



MONTANA  
HOUSING

<b>Meeting Location:</b>	Virtual / Zoom
<b>Date:</b>	January 8, 2024
<b>Time:</b>	8:30 a.m.
<b>Board Chair:</b>	Bruce Posey
<b>Remote Attendance:</b>	Join our meetings remotely via Zoom and/or phone
<b>Conference Call:</b>	Dial: 1 646 558 8656   Meeting ID: 892 6005 3347
<b>Register for Webinar:</b>	<a href="https://mt-gov.zoom.us/join/mtgov202401080830a">https://mt-gov.zoom.us/join/mtgov202401080830a</a>
<b>Board Offices:</b>	Montana Housing 301 S Park Ave., Room 240, Helena MT 59601 Phone: 406.841.2840
<b>Mission Statement:</b>	Montana Housing works with community partners across the state, and together we ensure Montana families have access to safe and affordable homes.

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## AGENDA ITEMS

- ❖ Meeting Announcements
- ❖ Introductions
- ❖ Public Comments - Public comment is welcome on any public matter that is not on the agenda and that is within the jurisdiction of the agency.

## Minutes

- ❖ Approve December Prior Board Meeting Minutes

## Finance Program (Acting Manager: Vicki Bauer)

- ❖ Financial Update (Verbal Update)

## Homeownership Program (Acting Manager: Charlie Brown)

- ❖ Homeownership Update



MONTANA  
HOUSING

## **Mortgage Servicing (Manager: Mary Palkovich)**

- ❖ Servicing Update

## **Multifamily Program (Manager: Jason Hanson)**

- ❖ Twin Creek 4 Apartments - Bond Resolution No. 24-0108-MF01
- ❖ Twin Creek 4 Apartments - Coal Trust Multifamily Loan Approval
- ❖ Twin Creek 9 Apartments – Coal Trust Multifamily Loan Approval (adjusting loan term)
- ❖ 7<sup>th</sup> & Aspen - Bond Resolution No. 24-0108-MF02
- ❖ Multifamily Update

## **Operations / Executive Director (Joe DeFilippis / Cheryl Cohen)**

- ❖ Operations Update
  - ARPA Housing Programs (ERA & HAF)
- ❖ Executive Director Update
  - Community Housing Programs (CDBG, CDBG-CV, HOME, HOME-ARP, HTF, ESFG)

## **Training (General Counsel: Greg Gould)**

- ❖ Conflict of Interest

### **Meeting Adjourns**

\*All agenda items are subject to Board action after public comment requirements are fulfilled.

\*We make every effort to hold our meetings at fully accessible facilities. Any person needing reasonable accommodation must notify the Housing Division at 406.841.2840 or TDD 406.841.2702 before the scheduled meeting to allow for arrangements.



# MONTANA HOUSING

## 2024 Montana Board of Housing Calendar

January						
Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

April						
Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

July						
Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

October						
Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

February						
Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29		

May						
Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

August						
Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

November						
Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

March						
Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

June						
Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

September						
Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

December						
Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

## **January 2024**

7-12: [NCSHA HFA Institute, WA D.C. \(MBOH staff\)](#)

8: Board Meeting via Zoom

## **February 2024**

12: Board Meeting via Zoom

## **March 2024**

4-6: [NCSHA Legislative Conference, Hilton Washington D.C. \(Executive Director; Board Members\)](#)

11: Board Meeting via Zoom

## **April 2024**

8: Board Training, TBD Bozeman MT ((Potential Topic: Affirmatively Furthering Fair Housing / FHEA)

9: Board Meeting, TBD Bozeman MT

## **May 2024**

5-7: [Mountain Plains Regional Housing Summit, TBD CO \(MBOH staff and Board Members welcome\)](#)

13: Board meeting Letter of Intent Presentations

14: Board meeting LOI decisions

20-22: [Housing Partnership Conference, Missoula MT Holiday Inn \(MBOH staff and Board Members welcome\)](#)

## **June 2024**

10-13: [NCSHA Housing Credit Connect – Atlanta GA \(MBOH staff\)](#)

17: Board Meeting via Zoom

## **July 2024**

8: Board Meeting via Zoom

## **August 2024**

12: Board Meeting via Zoom

## **September 2024**

9: Board Meeting via Zoom

28-1: [NCSHA Annual Conference – Phoenix AZ \(MBOH staff and Board Members welcome\)](#)

## **October 2024**

21: Board Strategic Planning, TBD Dillion MT

22: Board Meeting Housing Credit Award Determinations / QAP, TBD Dillion MT

## **November 2024**

4: Board Meeting via Zoom

## **December 2024**

9: No Board Meeting (subject to change)



# MONTANA HOUSING

Zoom  
December 11, 2023

## **ROLL CALL OF BOARD MEMBERS:**

Bruce Posey, Chair (Present)  
Sheila Rice (Present)  
John Grant (Present)  
Amber Parish (Present)

Cari Yturri (Present)  
Jeanette McKee (Present)  
Tonya Plummer (Present)

## **STAFF:**

Cheryl Cohen, Executive Director  
Joe DeFilippis, Operations Manager  
Megan Surginer, Office Manager  
Jason Hanson, Multifamily Program  
Mary Palkovich, Servicing Program  
Vicki Bauer, Accounting Program  
Charlie Brown, Homeownership Program  
Melissa Higgins, ARPA Program Manager

Kellie Guariglia, Multifamily Program  
Bruce Brensdal, Multifamily Program  
Brian Lundin, Multifamily Program  
Nicole Newman, CDD Program  
Julie Flynn, CDD Program  
Jen Stepleton, CDD Program  
Stacey Waites, Executive Assistant

## **COUNSEL:**

Greg Gould, Jackson Murdo & Grant

## **OTHERS:**

Christiane Rudmann  
Colton Behr  
David Jones  
Drew Page  
Tyler Currence  
Larry Phillips  
Julia Hope  
Mina Choo

John Wagner  
Patrick Zhang  
Benjamin Gill  
Chuck Kracht  
Susan Semba  
Kaia Peterson  
Amber Robbins  
Dana Rocha

Matt Hemphill  
Jackie Girard  
Susan Floerchinger  
Luana Slettedahl  
Kat Dodd  
Alex Burkhalter  
Jack Hua  
Scott Long

*These written minutes, together with the audio recordings of this meeting and the Board Packet, constitute the official minutes of the referenced meeting of the Montana Board of Housing (MBOH). References in these written minutes to tapes (e.g., FILE 1 – 4:34) refer to the location in the audio recordings of the meeting where the discussion occurred, and the page numbers refer to the page in the Board Packet. The audio recordings and Board Packet of the MBOH*



# MONTANA HOUSING

*meeting of this date are hereby incorporated by reference and made a part of these minutes. The referenced audio recordings and Board Packet are available on the MBOH website at [Meetings and Minutes](#).*

## **CALL MEETING TO ORDER**

0:00 Chair Bruce Posey called the Montana Board of Housing (MBOH) meeting to order at 8:30 a.m.

1:12 Introductions of Board members and attendees were made.

4:17 Chair Posey asked for public comment on items not listed on the agenda.

## **APPROVAL OF MINUTES**

### **November 13, 2023 MBOH Board Meeting Minutes – page 5 of packet**

5:07 Motion: Jeanette McKee

Second: Cari Yturri

The November 13, 2023 MBOH Board meeting minutes were approved unanimously.

## **ACCOUNTING**

### **Accounting Update – Verbal Only**

5:46 Presenter: Vicki Bauer

7:25 Presenter: Mina Choo

## **HOMEOWNERSHIP PROGRAM**

### **Participating Lender Approval – CMG Mortgage, Inc. —page 9 of packet**

11:08 Presenters: Charlie Brown

Motion: Sheila Rice

Second: Jon Grant

The motion to approve CMG Mortgage, Inc. was approved unanimously.

### **Master Servicer Selection–Idaho Housing and Finance Association Page 10 of packet**

13:07 Presenter: Charlie Brown

16:33 Presenter: Susan Semba

Motion: Jeanette McKee

Second: Amber Parish

The motion to approve Idaho Housing and Finance Association as a master servicer passed unanimously.

