



Town of Brunswick

Affordable Housing Support Fund

Housing Committee Manual



Manual List of Contents

1. AHSF Ordinance
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Chapter 8 Housing of the Town's Code of Ordinance is amended to add the following:

Article V. AFFORDABLE HOUSING SUPPORT FUND

Sec. 8-130. – Establishment of Affordable Housing Support Fund.

The Town hereby establishes the Affordable Housing Support Fund (“AHSF”) as a financial economic development incentive to support investment in affordable housing across the housing continuum that is determined to be a public benefit.

The Affordable Housing Support Fund will:

- support the construction of affordable housing through targeted investments in land acquisition and infrastructure improvements;
- support Brunswick's Comprehensive Plan, and other related Town Plans and Policies;
- assist the Housing Committee with implementation of its action plan and the various strategies for production, preservation, and direct assistance to support development of affordable housing; and
- stimulate and leverage private sector investment in housing development that serves households at or below 80% Area Median Income (AMI).

“Affordable Housing” shall be defined as set forth in the Zoning Ordinance.

Sec. 8-131. – Rules and Regulations.

Guidelines for use of the AHSF shall be outlined in an Affordable Housing Support Fund Operations Manual (“Manual”) to be approved by Town Council Order, as may be amended from time to time. Until the Manual is adopted, any grant from the AHSF shall be approved by the Town Council. The Manual shall include, at minimum, criteria for the evaluation of applications, sample grant agreements, and guidelines regarding disbursement and any agreements or restrictions pertaining to externally sourced funds deposited in the AHSF. The Manual may delegate authority to issue grants to the Housing Committee, Town Manager, or Economic Development Director.

Sec. 8-132. – Use of Fund.

The Town Council, after receipt of a recommendation from the Housing Committee, may expend funds from the AHSF for the following:

(1) Issuance of grants through a competitive application and award process to support the production, preservation, and rehabilitation of safe, quality, and affordable housing, to include:

- a. Gap funding;
- b. Construction costs;

- c. Pre-development costs;
- d. Acquisition costs; e. Rehabilitation of existing housing; and
- d. Other direct assistance programs as may be developed by the Housing Committee from time to time.

(2) Purchase and acquisition of fee simple interests and any lesser interests, including deed restrictions, development rights or easements, in any real property situated within the territorial limits of the Town, including any improvements on that real property, provided that all purchases or acquisitions are consistent with the purposes of this Article and will ultimately be conveyed, transferred, or sold to an affordable housing agency or developer. Any proposed acquisition or sale of any real property interest(s) and any proposed use of land pursuant to this Article shall be referred to the Housing Committee for its review and recommendation(s).

Sec. 8-133. Administration of Fund.

- (1) The Housing Committee shall serve as an advisory body for the management of the AHSF and its programs.
- (2) Deposits into the AHSF shall include:
 - a. Any funds appropriated to be deposited into the AHSF by vote of the Town Council;
 - b. Voluntary contributions of money or other liquid assets and all the net proceeds from disposal of real property donated to the City specifically for the benefit of the AHSF and accepted by vote of the Town Council;
 - c. Interest from deposits and investments of the AHSF;
 - d. Thirty percent (30%) of the net proceeds from the sale of improved real property, other than tax-acquired property, owned by the Town but not donated specifically for the benefit of the AHSF, unless this net sale proceeds requirement is waived by the Town Council for good cause shown;
 - e. Any federal, State or other grant and/or loan funds received for the benefit of the AHSF and the programs it supports; and
 - f. Any authorized transfer of revenues generated in accordance with an approved Affordable Housing Tax Increment Financing (AH-TIF) Development Program. All expenses lawfully incurred in carrying out this Article must be evidenced by proper vouchers and accounting practices.
- (3) Funds originating from any federal, State or other grant may be sequestered within the fund and administered and used in accordance with the particular requirements of the grant or loan, notwithstanding any deviation from the Manual.
- (4) The Town shall prudently invest available assets of the AHSF and all income from any investment shall accrue to the AHSF. The Town Manager or their designee shall keep a full and accurate account of AHSF activity, including a record as to when, from or to whom and on what account money has been paid or received relative to this Article, and as to when, from or to whom and for what consideration real property interests have been acquired, improved or disposed of. The Town Manager or their designee shall report annually all revenues and distributions, including grants, acquisitions and dispositions of real property interests,



Town of Brunswick

Affordable Housing Support Fund

Application Process and Requirements

Affordable Housing Support Fund

Introduction

The Town of Brunswick is experiencing an affordable housing crisis. There is a lack of supply across all housing types resulting in fewer housing choices offered in our community. The lack of housing options is impacting the current housing stock that could be available as affordable housing because the higher-income earners occupy the lower-cost residential units as a function of the extremely limited options. Construction of new residential units over the past two decades has been low and the construction of affordable “starter-homes” is almost non-existent. To complicate matters further, the increasing costs of building materials and rising interest rates are creating financial barriers to building new housing to support the current and future demand across the socioeconomic spectrum of households. There is a role for local, state, and federal governments to play to enable the flow of private capital into housing developments to address the housing crisis through public-private partnerships. The Affordable Housing Support Fund (AHSF) is a financial economic development incentive tool to help fill the funding gaps in housing development projects. This public investment will help Brunswick leverage private financing of projects that bring a purposeful public benefit – quality, affordable housing choices.

