

MAINE STATE HOUSING AUTHORITY

APPLICATION

Affordable Housing Tax Increment Financing

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

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

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

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

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

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

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

SECTION 1 – APPLICANT INFORMATION

1-1 Name of applicant city or town: _____

1-2 Municipal official submitting this Application:

Printed name

Title

Mailing address

Phone number

E-mail address

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

Signature

Date

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

Printed name

Title

Mailing address

Phone number

E-mail address

SECTION 2 – NOTICE AND HEARING

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

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

2-1 Date of public notice: _____

Attachment 1 – Newspaper Notice

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

2-2 Date of public hearing: _____

Attachment 2 – Public Hearing Record

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

Attachment 3 – Additional Documents

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

SECTION 3 – MUNICIPAL APPROVAL

Conditions of municipal approval of district and development program

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

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

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

Attachment 4 – Municipal Approval

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

Attachment 5 – District Maps

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

Attachment 6 – Certification of Original Assessed Value of District

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

Attachment 7 – Development Program

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

Attachment 8 – Credit Enhancement or Other Agreement

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

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

Appendix A

Checklist for Approval of District and Development Program

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

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

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

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

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

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

_____ Total acreage of all development districts

_____ Total municipal acreage

_____ Total development district acreage as a percent of total acreage

- ☐ Original assessed value (OAV)* of district

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

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

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

_____ Aggregate OAV of existing and proposed districts

_____ Aggregate taxable property value as of the April 1st before MaineHousing approval

_____ Aggregate OAV as a percent of total taxable value

- ☐ Development program start and end dates

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

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

_____ Last tax year of development program **

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

_____ Municipal fiscal year ***

*** Example: July 1 – June 30

- ☐ The development program meets an identified housing need in municipality

_____ Description of need

_____ Description of how development program meets need

_____ Number of new rental units to be constructed

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

☐ District must be a primarily residential * development

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

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

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

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

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

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

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

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

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

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

_____ Length of affordability period for rental units **

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

_____ Description of affordability mechanism for rental units

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

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

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

- ☐ Operation of housing and facilities in district

_____ Description of how housing and facilities in the district will be operated after completion

_____ Entity responsible for operation

_____ Source of operating funds

☐ Specific planned uses of tax increment revenues from the district *

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

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

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

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

* Include all intended uses and potential alternative uses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Allocation of total tax increment revenues from the district

Portion * to be allocated to project owner

Portion * to be allocated to municipality

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

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

☐ Relocation plan for persons temporarily or permanently displaced by development activities

Relocation plan description, or

Statement that no relocation is necessary

☐ Description of environmental controls to be applied

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

☐ Development program consistent with comprehensive planning

Date of comprehensive plan final adoption

Statement of no conflict with comprehensive plan

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

☐ District not in conflict with municipal charter

_____ Statement of no conflict with municipal charter

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

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

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

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

Appendix B

Tax Shift Formulas

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- Step 5: Determine the estimated average annual county tax over the life of the District. To arrive at this number, determine the average change in county tax for the last five (5) years and the percentage increase projected to the middle of the District's life.
- Step 6: Multiply the projected tax from Step 5 by the percent of county tax shift from Step 4 to determine the county tax shift.

Attachment 1

(Newspaper Notice)

DRAFT

**TOWN OF YARMOUTH
NOTICE OF PUBLIC HEARINGS**

**Regarding
“The Third Amendment to the Downtown Omnibus Municipal Development and Tax
Increment Financing District”;**

**and the designation of an Affordable Housing Tax Increment Financing District to be
known as the “36 Cleaves Street Affordable Housing Tax Increment Financing District”;**

**and “The Second Amendment to the Route 1 North Omnibus Municipal Development and
Tax Increment Financing District”**

Notice is hereby given that the Town of Yarmouth (the “Town”) will hold three public hearings on:

**February 27, 2025
at 196 Main Street, Yarmouth, ME 04096
at 7:00 p.m.**

The purpose of the public hearings is to receive public comments on the following items:

(1) The Third Amendment to the Downtown Omnibus Municipal Development and Tax Increment Financing District and Development Program (the “Downtown Omnibus District”) seeks to remove 0.32 acres from the Downtown Omnibus District in order to allow for a new Affordable Housing District; and

(2) The designation of the 36 Cleaves Street Affordable Housing Tax Increment Financing District (the “36 Cleaves Street AHTIF District”) and adoption of a development program. The 36 Cleaves Street AHTIF District consists of approximately 0.32 acres of property more specifically identified as a portion of Tax Map/Lot 037-006. The program authorizes the Town to enter into a Credit Enhancement agreement with the Developer as listed in the Development Program.

(3) The Second Amendment to the Route 1 North Omnibus Municipal Development and Tax Increment Financing District and Development Program (the “Route 1 North District”) seeks to add 5.60 acres to the district and to add an additional project cost, Economic Development Grant Fund, to allow the Town to use TIF Revenues for grants and loans in support of improvements throughout the Town.

A copy of the relevant materials relating to the proposed amendments to the Downtown Omnibus District and Route 1 North District and the 36 Cleaves Street AHTIF District will be on file with the Town and a copy can be requested from the Town by calling 207-846-2401 during normal business hours prior to the public hearing and requesting a copy be mailed or emailed to you. All interested persons are invited to attend the public hearing and will be given an opportunity to be heard at that time.

Public comments will be taken at the hearing and written comments should be submitted to comments@yarmouth.me.us. Written comments will be accepted until 4:00 pm on February 26, 2025.

Attachment 2

(Minutes of City Council Public Hearing and Vote Results)

DRAFT

Attachment 3

(See Attachment 4)

Attachment 4

(Municipal Approval)

DRAFT

TOWN OF YARMOUTH COUNCIL ORDER
36 Cleaves Street Affordable Housing Development
and Tax Increment Financing District

WHEREAS, there is a need for economic development and for the development of affordable, livable housing in the Town of Yarmouth (the “Town”), in the surrounding region, and in the State of Maine; and

WHEREAS, implementation of the development program for the new affordable housing municipal development and tax increment financing district will help improve and broaden the tax base in the Town and improve the economy in the Town and the region by attracting business development and creating affordable housing in the area of these districts; and

WHEREAS, pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, the Town desires to designate a new affordable housing municipal development and tax increment financing district entitled the ***36 Cleaves Street Affordable Housing Development and Tax Increment Financing District*** (the “District”) and adopt a development program for the District; and

WHEREAS, it is expected that approval will be obtained from the Maine State Housing Authority (“MaineHousing”) approving the designation of the ***36 Cleaves Street Affordable Housing Development and Tax Increment Financing District Development Program***; and

NOW THEREFORE, BE IT ORDERED BY THE TOWN COUNCIL OF THE TOWN OF YARMOUTH, MAINE:

Section 1 Pursuant to Chapter 206, Subchapter 3 of Title 30-A of the Maine Revised Statutes, as amended, the Town hereby designates the ***36 Cleaves Street Affordable Housing Development and Tax Increment Financing District*** and hereby adopts the 36 Cleaves Street Affordable Housing District development program described as more particularly set forth in the documents presented to the Town Council in conjunction with this Order.