### **Homeownership Update – page 12 of packet**

22:58 Presenters: Charlie Brown

## **MORTGAGE SERVICING PROGRAM**

### **Servicing Update – page 14 of packet**



# MONTANA HOUSING

25:00 Presenter: Mary Palkovich

## **MULTIFAMILY PROGRAM**

**Approval of Coal Trust Multifamily Homes Loan: Stan's Garden in Belgrade, MT—  
page 15 of packet**

27:52 Presenters: Jason Hanson

Motion: John Grant

Second: Cari Yturri

The motion to approve the Stan's Garden Coal Trust Loan passed unanimously.

**Approval of Coal Trust Multifamily Homes Loan: Two Rivers Community in Lolo,  
MT—page 19 of packet**

35:59 Presenters: Jason Hanson

Motion: Jeanette McKee

Second: Sheila Rice

The motion to approve the Two Rivers Coal Trust Loan passed unanimously.

**Approval of Coal Trust Multifamily Homes Loan: Forest Acres Trailer Park—page  
23 of packet**

45:31 Presenters: Jason Hanson

Motion: John Grant

Second: Jeanette McKee

The motion to approve the Forest Acres Coal Trust Loan passed unanimously.

**Multifamily Update – page 25 of packet**

52:55 Presenter: Jason Hanson

## **OPERATIONS/ EXECUTIVE DIRECTOR**

**Operations/Executive Director Update – page 27 of packet**

55:36 Presenter: Benjamin Gill - Montana Housing Situational Report Overview

01:30:46 Presenters: Cheryl Cohen, Joe DeFilippis

## **MEETING ADJOURNMENT**

01:41:00 Meeting was adjourned at 10:11 a.m.

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Amber Parish, Secretary

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Date

# HOMEOWNERSHIP PROGRAM DASHBOARD

December 29, 2023

## RATES

	<u>CURRENT</u>	<u>LAST MONTH</u>	<u>LAST YEAR</u>
MBOH*	5.750	6.25	5.750
Market	6.19	6.85	6.345
10 yr treasury	3.79	4.34	3.880
30 yr Fannie Mae	5.79	6.64	5.980

\*Current Setaside 5.50, DPA 6.00

## LOAN RESERVATIONS

	<u>Dec NUMBER</u>	<u>Dec AMOUNT</u>	<u>TOTAL NUMBER</u>	<u>TOTAL AMOUNT</u>	<u>ORIGINAL AMOUNT</u>	<u>BALANCE</u>
<b>REGULAR PROGRAM</b>						
Series 2023C (since 10.19.23)	29	7,812,810	74	19,063,135	41,136,247	22,073,112
Series 2023C DPA (since 10.19.23)	11	114,516	23	235,806	1,000,000	764,194
80% Combined (20+)	1	186,000	4	686,800	Since July 2023	reg bond funds
<b>SET-ASIDE PROGRAMS</b>						
MBOH Plus	2	8,075	41	413,123	Since July 2023	1,299,733
Set-aside Pool			19	3,890,161	Since July 2023	Pre-Ullman funds
NeighborWorks	3	723,424	9	2,011,404		
CAP NWMT CLT			2	280,652		
Missoula HRDC XI						
Bozeman HRDC IX			4	839,781		
Home\$tart						
HUD 184						
MT Street CLT			1	135,972		
Sparrow Group						
City of Billings			3	622,352		
Foreclosure Prevent					50,000	50,000
Disabled Accessible					Ongoing	862,950
Lot Refi					2,000,000	726,440
FY24 Habitat			9	1,397,192	3,751,000	2,353,808
<b>OTHER PROGRAMS</b>						
Veterans (Orig)	1	331,593	440	88,674,301	Revolving	93,187
912 Mrtg Cr Cert (MCC)	2	584,819	24	6,405,794.00	62,500,000	56,094,206

## LOAN PURCHASES BY LENDER

	<u>Nov-23 1st</u>	<u>DPA</u>	<u>2023 YTD 1st</u>	<u>DPA</u>	<u>2022 1st</u>	<u>DPA</u>
BANK OF COMMERCE 086			1	1		
1ST SECURITY BK MISSOULA 133			7	2	2	1
VALLEY BANK RONAN 159			2		3	
FIRST MONTANA BANK 172	1	1	2	2		
BRAVARA BANK 186	1	1	5	1	2	1
STOCKMAN BANK OF MT MILES 524	3	1	51	27	51	25
FIRST INTERSTATE BANK-WY 601			4	1	11	1
US BANK 617	1		2			
OPPORTUNITY BANK 700	11	3	94	42	86	44
FIRST FEDERAL BANK & TRUST 731			1		1	1
GLACIER BANK KALISPELL 735	2		8		17	
WESTERN SECURITY BANK 785			4	3	11	3
MANN MORTGAGE 835	15	10	63	35	80	43
GUILD MORTGAGE COMPANY 842	2	2	21	21	16	13
UNIVERSAL 843	2	1	19	13	16	11
FAIRWAY INDEPENDENT MRTG 847	3	2	24	20	24	21
CORNERSTONE HOME LENDING 850			9	8	8	6
PRIME LENDING 851	3	1	8	5	2	1
BAY EQUITY LLC 853			5		7	1
LENDUS LLC 854					5	1
PARAMOUNT RES MTG GRP 855			3	3	2	1
CHERRY CREEK MORTGAGE 856					1	
858.00	2	1	2	1		
HOMESTAR FINANCIAL 861			1	1	1	1
HOMETOWN LENDERS 862					2	1
CROSSCOUNTRY MORTGAGE 863	2		17	6	5	4
GUARANTEED RATE 864	2	1	15	5		
FIRST COLONY MORTGAGE 865			7	7		
WINTRUST MORTGAGE 867			2	2		
CHURCHILL MORTGAGE 869	1		2	1		
CLEARWATER FEDERAL C U 901	1		1		2	
INTREPID CREDIT UNION 903			4			
<b>Grand Count</b>	<b>52</b>	<b>24</b>	<b>384</b>	<b>207</b>	<b>355</b>	<b>180</b>



## PORTFOLIO CHANGES

	November		2023 YTD		
	<u># loans</u>	<u>Princ Bal</u>	<u># loans</u>	<u>Princ Bal</u>	
September Balance	5,294	533,261,690.44	5,052	480,053,770.57	Dec-22
October Purchases (1st)	52	14,326,662.32	388	100,360,245.68	
October Purchases (2nd)	24	266,642.00	207	2,204,218.60	
October Amortization		(1,477,762.70)		(15,158,361.80)	
October Payoffs (1st)	(31)	(3,087,587.60)	(241)	(23,063,826.65)	
October Payoffs (2nd)	(5)	(35,799.66)	(60)	(328,627.69)	
October Foreclosures	(1)	(85,054.93)	(13)	(898,628.84)	
October Balance	5,333	543,168,789.87	5,333	543,168,789.87	Nov-23

### NOVEMBER PORTFOLIO SUMMARY

	<u># of loans</u>	<u>\$ of loans</u>	<u>% of #</u>	<u>% of \$</u>	
FHA	2,755	357,423,205	51.7%	65.8%	
RD	859	90,059,875	16.1%	16.6%	
VA	351	57,411,998	6.6%	10.6%	
HUD184	37	2,419,671	0.7%	0.4%	
PMI	33	2,210,959	0.6%	0.4%	
Uninsured 1st	230	25,772,371	4.3%	4.7%	
Uninsured 2nd	1,068	7,870,711	20.0%	1.4%	
	5,333	\$ 543,168,790			
November 2022 Portfolio Balance	5,046	\$ 476,249,930	5.69%	14.05%	percent of Incr/Decr