Purpose

The purpose of the Affordable Housing Support Fund (AHSF) is to provide grant funding for housing development projects seeking to build, preserve, and maintain affordable rental and homeownership units in the Town of Brunswick. Improving housing outcomes for our community requires a multifaceted approach and this funding mechanism will allow for targeted assistance.

Guidelines for the AHSF

The intent for AHSF is to support investment in affordable housing across the housing continuum that is determined to be a public benefit. The goals for establishing an Affordable Housing Support Fund include:

- To support the construction, preservation, and maintenance of affordable housing through targeted investments in land acquisition, and infrastructure improvements. A separate program for direct assistance for critical home repairs may be offered from the AHSF but will be subject to separate application review procedures and standards.
- To support Brunswick’s Comprehensive Plan, and other related Town Plans and Policies.
- To assist the Housing Committee with implementation of its action plan; and
- To stimulate and leverage private sector investment in housing development that serves households at or below 80% Area Median Income (AMI)

Funding

Brunswick’s Affordable Housing Support Fund provides grant money to developers (both for-profit and non-profit) who need help with financing gaps for the production and preservation of affordable housing projects. Developers may apply for grant funds for the construction of units meeting or exceeding the requirements under the Town’s inclusionary zoning ordinance. This fund is for projects that provide a minimum of 15% of new residential units as affordable serving households at or below 80% AMI for 30 years. Projects that exceed the 15% affordable unit threshold will score more points in the application review.

Application Process

A three-step application and approval process are required to review a request for AHSF financial assistance for a proposed housing project. **The Town reserves the right to deviate from the terms of this Manual from time to time as necessary to comply with any changes to the Town's Affordable Housing Support Fund Ordinance or to comply with the terms of source funding**

Submission of an Application for Funding

An application for funding from the AHSF must be submitted to the Director of Economic & Community Development and include the following items listed in the section, **Application Requirements**.

Review and Analysis by Staff

Upon submission of a complete application, staff in the Economic Development, Planning, Finance and Town Manager's departments will review the request for funding which includes the following steps:

1. Review of application for adherence to the baseline criteria set out in section **Affordability Target Threshold**
2. Analysis of financial documents to establish the applicant's capacity to build the project and the need for public assistance to facilitate the project
3. Determination of public benefit
4. Housing Committee review and recommendation to Town Council

Public Process for AHSF Award of Funding

Notwithstanding these guidelines, the decision to make a funding award will be made by the Housing Committee on a case-by-case basis, and subject to the availability of funds. An applicant's ability to meet the application guidelines should not be interpreted as creating any rights or entitlements in the submission of an application. Awards will be made at the sole discretion of Town staff (in their advisory capacity) and the Town Council, who will consider the totality of need and benefit for the project, as compared to any other pending applications. An award from the Town of Brunswick for AHSF funding to compensate a developer for an approved development project cost will take the form of a contract between the municipality and developer. Funds must be used for the intended purpose within 12 months of approval of the funding request unless otherwise specified in the grant agreement.

Applications and completed exhibits should be submitted to Sally Costello (scostello@brunswickme.org), Director of Economic and Community Development. Applications are accepted on a rolling basis.

The Economic and Community Development Department will coordinate all activities regarding applications and will be the primary point of contact with applicants throughout the application and award process. Awards may be offered with conditions intended to promote the goals of this program. It will be a condition of all grant awards that all necessary federal, state and local land use approvals are received prior to distribution of funds. Conditions may vary from project to project and will be outlined in the grant agreement. All grant recommendations by Town staff are subject to approval by the Town Council, which may approve, deny or modify staff recommendations. Upon approval of a grant award by the Town Council, the Town Manager or designee will negotiate with the applicant based on the merits of the project and these guidelines following the process laid out in this document.

Applicants are subject to the following provisions:

1. Application fee. All applicants shall pay a non-refundable application fee of \$500 at the time of application.
2. Documentation. The following documentation shall be included in all applications for AHSF funding:
 - a) An executed application with items as described in the guidelines; and

b) All financial disclosures, reporting, and other documentation as the Town of Brunswick and/or what their legal counsel may require.

3. Capacity. The applicant must demonstrate financial capacity to undertake the project. All financial disclosure reviews and financial capacity determinations will be conducted by the Director of Economic & Community Development and coordinated with the Director of Finance and Town Manager. Financial information will be kept confidential as per 5 M.R.S. Section 13119-A: <http://www.mainelegislature.org/legis/statutes/5/title5sec13119-A.html>. The applicant must be compliant with all statutory and regulatory guidelines of the Town of Brunswick and the State of Maine. The applicant shall not have engaged in illegal or unfair labor and employment practices, unsafe employment practices, or adverse or illegal environmental practices.

4. Terms. The specific terms of each AHSF project award will be described in a grant agreement to be agreed upon and executed by the awardee and the Town. As a general guideline, the total payment obligations from the Town to the applicant for any AHSF request should not exceed any stated financing gap as set forth in an applicant's proposed project and financial plan.