Section 2 The Town hereby finds and determines that:

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

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

Section 3 Pursuant to the provisions of 30-A M.R.S. § 5250-A, the percentage of captured assessed value to be retained in the District is hereby established as set forth in the District development program.

Section 4 The Town Manager be, and hereby is, authorized, empowered and directed to submit the proposed designation of the District and the proposed development program for the District to the MaineHousing for review and approval pursuant to the requirements of 30-A M.R.S. Chapter 206, Subchapter 3; and further is authorized to execute a Credit Enhancement Agreement consistent with the provisions of the District development program as presented and approved herein, and to create the accounts and take all the actions described in such agreements.

Section 5 The Town Manager be and hereby is authorized and empowered at his direction from time to time to make such revisions to the District development program for the District as he deems reasonably necessary or convenient in order to facilitate the process of review and approval of the District by MaineHousing, or for any other reason, so long as such provisions are not inconsistent with these resolutions or the basic structure and intent of the District development program. The Town Manager is also hereby authorized and directed to submit any reports to MaineHousing regarding the District and development program throughout the term of the District.

Section 6 The foregoing designation of the District and the adoption of the development program for the District shall automatically become final and shall take full force and effect upon receipt by the Town of approval of the proposed District by the MaineHousing without requirements of further action by the Town, Town Council or any other party.

Attachment 5

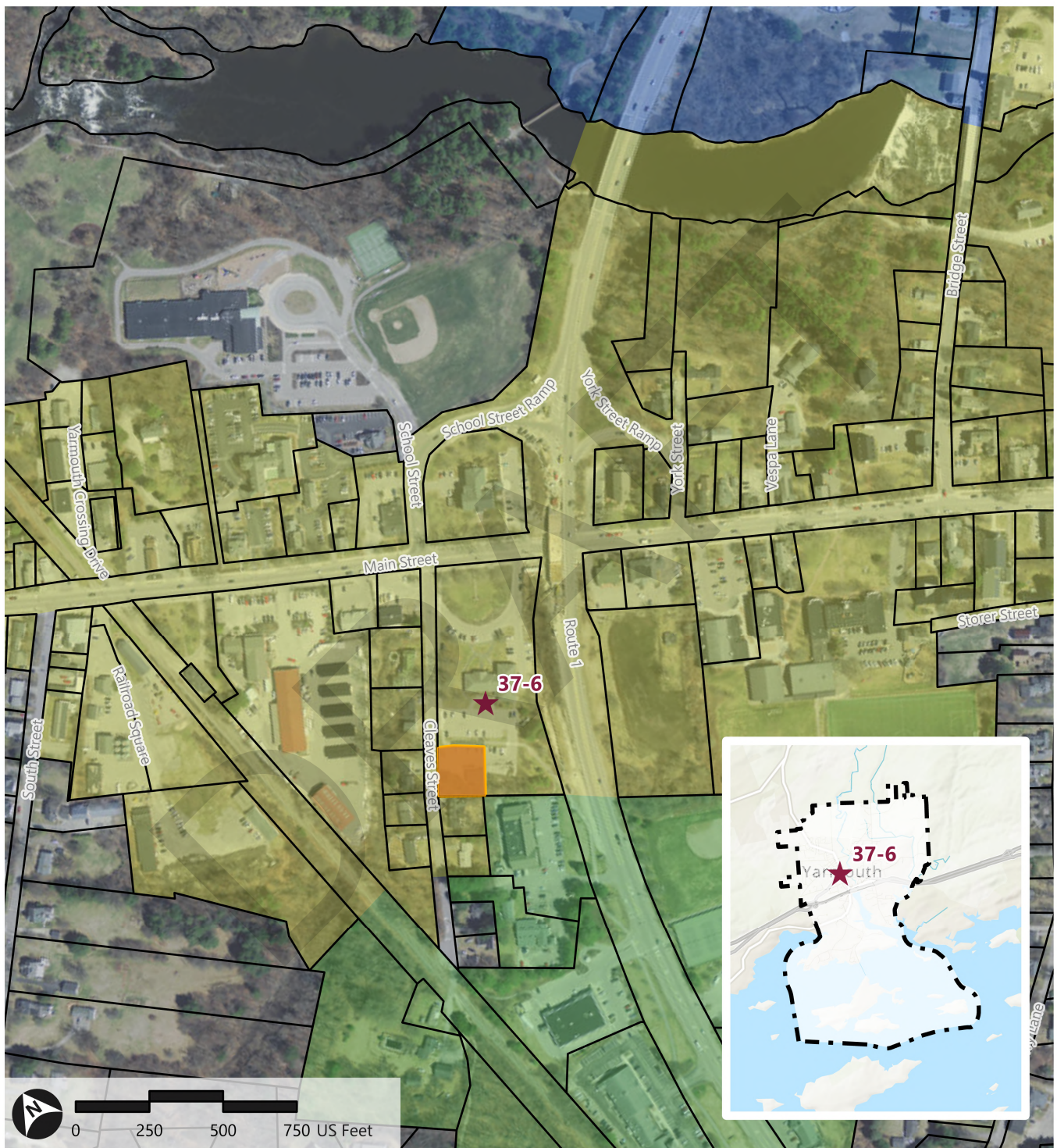
(Maps of District)



Figure 1.1: Affordable Housing District Site Overview Map

Tax Increment Financing District Updates | Yarmouth, Maine

January 09, 2025



- Tax Parcels (GIS)
- ★ Site Location

Tax Increment Financing Districts

- Downtown
- Route 1 North
- Route 1 South
- Affordable Housing

Note: District boundary is approximate pending final survey.