<u>Servicer</u>	<u># of loans</u>	<u>\$ of loans</u>	<u>% of #</u>	<u>% of \$</u>
MBOH	5,257	\$ 537,176,190	99%	99%
First Security Bozeman	3	\$ 74,087	0%	0%
First Boulder Valley Bank	1	\$ 42,940	0%	0%
Valley Bank Ronan	40	\$ 4,025,188	1%	1%
Manhattan Bank	1	\$ 79,927	0%	0%
Pioneer Federal Savings	19	\$ 695,780	0%	0%
Guild Mortgage	12	\$ 1,074,677	0%	0%
	5,333	543,168,790		

### Weighted Average Interest Rate 4.146%

	<u># of loans</u>	<u>\$ of loans</u>	
0 - 2.99%	1049	\$ 92,039,234	rates up to 4%
3 - 3.99%	1507	\$ 180,769,106	2556 \$ 272,808,340
4 - 4.99%	803	\$ 86,394,681	
5 - 5.99%	1459	\$ 151,260,802	rates 4% and above
6 - 6.99%	475	\$ 31,881,420	2777 \$ 270,360,450
7 - 7.99%	40	\$ 823,547	

### RAM PROGRAM NOVEMBER ACTIVITY

<u>Loan Requests</u>	<u>Loans Outstanding</u>	<u>Life of Program</u>	<u>Avail Balance</u>
0	44	236	4,139,551.95
0	2,625,890.36	15,271,126	

### DELINQUENCY AND FORECLOSURE RATES

	MONTANA BOARD OF HOUSING			MORTGAGE BANKERS ASSOC. 9/2023			(most recent available)
	<u>Nov-23</u>	<u>Oct-23</u>	<u>Nov-22</u>	<u>Montana</u>	<u>Region</u>	<u>Nation</u>	
30 Days	1.54	1.13	1.35	1.30	1.59	2.04	
60 Days	0.69	0.70	0.92	0.36	0.49	0.64	
90 Days	1.74	1.96	2.50	0.56	0.72	1.03	
Total Delinquencies	3.97	3.79	4.77	2.22	2.80	3.71	
In Foreclosure	0.19	0.25	0.42	0.33	0.24	0.49	

# Mortgage Servicing Program Dashboard

## Effective 12/31/23

### 2023 Monthly Servicing Report

MONTH	Last Year	Last Month	This Month
	Dec-22	Nov-23	Dec-23
PORTFOLIO TOTAL LOANS	5424	5908	5967
MBOH	5007	5341	5386
BOI	304	302	299
MULTI FAMILY	16	16	17
HAF-Homeownership Assistance Fund	97	249	265
PRINCIPAL (all loans)	\$542,419,461.82	\$616,882,187.49	\$629,646,068.04
ESCROW (all loans)	\$3,879,343.51	\$3,492,549.41	\$4,087,342.57
LOSS DRAFT (all loans)	\$818,638.42	\$766,586.60	\$738,229.81
LOANS DELINQUENT (60+ days)	286	252	293
ACTUAL FORECLOSURE SALES IN MONTH	0	1	1
FORECLOSURES TOTAL CALENDAR YEAR	8	10	11
DELINQUENT CONTACTS TO MAKE	688	734	928
LATE FEES - NUMBER OF LOANS	791	900	867
LATE FEES - TOTAL AMOUNT REVENUE	\$21,481.22	\$26,576.20	\$26,185.94
PAYOFFS	35	37	27
NEW LOANS	64	110	84

### HUD's National Servicing Center TRSII SFDMS Reporting

#### FY 2023 Final Score 94.74% - Grade A

LOSS MITIGATION	Dec-22	Nov-23	Dec-23
ACTIVE FINANCIALPACKETS	0	0	0
REPAYMENT/SPECIAL FORBEARANCE	0	0	0
COVID19 FORMAL FORBEARANCE (NOV)	84	20	4
HAMPS, PARTIAL CLAIMS & MODS PNDG	12	15	20
CHAPTER 13 BANKRUPTCIES	10	11	11
PRESERVATION PROPERTIES	7	10	10
REAL ESTATE OWNED PROPERTIES	2	1	1
SHORT SALE	0	0	0
DEED IN LIEU	0	0	0

# BOARD AGENDA ITEM

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## PROGRAM

Multifamily Program

## AGENDA ITEM

Twin Creek 4 Apartments - Bond Resolution No. 24-0108-MF01

## BACKGROUND

The Twin Creek 4 Apartments project is located at 349 Dorothy Street in Helena, Montana. The property is a planned new construction of 52 units. These 52 housing units consist of 24 one-bedroom units, 16 two-bedroom units, and 12 three-bedroom units. This property will serve all 52 units at 30%, 60%, and 70% AMI and will be using Average Income methodology.

Unit amenities include air conditioning, carport/garage, dishwasher, microwave, patio/balcony, and washer/dryer hookups. Property amenities include an on-site manager unit, library, outdoor community area, play area, basketball hoop/pad, and electric car plug-ins.

This project has submitted a full application that has been reviewed and meets the requirements of the current QAP.

The developer is requesting approval of a bond resolution for a not to exceed amount of \$10,500,000 with an expected estimated bond issue of \$8,683,637. The difference being a buffer for unexpected increases during pre-development.

## STAFF RECOMMENDATION (if any)

Staff supports this request.

## MOTION OPTION(S)

1. Move to approve resolution 24-0108-MF01 (Twin Creek 4 Apartments).
2. No motion, proposal fails.

## **RESOLUTION NO. 24-0108-MF01**

A RESOLUTION OF THE MONTANA BOARD OF HOUSING MAKING FINDINGS WITH RESPECT TO HOUSING NEEDS WITHIN MONTANA; APPROVING THE ISSUANCE OF ITS MULTIFAMILY HOUSING REVENUE BONDS (TWIN CREEK APARTMENTS), SERIES 2024, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$10,500,000; APPROVING THE SALE OF SAID BONDS PURSUANT TO A PURCHASE CONTRACT; APPROVING THE TRUST INDENTURE, LOAN AGREEMENT, PRELIMINARY OFFICIAL STATEMENT, OFFICIAL STATEMENT AND OTHER RELATED DOCUMENTS; AUTHORIZING THE EXECUTION OF SUCH DOCUMENTS; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

WHEREAS, the Montana Board of Housing (the “Board”) is authorized pursuant to the Montana Housing Act of 1975, Montana Code Annotated, Sections 90-6-101 through 90-6-127, as amended (the “Act”), to issue its bonds to purchase and make mortgage loans in order to finance housing which will provide decent, safe and sanitary housing for persons and families of lower income in the State of Montana; and

WHEREAS, the Board intends to issue its Multifamily Housing Revenue Bonds (Twin Creek Apartments), Series 2024 in an aggregate principal amount not to exceed \$10,500,000 (the “Bonds”), the proceeds of which will be used to finance a loan to the Borrower (hereinafter defined) for the acquisition, rehabilitation and equipping of the Twin Creek Apartments, a 72-unit affordable housing development located in Helena, Montana (the “Project”); and

WHEREAS, the Bonds will be issued pursuant to a Trust Indenture (the “Indenture”) between the Board and U.S. Bank Trust Company, National Association as trustee, or any other trust company or bank having the powers of a trust company that is in good standing with the State of Montana, duly authorized to exercise trust powers in the State with a reported capital, surplus and retained earnings of not less than \$100,000,000, and selected by an Authorized Officer, as defined herein (the “Trustee”), which will be in substantially the form as the Trust Indenture approved by the Board with respect to its Multifamily Housing Revenue Bonds (South Forty Apartments Project), Series 2023 (the “South Forty Financing”) subject to the terms, conditions and limitations established herein and in the Indenture; and

WHEREAS, the proceeds of the Bonds will be used to finance a loan (the “Mortgage Loan”) to Twin Creek 4 Housing Associates LLLP, a Montana limited liability limited partnership, or another affiliate of United Housing Partners LLC (the “Borrower”), pursuant to a loan agreement by and among the Board, the Borrower and the Trustee (the “Loan Agreement”), which will be in substantially the form as such agreement approved by the Board with respect to the South Forty Financing; and