5. Costs and fees. If extraordinary legal or professional fees are required to evaluate an application, the Town may request the applicant to provide an additional deposit of funds to defray the cost of review as a condition of processing the application.

6. Performance reporting. All AHSF awardees shall provide yearly reports of compliance to the affordability thresholds/conditions set out in the agreement between the Town and applicant; the reports and documentation should be in a form satisfactory to the Town supporting an applicant's performance and compliance with the terms set forth in any agreement.

Location

Any housing development located in the Town of Brunswick is eligible for the Affordable Housing Support Fund.

Brunswick supports projects located in our growth districts and near transit to further help residents reduce their cost of living. The concepts of smart growth and careful siting of projects will be considered as outlined in the scoring criteria. Developments in the growth zone are preferred and will score higher in the application.

Affordability Target Threshold

Projects developed under this Program must comply with the rent and income limits described under (1) and the affordability declaration described in (2) and (3):

- (1) Units developed under this Program must be rented or sold to households with incomes equal to or than 80%AMI as published at HUDCLIPS.gov.
- (2) Projects seeking Affordable Housing Support Fund contributions may not result in displacement of tenants from existing rental housing. The Developer shall follow the Uniform Relocation Act (UFA), where applicable.
- (3) Each grant award will be accompanied by a Declaration of Covenants and Restrictions which will require, among other things, that the project maintain the affordability requirements of the property for a minimum of 30 years from the initial date of the mortgage. The covenants will include a provision requiring that any leases of property initially offered for sale, and any subleases of property offered for rent, also meet the affordability target threshold.

Asset Management

Brunswick will require certification of all household income at initial sale, lease-up or provision of direct assistance to certify that affordability requirements are met. Proof of income may be from the household's most recent tax return or, if on a fixed income, a letter from the United States Social Security Administration or six (6) weeks of pay stubs.

Eligible Developers

Developers and the members of the development team (contractors, engineers, architects, etc.) must be in good standing with Brunswick, the State of Maine, and the federal government. New developers are encouraged to apply.

Developer Fees

To be eligible for an Affordable Housing Support Fund grant, the maximum developer fee, including all overhead and profit, may not exceed 10% of total development costs. Developer Fees below 10% may be scored higher in the financial review of the application.

Construction Standards

It will be a condition of all awards that the project's site development and construction comply with:

1. Federal, State, and Local Laws including accessibility requirements,
2. Maine Uniform Building and Energy Code (MUBEC) 2015, or the newest MUBEC in effect at the time of permitting, and
3. All applicable local and state codes, ordinances, and standards as evidenced by inspection reports and/or written approval from local code enforcement officials (this applies to all municipalities within the State of Maine regardless of population size).

Brunswick reserves the right to inspect all phases of construction to determine compliance with its standards.

Application Requirements

For The Town of Brunswick to accept and process an application under the Program the following will be required:

1. Application – **Exhibit A**
2. Project Narrative. *A narrative that addresses each of the following items concerning the project:*
 - i. Project name
 - ii. Legal address
 - iii. Detailed description of any existing structures, including size, design, construction materials, foundation, condition, estimated age, utilities, historic use(s), accessibility, parking, and observable environmental concerns
 - iv. The planned number of total units
 - v. Any non-residential space

- vi. Scope of expected rehabilitation or construction
- vii. Development timeline

3. Preliminary Site Plan (Meeting the requirements for Sketch Plan Application)

4. Corporate resolution demonstrating authority to undertake the project and to pursue all intended funding sources, including the Affordable Housing Support Fund grant

5. Evidence of site control (such as a deed, purchase and sale agreement, lease, or an option for the same)

6. Evidence of all state and local land use approvals received for the project, or if applications have not yet been made, a description of all such approvals needed for the project and the project's ability to meet zoning and other land use regulations applicable to the project

7. Company Profile. Provide *a narrative that addresses each of the following items*

- i. Legal name
- ii. Contact person, mailing address, phone and email address
- iii. Current legal status
- iv. Brief history, staffing levels, primary activities, geographic area of operations, prior development experience and the clientele to be served
- v. Qualifications and experience of developer's proposed project team including any consultants, architects, site planners and/or engineer and contractors
- vi. A description of any real estate assets that are in default or foreclosure with a lending institution of that are otherwise at risk of substantive financial problems

8. Financial Documents. (If confidentiality is requested, separate all documents for which confidentiality is requested and provide a written request for confidentiality).

- i. Development budget
- ii. Sources & Uses Table
- iii. Rent Roll
- iv. Pro Forma. Developers may use HUD's Sample Pro Forma found here:
<https://www.hudexchange.info/resource/746/sample-pro-forma-and-guide-singlefamily-rental-development/>
- v. Total funding from other sources (describe and include copies of commitment letters for all other sources required for the project)

9. A certification that if the developer receives funding, the developer will comply with all reporting requirements as determined by the Town of Brunswick.

