year on page 4:
3. There have been no changes in the building's eligible basis under Section 42(d) of any building in the project.

☐ **NO CHANGE** ☐ **CHANGE**

If **"Change"**, list the changes on page 4:
4. The owner has received an annual Tenant Income Certification from each low-income resident and documentation to support that certification, or the owner has a re-certification waiver letter from the IRS in good standing, has received an annual Tenant Income Certification from each low-income resident, and

documentation to support the certification at their initial occupancy.

☐ YES

☐ NO

5. Each low-income unit in the project has been rent-restricted under Section 42(g)(2) of the Code:

☐ YES

☐ NO

6. All low-income units in the project are and have been for use by the general public and used on a non-transient basis (except for transitional housing for the homeless provided under Section 42 (i)(3)(B)(iii) of the Code):

☐ YES

☐ NO

☐ HOMELESS

7. There has been no finding of discrimination under the Fair Housing Act, 42 U.S.C 3601-3619 with respect to this project. A finding of discrimination includes an adverse final decision by the Secretary of Housing and Urban Development (HUD), 24 CFR 180.680, an adverse final decision by a substantially equivalent state or local fair housing agency, 42 U.S.C 3616a(a)(1), or an adverse judgment from a federal court:

☐ FINDING

☐ NO FINDING

If "**Finding**", please explain the nature of the violation and attach a copy of the decision or judgment.

8. There has been no finding of discrimination under any other applicable local, State or federal equal access or nondiscrimination law with respect to this project. A finding of discrimination includes an adverse final decision by the governmental agency responsible for administering such law, or an adverse judgment from a court with jurisdiction over such law:

☐ FINDING

☐ NO FINDING

If "**Finding**", please explain the nature of the violation and attach a copy of the decision or judgment.

9. Each building in the project is and has been suitable for occupancy, taking into account local health, safety, and building codes (or other habitability standards), and the state or local government unit responsible for making building code inspections did not issue a report of a violation for any building or low income unit in the project:

☐ YES

☐ NO

If "**No**", explain the nature of violation on page 4 and attach a copy of the violation report as required by 26 CFR 1.42-5 and any documentation of correction.

10. Each building and all FedHome (HOME) assisted units are suitable for occupancy, taking into account State and local health, safety, and other applicable codes, ordinances, and requirements, and the ongoing property standards established by the participating jurisdiction (MaineHousing) to meet the requirements of 24 CFR, Part 92, HOME Investment Partnership Program, Section 92.251.

☐ YES

☐ NO

☐ N/A

11. There has been **no change in the eligible basis** (as defined in Section 42(d) of the Code) of any building in the project since last certification submission:

☐ NO CHANGE

☐ CHANGE

If "**Change**", state nature of change (e.g., a common area has become commercial space, a fee is now charged for a tenant facility formerly provided without charge, or the project owner has received federal

subsidies with respect to the project which had not been disclosed to the allocating authority in writing) on page 4:

12. All tenant facilities included in the eligible basis under Section 42(d) of the Code of any building in the project, such as swimming pools, other recreational facilities, parking areas, washer/dryer hookups, and appliances were provided on a comparable basis without charge to all tenants in the buildings:
☐ YES ☐ NO
13. If a low-income unit in the project has been vacant during the year, reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units were or will be rented to tenants not having a qualifying income:
☐ YES ☐ NO
14. If the income of tenants of a low-income unit in any building increased above the limit allowed in Section 42(g)(2)(D)(ii) of the Code, the next available unit of comparable or smaller size in that building was or will be rented to residents having a qualifying income:
☐ YES ☐ NO
15. Project complies with an extended low-income housing commitment as described in section 42(h)(6) (not applicable to buildings with tax credits from years 1987-1989):
☐ YES ☐ NO ☐ N/A
16. In the prior 12 month period, the owner has:
- a) terminated the tenancy of a tenant in a low income unit, including without limitation, non-renewal of the lease of an existing tenant in a low income unit, for other than good cause;
 - b) increased the gross rent of a tenant with respect to a low income unit not otherwise permitted under Section 42 of the Code and any other applicable program (e.g. HOME, HUD Section 8);
 - c) denied tenancy to any applicant or terminated the tenancy of any tenant solely because the applicant or tenant had a Section 8 voucher or certificate; or
 - d) denied tenancy to any applicant, terminated the tenancy of any tenant, or failed to assist a tenant in finding alternative appropriate housing in violation of Title VI of the Violence Against Women Reauthorization Act of 2013, 34 USC Subpart 2 – housing rights Chapter 121 and applicable regulations (VAWA), as amended.
- ☐ YES ☐ NO

If “Yes”, please explain the nature of the violation on page 4.

17. The project complies with the requirements of all applicable Federal and State Housing Programs included in the development (e.g., Rural Housing Services, HOME, HUD Section 8, or Tax-Exempt Bonds).
☐ YES ☐ NO
- If “No”, please explain the nature of the violation on page 4.
18. The owner received its credit allocation from the portion of the state ceiling set-aside for a project involving "qualified non-profit organizations" under Section 42(h)(5) of the code and its non-profit entity materially participated in the operation of the development within the meaning of Section 469(h) of the Code.
☐ YES ☐ NO ☐ N/A

19. The property has not suffered a casualty loss resulting in the displacement of residents.
☐ YES ☐ NO

If “Yes”, please explain the nature of the loss on page 4.

20. There has been no change in the ownership or management of the project:

☐ NO CHANGE ☐ CHANGE

If "**Change**", complete page 4 detailing the changes in ownership or management of the project.

Note: Failure to complete this form in its entirety will result in noncompliance with program requirements. In addition, any individual other than an owner or general partner of the project is not permitted to sign this form, unless permitted by the state agency.

The project is otherwise in compliance with the Code, including any Treasury Regulations, the applicable State Allocation Plan, and all other applicable laws, rules and regulations. This Certification and any attachments are made UNDER PENALTY OF PERJURY.

(Ownership Entity)

By: _____

Title: _____

Date: _____

PLEASE PROVIDE ANY CHANGES OR EXPLANATIONS REQUIRED UNDER QUESTIONS 1-19.

Question #	Explanation

CHANGE IN MANAGEMENT CONTACT

Date of Change:	
Management Co. Name:	
Management Address:	
Management city, state, zip:	
Management Contact:	
Management Contact Phone:	
Management Contact Fax:	
Management Contact Email:	

1. **CHANGES IN OWNERSHIP OR MANAGEMENT**

(to be completed **ONLY** if **"CHANGE"** marked for question 20 above)

2. **TRANSFER OF OWNERSHIP**

Date of Change:	
Taxpayer ID Number:	
Legal Owner Name:	
Address:	
Phone:	
General Partnership:	
Status of Partnership (LLC, etc.):	

CHANGE IN OWNER CONTACT

Date of Change:	
Owner Contact:	
Owner Contact Phone:	
Owner Contact Fax:	
Owner Contact Email:	

APPENDIX E

THRESHOLD REQUIREMENTS FOR PURCHASE OPTIONS/RIGHTS OF FIRST REFUSAL

I. The Purchase Options must:

- 1) grant to one or more of the general partner, managing member, developer or sponsor an irrevocable option to purchase the Project at a purchase price not more than the greater of: (a) its fair market value as encumbered by the Extended Use Agreement and any other restrictions of record; and (b) the sum of: (i) the outstanding debt secured by the Project, (ii) the amount of the limited partner's or non-managing member's federal, state and local tax liability resulting from the sale of the Project, and (iii) all amounts owed to the limited partner or non-managing member under the limited partnership agreement or limited liability company operating agreement (the "Project Option Price");
- 2) grant to one or more of the general partner, managing member, developer or sponsor an irrevocable option to purchase the interest of the limited partner(s) or non-managing member(s) in the Project ownership entity ("Ownership Interest") at a purchase price not more than the amount the limited partner(s) or non-managing member(s) would have received on an after-tax basis if the Project had been sold at the Project Option Price and the proceeds distributed pursuant to the terms of the limited partnership agreement or limited liability company operating agreement;
- 3) be exercisable beginning at the earlier of: (a) the expiration of the Compliance Period; or (b) the exit of or change of controlling interest in the limited partner or non-managing member occurring after the expiration of the Credit Period;
- 4) expire no earlier than 36 months after the expiration of the Compliance Period; and
- 5) give the holder of the option a minimum of 12 months to close on the purchase of the Project or the Ownership Interest after exercise of the option or such longer period required by any lender(s) or other party whose consent to the transfer is required.

II. The right of first refusal (ROFR) must:

- 1) grant to a Qualified Nonprofit Organization an irrevocable and exclusive ROFR to purchase the Project at the lesser of: (a) its fair market value as encumbered by the Extended Use Agreement and any other restrictions of record; and (b) the Minimum Purchase Price as defined in Section 42(i)(7) of the Code but in no event less than the outstanding debt secured by the Project, excluding any indebtedness incurred within the 5-year period ending on the date of the sale pursuant to the ROFR (the "ROFR Price");
- 2) be exercisable beginning at the expiration of the Compliance Period;
- 3) expire no earlier than 36 months after the later of: (i) the public offer of the Project for sale by the general partner or managing member; and (ii) the expiration of the Compliance Period;

- 4) give the holder of the ROFR a minimum of 90 days to exercise its ROFR and a minimum of 12 months to close on the purchase of the Project after exercise of the ROFR or such longer period required by any lender(s) or other party whose consent to the transfer is required; and
 - 5) not require more than a nominal earnest money deposit in order to exercise the ROFR.
- III. The Project owner's limited partnership agreement or limited liability company operating agreement must provide that:
- 1) the holder of the ROFR may assign the ROFR to a governmental unit, tenant organization or resident management corporation of the Project, or another Qualified Nonprofit Organization without the consent of the limited partner(s) or non-managing member(s);
 - 2) the general partner or managing member may elect to do any of the following:
 - a) subject to the consent of the limited partner(s) or non-managing member(s), which consent shall not be unreasonably withheld, conditioned, or delayed, sell the Project to the holder of the ROFR in connection with the exercise of the ROFR (the limited partner(s) or non-managing member(s) may not withhold consent for a non-material breach of the Project owner's organizational documents);
 - b) at its discretion, without the consent of the limited partner(s) or non-managing member(s), sell the Project to the holder of the ROFR in connection with the exercise of the ROFR following the general partner's or managing member's receipt of a bona fide third party offer to purchase the Project, which offer may be solicited by the general partner/managing member or the holder of the ROFR; or
 - c) at its discretion, without the consent of the limited partner(s) or non-managing member(s), offer the Project for sale publicly at any time following the expiration of the Compliance Period and thereafter accept an offer from the highest bidder to purchase the Project, as long as the sale price is not less than the ROFR Price, and provided such acceptance is subject to the rights of the holder of the ROFR to exercise the ROFR and purchase the Project at the ROFR Price;
 - 3) the general partner or managing member is directed and authorized to execute all documents necessary to effect the sale of the Project pursuant to the ROFR or Purchase Options;
 - 4) the limited partner(s) or non-managing member(s) affirmatively agree not to challenge: (i) the sale of the Project pursuant to the terms of the ROFR by the general partner or managing member to the holder of the ROFR even if the holder of the ROFR is affiliated with the general partner or managing member; (ii) the general partner's or managing member's acceptance of an offer from the highest bidder in response to the general partner's or managing member's public offer of the Project for sale, provided the offer price is not less than the ROFR Price, and/or the exercise of the ROFR by the holder of the ROFR after any such acceptance; and (iii) the exercise of the Purchase Options by the holder(s) thereof pursuant to the terms of the Purchase Option;

- 5) in the event Section 42(i)(7) of the Code is amended to permit a Qualified Nonprofit Organization to hold a purchase option after the expiration of the Compliance Period, and only to the extent permitted under such revised Section 42(i)(7) of the Code, the holder of the ROFR shall be entitled to purchase the Project, or at its option, all of the interests in the owner, in either case at the ROFR Price, in lieu of exercising the ROFR;
- 6) neither the ROFR or Purchase Options will be adversely affected or limited by any other rights of the limited partner(s) or non-managing member(s), or any owner of any interest in any limited partner or non-managing member, such as forced sale rights, and there are no conditions to the exercise of the ROFR or Purchase Options except as explicitly identified in the limited partnership agreement or limited liability company operating agreement; and
- 7) any amendment that would modify any term or condition related to the ROFR or Purchase Options requires the prior written consent of MaineHousing.

Chapter 34. Environment

ARTICLE VII. DOWNTOWN ANTI-BLIGHT

[Adopted 2-21-2017 by Ord. No. 2017.12]

Sec. 34-550. Title.

This article shall be known as the "City of Biddeford Downtown Anti-Blight Ordinance."

Sec. 34-551. Policy.

It is hereby found and declared that the existence of blighted premises in the downtown of Biddeford will adversely affect property values and development within the downtown and threatens the health, safety, general welfare and economic well-being of its residents and commercial interests. It is further found that blighted properties can be rehabilitated, reconstructed, demolished and/or reused so as to provide decent, safe and sanitary housing and/or commercial use, and that such rehabilitation, reconstruction, demolition and/or reuse would assist to eliminate, remedy and prevent the adverse conditions described above.

Sec. 34-552. Purpose.

The purpose of this article is to:

- (a) Define, prohibit and abate blighted premises;
- (b) Protect, preserve and promote public health, safety, general welfare and economic well-being; and
- (c) Preserve and protect property values and promote development within the downtown and the City of Biddeford.

Sec. 34-553. Creating or maintaining blighted premises prohibited.

No owner, agent, tenant or person in control of real property located in the downtown of the City of Biddeford shall allow, create, maintain, cause to be created or maintained, or allow to exist any blighted premises.

Sec. 34-554. Definitions.

As used in this article, the following terms shall have the meanings indicated:

BLIGHTED PREMISES

Any building, structure, premises or any part of a structure that is a separate unit, in which any of the following or any combination of the following conditions exist (the following list is illustrative, not exhaustive):

- (1) It is a substantial factor causing obvious depreciation to property values in the downtown;
- (2) It is not being maintained and/or has been unoccupied for at least 90 days and contributes to downtown decay/blight as evidenced by the existence of one or more of the following conditions in ordinary public view:
 - (a) Missing or boarded windows or doors;
 - (b) Collapsing or missing walls, roof or floor;
 - (c) Seriously damaged or missing siding of four square feet or more;
 - (d) Buildings in need of painting or sealing;
 - (e) Fire damages;
 - (f) A structurally faulty foundation or foundations; and/or
 - (g) Physical hazards, rodent harborage and infestation, garbage, or trash;
- (3) It is a factor creating a substantial and unreasonable interference with the reasonable and lawful use and enjoyment of other space within the building or of other premises within the downtown as documented by neighborhood complaints.

DILAPIDATED

A building or structure, or part thereof, that would not qualify for a certificate of occupancy if applied for, or which is deemed an unsafe structure as defined by the State Building Code, and any dwelling or unit which is designated as unfit for human habitation as defined in the State Building Code and/or the Code of Ordinances of the City of Biddeford.

DOWNTOWN

An area encompassed by the Zoning District identified as MSRD-1.

ORDINARY PUBLIC VIEW

The view available, from private or public property or public rights-of-way, from average grade surrounding the property.

PERSON

Any man, woman, family, corporation, or other legal entity capable of owning or possessing real property.

PREMISES

Any lot or part thereof or parcel or plot of land, either occupied or unoccupied by any dwelling or nondwelling structure, and includes any such building, accessory structure or other structure thereon, or any part thereof. The term "premises," where the context requires, shall be deemed to include any buildings, dwellings, parcels, land or structures contained within the scope of this article.

STRUCTURE

Anything built for the support, shelter, or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, including decks, stacks, satellite dishes, and antennas, exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops, as well as guying and guy anchors, as well as sidewalks, driveways, parking lots, and field or garden walls or embankment retaining walls.

UNIT

Any space within a building that is or can be rented by or to a single person or entity for its sole use, and is intended to be a single and distinct space.

UNOCCUPIED

A period of 90 days or longer during which a building or structure, or part thereof, or land is not legally occupied as documented by the Code Enforcement Office.

Sec. 34-555. Applicability.

This article applies to all premises within the City of Biddeford downtown as defined above.

Sec. 34-556. Responsibility for compliance.

Any person owning premises subject to this article or legally responsible for maintaining the premises, including the agents thereof, shall be jointly and severally obligated to comply with the provisions of this article and subject to the penalties for violation hereof.

Sec. 34-557. Complaints.

Complaints may be submitted to the Code Enforcement Officer and/or their designee and must be in writing and signed and dated by the complainant.

Sec. 34-558. Enforcement.

- (a) The Code Enforcement Officer is charged with the enforcement of this article. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this article and any rules or regulations promulgated under this article. The Code Enforcement Officer shall order any person who violates this article to abate such violation within two years, unless such a violation is considered an immediate threat to the health, safety, and general welfare of the public, in which case such abatement shall be conducted within an acceptable time frame as determined by the Code Enforcement Officer.
- (b) The Code Enforcement Officer shall be hereby authorized and empowered to issue notices of violation for violations of this article. Notices of violation shall be sent to the property owner and/or the person responsible for maintaining the premises, and if the notice of violation is a result of a complaint pursuant to Sec. **34-557**, shall also be sent to the complainant. Such notices shall be sent by certified mail or delivered in person and shall include the following:
 - (1) A description of the violation(s) of this article.
 - (2) An outline of the process by which the property owner and/or the person responsible for maintaining the premises can determine what remedial actions are recommended by the Biddeford Historic Preservation Commission;
 - (3) A description of the remedial action(s) which, if taken, would affect the compliance with the provisions of this article;
 - (4) A date by which the violation(s) must be corrected in order to avoid penalty and enforcement pursuant to this article;
 - (5) A statement that the penalties and enforcement provisions of this article will take effect the day after the compliance date if compliance has not been accomplished;
 - (6) A statement that outlines the appeals process afforded through this article.

- (c) Historic Preservation Commission review is required for all properties receiving a notice of violation pursuant to the article. The Historic Preservation Commission shall review all proposed remedial actions and shall issue a certificate of appropriateness only once it is satisfied with what is proposed. Further, additional recommendations for improvements in order to abate violations of this article may be included in such a certificate of appropriateness and may be included as conditions to the required abatement at the discretion of the Code Enforcement Officer.

Sec. 34-559. Violations and penalties.

- (a) Action upon noncompliance. Any owner, person responsible for maintaining the premises, or agent of a blighted premises who fails to abate any such blight commits a civil violation pursuant to City of Biddeford Code of Ordinances, Chapter 1 (General Provisions), Sec. 1-12 (General penalty for violation of Code; continuing violations).
- (b) Conference granted to owner or agent. Any owner or agent who receives a notice of violation issued pursuant to Sec. 34-558 above shall, upon request, be granted a conference with the official(s) who issued the notice of violation as soon as practicable. A request for a conference shall in no way stay the abatement order. However, a hearing request made pursuant to Sec. 34-560 herein shall stay an abatement order.

Sec. 34-560. Hearing and appeal procedure for notices of violation.

- (a) Any person notified in accordance with Sec. 34-558 may appeal the notice of violation(s) within 30 days to the Biddeford Zoning Board of Appeals as an administrative appeal as outlined in Article IX of the Biddeford Land Development Regulations.
- (b) Any appeals shall be heard by the Biddeford Zoning Board of Appeals at its next earliest available scheduled meeting.

Sec. 34-561. Severability.

If any provision of this article is declared unconstitutional or held invalid, it shall not affect any other section, clause, or provision thereof, but the same shall remain in full force and effect.

From: [Tyler Norod](#)
To: [Grohman, Martin](#); [LaFountain, Liam](#); [Phinney, Brian](#); [Macneill, Shelly](#); [Dever, Truc](#)
Cc: [John Concannon](#)
Subject: WDC - Pearl Street Resolution for September 2nd Agenda
Date: Tuesday, August 26, 2025 2:33:36 PM
Attachments: [image001.png](#)
[City of Biddeford, ME DOWNTOWN ANTI-BLIGHT.pdf](#)
[DRAFT - Council Memo - MERCE Redevelopment for Environmental Remediation.docx](#)

Caution: This is an external email. Please take care when clicking links or opening attachments. When in doubt, contact the IT Department

Good afternoon everyone,

Thank you all for your consideration and ongoing support. As we discussed at our last Council meeting on August 5th, the Council tabled our item requesting a resolution to designate our site as blight in order to gain an additional point on this year's MaineHousing funding application. Since then we have been looking deeper into both the existing City definition of blight along with consideration for pursuing a similar resolution for the Council to designate our sites (Lot 1B & 1C) for redevelopment to remediate environmental risks.

Blight Designation

WDC and its legal counsel took a closer look at the existing definition of blight in the City Ordinance (attached here for ease of reference). The definition of blight looks to allow for a designation not only for structures, but also for vacant land. Below are portions of the ordinance that appear to fit the existing conditions of our site.

“Any premises ... in which any of the following or any combination of the following conditions exist (the following list is illustrative, not exhaustive)”:

(1) It is a substantial factor causing obvious depreciation to property values in the downtown;

(2) It is not being maintained and/or has been unoccupied for at least 90 days and contributes to downtown decay/blight as evidenced by the existence of one or more of the following conditions in ordinary public view:

...

(g) Physical hazards, rodent harborage and infestation, garbage, or trash;

(3) It is a factor creating a substantial and unreasonable interference with the reasonable and lawful use and enjoyment of ... other premises within the downtown as documented by neighborhood complaints.

Unfortunately, the blight ordinance only seems to apply to “downtown”. Downtown is defined

on page 2 as an area encompassed by the Zoning District MSRD-1. Our site is located in Zoning District MSRD-3. In order for blight to apply we would assume that the definition of downtown would need to be expanded to MSRD-3 or remove reference to any specific zone.

Environmental Remediation Designation

WDC has been working with SMPDC and their environmental consultant, TRC, to qualify our sites (Lot 1B & 1C) for brownfield remediation funding. Both sites have since been confirmed to meet the qualifications for brownfield funding and at SMPDC's July 31st Board Meeting have been awarded funding towards remediation costs associated with our developments. As such, it seems to us that the City could simply pass a resolution "designating the site for redevelopment to remediate environmental risks to future occupants". Environmental remediation designation qualifies for the same scoring category as blight on the MaineHousing application.

It should be noted, I do not know whether or not other areas of the former MERC site have been formally designated for further environmental remediation so any resolution should be limited to Lots 1B and 1C to confirm accuracy of any statements by the City. I think the previous resolution included the entire former MERC site, but our request is only for our lots.

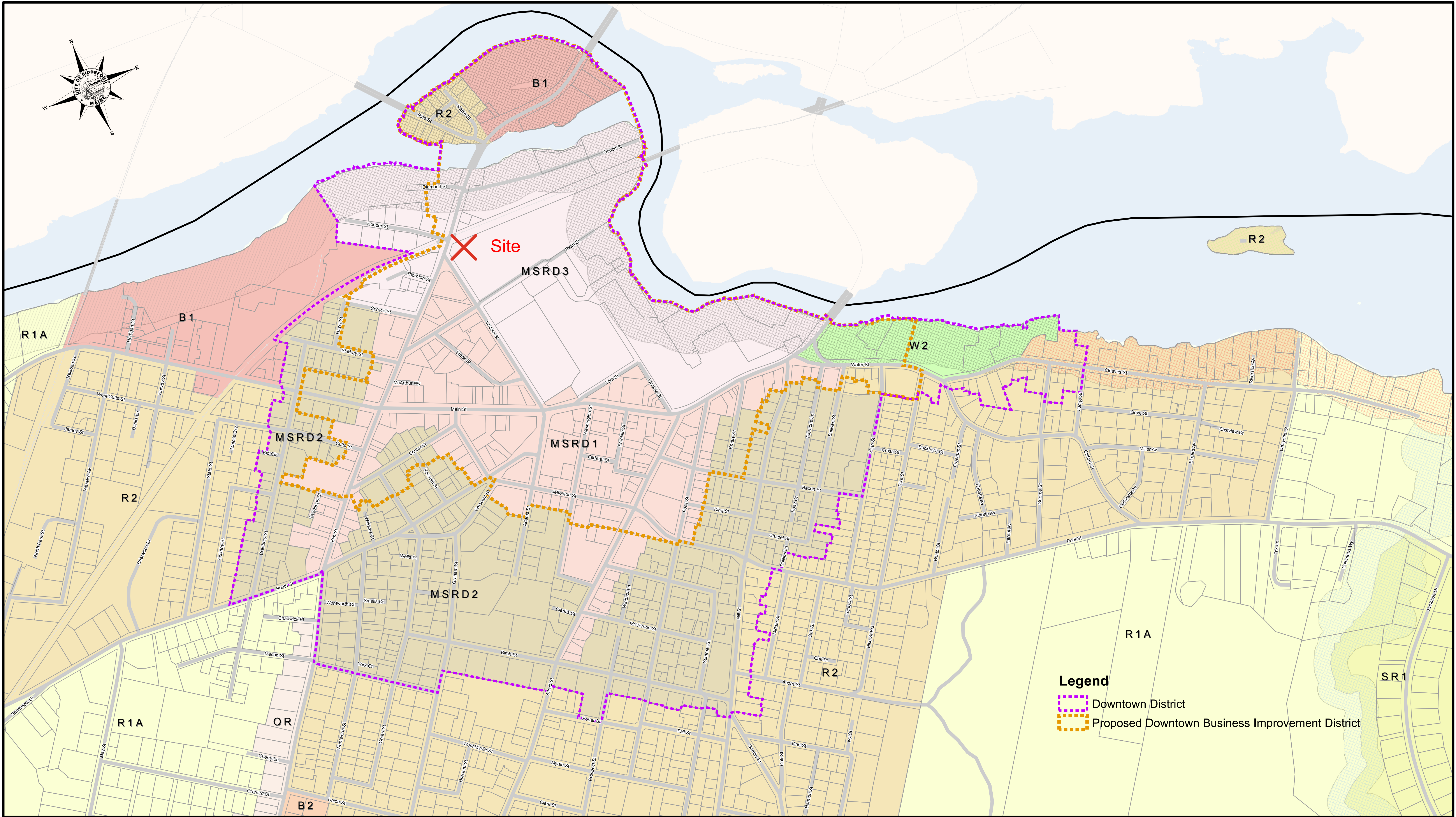
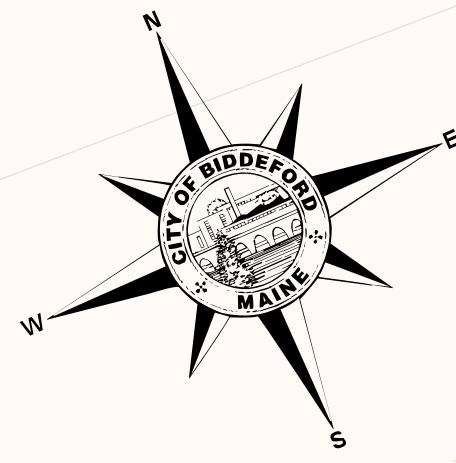
Thank you again for your consideration and continued support. This point very well may make the difference in Biddeford's competitiveness with other deserving projects in the state. In case it is helpful I have drafted a brief memo related to the environmental remediation designation in case its useful to pull from.