WHEREAS, the interest on the Bonds is intended to qualify for a federal tax exemption under Section 142 of the Internal Revenue Code of 1986 (the “Code”), and to ensure that the Bonds maintain their tax exempt status, the Borrower will enter into a Regulatory Agreement and Declaration of Restrictive Covenants (the “Regulatory Agreement”), which will be in substantially the same form as such agreement approved by the Board with respect to the South Forty Financing; and

WHEREAS, a Bond Purchase Agreement (the “Purchase Contract”) to be dated the date of sale of the Bonds between the Board, the Borrower and the initial purchaser of the Bonds (the “Purchaser”), will be prepared in substantially the same form as such agreement approved by the Board with respect to the South Forty Financing, pursuant to which the Board would agree to sell, and the Purchaser would agree to purchase, the Bonds at the prices and upon the terms and conditions therein set forth; and

WHEREAS, a draft of a Preliminary Official Statement (the “Preliminary Official Statement”) is to be prepared containing certain information relating to the Board, the Indenture and the Bonds, such information being substantially similar to that provided in the final Official Statement (the “final Official Statement”) approved by the Board with respect to the South Forty Financing, and which is to be used by the Purchaser in connection with the sale of the Bonds to investors; and

NOW, THEREFORE, BE IT RESOLVED BY THE MONTANA BOARD OF HOUSING AS FOLLOWS:

**Section 1. Public Hearing and Findings.**

(a) The Board hereby finds and determines that the Project financed through the issuance of the Bonds constitutes a “housing development” within the meaning of Section 90-6-103(8) of the Act; and

(b) In accordance with Section 90-6-109 of the Act, following a public hearing, the Board finds:

(i) that there exists a shortage of decent, safe and sanitary housing at rentals or prices which persons and families of lower income can afford within the general housing market area to be served;

(ii) that private enterprise has not provided an adequate supply of decent, safe and sanitary housing in the housing market area at rentals or prices which persons or families of lower income can afford or provided sufficient mortgage financing for homes for occupancy by persons or families of lower income;

(iii) that the conditions, restrictions and limitations contained in the Indenture and contained in the program documents relating to the loan financed thereby and to be financed are sufficient to ensure that the Project will be well planned and well designed so as to constitute decent, safe and sanitary housing and

that the “housing sponsors” (as defined in Section 90-6-103(10) of the Act) are financially responsible;

(iv) that the Project to be financed which is referred to in paragraph (a) above will be of public use and will provide a public benefit, taking into account the existence of local government comprehensive plans, housing and land use plans and regulations, area-wide plans and other public desires;

(v) that the Project to be financed with the proceeds of the Bonds does not involve the construction of “second homes,” which are defined in the Act to mean homes which would not qualify as the primary residence of the taxpayer for federal income tax purposes relating to capital gains on the sale or exchange of residential property; and

(vi) that if the Loan constitutes a direct loan, in accordance with Section 90-6-109(1)(f), by virtue of the Board loaning the Bond proceeds to the Borrower pursuant to the Loan Agreement, the Project qualifies for federal funds through its receipt of 4% federal low-income housing tax credits.

**Section 2. Approval of Indenture.** The Indenture is hereby approved in the form hereinabove described, and the Chair, the Vice Chair or the Executive Director and Treasurer of the Board (each an “Authorized Officer”) is hereby authorized and directed to select a trustee and to execute and deliver the Indenture, with such changes, insertions or omissions therein as may be approved by such signatory, such approval to be evidenced conclusively by such execution of the Indenture.

**Section 3. Authorization of the Bonds.** The execution and delivery of the Board’s Bonds are hereby authorized and approved. The final amount and terms of the Bonds shall be determined by an Authorized Officer, consistent with the terms of the Indenture and subject to the following conditions. The Bonds shall not be general obligations of the Board but shall be limited obligations payable solely and only from Loan payments and any other moneys pledged under the Indenture by the Borrower as required by the Indenture. The Bonds shall mature no later than 40 years from their date of issuance, bear interest at a fixed or floating rate no greater than the net rate paid on the Loan (i.e. net of fees due to the Board and any other parties), be in a principal amount not to exceed \$10,500,000, be subject to optional, special optional, mandatory or sinking fund redemption or tender and have the other terms and provisions as described to the Board, and definitively set forth in the Indenture upon execution and delivery as aforesaid in Section 2 hereof. The Bonds shall be executed and delivered substantially in the form set forth in the Indenture, with such additions, omissions and changes as are required or permitted by the Indenture and approved by the signatories thereto. The Bonds shall be executed in the name of the Board by the Chair or the Vice Chair of the Board, and attested to by the Secretary or the Treasurer, each of whom is hereby appointed as an Authorized Officer for purposes of executing and attesting the Bonds, and their execution shall evidence their approval of the final terms thereof. Such signatures may be by facsimile; provided, however, that such Bonds shall not be valid or obligatory for any purpose until authenticated by the manual signature of an authorized officer of the Trustee.

**Section 4. Approval of Loan Agreement.** The Loan Agreement is hereby approved in the form hereinabove described, and an Authorized Officer is hereby authorized to execute and deliver the Loan Agreement, with such changes, insertions or omissions therein as may be approved by such person, such approval to be evidenced conclusively by such execution of the Loan Agreement.

**Section 5. Approval of Regulatory Agreement.** The Regulatory Agreement is hereby approved in the form hereinabove described, and an Authorized Officer is authorized and directed to execute and deliver the same, with such changes, insertions or omissions therein as may be approved by such person, such approval to be evidenced conclusively by such execution of the Regulatory Agreement.

**Section 6. Approval of Preliminary Official Statement and Official Statement.** A Preliminary Official Statement for the Bonds is hereby approved in the form described above, with such changes, insertions or omissions therein as may be approved by an Authorized Officer. Each such person is hereby authorized to execute and deliver a final Official Statement substantially in the form of the Preliminary Official Statement with such changes, insertions or omissions therein as may be required to finalize the pricing terms of the Bonds.

**Section 7. Approval of Purchase Contract and Sale of the Bonds.** A Purchase Contract for the Bonds is hereby approved in the form described above and the execution of the Purchase Contract by an Authorized Officer is hereby authorized and directed in order to effectuate the sale of the Bonds with such changes, insertions or omissions therein as may be approved by such person, such approval to be evidenced conclusively by such execution of the Purchase Contract.

**Section 8. Reserved.**

**Section 9. Ratification of Prior Actions.** All action previously taken by the officers, members or staff of the Board within the authority granted herein, with respect to the Indenture, the Loan Agreement, the Regulatory Agreement, the Preliminary Official Statement, the Purchase Contract and the Bonds is hereby approved, confirmed and ratified.

**Section 10. Execution of Documents.** In the event of the absence or disability of an Authorized Officer, or if for any other reason any of them are unable to execute the documents referred to in this Resolution, such documents may be executed by another member of the Board or by the Multifamily Program Manager or the Accounting and Finance Manager, with the same effect as if done by an Authorized Officer and without the further authorization of the Board. The execution of such documents by such member shall be conclusive evidence of his or her authority to so act.

**Section 11. Execution of No-Arbitrage Certificate.** An Authorized Officer is hereby authorized to issue certifications as to the Board's reasonable expectations regarding the amount and use of the proceeds of the Bonds as described in Section 148 of the Code.

**Section 12. Additional Actions Authorized.** The Chair, the Vice Chair, the Secretary or any other member of the Board, and the Executive Director and Treasurer, the Multifamily Program Manager and the Accounting and Finance Manager, acting alone or acting with others, are hereby authorized and directed to execute and deliver any or all other documents which may

be required under the terms of the Indenture, the Loan Agreement or the Purchase Contract and to take such other action as may be required or appropriate for the performance of the duties imposed thereby or to carry out the purposes thereof, and the members and officers named above are hereby designated as Authorized Officers for such purposes. With respect to the issuance of the Bonds authorized by this Resolution, such Authorized Officers are also authorized, with the advice of General Counsel or Bond Counsel, to interpret and apply the Board's Policy for Conduit Multifamily Housing Revenue Bonds (the "Policy") and to waive any requirement of the Policy to the extent such interpretation, application or waiver is consistent with the purpose of the Policy.