Scoring Criteria

The Town Economic Development Department will receive all AHSF grant applications and bring them to the Housing Committee for review and approval. The Housing Committee shall serve as an advisory body for the management of the AHSF and its programs. The Committee will have the opportunity to request a presentation from the applicant prior to making a recommendation to the Town Council. If two or more applications are in process at the same time, the Economic Development Department may, without unreasonable delay, consolidate

those applications for recommendation to and action from the Council. If insufficient funds are available to provide full funding to projects being considered at the same time, the Town may (1) approve partial awards; (2) delay action on one or more applications until sufficient funds remain; or (3) use the scoring criteria enumerated here to evaluate one application against another and to recommend and make awards to the better scoring project(s).

Brunswick will score applications based on the following criteria. Developers must complete all information and submit all documentation to be eligible for points.

Vision

Up to 3 points

The project is very consistent with the vision of the AHSF. Addresses one or more of the following priorities:

1. Project is in a growth district and maximizes density where appropriate.
2. Meets or exceeds 15 percent of the new residential units as affordable serving households at or below 80% AMI.
3. Demonstrates and meets the “but-for” test that determines financial need.
4. Provides affordable, workforce or market-rate housing.
5. Project is within ½ mile to services and public transportation.
6. Creates public infrastructure facilities that have applications beyond the particular development.
7. Supports an emerging or growing business sector, as identified in the Maine Council of Governments Comprehensive Economic Development Strategy (CEDS).
8. Project incorporates other public benefits, including but not limited to open space, green infrastructure and building materials, exceeds inclusionary zoning thresholds, provides a high-demand housing type.
9. Increases the tax base.
10. Replaces blighted buildings or improves blighted areas, particularly in areas of focus such as those identified in the Town’s Comprehensive Plan, the Cook’s Corner Commercial Corridor Revitalization Plan, and the Master Plan on Downtown Brunswick and the Outer Pleasant Street Corridor.
11. Developments with residential units that include 3 or more bedrooms will score higher in the evaluation.

Readiness

Up to 3 points

1. The project and any related developments have all municipal land use approvals (except building and other permits customarily issued during construction) and state land use approvals (such as site plan, subdivision, storm water, or wetlands approvals) required to proceed with and complete construction.
2. Design and engineering documents have been prepared showing preliminary design, proposed scopes of work, conceptual site plans, floor plans, and cost estimates and are submitted as part of the application.

Developer Capacity

Up to 3 points

Developer has assembled a team of experienced professionals that have the capacity to execute the project successfully.

Financial Characteristics

Up to 3 points

Developer brings additional financial resources from a source other than the AHSF to the project. Evidence of commitment including the source and timing for all additional funding is required.

Bonus

Up to 3 Points

The project incorporates climate and sustainability features.

Projects will be scored using the following guidelines as set out in the chart below.

Scoring Guidance				
Selection Criteria I	Non-Responsive (0)	Low (1)	Medium (2)	High (3)
Vision	The project is inconsistent with the vision of the AHSF and/or negatively affects the vision.	The project is somewhat consistent with the vision of the AHSF.	The project is consistent with the vision of the AHSF.	The project is very consistent with the vision of the AHSF.
Selection Criteria II	Non-Responsive (0)	Low (1)	Medium (2)	High (3)
Project Readiness	The project has no approvals and/or is not ready to be submitted for approvals.	The project has started the approval process but has not received any approvals.	The project has received most, but not all approvals.	The project has received all approvals and is shovel ready.
Selection Criteria III	Non-Responsive (0)	Low (1)	Medium (2)	High (3)
Developer Capacity	The Project Team has <u>not</u> successfully completed any projects in the last ten years. They lack experience demonstrating their likelihood to complete the project successfully.	The Project Team has completed some projects in the last ten years, but they are <u>not</u> of a similar scope. Their experience demonstrating their likelihood to complete the project successfully is uncertain.	The Project Team has successfully completed some or several projects in the last ten years of a similar scope, including affordable housing developments and has relevant experience demonstrating their likelihood to complete the project successfully.	The Project Team has successfully completed several (3+) projects in the last ten years of a similar scope, including affordable housing, and has highly relevant experience demonstrating their likelihood to complete the project successfully.
Selection Criteria IV	Non-Responsive (0)	Low (1)	Medium (2)	High (3)
Financial Characteristics	The project brings no additional resources to the project and has no commitments of financing.	The project brings some additional resources to the project and but has not secured commitments of financing.	The project brings additional resources to the project and has secured some, but not all commitments of financing.	The project brings several additional resources to the project and has secured all commitments of financing.
Selection Criteria V	Non-Responsive (0)	Low (1)	Medium (2)	High (3)
Bonus: Climate and Sustainability Features	The project does <u>not</u> incorporate “green” elements and features and /or negatively affects climate and the environment.	The project incorporates little, if any, “green” elements and features that address climate change and pollution.	The project incorporates some “green” elements and features that address climate change and pollution.	The project incorporates several “green” elements and features that address climate change and pollution.

Submission and Contact Information

Please contact Sally Costello at scostello@brunswickme.org to apply or to direct questions.

Exhibit A **Application**

I am aware that this Application must be signed and complete, including required exhibits and attachments as noted.

To the best of my knowledge, all information contained in this application and its supporting exhibits and attachments is true and correct. I also hereby authorize the Town of Brunswick to evaluate the application in such manner as the Town of Brunswick deems necessary, including discussing this application with any lender, municipal official, vendor, or other party with an interest in this property or project.