Tyler

Tyler Norod
Development Director
Westbrook Development Corporation
(207) 956-1575 Cell

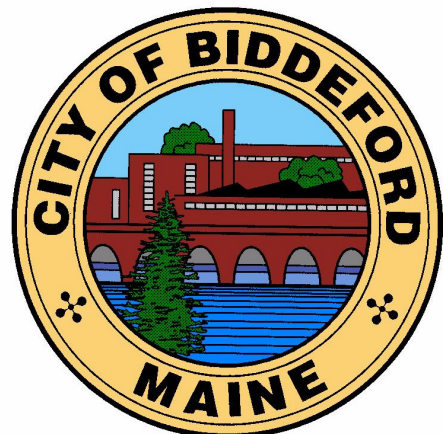


(please note: WDC & WHA offices' are now closed on Fridays)



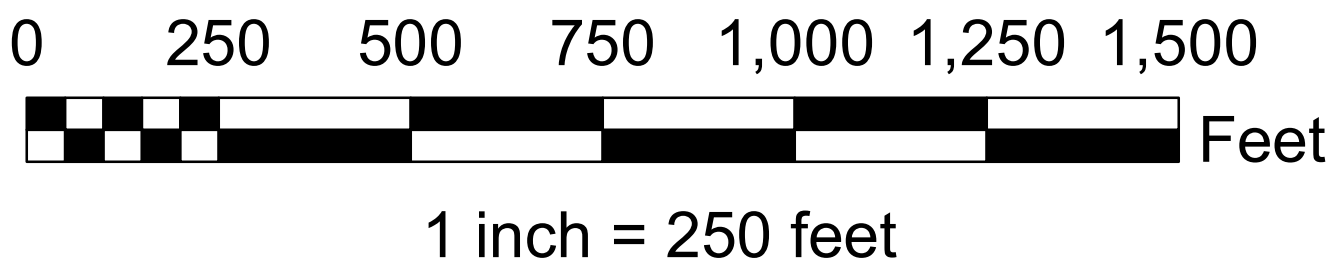
Legend

- Downtown District
- Proposed Downtown Business Improvement District



The City of Biddeford, Maine
Engineering Department - GIS Mapping
205 Main Street · P.O. Box 586 · Biddeford, Maine 04005-0586
Tel. 207 284-9118 · Fax 207 286-9388

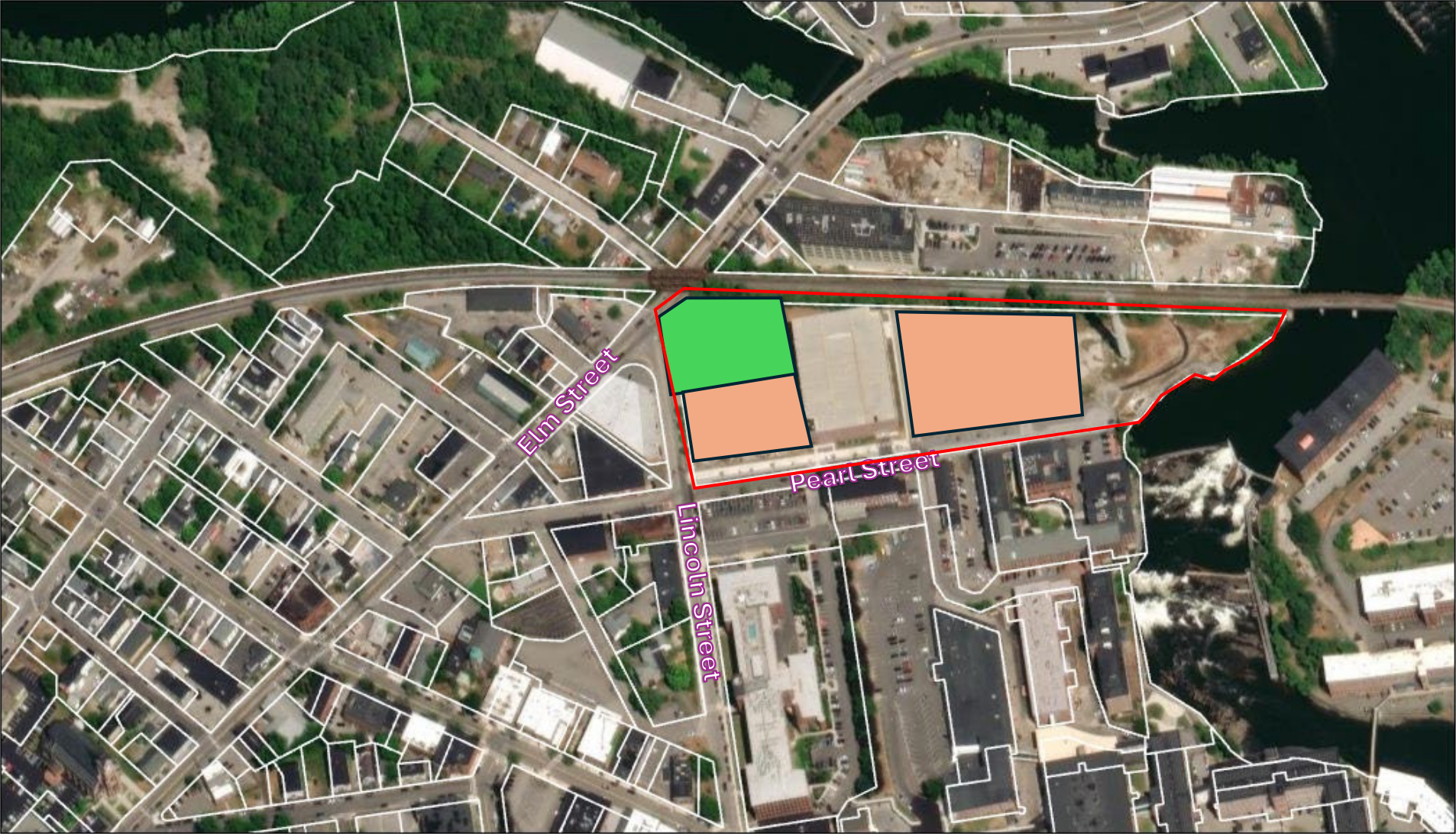
**DOWNTOWN DISTRICT
AND
DOWNTOWN BUSINESS
IMPROVEMENT DISTRICT**



Adopted August 15, 2017 by Order 2017.94



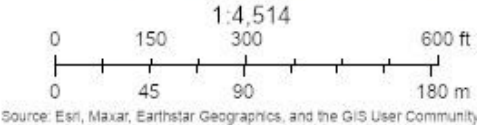
Lincoln St / Pearl Street - Blight Designation



-  WDC Parcels 1B & 1C
-  Parcels 1A & 3
-  Former Maine Energy Recovery Company Property

August 27, 2025

Parcels





City Council

Meeting Date: September 2, 2025
Meeting Time: 6:00 PM
Agenda Item No: 8.b
Item Description: 2025.107 Bid Approval – Lead Hazard Reduction at 146 Cleaves Street
Submitted By: Jessica Wilson, Community Development & Grants Manager

Key Terms:

HUD: US Department of Housing & Urban Development; IFB: Invitation for Bid

Executive Summary:

Housing Office staff recommends the award of IFB# 2025-07-15-01-LEAD, for required hazard-reduction work at 146 Cleaves St, be made to contractor RC Group of Biddeford in the amount of \$86,450 from the City's Lead Hazard Reduction and Healthy Homes Grant. RC Group submitted the lowest bid, which is lower than City's cost estimate by 22%. This difference is in part because RC Group will utilize workers with expertise in coil stock thus reducing the labor costs. Coil stock is commonly used in lead abatement to control lead-based paint hazards. It is utilized for lead-contaminated dust control on rough, pitted, or porous surfaces, such as bare floors and stairs, by covering these areas with a smooth, cleanable covering like metal coil stock, plastic, or polyurethane. This method helps in managing lead-based paint hazards effectively. Investment in this property not only addresses health/safety hazards, but it also helps assure one of the units in this building is available to a household at no more than 50% of the area median income (AMI) and the other is available to a household at no more than 80% AMI for three years following the project's completion.

Detailed Review:

This 3-unit property at 146 Cleaves Street was inspected for lead and other health/safety hazards in September 2024. All three units are eligible for lead abatement. Two contractors attended the pre-bid walkthrough and both submitted bids. Many of the interior lead hazards will be encapsulated with a lead-blocking compound and cleaned of lead dust, while some rooms include components that will be scraped and painted. The work scope for the exterior is minor and involves windows, fascia, and soffits. Most of the non-lead work includes replacement of interior doors

and windows. The contractor, whose work is well known to the Housing Rehab Programs, expects to begin the project in September and finish in three weeks.

Funding Source:

This project is 100% funded by the City's HUD Lead Hazard Reduction & Healthy Homes Grant

Staff Recommendation:

Housing Office staff recommends awarding the bid for the project at 146 Cleaves St to RC Group for \$86,450.

Next Steps:

Upon award, Housing Office staff will initiate the required HUD contract paperwork and schedule the contractor to begin work.

Attachments:

1. Bid Summary--146 CLEAVES ST
2. 2025.107 ORDER--LEAD BID AWARD 146 CLEAVES ST

Bid results: 146 Cleaves St Lead and HH**7/15/2025 14:00****146 Cleaves St Bid Results Bid # 2025-07-15-01-LEAD**

Number of Units: 3
Bid Notice Date 6/24/2025
Bid Open Date 7/15/2025 at 2:00pm
Bid Open Attendees: Jessica Wilson, Lisa Shultz

Scope of work	ICE	Ray Corp	RC Group
Heathly Homes	\$16,100	\$18,500	\$13,600
Apt 1	\$29,500	\$27,250	\$28,150
Apt 2	\$16,800	\$16,850	\$14,100.00
Apt 3 & Exterior	\$48,250	\$36,450	\$30,600.00
start date		1-Sep-25	1-Aug-25
Duration		10-12 weeks	3 weeks
Total Price	\$110,650	\$99,050	\$86,450

City of Biddeford



2025.107

IN BOARD OF CITY COUNCIL... September 2, 2025

BE IT ORDERED, that the award for the HUD Lead Hazard Reduction & Healthy Homes project at 146 Cleaves Street, as detailed in IFB# 2025-07-15-01-LEAD, be awarded to Maine-licensed abatement contractor RC Group of Biddeford, Maine in the amount of \$86,450.00. Work is projected to begin September 2025 and conclude in three weeks. Contractor has satisfactorily performed this work for the City's Housing Rehab Programs and is a firm in good standing with the Maine Department of Environmental Protection and the federal government, as confirmed by a check of the System for Award Management (sam.gov) on 6/30/25.

Attest by: _____



City Council

Meeting Date: September 2, 2025
Meeting Time: 6:00 PM
Agenda Item No: 8.c
Item Description: 2025.113 Approval Allocation No. 2 of FY26 Capital Improvement Funds
Submitted By: Brian S. Phinney, COO

Key Terms:

Executive Summary:

The FY2026 Budget appropriated \$2,148,710 for capital improvement projects (CIP), with allocations reviewed by the Capital Projects/Operations Committee in May, June, and August. The City Council previously approved \$835,700 in June, leaving \$1,313,010 unallocated. Following notice that Bateman Partners LLC will not pursue LIHTC funding for the Forest Green Apartment Complex, the Committee redirected \$1,000,000 of FY26 CIP funds to cover a potential funding gap in the Main Street Pump Station Project. The Committee also recommended additional CIP allocations totaling \$162,288, supporting equipment and system replacements across Fire, Police, and Public Works. These allocations are included in Order 2025.114 for Council consideration.

Staff recommends acceptance of Capital Projects/Operations Committee Recommendation No. 2 in the amount of \$162,288. Approval of this allocation will enable departments to begin the procurement process in compliance with City purchasing rules. Based on current thresholds, three items will require Finance Committee approval and one item, the Biddeford Police CAD/RMS system, will require City Council approval. Adoption of these allocations will support priority capital needs while maintaining a remaining balance of \$150,722 in FY26 CIP funds.

Detailed Review:

The FY2026 Budget included an appropriation for capital improvement projects (CIP) in the amount of \$2,148,710. The Capital Projects / Operations Committee (Committee) is charged with recommending the allocation of the CIP funds to the City Council for adoption. The Committee met on June 11th to review and make allocation recommendations for the FY2026

CIP and again on August 13th to review allocation of the balance of the funds. The June 11th meeting materials, including meeting video and supporting documentation, are available via this [link](#). The August 13th meeting materials, including meeting video and supporting documentation, are available via this [link](#). An earlier Capital Projects / Operations Committee Meeting occurred in May to present the FY26 CIP requests. The May meeting materials, including meeting video and supporting documentation, are available via this [link](#).

As presented to the Committee in May, the CIP funds are divided across three main categories - capital vehicle purchases, capital projects, and capital paving. The proposal is to assign approximately \$422,300 to vehicle purchases, approximately \$900,000 to capital paving, and approximately \$806,410 to CIP projects. The City Council is aware that the City is behind schedule to complete the FY24 Annual Comprehensive Financial Report (ACFR), commonly referred to as the "annual audit". Finance staff have been working with a consultant to balance the various accounts and ledgers for FY24 and FY25. This work delayed the typical allocation process. Without accurate account balance data for projects, it is difficult to ensure accurate allocation of funds. This impacted the proposed paving allocation and project allocation. The Committee opted to make allocations in phases to allow existing paving projects to move forward, vehicle purchase orders to be placed, and one of the projects to get underway. The first allocation in the amount of \$835,700 was approved by the City Council at the June 17th meeting, leaving a balance of \$1,313,010.

The Committee met again on August 13th to review and allocate the balance of the funds. Instead, the recent notice by Bateman Partners LLC, the developers of the Forest Green Apartment Complex, indicating they would not apply for low income tax credit funding through Maine State Housing's Low Income Housing Tax Credit (LIHTC Program), caused the Committee to reevaluate the allocation of FY26 CIP funds. The Forest Green Project included funding for Main Street Pump Station upgrades required in part to support the Forest Green Apartment Complex. The total cost of the upgrades is estimated to be approximately \$1.3M. The funding source is broken down as follows:

- Approximately \$400,000 is designated to come from Sewer Impact Fee Fund
- Up to \$798,400 is covered by a cash contribution by Bateman Partners LLC
- Approximately \$201,600 comes from sewer impact fees paid by Bateman Partners, LLC

With notice by Bateman Partners that they will not seek LIHTC Program funding during the 2025-2026 funding cycle, this guarantees that there will be no funds for the Main Street Pump Station Project this fiscal year to cover the upfront cost of the project. The project is currently underway. The Committee decided to direct \$1,000,000 of FY26 CIP funds to the Main Street Pump Station Project to fill any funding gap that may be created by the delay in the Forest Green Apartment Complex Project. The reallocation of FY26 Funds is on this agenda as Order 2025.114. The unallocated FY26 CIP balance is approximately \$313,010.

The Committee did review the balance of projects and recommended award of up to \$185,000 for FY26 CIP Projects. The order associated with this agenda item reflects the allocation as follows:

- [BFD-FY26-004-Standpipe Hose Pack & Equipment Replacement](#) - \$18,000
- [BFD-FY26-001-Rescue Air Bags Replacement](#) - \$14,000
- [BPD-FY26-001-CAD/RMS System \(financed\)](#) - \$111,313
- [DPW-FY26-003-3 Recycling 30-Yard Roll-Off Container](#) - \$18,975

The total for these allocations is \$162,288, leaving a remaining balance of \$150,722. The CIP requests associated with these items are hyperlinked to the item names above.

Funding Source:

Funding for the FY2026 Capital Projects / Operations Committee Recommendations is as follows:

Fund 001 - \$162,288 CIP projects (various)

Staff Recommendation:

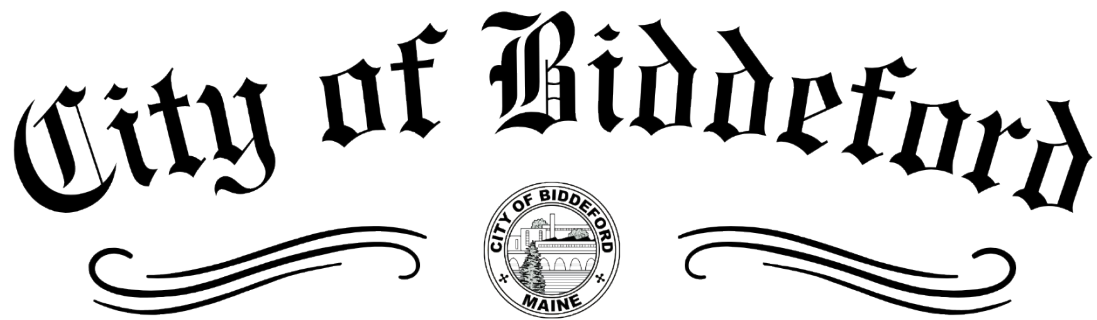
Staff recommends acceptance of Capital Projects / Operations Committee Recommendation No. 2 in the amount of \$162,288.

Next Steps:

Approval of this FY26 CIP allocation will result in allowing respective departments to begin the procurement process for the designated projects or items. The timing of the approval to purchase will be in compliance with the City's procurement rules. Based on current procurement thresholds, three items will require Finance Committee approval and one will require City Council approval (Biddeford Police CAD/RMS System).

Attachments:

1. 20250902 2025.113 Capital Projects Operations Committee CIP Rec No. 2 - ORDER



2025.113 **IN BOARD OF CITY COUNCIL..... SEPTEMBER 2, 2025**
BE IT ORDERED, that the City Council of the City of Biddeford does hereby approve recommendation No. 2 for the FY26 Capital Improvement Projects allocation for capital projects as referenced in the “FY26 CIP Allocation No. 2 Detail Sheet” as recommended by the Capital Projects / Operations Committee on August 13, 2025.

Note: The budgeted FY26 CIP amount equals \$2,148,710 within account 21201-60900.

Attest by: _____

FY26 CIP Allocation No. 2 Detail Sheet

FY26 CIP - Capital Projects / Operations Committee Recommendation No. 2 - Summary

FY26 CIP Approved Budget	\$	2,148,710
Allocation #1	\$	835,700
Balance	\$	1,313,010
Allocation #2		
BFD-FY26-004-Standpipe Hose Pack & Equipment Replacement	\$	18,000.00
BFD-FY26-001-Rescue Air Bags Replacement	\$	14,000.00
BPD-FY26-001-CAD/RMS System (\$500,000 financed)	\$	111,313.00
DPW-FY26-003-3 Recycling 30-Yard Roll-Off Container	\$	18,975.00
	\$	162,288.00
Unallocated FY26 CIP Funds		
	\$	1,150,722.00



City Council

Meeting Date: September 2, 2025
Meeting Time: 6:00 PM
Agenda Item No: 8.d
Item Description: 2025.114 Approval Reallocation of FY26 CIP Funds
Submitted By: Brian S. Phinney, COO

Key Terms:

Executive Summary:

Detailed Review:

The FY2026 Budget included an appropriation for capital improvement projects (CIP) in the amount of \$2,148,710. The Capital Projects / Operations Committee (Committee) is charged with recommending the allocation of the CIP funds to the City Council for adoption. The Committee met on June 11th to review and make allocation recommendations for the FY2026 CIP and again on August 13th to review allocation of the balance of the funds. The June 11th meeting materials, including meeting video and supporting documentation, are available via this [link](#). The August 13th meeting materials, including meeting video and supporting documentation, are available via this [link](#). An earlier Capital Projects / Operations Committee Meeting occurred in May to present the FY26 CIP requests. The May meeting materials, including meeting video and supporting documentation, are available via this [link](#).

As presented to the Committee in May, the CIP funds are divided across three main categories - capital vehicle purchases, capital projects, and capital paving. The proposal is to assign approximately \$422,300 to vehicle purchases, approximately \$900,000 to capital paving, and approximately \$806,410 to CIP projects. The City Council is aware that the City is behind schedule to complete the FY24 Annual Comprehensive Financial Report (ACFR), commonly referred to as the "annual audit". Finance staff has been working with a consultant to balance the various accounts and ledgers for FY24 and FY25. This work delayed the typical allocation process. Without accurate account balance data for projects, it is difficult to ensure accurate allocation of funds. This impacted the proposed paving allocation and project allocation. The

Committee opted to make allocations in phases to allow existing paving projects to move forward, vehicle purchase orders to be placed, and one of the projects to get underway. The first allocation in the amount of \$835,700 was approved by the City Council at the June 17th meeting leaving a balance of \$1,313,010.

The Committee met again on August 13th to review and allocate the balance of the FY26 CIP funds. Instead, the recent notice by Bateman Partners LLC, the developers of the Forest Green Apartment Complex, indicating they will not apply for low income tax credit funding through Maine State Housing's Low Income Housing Tax Credit (LIHTC Program), caused the Committee to reevaluate the allocation of FY26 CIP funds. The Forest Green Project included funding for Main Street Pump Station upgrades needed in part to support the Forest Green Apartment Complex Project. The total cost of the pump station upgrades is estimated to be approximately \$1.35M. The funding source is broken down as follows:

- Approximately \$350,000 is designated to come from Sewer Impact Fee Fund
- Up to \$798,400 is covered by a cash contribution by Bateman Partners LLC
- Approximately \$201,600 comes from sewer impact fees paid by Bateman Partners, LLC

With notice by Bateman Partners that they will not seek LIHTC Program funding during the 2025-2026 funding cycle, this guarantees that there will be no funds for the Main Street Pump Station Project this fiscal year to cover the upfront cost of the project. The project is currently underway. The Committee decided to direct \$1,000,000 of FY26 CIP funds to the Main Street Pump Station Project to fill any funding gap that may be created by the delay in the Forest Green Apartment Complex Project. The reallocation of FY26 Funds is the focus of this agenda item.

The Committee reasoned that reallocation of the FY26 CIP funds in the amount of \$1,000,000 to cover the upfront costs of the Maine Street Pump Station Project will ensure that a funding source for the project is known within this fiscal year. If / when an alternative funding source is identified to cover the \$1,000,000 expense, the Committee recommended review and allocation of the \$1,000,000 for FY26 CIP projects. Currently, it is expected that the FY22 CSO Bond will have a balance in the approximate value of \$1,000,000. The final balance of available bond funds will be known within the current fiscal year.

Funding Source:

Funding for the FY2026 Capital Projects / Operations Committee Recommendations is as follows:

Fund 001 - \$1,000,000 CIP 21201-60900

Staff Recommendation:

Staff is neutral as to the reallocation of FY26 CIP funds. This is a policy decision that weighs the need for investing in infrastructure through the budgeted CIP program against the need to

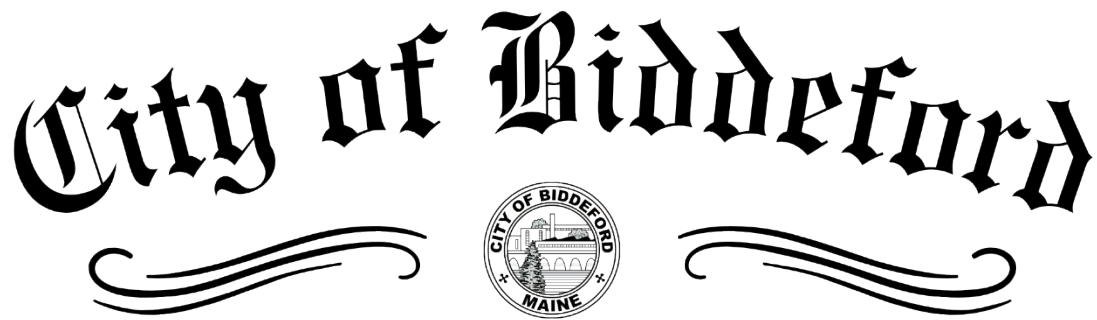
establish definitive funding sources for approved projects. It is also understood that the FY26 CIP projects that are not funded due to the reallocation of CIP funds will be reconsidered once a definitive alternative funding source is identified.

Next Steps:

Approval of this item will solidify the funding source for the approved and in-progress Main Street Pump Station Upgrade Project. As part of Order 2025.114, the City Manager is directed to evaluate alternative funding sources to cover the expected shortfall. Any alternative funding sources are to be brought to the City Council for consideration. If / when an alternative funding source is approved by the City Council, the FY26 CIF funds will be restored, allowing the Capital Projects / Operations Committee the ability to complete the CIP review and make recommendations for \$1,000,000 in FY26 CIP projects.

Attachments:

1. 20250902 2025.114 Approval Reallocation of FY26 CIP Funds - Main St Pump Station - ORDER



2025.114 IN BOARD OF CITY COUNCIL..... SEPTEMBER 2, 2025

BE IT ORDERED, that the City Council of the City of Biddeford does hereby approve reallocation of \$1,000,000 in budgtd FY26 CIP funds as recommended by the Capital Projects / Operations Committee on August 13, 2025, to cover an expected funding shortfall within the fiscal year for the Main Steet Pump Station Upgrade Project.

BE IT FURTHER ORDERED, that the City Manager through the fiscal year evaluate alternative funding sources to cover the expected shortfall and bring such recommendation(s) to the City Council to restore the FY26 CIP funds.

NOTE: The total budgeted FY26 CIP funds equal \$2,148,710 with a current balance of \$1,150,722 (if Order 2025.113 is approved). The fund account is 21201-60900.

Attest by: _____



City Council

Meeting Date: September 2, 2025
Meeting Time: 6:00 PM
Agenda Item No: 8.e
Item Description: 2025.115 Approval Resolution for Avesta Housing
Submitted By: Brian S. Phinney, COO

Key Terms:

Executive Summary:

On August 20, 2024, the City Council authorized Contract Zone #23 (Order 2024.127), allowing subdivision of a 55-acre parcel into nine lots, one of which is planned for a four-story, 46-unit low- to moderate-income senior housing development by Avesta Housing. The Planning Board approved the subdivision and project on August 7, 2024, and Avesta intends to apply for competitive affordable housing tax credits through the Maine State Housing Authority's Low Income Housing Tax Credit Program.

To strengthen its application, Avesta is requesting a Council resolution in support of Section 6(J) – Community Revitalization, which could award two points if the project is tied to a community revitalization plan. Biddeford's 2023 Comprehensive Plan identifies higher-density housing along key corridors, including Route 111, where the project site on Barra Road is located within a designated Growth Area. Staff is neutral on the request, leaving it to Council discretion; adoption of the resolution could improve Avesta's chances of securing funding in the 2025–2026 application cycle.

Detailed Review:

The Biddeford City Council authorized execution of Contract Zone #23 on August 20, 2024. A copy of Order 2024.127 documenting the approval is included in the packet as ATTACHMENT B. The Contract Zone approval facilitated subdivision of the +55 acre parcel into nine (9) lots. One lot is specific to the development of a four (4) story 46-unit low to moderate income (LMI) senior housing facility. The meeting video and supporting documents for the City Council Meeting can be viewed via this [link](#). The Planning Board reviewed the final subdivision plan

and Avesta's low to moderate income senior housing plan on August 7, 2024. The meeting video and supporting documents can be viewed via this [link](#). The Planning Board's Notice of Decision is included as ATTACHMENT C. The Planning Board Staff Report (Staff Report) dated July 31, 2025, is included as ATTACHMENT D. The Staff Report provides an overview of the project with maps and illustrations. Avesta plans to apply for affordable housing tax credits to support the development project.

As has been presented to the City Council, affordable housing tax credits are awarded to projects throughout the State on a competitive basis under the Maine State Housing Authority's Low Income Housing Tax Credit Program (State LIHTC). Projects score points for various criteria established within the scoring matrix. In order to maximize points, Avesta has asked the City Council to assist with increasing the potential eligible points for the award of tax credits. A copy of the scoring document is provided as ATTACHMENT A. Avesta is requesting a resolution in support of Section 6(J) - Community Revitalization (page 18). The section specifies:

- Two (2) points may be awarded if the Project is located within the boundaries of and contributes to the revitalization goals and efforts identified in a Community Revitalization Plan.

The City of Biddeford recently submitted *Biddeford's Comprehensive Plan - 2023* (the Comp Plan) for State review and approval. In the Future Land Use section on page 5-11, the Comp Plan specifies a goal related to Commercial & Industrial properties: "Goal: Higher density housing and mixed-use development along key corridors (Route 1, Route 111)." The Avesta development is located on Barra Road, which is within the Route 111 corridor. Additionally, City Planner Galbraith has confirmed that the development is located within a "designated Growth Area" as designated in the Comp Plan. A copy of City Planner Galbraith's letter is included as ATTACHMENT E.

Funding Source:

N/A

Staff Recommendation:

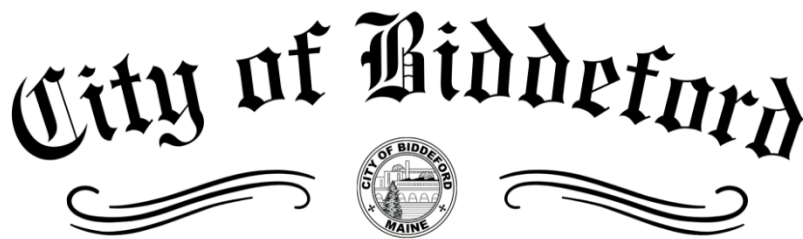
Staff is neutral as to the request. This is a policy decision. Approval may be granted or denied at the discretion of the Council.

Next Steps:

At the Council's discretion, the attached resolution, if adopted, will allow Avesta to potentially receive additional points for their application, thus improving the chances that their project will receive funding in the 2025-2026 round of applications. If approved, Avesta will include the resolution with their LIHTC funding application.

Attachments:

1. 2025.115 Approval Resolution for Avesta Housing - Barra Road - RESOLUTION
2. Maine State Housing Authority 2025-2026 Low Income Housing Tax Credit Qualified Allocation Plan - ATTACHMENT A
3. 20240820 Order 2024.127 Approval Avesta Housing Contract Zone 23 - ATTACHMENT B
4. Planning Board Notice of Decision 2024.18 Avesta Housing - August 8, 2025 - ATTACHMENT C
5. Planning Board Staff Report - July 31, 2024 Avesta Housing - ATTACHMENT D
6. Planner Galbriath Letter - Community Revitalization Plan Designation - Avesta - ATTACHMENT E



RESOLUTION

2025.115

**RESOLUTION DESIGNATING AVESTA HOUSINGS LOW INCOME SENIOR HOUSING PROJECT ON
BARRA ROAD AS WITHIN THE BOUNDARIES OF A DESIGNATED GROWTH AREA AND CONTIBUTES
TO REVITALIZATION GOALS FOR PURPOSES OF MAINE STATE HOUSING AUTHORITY LOW
INCOME HOUSING TAX CREDIT SCORING**

WHEREAS, Avesta Housing received a Notice of Decision on final site plan approval from the Biddeford Planning Board on August 8, 2025; and

WHEREAS, the Avesta Housing development project involves construction of 46-units low income senior housing; and

WHEREAS, availability of affordable housing is a significant concern in Biddeford; and

WHEREAS, Biddeford's Comprehensive Plan designates the Route 111 Corridor as a growth area; and

WHEREAS, developments such as the Avesta Housing Project contributes to the revitalization goals of the City of Biddeford; and

WHEREAS, the Maine State Housing Authority's Qualified Allocation Plan for the Low Income Housing Tax Credit Program awards scoring preference to properties that are designated by municipalities as is located within the boundaries of and contributes to the revitalization goals and efforts identified in a Community Revitalization Plan; and

WHEREAS, it is in the public interest of the City to support nonprofit development entities seeking to invest in Biddeford utilizing such State programs and other redevelopment tools;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BIDDEFORD:

1. That the Avesta Housing Project located on Barra Road in Biddeford is located within a designated growth area and contributes to the revitalization goals of the City of Biddeford;
2. That this designation is intended to satisfy the requirements set forth in the Maine State Housing Authority's Low Income Housing Tax Credit Qualified Allocation Plan for competitive scoring purposes, particularly for nonprofit-sponsored affordable housing proposals;
3. That the City of Biddeford affirms its commitment to enable the creation of affordable housing for its residents in a manner that advances public goals, including affordability, and economic inclusion;
4. That this resolution shall be made available to the Maine State Housing Authority and provided to applicants seeking support for development projects within the designated growth area.

Adopted by the City Council of Biddeford, Maine on _____, 2025.

*In Witness Whereof, We the undersigned have herewith affixed
our signatures this _____ day of August 2025.*

Mayor, Martín Grohman

Attest: Robin Patterson, City Clerk



2025-2026

Low Income Housing Tax Credit

Qualified Allocation Plan



CHAPTER 16 LOW-INCOME HOUSING TAX CREDIT RULE

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APPENDICES:

APPENDIX A: Definitions

APPENDIX B: Pre-Application Submission Requirements

APPENDIX C: Capital Needs Assessment Requirements

APPENDIX D: Owner's Certificate of Continuing Program Compliance

APPENDIX E: Requirements for Purchase Options and Rights of First Refusal

Chapter 16: LOW-INCOME HOUSING TAX CREDIT RULE

SECTION 1: INTRODUCTION

The federal Low-Income Housing Tax Credit (LIHTC) was created by the Tax Reform Act of 1986 to encourage private capital investment in the development of affordable rental housing. It is governed by [Section 42](#) of the Internal Revenue Code of 1986, as amended, and associated regulations. As the designated housing credit agency for the State of Maine, MaineHousing is required by [Section 42](#) of the Code and [30-A MRS §§4741\(1\) and \(14\)](#) to adopt a Qualified Allocation Plan (QAP) for allocating and administering LIHTC; this rule is the State's QAP.

This rule repeals and replaces in its entirety the prior Chapter 16, *Low Income Housing Tax Credit Rule*, except that the allocation provisions continue to apply to projects that were awarded LIHTC under a prior rule, or a program subject to a prior rule.

Capitalized terms used in this rule are defined in **Appendix A**, unless the context otherwise indicates, or if not defined therein, have the same meaning as set forth in [Section 42](#) of the Code.

SECTION 2: HOUSING NEEDS AND PRIORITIES

MaineHousing and the Department of Economic and Community Development annually complete a statewide needs assessment as part of the Consolidated Housing and Community Development Plan. *Maine Consolidated Plan (2020-2024)* establishes the following housing priorities:

- A. expand affordable housing opportunities;
- B. improve and preserve the quality of housing; and
- C. help Maine people attain housing stability.

SECTION 3: SET-ASIDES AND MAXIMUM CREDIT AMOUNT

- A. **Nonprofit Set-Aside.** MaineHousing will set aside at least ten percent (10%) of the annual State Ceiling for Projects in which a Qualified Nonprofit Organization owns an interest and materially participates in the development and operation throughout the Compliance Period in accordance with [Section 42\(h\)\(5\)\(B\)](#) of the Code. An Applicant will qualify if it is owned by either a Qualified Nonprofit Organization, or a business corporation which is 100% owned by one or more Qualified Nonprofit Organization(s), and (in accordance with [Section 42\(h\)\(5\)\(C\)](#) of the Code) it is the general partner or manager/managing member and controls the Project's development and day-to-day operation.