**Section 13. Effective Date.** This Resolution shall become effective immediately.

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ADOPTED by the Montana Board of Housing this \_\_\_\_ day of January, 2024.

MONTANA BOARD OF HOUSING

Attest:

By \_\_\_\_\_  
Bruce Posey, Chair

By \_\_\_\_\_  
Cheryl Cohen, Executive Director

August 7, 2023

Montana Board of Housing  
PO Box 200528  
Helena MT 59620-0528

Dear Board of Housing:

This letter with attachments meets the requirements of the Qualified Allocation Plan (QAP) as it relates to submission of a 4% Low Income Tax Credit Application.

#### **Executive Summary:**

United Housing Partners LLC (UHP) proposes to build 72 new affordable apartments in Helena, Montana by twinning 9% and 4% Low Income Housing Tax Credits (LIHTCs) with Coal Trust Multifamily Home (CTMH) Loan funds and other soft loans. This structure will allow the Board of Housing to create 72 new LIHTC homes with a single 9% LIHTC award. This is three and a half times the size of a typical 20-unit 9% new construction LIHTC project, giving the Board the “bang for the buck” it has consistently stressed as important when making LIHTC awards.

The City of Helena has already committed \$1,000,000 in Helena Affordable Housing Trust Funds (HAHTFs) for construction and \$400,000 in HAHTFs for permanent financing. The Montana Healthcare Foundation has committed a \$500,000 permanent loan upon LIHTC award, and UHP has also applied for \$2,526,194 in National Housing Trust Funds (NHTFs) of which the Department of Commerce committed \$1,575,514 in 2023 funds and has expressed that the other \$937,242 can be allocated from 2024 applications submitted this fall.

#### **Project Description:**

The 72 homes will be located on Helena’s east side at the corner of Alice Street and Dorothy Street and will be known as Twin Creek Apartments (the Project). Through the use of Income Averaging (IA), the Project will have a weighted average income restriction of 60% across all dwellings. The Project is located less than a block from Janet Park and two blocks from the City of Helena Community Garden in an area surrounded by residential, commercial, and retail space such as Walmart Supercenter & Pharmacy (1.5 miles), Riverwood Health Montana Urgent and Primary Care (1.4 miles), Big Lots (1.4 miles), and St. Peter’s Hospital (3.1 miles).

The 4% Project will stand alone for funding, accounting, management, ownership, and compliance as 52-apartments across two buildings with:

- 36 apartments for residents earning up to 70% or below AMI
- 4 apartments for residents earning up to 60% or below AMI, &
- 12 apartments for Extreme Low Income residents earning 30% or below the AMI

As UHP’s principal and lead developer, Tyson O’Connell has over twelve years of experience developing affordable housing throughout the country and recently returned to Helena, where he was born and raised, to complete the rehabilitation of Fire Tower Apartments. UHP is headquartered in Missoula, with an office in Helena, and many of its team members and consultants have also worked with Wishcamper Development Partners LLC. Together, the UHP team have over 25 years of combined experience in LIHTC and affordable housing development.

#### **Financing Plan and Use of Tax Credits:**

The 2023 Legislature passed House Bill 819 which allocated \$50,000,000 in Coal Trust Funds for CTMH loans to build more affordable housing in Montana. The Project will utilize construction/permanent CTMH loans, layered with HAHTFs, NHTFs, a loan from the Montana Healthcare Foundation, Tax Exempt Bonds (4% only),

as well as both 9% and 4% LIHTC equity. Utilizing CTMH loans in this twinned 9% and 4% LIHTC structure creates the incredible opportunity to build 72 new affordable apartments in Helena, which has received only one 9% LIHTC award for new construction since 2012, despite rents rising 36.5% since the Covid 19 pandemic. This is the largest rental percentage increase in the Montana, and the fifth highest in the nation, nearly three times the national average<sup>1</sup>.

UHP twinned 4% / 9% LIHTC funds with CTMH loans in order to maximize the reach of competitive tax credits as prioritized and desired by the Board throughout the 2023 process. The applicant layered other funding sources to ensure the Project has greater impact on Helena's housing shortage and made sure that 12 apartments are reserved for the lowest income residents, those earning under 30% AMI.

### **Anticipated Amenities and Justification for Need:**

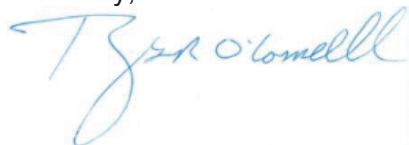
The Project will incorporate minimal irrigation landscaping and include a playground and green space. All homes will include energy efficient appliances, low flow toilets, LED lighting, and air conditioning. UHP also intends to offer residents in-unit washers/dryers and a limited number of reserved carport spaces as optional amenities.

Affordable housing continues to be one of the state's largest development shortcomings. In October 2022, Governor Gianforte said, "I think this affordability and attainability of housing is probably the biggest issue facing working families in Montana,"<sup>2</sup> and he created a Housing Task Force in 2022 to help find housing solutions. Governor Gianforte has also recently said that the affordable housing crunch is primarily a "supply side problem."<sup>3</sup>

As the capital city, Helena is no exception in its need to expand the number of safe, efficient, and functional homes available to the most vulnerable demographic of our population. Through careful and widespread vetting and research, the UHP team has identified Twin Creek Apartments as fitting the most urgent criteria to meet the affordable housing demands of the community and we have maximized the size of the twinned project to ensure that the Board is getting the best possible leverage through a 9% LIHTC award.

Our third-party market study shows the need, our proforma and economic analysis shows the financial viability, and our timeline and experience show our capacity to complete the Project. Most importantly, Twin Creek Apartments demonstrates clear alignment with the priorities and goals of both the City of Helena and Montana Housing.

Sincerely,



Tyson O'Connell  
<https://uhousingpartners.com>  
[Tyson@uhousingpartners.com](mailto:Tyson@uhousingpartners.com)  
406-531-4745

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<sup>1</sup> Bhattacharai, Abha . "Rent Is Rising. See How Much Prices Are Up In Your Area." *Washington Post*, 21 Apr.

2022. [www.washingtonpost.com/business/interactive/2022/rising-rent-prices/](https://www.washingtonpost.com/business/interactive/2022/rising-rent-prices/)

<sup>2</sup> <https://montanafreepress.org/2022/10/27/gianforte-pushes-trades-education-construction-as-housing-affordability-fixes/>

<sup>3</sup> [https://news.mt.gov/Governors-](https://news.mt.gov/Governors-Office/Governor_Gianforte_Shares_Priorities_to_Further_Improve_States_Business_Climate#:~:text=%E2%80%9CThe%20biggest%20issue%20facing%20working,more%20affordable%2C%20attainable%20housing.%E2%80%9D)

[Office/Governor\\_Gianforte\\_Shares\\_Priorities\\_to\\_Further\\_Improve\\_States\\_Business\\_Climate#:~:text=%E2%80%9CThe%20biggest%20issue%20facing%20working,more%20affordable%2C%20attainable%20housing.%E2%80%9D](https://news.mt.gov/Governors-Office/Governor_Gianforte_Shares_Priorities_to_Further_Improve_States_Business_Climate#:~:text=%E2%80%9CThe%20biggest%20issue%20facing%20working,more%20affordable%2C%20attainable%20housing.%E2%80%9D)

## MARKET STUDY SUMMARY

<b>Market Study Company:</b>	Prior & Associates
<b>Project Name:</b>	Twin Creek Apartments
<b>Project Market Area:</b>	Helena, MT

Is the project, as proposed, viable?

Average (comparable/achievable) market unit rents in immediate area and the percent the proposed project rents are below these rents.