I hereby authorize the Town of Brunswick to verify any bank or other fund balance indicated on any personal or organizational financial exhibit, to investigate credit, employment or business standing of that or any related party, to disclose any aspect of the financial information to any person but only for the purpose of determining the accuracy of the information or otherwise investigate and evaluate the application in such manner as the Town of Brunswick deems necessary. I understand that the materials presented with this application may be considered "public records" pursuant to the Maine Freedom of Access Act and may not be held confidential unless (1) I have requested confidentiality; and (2) the materials are protected against disclosure under Maine law.

I certify that neither the owner/developer, its principals or partners is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any HUD programs. I further certify that any corporation or its subsidiaries involved in the proposal are in good standing with the State of Maine, not insolvent, and not subject to any pending bankruptcy proceedings.

Neither the developer, nor any principal or affiliate of the developer, nor anyone who will be paid for work on the program has business ties, familial relationships, or other close personal relationships with a current Town of Brunswick employee or councilor.

Applications must be signed by all principals (Individual, Partner, or corporate representative authorized to bind the company) in the developer entity.

NAME of DEVELOPER [if applicable]

By: _____

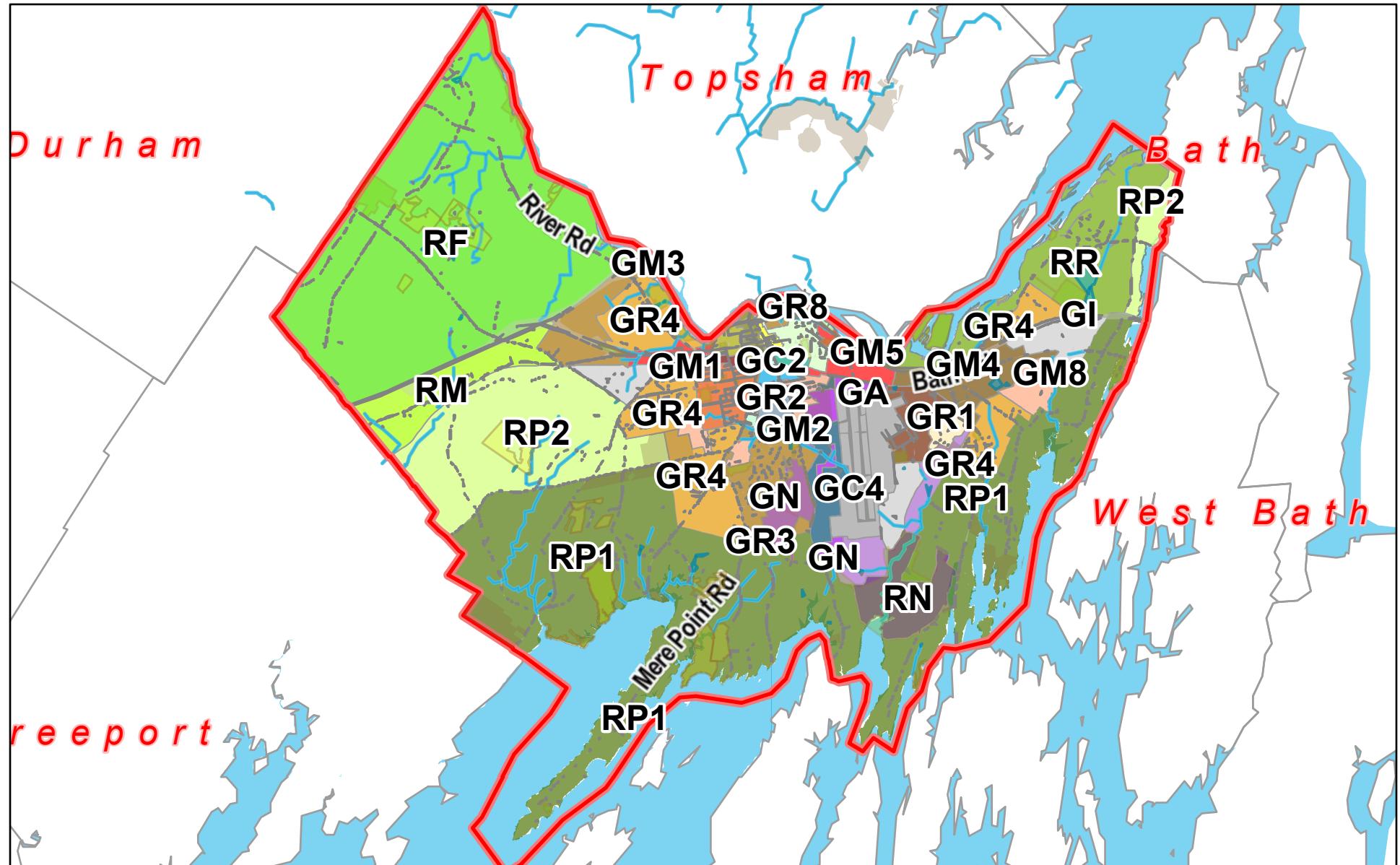
Printed Name: _____

Its: _____

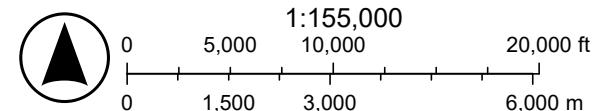
No application for financing will be accepted or approved by the Town of Brunswick if the developer, or any entity controlled by the developer, is more than 60 days delinquent on any taxes or loans with the Town of Brunswick, or has been declared in default of such loan, unless either an approved payment or workout plan is in place and in good standing.