- B. **Preservation Set-Aside.** MaineHousing will set aside up to \$750,000 of the annual State Ceiling for the preservation and rehabilitation of one existing multifamily rental housing project if the scope of rehabilitation meets the minimum requirements set forth in Section 5.C.2. and one of the following:
1. at least 25% of its units, or those in a Related Development, are assisted under a Rural Development program; or
 2. at least 25% of its units will be converted to Section 8 under HUD's Rental Assistance Demonstration (RAD) Program, Section 18 Demolition/Disposition Program or other HUD conversion programs.
- Demolition and reconstruction on an existing housing site will be treated as new construction and is not eligible for this set-aside.
- C. **Maximum Credit Amount.** The maximum amount of Credit that will be allocated for each Project is the least of (i) \$30,000 per Credit Unit, (ii) \$1,200,000, and (iii) the amount MaineHousing determines is necessary to ensure the Project's financial feasibility and long-term viability.

SECTION 4: ALLOCATION PROCESS

- A. **Pre-Application Submission.** Each Project must undergo a mandatory Pre-Application review by MaineHousing to assess its feasibility, suitability for housing, and eligibility for Credit. Applicants must submit the information and documents set forth in **Appendix B** with the pre-application fee specified in Section 4.C. to MaineHousing by Wednesday, July 3, 2024 for the 2025 round and by Thursday, July 3, 2025 for the 2026 round. An Applicant will not be eligible for Credit if
1. it fails to provide a complete Pre-Application submission in accordance with this subsection, or
 2. there is any material change in the Project between the Pre-Application submission and the Application unless required by MaineHousing.
- B. **Application.** Applications are subject to the following limitations, conditions and requirements:
1. **Existing Housing.**
 - a) **Acquisition and Rehabilitation Projects.** Projects that involve the acquisition and rehabilitation of Affordable Housing must include the addition of at least 20 new units, or meet the requirements of the Preservation Set-Aside in Section 3.B.

- b) **Demolition of Existing Housing.** Demolition of existing housing that has not been condemned or declared blight by a municipality is not eligible unless approved by MaineHousing.
 - 2. **Deadline.** The deadlines for submitting Applications are Thursday, September 19, 2024 for the 2025 State Ceiling and Thursday, September 18, 2025 for the 2026 State Ceiling.
 - 3. **Format.** The Application must be completed and submitted electronically in the form and manner prescribed by MaineHousing. Submitted exhibits must include documentation such as grant award letters, signed documentation on letterhead or evidence of official municipal action to provide evidence of all funding sources and official approvals. MaineHousing may require the Applicant to submit additional information.
- C. **Fees.** Applicants must pay the following fees when due. All fees are non-refundable.

Type of Fee	Amount	Due Date
Pre-application Fee	\$2,000	By Pre-application deadline in Section 4.A.
Application Fee	\$2,500	Postmarked for delivery by Application deadline in Section 4.B.2
Allocation Fee	7.5% of Credit	Earlier of Carryover Allocation (Section 8.B.) or Final Allocation (Section 8.A.)
Monitoring Fee*	\$1,000 per Credit Unit	Final Allocation (Section 8.A.)

*MaineHousing may charge an additional monitoring fee to cover any increased costs due to income averaging or other extraordinary monitoring requirements during the Compliance Period.

- D. **Ineligible Applicants.** An Application will be deemed ineligible if one or more of the following has occurred:
- 1. The Applicant, any Principal thereof, or Affiliates of either
 - a) has an uncorrected IRS Form 8823 in connection with any LIHTC Project to the extent it is correctable unless previously waived by MaineHousing;
 - b) has been declared in default or has been 60 calendar days or more delinquent on any loan with MaineHousing, unless the default or delinquency has been cured or there is an approved payment or workout plan in good standing prior to the Application deadline;
 - c) has ever been the owner of any project in which MaineHousing has foreclosed a mortgage interest or received a deed-in-lieu of foreclosure of a mortgage interest unless previously waived by MaineHousing;

- d) is presently debarred, suspended, proposed for debarment, or excluded from participation in any federal or state programs;
 - e) has sought to achieve early termination of an Extended Use Agreement through the written request to a housing credit agency to present a Qualified Contract;
 - f) has in the last 10 years either commenced or had commenced against it any proceeding in or for bankruptcy, receivership, reorganization or any other arrangement for relief from creditors commenced against it that affected a MaineHousing-funded project that was not dismissed within 90 calendar days; or
2. The tax credit syndicator, investor, or Affiliates of either
- a) transferred its interest in any LIHTC Project after March 25, 2014 in violation of the Ownership Transfer Rule;
 - b) failed to make any required capital contributions with respect to any LIHTC Project, and has not corrected such actions prior to the Application deadline;
 - c) has sought to achieve early termination of an Extended Use Agreement through the written request to a housing credit agency to present a Qualified Contract; or
 - d) has sought to undermine the exercise of a right of first refusal or purchase option with respect to any LIHTC Project by: (i) refusing to honor a right of first refusal or purchase option; or (ii) involvement in a lawsuit challenging the exercise of a right of first refusal or purchase option.

MaineHousing may reject the Application if it determines the deficiencies are not addressed. MaineHousing may also require financial statements from the Applicant, Principal thereof, or Affiliates of either.

- E. Notice to Local Jurisdiction. Upon receipt of an Application, MaineHousing will notify the Chief Executive Officer of the municipality with jurisdiction over the location of the proposed Project. The notice will provide for a 15-day comment period. MaineHousing will consider any comments received.
- F. Selection Process. Applications for the State Ceiling with the highest scores will be awarded Credit until the applicable State Ceiling is fully awarded.
 - 1. The preservation set-aside is limited to one Project. If the set-aside is not sufficient to complete the Project proposed in the highest scoring eligible Application, MaineHousing may allocate additional Credit, allocate the Credit under the set-aside to the next highest-scoring eligible Application that does not need more than the set aside, or not allocate any Credit under the preservation set-aside. All Applications that participate in the preservation set-aside and do not win will be placed on a waiting list.

2. The highest scoring Qualified Nonprofit Organization will be the winner of the nonprofit set-aside regardless of its ranking among other Applicants. If the set-aside is not fully awarded to the highest scoring eligible Applicant, MaineHousing may allocate additional Credit to the next highest scoring eligible Applicant for the set-aside, not fully allocate Credit under the set-aside, or require an Applicant that has not indicated that it is participating in the set-aside to participate in the set-aside. MaineHousing may, if necessary, require the Applicant to change its ownership structure. All Applications that participate in the nonprofit set-aside and do not win will be scored with the other Applications.
 3. Except as set forth above, MaineHousing will make awards in score order to select threshold-eligible Applications. If the last Application selected for an award of Credit needs more Credit than remains under the applicable State Ceiling, MaineHousing may elect to either (a) not award the remaining Credit to any Application, or (b) award additional Credit under the next annual State Ceiling to the Application. All threshold-eligible Applications that are not selected will be placed on a waiting list. Any Credit that is returned or is otherwise unused will be made available to waiting list Applications using this process.
- G. Notice to Proceed. MaineHousing will meet with each Applicant selected for a Credit award. If the Applicant accepts the Credit award conditions, MaineHousing will issue a Notice to Proceed. Applicants must execute and return the Notice within the time period specified.
- H. Credit Allocation. Upon receipt of the fully executed Notice to Proceed, MaineHousing will evaluate the Application pursuant to Section 7 to determine the amount of Credit, if any, to be allocated.
- I. Termination of Application or Notice to Proceed. MaineHousing will deem an Application withdrawn and any Notice to Proceed cancelled if one or more of the following occur without MaineHousing's written approval after the Application is submitted:
1. The Application or the Notice to Proceed is assigned or the Applicant or any Principal thereof changes;
 2. The location of the Project changes from the location identified in the Application;
 3. There is any change which would result in a net reduction in the Application's score;
 4. There is a change in the Project's design or financing from what was in the Application which results in a substantial increase in the amount of Credit or other MaineHousing funding required;
 5. The Project's TDC Index exceeds the TDC Index Cap;
 6. Failure to meet the threshold requirements in Section 5;

7. Any event in Section 4.D. occurs and is not cured within any applicable cure period; or
8. There is any other material or substantive amendment or change to the Application.

SECTION 5: THRESHOLD REQUIREMENTS

Applications must meet the following threshold requirements to be eligible for Credit:

A. Affordability.

1. The Project will comply with [Section 42](#) of the Code and this QAP for a minimum period of 45 years to maintain the Project as residential rental housing, keep at least 60% of the total Credit Units in a Project occupied by persons with 50% area median income and keep the Credit Units in the Project rent-restricted in accordance with [Section 42](#) of the Code.
2. The Applicant waives the right to request MaineHousing to present a Qualified Contract under [Section 42\(h\)\(6\)](#) of the Code.
3. The Applicant must submit a letter of intent from an investor (and, in the event of any change in investor, the replacement investor) in which the investor agrees to the granting of an option to purchase: (i) the Project; and (ii) the partnership interest of the limited partner(s) or membership interest of the non-managing member(s) of the Project owner (“Purchase Options”), to one or more of the general partner, managing member, developer or sponsor on terms that at a minimum satisfy the threshold requirements set forth in **Appendix E**. The investor must also agree in the letter of intent that the Purchase Options complying at a minimum with the threshold requirements in **Appendix E** will be included in the Project owner’s limited partnership agreement or limited liability company operating agreement.
4. If the Applicant, general partner, managing member, developer, or sponsor of the Project is a Qualified Nonprofit Organization, the Applicant must submit a letter of intent from an investor (and, in the event of any change in investor, the replacement investor) in which the investor agrees to the granting of a right of first refusal (“ROFR”) to the Qualified Nonprofit Organization on terms that at a minimum satisfy the threshold requirements set forth in **Appendix E**. The investor must also agree in the letter of intent that the ROFR complying at a minimum with the threshold requirements in **Appendix E** will be included in the Project owner’s limited partnership agreement or limited liability company operating agreement.

B. Total Development Cost (TDC). Cost reasonableness will be evaluated using an index, which is the weighted average of the TDC per unit and the TDC per bedroom. For mixed-use projects, the TDC for only the residential portion of the project, including common areas, will be used for this calculation. The weighted average will be calculated as follows:

$$([2 \times \text{TDC/unit}] + [\text{TDC/bedroom}]) \text{ divided by } 3.$$

The product of this calculation will be referred to throughout this document as the “TDC Index”. An Application will be rejected if the TDC Index exceeds the TDC Index Cap below for a project of its type at any time prior to the later of the construction loan closing or carryover allocation.

Type of Project	TDC Index Cap
Adaptive Reuse	\$395,000per unit
New construction	\$370,000per unit
Acquisition and rehabilitation of existing housing	\$340,000 per unit

Demolition and reconstruction of all housing on the same site or another site will be treated as new construction. If a Project involves more than one project type, the TDC Index Cap for the Project is the average of the TDC Index Caps allocable to each type, weighted by the number of units of each type.

- C. Acquisition and Rehabilitation of Existing Housing. Projects that involve the acquisition and rehabilitation of existing multifamily housing are subject to the following:
1. Capital Needs Assessment. The Application must include a capital needs assessment satisfying the requirements set forth in **Appendix C**.
 2. Minimum Rehabilitation Requirements. The Rehabilitation Costs per unit of existing housing must be at least \$75,000.
 3. Relocation/Displacement. The Project must comply with MaineHousing’s *Temporary Relocation and Permanent Displacement Policies* and, if the Project is federally-assisted, all applicable federal requirements, including the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. The Applicant must take reasonable steps to minimize the displacement of existing tenants of the Project. The Application must identify any tenants who will be permanently displaced and the reason for the displacement. The Project’s TDC must include all costs associated with permanent and temporary displacement or relocation. MaineHousing will not allocate Credit until it has approved a project’s relocation plan.
- D. Development and Management Experience and Capacity. Applicant teams must have sufficient knowledge, experience and capacity to adequately design, develop, complete, maintain, manage, and operate LIHTC Projects and to provide related services, such as accounting, tax and legal advice, and resident service coordination. If the Project will involve multiple subsidy sources in addition to LIHTC which results in overlapping targeting and rental restrictions, the Applicant team must have sufficient knowledge, experience and capacity to handle the increased complexity. If MaineHousing determines the Applicant’s team lacks sufficient qualifications, the team may be required to

1. hire a qualified consultant,
2. hire additional qualified staff, or
3. replace a team member.

E. **Site Control.** The Applicant must have site control of the Project throughout the Application process in the form of an option, a purchase and sale contract, ownership, or long-term lease. The Applicant, its agents, and MaineHousing must have access to the Project site, and if the Project is an existing occupied property, access to records and other information about the existing tenants, including current rent and income information.

F. **Growth Management Limitations.** A Project that involves the new construction or acquisition of newly-constructed residential rental property or the conversion of existing buildings to residential rental property must comply with the State's Growth Management Law, [30-A M.R.S. §4349-A](#), as amended. Projects must meet one of the following two sets of criteria to be eligible for a Credit allocation:

1. If the municipality in which the Project is located has adopted a comprehensive plan or growth management plan that is consistent with applicable State law, then the Project must be in a designated growth area as identified in such plan; or
2. Otherwise the Project must be located in an area
 - a) served by a public sewer system with existing capacity for the Project,
 - b) identified as a census-designated place in the latest Federal Decennial Census, or
 - c) in an urban municipality and defined under [23 M.R.S. §754](#) as compact.

The law exempts projects that exclusively serve certain populations, such as persons with disabilities, who are homeless, or are wards of the State.

G. **Project Feasibility.** The Applicant must have the financial ability to develop and complete the Project and to operate it throughout the Compliance Period.

1. **Development Budget.** The Applicant must identify
 - a) all sources of funding for development and completion, whether direct or indirect, including the amount, timing, terms, conditions, and status (e.g. "applied for" or "committed") as of the date of the Application and uses of the funding based on the projected costs of and schedule for developing and completing the Project; and
 - b) all sources and uses of funding for the Project, whether direct or indirect and whether they are included in the development budget for the Project.

2. Operating Budget. The Applicant must identify all
 - a) sources of income, including rent from the residential units, any income from commercial or non-residential space, and the amount, terms and conditions of rental or operating assistance; and
 - b) costs of operating the Project as projected over the Compliance Period. The Applicant also must identify all forms of property tax relief (such as a PILOT, tax abatement or exemption, or Tax Increment Financing) and other assistance that reduces operating costs.
3. Related Development. Any Related Development must be completed prior to or concurrently with the completion of the Project, and there must be sufficient funding to operate the Related Development.

If MaineHousing determines that the Application includes information that is inconsistent with applicable requirements or is unreasonable based on comparable LIHTC projects, industry standards, or market conditions, MaineHousing may where it deems appropriate re-characterize such information to assess Project Feasibility notwithstanding the identified issue with the information provided.

- H. Project Design and Construction Requirements. The design and construction or rehabilitation of the Project must comply with MaineHousing's Construction Standards and all applicable local, state and federal codes, regulations, statutes and ordinances. The latest version of Construction Services' *Quality Standards and Procedures Manual* can be found here: <https://www.mainehousing.org/programs-services/housing-development/construction-services>

Of particular note are updates to MaineHousing's energy efficiency standards.

When applicable, Projects must also comply with:

1. The Build America, Buy America Act (BABA), enacted as part of the Infrastructure Investment and Jobs Act, [Infrastructure Investment and Jobs Act, Pub. L. 117-58](#) and [2 CFR 184](#). BABA established a domestic content procurement preference for all Federal financial assistance obligated for infrastructure projects after May 14, 2022. The domestic content procurement preference requires that all iron, steel, manufactured products, and construction materials used in covered infrastructure projects are produced in the United States. This requirement is known as the "Buy America Preference" (BAP).

BABA FAQs

https://www.hudexchange.info/baba/faqs/?utm_source=HUD+Exchange+Mailing+List&utm_campaign=87c88d5f1e-BABA-FAQs-Now-Available-3.4.24&utm_medium=email&utm_term=0_-87c88d5f1e-%5BLIST_EMAIL_ID%5D

2. Section 3 of the Housing and Development Act of 1968 (12 U.S.C § 1701u) and its associated regulations (24 C.F.R. Part 75). The Section 3 program requires that recipients of certain HUD financial assistance, to the greatest extent possible, provide training, employment, contracting and other economic opportunities to low- and very low-income persons, especially recipients of government assistance for housing, and to businesses that provide economic opportunities to low- and very low-income persons.

Please refer to the *Section 3 Contractor, Subcontractor and Subrecipient Package* on our website: https://mainehousing.org/docs/default-source/development/construction-services/other-documents/section-3-contractor-subcontractor-subrecipient-package.pdf?sfvrsn=26f28615_5

I. Project Amenities. The Project must have the following amenities and services:

1. Community Room. The Project must include an on-site community room with sufficient capacity to serve tenants' needs. For a scattered-site Project, only one community room is required and should be centrally located to the greatest extent possible to best serve all tenants.
2. Laundry Facilities. The Project must include either a washer/dryer hook-up in each unit or a fully accessible, centrally located laundry facility with sufficient capacity to serve all tenants.
3. Broadband Access. The Project must include broadband infrastructure with capacity sufficient to support the provision of Telehealth services.

Broadband infrastructure includes cables, fiber optics, CAT5e (or greater) interior wiring, or other permanent (integral to the structure) infrastructure, including wireless infrastructure, as long as the installation results in broadband infrastructure in each dwelling unit sufficient for the build-to standard of The Maine Connectivity Authority.

Healthcare service providers and the tenants receiving care may not be charged for the use of the internet or wireless and telephone services provided for telemedicine services.

4. Shared Facilities. An amenity will meet the requirements if the amenity:
 - a) is fully accessible and located on an accessible path to the Project,
 - b) is within an existing multifamily housing project adjacent to the subject site,
 - c) has sufficient capacity to serve both the Project's tenants and the existing project,
 - d) will be available to the Project's tenants during the Compliance Period on the same terms as the residents of the existing multifamily project, and

- e) will not charge the tenants to use the shared amenity other than a reasonable fee that does not exceed the amount charged to any others for the same use.
- 5. **Recreational Activities.** An area(s) of recreational activity must be located on the Project site or within a ½ mile. The area(s) and activities must be free of charge to the tenants and not require membership. Projects with single-family detached style units satisfy this requirement if each unit has a private lawn with sufficient room for playground equipment, gardening or other activities acceptable to MaineHousing.
- 6. **Exceptions.** The requirements of this subsection do not apply to existing multifamily housing projects if the Applicant cannot comply with the requirements because of the nature of the site, structural limitations, zoning restrictions or other land use limitations.
- J. **Resident Service Coordination.** The Applicant must make a resident service coordinator available twice weekly to the tenants on-site a minimum of one (1) hour per week for every five (5) Credit Units. The coordinator shall meet with tenants in a private and confidential manner to evaluate individual needs and make appropriate referrals. The services provided must be free of charge to the tenants. The Applicant must maintain adequate funding throughout the Compliance Period.
- K. **Smoke-free Housing.** The Applicant must
 - 1. implement a written occupancy policy prohibiting smoking in the units and common areas,
 - 2. include a non-smoking clause in the lease for every household, and
 - 3. make educational materials on tobacco treatment programs (including the phone number for the statewide Maine Tobacco HelpLine) available to all tenants through the resident service coordinator.
- L. **Waiting List Preference.** The Applicant must give an occupancy preference to eligible persons whose names are on a public housing or Section 8 waiting list, except for Projects: (i) financed by Rural Development, or (ii) with Section 8 Project-Based Rental Assistance (preference will apply to any Credit Unit without project-based rental assistance).

SECTION 6: SCORING CRITERIA

The Applicant must complete all information and submit all documentation required to be eligible for points.

Project Characteristics

- A. **Rehabilitation or Reuse of Existing Housing, Structure or Site.** **5 Points**

The Project site exhibits one or more of the following characteristics (1 point for each that applies):

1. Replacement or rehabilitation of existing rental housing containing 5 or more units without permanently displacing any existing tenants or increasing their housing costs (including rent and all other charges paid by the tenant) by more than 10%;
2. Rehabilitation, remediation, or reuse of an existing building or structure that has a current use other than multifamily rental housing;
3. One or more buildings or structures used for purposes other than single family residential housing or agriculture purposes, have been or will be demolished or removed for purposes of redeveloping the site;
4. Lots left vacant or nearly vacant in the development of a downtown or other city or town center, such as vacant lots or parking lots abutting commercial buildings and/or multifamily rental housing. Vacant lots in single-family residential areas are not eligible for points under this subsection. Undeveloped portions of existing sites are not eligible for points unless the existing project on the site previously satisfied one of the above criteria.

or

5. Specifically designated by a municipality for redevelopment to renew a blighted area or remediate environmental risks to the occupants.

B. Historic Rehabilitation. 5 points

The Project includes the rehabilitation of a certified historic structure using capital contributions generated from federal and state historic rehabilitation tax credits.

C. Populations with Special Needs. 6 points

The Project provides a set-aside for at least 20%, but not less than 4 of the units, for Persons Experiencing Homelessness or persons who have disabilities, are victims of domestic violence, or have other special housing needs, to create permanent supportive housing for persons who require that level of intervention within the special needs populations.

The Applicant must set aside units for the specific population(s) that qualify for the set-aside, maintain a separate waiting list for these units and make appropriate, voluntary services available through a qualified third-party provider other than the resident service coordinator required under Section 5.J. Additional funding from the Housing Trust Fund and/or Project-based Vouchers will be made available as necessary.

D. Family Housing. **Up to 6 points**

The Project is for families and a minimum percentage of the Credit Units are two and/or three or more bedroom units as follows:

Project for Families with Minimum Percentage of Credit Units by Bedroom Size	Points
At least 50% of the Credit Units are two or more bedroom units and at least 20% of the Credit Units are three or more bedroom units	6 points
At least 70% of the Credit Units are two or more bedroom units	3 points

E. Accessibility. **Up to 12 points**

One (1) point for each unit that

1. exceeds the minimum number of such units required by applicable federal and state accessibility laws, and
2. meets the requirements for a Type A unit under ANSI Standard A117.1-2009, up to the maximum points by project type below.

Type of Project	Maximum Points
Projects providing Housing for Older Adults	12 points
Projects that are not specifically for Older Adults or Families, having only 1 BR and/or efficiency units	9 points
Family Projects	6 points

Financial Characteristics

F. National Housing Trust Fund. **2 points**

The Applicant agrees to accept and use any funding from MaineHousing's National Housing Trust Fund program for the Project. Any funding award will require a certain number of units in the Project to be affordable to and occupied by Extremely Low Income households. Awarding points is not a commitment of funding from the National Housing Trust Fund.

G. Acquisition Cost. **Up to 5 points**

Points are based on the percentage by which the acquisition costs are less than the average acquisition costs for a project of its type as follows:

Type of Project	Average Acquisition Cost
Acquisition and rehabilitation of existing housing	\$60,500 per unit

New construction	\$7,500 per unit
Adaptive Reuse	\$10,500 per unit

For purposes of this subsection, acquisition costs include

1. the purchase price for all of the land and any existing building(s) even if donated or leased to the Applicant at below market value,
2. the cost of razing or demolishing any building(s) and structure(s), or any part thereof, on the Project site, and
3. the Capitalized Lease Value of all leases of land or land and building(s) that are part of the Project, with the exception of parking spaces.

The value of any project reserves transferred to the Project as part of the acquisition and included in the purchase price will not be included for purposes of this subsection.

Percentage of Project's Acquisition Cost as compared to Average Acquisition Cost	Points
0% to 1% (nominal)	5 points
>1% to 20%	4 points
>20% to 40%	3 points
>40% to 60%	2 point
>60% to 80%	1 point

H. Property Tax Relief. **Up to 3 points**

Points are based on the percentage of the Project's annual incremental property tax revenue returned to the Applicant or foregone by the taxing authority as follows:

Percentage and Duration of Tax Benefit or Relief	Points
50% to <75% for at least 15 years	1 point
50% to <75% for at least 30 years	2 points
≥ 75% for at least 15 years	2 points
≥ 75% for at least 30 years	3 points

Only Tax Increment Financing, payment in lieu of taxes, abatement, or other property tax relief arrangement approved by the taxing authority and all other applicable governing entities is eligible. A Project that is either a) located in a jurisdiction that does not assess property taxes or b) exempt from property taxes will be awarded one (1) point.

Funding made possible by an Affordable Housing TIF will not be eligible unless the Applicant submits a complete application for the TIF at least 30 calendar days before the

applicable Application deadline (Tuesday, August 20, 2024 for the 2025 State Ceiling and Tuesday, August 19, 2025 for the 2026 State Ceiling.

Project Location

I. Housing Need.

Up to 10 points

Points are based on the need for the type of housing in an area as follows:

1. Projects providing Housing for Older Adults located in the following Service Center Communities:

Projects providing Housing for Older Adults			
Service Center Community			Points
Auburn Augusta Bangor Bath Biddeford Brunswick Falmouth Freeport	Kennebunk Kittery Lewiston Old Orchard Beach Portland Presque Isle Saco Sanford	Scarborough Skowhegan South Portland Topsham Waterville Westbrook Windham Yarmouth	10 points
Bar Harbor Belfast Blue Hill Brewer Bridgton Camden Caribou Damariscotta	Dexter Dover-Foxcroft Ellsworth Fort Kent Gardiner Hallowell Madawaska Mexico	Norway Oxford Rockland Rockport Rumford Southwest Harbor Van Buren Wiscasset	8 points
Bethel Bingham Guilford Boothbay Harbor Calais Cornish Danforth Eastport	Farmington Greenville Houlton Jackman Limestone Lincoln Mars Hill Millbridge	Millinocket Newport Paris Pittsfield Rangeley Stonington Thomaston Winter Harbor	6 points

2. Other Housing Projects in the following Service Center Communities:

Other Housing Projects (not specifically for Older Adults)			
Service Center Community			Points
Auburn Augusta Bangor Bath Biddeford Brewer Brunswick Caribou	Farmington Lewiston Old Orchard Beach Orono Portland Rumford Saco Sanford	Scarborough Skowhegan South Portland Waterville Westbrook Windham	10 points
Bar Harbor Blue Hill Dexter Ellsworth Falmouth Fort Kent Millinocket Gardiner	Hallowell Houlton Kittery Limestone Madawaska Mexico Yarmouth Newport	Norway Paris Presque Isle Rockland Rockport Topsham	8 points
Ashland Bethel Lincoln Bridgton Calais Columbia Falls Cornish Damariscotta	Danforth Dover-Foxcroft Greenville Machias Oxford Patten Rangeley Southwest Harbor	Stonington Thomaston Van Buren Winter Harbor Wiscasset	4 points

3. Projects located on Native American tribal lands will be awarded **8 points**.

For each QAP round, municipalities receive their Housing Need score from the immediately preceding QAP if that score was higher.

J. Community Revitalization. **Up to 5 points**

Two (2) points if the Project is located within the boundaries of and contributes to the revitalization goals and efforts identified in a Community Revitalization Plan.

Two (2) points if the Project is located in a QCT and at least 20% of the units are market rate.

One (1) extra point if the Project also involves the preservation of existing Affordable Housing.

K. Smart Growth.

Up to 15 points

Smart Growth Feature	Points
Access to Public Transportation. The Project is located within a Safe Walking Distance (½ mile or less) of a designated pick-up location for existing Fixed-route Public Transportation.	5 points
Demand Response Transportation. Demand Response Transportation is available to all tenants with no eligibility criteria that would limit or deny service.	5 points
Proximity to Activities Important to Daily Living. Activities Important to Daily Living are located within not more than a ½ mile of the Project. (1 point per Activity)	Up to 5 points

Sponsor Characteristics

L. Readiness.

Up to 10 points

MaineHousing must approve both the design to be submitted to the municipality and the State and the final design, including all plans, details and specifications. The Project and any Related Developments must have all

1. municipal land use approvals (except building and other permits customarily issued during construction), and 5 points
2. State land use approvals (such as site plan, subdivision, storm water, or wetlands approvals) required to proceed with and complete construction. 5 points

As of the Application date, the timeframe to appeal all such approvals must have expired with no appellate action being taken, or all appeals have been resolved.

M. Developer Capacity.

Up to 5 points

Points are based on the development experience of the Applicant, any Principal thereof, or Affiliates of either as follows:

Successfully completed at least one multifamily rental housing project with MaineHousing funding or completed at least one LIHTC Project in another state(s).	5 points
Experience successfully developing and operating multifamily rental housing or experience managing Affordable Housing, <i>and</i> the Applicant has a contract with a qualified LIHTC consultant to develop the Project.	4 points
Experience successfully developing and operating multifamily rental housing.	3 points

N. Owner Performance.

Up to a 5 Point loss

Points reductions are based on the recent performance of the Applicant. MaineHousing may reject the Application if it determines outstanding deficiencies are not addressed, or require financial statements from the Applicant, Principals thereof, or Affiliates.

Has been 60 calendar days or more delinquent in the payment of any MaineHousing loan since September 22, 2014 (except delinquencies resulting from the delay or loss of Section 8 housing assistance payments), was declared in default by MaineHousing, or needed a financial workout for any project within the last 5 years.	-2 points
Had LIHTC Projects still in their Compliance Period had a year-end operating deficit, in the last full Fiscal Year, unless the operating deficit was fully funded by the Application deadline.	-2 point
Was (a) issued an IRS Form 8823 from owner non-performance; or (b) had an IRS audit finding resulting in a recapture event, since September 22, 2016. MaineHousing may consider, in its sole discretion, whether (a) or (b) resulted directly from: the Applicant's non-performance, the performance of an unaffiliated third-party, or something outside the control of any affiliated party provided it was corrected appropriately within a reasonable timeframe.	-1 point

O. Management Experience.

Up to 2 points

The company that will manage the Project has at least

one (1) staff person with a minimum of three (3) years of experience successfully managing: (a) at least one (1) LIHTC Project; or (b) at least one (1) low income housing property developed under a Federal program that is substantially similar to LIHTC, to be determined at MaineHousing's sole discretion.	1 point
one (1) staff person with LIHTC training for every 150 units in LIHTC Project(s) the company plans to manage.	1 point

P. Management Performance.

Up to a 3 point loss

Management Companies which have shown instances of poor performance in their management of LIHTC Projects still in their Compliance Period may lose points as follows.

The average of the most recent physical plant inspection scores as of June 30 before the Application deadline is below Above Average.	-1 point
The average of Project Reports submission scores for the last reporting period as of June 30 before the Application deadline is below Above Average.	-1 point

The average of the most recent Management and Occupancy Review scores as of June 30 before the Application deadline is below Above Average.	-1 point
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Q. Tie Breaker.

If more than one Application has the same score, the Application for the least amount of Credit and 0% deferred debt from MaineHousing per unit will have priority. If the Applications request the same amount of these resources, the Application with the most acceptable plan to convert the Project to affordable homeownership for the residents after the Extended Use Period will have priority. The plan must describe the process for transferring ownership to the residents, the purchase price or process for determining it, any financial assistance available for residents (including any reserves), how the affordability will be maintained, and must provide for homebuyer counseling and professional representation of the residents at the time of the conversion.