	Market Rents	% Project Rents Below	
0 bedroom			
1 bedroom	\$ 1,430	12.7%	
2 bedroom	\$ 1,670	11.3%	
3 bedroom	\$ 1,795	5.3%	
4 bedroom			Reference page:
5 bedroom			<input type="text" value="59"/>

# of all New Units Needed:  Reference page:

# of units needed for the targeted AMI of the project:  Reference page:

Vacancy Rate:  Reference page:

Months to Lease-up:  Reference page:

Capture Rate:  Reference page:   
(projected income eligible tenants who will move in next year/proposed units)

Absorption Rate:  Reference page:   
(proposed units/existing LIH, market area units required)

Penetration Rate:  Reference page:   
(existing LIH units/total eligible households)

Number of LI households that can afford rent of proposed project:  Reference page:

Distance (miles) to: (only fill this out at full market study)

miles to grocery store (convenience store does not count)

miles to medical services appropriate and available to all prospective tenants (e.g., hospital, doctor offices, etc.) and are one of the following:

☒ A Project is located within 1½ miles of the specified amenity or essential service.

☒ Public or contracted transportation (not including taxi or school bus service) is reasonably available to the specified amenity or service (i.e., the Project is located within ¼ mile of fixed bus stop or on a same day call basis) (or letter from provider committing to establish such service); or

☐ Where applicable, the specified amenity or service is available via a no-charge delivery service to the Project Location (all distances must be as specified in the Project's market study).

City	Helena
County	Lewis & Clark
Project Name	Twin Creek Apartments
Developer / General Ptnr	LLC
Set-aside	General
HC Requested	6,328,680
Project Type	Family
Construction Type	New Const
Projected Construction Start	Jul-24
Projected Completion	Mar.-26

**Unit Numbers**

**Target**

0-bdrm	20%	-
0-bdrm	30%	-
0-bdrm	40%	-
0-bdrm	50% (Low HM)	-
0-bdrm	50%	-
0-bdrm	60%	-
0-bdrm	70%	-
0-bdrm	80%	-
0-bdrm		-
0-bdrm		-
1-bdrm	20%	-
1-bdrm	30%	6
1-bdrm	50% (Low HM)	-
1-bdrm	40%	-
1-bdrm	50%	-
1-bdrm	60%	-
1-bdrm	70%	18
1-bdrm	80%	-
1-bdrm		-
1-bdrm		-
2-bdrm	20%	-
2-bdrm	30%	4
2-bdrm	40%	-
2-bdrm	50% (Low HM)	-
2-bdrm	50%	-
2-bdrm	60%	-
2-bdrm	70%	12
2-bdrm	80%	-
2-bdrm		-
2-bdrm		-
3-bdrm	20%	-
3-bdrm	30%	2
3-bdrm	40%	-
3-bdrm	50% (Low HM)	-
3-bdrm	50%	-
3-bdrm	60%	4
3-bdrm	70%	6
3-bdrm	80%	-
3-bdrm		-
3-bdrm		-

<b>County</b>	<b>Lewis &amp; Clark</b>		
<b>Project Name</b>	<b>Twin Creek Apartments</b>		
<b>Developer / General Ptnr</b>	<b>LLC</b>		
	4-bdrm	20%	-
	4-bdrm	30%	-
	4-bdrm	40%	-
	4-bdrm	50% (Low HM)	-
	4-bdrm	50%	-
	4-bdrm	60%	-
	4-bdrm	70%	-
	4-bdrm	80%	-
	4-bdrm		-
	4-bdrm		-
	other	20%	-
	other	30%	-
	other	40%	-
	other	50% (Low HM)	-
	other	50%	-
	other	60%	-
	other	70%	-
	other	80%	-
	other		-
	other	mkt	-
	other	mgt(60%)	-
	Total Units		52
	Average Income Targeting		60.00%
<b><u>Square Footage</u></b>			
	Income Restricted Units		38,856
	Managers Unit(s)		-
	Supportive Services		-
	Common Space		5,199
	Market/Commercial		-
	Total		44,055
<b><u>Unit Rents</u></b>			
	0-bdrm	20%	-
	0-bdrm	30%	-
	0-bdrm	40%	-
	0-bdrm	50% (Low HM)	-
	0-bdrm	50%	-
	0-bdrm	60%	-
	0-bdrm	70%	-
	0-bdrm	80%	-
	0-bdrm		-
	0-bdrm		-
	1-bdrm	20%	-
	1-bdrm	30%	473
	1-bdrm	40%	-
	1-bdrm	50% (Low HM)	-
	1-bdrm	50%	-
	1-bdrm	60%	-
	1-bdrm	70%	1,254

County	Lewis & Clark		
Project Name	Twin Creek Apartments		
Developer / General Ptnr	LLC		
	1-bdrm	80%	-
	1-bdrm		-
	1-bdrm		-
	2-bdrm	20%	-
	2-bdrm	30%	552
	2-bdrm	40%	-
	2-bdrm	50% (Low HM)	-
	2-bdrm	50%	-
	2-bdrm	60%	-
	2-bdrm	70%	1,489
	2-bdrm	80%	-
	2-bdrm		-
	2-bdrm		-
	3-bdrm	20%	-
	3-bdrm	30%	626
	3-bdrm	40%	-
	3-bdrm	50% (Low HM)	-
	3-bdrm	50%	-
	3-bdrm	60%	1,438
	3-bdrm	70%	1,709
	3-bdrm	80%	-
	3-bdrm		-
	3-bdrm		-
	4-bdrm	20%	-
	4-bdrm	30%	-
	4-bdrm	40%	-
	4-bdrm	50% (Low HM)	-
	4-bdrm	50%	-
	4-bdrm	60%	-
	4-bdrm	70%	-
	4-bdrm	80%	-
	4-bdrm		-
	4-bdrm		-
	other	20%	-
	other	30%	-
	other	40%	-
	other	50% (Low HM)	-
	other	50%	-
	other	60%	-
	other	70%	-
	other	80%	-
	other		-
	other	mkt	-
	other	mgt(60%)	-
Total Monthly Rents			62,744
vacancy factor			5.00%
Adjusted Rent			59,607
other/commercial income			3,250
total rent			62,857
x 12 months			12

<b>County</b>	<b>Lewis &amp; Clark</b>
<b>Project Name</b>	<b>Twin Creek Apartments</b>
<b>Developer / General Ptnr</b>	<b>LLC</b>

Total Annual Income	754,282
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#### **Expenses**

Administration	13,023
Management	35,968
Maintenance	65,104
Operating	123,707
Taxes	67,000
Replacement Reserve	18,200
<b>Total Expenses</b>	<b>323,002</b>

Net Income Before Debt Service	431,280
--------------------------------	---------

#### **Financing Sources**

Hard Loan	7,686,748
Hard Loan	-
Soft Loan	-
Soft Loan	400,000
State HOME	-
State CDBG	-
State NHTF	2,526,194
Other	-
MT Healthcare Initiative Loan	500,000
Other	-
Other	-
Deferred Dev Fee	1,165,847
HC Equity Competitive	-
HC Equity Non-Competitive	5,378,834
<b>Total Sources:</b>	<b>17,657,623</b>
% of Project Financed by HC:	30.46%

#### **Return on Sale of HTC**

HTC Requested	6,328,680
HTC Equity	5,378,834
HTC Return on Sale	0.850

#### **Ratios**

Rent (Income)	754,282
Operating	304,802
Replacement	18,200
Net Income	431,280
Total Debt Service	375,816
Debt Coverage Ratio (DCR)	1.15
Total Expense Ratio	1.08

#### **Project Costs**



<b>County</b>	<b>Lewis &amp; Clark</b>
<b>Project Name</b>	<b>Twin Creek Apartments</b>
<b>Developer / General Ptnr</b>	<b>LLC</b>
Land	325,000
Building/Acquisition	-
Site Work	851,122
Construction / Rehab	11,269,180
Soft Costs	2,721,292
Developer Fees	2,226,489
Reserves	264,540
Total Project Costs	17,657,623
Supportive Services Costs	-
Residential Costs	17,657,623

#### **Costs versus Sources**

Total Project Costs	17,657,623
Total Financing Sources	17,657,623
Difference	-

#### **Project Cost Limitations**

	<b><u>Limits</u></b>	
General Requirements	6.00%	4.13%
Contractor Overhead	2.00%	1.35%
Contractor Profit	6.00%	4.13%
Developer Fees	15.00%	15.00%
Soft Cost	32 or 37 or 40%	39.05%