UNSIGNED APPLICATIONS WILL NOT BE ACCEPTED

Town of Brunswick Zoning Districts



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Town Wide Zoning Map: <https://www.brunswickme.org/DocumentCenter/View/772/Brunswick-Town-Wide-Zoning-Map-JPEG>

Sally Costello

2023 TOWN OF BRUNSWICK AFFORDABLE HOUSING SUPPORT FUND AGREEMENT

This 2023 Affordable Housing Support Fund Agreement (the "Agreement") is entered into this [Date] of [Month], 2023 by and between **Town of Brunswick**, a Maine municipality with a place of business and mailing address of 85 Union Street, Brunswick, Maine 04011 ("Town") and [Name of the Grantee] ("Grantee").

RECITALS

1. The 2023-2024 Affordable Housing Support Fund ("AHSF") aims to address the critical need for affordable housing in Brunswick by providing grants to developers and non-profits to assist in the production and preservation of affordable housing units for households at or below 80 percent Area Median Income (AMI) in Brunswick, Maine.
2. The Town of Brunswick is making up to \$ [Amount] in Grant funds ("the Award") available to support Grantee's development of [Project Description], said development being more fully described in the grant application and supporting materials dated _____ ("the Development").

AGREEMENT

1. **Grant.** Town is making the Grant available to Grantee as follows:
 - a. Fund. Town will provide to Grantee a grant in the amount of \$ [Amount] as outlined in the Budget attached hereto as **Exhibit A**.
 - b. Disbursements. Grantee shall disburse and track Grant expenditures and maintain evidence that the Grant is used to facilitate the construction and/or improvement of affordable housing units for households at 80 percent Area Median in Brunswick, Maine, as described in the application and supporting materials dated _____.
 - c. Reports. Grantee shall submit to Town's Economic and Community Development Department quarterly progress reports on expenditure of funds from the AHSF and the affordable housing units that were created in connection with those expenditures. In addition, Grantee must include all expenditures from all sources in the project. Within 45 days following the expiration of the term of this Agreement or Town issuance of a certificate of occupancy for Development, whichever occurs first, Grantee shall provide a final close out report documenting the total expenditures from the AHSF and the total number of affordable housing units that were created.

- d. Term. [Name of the Grantee] shall expend the Grant funds within ____ months of the date of this Agreement unless Town extends the time for performance in writing. Any Grant funds that are not expended by Town within ____ months of the date of this Agreement, shall be returned to Town along with any interest earned on the funds, unless Town agrees otherwise in writing.
- e. Documents. Grantee shall provide any information and execute any additional documents that Town determines are reasonable or necessary in its sole discretion to ensure proper administration of and compliance with the Grant and with this agreement. Prior to disbursement of grant funding, Grantee shall provide a commitment of funding from all sources to ensure the project is viable.
- f. Outcome. Prior to expiration of the term of this Agreement, or any extension made according to its terms, Grantee shall have substantially completed the Development.

2. **Compliance with Applicable Laws.** Grantee shall ensure compliance with all applicable Federal, state and local laws and ordinances, including, but not limited to, building, zoning, land use, environmental, lead remediation, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, the Maine Human Rights Act, Subchapter IV, and the Americans with Disabilities Act all as may be amended from time to time and with any rules or regulations promulgated pursuant thereto. Any disbursement of funds by Town shall not be construed as an assurance or acknowledgment of compliance with any such laws, ordinances, rules or regulations.

3. **Records; Inspections.** Grantee shall maintain and keep full, correct and current all books, documents, plans and other records concerning the Grant, and compliance with this Agreement. [Grantee shall keep all such books and records separate and identifiable from the records for [Name of the Grantee]'s other business and activities. Town shall keep all such books and records for a minimum of seven (7) years from the termination of this Agreement. Grantee shall certify the rents at the time of lease-up of all affordable units and provide annual records of such. The Town will have a services agreement with the Housing Authority to assist in this regard; grantee must follow through with this requirement independent of the Town.

Town, its employees and agents, shall have the right to audit and examine all such books and records, and any supporting information or data, at reasonable times upon reasonable notice by Town. [Name of the Grantee] shall furnish copies of any such books and records, and supporting information, to Town upon request.

4. **Amendment.** It is understood that this Grant was awarded based upon an evaluation of the Development, development team, financial resources and financing for the Development, and public benefits to be realized by the Development. Any substantial change to the Development, as determined in Town's sole discretion, may be made only if agreed to by written amendment executed by Grantee and Town.