R. Review Process.

MaineHousing will notify each Applicant of its initial score in writing. If MaineHousing assigns a score in a scoring category which is lower than the score the Applicant assigned itself in the scoring category, the Applicant will have five business days from such written notice to demonstrate to MaineHousing that the Application as submitted should receive the higher score. MaineHousing will then make a final determination of scores and the ranking of Applications.

SECTION 7: PROJECT EVALUATION

A. Amount of Credit. The amount of Credit allocated will be determined as follows:

1. The calculation of the amount of Credit will be based on 130% of Eligible Basis. MaineHousing has designated the entire State as a DDA under [Section 42\(d\)\(5\)\(B\)\(v\)](#) of the Code because of the high cost of developing housing, the low median income, and the high annual operating costs for housing relative to other states;
2. To determine the amount of Credit, MaineHousing will use the lesser of (a) the market rent, based on the Application market study as approved by MaineHousing, and (b) the maximum Credit rent. For three or more bedroom units MaineHousing will use the maximum Credit rent for two-bedroom units plus \$50.00;
3. The amount of Credit allocated for a Project will not exceed the least of
 - a) the amount the Project is eligible to receive under [Section 42](#) of the Code,
 - b) the amount MaineHousing determines is necessary for financial feasibility and viability throughout the Credit Period, and
 - c) the Maximum Credit Amount;

4. The Applicant must submit financial and all other required information. MaineHousing will evaluate the need for Credit based on
 - a) all sources of financing, including the terms and conditions,
 - b) equity expected to be generated by reason of tax benefits, and
 - c) the uses of funds, including the reasonableness of development costs and operating expenditures; and
 5. In order to determine the amount of Credit, MaineHousing must identify a gap between development sources and uses absent a Credit allocation. MaineHousing may limit recognition of Intermediary Costs, re-characterize Project sources and uses and make reasonable assumptions with respect to projected revenues and expenses. MaineHousing will also take into consideration any federal limitations when combining the Credit with other federal assistance (i.e. “subsidy layering” guidelines).
- B. Developer Fee. Developer Fee will be determined as follows:
1. Maximum Developer Fee. The total Developer Fee may not exceed the sum of 15% of the Housing Development Costs, plus 10% of the costs of acquisition of land, existing buildings and equipment, determined without regard to the Developer Fee.
 2. Net Developer Fee. The amount of Developer Fee not deferred may not exceed \$750,000 plus any unused construction contingency returned to the Applicant after completion.
 3. Additional Developer Fee. An Applicant is eligible for Developer Fee in excess of the Net Developer Fee calculated above only if it is deferred and used to increase the tax credit basis.
- C. General Contractor Intermediary Costs. The general contractor’s Intermediary Costs must be:
1. separated from other construction and rehabilitation costs,
 2. with general conditions and overhead and profit parsed out, and
 3. no more than 14% of the Total Construction Cost, within the following ranges:
 - a) General conditions up to 6% of Total Construction Cost, and
 - b) Overhead and profit up to 8% of Total Construction Cost
- D. Time of Credit Determination. MaineHousing will determine the amount of Credit at the time of
1. Application, which will be evidenced by the Notice to Proceed;

2. the allocation of Credit, including any carryover allocation;
3. the date each Qualified Building is Placed in Service; and
4. if a Qualified Building is allocated Credit pursuant to Section 9, the date of issuance of the tax-exempt bonds.

Prior to each determination, the Applicant must certify the full amounts of all funding sources and provide any other information required by MaineHousing.

- E. **Market Study.** The applicant must submit a comprehensive market study prepared by a qualified professional in accordance with the *National Council of Housing Market Analysis Model Standards for Market Studies for Rental Housing*. MaineHousing may require the Applicant to either correct any inadequacies it identifies or submit a new market study. MaineHousing also may elect to commission its own market study.
- F. **Construction Cost Increases.** MaineHousing may allocate additional Credit to a Project if its construction costs increase after the Application date and the increase is the result of market conditions or other circumstances beyond the Applicant's control. Any additional Credit will not exceed an amount necessary to generate equity equal to 5% of the Total Construction Cost based on construction bids.

SECTION 8: ALLOCATION OF CREDIT

- A. **Allocation.** MaineHousing will issue one or more IRS Form(s) 8609 after receipt of the following:
 1. A complete request for allocation of Credit in a form prescribed by MaineHousing.
 2. An audit report on the schedule of project costs prepared by an independent, third party certified public accountant including all associated costs (such as commissions, due diligence, legal, accounting, reserves, and other similar items).
 3. Certification of the Project's sources, including all federal, state and local subsidies in any stage of commitment. This certification must include income, operating and development cost projections and methods for satisfying any deficits.
 4. The allocation fee and monitoring fee less the amount of any allocation fee paid in connection with the issuance of a carryover allocation.
- B. **Carryover Allocation.**
 1. The Applicant must submit the following to receive a carryover allocation:

- a) A complete request for carryover allocation in the form prescribed by MaineHousing no later than the first day of December of the year in which the carryover allocation is made.
 - b) Certification of the Project's sources, including all federal, state and local funding. This certification must include income, operating and development cost projections and methods for satisfying any deficits.
 - c) Development progress report, including completion likelihood.
- 2. The applicant must execute a carryover allocation and return it to MaineHousing, together with the allocation fee, no later than December 31 of the year in which the carryover allocation is made.
- 3. A carryover allocation will be subject to the following conditions:
 - a) satisfactory evidence that more than 10% of the Project's reasonably expected basis is incurred within 12 months of the carryover allocation, including an audit report prepared by an independent, certified public accountant; and
 - b) any performance conditions MaineHousing may require.

Failure to comply with these conditions may result in termination of the carryover allocation.

- C. **Tax Credit Compliance Experience.** Prior to an allocation the Applicant must demonstrate that the entity managing the Project has sufficient Credit compliance experience and training. The entity must complete a Credit compliance training or receive a certification from a MaineHousing-approved trainer.
- D. **Extended Use Agreement.** Prior to an allocation of Credit, the Owner must enter into an Extended Use Agreement with MaineHousing obligating the Owner to comply with [Section 42](#) of the Code, the threshold requirements in Section 5, and commitments for which the Application was awarded points. The Extended Use Agreement must be recorded in the appropriate registry of deeds prior to all mortgage liens and encumbrances on the Project and before MaineHousing issues any IRS Form 8609 for the Project.
- E. **Converting a Carryover Allocation.** MaineHousing may convert a carryover allocation to the year in which it is terminated or the following year if there are extenuating circumstances beyond the Applicant's control. The carryover allocation must be rescinded by the mutual consent of MaineHousing and the Applicant. There can be no change in the design or financing that would render the Application withdrawn under Section 4.I. The Project will be subject to the QAP in effect at the time of the original allocation.

- F. Forward Allocation of Credit. MaineHousing may issue a binding commitment to allocate State Ceiling available in the subsequent year upon determining that the amount of Credit in the current year's State Ceiling is insufficient.

SECTION 9: TAX-EXEMPT BOND FINANCED PROJECTS

Projects financed with tax-exempt bond proceeds must satisfy all QAP requirements except

- A. the Maximum Credit Amount limitation in Section 3.C.,
- B. the application limits in Section 4.B.1.,
- C. the application deadlines in Section 4.B.2.,
- D. the selection process described in Sections 4.F.,
- E. the affordability threshold requirement set forth in Section 5.A.,
- F. the requirement of a minimum \$75,000 per unit of Rehabilitation Costs for Projects involving the acquisition and rehabilitation of existing housing in Section 5.C.2.,
- G. the scoring criteria in Section 6, and
- H. the Developer Fee limits in Section 7.B.

SECTION 10: MONITORING

- A. Compliance with Applicable Laws. Owners must comply with all local, state and federal laws and regulations, including without limitation:
 - 1. [Section 42](#) of the Code and associated regulations and guidance;
 - 2. UPCS and all other local, state and federal health, safety and building codes applicable to the Project;
 - 3. the [Federal Fair Housing Act, Title VIII of the Civil Rights Act of 1968](#), as amended by the Fair Housing Amendments Act of 1988 ([42 U.S.C. §3601 et seq.](#)), Title II of the Americans with Disabilities Act of 1990 ([42 U.S.C. §12101 et seq.](#)), and the Maine Human Rights Act ([5 M.R.S., Chapter 337, Subchapter IV](#)) and all other applicable federal, state and local fair housing and accessibility requirements, and the regulations, guidance and standards associated with all of the foregoing; and
 - 4. Title VI of the Violence Against Women Reauthorization Act of 2013, [42 USC Chapter 136, Subchapter III, Part M](#), and all associated regulations and guidance, as may be amended (VAWA).

B. Recordkeeping and Record Retention. Each Owner must keep on file and available to MaineHousing upon request the following records for each Qualified Building in its LIHTC Project(s) for each year in the Extended Use Period:

1. The total number of residential rental units including the number of bedrooms and the square footage of each unit;
2. The number of low-income units;
3. The rent charged for each unit including any utility allowances;
4. The number of occupants in each low-income unit;
5. The number of low-income unit vacancies and information showing when, and to whom, the next available units were rented;
6. Income certification and third-party documentation verifying the income of each household occupying a Credit Unit at the time of initial occupancy and for each new person added to the household after initial occupancy;
7. Annual income certifications and third-party documentation verifying the income of each household occupying a Credit Unit in a LIHTC Project are required if not all of the units in the LIHTC Project are Credit Units, or the LIHTC Project is financed or assisted under a state or federal program that requires annual certifications.

For a LIHTC Project with 100% Credit Units that are subject to more than one income limit, annual income certifications are only required for the households occupying the Credit Units subject to the lower income limits. The annual certification may be a self-certification, except that third-party documentation verifying the income of the household is required every 6 years from the date the LIHTC Project is Placed in Service and otherwise upon request by MaineHousing. The self-certification must be

- a) in writing,
- b) include the size of the household and annual household income,
- c) state that the information is complete and accurate,
- d) indicate that third-party source documentation will be provided if requested by the Owner or MaineHousing, and
- e) witnessed.

Annual income certifications are not required for a LIHTC Project with 100% Credit Units subject to the same income limit.

8. The Eligible Basis and Qualified Basis of each Qualified Building at the end of the first year of the Credit Period;
9. The character and use of the nonresidential portion of a Qualified Building included in its Eligible Basis;
10. A determination of the student status of the resident household;
11. The tenant occupancy policies and procedures and lease. The lease form and content must be acceptable to MaineHousing and comply with all applicable federal, state and local laws (including VAWA); and
12. All other disclosures to tenants, certifications and other records required by applicable local, state and federal laws.

Owners must maintain these records throughout the Extended Use Period for at least 6 years after the due date (with extensions) for filing the federal income tax return for that year, except that the records for the Credit Period's first year must be retained at least 6 years beyond the due date (with extensions) for filing the federal income tax return for the last year of the Compliance Period.

- C. Annual Reports. Each Owner must submit the following to MaineHousing by March 1st of each year throughout the Extended Use Period:
 1. Certification for the prior calendar year that the Owner's LIHTC Project(s) comply with IRS Treasury Regulation §1.42-5(c)(1) and *MaineHousing's Low Income Housing Tax Credit Program Owner's Certificate of Continuing Program Compliance* attached hereto as **Appendix D**. A completed and executed IRS Form 8609 for each Qualified Building must be submitted with the first certification; and
 2. Certain information and data about the tenants in Credit Units for the prior calendar year, including household income; monthly rental payments; family composition; use of Section 8 rental assistance and other similar assistance; the race, ethnicity, age and disability status of the members of the households; and all other occupancy information required by MaineHousing.
- D. Review. For new LIHTC Projects, MaineHousing will complete a review of tenant records within two (2) years following the year the last Qualified Building is Placed in Service. MaineHousing will give owners reasonable prior written notice of a review. To the extent required by the Internal Revenue Service (IRS), MaineHousing will inspect low income certifications and tenant records in accordance with IRS Treasury Regulation §1.42 5(c)(2)(iii)(A) through (D) and §1.42 5(d) and will give no more than 15 calendar days prior notice.

E. Inspections. Every one to three years after a Project is Placed in Service, MaineHousing will inspect LIHTC Projects. For new LIHTC Projects, MaineHousing will inspect Credit Units by the end of the second calendar year following the year the last Qualified Building is Placed in Service. MaineHousing will give reasonable prior written notice. To the extent required by the Internal Revenue Service, MaineHousing will inspect the LIHTC Projects in accordance with IRS Treasury Regulation §1.42 5(c)(2)(iii)(A) through (D) and §1.42 5(d) and will give no more than 15 calendar days prior notice.

F. Utility Monitoring

For all projects funded in Year 2 of this QAP, monitoring of all utilities for all units will be required based on the HUD submission model for PHAs.

G. Notification of Noncompliance. MaineHousing will notify an Owner in writing of any failure to

1. submit any complete certifications or information required by MaineHousing when due,
2. allow MaineHousing to perform any review or inspection required under this Section, or
3. comply with [Section 42](#) of the Code or any others requirements under this QAP.

The Owner will have a reasonable period of time to correct the noncompliance identified in the notice. MaineHousing will file a Form 8823, “Low-Income Housing Credit Agencies Report of Noncompliance” with the Internal Revenue Service within 45 calendar days of the end of the correction period.

SECTION 11: GENERAL

A. Conflicts. If this rule conflicts with [Section 42](#) of the Code or any other provision of federal or State law, the federal or State law shall control.

B. Full Discretion. MaineHousing is entitled to the full discretion allowed by law in making all decisions and interpretations under this rule.

C. Not an Entitlement. This rule establishes a pool of eligible Applicants but does not preclude additional reasonable criteria and does not confer any automatic right or entitlement to Credit on any person or entity eligible hereunder. MaineHousing may reject any and all Applications and may refuse to award any or all of the Credit.

D. Final Agency Action. The director of MaineHousing, individually or by exercise of the delegation of powers contained in the Act, shall make all decisions and take all action necessary to implement this rule. Such action of the director shall constitute final agency action.

- E. Waiver. Upon a determination of good cause, the director of MaineHousing or the director's designee may, subject to statutory limitations, waive any provision of this rule. The waiver must be in writing and must be supported by documentation of the pertinent facts and grounds.
- F. Freedom of Access Act. MaineHousing is subject to the Freedom of Access Act, [1 M.R.S. §401 et seq.](#), which requires the disclosure of all information provided to MaineHousing that is not specifically excluded, such as confidential information under the Act. MaineHousing shall not be liable for the disclosure of any information that it determines must be disclosed under the Freedom of Access Act.
- G. Liability. Compliance with [Section 42](#) of the Code is the responsibility of the Owner. MaineHousing is in no way responsible for an Owner's compliance or liable for an Owner's noncompliance. Any allocation, review or inspection by MaineHousing and any determination made by MaineHousing pursuant to this QAP is for the sole benefit of MaineHousing. No liability or responsibility for Owner compliance with [Section 42](#) of the Code or other applicable requirements and no representation or warranty of a Project's feasibility or viability, eligibility for Credit, or compliance shall be implied or construed from any such actions and determinations by MaineHousing.
- H. Headings/Context. The headings in this rule are for convenience only and do not define or limit the scope of the provisions of this rule. The use of Section, Subsection or Appendix without a reference to another document or source refers to a section, subsection and Appendix of this rule. All Appendices attached to this Rule are incorporated herein and made a part of this Rule.

STATUTORY AUTHORITY: 30-A MRS §§4741(1) and 4741(14), §4726, Section 42 of the Internal Revenue Code of 1986, as amended

BASIS STATEMENT: This rule is the qualified allocation plan for allocating and administering federal low income housing tax credits ("LIHTC") in the State of Maine, which MaineHousing, as the State's designated housing credit agency, is required to adopt pursuant to [Section 42](#) of the Internal Revenue Code and the above-referenced sections of the Maine Housing Authorities Act.

This rule replaces the prior rule and includes the following changes:

Throughout:

- Updated deadlines
- Updated Section number references
- Repaired grammatical errors (punctuation, typos, correcting defined terms, etc.)

Section 3A: Added "at least" to clarify that MaineHousing can set aside more than 10% for the Nonprofit Set-Aside.

- Section 3B: Updated Preservation Set-Aside amount to \$750,000.
- Section 3C: Increased the amount of credit per unit to \$30,000 from \$20,000, and changed the maximum amount of credit per project to \$1,200,000.
- Section 4A: Pre-apps due July 3, 2024 and July 3, 2025.
- Section 4B2: Applications due September 19, 2024 and September 18, 2025.
- Section 4B3: Added language: “Submitted exhibits must include documentation such as grant award letters, signed documentation on letterhead or evidence of official municipal action to provide evidence of all funding sources and official approvals.”
- Section 4I4: Updated language to clarify.
- Section 4I5: Added language “in the case of a TDC Index Cap waiver, the TDC Index increases substantially”
- Section 5A: Removed Section 811 language.
- Section 5A3 Revised to revert the language back to the language that was adopted in the 2023-2024 QAP. MaineHousing had made changes to the 2023-2024 QAP after a public hearing and those changes were adopted, however in the version MaineHousing published for the 2025-2026 QAP, those changes were inadvertently left out. MaineHousing did not intend to make any changes to this Section.
- Section 5A4 Revised to revert the language back to the language that was adopted in the 2023-2024 QAP. MaineHousing had made changes to the 2023-2024 QAP after a public hearing and those changes were adopted, however in the version MaineHousing published for the 2025-2026 QAP, those changes were inadvertently left out. MaineHousing did not intend to make any changes to this Section.
- Section 5B: Increased the TDC Index caps.
- Section 5C: Increased Rehabilitation Costs per unit of existing housing from \$50,000 to \$75,000.
- Section 5G: Updated and clarified re-characterization language.
- Section 5H: Added a link to the latest version of the Quality Standards and Procedures Manual and noted energy efficiency standards. Additionally, updated Build America, Buy America requirements, removed electrical raceway/conduits language and relocated and updated Section 3 language.

- Section 5I3: Revised to revert the language back to the language that was adopted in the 2023-2024 QAP then revised to update the language to be consistent with the changes that were provided in the 2025-2026 version of the QAP that was published. Changed Broadband Capabilities to “Broadband Access” and indicated that the project must include broadband infrastructure with capacity sufficient to support the provision of Telehealth services. Separated out the definition of Broadband infrastructure and removed “ConnectMaine”. Deleted “If the broadband capabilities are used for telemedicine services”.
- Section 5J: Added that the resident service coordinator must be available twice weekly which is the appropriate number of days each week acceptable to MaineHousing.
- Section 6: Renumbered and reorganized the scoring criteria.
- Section 6A: Increased the scoring points for Rehabilitation or Reuse of Existing Housing, Structure or Site from 4 to 5.
- Section 6B: Increased the scoring points for Historic Rehabilitation from 4 to 5.
- Section 6E: Updated the scoring points for Accessibility to increase 6 points to 9 points for Projects that are not specifically for Older Adults or Families, having only 1 BR and/or efficiency units and to add 6 points for Family Projects.
- Section 6F: Increased the scoring points for National Housing Trust Fund from 1 to 2.
- Section 6G: Increased the scoring points for Acquisition Cost from 4 to 5, increased the average acquisition cost per unit and increased the percentage of project’s acquisition cost as compared to average acquisition cost and the associated points.
- Section 6I: Decreased the scoring points for Housing Need from 10 to 8 and updated the Service Center Community Cities/Towns for both Project providing housing for Older Adults and Other Housing Projects and the associated points. Additionally, adjusted the points for Projects located on Native American tribal lands from 10 points to 8 points.
- Section 6J: Increased the scoring points for Community Revitalization from 3 to 5 and added two points for Projects located in a QCT with at least 20% of the units at market rate.
- Section 6K: Adjusted the scoring points and criteria for proximity to activities important to daily living to up to 5 points for activities important for daily living that are located within not more than a ½ mile of the Project, 1 point per activity.
- Section 6L: Increased the scoring points for Readiness and provided a breakdown of the points for different categories.

- Section 6M: Added the word “successfully” to the scoring criteria for two categories.
- Section 6N: Changed to negative points for bad performance. Added language clarifying that MaineHousing has the discretion to consider whether non-compliance was a direct result of the Applicant’s non-performance, the performance of an unaffiliated third-party, or a result of something outside the control of any affiliated party provided it was corrected appropriately within a reasonable timeframe.
- Section 6O: Reduced the weight of the scoring criterion from 5 points to 2. Added language clarifying that experience successfully managing at least one (1) low income housing property developed under a Federal program that is substantially similar to LIHTC, to be determined at MaineHousing’s sole discretion, is experience that qualifies for 1 point.
- Section 6P: Changed to negative points for bad performance.
- Section 10F: Added Utility Monitoring to begin in Year 2 of the QAP.
- Section 11H: Added a reference to Appendices for clarity.
- Appendix A: Change made to “Activities Important to Daily Living” definition adjusting retail store to a store that offers regularly purchased household supplies.
- Deleted the definition for “Telemonitoring.”
- Appendix B: Language was added to require any available radon test results for the Project site.
- Appendix E: Revised to revert the language back to the language that was adopted in the 2023-2024 QAP. MaineHousing had made changes to the 2023-2024 QAP after a public hearing and those changes were adopted, however in the version MaineHousing published for the 2025-2026 QAP, those changes were inadvertently left out. MaineHousing did not intend to make any changes to Appendix E.

PUBLIC COMMENT:

Process:

Notice of Agency Rule-making Proposal (MAPA-3) was submitted to the Secretary of State for publication in the March 27, 2024 edition of the appropriate newspapers. Additionally, MaineHousing sent the proposed rule to Interested Parties on March 27, 2024 and published the proposed rule on its website on March 27, 2024. MaineHousing held a public hearing on April 16, 2024. The comment period was held open until April 26, 2024 at 5:00 PM.

A second Notice of Agency Rule-making Proposal (MAPA-3) was submitted to the Secretary of State for publication in the May 15, 2024 edition of the appropriate newspapers. Additionally, MaineHousing sent the proposed rule to Interested Parties on May 15, 2024 and published the proposed rule on its website on May 15, 2024. No public hearing was held. The comment period was held open until June 14, 2024 at 5:00 PM.

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Summary of Comments and Responses to Comments:

Comment: Brian Kilgallen, Development Officer for Community Housing of Maine, submitted written comments and questions as follows:

- 1) If a property uses the ODE account to fund a YE operating deficit before the application deadline, would the application lose a point in Owner Performance?
- 2) Can Management Company and Ownership scores be available before the Pre-application deadline?
- 3) What is the process for MaineHousing to approve the building design prior to a project submitting for readiness points?
- 4) Is the Maine Construction General Permit required to earn the readiness points? Typically, this is done closer to construction.
- 5) Section H references dates from 2023 and 2024.
- 6) Was any consideration given to phased projects that can run relatively concurrently?

Response:

- 1) No.
- 2) Applicants are encouraged to connect with management companies and owners prior to Pre-application and perform due diligence in gathering information regarding performance. Currently MaineHousing does not publish scores on its website.
- 3) There is no process by which MaineHousing would approve a building design prior to the submission of an application. The Pre-application review is generally a site visit (sometimes a walk-through if the project is an adaptive reuse) and potentially a brief review of conceptual plans and specifications. Construction Analysts are not assigned until an application is awarded funding and MaineHousing does not have the resources to conduct detailed building design reviews beforehand for all applicants. MaineHousing can try to answer general questions a developer might have about specific items, but cannot provide full review in advance of an award.
- 4) No. It is typically done closer to construction.
- 5) This has been corrected.
- 6) The QAP scoring currently does not award points for phased projects that can run relatively concurrently. MaineHousing intends to retain that position.

Comment: Amanda Bartlett, Chief Operating Officer of Developers Collaborative, submitted written comments asking MaineHousing to further amend Section 6(N), Owner Performance, to better align with the intent of the scoring in the category.

Response: MaineHousing has added clarifying language to Section 6(N), Owner Performance, explaining that MaineHousing has the discretion to consider whether non-compliance was a direct result of the Applicant's non-performance, the performance of an unaffiliated third-party, or a result of something outside the control of any affiliated party provided it was corrected appropriately within a reasonable timeframe.

Comment: Tyler Norod, Development Director of Westbrook Development Corporation provided testimony at the public hearing and submitted written comments asking MaineHousing to consider removing Brownfield remediation costs from the TDC calculation as the costs are typically paid by outside funds and can be very expensive.

Response: Brownfield remediation is frequently performed outside of and/or prior to the project scope of work and therefore does not contribute to the TDC.

Comment: Tyler Norod also recommended a waiver process for Section 6(N), Owner Performance, whereby an owner could seek a waiver from the negative scoring points for the issuance of an 8823 that was outside of the owner's control.

Response: MaineHousing has added clarifying language to Section 6(N), Owner Performance, explaining that MaineHousing has the discretion to consider whether non-compliance was a direct result of the Applicant's non-performance, the performance of an unaffiliated third-party, or a result of something outside the control of any affiliated party provided it was corrected appropriately within a reasonable timeframe.

Comment: Tyler Norod also recommended that MaineHousing outsource the Environmental Review work to qualified engineers to save MaineHousing staff significant time and remove the risks and barriers associated with Choice Limited Actions for tax credit applications. Norod proposed that applicants could have the checklist completed and included with the submission of a project application for tax credits.

Response: MaineHousing appreciates this recommendation and intends to look into the possibility of outsourcing the Environmental Review work; however, it should be noted that the requirements of an Environmental Review are dependent on the type of Federal funding a project receives. Applicants would not know which type of Federal funding they would receive prior to an award, so requiring Applicants to complete the Environmental Review prior to award could be a cost to the Applicant that would not be an eligible project cost if it turned out an Environmental Review was not required. Additionally, the Choice Limiting Action period does not expire until the project receives a release of funds from the Department of Housing and Urban Development ("HUD"). The completion of the Environmental Review itself does not stop the Choice Limiting Action period and MaineHousing would still have to request a release of funds from HUD and go through the public comment period before an applicant could take any action that would be considered a Choice Limiting Action.

Comment: Cory Fellows, Vice President of Development for Preservation of Affordable Housing ("POAH") submitted written comments asking MaineHousing to replace its project-level \$750,000 Net Developer Fee cap with a \$25,000 per-unit cap that would better reflect the significant overhead and risk associated with larger or more complex Low Income Housing Tax Credit ("LIHTC") projects.

Response: MaineHousing continues to believe that the Net Developer Fee cap of \$750,000 is appropriate. The Net Developer Fee cap is reviewed with each iteration of the QAP and adjustments are made as necessary.

Comment: Corey Fellows also expressed concern regarding the requirement to set aside at least 60% of the units in a LIHTC project for households under 50% AMI. Fellows indicated this requirement is aggressive and undermines project viability, creating a very significant barrier to financing a viable construction or rehabilitation project and substantially weakening a project's long-term financial stability.

Response: MaineHousing designs its financing packages to make its affordability requirements feasible. The need of the State is taken into consideration when determining what is required for affordability. MaineHousing has a long track record and an extremely successful portfolio of projects bolstering the position that its requirements are not burdensome to the properties.

Comment: Corey Fellows also recommended that MaineHousing restore scoring criteria for new Project-Based Rental Assistance ("PBRA") to encourage sponsors to incorporate PBRA which is a sustainable solution for long-term affordability.

Response: MaineHousing removed the scoring criteria for new PBRA as in the past a number of local public housing authorities have pledged Project-Based Vouchers to their own projects, making it an unfair scoring advantage for those Developers that have their own Project-Based Vouchers. Additionally, MaineHousing has committed to providing Project-Based Vouchers for each unit that a developer pledges to set-aside for special needs populations.

Comment: Corey Fellows noted that POAH supports MaineHousing's revisions to the maximum credit amount, including the increased cap per Credit Unit and the imposition of a new \$1.2M total maximum.

Response: MaineHousing appreciates the support for those changes.

Comment: Corey Fellows noted that POAH supports MaineHousing's efforts to ensure its funded costs are reasonable and necessary, but is concerned that the TDC Index Cap will exclude some worthy projects from competing for MaineHousing resources. Fellows commented that the increased New Construction TDC Index Cap still remains too low, particularly for projects where certain desirable characteristics drive higher costs (i.e. projects for special populations with needs for specific physical accommodations or facilities, projects in high opportunity areas where land costs are higher, projects with advanced energy performance, and projects complying with new Build American, Buy American ("BABA") requirements).

Response: MaineHousing took all of these factors into consideration when setting the new TDC caps. MaineHousing's priority is to fund as many new, high quality housing units as possible with its limited resources. Based on the costs in the current pipeline, as well as current labor and materials pricing and trends, MaineHousing is confident that the proposed TDC caps are

reasonable and will eliminate certain projects which would otherwise have a higher per unit cost than necessary. MaineHousing's energy efficiency standards are already quite high and those costs are known; the adjustments to the standards do not add materially to the TDC. The effects of BABA are still unclear at this time.

Comment: Corey Fellows also notes that the QAP's Maximum Credit Amount provisions already serve to limit the LIHTC resources allocable to any given project, ensuring that higher cost developments will not claim a disproportionate share of agency resources, so there is no clear policy benefit from the TDC Index Cap to offset the real harm it may cause by excluding good projects from competing. Fellows recommended MaineHousing either eliminate the TDC Index Caps entirely or implement a waiver process for projects where special characteristics cause them to exceed the caps.

Response: MaineHousing discusses TDC Caps in preparation for each QAP. MaineHousing has determined that the clarity of specific cost targets is helpful to developers and therefore wishes to keep the TDC Caps. During the pandemic MaineHousing chose not to hold developers to hard caps, which resulted in longer negotiations and higher per unit costs. Most additional resources brought to a project are from other public resources and MaineHousing takes its responsibility as stewards of public funds seriously. In very limited circumstances, the Director of MaineHousing has the ability to waive program guidelines for good cause.

Comment: Corey Fellows recommended that MaineHousing take into consideration when considering funding priorities and evaluating project budgets that different towns and regions have different demographics and needs and that the cost of securing local land-use approvals for family housing is often more difficult, time-consuming and expensive than senior housing.

Response: MaineHousing does not prioritize housing for older adults over housing for families, or vice versa. Each housing type is eligible for an equal number of points under the QAP. MaineHousing will continue to track the number of units developed under each type of housing and can make adjustments in the future if the Board of Commissioners and MaineHousing Staff feel there is a trend towards unnecessarily producing more of one type of housing.

Comment: Erinn Roos-Brown, Project Manager of Travois, Inc. submitted written comments stating that the requirements, in Section 4(B1.a) – Allocation Process: Existing Housing, for Acquisition and Rehabilitation Projects to “include the addition of at least 20 new units, or meet the requirements of the Preservation Set-Aside in Section 3.B” effectively eliminates Tribal entities from applying for acquisition and rehab projects under LIHTC in Maine due to: the smaller scale of Tribal projects; the financial feasibility; the limitation of buildable land in assigned Reservations; and the Federal funding available to Tribes which does not qualify for the Preservation Set-Aside. Roos-Brown recommended MaineHousing remove the requirement that 20 new units be developed as part of Acquisition and Rehabilitation projects.