#### **Per Unit Comparison**

	<b><u>Limits</u></b>	
Cost per unit total	n/a	339,570
Cost per unit residential only	\$350,000	339,570
Cost per unit Const / Rehab	n/a	233,083
Credits per unit	n/a	121,705
Operating Cost per unit	\$3,000 min	5,862
Replacement Reserves	\$300 min	350

#### **Per Square Foot Comparison**

Construction / Rehab per sq ft	255.80
Total Project Cost per sq ft	400.81
Credits per sq ft	143.65
Credits per sq ft (residential only)	162.88

<b><u>Utilities Paid by (Tenant / Owner)</u></b>	Tenant
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#### **Market Study Data:**

Vacancy Rates	1.6%
Absorption Rate	44.0%
Months to Absorb	4
Average Project Rent	1,347

<b>County</b>	<b>Lewis &amp; Clark</b>
<b>Project Name</b>	<b>Twin Creek Apartments</b>
<b>Developer / General Ptnr</b>	<b>LLC</b>

Average Market Rent	1,632
Units needed for Targeted AMI's	810

Market Rents

0-bdrms	-
1-bdrms	1,430
2-bdrms	1,670
3-bdrms	1,795
4-bdrms	-
other	-

**Acq Rehab Info:**

Reserves kept by existing owner	-
Other cash out by existing owner	-
Current Debt on Property	-
	-
	-
	-
	-

**Development Evaluation Criteria and Selection**

Lower Income Tenants

Income and Rent Level Targeting.	60%
Project-Based Rental Subsidy.	NO

Project Characteristics

Amenities	Grocery & Medical
Small Town / Tribal Designation Area	na
Affordable Housing Stock	na
Historic Preservation	na

Local Involvement

Community Input	Local Community Input
QCT / Local Community Revitalization Plan	na
Communication / Relationships	Local Entity Participation

Green Building and Energy Conservation Standards

Green & Energy Std Met

Tenant Populations with Special Housing Needs

Family Projects	Family Project
Elderly Projects	na





**Ellie Ray, Senior Planner**  
**Community Development Department**  
316 North Park Avenue, Room 404  
Helena, MT 59623

: Phone: 406-447-8491  
: Fax: 406-447-8460  
: Email: [eray@helenamt.gov](mailto:eray@helenamt.gov)

**[helenamt.gov](http://helenamt.gov)**

**Date:** April 25, 2023

Montana Board of Housing  
301 S. Park Avenue  
PO Box 200528  
Helena, MT 59620-0528

Dear Montana Housing Board Members:

On behalf of the City of Helena Community Development Department, I would like to submit this letter of support for the United Housing Partners (UHP) Twin Creek Apartments LIHTC application. Tyson O'Connell of UHP has coordinated with the City to find a suitable location for a new development for over a year, and City staff know him to have a track record of success in the realm of affordable housing development and rehabilitation. The City is excited at the prospect of seeing an additional 40 or more dwelling added to the community's housing stock to help address our stark housing shortage.

The City of Helena previously worked with Tyson O'Connell and his team on the rehabilitation of the Fire Tower Apartments in downtown Helena, a project that received LIHTC funding from the state as well as building fee waivers from the City. The Fire Tower project retained and dramatically improved affordable housing offerings for seniors and families in the community. Tyson's deep level of investment, personally and professionally, in the Helena community makes him an exemplary partner. With the scarcity of safe, sanitary, accessible, rent-subsidized dwelling units in the city, as evidenced by extensive local affordable housing agency and Section 8 voucher waitlists, Twin Creek Apartments' units are indisputably of critical importance to our community.

The proposed development of Twin Creek Apartments will further the city's 2019 Growth Policy goals by "supporting the provision of housing that is safe, available, accessible, and affordable for all Helena residents." Further, the proposal supports the Growth Policy objectives to "promote and maintain development of a diverse housing stock," "support the development of housing located in proximity to necessary services and quality of life assets," and, more specifically, "support and expand the supply of housing for lower income, senior citizens, persons with disabilities, homeless, and others with special needs." These goals are also reflected in the 2018 Housing Needs Assessment, which established goals and policies to ensure that residents maintain access to safe, sanitary, affordable housing and the preservation of our existing housing stock.

We hope that you favorably consider UHP's LIHTC application, and we look forward to seeing their housing development come to fruition in the near future.

Sincerely,

Ellie Ray  
Senior Planner



## D&M Development

3424 Highway 12 East, Helena, MT 59601 Phone (406) 443-3225 Fax (406) 443-1537

Housing Board  
C/O Montana Board of Housing  
P.O. Box 200528  
Helena, MT 59620-0528

Dear MBOH Board Members,

I am writing this letter in support of the Twin Creek Apartments affordable housing project proposed by United Housing Partners. As a developer and business owner working throughout the state, I know first hand the need for affordable work force housing in the city of Helena. As the owner of the subject property, I had purchased it with plans to develop it myself. Part of the reason I agreed to work with United Housing Partners is I think this area is ideal for affordable housing. I see and believe in the need to build safe, quality homes to lower income families in our area. The past few years have made housing solutions difficult, but I believe Tyson and his team have the experience and project ideal for this location. I hope you will award this project tax credits. It will have a huge impact.

Respectfully submitted By D&M Development, LLC

Mark Esponda  
Member  
D&M Development, LLC

Dick Anderson  
Member  
D&M Development, LLC



Montana Board of Housing  
301 S. Park Ave.  
P.O. Box 200528  
Helena, MT 59620-0528

Dear Board Members:

I write this letter in strong support for United Housing Partners proposed Twin Creek Apartments project application. As Executive Director of the Helena Housing Authority, I see the urgent need for additional affordable housing in our community firsthand every day. I have been involved in affordable housing and working with low income people here in Montana for over 30 years, and I have never experienced such challenging rental housing market conditions with unprecedented rapid rent increases (up 40%) and extremely tight supply of rentals. In a recent national study, Lewis and Clark county was found to be one of the top five counties in the entire country for percentage rent increase. HHA HCV program participants have faced unprecedented challenges finding available rental units with rents within the payment standards. This project will address our dire housing situation here in the Helena area.

I chair the City of Helena Affordable Housing Trust Fund Advisory Board (HAHTF), and our board just completed an intensive review of Twin Creek's application for HAHTF funding. Our Board conducted a thorough review and gave Twin Creek Apartments a unanimous "Excellent" score recommendation to the Helena City Commission to award HAHTF funding in the amount of \$1 million construction/\$400,000 permanent 1% loan financing. The project met and exceeded all of our funding criteria. Our board found the project design, proposed funding, and development team qualifications to be exceptional. The City of Helena strongly supports this project as demonstrated by this financial commitment to serve in a financial partnership role on the project.

In addition, United Housing Partners and the Helena Housing Authority have agreed to develop a Memorandum of Understanding related to affirmative marketing and outreach to HHA's voucher program participants. This MOU partnership with Twin Creek Apartments will ensure that our voucher program participants will have an affirmative opportunity to lease these new highly affordable homes once they are available.

Tyson O'Connell and his development team are well known to me. Tyson is a real leader in Montana affordable housing. He is honest, dependable, and trustworthy in his approach to LIHTC development and operations-he follows through on his commitments. He is a creative and thorough problem solver when challenges arise. I strongly encourage the Board to award the Twin Creek project 2024 LIHTC Credits. You can be assured that United Housing Partners will deliver a high-quality project as proposed.

Sincerely,

Michael M. O'Neill  
Executive Director







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## Project for Alternative Learning (PAL)

815 Front Street, Helena, MT 59601

(406) 324-1630 Fax: (406) 324-1631

Montana Board of Housing  
C/O Department of Commerce  
301 S. Park Ave.  
P.O. Box 200528  
Helena, MT 59620-0528

Dear Board Members and Staff:

My name is Michele Zentz, and I am the Homeless Liaison for the Helena Public School District. I am also an English teacher at Project for Alternative Learning (PAL) High School. I write this letter in support of the proposed Twin Creek Apartments project application for both National Housing Trust Funds and Low-Income Housing Tax Credits. Helena is currently experiencing a housing emergency, and our students and their families are experiencing homelessness and housing stress at an alarming rate. We need more housing, and it is critical for that housing to be affordable to the most extreme low-income sector of our population.