5. **Breach of Agreement and Town Remedies.** Town may recapture or reduce the Grant and may terminate this Agreement upon any of the following:

- a. Substantial variance, not otherwise agreed to by the parties, in any components of the Development which relate to the number of affordable housing units and any public benefit to be conferred by the Development which was taken into account in the award decision. Such changes may occur only if there is a change in the use of the Grant funds without the prior written consent of Town.
- b. Any voluntary or involuntary assignment, pledge or transfer of this Agreement, the Grant, and any documents executed in connection with the Grant without the prior written consent of Town; or
- c. Any voluntary or involuntary termination of existence, dissolution, liquidation, sale or other disposition of all or substantially all of the assets, marshalling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition, readjustment, liquidation, insolvency or other relief of the same, or different kind or business failure of Grantee.
- d. Lack of sufficient funds in the Affordable Housing Support Fund at the time of grant disbursement. This Grant may be terminated or reduced prior to disbursement of funds if insufficient funds are available in the Affordable Housing Support Fund.

The Town shall provide notice of any breach or defect under this Agreement, and a reasonable opportunity to cure the same, prior to initiating any action to reduce or recover Grant funds.

6. **Notices.** Any notice or demand required or provided for in this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes when hand-delivered or mailed by certified or registered United States mail, postage prepaid, to Town or [Name of the Grantee] at their respective addresses set forth herein, or at such other address as either of them may from time to time hereafter designate by notice given to the other as herein provided.

7. **Confidentiality.** Grantee shall safeguard and protect from disclosure at all times, and shall cause its employees, officers, agents, contractors, subcontractors, and other representatives to safeguard and protect from disclosure at all times, all information about individual or matters that may be confidential.

8. **Authority of** [Name of the Grantee]. [By executing this Agreement, Grantee certifies that it is authorized to undertake the activities contemplated hereby and that its undersigned officer is duly authorized to bind Grantee to the terms of this Agreement.

9. **Indemnification.** Grantee shall indemnify and hold Town and its commissioners, officers, employees and agents harmless from and against any and all claims, demands, liability, cost or expense (including, but not limited to reasonable attorneys' fees and other costs of litigation) that may be incurred by Town arising out of or in any way related to Grantee's breach of any of its obligations under this Agreement or any action taken by Town to enforce or exercise its rights under this Agreement as a result of such breach. The obligations under this section shall survive the termination or expiration of this Agreement as necessary to effectuate its provisions.

10. **Governing Law; Change in Law.** This Agreement is subject to and shall be construed in accordance with the laws of the State of Maine, any rules adopted pursuant thereto, and any amendments to such laws and rules, and with applicable Federal law, any regulations and guidance adopted or issued pursuant thereto and any amendments to such laws, regulations, and guidance.

11. **Waiver.** The provisions of this Agreement cannot be waived, except in writing by Town clearly expressing Town's intent to waive said provisions. Town's failure to exercise or delay in exercising any right or remedy hereunder or otherwise afforded by law shall not be construed as a waiver or release thereof or preclude the exercise thereof at any time thereafter. Any failure by Town to insist upon strict performance by Town of any of the terms or provisions of this Agreement shall not be deemed to be a waiver of any terms or provisions of this Agreement and Town shall have the right thereafter to insist upon strict performance by Town of any and all such terms and provisions.

12. **Entire Agreement.** This Agreement constitutes the entire agreement between Town and [Name of the Grantee] with respect to the subject matter hereof, and the Agreement supersedes all previous negotiations, discussions and agreements between Town and [Name of the Grantee] with respect to the subject matter hereof, and no parol evidence of any prior or other agreement or alleged agreement shall be permitted to contradict or affect the terms of this Agreement.

13. **Amendment.** This Agreement may be amended or modified in whole or in part only by written agreement of [Name of the Grantee] and Town clearly expressing intent to amend this Agreement.

14. **Severability.** In the event that any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall be valid and enforceable to the fullest extent permitted by law. The parties hereto agree that the

term or provision held to be invalid or unenforceable, as contrary to applicable law, shall automatically be deemed to be reformed as to be consistent with applicable law.

15. **Construction.** The above recitals to this Agreement are incorporated herein and made a part of this Agreement, including without limitation defined terms. The headings in this Agreement are for convenience only and do not define or limit the scope of the provisions of this Agreement. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute one agreement of all parties to this Agreement.

16. **No Third-Party Beneficiaries.** This Agreement is solely for the benefit of [Name of the Grantee] and Town and no other person or entity shall have the right to rely on any agreement, representation or obligation set forth in this Agreement.

17. **Successors and Assigns.** This Agreement shall be binding upon [Name of the Grantee]'s successors, transferees and assigns and shall inure to the benefit of and be enforceable by Town, its successors, transferees and assigns.

IN WITNESS WHEREOF, [Name of the Grantee] and Town have caused this Agreement to be executed on their behalf by their duly authorized representatives as of the day and year first above written.