Source: Town of Yarmouth

Path: \\whb.com\gis\proj\SPortland\55529.00 Yarmouth ME GIS On Call\Data\TIF Districts\Pro\Yarmouth TIF District Updates\Yarmouth TIF District Updates.aprx



Figure 1.2: Affordable Housing District Site Map

Tax Increment Financing District Updates | Yarmouth, Maine

January 09, 2025



Path: \\whb.com\gis\proj\SPortland\55529.00 Yarmouth ME GIS On Call\Data\TIF Districts\Pro\Yarmouth TIF District Updates\Yarmouth TIF District Updates.aprx

□ Tax Parcels (GIS)

Tax Increment Financing Districts

□ Downtown

□ Route 1 South

□ Affordable Housing

Affordable Housing Area:
0.32 acres (approximate)

Note: District boundary is approximate
pending final survey.

Source: Town of Yarmouth

Attachment 6

(Certification of Original Assessed Value of District)

DRAFT

Attachment 6

**TOWN OF YARMOUTH
36 CLEAVES STREET AFFORDABLE HOUSING DEVELOPMENT AND TAX
INCREMENT FINANCING DISTRICT**

ASSESSOR'S CERTIFICATE OF ORIGINAL ASSESSED VALUE

The undersigned Assessor for the Yarmouth, Maine, does hereby certify pursuant to the provisions of M 30-A M.R.S. § 5250-A(2) that the original assessed value of the taxable real and personal property in the 0.32-acre 36 Cleaves Street Affordable Housing Development and Tax Increment Financing District (the "District") as described in the Development Program to which this certificate is attached and identified on City Tax Maps as a portion of Tax Map/Lot 037-06 was \$160,400 as of March 31, 2024 (April 1, 2023)¹.

In witness whereof, this Certificate has been executed as of this ____ day of _____ 2025.

Robert Sutherland
Assessor
Town of Yarmouth

¹ The TIF District is a 0.32-acre portion of the 3.30-acre parcel described as Tax/Map 037-06.

Attachment 7

(Development Program)

**36 CLEAVES STREET AFFORDABLE HOUSING MUNICIPAL DEVELOPMENT AND
TAX INCREMENT FINANCING DISTRICT
DEVELOPMENT PROGRAM**

Summary:

36 Cleaves Street, LLC (the “Developer”), a Maine limited liability company, is proposing to develop two (2) nine-unit multi-family residential apartment buildings that will consist of nine (9) one-bedroom units each (the “Project”) in the Town of Yarmouth (the “Town”) with all units designated as affordable as defined in 30-A M.R.S. § 5246(1). The Project is located on Cleaves Street adjacent to the Yarmouth Town Hall, more specifically described as a portion of Tax Map/Lot 037-006.

In order to help provide much needed affordable housing options in the Town, the Developer is requesting Tax Increment Financing to provide subsidies needed to support the ongoing affordability of the Project and fill a crucial gap in the Project’s overall financing. The Developer is requesting a credit enhancement agreement (“CEA”), pursuant to which 75% of the “tax increment” revenues (as defined in 30-A M.R.S. § 5246(14)) will be returned to the Developer each year for a 30-year period following the completion of the proposed construction. The obligation to pay such tax increment revenues would be set forth in the CEA between the Town and the Developer, on usual and customary terms. A copy of the proposed CEA is included as **Attachment 8** to this application.

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

1. Description of the 36 Cleaves Street Affordable Housing Municipal Development and Tax Increment Financing District.

The 36 Cleaves Street Affordable Housing Municipal Development and Tax Increment Financing District (the “District”) consists of a total of a 0.32 -acre parcel of land located on Cleaves Street adjacent to the Yarmouth Town Hall, more specifically described as a portion of Tax Map/Lot 037-006 and as shown on **Attachment 5** hereto. The acreage within the District is zoned within the CD4 Village Center Zoning District, which is defined in Chapter 703 Article III.A of the Character-Based Development Code/Route 1 Corridor and Village Center as: “a medium Density area that has a historic mix of Building Types and Residential, Retail, office and other commercial uses; there are shallow or no front Setbacks and narrow to medium side Setbacks; it has variable private landscaping; and it has Streets with Curbs, Sidewalks, and street trees that define small to medium Blocks” and a variety of housing building types are permitted, including cottages, houses, duplex, apartment, rowhouse, live/work buildings. The Project is proposed to be the development of two (2) nine-unit multi-family residential apartment buildings that will consist of nine (9) one-bedroom units each, and all units will be reserved for households earning at or below 80% of the area median income (AMI).

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

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

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

The acreage in the District is 0.32 acres and the total municipal acreage is 14,673 acres, yielding a District of .0022% of the total municipal acreage.

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

The total acreage of all existing and proposed development districts in Yarmouth is 586.44 acres, and the total municipal acreage is 14,673 acres. The existing development districts and the acreage of each are listed below:

1. Downtown Omnibus TIF:	207.34 acres*
2. Route 1 North Omnibus TIF:	188.63 acres
3. Route 1 South Omnibus TIF:	193.15 acres
4. Bartlett Woods AHTIF:	2.6 acres
5. 36 Cleaves Street AHTIF: (proposed)	0.32 acres

*This acreage represents the Downtown Omnibus TIF Third Amendment application's acreage which was filed with DECD simultaneously with this application.

The proposed 36 Cleaves Street Affordable Housing Development District will be 0.32 acres. The Downtown District are exempt from the calculations of maximum acreage and original assessed values, thus the total acreage of all development districts that count toward the caps is 384.7 acres. The total Town development district acreage (that is not exempt from the calculations) as a percentage of the Town's total acreage is 2.62%.

5. Original assessed value (OAV) of the district

The original assessed value of the district is **\$160,400** as of March 31, 2024 (April 1, 2023). **Attachment 6** is a certification of the original assessed value from the Town of Yarmouth Assessor.

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

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

1. Bartlett Woods AHITF:	\$0.00
2. 36 Cleaves Street AHTIF (proposed):	\$160,400

The proposed District will have an original assessed value of **\$160,400** as of March 31, 2024 (April 1, 2023). The total OAV of all existing and proposed affordable housing development districts in the Town is \$160,400. The total amount of taxable property in the Town as of the most recent municipal valuation return is \$2,847,850,000. The total existing and proposed affordable housing development district original assessed values as a percentage of the Town's total taxable value is 0.006 %.