Response: The requirement that 20 new units be developed as part of Acquisition and Rehabilitation projects is aimed at achieving the goal of adding additional housing stock to Maine. MaineHousing believes this strikes the right balance between supporting acquisition & rehabilitation of housing

and creating more affordable housing. MaineHousing continues to search for alternate methods of funding preservation, and increase the ability to do so when more funding is available.

Comment: Erinn Roos-Brown also commented that the TDC Index Caps prescribed by MaineHousing are exceedingly low in comparison to LIHTC QAP TDC Caps nationwide. Roos-Brown requested MaineHousing recognize the calculated maximum unit development costs specifically for Tribal projects developed by HUD and include a reference to PIH-2023-30 as the applicable limits for Tribal projects

Response: MaineHousing believes that the TDC Caps in Maine's QAP are appropriate for Maine projects and allow for the creation of as many safe, efficient, quality units as possible. Based on a review of the projects in MaineHousing's pipeline, developer partners are currently creating units for far less than the new proposed TDC Caps.

Comment: Erinn Roos-Brown stated that MaineHousing's requirement for extensive amenities including a community room, significant broadband infrastructure requirements, and recreational areas at each project is challenging for Tribal developers. Roos-Brown requested MaineHousing eliminate these amenity requirements for Tribal projects or change them from threshold requirements to scoring categories instead.

Response: MaineHousing believes that these amenities provide great benefits to the people MaineHousing serves and it is important that everyone have access to such amenities. If a developer can show readily available alternatives of equal quality and accessibility, MaineHousing may take that into consideration to avoid funding redundant resources.

Comment: Erinn Roos-Brown recommended that MaineHousing change the scoring criteria in the Property Tax Relief category to 3 points for Projects located in areas of the State that do not assess or collect property taxes and Projects that are exempt from property taxes.

Response: The intent of this scoring category within the "Financial Characteristics" section is to reward developers who undertake the work required to bring additional resources to the Project, saving MaineHousing's resources for additional housing production. Both the developer and community in which the housing will be built have undertaken a task for which points will be awarded. While the lack of property taxes on Tribal lands is of value, it is not awarded the maximum points due to the fact that neither the community nor the developer have undertaken a process for which these points are an incentive. MaineHousing welcome suggestions for other forms of funding assistance as an alternative for Tribal developers and communities.

Comment: Erinn Roos-Brown noted that Travois, Inc. supports keeping the language in the QAP that awards 8 points for Projects located on Tribal lands.

Response: MaineHousing appreciates the support.

Comment: Erinn Roos-Brown noted that the 15 points available in the Smart Growth category are typically a major challenge for Tribal projects and requested that this category have a 3-mile radius for Projects located on Tribal land and rural locations to create a fairer scoring opportunity.

Response: MaineHousing believes access to transportation and proximity to activities important to daily living are key factors in making projects successful and accessible to all. The scoring criteria creates an opportunity for projects to provide on-demand transportation to receive points when the other categories are not an option. Additionally, the scoring criteria was adjusted to allow projects to score one point for each walkable activity of daily living rather than requiring at least 3 activities in order to obtain any points.

Comment: Erinn Roos-Brown requested that MaineHousing change the language in Section 6(O), Management Experience, to match the language in Section M (Developer Capacity). Roos-Brown noted that Tribes have long-standing experiencing managing low income housing under other rules and regulations (NAHASDA and the 1937 Housing Act) that are similar to the LIHTC program and requiring property management agents to have previous LIHTC experiences puts Indigenous nations at a distinct disadvantage scoring wise.

Response: MaineHousing has added clarifying language to Section 6(O), Management Experience, stating that experience successfully managing at least one (1) low income housing property developed under a Federal program that is substantially similar to LIHTC, to be determined at MaineHousing's sole discretion, is experience that qualifies for 1 point.

Comment: Nicole McKeith Director of Housing Initiatives at ProsperityME testified at the public hearing and submitted written comments stating that a two-year QAP does not allow for flexibility to change the QAP to reflect current housing priorities and the housing market climate.

Response: MaineHousing has responded to the development community in Maine by implementing a two-year QAP. This allows developers to better plan their projects around MaineHousing requirements. In drafting the QAP MaineHousing considers current housing priorities and climate and projects trends over that two-year period in order to ensure a successful two-year QAP. MaineHousing has the ability, after the first year, to open rulemaking to make substantive changes to the QAP if it is deemed necessary.

Comment: Nicole McKeith commented that MaineHousing should consider QAP incentives or other policy initiatives to ensure New Mainer housing needs are adequately addressed.

Response: MaineHousing is open to, and actively solicits advice on, how it can better serve the New Mainer population. MaineHousing has a variety of programs other than LIHTC including the Rural Affordable Rental Housing Program, the Affordable Homeownership Program, the Supportive Housing Program, the Recovery Housing Program, and special programs to assist individuals and families experiencing homelessness. Additionally, MaineHousing has allocated Emergency Housing Relief Funds to assist the New Mainer population, including assisting individuals and families in gaining access to LIHTC housing units. LIHTC projects must meet certain underwriting criteria, without which they are financially infeasible. Due to the small number of 9% LIHTC projects

funded in Maine annually, MaineHousing does not believe additional set-asides should be established.

Comment: Nicole McKeith commented that ProsperityME believes family projects and larger family units are discouraged through the scoring system as the scoring encourages Senior Projects. McKeith recommended MaineHousing allow exceptions that promote various bedroom size developments which would include exceptions to the TDC.

Response: The QAP provides equal scoring opportunities for family and older adult projects. Additionally, the TDC calculation is indexed to adjust for the number of bedrooms so as not to penalize units with more bedrooms.

Comment: Nicole McKeith expressed concern about the decreased per unit average acquisition cost for new construction from \$14,000 to \$7,500, which eliminates the Greater Portland area for development. McKeith recommended eliminating Section 6(G) to allow scoring to be based strictly on TDC for items included in the eligible basis.

Response: The average acquisition cost number is based off the average cost of recent projects. The average continues to drop which indicates that developers are finding ways to save on the acquisition of properties. The intent of this scoring category is to reduce TDC by requiring more thoughtful use of funds. MaineHousing has seen no signs that developers are developing fewer units in the Greater Portland area, and wants to ensure that all parts of the State are appropriately served with this funding source.

Comment: Nicole McKeith commented it was unclear where the scoring criteria for Section 6, Project Location, was coming from and recommended changing the Section to reflect points for housing need.

Response: The State of Maine determines the Service Center communities each year and makes the information available on its website ([Service Centers: Municipal Planning Assistance Program: Maine DACE](#)). Demand for affordable housing units in each Service Center is determined by subtracting the total number of available units for those at or below 60% of Area Median Income from the total number of households making 60% of Area Median Income or less. This housing needs analysis may result in changes to the scoring of individual municipalities in the Project Location Section of the QAP each time it is compiled. MaineHousing continually looks for better data and expertise in this area, but to date this has presented as the best method to assess housing need. MaineHousing welcomes and suggestions or alternative methods that may better assess housing needs in Maine.

Comment: Nicole McKeith notes that Maine Housing could consider identifying opportunities to encourage more diversity in development and management teams by reducing barriers to entry, facilitating joint ventures, providing predevelopment capital, or creating other incentives for participation by underrepresented groups. McKeith asked for clarification on the term “successfully” that was added to each section.

Response: MaineHousing regularly meets with a Cultural Advisory Board, made up of individuals with diverse cultural backgrounds that provide insight on how MaineHousing can assist in encouraging diversity in its programs. Additionally, MaineHousing encourages partnerships and provides scoring criteria that allows for points to be received based on collective experience of development teams. MaineHousing staff are available to answer questions new developers might have and can assist in linking new developers with experienced developers and consultants. MaineHousing also has engaged and will continue to engage the Genesis Fund to provide technical assistance, which has proven successful in assisting new developers enter MaineHousing programs. Every program MaineHousing offers is sent to Maine Small businesses, Women and Minority Businesses or Labor Surplus Area Firms that provide a similar service/program and a copy of each program is sent to Maine PTAC (Procurement Technical Assistance Center) for publishing on their website for greater outreach.

Comment: Nicole McKeith asked for clarification on the term “successfully” that was added to each section.

Response: Successful development experience means that the team has consistent recent experience delivering projects on budget and on time.

Comment: Nicole McKeith commented that one of the required selection criteria under Section 42 of the Internal Revenue Code is ‘projects intended for eventual tenant ownership’ and recommended that MaineHousing add an additional section of requirements for eventual homeownership, or clarify in Section 6(Q) what is required.

Response: Section 6(Q) states that if there is a need for a tie breaker because applications with the same score request the same amount of Credit and 0% deferred debt per unit, the project with the most acceptable plan to convert the project to affordable homeownership for the residents after the Extended Use Period will have priority. Section 6(Q) outlines that the plan must describe the process for transferring ownership to the residents, the purchase price or process for determining it, any financial assistance available for residents (including any reserves), how the affordability will be maintained, and must provide for homebuyer counseling and professional representation of the residents at the time of conversation. To date, no feasible plan for rental projects to transition to homeownership through the Tax Credit Program has been presented to MaineHousing. Additionally, due to the limited funding available for affordable rental units and the desire to maintain the affordability as rental units, it is most advantageous for projects to remain rental units for a minimum of 45 years. MaineHousing welcomes suggestions as to how to better promote and encourage this concept.

Comment: Nicole McKeith asked if there is a list of approved Market Study analysts that MaineHousing considers qualified professionals.

Response: MaineHousing requires market studies prepared by National Council of Housing Market Analysts (“NCHMA”), the only professional body dedicated exclusively to enhancing the professionalism and standards surrounding residential rental real estate market analysis. NCHMA

can provide professionals in Maine that meet the definition of qualified professional under the QAP.

Comment: Nicole McKeith asks that MaineHousing provide flexibility for Housing Credit owners to utilize the optimal utility allowance for each development and to encourage utility allowances that accurately reflect anticipated utility consumption.

Response: MaineHousing allows developers to use the maximum utility allowances. The QAP has been revised to start requiring utility monitoring which should provide developers and MaineHousing with the ability to better estimate consumption over time.

Comment: Nicole McKeith commented that allowing twinned 4% and 9% projects leverages the benefits of both programs across different portions of the development, offering a nuanced solution to funding challenges and producing more units in a project.

Response: In Maine, both 9% and 4% projects typically need soft money, or subsidy, requiring developers to compete for resources. In competitions, project feasibility is required and thus “twinning” 4% and 9% projects does not work as a project is not guaranteed to be successful in the second competition, thus rendering the project infeasible in the first competition. Twinning is more common where competition for soft money is not required.

Comment: Nicole McKeith noted that average income was not addressed in the QAP and asked if it was allowed.

Response: Income averaging is allowed under the right circumstances. Applicants should have a conversation with MaineHousing’s Asset Management and Development teams before incorporating income averaging in their development pro formas. Considerations include management company willingness and experience with income averaging and the management company’s ability to report required information through their software systems.

Comment: Nicole McKeith commented that the informational sessions regarding the QAP, don’t seem very interactive and recommended that MaineHousing encourage more public involvement in developing policies.

Response: MaineHousing holds several sessions throughout each year to listen to and discuss potential changes and emerging needs in the affordable housing market. For the 2025-2026 QAP MaineHousing received less input than in the past, which suggests that the current QAP is serving the State’s need at this time. MaineHousing encourages all partners to participate and engage with MaineHousing staff at any time.

Comment: Nicole McKeith commented that overall, ProsperityME would like to see more policies to encourage housing development for New Mainers.

Response: MaineHousing is open to, and actively solicits advice on, how it can better serve the New Mainer population. As mentioned in response to McKeith’s earlier comment, MaineHousing has a
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variety of programs, including the Rural Affordable Rental Housing Program, the Affordable Homeownership Program, the Supportive Housing Program, the Recovery Housing Program, and special programs to assist individuals and families experiencing homelessness. Additionally, MaineHousing has allocated Emergency Housing Relief Funds to assist the New Mainer population, including assisting individuals and families in gaining access to LIHTC housing units. MaineHousing encourages developers to provide suggestions on additional steps that could be taken, keeping in mind the economics of the LIHTC projects.

Comment: Claude Rwaganje, Executive Director of ProsperityME, provided testimony at the public hearing asking MaineHousing to look for a balance between senior and family housing to avoid a disproportionate award of senior projects over family projects.

Response: MaineHousing does not prioritize housing for older adults over housing for families, or vice versa. Each housing type is eligible for an equal number of points under the QAP. MaineHousing will continue to track the number of units developed under each type of housing and can make adjustments in the future if the Board of Commissioners and MaineHousing Staff feel there is a trend towards unnecessarily producing more of one type of housing.

Comment: Claude Rwaganje also commented that the two year QAP is problematic for new developers trying to enter the program as they have to wait until 2026-2027 to gain entry. Rwaganje recommended a set-aside for new developers to encourage diversity in MaineHousing's programs.

Response: A two year QAP offers two consecutive years of funding. One is not dependent on the other and new developers can apply in any year.

Comment: Matthew Brock, Kittery Housing Committee Chair, and Kendra Amaral, Town Manager for the Town of Kittery, commented on two areas of the QAP that they felt were a disadvantage to the Town of Kittery:

- 1) The revisions to Section 6, Project Location, reduced the scoring for the Town of Kittery from 10 to 8 points for projects not specifically for older adults. Kittery continues to see an intense demand for housing for younger adults and Brock and Amaral recommended MaineHousing consider maintaining the 10 points in this category.
- 2) Kittery has very few properties that earn maximum points in Section 6(K), Smart Growth, due to the lack of appropriate transit and the fact that properties in Kittery that have public transit are generally in locations that are incredibly valuable. Brock and Amaral recommended MaineHousing reconsider the Smart Growth scoring criteria for rural communities.

Response:

- 1) The State of Maine determines the Service Center communities each year and makes the information available on its website ([Service Centers: Municipal Planning Assistance Program: Maine DACE](#)). Demand for affordable housing units in each Service Center is determined by subtracting the total number of available units for those at or below 60% of

Area Median Income from the total number of households making 60% of Area Median Income or less. This housing needs analysis may result in changes to the scoring of individual municipalities in the Project Location Section of the QAP each time it is compiled. The scoring for the Town of Kittery was adjusted based on this analysis. It should be noted that the Project Location Section allows municipalities to receive their Housing Need score from the immediately preceding QAP if that score was higher.

- 2) MaineHousing believes access to transportation and proximity to activities important to daily living are key factors in making projects successful and accessible to all. The scoring criteria creates an opportunity for projects to provide on-demand transportation to receive points when the other categories are not an option. Additionally, the scoring criteria was adjusted to allow projects to score one point for each walkable activity of daily living rather than requiring at least 3 activities in order to obtain any points.

Comment: Patrick Hess, the Director of Development at Avesta Housing, commented on the change to Section 6(G), Acquisition Cost, asking for clarification on the thinking of the lower per unit costs for new construction and adaptive reuse. Hess commented that the changes seem to incentivize sprawl by pushing development further out. Hess recommended considering scoring that is based on whether a project meets the standards or not, rather than a sliding scale based on percentages of an average.

Response: The average acquisition cost number is based off the average cost of recent projects. The average continues to drop which indicates that developers are finding ways to save on the acquisition of properties. The intent of this scoring category is to reduce TDC by requiring more thoughtful use of funds. MaineHousing wants to ensure that all parts of the State are appropriately served with this funding source.

Comment: Laura Mitchell, the Executive Director of the Maine Affordable Housing Coalition, asked MaineHousing to reconsider Total Development Cap figures more frequently within the 2 year QAP process to adjust for inflation, unexpected construction cost changes, and other ongoing shifts in state and national policy/funding.

Response: MaineHousing has responded to the development community in Maine by implementing a two-year QAP. This allows developers to better plan their projects around MaineHousing requirements. In drafting the QAP MaineHousing considers inflation, unexpected construction cost changes and other potential shifts in policies/funding over that two-year period in order to ensure a successful two-year QAP. If an unforeseen circumstance warrants opening rulemaking after the first year, MaineHousing has the ability to do so and make substantive changes to the QAP if necessary.

Comment: Laura Mitchell asked MaineHousing to build in the added cost that EV requirements create in terms of larger transformers in addition to AC use tracking.

Response: The TDC Caps take into consideration greater costs than in the past. The EV requirements have been in other MaineHousing programs since 2022 and have not been a cost

burden. MaineHousing does not require specific AC electricity use tracking outside of the total electricity consumption tracking.

Comment: Laura Mitchell asked MaineHousing to consider that data collection and energy use monitoring has a cost that should be included in the LIHTC eligible expenses.

Response: MaineHousing agrees and those expenses are eligible.

Comment: Laura Mitchell asked that MaineHousing add another priority group to Section 5 to prioritize Section 8 vouchers and those seeking, but ineligible for Section 8.

Response: The QAP gives an occupancy preference to eligible persons whose names are on a public housing or Section 8 waiting list in an attempt to assist those individuals with affordable housing (Section 5(L)). Providing another priority group for individuals seeking Section 8 vouchers and/or individuals who are ineligible for Section 8 vouchers would not result in an increase in access to LIHTC units, without rental assistance or sufficient income to pay LIHTC rents.

Comment: Laura Mitchell recommends that to meet workforce and demographic needs, a balance of senior, 1-bedroom nonage restricted, and family units is needed. Mitchell recommends a regular needs analysis so developers can effectively meet changing needs over time.

Response: MaineHousing does not prioritize housing for older adults over housing for families, or vice versa. Each housing type is eligible for an equal number of points under the QAP. MaineHousing will continue to track the number of units developed under each type of housing and can make adjustments in the future if the Board of Commissioners and MaineHousing Staff feel there is a trend towards unnecessarily producing more of one type of housing. The State of Maine determines the Service Center communities each year and makes the information available on its website ([Service Centers: Municipal Planning Assistance Program: Maine DACF](#)). Demand for affordable housing units in each Service Center is determined by subtracting the total number of available units for those at or below 60% of Area Median Income from the total number of households making 60% of Area Median Income or less. This housing needs analysis may result in changes to the scoring of individual municipalities in the Project Location Section of the QAP each time it is compiled. MaineHousing continually looks for better data and expertise in this area, but to date this has presented as the best method to assess housing need. MaineHousing welcomes and suggestions or alternative methods that may better assess housing needs in Maine.

Comment: Laura Mitchell noted that the proposed QAP's scoring discourages larger bedroom counts. Special populations that need consideration are immigrants in need of large bedroom counts for intergenerational and larger family residence. Mitchell recommends in areas with demonstrated need, exceptions should be allowed to promote various bedroom size developments.

Response: The TDC calculation is indexed to adjust for the number of bedrooms so as not to penalize units with more bedrooms.

Comment: Laura Mitchell commented that the changes to Section 6(G) reduce scoring for projects in high land value areas such as the Portland Labor Market Area making it unclear what Section 6(G) is trying to incentivize.

Response: The average acquisition cost number is based off the average cost of recent projects. The average continues to drop which indicates that developers are finding ways to save on the acquisition of properties. The intent of this scoring category is to reduce TDC by requiring more thoughtful use of funds. MaineHousing has seen no signs that developers are developing fewer units in the Portland Labor Market Area, and wants to ensure that all parts of the State are appropriately served with this funding source.

Comment: Laura Mitchell states that there continues to be a lack of transparency in how project need/location are identified and prioritized. Mitchell recommended leveraging the housing study that identifies housing need by region in addition to regional and local income levels on top of housing need. Mitchell further commented that it was unclear why communities abutting prioritized communities are not also prioritized. Mitchell also recommended adjusting “Other Housing Projects” to include Portland Labor Market area communities or removing overall point scores for town/city location. Mitchell also recommended that MaineHousing clarify why so few communities are listed and encourage greater municipal participation in the project location selection and scoring section.

Response: The State of Maine determines the Service Center communities each year and makes the information available on its website ([Service Centers: Municipal Planning Assistance Program: Maine DACE](#)). Demand for affordable housing units in each Service Center is determined by subtracting the total number of available units for those at or below 60% of Area Median Income from the total number of households making 60% of Area Median Income or less. This housing needs analysis may result in changes to the scoring of individual municipalities in the Project Location Section of the QAP each time it is compiled. MaineHousing continually looks for better data and expertise in this area, but to date this has presented as the best method to assess housing need. MaineHousing welcomes and suggestions or alternative methods that may better assess housing needs in Maine.

Comment: Laura Mitchell commented that adding points for market rate units (Section 6(J)) does not seem fair for rural communities to be able to compete with areas such as Cumberland County where market rate units would be easier to fill. Mitchell recommended adding points for voucherred units instead.

Response: MaineHousing believes offering points for projects in QCT's where at least 20% of the units are market rate is one way to achieve community revitalization.

Comment: Laura Mitchell recommended adding a variance of points to Section 6(K), Smart Growth, to separate out elderly and family to increase the requirement of safe walking distance for families to $\frac{3}{4}$ mile or 1 mile. Mitchell commented that location and smart growth points should focus on suburban areas with good school systems in strong labor markets as important sites for equitable development and distribution of housing.

Response: MaineHousing believes that ½ mile is a reasonable and appropriate walking distance to activities important to daily living for all housing types.

Comment: Laura Mitchell commended that the changes to Section L, Sponsor Characteristics – Readiness, was a positive addition to the QAP.

Response: MaineHousing appreciates the support for those changes.

Comment: Laura Mitchell commended that clarity on the added term “successfully” to Section 6(M) should be provided.

Response: Successful development experience means that the team has consistent recent experience delivering projects on budget and on time.

Comment: Laura Mitchell commended that the required selection criteria under Section 42 of the Internal Revenue Code ‘projects intended for eventual tenant ownership’ should either be added as an additional requirement prior to the Tie Breaker section or clarify as to why it is in the Tie Breaker section should be provided.

Response: “Projects intended for eventual tenant ownership” is included in the Tie Breaker section as MaineHousing believes due to the limited funding available for affordable rental units and the desire to maintain the affordability as rental units, it is most advantageous for projects to remain rental units for a minimum of 45 years. Additionally, to date, no feasible plan for rental projects to transition to homeownership through the Tax Credit Program has been presented to MaineHousing to warrant a change to the current scoring. MaineHousing welcomes suggestions as to how to better promote and encourage this concept.

Comment: Laura Mitchell commended that a list of qualified Market Study Analysts or a definition of “qualified profession” would help new developers engage the right professionals.

Response: MaineHousing requires market studies prepared by National Council of Housing Market Analysts (“NCHMA”), the only professional body dedicated exclusively to enhancing the professionalism and standards surrounding residential rental real estate market analysis. NCHMA can provide professionals in Maine that meet the definition of qualified professional under the QAP.

Comment: Laura Mitchell commented Maine needs a variety of housing types serving a range of income levels and recommended MaineHousing consider new ways in which LIHTC can be used to increase the range of housing opportunities for those at the lower end of the economic spectrum.

Response: Most LIHTC projects currently have mixed incomes which may include Extremely Low Income units, Very Low Income units, Low Income units and/or Market Rate units. Additionally, some funding sources, such as the National Housing Trust Fund create deeper affordability in LIHTC projects. Developers may also elect Income Averaging, in the right circumstances with

approval from MaineHousing, which could be used to address the needs of different income levels. Additionally, MaineHousing offers a number of other programs which have varying income eligibility requirements that provides a wide range of housing to individuals of mixed incomes.

Comment: Laura Mitchell commented that there are a number of ways to achieve a variety of housing types serving a range of income levels such as:

- 1) A set-aside for one housing project targeting tenants within the lower income range each round.
- 2) Providing Project-Based Voucher with LIHTC funding for every unit at the building.
- 3) Leveraging Average Income that enables projects to target a broader mix of tenants.

Response:

- 1) Creating too many set-asides will limit MaineHousing's ability to fund projects as well as developers' abilities to compete for MaineHousing funding. A typical 9% competitive process results in at most four projects being funded and with two already established set-asides, creating a third could limit more than 75% of the funding available through the competitive process. LIHTC projects to some extent already accommodate a range of mixed incomes and other funding sources aid in creating deeper affordability in LIHTC projects. Additionally, Income Averaging, in the right circumstances with approval from MaineHousing, could be used to address the needs of individuals at different income levels. MaineHousing also offers a number of other programs which have varying income eligibility requirements that provides a wide range of housing to individuals of mixed incomes.
- 2) MaineHousing believes in keeping with the Congressional intent of the Housing Choice Voucher Program, spreading Project-Based Vouchers throughout many different types of projects creates a broader reach and provides more opportunity. MaineHousing is currently allocating Project-Based Vouchers appropriately in accordance with funding/availability and MaineHousing's Housing Choice Voucher Plan. Additionally, MaineHousing has committed to providing Project-Based Vouchers for each unit that a developer pledges to set-aside for special needs populations.
- 3) Income averaging is allowed under the right circumstances. Applicants should have a conversation with MaineHousing's Asset Management and Development teams before incorporating income averaging in their development pro formas. Considerations include management company willingness and experience with income averaging and the management company's ability to report required information through their software systems.

Comment: Emily Flinkstrom, Executive Director of Fair Tide and Hershey Hirschkop, Director of Housing for Fair Tide commented that making LIHTC funding more available for individuals making 30%-40% AMI would assist with the growing homelessness crisis. Flinkstrom and Hirschkop recommended a set-aside for one housing project targeting tenants within the lower income range each round, similar to the set-aside for a preservation project. Flinkstrom and Hirschkop commented another approach would be to provide Project-Based Vouchers with LIHTC funding for every unit at the building.

Response: Creating too many set-asides will limit MaineHousing’s ability to fund projects as well as developers’ abilities to compete for MaineHousing funding. A typical 9% competitive process results in at most four projects being funded and with two already established set-asides, creating a third could limit more than 75% of the funding available through the competitive process. LIHTC projects to some extent already accommodate a range of mixed incomes and other funding sources aid in creating deeper affordability in LIHTC projects. Additionally, Income Averaging, in the right circumstances with approval from MaineHousing, could be used to address the needs of individuals in the 30-40% range. MaineHousing also offers a number of other programs which have varying income eligibility requirements that provides a wide range of housing to individuals of mixed incomes. With regards to Project-Based Vouchers, MaineHousing is currently allocating Project-Based Vouchers appropriately in accordance with funding/availability and MaineHousing’s Housing Choice Voucher Plan. Additionally, MaineHousing has committed to providing Project-Based Vouchers for each unit that a developer pledges to set-aside for special needs populations.

Comment: Beth Boutin, Vice President of Community Investments at Evernorth, commented that Appendix E should be revised to remove the “the lesser of fair market value” language so that the exercise price is just the statutory minimum purchase price under Section 42(i)(7) of the Internal Revenue Code. Beth commented if “the lesser of FMV” language is required, a sponsor could purchase a property for less than the outstanding debt on the property which could result in a cancellation of debt income and resulting tax consequences.

Response: The language in Appendix E does not allow a purchase that is less than the outstanding debt. The language specifically says “. . . but in no event less than the outstanding debt secured by the Project, excluding any indebtedness incurred within the 5-year period ending on the date of the sale pursuant to the ROFR” MaineHousing will reevaluate this language as it prepares for the next QAP and clarify the language as necessary.

Comment: Beth Boutin also recommended the removal of “the later of: (i) the public offer of the Project for sale by the general partner or managing member; and (ii)” language in Appendix E so that the Right of First Refusal exercise period ends 36 months after the expiration of the Compliance Period. Beth commented that the language as currently drafted could be interpreted as having an unlimited ROFR exercise period if a public offer of the project for sale is never made as a forced sale is not allowed.

Response: MaineHousing acknowledges that there could be a scenario where a public offer of the project for sale is not made for a long period of time however because the general partner or management member may elect to sell the project to the holder of the ROFR in connection with the exercise of the ROFR following the general partner’s or managing member’s receipt of a bona fide third party offer to purchase the project, MaineHousing feels that the ROFR should not expire 36 months from the end of the Compliance Period if the Project has not been publicly offered for sale.

Comment: Beth Boutin also recommended the removal of the “bona fide” requirement in Appendix E and suggested instead a requirement of only a third party offer because bona fide: (a) is contrary to the public policy underlying the LIHTC statutory scheme; (b) sets an extremely high bar that

makes it very difficult for a nonprofit to exercise a ROFR; and (c) encourages aggregators to challenge the exercise of ROFRs by nonprofits.

Response: The requirement that offers be “bona fide” means the offers must be made in good faith. MaineHousing does not believe this standard is unduly burdensome, extreme or contradictory to public policy. Requiring a good faith offer is standard practice.

Comment: Bill Pearce, Chief Financial Officer at Realty Resources Management provided testimony at the public hearing stating MaineHousing should exercise discretion under Section 6(K), Smart Growth, to allow the proximity to activities important to daily living to be increased from ½ mile to a further distance in certain circumstances. Nichole Lorentzen, Development Officer of Realty Resources Management added to Pearce’s comment asking MaineHousing to look at senior housing vs. family housing and perhaps adjust the distances based on the type of housing.

Response: MaineHousing believes that ½ mile is a reasonable and appropriate walking distance to activities important to daily living for all housing types.

Comment: Bill Pearce also commented that the Nonprofit Set-Aside in Section 3(A) discourages nonprofits from being able to move forward with new construction as the set-aside is only 10% of the annual State Ceiling (approximately \$400,000). Pearce commented this is not an adequate amount of funding for new construction and is small in comparison to the credits that are offered in the competitive programs.

Response: MaineHousing has added language in Section 3(A) to state it will set-aside “at least” 10%, which clarifies that MaineHousing may, in its sole discretion, provide more than 10% for the Nonprofit Set-Aside.

Comment: George Lavigne, Licensed Architect for CWS Architecture and Interior Design, submitted a written comment noting that the QAP references the 2009 edition of ANSI 117.1 twice and asking if this was correct as his understanding was that MaineHousing was moving to a new edition.

Response: This is the correct reference at this time. Once the newest version of the Maine Uniform Building and Energy Code is approved the new edition of ANSI will apply and MaineHousing will update the requirements as necessary.

Comment: Seth Parker, Director of Real Estate Development for Bath Housing, submitted written comments regarding Section 6L, Readiness. Seth noted that the provision for having all local and state approvals in hand plus having any appeals periods expired puts tremendous pressure upon the developer to start the approvals process so far in advance of the tax credit deadline. Seth suggested softening this provision by requiring only approvals in hand by the application deadline, which would give time for the appeals period to expire before the LIHTC award date. Seth also suggested that an alternative might be to require approvals in hand and appeals expired before the LIHTC award date.

Response: The Readiness Scoring Criteria gives points to Developers who are fully prepared to proceed with a project. The requirement that the timeframe to appeal has passed and no actions

have been taken and/or all actions have been resolved supports the notion that a Developer is fully prepared to proceed with a project. Without the passage of the appeal timeframe, there is a risk of the appeal terminating the project or resulting in the project not being able to move forward for a long period of time. For these reasons, MaineHousing believes the requirement is appropriate. It requires preplanning on the Developer's part to ensure all approvals are in place and all appeal timeframes have passed prior to Application, but it does not create an undue burden.

Comment: Brooks More, Director of Development for South Portland Housing Authority, submitted written comments asking MaineHousing to consider removing the TDC Index Cap as a reason for termination of an application in Section 4(I)(5).