TOWN OF BRUNSWICK

By: _____
John Eldridge
Town Manager

[NAME OF THE GRANTEE]

By: _____
[Name]
[Position]

EXHIBIT A

BUDGET

SAMPLE



STATE OF MAINE
DEPARTMENT OF ECONOMIC
AND COMMUNITY DEVELOPMENT

PAUL R. LEPAGE
GOVERNOR



GEORGE C. GERAIS
COMMISSIONER

February 16, 2018

John Eldridge
Town Manager
TOWN OF BRUNSWICK
85 Union Street
Brunswick, Maine 04011-2418

RE: Cook's Corner Omnibus Municipal *Tax Increment Financing (TIF) District and Development Program*
(Program)

A P P R O V E D

Dear Mr. Eldridge,

The Maine Department of Economic and Community Development (DECD) reviewed and EFFECTIVE TODAY APPROVED the above referenced Municipal TIF District and Program. Based on the application, DECD notes/approves:

- a. District term of 30 years starting July 1, 2018 to and ending June 30, 2048;
- b. District taxable Original Assessed Value of \$40,058,600 as of March 31, 2017 (April 1, 2016)—acreage 205;
- c. Real Increased Assessed Value (IAV) capture of up to 100%;
- d. District revenues deposited/held in DEDICATED accounts and applied ONLY toward approved activities/projects,
 - i) Project Cost accounts to reimburse Company/Developer for costs authorized by 30-A M.R.S.A. § 5225(1)(A) and DECD rules as amended from time to time AND/OR fund public activities/projects,
 - ii) Sinking Fund Account to retire associated public debt, if any;
- e. Company/Developer credit enhancement agreement(s) within sole Town Council discretion are limited to incremental taxes from NEW actual value, may include up to 100% reimbursement during District term and may not be authorized without a public hearing (Program, Section IV, page 11);
- f. AFTER EXECUTION, TOWN MUST FORWARD COPY of any associated credit enhancement agreement and its amendment(s) or assignment(s) to DECD—enclosing completed matching **Application Cover Sheet** with detailed private project description and (if Company and not Developer) **Employment Goals Form**;
- g. Any non-captured incremental property values resulting in General Fund revenue/deposits MUST be included/reported with Town equalized assessed value;
- h. Any future amendment MUST comply with 30-A M.R.S.A. §§ 5221-5235 and DECD rules;
- i. When District expires, or is terminated, BRUNSWICK MUST NOTIFY DECD IN WRITING.

As further described in the Program, Town revenue allocation projected at \$27,407,978 may facilitate funding for an estimated \$46,500,000 in public costs and associated debt, if any, as further described in the Development Program. This funding MUST comply with Town appropriation process—with



PAUL R. LEPAGE
GOVERNOR



GEORGE C. GERVAIS
COMMISSIONER

activities/projects due completion BEFORE/BY June 30, 2048. Approved public activities/projects costs are as follows:

WITHIN/OUTSIDE DISTRICT ♦

- j. Road and Infrastructure Improvements, and associated costs, including road construction, improvement and maintenance of storm water or sanitary sewer lines, water lines, electrical lines and street amenities \$27,000,000; ≈

OUTSIDE DISTRICT ♦

- k. Portage of revenues to Brunswick Downtown and Transit Oriented Municipal TIF District while its IAV capture remains 100% \$3,000,000; Δ

WITHIN MUNICIPALITY

- l. Recreational Trails \$1,500,000. ≈

WITHIN MUNICIPALITY/DISTRICT

- m. Economic Development (ED) efforts marketing Town as a business or arts location, including ED staff salaries, prorated municipal staff salaries or professional service costs; ^Δ regional marketing and tourism destination campaigns; permanent revolving loan funds, investment funds and grants programs per § 5225(1)(C)(3) for costs authorized by 30-A M.R.S.A. § 5225 and DECD rules as amended from time to time, but primarily for business startup/expansion efforts; grant matching related to 30-A M.R.S.A. §§ 5221-5235 economic development activities; technology systems updates prorated to business expansion/recruitment efforts including GIS system, computers and assessing software; business/tourism destination branding including directional signage and streetscape upgrades; economic/environmental studies and associated improvements of properties for commercial or future arts district use \$15,000,000; Φ ≈

DECD notes while the Program may list multiple statutory citations with the public project costs in the application not all citations apply to all activities/projects described within each cost description. Brunswick is obligated to verify proper authorization for each project cost to be undertaken. DECD advises Town to plan for debt retirement to coincide with the District term end of June 30, 2048.

MAINE IS OPEN FOR BUSINESS. Please contact Development Program Officer Tina Mullins with questions about this certification. With this approval, the Department extends best wishes for the success of the District.

Sincerely,

George C. Gervais
Commissioner

cc: Senator Everett Brownie Carson (SD-24)—128th Legislature
Representative Matthea Elisabeth Larsen Daughtry (HD-49)—128th Legislature
Representative Ralph L. Tucker (HD-50)—128th Legislature



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Representative Joyce McCreight (HD-51)—128th Legislature
Justin Poirier, MRS Director Property Tax Division
Brian Doyle, Governor's Account Executive
Shana Cook Mueller, Bernstein, Shur, Sawyer & Nelson, P.A.

- ◊ To extent a project is outside the District, Brunswick must prorate/allocate costs not directly related to or made necessary by establishment/operation of this District to other funding sources.
- ≈ Projects are common to development programs of Brunswick Landing II and Brunswick Executive Airport II TIF districts.
- Δ Projects are common to development programs of Downtown & Transit-Oriented, Brunswick Landing II, Brunswick Executive Airport II and Molnlycke Manufacturing TIF districts.

EXCLUDING FOLLOWING COSTS/FUNDING:

- ◊ Public park(s)