7. Development program start and end dates.

The Town's Fiscal Year runs from July 1 – June 30. The Development Program shall begin in the April 1, 2025 – March 31, 2026 tax year, upon the approval by the Director of MaineHousing of the Town's application for Tax Increment Financing, and continue for a 30-year period thereafter, ending on March 31, 2055. The credit enhancement agreement will also have a 30-year term, beginning in the April 1, 2025 – March 31, 2026 Tax Year.

8. What housing needs in Yarmouth do the Development Program meet?

The Town has identified the need for additional housing throughout the Town. The Project's 18 affordable units will be located within the downtown area and would support individuals working in the vicinity and/or those with limited income who are unable to secure market rate housing.

9. Is the District a primarily residential development?

The District will be used primarily for residential purposes.

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

The Developer proposes to develop 18 housing units of which all will be affordable and restricted to occupancy by households with income not exceeding 80% of AMI.

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

The property contained within the District will be subject to a long-term restrictive covenant required by MaineHousing as a condition of receiving MaineHousing Rural Affordable Housing Rental Program funds. The restrictive covenant will require that the affordable units in the District be restricted to households with income not exceeding 80% of area median, and that the rent levels that can be charged will be limited as provided by MaineHousing. The restrictive covenant will be the senior encumbrance on the property and will run for a 45-year period after the completion of the Project.

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

The Project in the District will be owned by 36 Cleaves Street, LLC, a Maine limited liability company, and managed by 36 Cleaves Street, LLC. Funding during operations will come from revenue generated by rental of the units in the project.

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

The Town intends to capture 100% of the tax revenue on the increased assessed value in the District each tax year. The captured revenue will be split between the Town and the Developer pursuant to the terms of the Credit Enhancement Agreement, which provides for up to 75% of the captured revenue associated with the Project to be reimbursed to the Developer and 25% to be retained for the Town for the project costs listed below.

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

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

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

PROJECT	STATUTORY CITATION	COST ESTIMATE	ANTICIPATED AMOUNT TO BE FUNDED BY TIF REVENUES
Capital Costs: Real property assembly costs.	30-A M.R.S. §5249 (1)(A)(3)	\$100,000	\$25,000
Professional Costs: Professional Service Costs, including, but not limited to, licensing, architectural, planning, engineering and legal expenses.	30-A M.R.S. §5249 (1)(A)(4)	\$150,000	\$37,500
Administrative Costs: Organizational costs relating to the establishment of the affordable housing district, including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public about the creation of affordable housing development districts and the implementation of project plans	30-A M.R.S. §5249 (1)(A)(7)	\$75,000	\$18,750

Recreational Construction and Improvements: Costs of facilities used predominantly for recreational purposes, including, but not limited to, recreation centers, athletic fields and swimming pools	30-A M.R.S. §5249 (1)(A)(8)	\$250,000	62,500
Infrastructure-Related Improvements: Costs reasonably related to the construction, alteration or expansion of any facilities not located within the district that are required due to improvements or activities within the district, including, but not limited to, sewage treatment plants, water treatment plants or other environmental protection devices; storm or sanitary sewer lines; water lines; electrical lines; improvements to fire stations; and amenities on streets	30-A M.R.S. §5249 (1)(B)(1)	\$500,000	\$125,000
Public Safety Facilities and Equipment: Costs of public safety improvements made necessary by the establishment of the district	30-A M.R.S. §5249 (1)(B)(2)	\$100,000	\$25,000
Housing Development Revolving Loan & Investment Fund: Costs to establish permanent housing development revolving loan funds or investment funds	30-A M.R.S. §5249 (1)(B)(4)	500,000	125,000
	TOTAL	\$1,675,000	\$418,750

The Town project costs listed above are made necessary by the establishment of the District, as the Town anticipates increased vehicle and pedestrian traffic in the area when adding 18 new housing units. The Project does not include the amount of parking to accommodate all of the apartments, so residents will need to utilize on-street parking and public lots, creating an increased impact on the public parking inventory.

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

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

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

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

The Town expects to establish the fund within twelve (12) months of District approval by MaineHousing.

The fund will be used solely for the development of affordable permanent housing as defined in Title 30-A M.R.S. § 5246(1). Types of permanent housing to be developed will be single family homes, condominiums, and apartments or other rental housing units intended to be occupied by a household on a continuing basis. Shelters, nursing homes, convalescent homes, hospitals, residential treatment facilities, correctional facilities, or student dormitories will not be eligible to receive these funds.

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

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

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

The Project will be new construction on a vacant site. No persons will be displaced by the development activities.

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

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

18. Is the development program consistent with Yarmouth's comprehensive planning?

The Town's comprehensive plan was adopted on May 15, 2024. Based on information provided by the Town's Planning & Development Department, the Development Program does not conflict with the Comprehensive Plan.

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

19. Is the District in conflict with Yarmouth's municipal charter?

The District and Development Program are not in conflict with Yarmouth's municipal charter.

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

Not applicable.

Captured Assessed Value & TIF Revenue Projections
36 Cleaves Street Affordable Housing Tax Increment Financing District