Response: MaineHousing's priority is to fund as many new, high quality housing units as possible with its limited resources. MaineHousing takes its responsibility as stewards of public funds seriously and for that reason believes the TDC Index Caps are important. Projects that exceed the TDC Index Cap warrant closer examination and if the costs are too great, MaineHousing needs a mechanism to not move forward with a project. That said, in limited circumstances, projects can request a waiver of the TDC Index Cap for good cause and avoid the termination of an application if the reasons are justified.

Comment: Brooks More commented that the Total Development Cost Section (Section 5(B)) should be removed as the TDC index is a static figure that is based on historic data which does not reflect real-time construction costs. In the alternative, Brooks suggested increasing the cap for new construction above \$370,000, adjust the cap annually using a benchmark such as the Consumer Price Index or a construction price index, and including a percentage increase for Passive House or LEED certified buildings.

Response: The TDC Index is not a static figure. MaineHousing discusses the TDC Index and TDC Caps in preparation for each QAP and takes into consideration characteristics of projects that drive higher costs. MaineHousing looks at the costs of projects in its current pipeline, as well as current labor and materials pricing and trends to propose numbers that are reasonable and allow for increased costs over the short term. MaineHousing believes that the TDC Index and TDC Caps in Maine's QAP are appropriate for Maine projects and allow for the creation of as many safe, efficient, quality units as possible. Currently MaineHousing is not requiring Passive House or LEED certifications due to the fact that MaineHousing's energy efficient standards produce comparable results. For that reason, those costs will not be factored into TDC.

Comment: Brooks More commented that the new design criteria in Section 5(H) for higher efficiency buildings, Build America, Buy America Act and Section 3 requirements are laudable, but increase project costs which supports the removal of the TDC cost cap.

Response: MaineHousing's analysis of the TDC Cost cap in preparation for each QAP takes into consideration characteristics of projects that drive higher costs, such as Build America, Buy America Act and Section 3 requirements. MaineHousing reassess these characteristics periodically and if the TDC Cost caps prove to be too prohibitive given the regulatory requirements, MaineHousing can adjust the caps or consider a waiver for good cause.

Comment: Brooks More commented that community rooms should be made optional particularly for family projects where they do not get much use. Making this requirement in Section 5(I) option would further the goal of lowering costs.

Response: MaineHousing believes the requirement of a community room in all projects is essential to encouraging socialization, collaboration and a sense of community and is for the benefit of the tenants. In certain circumstances a community room may not be feasible and there may be viable alternatives which can be explored through a request for a waiver for good cause.

Comment: Brooks More commented asking MaineHousing what the criteria of a “single-family residential area” in Section 6(A)(3) means.

Response: A “single-family residential area” is an area predominately made up of single family homes, meant to be used as living spaces and not for multiple families or a commercial venture. There may be situations where it is not clear if an area is predominately single family and in those situations MaineHousing would consider the factors and circumstances in making that determination.

Comment: Brooks More commented suggesting the acquisition cost points in Section 6(G) should increase in light of the rising cost of land in Maine.

Response: The average acquisition cost figures are based on recent purchase prices, which have stayed consistent in most areas of Maine. The goal of this point category is to keep acquisition costs down and encourage developers to negotiate for a better price. MaineHousing will continue to review this category in preparation for each QAP and make adjustments as necessary.

Comment: Brooks More commented applauding the separation of points for local and state approvals under Section 6(I).

Response: MaineHousing appreciates the support.

Comment: Brooks More commented the Net Developer Fee in Section 7(B) needs to increase. Maine has the lowest Net Developer Fee in the nation and projects take a long time and considerable resources to develop therefore the fee should reflect this commitment and risk.

Response: MaineHousing reevaluates the Net Developer Fee with every QAP and will continue to do so in the future. MaineHousing believes the New Developer Fee is appropriate at this time.

Comment: Jay Waterman, Director of Real Estate Development for Portland Housing Development Corporation, submitted written comments addressing Section 5B stating that the QAP incentivizes developers to take on brownfield mitigation, which can be very costly, outside of LIHTC deals because of the cost caps. Jay urged MaineHousing to consider removing Brownfield remediation costs from the TDC calculation.

Response: If Brownfield remediation is performed as part of the LIHTC deal it must be included in the TDC calculation as it is part of the total development cost. Developers may, as suggested,

perform Brownfield remediation outside of and/or prior to the project scope of work to avoid inclusion in the TDC.

Comment: Jay Waterman also commented that generally the project cost caps are too low. With higher costs associated with building in Southern Maine's urban areas and the fact that cost caps are fixed for over two years, it leads to developers needing to seek waivers of the cost caps. Jay urged MaineHousing to consider annual increases to the cost caps based on actual costs and/or a recognized inflation index, as well as regional cost caps, splitting the state into lower and higher cost cap areas.

Response: MaineHousing's priority is to fund as many new, high quality housing units as possible with its limited resources. Based on the costs in the current pipeline, as well as current labor and materials pricing and trends, MaineHousing is confident that the proposed TDC caps are reasonable and will eliminate certain projects which would otherwise have a higher per unit cost than necessary. MaineHousing believes that the TDC Caps in Maine's QAP are appropriate for Maine projects.

Comment: Jay Waterman also commented on Section 6(N), Owner Performance, expressing concern regarding negative points for situations where incidents occur that are no fault of the owner or property management company and are quickly remediated, but still result in the issuance of an 8823.

Response: MaineHousing has added clarifying language to Section 6(N), Owner Performance, explaining that MaineHousing has the discretion to consider whether non-compliance was a direct result of the Applicant's non-performance, the performance of an unaffiliated third-party, or a result of something outside the control of any affiliated party provided it was corrected appropriately within a reasonable timeframe.

Comment: Jay Waterman also commented on Section 7B, Developer Fee, stating \$750,000 is still among the lowest in the nation. Jay expressed there is significant financial risk in taking on these projects and the amount should be increased to at least the national median.

Response: MaineHousing continues to believe that the Net Developer Fee cap of \$750,000 is appropriate. The Net Developer Fee cap is reviewed with each iteration of the QAP and adjustments are made as necessary.

Comment: Jay Waterman also commented that MaineHousing should streamline the environmental review process and help mitigate some of the risk that comes with a potential Choice Limiting Action. Jay suggested using qualified third-party engineers to compile the Environmental Review Checklist to submit to MaineHousing for review and approval. Jay commented this would be relatively inexpensive and would save a lot of MaineHousing staff time and remove the regulatory risk of a Choice Limiting Action much earlier in the life of a LIHTC project.

Response: MaineHousing appreciates this recommendation and intends to look into the possibility of outsourcing the Environmental Review work.

FISCAL IMPACT OF THE RULE: The 2025 State of Maine ceiling of federal low-income housing tax credits is projected to raise approximately \$ 34,700,000 of private investor capital, and the 2026 State of Maine ceiling of federal low-income housing tax credits is projected to raise approximately \$ 35,300,000 of private investor capital. The private investor capital generated by the federal low-income housing tax credits will be used to develop affordable housing for low-income persons. Additionally, it is estimated that 1,400 jobs a year will be created with this investment. The rule will not impose any costs on municipalities or counties for implementation or compliance.

EFFECTIVE DATE: JULY 3, 2024

APPENDIX A

Definitions

“Above Average” means an average overall score of 4 in the rating category - Physical plant inspections, Project Reports submissions, or Management and Occupancy Reviews. Physical plant inspections, and Management Occupancy Reviews are scored on the following scale: 1- Unsatisfactory, 2 – Below Average, 3 – Average, 4 – Above Average, and 5 – Superior. Project Reports submissions are scored as 5-Timely Submission and 1-Late Submission for each required submission report – Audited Financial Review (AFR), Budget, and Owner Certification of Continued Compliance.

“Act” means the Maine Housing Authorities Act, [30-A M.R.S. §4701 et seq.](#), as may be amended from time to time.

“Activities Important to Daily Living” means activities or destinations that are important to the course of daily living of the population served by the Project, which include a grocery store, a public school only if the Project is housing for families, a daycare only if the Project is housing for families, a senior center only if the Project is Housing for Older Adults, a pharmacy, a bank or credit union, a post office, a store that offers regularly purchased household supplies, a general health care practitioner’s office, a public library, a location where people socialize, a hospital and other activities or destinations approved by MaineHousing. Convenience stores and gas stations are not eligible destinations for purposes of this subsection. If there is more than one activity or destination important to the course of daily living within a single establishment, each activity or destination will be counted separately (e.g. a retail store that also includes a pharmacy and a bank branch will be treated as 3 destinations important to the course of daily living).

“Adaptive Reuse” means the conversion of an existing non-housing building or structure to multi-family residential rental housing or the reconstruction of existing housing that has become functionally obsolete, as determined by MaineHousing.

“Affiliates” means any person or entity directly or indirectly controlling, controlled by, or under common control with another person or entity.

“Affordable Housing” means multi-family rental housing that has five or more units and is assisted under a HUD or Rural Development program or is subject to a restrictive covenant requiring units in the housing to be restricted to households with income at or below 60% of area median income, as determined by HUD.

“Affordable Housing TIF” means an affordable housing development district and development program approved by MaineHousing pursuant to MaineHousing’s Affordable Housing Tax Increment Financing Program, [30-A M.R.S., Chapter 206, Subchapter 3](#) and the Act, as may be amended.

“Applicant” means the entity applying for Credit, its successors and assigns, which must be the entity that will be the owner of the Project for tax purposes; must be duly organized and validly existing under the laws of the state in which it is formed, and if not formed in this State, must be

duly authorized to conduct business in this State; and must be in good standing under the laws of this State and its state of formation, if not this State.

“Application” means an application to MaineHousing for an allocation of Credit.

“Capitalized Lease Value” means the net present value of all lease payments under a lease calculated over the term of the lease using the 10-year Treasury note rate 60 calendar days before the Application deadline plus 300 basis points.

“Code” means the Internal Revenue Code, Title 26 of the United States Code, and applicable regulations promulgated pursuant thereto, as may be amended.

“Community Revitalization Plan” means (1) a community that has been designated by HUD or RD as an Empowerment Zone, a Renewal Community or Enterprise Community, or a Neighborhood Revitalization Strategy Area; or (2) a written plan that was formally adopted by the governing body of a municipality no more than twelve (12) years prior to the Application deadline following a concerted planning process and public input, specifically targets a neighborhood or area in the community (not a single building or site or the entire municipality) for redevelopment or revitalization, and includes (a) an assessment of the existing physical structures and infrastructure of the area, (b) detailed policy goals with respect to economic redevelopment, the rehabilitation or development of housing (including multi-family rental housing) and the improvement or expansion of infrastructure, and (c) proposed activities and a timetable for implementing the policy goals. Plans for a single development and plans formulated by or on behalf of the Applicant are not Community Revitalization Plans. A comprehensive plan that meets all of the requirements in (2) may qualify.

“Compliance Period” means the period defined in Section 42(i)(1) of the Code.

“Credit” or “LIHTC” means the low-income housing tax credit established pursuant to [Section 42](#) of the Code and allocated pursuant to this rule.

“Credit Period” means the period defined in Section 42(f)(1) of the Code.

“Credit Units” means units in a Project that are eligible for Credit.

“Demand Response Transportation” means on-call transportation services that operate at least 3 days per week and provide service throughout the day.

“Developer Fee” means the total compensation for the work, costs and risks associated with developing a Project, including without limitation, creating the Project concept, identifying and acquiring the Project site, obtaining construction and permanent financing, obtaining necessary subsidies, negotiating the syndication of investment interests in the Project, obtaining all necessary regulatory approvals, constructing and/or rehabilitating the Project and marketing, and includes all amounts paid to consultants to perform this work, except fees for professional services such as environmental assessments, rental market studies, soil tests, and water tests, and includes all reserves, in the form of cash, expected to be paid to the tax credit developer from the Project.

“DDA” means an area of the State that is designated by HUD as a difficult development area

pursuant to [Section 42\(d\)\(5\)\(B\)\(iii\)](#) of the Code or an area of the State that is designated by MaineHousing as a difficult-to-develop area in Section 7.A.3 pursuant to [Section 42\(d\)\(5\)\(B\)\(v\)](#) of the Code.

“Extended Use Agreement” means an agreement that satisfies the requirements of [Section 42\(h\)\(6\)\(B\)](#) of the Code.

“Extended Use Period” means the period of time specified by MaineHousing in the Extended Use Agreement executed in connection with a Project pursuant to [Section 42\(h\)\(6\)\(D\)](#) of the Code, which is the period set forth in Section 5.A. for Projects allocated Credit under the State Ceiling.

“Extremely Low Income” means income that is at or below 30% of the area median income as determined pursuant to the regulations and guidance governing the National Housing Trust Fund.

“Family Housing” means housing for families that qualifies for points under the Family Housing scoring criteria set forth in Section 6.E.

“Fiscal Year” means the fiscal year for a LIHTC Project as defined in the Owner’s organizational documents.

“Fixed-route Public Transportation” means year-round, regularly scheduled public transportation that operates at least 5 days per week and provides regular service throughout the day.

“Housing Development Costs” means the total of all direct and indirect costs incurred in financing, creating, purchasing or rehabilitating a LIHTC Project except the costs attributable to the acquisition of the land and any existing buildings as determined by MaineHousing.

“Housing for Older Adults” means a Project that is designated as elderly or senior housing and receives funding and project-based rental assistance under a RD or HUD multi-family elderly housing program (such as [RD’s Section 515 Rural Rental Housing Program](#) and [HUD’s Section 202 Supportive Housing for the Elderly Program](#)) or that meets the definition of “housing for older persons” under the federal [Fair Housing Act, 42 U.S.C. §3607\(b\)\(2\)](#) and the Maine Human Rights Act, [5 M.R.S. §4581 et seq.](#) and all associated regulations, as may be amended.

“HUD” means the United States of America acting through the United States Department of Housing and Urban Development.

“Intermediary Costs” means all Housing Development Costs except the actual construction costs or eligible rehabilitation costs under [Section 42\(e\)](#) of the Code attributable to the development of the units.

“IRS” means the United States Department of Treasury, Bureau of Internal Revenue Service.

“LIHTC Project” means a qualified low-income housing project as defined in and governed by [Section 42\(g\)](#) of the Code.

“MaineHousing” means Maine State Housing Authority.

“MaineHousing’s Construction Standards” means MaineHousing’s [*Quality Standards and Procedures Manual*](#) in effect 60 calendar days prior to the applicable deadline for an Application for Credit which include without limitation certain energy efficiency standards and UPCS and incorporate MaineHousing’s accessibility policy and procedures.

“Maximum Credit Amount” means the maximum amount of Credit a Project is eligible to receive pursuant to Section 3.C.

“National Housing Trust Fund” means the Housing Trust Fund established under Title I of the Housing and Economic Recovery Act of 2008, [12 U.S.C. §4568](#), together with associated regulations and guidance now or hereafter promulgated pursuant thereto.

“Net Developer Fee” means the Developer Fee with respect to a Project that does not exceed the applicable limit set forth in Section 7.B.2., including any portion thereof that is deferred or loaned to pay for costs associated with the Project (and does not include any additional Developer Fee allowed under Section 7.B.3).

“Notice to Proceed” means the notice that a Project has been selected for further evaluation to determine the Project’s eligibility for Credit and the amount of Credit to be allocated for the Project. The Notice to Proceed will require the submission of all information necessary for MaineHousing to determine the amount of Credit, if any, to be allocated to the Project, obligate the Applicant to fulfill all commitments made in the Application, and require the Applicant to promptly and diligently develop and complete the Project according to the deadlines specified in the notice.

“Owner” means the legal owner of a LIHTC Project or Qualified Building for which an Application has been submitted to MaineHousing or which has received an allocation of Credit from MaineHousing pursuant to this Qualified Allocation Plan or a prior Qualified Allocation Plan for the State.

“Ownership Transfer Rule” means Chapter 27 of MaineHousing’s rules, *Transfers of Ownership Interests*, and the policies and procedures related thereto, all as may be amended.

“Passive House Certification” means certification from Passive House Institute US, Inc. (PHIUS) or Passive House Institute (PHI) prior to MaineHousing’s issuance of IRS Form 8609.

“Persons Experiencing Homelessness” means persons sleeping in a place not meant for human habitation, in an Emergency Shelter, or in other emergency housing; persons exiting an institution where they resided for 90 days or less and who had resided in an Emergency Shelter, other emergency housing, or place not meant for human habitation before entering that institution; and persons fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions in the individual’s or family’s current housing situation, including where the health and safety of children are jeopardized, and who have no other residence and lack the resources or support networks to obtain other permanent housing.

“Placed in Service” means the date on which a Qualified Building is suitable and available for occupancy as determined in accordance with [Section 42](#) of the Code.

“Principal” means any person or entity with a controlling interest in another entity, including without limitation, a person or entity with an ownership interest in an Applicant that controls the development and day-to-day operation of a Project, such as the general partner(s) of a limited partnership or the manager(s) or member(s) invested with the management authority of a limited liability company, and all persons and entities with an ownership interest in or control of said entity.

“Project” means the property described in the Application, which must be a qualified low-income housing project as defined in and governed by [Section 42\(g\)](#) of the Code.

“Project Reports” means the annual certification and tenant data required under Section 10.C., and if required for the LIHTC Project, the audited financial report (AFR) and the annual project budget.

“QCT” means an area of the State designated by HUD as a qualified census tract pursuant to [Section 42\(d\)\(5\)\(B\)\(ii\)](#) of the Code.

“Qualified Allocation Plan” or “Plan” means the plan for allocating and administering the Credit adopted by the housing credit agency pursuant [Section 42\(m\)\(1\)\(B\)](#) of the Code.

“Qualified Building” means a qualified low-income building as defined in and governed by [Section 42\(c\)\(2\)](#) of the Code.

“Qualified Contract” means a contract as defined in Section 42(h)(6)(F) of the Code.

“Qualified Nonprofit Organization” means a qualified nonprofit organization as defined in Section 42(h)(5)(C) of the Code.

“Rehabilitation Costs” means with respect to a Project (1) the site costs, (2) the costs of complying with the construction requirements of other funding sources except those required by the Applicant, any Principal thereof or Affiliates of either, (3) contractor profit, overhead and general conditions, and (4) certain costs identified in the capital needs assessment required under Section 5.C.1. of the QAP, including (a) the cost of correcting all violations of applicable federal, state and local health, safety and building codes and correcting deferred maintenance, (b) the rehabilitation or replacement of all structures, systems, facilities and components that have reached or exceed their useful life or will reach their useful life within 5 years, (c) the cost of complying with MaineHousing’s Construction Standards, (d) the cost of complying with the most current accessibility requirements for new construction projects under applicable federal, state and local accessibility laws, regulations, standards and guidance, and (e) the remediation and disposal of any environmental or other hazards identified in environmental reports. Rehabilitation Costs do not include construction contingency, relocation costs, or other soft costs.

“Related Development” means any development of which the Project is a part or is related and the Project cannot be completed, either structurally or financially, without the completion of the development.

“RD” or “Rural Development” means the United States of America acting through the United States Department of Agriculture, Rural Housing Services.

“Safe Walking Distance” means a pedestrian route appropriate to the area, as determined by MaineHousing, with sidewalks, crosswalks and traffic signals at busy roads or intersections and year-round walkability, which includes being plowed during the winter.

“Section 8” means Section 8 of the United States Housing Act of 1937, [42 U.S.C. §1437f](#), as may be amended.

“Service Center Community” means an entire municipality that provides jobs and retail to surrounding areas and is a center for education, health care, cultural, recreational and social services, designated pursuant to the Municipal Planning Assistance Program of the State’s Department of Agriculture, Conservation and Forestry as a Regional Service Center as of January 2013.

“State” means the State of Maine.

“State Ceiling” means the State’s housing credit ceiling established pursuant to [Section 42\(h\)\(3\)\(C\)](#) of the Code.

“Tax Increment Financing” means any type of tax increment financing, including without limitation an Affordable Housing TIF, a development district and development program approved by a municipality or a tax increment financing district approved by the State’s Department of Economic and Community Development pursuant to [30-A M.R.S., Chapter 206](#), as may be amended.

“TDC Index” means the calculation described in Section 5.B.

“TDC Index Cap” means the limit on Total Development Cost set forth in Section 5.B.

"Telehealth" means the use of interactive real-time visual and audio or other electronic media for the purpose of consultation and education concerning and diagnosis, treatment, care management, and self-management of a patient's physical and mental health and includes real-time interaction between the patient and the telehealth provider, synchronous encounters, asynchronous encounters, store and forward transfers and remote patient monitoring. Telehealth includes telephonic services when interactive telehealth services are unavailable or when a telephonic service is medically appropriate for the underlying covered service.

“Total Construction Cost” means the sum of site costs, costs of constructing or rehabilitating structures, systems, facilities, units and components, general requirements, bond premiums, and contractor overhead and profit as determined by MaineHousing.

“Total Development Cost” or “TDC” means Total Project Cost less (1) the fees required by MaineHousing, (2) the Project’s operating deficit account to the extent required by MaineHousing and (3) the costs associated with any commercial space developed in connection with the Project.

“Total Project Cost” means the sum of all costs associated with the development, construction and rehabilitation of a Project, as determined by MaineHousing. Total Project Cost includes, without limitation, acquisition costs, the Capitalized Lease Value of all leases of land and building(s), demolition costs, Total Construction Cost, construction contingency, costs associated with community service facilities included in the Eligible Basis of the Project, soft costs (such as permits,

design and engineering fees, environmental reports, appraisals, market studies and legal fees), syndication costs, Developer Fee, financing costs and project reserves. Community service facilities are not considered commercial space for purposes of Total Project Cost.

“UPCS” means the Uniform Physical Conditions Standards established by HUD pursuant to [24 CFR §5.703](#), as may be amended.

APPENDIX B

Pre-Application Submission Requirements

Applicants must submit a request for pre-application review and the following information to MaineHousing **at least 60 calendar days before the applicable Application deadline.**

1. A narrative description of the Project and any Related Development, including, the location, type of housing, total number of units by bedroom size, breakdown of required and/or pledged accessible units by type and location, total number of income-restricted units by bedroom size, proposed affordability, any existing affordability restrictions, any existing or proposed use restrictions, common areas and amenities at the Project, any community service facilities, any commercial space and other unique features of the Project.
2. Conceptual, Diagrammatic Site Plan and Conceptual Floor Plans and Conceptual Building Elevations in accordance with the requirements set forth in MaineHousing's *Quality Standards and Procedures Manual* which can be found at <https://www.mainehousing.org/programs-services/housing-development/construction-services>.
3. The status of applicable federal, State and local land use approvals for the Project and any Related Development, and any site, subdivision and other plans for the Project and any Related Development that have been prepared for submission or have been submitted to applicable municipal, state and federal governmental entities.
4. Details about the parking for the Project, including the number, type and location of all on-site parking and off-site parking and the terms and conditions thereof.
5. An explanation and all supporting documentation for any exceptions from the requirement to provide a community room, laundry facilities, telemedicine facilities or area activities in accordance with Section 5.I of the QAP.
6. All available information about any known or suspected environmental conditions on the Project site and any Related Development or adjacent sites that may impact the Project site or any Related Development, including any environmental reports and all available radon test results for the Project site. To the extent feasible, identify any and all visible (both on and off-site) fuel oil and propane tanks and include them on the site plan
7. A capital needs assessment for any existing housing that meets the requirements in Section 5.C. and Appendix C.
8. A conceptual construction estimate(s) prepared by a qualified general contractor or third-party estimator for the Project and any Related Development, including trade breakdowns in the form of a schedule of values and a reasonable estimating contingency, if applicable, with sufficient detail to demonstrate expected construction-related costs. All exclusions and qualifications, if any, must be clearly stated in the estimate. The estimate is to be the basis of the hard cost line items contained in the project underwriting without exception.
9. A projected development and operating budget(s) for the Project and any Related Development which must be submitted electronically in the format prescribed by MaineHousing.

APPENDIX C

Capital Needs Assessment Requirements

1. The assessment must include a site visit, an interview with the on-site property manager and maintenance personnel concerning prior and pending repairs and improvements and existing or chronic physical deficiencies, and a physical inspection of the interior and exterior of at least 20% of the units and all other structures, facilities, systems and components that will be part of the Project, including the following:

- a) Site, including without limitation topography, drainage, pavement, curbing, walkways, sidewalks, parking, accessible parking, accessible routes, landscaping, amenities, water, sewer, storm drainage, and all utility lines;
- b) Structural systems and components, both substructure and superstructure, including without limitation foundations, exterior walls, balconies, porches, and stairways, exterior doors and windows, chimneys and roofing;
- c) Interiors, including without limitation unit and common area finishes and substrata (e.g. flooring, underlayment, carpeting, plaster or drywall, wall coverings and paint condition), and unit and common area kitchen finishes, cabinets, countertops and appliances, and unit and common area bathroom finishes, fixtures and accessories, laundry facilities, and common area lobbies and corridors; and
- d) Building systems, including without limitation plumbing supplies and drainage, domestic hot water production, heating, ventilating and air-conditioning production and distributions systems, fuel storage and delivery systems, electrical power distribution and metering systems, lighting controls and fixtures, smoke, fire and any other alarm systems, fire protection systems, security systems, and elevators.

The capital needs assessment must specifically identify all structures, systems, facilities, units and components that were inspected and must include a concise overview of the physical and operational condition of the existing housing and a detailed assessment of the expected useful life and the remaining useful life of each structure, system, facility, unit and component inspected. The assessment must also consider the presence of environmental and other hazards, including without limitation, asbestos, lead paint, mold, water damage and insect infestations.

2. The capital needs assessment must include a recommended scope of work and a cost estimate to complete the scope of work that addresses the following capital needs of the Project, without consideration of financial feasibility:

- a) Correction of all violations of applicable federal, state and local building, health and life safety codes and correction of all deferred maintenance;
- b) Rehabilitation or replacement of all structures, systems, facilities, units and components that have reached or exceeded their useful lives or will reach their useful lives within 5 years;
- c) Rehabilitation of all units and common areas and facilities to bring them into compliance with MaineHousing's Construction Standards to the maximum extent feasible;
- d) Rehabilitation of the minimum number of units and all common areas and facilities that are necessary to comply with the most current requirements for new construction projects under applicable federal, state and local accessibility laws, regulations, standards and guidance (which include without limitation, [Section 504 of the Rehabilitation Act of 1973](#), HUD's housing regulations at [24 C.F.R. Part 8](#) and any accessibility standard designated by HUD; Title II and Title III of the Americans with Disabilities Act of 1990 and the 2010 Standards of Accessible Design; and if the Project involves substantial rehabilitation, the Maine Human Rights Act, the Maine Human Rights Commission's Chapter 8, Housing Regulations, and ANSI Standard A117.1-2009); and

e) Remediation and disposal of any environmental or other hazards identified in the assessment.

3. The capital needs assessment must also identify any structures, systems, facilities, units and components with a remaining useful life of less than 30 years. The Application must include a plan for future rehabilitation or replacement of any identified structure, system, facility, unit and component with a useful life of less than 30 years that is not included in the scope of work for the Project, including possible funding sources, which will be considered in establishing the appropriate funding amounts for the Project's reserve accounts.

APPENDIX D
LOW INCOME HOUSING TAX CREDIT PROGRAM
OWNER'S CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE

To: *MaineHousing*
26 Edison Drive
Augusta, ME 04330

Certification Dates:	From: January 1, 20_____	To: December 31, 20_____		
Project Name:			Project No:	
Project Address:		City:	County:	Zip:
Tax ID # of Ownership Entity:				
Building Identification Number(s):	(1)	(2)	(3)	
	(4)	(5)	(6)	
	(7)	(8)	(9)	
	(10)	(11)	(12)	

☐ No buildings have been Placed in Service
☐ At least one building has been placed in Service but owner elects to begin credit period in the following year.
 If either of the above applies, please check the appropriate box, and proceed to page 2 to sign and date this form.

The undersigned_____ on behalf of

_____ (the "Owner"), hereby certifies that:

1. The project meets the minimum requirements of: (check one)
 - ☐ 20 - 50 test under Section 42(g)(1)(A) of the Code
 - ☐ 40 - 60 test under Section 42(g)(1)(B) of the Code
 - ☐ 15 - 40 test for "deep rent-skewed" projects under Section 42(g)(4) and 142(d)(4)(B) of the Code
 - ☐ Income Averaging
2. There has been **no change in the applicable fraction** (as defined in Section 42(c)(1)(B) of the Code) for any building in the project:

☐ NO CHANGE ☐ CHANGE

If **"Change"**, list the applicable fraction to be reported to the IRS for each building in the project for the certification year on page 4:
3. There have been no changes in the building's eligible basis under Section 42(d) of any building in the project.

☐ NO CHANGE ☐ CHANGE

If **"Change"**, list the changes on page 4:
4. The owner has received an annual Tenant Income Certification from each low-income resident and documentation to support that certification, or the owner has a re-certification waiver letter from the IRS in good standing, has received an annual Tenant Income Certification from each low-income resident, and

documentation to support the certification at their initial occupancy.

☐ YES

☐ NO

5. Each low-income unit in the project has been rent-restricted under Section 42(g)(2) of the Code:

☐ YES

☐ NO

6. All low-income units in the project are and have been for use by the general public and used on a non-transient basis (except for transitional housing for the homeless provided under Section 42 (i)(3)(B)(iii) of the Code):

☐ YES

☐ NO

☐ HOMELESS

7. There has been no finding of discrimination under the Fair Housing Act, 42 U.S.C 3601-3619 with respect to this project. A finding of discrimination includes an adverse final decision by the Secretary of Housing and Urban Development (HUD), 24 CFR 180.680, an adverse final decision by a substantially equivalent state or local fair housing agency, 42 U.S.C 3616a(a)(1), or an adverse judgment from a federal court:

☐ FINDING

☐ NO FINDING

If "**Finding**", please explain the nature of the violation and attach a copy of the decision or judgment.

8. There has been no finding of discrimination under any other applicable local, State or federal equal access or nondiscrimination law with respect to this project. A finding of discrimination includes an adverse final decision by the governmental agency responsible for administering such law, or an adverse judgment from a court with jurisdiction over such law:

☐ FINDING

☐ NO FINDING

If "**Finding**", please explain the nature of the violation and attach a copy of the decision or judgment.

9. Each building in the project is and has been suitable for occupancy, taking into account local health, safety, and building codes (or other habitability standards), and the state or local government unit responsible for making building code inspections did not issue a report of a violation for any building or low income unit in the project:

☐ YES

☐ NO

If "**No**", explain the nature of violation on page 4 and attach a copy of the violation report as required by 26 CFR 1.42-5 and any documentation of correction.

10. Each building and all FedHome (HOME) assisted units are suitable for occupancy, taking into account State and local health, safety, and other applicable codes, ordinances, and requirements, and the ongoing property standards established by the participating jurisdiction (MaineHousing) to meet the requirements of 24 CFR, Part 92, HOME Investment Partnership Program, Section 92.251.