Fiscal Year	TIF Year	Original Assessed Value	Projected Increased Assessed Value	Estimated Assessment Ratio	Percent Value Captured in TIF	Captured Assessed Project Value	Projected Mill Rate	Projected Total TIF Revenue	Projected Developer TIF Revenue (75%)	Projected Town TIF Revenue (25%)
2025-2026	1	\$160,400	\$160,400	94%	100%	\$150,776	25.67	\$3,870	\$2,903	\$968
2026-2027	2	\$160,400	\$4,316,960	100%	100%	\$4,316,960	15.00	\$64,754	\$48,566	\$16,189
2027-2028	3	\$160,400	\$4,316,960	100%	100%	\$4,316,960	15.00	\$64,754	\$48,566	\$16,189
2028-2029	4	\$160,400	\$4,316,960	100%	100%	\$4,316,960	15.00	\$64,754	\$48,566	\$16,189
2029-2030	5	\$160,400	\$4,316,960	100%	100%	\$4,316,960	15.00	\$64,754	\$48,566	\$16,189
2030-2031	6	\$160,400	\$4,316,960	100%	100%	\$4,316,960	15.00	\$64,754	\$48,566	\$16,189
2031-2032	7	\$160,400	\$4,316,960	100%	100%	\$4,316,960	15.00	\$64,754	\$48,566	\$16,189
2032-2033	8	\$160,400	\$4,316,960	100%	100%	\$4,316,960	15.00	\$64,754	\$48,566	\$16,189
2033-2034	9	\$160,400	\$4,316,960	100%	100%	\$4,316,960	15.00	\$64,754	\$48,566	\$16,189
2034-2035	10	\$160,400	\$4,316,960	100%	100%	\$4,316,960	15.00	\$64,754	\$48,566	\$16,189
2035-2036	11	\$160,400	\$4,316,960	100%	100%	\$4,316,960	15.00	\$64,754	\$48,566	\$16,189
2036-2037	12	\$160,400	\$4,316,960	100%	100%	\$4,316,960	15.00	\$64,754	\$48,566	\$16,189
2037-2038	13	\$160,400	\$4,316,960	100%	100%	\$4,316,960	15.00	\$64,754	\$48,566	\$16,189
2038-2039	14	\$160,400	\$4,316,960	100%	100%	\$4,316,960	15.00	\$64,754	\$48,566	\$16,189
2039-2040	15	\$160,400	\$4,316,960	100%	100%	\$4,316,960	15.00	\$64,754	\$48,566	\$16,189
2040-2041	16	\$160,400	\$4,316,960	100%	100%	\$4,316,960	15.00	\$64,754	\$48,566	\$16,189
2041-2042	17	\$160,400	\$4,316,960	100%	100%	\$4,316,960	15.00	\$64,754	\$48,566	\$16,189
2042-2043	18	\$160,400	\$4,316,960	100%	100%	\$4,316,960	15.00	\$64,754	\$48,566	\$16,189
2043-2044	19	\$160,400	\$4,316,960	100%	100%	\$4,316,960	15.00	\$64,754	\$48,566	\$16,189
2044-2045	20	\$160,400	\$4,316,960	100%	100%	\$4,316,960	15.00	\$64,754	\$48,566	\$16,189
2045-2046	21	\$160,400	\$4,316,960	100%	100%	\$4,316,960	15.00	\$64,754	\$48,566	\$16,189
2046-2047	22	\$160,400	\$4,316,960	100%	100%	\$4,316,960	15.00	\$64,754	\$48,566	\$16,189
2047-2048	23	\$160,400	\$4,316,960	100%	100%	\$4,316,960	15.00	\$64,754	\$48,566	\$16,189
2048-2049	24	\$160,400	\$4,316,960	100%	100%	\$4,316,960	15.00	\$64,754	\$48,566	\$16,189
2049-2050	25	\$160,400	\$4,316,960	100%	100%	\$4,316,960	15.00	\$64,754	\$48,566	\$16,189
2048-2050	26	\$160,400	\$4,316,960	100%	100%	\$4,316,960	15.00	\$64,754	\$48,566	\$16,189
2049-2051	27	\$160,400	\$4,316,960	100%	100%	\$4,316,960	15.00	\$64,754	\$48,566	\$16,189
2048-2051	28	\$160,400	\$4,316,960	100%	100%	\$4,316,960	15.00	\$64,754	\$48,566	\$16,189
2049-2052	29	\$160,400	\$4,316,960	100%	100%	\$4,316,960	15.00	\$64,754	\$48,566	\$16,189
2048-2052	30	\$160,400	\$4,316,960	100%	100%	\$4,316,960	15.00	\$64,754	\$48,566	\$16,189

30-year total: \$1,881,748 \$1,411,311 \$470,437
30-year average: \$62,725 \$47,044 \$15,681

Assumptions:

- Projections show anticipated increased assessed values, captured assessed values, and TIF revenues.
- Assumes a 30-year district term.
- Projections assume a mil rate of 25.67 for 2024-2025 as reported by the Town of Yarmouth Assessor. The Town is undergoing a revaluation in 2025 and the mil rate is estimated to be 15.00 per the Town of Yarmouth Assessor.
- Assumes 94% of the increased assessed value is captured in the District and available for municipal project costs prior to the revaluation, which will bring the certified ratio to 100%
- The assessment ratio is a key metric used by municipalities—in conjunction with quality rating and sales—to ensure properties are assessed uniformly across the municipality, promoting fairness in property taxation. This ratio is adjusted by the Assessor/Assessor Agent within a statutory range in an attempt to value all taxable parcels as close as possible to 100% of their market value, thereby ensuring property taxes remain equitable and reflect current market conditions, while standardizing the portion of taxable market value to fairly distribute the tax burden within a municipality.
- Projections are much less likely to be accurate farther into the future and are for demonstrative purposes only.
- The preceding financial information contains projections and forward-looking statements that are subject to a number of risks and uncertainties that could cause the actual results, performance, or achievements to differ materially from any future results, performances, or achievements expressed or implied by the financial information reported in this projection. The model is not, nor is it intended to be, an appraisal or guarantee of an assessed value, and there may be positive or negative variations in the actual assessment of the project due to variety of factors, including without limitation, the employment of alternative methods of valuation and then-current market conditions.

Tax Shift Benefits

36 Cleaves Street Affordable Housing Tax Increment Financing District

Fiscal Year	TIF Year	State Aid to Education Benefit	County Tax Benefit	State Revenue Sharing Benefit	Total Tax Benefit
2025-2026	1	-	-	-	\$0
2026-2027	2	-	-	-	\$0
2027-2028	3	-	\$80	\$250	\$329
2028-2029	4	\$920	\$2,285	\$7,142	\$10,347
2029-2030	5	\$26,333	\$2,285	\$7,142	\$35,761
2030-2031	6	\$26,333	\$2,285	\$7,142	\$35,761
2031-2032	7	\$26,333	\$2,285	\$7,142	\$35,761
2032-2033	8	\$26,333	\$2,285	\$7,142	\$35,761
2033-2034	9	\$26,333	\$2,285	\$7,142	\$35,761
2034-2035	10	\$26,333	\$2,285	\$7,142	\$35,761
2035-2036	11	\$26,333	\$2,285	\$7,142	\$35,761
2036-2037	12	\$26,333	\$2,285	\$7,142	\$35,761
2037-2038	13	\$26,333	\$2,285	\$7,142	\$35,761
2038-2039	14	\$26,333	\$2,285	\$7,142	\$35,761
2039-2040	15	\$26,333	\$2,285	\$7,142	\$35,761
2040-2041	16	\$26,333	\$2,285	\$7,142	\$35,761
2041-2042	17	\$26,333	\$2,285	\$7,142	\$35,761
2042-2043	18	\$26,333	\$2,285	\$7,142	\$35,761
2043-2044	19	\$26,333	\$2,285	\$7,142	\$35,761
2044-2045	20	\$26,333	\$2,285	\$7,142	\$35,761
2045-2046	21	\$26,333	\$2,285	\$7,142	\$35,761
2046-2047	22	\$26,333	\$2,285	\$7,142	\$35,761
2047-2048	23	\$26,333	\$2,285	\$7,142	\$35,761
2048-2049	24	\$26,333	\$2,285	\$7,142	\$35,761
2049-2050	25	\$26,333	\$2,285	\$7,142	\$35,761
2050-2051	26	\$26,333	\$2,285	\$7,142	\$35,761
2051-2052	27	\$26,333	\$2,285	\$7,142	\$35,761
2052-2053	28	\$26,333	\$2,285	\$7,142	\$35,761
2053-2054	29	\$26,333	\$2,285	\$7,142	\$35,761
2054-2055	30	\$26,333	\$2,285	\$7,142	\$35,761
2055-2056		\$26,333	\$2,285	\$7,142	\$35,761
2056-2057		\$26,333	\$2,285	\$7,142	\$35,761
2057-2058		\$26,333	-	-	\$26,333
Totals:		\$764,590	\$66,358	\$207,369	\$1,038,316
Averages:		\$25,486	\$2,212	\$6,912	\$33,733

Assumptions:

1. Data sources include the 2025 mill rate reported by the Town Assessor, Cumberland County's 2025-2026 Manager's Budget, the State Treasurer's Office Municipal Revenue Sharing projections for FY2025, published 07/18/24, and the Maine Department of Education 01/27/25 2025-2026 ED 279 form for Yarmouth Schools.
2. Tax shift losses are comprised of declining subsidies in revenue sharing and increasing obligations to pay county taxes. Tax shift losses occur a couple of years following the year in which the new assessed value is first recognized in the assessment. No tax shift losses occur when a TIF captures all of the new value.
3. These projections assume that the formulas and general inputs for state subsidies and county taxes do not change over time and they assume that all other values in other communities are static relative to one another except for the new value assessed. The projections are less likely to be accurate farther into the future.
4. Assumes the assessment ratio in the Town is 63% when new property value arrives, such that the market value of new property is used for assessment purposes.
5. The projections above assume that no tax increment financing district is put in place, thus the mil rate is reduced by the influx of new value in the Town. This analysis factors in tax shift impacts resulting from the project's new assessed value into future commitments and mil rate calculations to arrive at projected property tax payments.

Attachment 8

(Credit Enhancement Agreement)

CREDIT ENHANCEMENT AGREEMENT

between

THE TOWN OF YARMOUTH, MAINE

AND

36 CLEAVES STREET, LLC

DATE: _____, 2025

TABLE OF CONTENTS

ARTICLE I DEFINITIONS.....	1
Section 1.1. <u>Definitions</u>	1
Section 1.2. <u>Interpretation and Construction</u>	3
ARTICLE II DEVELOPMENT PROGRAM FUND AND FUNDING REQUIREMENTS	3
Section 2.1. <u>Creation of Development Program Fund</u>	3
Section 2.2. <u>Liens</u>	4
Section 2.3. <u>Captured Assessed Value; Deposits into Development Program Fund</u>	4
Section 2.4. <u>Use of Monies in the Developer Project Cost Subaccount of the Development Program Fund</u>	5
Section 2.5. <u>Monies Held in Segregated Account</u>	5
ARTICLE III PAYMENT OBLIGATIONS	5
Section 3.1. <u>Developer Payments</u>	5
Section 3.2. <u>Failure to Make Payment</u>	6
Section 3.3. <u>Manner of Payments</u>	6
Section 3.4. <u>Obligation Unconditional</u>	6
Section 3.5. <u>Limited Obligation</u>	6
ARTICLE IV PLEDGE AND SECURITY INTEREST.....	6
Section 4.1. <u>Pledge of Developer Project Cost Subaccount</u>	7
Section 4.2. <u>Perfection of Interest</u>	7
Section 4.3. <u>Further Instruments</u>	7
Section 4.4. <u>No Disposition of the Developer Project Cost Subaccount</u>	8
Section 4.5. <u>Access to Books and Records</u>	8
ARTICLE V DEFAULTS AND REMEDIES	8
Section 5.1. <u>Events of Default</u>	8
Section 5.2. <u>Remedies on Default</u>	9
Section 5.3. <u>Remedies Cumulative</u>	9
ARTICLE VI EFFECTIVE DATE, TERM AND TERMINATION	9
Section 6.1. <u>Effective Date and Term</u>	10
Section 6.2. <u>Cancellation and Expiration of Term</u>	10
ARTICLE VII ASSIGNMENT AND PLEDGE OF DEVELOPER'SS INTEREST	10
Section 7.1. <u>Consent to Pledge, Collateral Assignment or Grant of a Security Interest</u>	10
Section 7.2. <u>Transfer</u>	10
ARTICLE VIII MISCELLANEOUS	11
Section 8.1. <u>Successors</u>	11
Section 8.2. <u>Parties-in-Interest</u>	11
Section 8.3. <u>Severability</u>	11
Section 8.4. <u>No Personal Liability of Officials of the Town</u>	11
Section 8.5. <u>Counterparts</u>	11
Section 8.6. <u>Governing Law</u>	12
Section 8.7. <u>Notices</u>	12
Section 8.8. <u>Amendments</u>	12
Section 8.9. <u>Records</u>	12
Section 8.10. <u>Tax Laws and Valuation Agreement</u>	13
Section 8.11. <u>Integration</u>	13
Section 8.12. <u>Reserved</u>	13
Section 8.13. <u>Dispute Resolution</u>	13

THIS CREDIT ENHANCEMENT AGREEMENT dated as of _____, 2025, between the Town of Yarmouth, a political subdivision of the State of Maine (the “Town”), and 36 Cleaves Street, LLC (the “Developer”), a Maine limited liability company.

WITNESSETH THAT

WHEREAS, the Town designated the 36 Cleaves Street Affordable Housing Development and Tax Increment Financing (“TIF”) District (the “District”) pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, by vote of the Town Council at a meeting duly called, noticed, and held on February 27, 2025 (the “Vote”), and pursuant to the Vote adopted a development program and financial plan for the District (the “Development Program”); and

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

WHEREAS, within the Development Program, and as contemplated thereby, the Town Council authorized the execution and delivery of the credit enhancement agreement by the Town Manager, in the name of and on behalf of the Town, if such credit enhancement agreement meets the requirements of the Development Program; and

WHEREAS, the Town and Developer desire and intend that this Credit Enhancement Agreement be and constitute such the credit enhancement agreement as contemplated by and described in the Development Program; and

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

**ARTICLE I
DEFINITIONS**

Section 1.1. Definitions.