☐ YES

☐ NO

☐ N/A

11. There has been **no change in the eligible basis** (as defined in Section 42(d) of the Code) of any building in the project since last certification submission:

☐ NO CHANGE

☐ CHANGE

If "**Change**", state nature of change (e.g., a common area has become commercial space, a fee is now charged for a tenant facility formerly provided without charge, or the project owner has received federal

subsidies with respect to the project which had not been disclosed to the allocating authority in writing) on page 4:

12. All tenant facilities included in the eligible basis under Section 42(d) of the Code of any building in the project, such as swimming pools, other recreational facilities, parking areas, washer/dryer hookups, and appliances were provided on a comparable basis without charge to all tenants in the buildings:
☐ YES ☐ NO
13. If a low-income unit in the project has been vacant during the year, reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units were or will be rented to tenants not having a qualifying income:
☐ YES ☐ NO
14. If the income of tenants of a low-income unit in any building increased above the limit allowed in Section 42(g)(2)(D)(ii) of the Code, the next available unit of comparable or smaller size in that building was or will be rented to residents having a qualifying income:
☐ YES ☐ NO
15. Project complies with an extended low-income housing commitment as described in section 42(h)(6) (not applicable to buildings with tax credits from years 1987-1989):
☐ YES ☐ NO ☐ N/A
16. In the prior 12 month period, the owner has:
- a) terminated the tenancy of a tenant in a low income unit, including without limitation, non-renewal of the lease of an existing tenant in a low income unit, for other than good cause;
 - b) increased the gross rent of a tenant with respect to a low income unit not otherwise permitted under Section 42 of the Code and any other applicable program (e.g. HOME, HUD Section 8);
 - c) denied tenancy to any applicant or terminated the tenancy of any tenant solely because the applicant or tenant had a Section 8 voucher or certificate; or
 - d) denied tenancy to any applicant, terminated the tenancy of any tenant, or failed to assist a tenant in finding alternative appropriate housing in violation of Title VI of the Violence Against Women Reauthorization Act of 2013, 34 USC Subpart 2 – housing rights Chapter 121 and applicable regulations (VAWA), as amended.
- ☐ YES ☐ NO

If “Yes”, please explain the nature of the violation on page 4.

17. The project complies with the requirements of all applicable Federal and State Housing Programs included in the development (e.g., Rural Housing Services, HOME, HUD Section 8, or Tax-Exempt Bonds).
☐ YES ☐ NO
- If “No”, please explain the nature of the violation on page 4.
18. The owner received its credit allocation from the portion of the state ceiling set-aside for a project involving "qualified non-profit organizations" under Section 42(h)(5) of the code and its non-profit entity materially participated in the operation of the development within the meaning of Section 469(h) of the Code.
☐ YES ☐ NO ☐ N/A

19. The property has not suffered a casualty loss resulting in the displacement of residents.
☐ YES ☐ NO

If “Yes”, please explain the nature of the loss on page 4.

20. There has been no change in the ownership or management of the project:

☐ NO CHANGE ☐ CHANGE

If "**Change**", complete page 4 detailing the changes in ownership or management of the project.

Note: Failure to complete this form in its entirety will result in noncompliance with program requirements. In addition, any individual other than an owner or general partner of the project is not permitted to sign this form, unless permitted by the state agency.

The project is otherwise in compliance with the Code, including any Treasury Regulations, the applicable State Allocation Plan, and all other applicable laws, rules and regulations. This Certification and any attachments are made UNDER PENALTY OF PERJURY.

(Ownership Entity)

By: _____

Title: _____

Date: _____

PLEASE PROVIDE ANY CHANGES OR EXPLANATIONS REQUIRED UNDER QUESTIONS 1-19.

Question #	Explanation

CHANGE IN MANAGEMENT CONTACT

Date of Change:	
Management Co. Name:	
Management Address:	
Management city, state, zip:	
Management Contact:	
Management Contact Phone:	
Management Contact Fax:	
Management Contact Email:	

1. **CHANGES IN OWNERSHIP OR MANAGEMENT**

(to be completed **ONLY** if **"CHANGE"** marked for question 20 above)

2. **TRANSFER OF OWNERSHIP**

Date of Change:	
Taxpayer ID Number:	
Legal Owner Name:	
Address:	
Phone:	
General Partnership:	
Status of Partnership (LLC, etc.):	

CHANGE IN OWNER CONTACT

Date of Change:	
Owner Contact:	
Owner Contact Phone:	
Owner Contact Fax:	
Owner Contact Email:	

APPENDIX E

THRESHOLD REQUIREMENTS FOR PURCHASE OPTIONS/RIGHTS OF FIRST REFUSAL

I. The Purchase Options must:

- 1) grant to one or more of the general partner, managing member, developer or sponsor an irrevocable option to purchase the Project at a purchase price not more than the greater of: (a) its fair market value as encumbered by the Extended Use Agreement and any other restrictions of record; and (b) the sum of: (i) the outstanding debt secured by the Project, (ii) the amount of the limited partner's or non-managing member's federal, state and local tax liability resulting from the sale of the Project, and (iii) all amounts owed to the limited partner or non-managing member under the limited partnership agreement or limited liability company operating agreement (the "Project Option Price");
- 2) grant to one or more of the general partner, managing member, developer or sponsor an irrevocable option to purchase the interest of the limited partner(s) or non-managing member(s) in the Project ownership entity ("Ownership Interest") at a purchase price not more than the amount the limited partner(s) or non-managing member(s) would have received on an after-tax basis if the Project had been sold at the Project Option Price and the proceeds distributed pursuant to the terms of the limited partnership agreement or limited liability company operating agreement;
- 3) be exercisable beginning at the earlier of: (a) the expiration of the Compliance Period; or (b) the exit of or change of controlling interest in the limited partner or non-managing member occurring after the expiration of the Credit Period;
- 4) expire no earlier than 36 months after the expiration of the Compliance Period; and
- 5) give the holder of the option a minimum of 12 months to close on the purchase of the Project or the Ownership Interest after exercise of the option or such longer period required by any lender(s) or other party whose consent to the transfer is required.

II. The right of first refusal (ROFR) must:

- 1) grant to a Qualified Nonprofit Organization an irrevocable and exclusive ROFR to purchase the Project at the lesser of: (a) its fair market value as encumbered by the Extended Use Agreement and any other restrictions of record; and (b) the Minimum Purchase Price as defined in Section 42(i)(7) of the Code but in no event less than the outstanding debt secured by the Project, excluding any indebtedness incurred within the 5-year period ending on the date of the sale pursuant to the ROFR (the "ROFR Price");
- 2) be exercisable beginning at the expiration of the Compliance Period;
- 3) expire no earlier than 36 months after the later of: (i) the public offer of the Project for sale by the general partner or managing member; and (ii) the expiration of the Compliance Period;

- 4) give the holder of the ROFR a minimum of 90 days to exercise its ROFR and a minimum of 12 months to close on the purchase of the Project after exercise of the ROFR or such longer period required by any lender(s) or other party whose consent to the transfer is required; and
 - 5) not require more than a nominal earnest money deposit in order to exercise the ROFR.
- III. The Project owner's limited partnership agreement or limited liability company operating agreement must provide that:
- 1) the holder of the ROFR may assign the ROFR to a governmental unit, tenant organization or resident management corporation of the Project, or another Qualified Nonprofit Organization without the consent of the limited partner(s) or non-managing member(s);
 - 2) the general partner or managing member may elect to do any of the following:
 - a) subject to the consent of the limited partner(s) or non-managing member(s), which consent shall not be unreasonably withheld, conditioned, or delayed, sell the Project to the holder of the ROFR in connection with the exercise of the ROFR (the limited partner(s) or non-managing member(s) may not withhold consent for a non-material breach of the Project owner's organizational documents);
 - b) at its discretion, without the consent of the limited partner(s) or non-managing member(s), sell the Project to the holder of the ROFR in connection with the exercise of the ROFR following the general partner's or managing member's receipt of a bona fide third party offer to purchase the Project, which offer may be solicited by the general partner/managing member or the holder of the ROFR; or
 - c) at its discretion, without the consent of the limited partner(s) or non-managing member(s), offer the Project for sale publicly at any time following the expiration of the Compliance Period and thereafter accept an offer from the highest bidder to purchase the Project, as long as the sale price is not less than the ROFR Price, and provided such acceptance is subject to the rights of the holder of the ROFR to exercise the ROFR and purchase the Project at the ROFR Price;
 - 3) the general partner or managing member is directed and authorized to execute all documents necessary to effect the sale of the Project pursuant to the ROFR or Purchase Options;
 - 4) the limited partner(s) or non-managing member(s) affirmatively agree not to challenge: (i) the sale of the Project pursuant to the terms of the ROFR by the general partner or managing member to the holder of the ROFR even if the holder of the ROFR is affiliated with the general partner or managing member; (ii) the general partner's or managing member's acceptance of an offer from the highest bidder in response to the general partner's or managing member's public offer of the Project for sale, provided the offer price is not less than the ROFR Price, and/or the exercise of the ROFR by the holder of the ROFR after any such acceptance; and (iii) the exercise of the Purchase Options by the holder(s) thereof pursuant to the terms of the Purchase Option;

- 5) in the event Section 42(i)(7) of the Code is amended to permit a Qualified Nonprofit Organization to hold a purchase option after the expiration of the Compliance Period, and only to the extent permitted under such revised Section 42(i)(7) of the Code, the holder of the ROFR shall be entitled to purchase the Project, or at its option, all of the interests in the owner, in either case at the ROFR Price, in lieu of exercising the ROFR;
- 6) neither the ROFR or Purchase Options will be adversely affected or limited by any other rights of the limited partner(s) or non-managing member(s), or any owner of any interest in any limited partner or non-managing member, such as forced sale rights, and there are no conditions to the exercise of the ROFR or Purchase Options except as explicitly identified in the limited partnership agreement or limited liability company operating agreement; and
- 7) any amendment that would modify any term or condition related to the ROFR or Purchase Options requires the prior written consent of MaineHousing.

City of Biddeford



2024.127 **IN BOARD OF CITY COUNCIL August 6, 2024 BE IT ORDAINED**, by the City Council of the City of Biddeford, hereby approves the Contract Zone #23 (attached) requested by the Indian Cliff Development Corporation, to subdivide approximately seven (7) acres, from a 55.94-acre parcel, into nine (9) lots, for the creation of a 46-unit, LMI senior housing development; the creation of seven (7) lots for single/two-family homes; and one (1) lot for stormwater detention, pursuant to the City's Code of Ordinances, Part III Land Use Regulations, Article V, Section 9 (Contract Zones) as illustrated on the attached Exhibit A.

August 6, 2024

Motion: Councilor LaFountain.

Second: Councilor Lessard

Councilor Belanger will review the contract for edits.

Vote: Unanimous in favor.

Motion passed.

August 20, 2024

Motion: Councilor Emhiser;

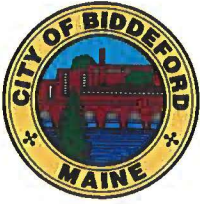
Second: Councilor Lessard.

Vote: Unanimous in favor.

Motion passed.

Attest by: _____

Robin Patterson, City Clerk



CITY OF BIDDEFORD

Planning and Development Department

David CM Galbraith, City Planner
Deputy Director of Planning &
Development

205 Main Street

P.O. Box 586

Biddeford, ME 04005

(207) 282-7119

David.galbraith@biddefordmaine.org

NOTICE OF DECISION

August 8, 2024

Christopher MacDonald P.E.
BH2M
380B Main Street
Gorham, ME 04038

RE: 2024.18 – AVESTA Housing Final Site Plan Approval to build at 46 unit low income housing project for the elderly and Contract Zone #23 on Barra Road (Tax Map 7, Lot 15) in the R-3 Zone.

Dear Chris,

At their meeting of August 7, 2024, the Biddeford Planning Board reviewed the Final Application for 2024.18 – AVESTA to build a 46 unit housing project for the elderly and Contract Zone #23 on Barra Road (Tax Map 7, Lot 15) in the R-3 Zone. Indian Cliff Development Corp. owns the property and you presented to the Planning Board.

You had applied for two waivers described as follows:

- a. Article VI, Section 26.F pertaining to slopes
- b. Article XI, Article II.5B.1.e.1 of the City Code, pertaining to exceeding pre-development stormwater run-off rates in post-development conditions.

The Planning Board voted unanimously to refer Contract Zone #23 to the City Council with a positive recommendation to adopt.

Based on the materials submitted, the Planning Board approved the subdivision, both waivers, the Findings of Fact, Conclusions of Law and plans, conditioned on the following:

1. The material provided for the proposed project has been reviewed only for general conformance to the City technical requirements. The applicant(s) and/or their technical consultant shall be responsible for the actual design details and completeness of their work. It is incumbent upon the applicant(s) to ensure that the project is in conformance and complies with all City Codes, ordinances and regulations as well as with all state

2024.18 – AVESTA Housing Final Site Plan Approval to build at 46 unit low income housing project for the elderly and Contract Zone #23 on Barra Road (Tax Map 7, Lot 15) in the R-3 Zone.

Notice of Decision date: August 8, 2024

regulations, including, but not limited to, space and bulk standards, performance standards, use standards and other zoning type requirements.

2. All work shall be in conformance with the approved plans and submission documents. No deviations from the approved plans are permitted without prior approval from the Planning Board for major changes, and from the City Planner and City Engineer for minor changes. The City Planner shall make the determination of major or minor.
3. A Letter of Credit or other surety acceptable to the City of Biddeford shall be submitted prior to the issuance of permits or site work being initiated. The financial guarantee shall be submitted prior to the issuance of permits or site work being initiated. The financial guarantee shall be established for 150% of the cost of the following improvements:
 - a. Landscaping
 - b. Paving
 - c. Work within ROW (existing or proposed)
 - d. Stormwater Drainage
 - e. Loam and Seed
 - f. Sediment and erosion control
 - g. As-Built Plans
 - h. Property Monuments
4. Prior to any ground disturbance, the applicant shall establish a construction inspection account equal to \$2,500.00.
5. Prior to any ground disturbance, a pre-construction meeting with the owner/applicant, contractor, and the City is required. Contact the Engineering & Planning Departments to schedule this meeting. There is a Pre-Con Meeting Request Form and a Pre-Con Meeting checklist on the website to be completed and submitted with pertinent documentation named in the checklist. These documents shall be submitted to the Planning Department for review by staff prior to scheduling the Pre-Con Meeting.
6. Contact the Department of Public Works for driveway location permits, curb cut permits and/or street opening permits prior to the start of construction.
7. An as-built plan must be provided to the City of Biddeford Engineering Office at the end of the project electronically, which can be read by the City of Biddeford's Geographic Information System Software. Note: Any modifications to the Planning Board approved development plans shall be reviewed and approved by the City Planner prior to being made, including any "field changes."
8. The applicant shall incorporate appropriate erosion control measures into this project to reduce erosion affects from the work. All disturbed areas must be re-vegetated and/or

2024.18 – AVESTA Housing Final Site Plan Approval to build at 46 unit low income housing project for the elderly and Contract Zone #23 on Barra Road (Tax Map 7, Lot 15) in the R-3 Zone.

Notice of Decision date: August 8, 2024

otherwise stabilized at the appropriate stage of the work per Maine DEP standards in the Best Management Practice (BMP) manual.

9. That the Article VI Performance Standards requirements regarding Dust, Fumes, Vapors & Gases (sect 25), Explosive Materials (sect 28), Glare (sect 37), Noise (sect 48) be followed.
10. The applicant shall obtain all other pertinent local, state, and federal permits, licenses, and insurance such as blasting, building, electrical, plumbing, etc. prior to commencing business.
11. At the completion of the project the owner/applicant shall request a final inspection. Please submit an As-Built Plan electronically when requesting the final inspection from the Planning Department. Performance guarantees and remaining escrow accounts shall not be released until the Planning and Engineering Departments certifies that the project has been completed and is in compliance with the approval and all applicable City Ordinances.
12. The applicant shall have the signed plans recorded in the York County Registry of Deeds. An electronic copy of the recorded plan shall be sent to the Planning Office.
13. All conditions of approval previously adopted for the property are hereby reaffirmed.
14. Prior to the Issuance of a Building Permit the Applicant shall pay a one-time fee of \$10,975.00 for the Thatcher Brook Impact Fee as outlined in your Findings of Fact and Conclusions of Law dated August 7, 2024, as outlined below:

CFUP Fee Schedule – Avesta Site Project			
Type of Surface	Compensation Fee (per acre)	Proposed Area (acres)	Compensation Fee
Non-roof Impervious Area	\$12,500	0.59	\$7,375
Roof	\$5,000	0.25	\$1,250
Landscape Area	\$2,500	0.94	\$2,350
Total			\$10,975

15. Curb-Opening Permit Fee: Prior to the issuance of a Building Permit the Applicant shall pay a curb-opening fee to be determined by the Engineering Department at building permit issuance.
16. Sewer Connection Fee: Prior to the issuance of a Building Permit the Applicant shall pay a sewer connection fee of \$77,433.20.

2024.18 – AVESTA Housing Final Site Plan Approval to build at 46 unit low income housing project for the elderly and Contract Zone #23 on Barra Road (Tax Map 7, Lot 15) in the R-3 Zone.

Notice of Decission date: August 8, 2024

17. Prior to the development of the 46-unit low income housing facility the following fees shall be paid prior to the issuance of a building permit:
- A. Curb-Opening Fee (Amt. to be determined by the Engineering Department.)
 - B. Sewer Connection Fee as conditioned above #16.
 - C. Thatcher Brook/CFUP Fee, calculated for the proposed use utilizing the CFUP Fee Schedule as shown in Condition #14.
15. Prior to the issuance of building permits for lots within the approved subdivision, each lot shall pay their respective fees for the following.
- A. CFUP/Thatcher Brook Impact Fees
 - B. Curb-Opening Permit Fee: Prior to the issuance of a Building Permit the Applicant Shall pay a curb-opening fee as calculated by the Engineering Department.
 - C. Sewer Connection Fee: Prior to the issuance of a Building Permit the Applicant Shall pay a sewer connection fee as calculated by the Engineering Department.
16. Prior to the scheduling of the required Pre-Construction meeting the applicant shall make any required changes to the project Civil Plans for the review and approval of the Public Works.

This Final Approval is valid for 2 years (expiration date August 7, 2026). Failure to begin substantial work on the site by 8-7-26 renders this null and void.

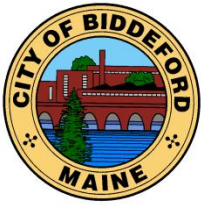
If you have any questions please call the Planning Department at 284-9115.

Sincerely,



David C.M. Galbraith
City Planner & Deputy Director Planning & Economic Development

- Cc: R. Fecteau, Code Enforcement Officer (via e-mail)
C. Chekan, City Engineer (via e-mail)
G. Gervais, Director of Planning & Development (via e-mail)
M. Eon of Indian Cliff Development Corp (via e-mail)
R. Fecteau of AVESTA Housing (via e-mail)



CITY OF BIDDEFORD

Planning and Development Department

David C.M. Galbraith
Deputy Director/City Planner
205 Main Street
P.O. Box 586
Biddeford, ME 04005
(207) 284-9115

David.Galbraith@biddefordmaine.org

PLANNING BOARD STAFF REPORT

TO: Chair Patoine and Members of the Biddeford Planning Board

FROM: David C.M. Galbraith, City Planner & Deputy Director of the Planning & Development Dept.

DATE: July 31, 2024

RE: **2024.18 Final Plan Application for AVESTA Housing to build a 46 unit low income housing project for the elderly and Contract Zone #23 Approval. Property is located at Barra Road (Tax Map 7, Lot 15) in the R-3 zone.**

MEETING DATE: August 7, 2024 at 6:00 PM

1. INTRODUCTION

This Application was last discussed before the Board on June 5, 2024 where it received Preliminary Plan approval. The Applicant, Avesta Housing is before the Planning Board for the final review by the Planning Board. The Applicant is being represented by Ryan Fecteau, Senior Officer of Policy and Planning for Avesta Housing and Christopher MacDonald, PE Civil Engineer of BH2M Engineering Consultants.

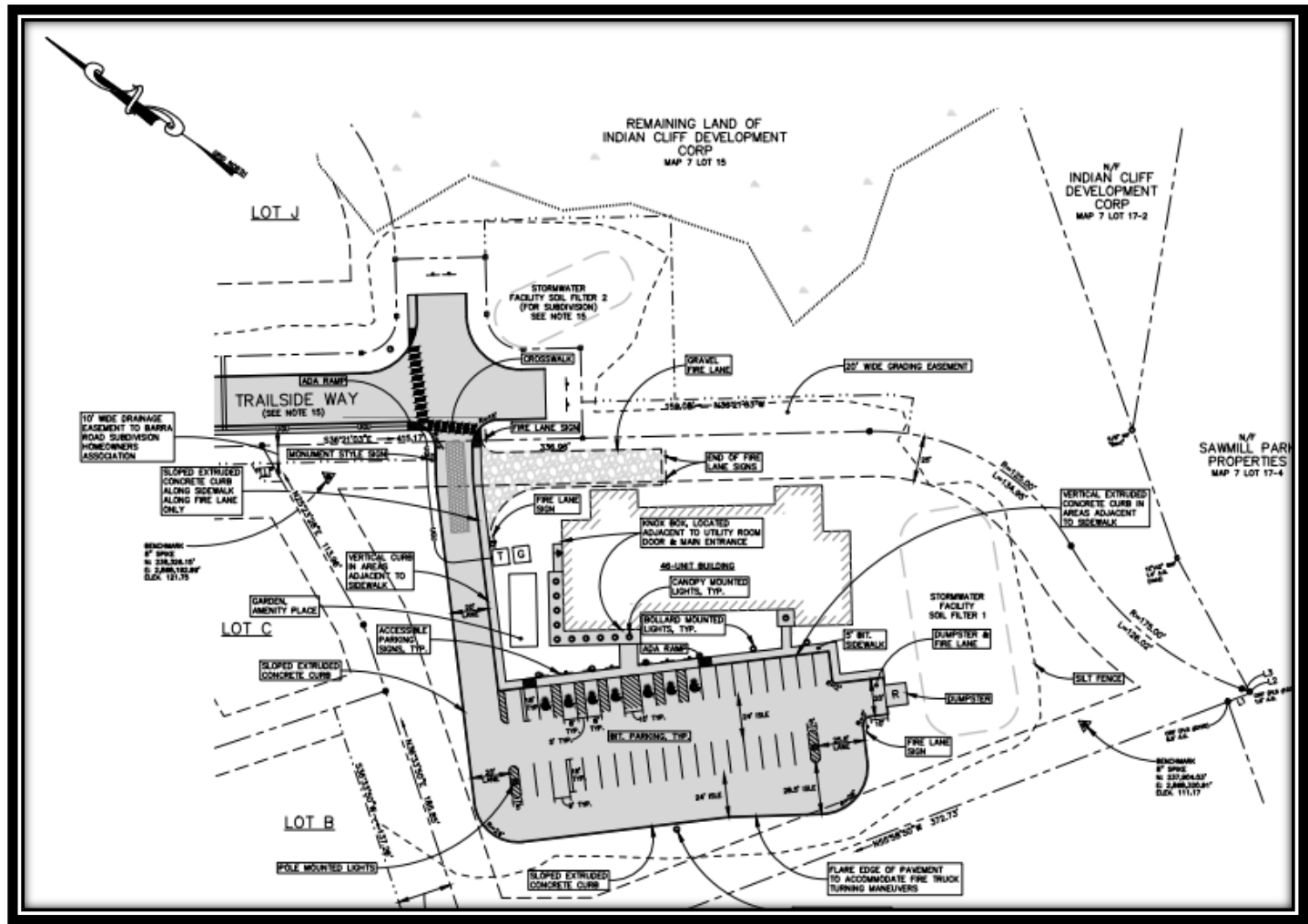
The proposed Avesta Housing project is a four story, 46 unit, low / moderate income (LMI), senior housing development. The subject property (Tax Map 7, Lot 15) is a proposed 2.2-acre property lot located to the east of Barra Road, immediately north of the 60 Barra Road project (Reveler, formerly Saxon), and is located in the R-3 zoning district.

The project will be accessed via an extension of Barra Road to a new connecting roadway to be named Trailside Way. The proposed roadway name has been approved by the City's E-911 Addressing Officer who determined that the roadway name does not conflict with other street names in the City. In addition to site plan review and approval, the project will also require:

- A. A subdivision plan approval which is being reviewed concurrently with this application by Indian Cliff Development Corporation (property owner).
- B. Contract Zone # 23 review and approval. The proposed subdivision and Contract Zone have been applied for by the Indian Cliff Development Corp. which is owned, in part, by Michael Eon.

These projects / development reviews are being run concurrently and both are seeking Final Approval at the August 7, 2024 Planning Board meeting.

2024.18 Final Plan Application for AVESTA Housing to build a 46 unit low income housing project for the elderly and Contract Zone #23 Approval. Property is located at Barra Road (Tax Map 7, Lot 15) in the R-3 zone.
 Planning Board Meeting Date: August 7, 2024

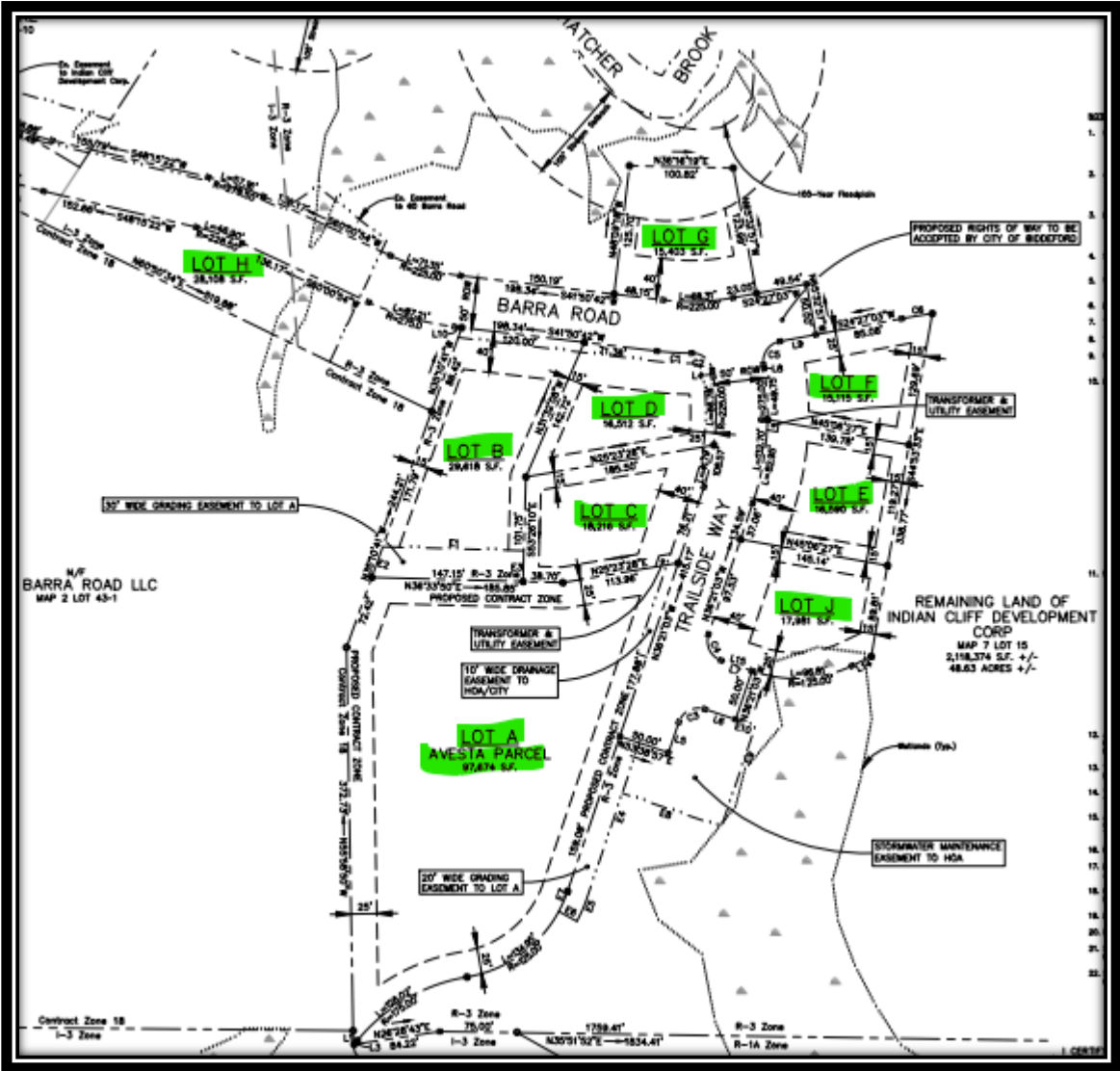


Avesta Housing – 46 Unit, LMI senior housing project

The Indian Cliff applications are being run parallel to the Avesta Site Plan Approval. As such the following process / approvals for the combined projects will require the following:

1. Avesta Housing – Site Plan: Final Site Plan approval.
2. Contract Zone # 23 – Planning Board recommendation for approval to the City Council for ultimate approval. A copy of the proposed Contract Zone # 23 is provided in the Planning Board review materials.
3. Indian Cliff Development – Final Subdivision approval.

2024.18 Final Plan Application for AVESTA Housing to build a 46 unit low income housing project for the elderly and Contract Zone #23 Approval. Property is located at Barra Road (Tax Map 7, Lot 15) in the R-3 zone.
Planning Board Meeting Date: August 7, 2024



Indian Cliff 9-Lot Subdivision

The subdivision project proposes to subdivide approximately 7 acres of the existing parcel to provide 9 new lots, with Lot A being the parcel proposed for Avesta's development, Lots B through G being proposed as single family or duplex lots for Indian Cliff Development Corp, and Lot H being a remainder lot that is not proposed for housing development. Lot H currently features stormwater and access easements granted to Reveler for development of the 60 Barra Road project, which construction is currently ongoing, and will propose to provide stormwater management for the extension of Barra Road proposed by Indian Cliff Development.

2024.18 Final Plan Application for AVESTA Housing to build a 46 unit low income housing project for the elderly and Contract Zone #23 Approval. Property is located at Barra Road (Tax Map 7, Lot 15) in the R-3 zone.
Planning Board Meeting Date: August 7, 2024



Avesta Housing – South Elevation Front / Interior Elevation View



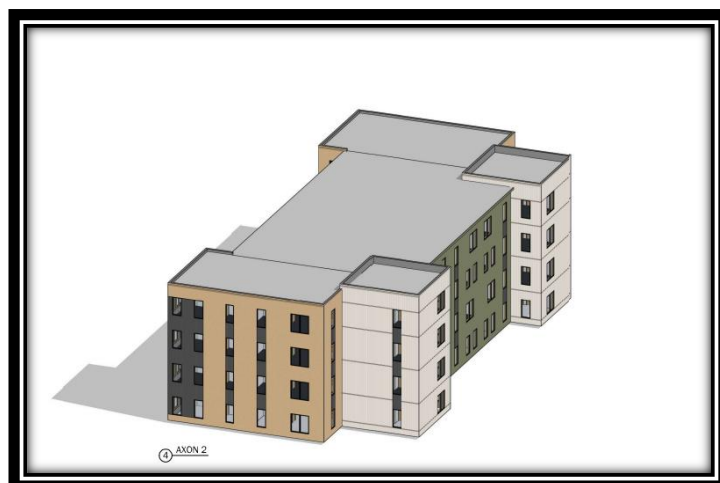
Avesta Housing – North Elevation - Roadway Elevation View

2024.18 Final Plan Application for AVESTA Housing to build a 46 unit low income housing project for the elderly and Contract Zone #23 Approval. Property is located at Barra Road (Tax Map 7, Lot 15) in the R-3 zone.