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

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

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

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

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

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

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

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

“District” shall have the meaning given such term in the first recital hereto, which is more specifically comprised of approximately 0.32 acres of real property and identified in an attachment to the Development Program.

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

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

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

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

“Original Assessed Value” means \$160,400, the taxable assessed real property value of the District as of March 31, 2024 (April 1, 2023).

“Project” means the planned two (2) nine-unit multi-family residential apartment buildings that will consist of nine (9) one-bedroom units each, to be located in the District.

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

“State” means the State of Maine.

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

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

“Tax Year” shall have the meaning given such term in Title 30-A M.R.S. § 5222(18), as amended, to wit: April 1 to March 31.

Section 1.2. Interpretation and Construction.

In this Agreement, unless the context otherwise requires:

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

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

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

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

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

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

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

ARTICLE II DEVELOPMENT PROGRAM FUND AND FUNDING REQUIREMENTS

Section 2.1. Creation of Development Program Fund.

Within sixty (60) days after the Effective Date of the Development Program, the Town shall create and establish a segregated fund in the name of the Town designated as the 36 Cleaves Street Affordable Housing Development and Tax Increment Financing District Program Fund (the “Development Program Fund”) pursuant to, and in accordance with the terms and conditions of, the Development Program and 30-A M.R.S. § 5250-A(3). The Development Program Fund shall include a project cost account (the “Project Cost Account”) within which the Town shall maintain a subaccount for Town project costs (the “Town Project Cost Subaccount”) and a subaccount for Developer project costs (the “Developer Project Cost Subaccount”). The Developer Project Cost

Subaccount is pledged to and charged with the payment of costs in the manner and priority provided in 30-A M.R.S. § 5250-A(3)(A)(1) and as set forth in Section 3.1(b) below.

Section 2.2. Liens.

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

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

(a) Each year during the term of this Agreement, with the 2025-2026 Tax Year and continuing for a period of thirty (30) years until 2054-2055 (collectively, the “CEA Years”), the Town shall retain in the District 100% of the Increased Assessed Value as Captured Value.

(b) For each of the CEA Years, the Town shall deposit into the Development Program Fund contemporaneously with each payment of Property Taxes during the term of this Agreement an amount equal to one hundred percent (100%) of that portion of the property tax payment constituting Tax Increment Revenues. Contemporaneously therewith, in each CEA Year, the Town shall then allocate seventy-five percent (75%) of the Tax Increment Revenues so deposited in the Development Program Fund to the Developer Project Cost Subaccount of the Project Cost Account. The Town shall allocate twenty-five percent (25%) of the Tax Increment Revenues so deposited in the Development Program Fund to the Town Project Cost Subaccount.

(c) Notwithstanding anything herein to the contrary, if the District property becomes exempt from the obligation to pay property taxes, after application by the owner of the District property to the Town for such exemption, then upon the granting of such exemption, this Agreement shall terminate and no further deposit or payment obligations on the part of the Town shall exist.

(d) Any and all revenues resulting from investment earnings on deposits in the Development Program Fund shall be retained in the Development Program Fund and applied for Development Program purposes relating to the Development Program Fund as prescribed by 30-A M.R.S. Section 5250-A(3).

(e) Notwithstanding anything to the contrary contained herein, the Town shall have the authority to decide to discontinue all or a portion of the Town Project Cost Subaccount deposits and instead make those deposits to the Town’s general fund without further action or consents required by Developer; however, such action shall follow any required procedure under to Maine Law.

Section 2.4. Use of Monies in the Developer Project Cost Subaccount of the Development Program Fund.

All monies in the Development Program Fund that are allocable to and/or deposited in the Developer Project Cost Subaccount shall in all cases be used and applied to fund fully the Town's payment obligations to Developer, as described in Articles II and III hereof. Developer shall use the Tax Increment Revenues solely for the purpose set forth in the Development Program and pursuant to 30-A M.R.S. § 5249.

Section 2.5. Monies Held in Segregated Account.

All monies required to be deposited with or paid into the Development Program Fund under the provisions hereof and the provisions of the Development Program shall be held by the Town for the uses specified in the Development Program.

Any and all revenues resulting from investment earnings on deposits in the Development Program Fund shall be retained in the Development Program Fund and applied for Development Program purposes relating to the Development Program Fund as prescribed by 30-A M.R.S.A §5250-A(3). Funds may be transferred between Development Program Fund sub-accounts as required to meet Program obligations.

**ARTICLE III
PAYMENT OBLIGATIONS**

Section 3.1. Developer Payments.

- (a) The Town agrees to pay Developer, within thirty (30) days following the Tax Payment Date, all amounts then on deposit in the Developer Project Cost Subaccount.
- (b) All payments made by the Town to the Developer hereunder shall be used to pay directly or to reimburse the Developer for operating costs as set forth in the Development Program.
- (c) Notwithstanding anything to the contrary contained herein, if, with respect to any Tax Payment Date, any portion of the property taxes assessed against real or personal property located in the District remain unpaid, for any reason other than a bona fide valuation dispute being pursued by Developer, the property taxes actually paid with respect to such Tax Payment Date shall, first, be applied to taxes due on account of Original Assessed Value; and second, shall constitute payment of Property Taxes with respect to Captured Assessed Value to be applied to payment in full of the amount to be deposited in the Town Project Cost Subaccount for the year concerned; and third, shall constitute payment of Property Taxes with respect to Captured Assessed Value to be applied to payment of Developer's share of the Tax Increment Revenues for the year concerned and deposited into Developer Project Cost Subaccount. In such case, no payment of the Developer's share of the Tax Increment Revenues for the year concerned will be deposited into the Developer Project Cost Subaccount until such property taxes assessed against real or personal property located in the District are paid in full.

Section 3.2. Failure to Make Payment.

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

Section 3.3. Manner of Payments.

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

Section 3.4. Obligation Unconditional.

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

Section 3.5. Limited Obligation.

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

**ARTICLE IV
PLEDGE AND SECURITY INTEREST**

Section 4.1. Pledge of Developer Project Cost Subaccount.

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

Section 4.2. Perfection of Interest.

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

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

Section 4.3. Further Instruments.

The Town shall, upon the reasonable request of Developer, from time to time execute and deliver such further instruments and take such further action as may be reasonable and as may be required to carry out the provisions of this Agreement; provided, however, that no such instruments or actions shall pledge the credit of the Town; and provided further that the cost of executing and delivering such further instruments (including the reasonable and related costs of counsel to the Town with respect thereto) shall be borne exclusively by Developer.

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

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

Section 4.5. Access to Books and Records.

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

**ARTICLE V
DEFAULTS AND REMEDIES**

Section 5.1. Events of Default.

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

- (a) Any failure by the Town to make payments due when the same shall become due and payable;
- (b) Any failure by the Town to make deposits into the Developer Project Cost Subaccount as and when due;
- (c) Any failure by the Town or Developer to observe and perform in all material respects any covenant, condition, agreement, or provision contained herein on the part of the Town or Developer to be observed or performed, which failure is not cured within thirty (30) days following written notice thereof;
- (d) If a decree or order of a court or agency or supervisory authority having jurisdiction in the premises of the appointment of a conservator or receiver or liquidator of, any insolvency, readjustment of debt, marshaling of assets and liabilities or similar proceedings, or for the winding up or liquidation of Developer’s affairs shall have been entered against Developer or Developer shall have consented to the appointment of a conservator or receiver or liquidator in any such proceedings of or relating to Developer or relating to all or substantially all of its property, including without limitation the filing of a voluntary petition in bankruptcy by Developer or the failure by Developer to have an involuntary petition in bankruptcy dismissed within a period of ninety (90) consecutive days following its filing or in the event an order for release has been entered under the Bankruptcy Code with respect to Developer;
- (e) If any secured lender of Developer accelerates the indebtedness owed to it;

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

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

(h) Any discontinuance of the District property as "affordable housing," pursuant to the definition contained in 30-A M.R.S. § 5246.

Section 5.2. Remedies on Default.

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

Section 5.3. Remedies Cumulative.

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

ARTICLE VI EFFECTIVE DATE, TERM AND TERMINATION

Section 6.1. Effective Date and Term.

(a) Notwithstanding any other provision of this Agreement, this Agreement is conditioned upon receipt of MaineHousing's unconditional approval of the Town's designation of the District and adoption of the Development Program. Following execution and delivery of this Agreement, the Agreement shall not be or become binding and enforceable until receipt of such unconditional approval.

(b) From the date of execution and delivery of this Agreement, the Agreement shall remain in full force and effect until the completion of the CEA Years as herein defined, unless even sooner terminated pursuant to any applicable provision of this Agreement.

Section 6.2. Cancellation and Expiration of Term.

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

**ARTICLE VII
ASSIGNMENT AND PLEDGE OF DEVELOPER'S INTEREST**

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

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

Section 7.2. Transfer

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

ARTICLE VIII MISCELLANEOUS

Section 8.1. Successors.

In the event of the dissolution, merger, or consolidation of the Town or Developer or a properly authorized transferee or assignee pursuant to Section 7.2, the covenants, stipulations, promises, and agreements set forth herein, by or on behalf of or for the benefit of such party shall bind or inure to the benefit of the successors and assigns thereof from time to time and any entity, officer, board, commission, agency, or instrumentality to whom or to which any power or duty of such party shall be transferred. Notwithstanding this Subsection 8.1, unless the Town affirmatively approves of such action, the Town shall have the unilateral right to terminate this Agreement upon the dissolution, merger, or consolidation of Developer, and if it exercises such right shall not be obligated to comply with this Agreement thereafter.

Section 8.2. Parties-in-Interest.

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

Section 8.3. Severability.

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

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

No covenant, stipulation, obligation, or agreement of the Town contained herein shall be deemed to be a covenant, stipulation, or obligation of any present or future elected or appointed official, officer, agent, servant, or employee of the Town in his or her individual capacity, and neither the Town Council nor any official, officer, employee, or agent of the Town shall be liable personally with respect to this Agreement or be subject to any personal liability or accountability by reason hereof.

Section 8.5. Counterparts.

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

Section 8.6. Governing Law.

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

Section 8.7. Notices.

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

If to the Town:

Scott LaFlamme, M.P.A
Town Manager
200 Main Street
Yarmouth, ME 04096

With a copy to:

Philip Saucier, Esq.
Bernstein Shur
100 Middle Street
P.O. Box 9729
Portland, Maine 04104-5029

If to Developer:

36 Cleaves Street, LLC
156 West Elm Street
Yarmouth, ME 04096

With a copy to:

Peter W. Drum, Esq.
17 Bristol Road
Damariscotta, ME 04543

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

Section 8.8. Amendments.

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

Section 8.9. Records.

The Town shall maintain records which are adequate in all respects to make the calculation of Increased Assessed Value and Tax Increment Revenues required to calculate the deposits into

the Development Program Fund hereunder, and shall provide to Developer, upon request by Developer, a summary of such calculations.

Section 8.10. Tax Laws and Valuation Agreement.

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

Section 8.11. Integration.

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

Section 8.12. Reserved.

Section 8.13. Dispute Resolution.

In the event of a dispute regarding this Agreement or the transactions contemplated by it, the parties hereto will use all reasonable efforts to resolve the dispute on an amicable basis. If the dispute is not resolved on that basis within sixty (60) days after one party first brings the dispute to the attention of the other party, then either party may refer the dispute for resolution by one arbitrator mutually agreed to by the parties, and judgment on the award rendered by the arbitrator may be entered in any Maine state court having jurisdiction. Any such arbitration will take place in Yarmouth, Maine or such other location as mutually agreed by the parties. The parties acknowledge that arbitration shall be the sole mechanism for dispute resolution under this Agreement. Provided however, that in the event the parties are unable to agree, within a reasonable period, on the selection of an arbitrator, either party may file suit to resolve the dispute in any court having jurisdiction within the State of Maine. This arbitration clause shall not bar the Town's assessment or collection of property taxes in accordance with law, including by judicial proceedings, including tax lien thereof.

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

DRAFT

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

WITNESS:

TOWN OF YARMOUTH

By: _____
Name: Scott LaFlamme, M.P.A.
Its Town Manager as Authorized by the Town
Council on February 27, 2025

DRAFT

WITNESS:

36 CLEAVES STREET, LLC

_____ By: _____
Name:
Title:

DRAFT