Planning Board Meeting Date: August 7, 2024



Massing Perspective – South Elevation



Massing Perspective – North Elevation

As the site plan, subdivision plan and Contract Zone are intertwined, Staff will be running these projects concurrently. The Applicants have submitted preliminary final subdivision plans and their proposed Contract Zone documents which will be discussed under the Indian Cliff Development application (Subdivision & Contract Zone).

2. PROJECT DATA/INFORMATION

1.	Applicant:	AVESTA Housing 307 Cumberland Avenue Portland, ME 04101
2.	Owner of Property:	Indian Cliff Development Corp
3.	Agent:	Christopher MacDonald P.E. BH2M 380B Maine Street Gorham, ME 04038
4.	Surveyor:	Same as above
5.	Project Location:	Barra Road
6.	Project Tax Map #/Lot #:	Tax Map 7, Lot 15
7.	Lot Size:	2.2 Acres
8.	Base Zoning:	R-3
9.	Overlay Zoning:	N/A
10.	Existing Use:	Vacant Land
11.	Proposed Use:	46 Unit Low Income Housing for Elderly
12.	Approvals Required:	Subdivision/Site Plan
13.	Uses in the Vicinity:	Commercial/Medical
14.	Waivers Needed:	a. Article VI, Section 26. F (slopes) b. Article XI .Article II.5.B.1.e.1 of the City Code, (exceeding pre-development stormwater run-off rates in post-development conditions)
18.	Waivers Granted:	a. None
22.	Other Non-City Permits Required:	
23.	LDR Attachment A: Fees Paid:	All Fees Paid

2024.18 Final Plan Application for AVESTA Housing to build a 46 unit low income housing project for the elderly and Contract Zone #23 Approval. Property is located at Barra Road (Tax Map 7, Lot 15) in the R-3 zone.

Planning Board Meeting Date: August 7, 2024

25.	Planning Board Review History: April 14, 2024- Sketch Plan; June 5, 2024- Preliminary; Final Plan Approval 8-7-2024.
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3. REVIEW PROCESS

Per City ordinance, this application is subject to Site Plan (Land Development Regulations, Article XI) review and Subdivision Review (Chapter 66 – Subdivisions) and approval by the Planning Board. The Application also includes a Contract Zone Approval Request (#23) which requires a positive recommendation from the Board to the City Council.

4. STAFF REVIEW

- **APPLICATION COMPLETENESS:** This application is for final plan approval so the purpose of this memorandum is to update the Board on the progress made to date and to provide direction to Staff and the Applicant regarding any missing items the Board would like to review as part of the Final Application review.
- **ZONING:** The subject property (Tax Map 7, Lot 15) is a proposed 2.2-acre property lot located to the east of Barra Road, immediately north of the 60 Barra Road project (Reveler, formerly Saxon), and is located in the R-3 zoning district. The Avesta project will require Site Plan approval, Subdivision Approval and Contract Zone Approval.
- **REVIEW STANDARDS:** In general, staff found the ~~preliminary~~ final plan application to satisfy City’s subdivision and site plan requirements.

WAIVER REQUESTS AND SAMPLE MOTIONS:

- A. Motion to Approve Waiver Request to Article VI, Section 26. F, for slopes greater than 3:1 and grading within 10’ of property lines.
- B. Motion to Approve Waiver Request to Article XI .Article II.5.B.1.e.1 of the City Code, exceeding pre-development stormwater run-off rates in post-development conditions.

5. STAFF RECOMMENDATION

City Staff has been working diligently with the Applicants to address technical and design related issues and are pleased to have this project in a final form that Staff supports. Staff is supportive of the Final plan proposal, the two waivers and Contract Zone #23 and recommends Approval of the project subject to the attached Findings of Fact (FOF) and Conditions of Approval (COA).

6. SAMPLE MOTION – CONTRACT ZONE:

- A. **Motion to Approve:** Motion to forward a positive recommendation to the City Council to approve Contract Zone # 23, as written.

7. SAMPLE MOTIONS – SITE PLAN REVIEW:

2024.18 Final Plan Application for AVESTA Housing to build a 46 unit low income housing project for the elderly and Contract Zone #23 Approval. Property is located at Barra Road (Tax Map 7, Lot 15) in the R-3 zone.

Planning Board Meeting Date: August 7, 2024

A. **Motion to Approve:** Case # 2024.18 Final Plan Application for AVESTA Housing to build a 46 unit low income housing project for the elderly. Property is located at Barra Road (Tax Map 7, Lot 15) in the R-3 zone, Findings of Fact (FOF) and Conditions of Approval (COA) as written.

B. **Motion to Table** Case # 2024.18 Final Plan Application for AVESTA Housing to build a 46 unit low income housing project for the elderly. Property is located at Barra Road (Tax Map 7, Lot 15) in the R-3 zone, based upon the following reasons:

a) _____

b)_____

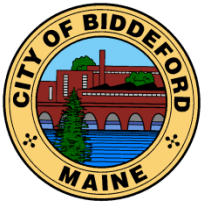
c)_____

C. **Motion to Deny:** Case # 2024.18 Final Plan Application for AVESTA Housing to build a 46 unit low income housing project for the elderly. Property is located at Barra Road (Tax Map 7, Lot 15) in the R-3 zone, based upon the following reasons:

a)_____

b)_____

c)_____



CITY OF BIDDEFORD

Planning and Development Department

David C.M. Galbraith
Deputy Director/City Planner
205 Main Street
P.O. Box 586
Biddeford, ME 04005
(207) 284-9115

David.Galbraith@biddefordmaine.org

August 26, 2025

Mark Weisendanger
MaineHousing
26 Edison Drive
Augusta, ME 04330

Re: Avesta Housing - Trailside Way / Barra Road – Community Revitalization Plan

Dear Mr. Weisendanger,

I am writing in regards to the recently approved Avesta Housing ("project") located at Trailside Way / Barra Road, Biddeford Maine. As approved by the City's Planning Board and City Council, the development will create a new affordable housing rental building consisting of 46 apartments for low-income seniors aged 55+. The subject property is located within an area of the City that the Comprehensive Plan identifies as a "Designated Growth Area".

Biddeford's recently adopted Comprehensive Plan meets all of the requirements in the 2025-2026 QAP definition of a Community Revitalization Plan and should allow MaineHousing to award full points to the Avesta Housing Apartments under this category.

Confirm the Plan is still in effect:

Our comprehensive plan was unanimously adopted by the City Council on June 6, 2023 and is still in effect at the writing of this letter.

Describe the process of developing the plan, including planning effort and public input: The adoption of this plan followed a robust, transparent, and inclusive two-year public engagement process which began in 2021. The Planning Board, with assistance from City Staff, developed a Public Engagement Plan (PEP) as well as a PEP Advisory Committee to facilitate community engagement. The public process included a number of public meetings, focus groups, surveys, and more than 40 public engagement opportunities. In all more than 1,500 community members participated in the public process and 1,212 responses were collected to the community survey. More information about the public engagement process can be found in Chapter 3 of the Plan.

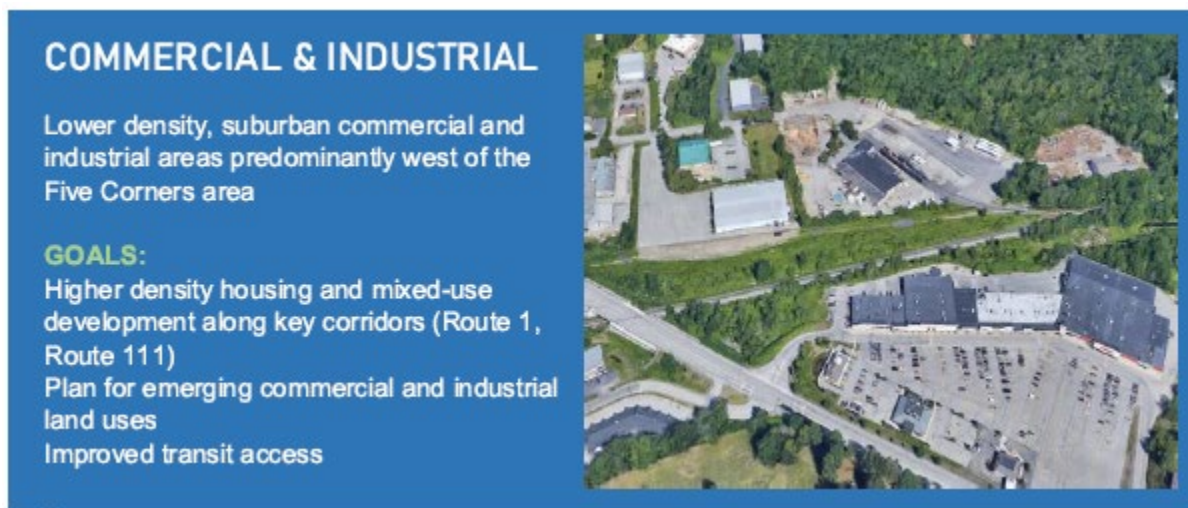
Confirm the project site is located in the target area:

Avesta Housing Apartments will be located on Trailside Way, a new public roadway off Barra Road within the City's I-3 Zone which is identified as a target area for this type of development.

**Avesta Housing Apartments – Community Revitalization Plan
August 26, 2025**

Confirm the project is part of the ongoing revitalization efforts identified in the plan because it is a specifically identified goal or action or contributes to the goal of rehabilitating or developing housing, including multifamily rental housing:

As part of the plan, the City evaluated different areas of Biddeford for their potential to support growth and revitalization. During this process, it was recognized that additional housing development is a key goal for the community. Several areas were analyzed for their capacity to support multi-family, smart-growth housing development. In particular, the I-3 zone, located off Route 111, was identified as a prime area for higher-density housing due to its excellent access to jobs and public transportation. In line with this goal, the City Council approved a Contract Zone for the subject property and amended the I-3 zoning district to allow for multifamily housing. This action aligns with the plan's appendix (Page A23), which outlines the goal of adding several hundred multifamily housing units off Barra Road.



Page 5-9 of the Plan 1

The Plan may be referenced on the City's website at:

[2023 Comprehensive Plan | Biddeford, ME \(biddefordmaine.org\).](https://www.biddefordmaine.org/2023-Comprehensive-Plan)

Project Overview:

1. On August 7, 2024, the Biddeford Planning Board granted final approval of the proposed Site Plan and Subdivision Review of Avesta Housing's proposed project off Barra Road on a to be constructed roadway called Trailside Way. The project was approved with Findings of Fact and Conclusions of Law, subject to conditions of approval issued on August 7, 2024.
2. The project was approved for a 46-unit, senior (55+) housing low/moderate income housing development.
3. Each of the approved 46-units, will provide one-bedroom accommodation.
4. The approval remains valid for two (2) years, from the original approval date (August 7, 2026). The City also allows project approvals of this nature to be extended for a year beyond the August 7, 2026, date, with a written request from Avesta Housing.

Avesta Housing Apartments – Community Revitalization Plan
August 26, 2025

5. All Appeal periods have expired, and no appeals were filed during the City's established appeal period.
6. It should further be noted that the project was approved with 35 parking spaces, which Avesta demonstrated to the Board that their parking demands were being met. Further, being a low/moderate income senior housing development, the city only required 0.75 spots per unit (35 spaces required). The reduced parking requirements furthered our goals in reducing impervious areas within the Thatcher Brook watershed.
7. The project is accessible by vehicles, bike lanes, sidewalks and is serviced by two of the City's bus lines. The project is also in close proximity to the established walking / biking trail network within the Thatcher Brook watershed and City Staff continues to formalize additional trails within the watershed and connections to our other trail networks.

The City is firmly supportive of this highly desirable project, as it helps meet our goal of providing much needed, lower income housing within our community. If you have any questions regarding this project or the City's goals/desires, please do not hesitate to contact me at (207) 284-9115 or email me at david.galbraith@biddefordmaine.org.

Respectfully,

David C.M. Galbraith

David C.M. Galbraith
City Planner / Deputy Director of Planning & Development



City Council

Meeting Date: September 2, 2025

Meeting 6:00 PM

Time:

Agenda Item 8.f

No:

Item 2025.119 Approval of Funds for Paving-Playground Project, J. Richard Martin

Description: Community Center

Submitted By: Llsa Thompson, CPRP, Recreation Director

Key Terms:

Playground project

Executive Summary:

Approval for funds to pave the area in front of the new playground at J. Richard Martin Community Center.

Detailed Review:

This project is linked to the current project for the J. Richard Martin Community Center playground project. There is an approximately 3,000 square-foot area that wraps around the front steps of the facility, going in both directions in walkways on both sides of the building to Clark and Myrtle streets. It is connected to the access area for the new playground. Prior to the demolition of the playground, this area was concrete and had several areas that were chipped, cracked and had holes in the surface, creating an unsafe walkway for patrons as well as an impassable area for wheelchair access. The playground contractor will be painting children's sidewalk games at no extra cost on the newly laid asphalt for additional recreation activities for those using the new park and playground.

Several companies were contacted and asked to provide quotes. Of the 5 companies that were contacted, 3 provided quotes:

Gerard Asphalt \$10,000.00

Pine State Asphalt- \$18,000.00

Adams & Sons Paving - \$21, 680.00

Funding Source:

\$10,000 to be funded by Community Development Block Grant (CDBG) Account number 31117-60314

Staff Recommendation:

Staff recommends the quote provided by Gerard Asphalt in the amount of \$10,000.

Next Steps:

Upon approval, Gerard Asphalt will be notified of the award and, after signing administrative paperwork, Gerard Asphalt will be authorized to schedule and complete the work in coordination with Utiliplay.

Attachments:

1. 20250902 2025.119 Approval - Paving - J. R. Martin Community Center Park Renovation Project - ORDER
2. Pavement Project for JRM Community Center - MAP
3. Gerard Asphalt Quote
4. Pine State Asphalt Quote
5. Adams & Sons Quote

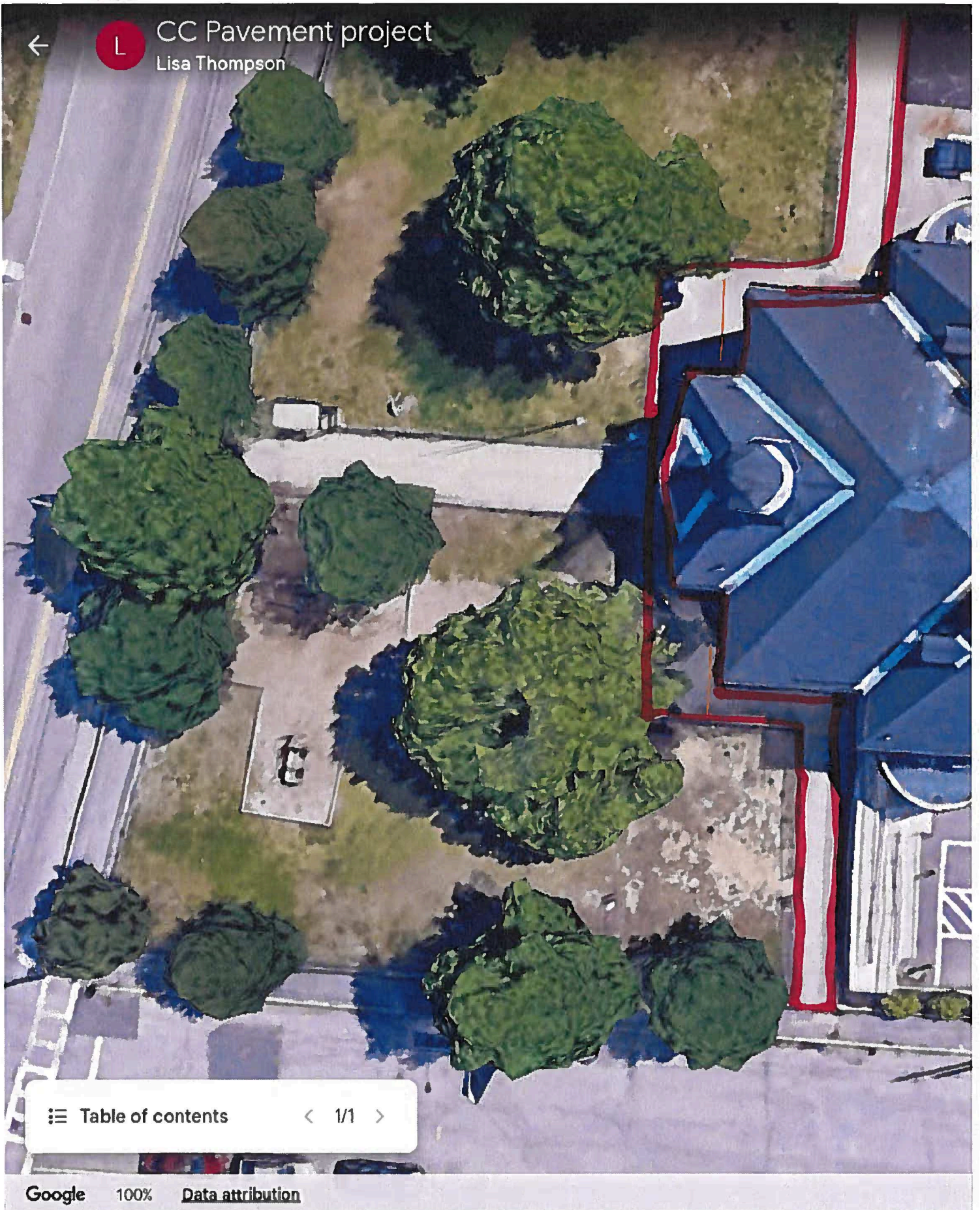
City of Biddeford



2025.119 IN BOARD OF CITY COUNCIL..... SEPTEMBER 2, 2025
BE IT ORDERED, that the City Council of the City of Biddeford does hereby approve a scope of work amendment in the amount of \$10,000 to be awarded to Gerard Asphalt for paving associated with the in-progress J Richard Martin Community Center Park Renovation Project.

NOTE: The paving change order is funded through the Community Development Block Grant (CDBG) Program 31117-60314.

Attest by: _____





56 Haybrook Drive.
Alfred, ME 04002
P: 207-229-3551
E: darrengerard@gerardasphalt.com
Date:8/22/25

Paving Invoice:#2025-1978

Contract Submitted To:

Biddeford Community Center

189 Alfred St.

Work To Be Performed At:

Biddeford, ME

Prep:

- Grade the existing gravel, fully compact
- Lay 3/4" reclaim to attain proper pitch and base throughout the driveway
- Fully compact using vibratory rollers and plate compactors
- Mill existing asphalt at street to allow for straight flush abutment of new and old asphalt

Paving:

- Lay 3" of 12.5 surface asphalt over the entire prepped area
- Fully impact using vibratory rollers and plate compactors
- Stay off minimum 48 hours

Total Due: \$10,000.00

Thank You!

*** PAYMENT: Remainder paid the day of completion before we leave your property***

*All deposits are **non refundable** they are taken to hold your spot in our busy schedule! This is not for a certain amount of work being completed strictly schedule.

*We accept Check, Venmo, Cash, or Credit Card (**Note any credit card transaction no matter the amount is a 4% fee to you the consumer**)

*All **PAVING** work comes with a 1 year warranty against any major defects, our name stays with your driveway forever!

***No warranties on reclaim projects - sealcoating projects - crack filling projects**

***No warranties on any project we did not prep fully**

***No warranties on any drain, catch basin etc.. (Heaving, Sinking, etc..)**

*If you give us a deposit and have the job done before we come back, **YOU** are responsible for paying the remainder of the contracted price

*We are not responsible for tire marks or tire dips whatsoever once our job is completed that is your responsibility to be careful with your brand new driveway!

*We are not responsible for any rodent, chipmunk, burrowing animals under your driveway at all no matter the timeline!

*Your Driveway, Roadway, or Parking Lot needs to be shouldered with either loam, reclaim, or gravel within a week of the completion. If not, we are not responsible for any cracking, or breaking 1ft in from the edge of the driveway at any timeline.

*Gerard Asphalt LLC is the sole owner, taking 100% ownership of all material we laid on your property until your balance is paid in FULL, ON TIME. Gerard Asphalt LLC has the right to repossess any and all material if you decide to back out before the project is completed or your balance is not paid as agreed upon in this contract, WITHOUT restoring the area to its original state.

*If balance is not paid on time according to our signed contract we will report to all three major credit bureaus

*If legal council may be needed, the customer and or owner of the property the work is being completed at is responsible for all fees on both sides. Gerard Asphalt LLC and the customers own lawyer and court fees. Gerard Asphalt LLC will not be responsible for any legal fees for either party.

***This contract is your contract but also your final invoice, your remaining balance is due the day we are finished before we leave the property! If you are not going to be home a check or payment source needs to be left somewhere or card called in to our office!**

*By signing here you have read and agreed to everything above as far as work being performed, scheduling, **payments being paid in full, the day we are completed!** and what we are and are not responsible for. Anything not listed above does not fall under this contract or our responsibility! We look forward to working with you!

Signature:

_____ Date: 8/22/25



Biddeford, ME (Paving Around Playground)

#0001105

From: Pine State Asphalt

Pine State Asphalt & Athletic Courts
20 Arrowhead Pass
Windham, ME 04062
Pinestateasphalt.com
Pinestatecourts.com

Amount:

\$18,000.00

Date of Issue:

8/21/2025

Expiration Date:

9/21/2025

Bill To: Lisa Thompson

130 May Street, Biddeford, ME,
USA
Company:
Director of Parks & Rec

Item	Rate (excl. tax)	Quantity	Tax	Total
Mobilization, Equipment, and Trucking • Mobilization of crews, tools, and resources to the project site • Delivery and staging of specialized paving equipment and support vehicles • Trucking and logistics to ensure timely supply of materials throughout the duration of work • Coordination and planning to maintain efficiency and minimize site disruption	\$6,000.00	1		\$6,000.00
Gravel Installation and Fine Grading • Supply and placement of quality gravel base material to support new pavement areas • Precision grading to establish proper slopes, elevations, and drainage patterns • Compaction of gravel base to create a stable foundation and maximize pavement longevity • Careful attention to transitions with existing surfaces for a seamless finish	\$6,000.00	1		\$6,000.00
Asphalt Paving (Handwork Application) • Placement of hot mix asphalt in confined areas where paving equipment cannot access • Extensive handwork and raking to ensure smooth, uniform coverage in tight spaces • Compaction of asphalt with appropriate rollers and plate tampers for durability • Final attention to edges, joints, and detail areas to deliver a clean, professional appearance	\$6,000.00	1		\$6,000.00

Subtotal \$18,000.00

Total	\$18,000.00
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Notes:

*After paving is completed, please keep the following in mind:

Wait Time:

-We recommend staying off the driveway for at least 24 to 48 hours to allow the asphalt to properly set. Foot traffic can resume within this period, but vehicle traffic should be avoided.

Cure Time:

-While the asphalt will be firm enough for regular use after a few days, it takes approximately 6 to 12 months to fully cure and harden. During this time, the surface may remain slightly soft, especially in hot weather.

Usage Guidelines:

-Avoid parking in the same spot for extended periods for the first few weeks, as this can cause depressions.

-Keep heavy vehicles, trailers, or sharp objects (such as motorcycle stands or jack stands) off the asphalt during the curing process.

-Be mindful of turning wheels while stationary, as this can create scuff marks, especially in hot temperatures.

-You may notice some minor surface imperfections or tire marks initially—this is normal and will settle over time as the asphalt continues to cure.

If you have any questions or concerns, please don't hesitate to reach out

Accepted on: _____

Accepted by: _____

Signature: _____



ADAMS & SONS PAVING

Marty Adams
25 Briar Ln Arundel Me 04046
adams4paving@gmail.com
cell: 207-467-1507
www.adams4paving.com

FREE ESTIMATES

207-286-3223

FULLY INSURED

WORKMANSHIP GUARANTEED

Proposed work for Driveway

Stage 1: Edge back grass _____
Stage 2: Dig out any roots / old gravel
Stage 3:
-Add gravel to shim and level grade to pitch rain water

- Install approx. 4-6 inches of reclaim with ~~paver~~
to maintain proper drainage and compact with roller
Let settle for approx. 14+ days if needed

Stage 4:
Install approx. 2-3 inches of asphalt surface mix
with paver and compact 3/8 surface
*Stay off new pavement for 9 days

Cost for work described above \$ 21680.00

1/3 Deposit due to schedule work \$ 7200.00

Balance \$ 14480.00

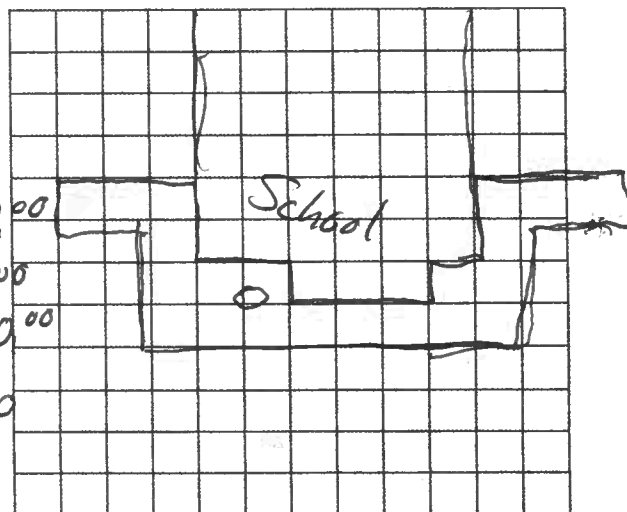
ALL EXTRAS (optional add-ons for an additional cost)

4. <u>reset one man hole ring</u>	\$ <u>275.00</u>
5. _____	\$ _____
6. _____	\$ _____
7. _____	\$ _____

Total balance including extras \$ _____

Biddeford Public Rec.

Name: Lisa Thompson
Address: 189 Alfred St
City: Biddeford
Phone # 207-205-4323 cell
Email: lisa.thompson@biddefordmaine.org
207-283-0841 office



Terms and conditions: Adams Paving proposes to furnish materials and labor to complete the work described above in a professional and prompt manner. Adams Paving may be excused for delays due to weather conditions or other unavoidable contingencies. Any alterations or additions must be covered by a change order. Adams Paving reserves the right to stop work and be paid for the portion of work that has been completed should a dispute arise. **One third payment is required by customer to schedule work.** Remaining balance due upon completion of work unless other terms are stated above. Adams Paving guarantees its workmanship and that materials used are of highest available quality. Adams Paving is not responsible to repair damage caused by weather, animals or the customer. If clay is found when excavating driveway a geofabric liner and additional twelve inch gravel sub-base is recommended for an additional cost TBD with acceptance of change order. If customer opts not to take advice to excavate clay and install liner to prevent settling Adams Paving will not be liable to repair any settling, cracking or deterioration of the driveway. This offer may be withdrawn if not accepted in five business days if required by scheduling.

We will tape off the end of driveway, do not drive on new pavement for 9 days.

Sign: Marty Adams Date: 8-26-25 Sign: _____ Date: _____
Marty Adams pres. Customer name: _____

Check out photos of our work online at www.adams4paving.com



City Council

Meeting September 2, 2025

Date:

Meeting 6:00 PM

Time:

Agenda Item 8.g

No:

Item 2025.118 Approval of Change Order - Irrigation System - J. Richard Martin

Description: Community Playground Project

Submitted Lisa Thompson, CPRP, Recreation Director

By:

Key Terms:

Executive Summary:

To provide details and seek approval of funds for an irrigation system to be added to the new playground project located at the J. Richard Martin Community Center .

Detailed Review:

This information is being provided based on a request from the Council at the August 19, 2025 meeting to include an irrigation system at the new playground currently being installed at the J. Richard Martin Community Center.

Funding Source:

Project cost: \$240,997.20

Change order quote: \$19,800.00

Total project cost :\$260,797.20

Funded through Community Development Block Grant (CDBG) 31117-60314

Staff Recommendation:

Staff recommend the change order as presented.

Next Steps:

Upon approval of this item, Utiliplay will be notified of the award and will be released to schedule and complete the work once all administrative paperwork has been approved and executed.

Attachments:

1. 2025.118 J Richard Martin Community Center Playground Change Order - Irrigation System - ORDER
2. Chang Order Playground Irrigation - QUOTE

City of Biddeford



2025.118

IN BOARD OF CITY COUNCIL... September 2, 2025

BE IT ORDERED, that the City Council of the City of Biddeford hereby approves a project change order in the amount of \$19,800 to Utiliplay of Blackstone Mass., for installation of an irrigation system and associated site work at the J. Richard Martin Community Center as part of the in-progress park renovation project.

NOTE: The funds for the C.O., are covered by the Community Development Block Grant (CDBG) Program, account, 31117-60314.

Attest by: _____



43 Main Street
Blackstone Massachusetts 01504
www.ultiplayus.com

Quote
EST-002469

Bill To
Biddeford ME Parks and Rec

Date : Aug 28, 2025

Ship To
Biddeford ME Parks and Rec
189 Alfred S
Biddeford, ME 04005

Sales Rep : Chris Martin

Rep Email : cmartin@ultiplayus.com

Rep Phone # : 774-287-9182

#	Item & Description	Qty	Rate	Amount
1	Change Order Change order for Credit for returned play tiger \$3,450 additional loam approx 50-100 yards and ground work due to tree removal and site grubbing additional seeding irrigation system	1	19,800.00	19,800.00
			Subtotal	19,800.00
			Total	\$19,800.00

Terms & Conditions

Most of our manufacturing partners are shipping in 6-14 weeks . Quote is valid for 30 days and requires our authorization thereafter. Trash and packaging materials will be consolidated and stacked neatly on Customer's site or placed in Customer's dumpster on site if other arrangements have not been agreed.

Prices in the above Quote are valid under the noted expiration date. If you choose to pay with a credit card, processing fees will be added to the total. Tax will be added to the final invoice unless a tax-exempt certificate is provided. For orders in an amount of \$100 or less, payment in full is required at the time of the order. For all other orders, a minimum 1/3rd deposit is required, unless expressly waived by UltiPlay (Orders from governmental entities are excluded from the deposit requirement).

Orders become final forty-eight (48) hours from receipt of Order Agreement. Orders may NOT be canceled or returned under any circumstances. Items which may be canceled or returned are subject to a twenty (20%) percent restocking fee, plus the cost of return freight. Returned items must be in original packaging, in new condition, and returned within ten (10) days. Authorization for the return must be obtained in writing from UltiPlay. Orders for products, other than those from Playworld, may NOT be canceled or returned.

If we can assist in any way, please reach out to your Sales Representative noted at the top of this document.

Authorized Signature _____
Signature, Title and Date