The Helena Public School District created the Homeless Liaison position last school year to support children experiencing homelessness; however, this is my first year in the position. Last year, the district reported 150 PreK-12<sup>th</sup> grade students experiencing homelessness; this year that number has more than doubled to 373. This troubling trend in the growing number of families struggling to find safe and affordable housing translates to 133 students who are living sheltered, 133 who are doubled up with other families, 46 students unsheltered, and 58 students living in a hotel/motel. In Pre-K to 5<sup>th</sup> grade, this is 213 students; in middle school, this is 80 students; and in high school, this is 80 students.

These trends are only getting worse. In the past year, the number of students experiencing some form of homelessness in Helena has grown from 42 at the end of August to 374 presently. Without more rent-restricted apartments or a new shelter, the district does not see a clear solution to slow this problem.

I see the effects of this issue to Helena families every day. It affects families whose apartment costs tripled. It affects families of veterans on disability. It affects one of our elementary teachers and her family who relocated to Helena. How can we expect our children to learn, if they don't know where they will sleep tonight? I understand that these funds are limited, and many different projects are applying. I just hope you will find a way to support the projects that bring the most dwellings, as the shortage is huge and growing. Twin Creeks will have a meaningful impact on Helena's youth, families, and the entire community.

Sincerely,

Michele Zentz  
Homeless Liaison  
Helena Public Schools



**Mayor Wilmot J. Collins**  
316 North Park Avenue Helena, MT  
59623

: Office: (406) 447-8410  
: Cell: (406) 594-2805  
: Email: [wcollins@helenamt.gov](mailto:wcollins@helenamt.gov)

[helenamt.gov](http://helenamt.gov)

Thursday, April 13, 2023

Montana Board of Housing

301 S. Park Ave.  
P.O. Box 200528  
Helena, MT 59620-0528

To the Montana Housing Board Members:

As the Mayor of Helena, I am writing in support of United Housing Partners' Twin Creek Apartments project for 9% Low Income Tax Credits for this year's allocation awards.

I had the pleasure of working with Tyson on the rehabilitation of Fire Tower Apartments over the past few years, and I was incredibly impressed with his ability to overcome many obstacles required to see this project through to completion. The project provides safe, sustainable housing for the members of our community that need it most. This property could've easily been lost to market rent apartments or high-end condos, but instead it stands as a beacon of equality and opportunity in our Downtown District. Fire Tower is a great source of pride to the community and its beneficiaries.

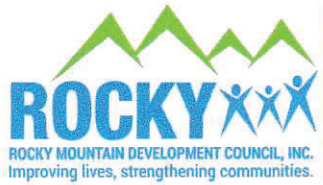
In my experience Tyson and his team work with high integrity and transparency. He doesn't over promise, and I believe Twin Creek Apartments will be a great asset to our community for many decades to come.

We're looking forward to working with UHP on Twin Creek Apartments and encourage the Montana Board of Housing to support this project with a Low Income Housing Tax Credit award.

Sincerely,

Wilmot J. Collins  
Mayor, City of Helena





**ROCKY MOUNTAIN DEVELOPMENT COUNCIL, INC.**  
P.O. Box 1717 | 200 South Cruse Avenue | Helena, MT 59624-1717  
phone: 406.447.1680 | toll free: 800.356.6544 | fax: 406.447.1629

April 4, 2023

Montana Housing  
PO Box 200528  
Helena, MT 59620-0528

RE: Letter of Support – Twin Creek Apartments

To Whom It May Concern:

I am writing this letter in strong support of the proposed Twin Creek Apartments. Helena is in need of housing more now than ever. The demand far exceeds the supply and our community members are facing homelessness at an alarming rate.

Twin Creek Apartments will be built on the Eastside of Helena on the corner of Alice St and Dorothy Street. This area contains a mix of residential and commercial use, with significant new home construction and the community should support and take pride in new affordable housing. Rocky Mountain Development Council Inc. ("Rocky"), owns and manages 384 affordable apartments in the area and has seen the need for workforce and family apartments as a higher priority than senior specific homes in Helena. United Housing Partners, has recognized this need, and Twin Creek Apartments will have one, two, and three bedroom homes with homes set aside for families earning 30%, 50%, 60%, and 70% Area Median Income (AMI).

We currently have 466 unduplicated households on our Red Alder wait list alone. This would be an approximate wait of 5 years! Please consider funding United Housing Partners' Twin Creek Apartments to address this dire need.

Thank you,

Liz Mogstad, Affordable Housing Director  
Rocky Mountain Development Council, Inc.

Montana Board of Housing  
C/O Tax Credit Award Staff  
301 S. Park Ave.  
P.O. Box 200528  
Helena, MT 59620-0528

Montana Housing Board Members & Staff:

As Executive Director for Helena's YWCA. YWCA Helena's mission to prevent homelessness, to provide safe and supportive housing for women and children experiencing homelessness, and provide services that restore hope, self-sufficiency, and happy and healthy lives. It is within that frame that I in support of a tax credit award for United Housing Partners proposed Twin Creek Apartments project in Helena.

YWCA Helena is the only YWCA in Montana that provides a state endorsed and licensed substance use recovery program for women who are experiencing homelessness, justice system involvement, and who have cooccurring substance use and behavioral health disorders. Many of the women we serve are mothers who either have custody of, or are seeking reunification with, their children. In 2022 we housed 34 women and 22 children.

The children that are housed by YWCA Helena are served by our child and family therapist. Additionally, YWCA Helena operates a therapeutic, trauma-informed licensed childcare center.

Our pinch point? The thing that makes our work difficult? The lack of housing when the women we serve are ready to independently live in the community. We celebrate the women who complete our 8–12-month program and facilitate their transition into community living. However, women are staying in our transitional housing beyond what is necessary. There simply is nowhere for them to rent.

We currently have 20 women and 19 children on our waiting list. Touching more lives requires new affordable housing opportunities. I have met with the United Housing Partners team, and we embrace this project as a community partner. Our 2024 goals include expanding our children's behavioral health services, expanding our clinical model to non-residential participants. We will also pilot a program to train and prepare our clients, those affected by systemic trauma, mental health challenges, or recovering from domestic violence or substance abuse, to be successful tenants. We will involve landlords and property managers to be more capable in communicating expectations to tenants who may have serious traumatic experiences. Much has been done to help first-time home buyers, but the need to prepare renters to become successful tenants remains.

With their 12 dwellings reserved for Extreme Low-Income benefactors, the Twin Creek Apartments is an ideal partner to start filling our community's dire need for safe, secure housing for our most vulnerable women and their children. I hope you will award this project with a 2024 tax credit award.

Sincerely,



Jenifer Gursky  
Executive Director



## YWCA Helena

501 N Park Ave  
PO Box 518  
Helena, MT 59624  
P 406.442.8774  
F 406.442.0428  
info@ywcahelena.org  
[www.ywcahelena.org](http://www.ywcahelena.org)

# BOARD AGENDA ITEM

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## PROGRAM

Multifamily Program

## AGENDA ITEM

Twin Creek 4 Apartments - Coal Trust Multifamily Homes Loan Approval

## BACKGROUND

The Twin Creek 4 Apartments project is located at 349 Dorothy Street in Helena, Montana. The property is a planned new construction of 52 units. These 52 housing units consist of 24 one-bedroom units, 16 two-bedroom units, and 12 three-bedroom units. This property will serve all 52 units at 30%, 60%, and 70% AMI and will be using Average Income methodology.

Unit amenities include air conditioning, carport/garage, dishwasher, microwave, patio/balcony, and washer/dryer hookups. Property amenities include an on-site manager unit, library, outdoor community area, play area, basketball hoop/pad, and electric car plug-ins.

Proposal:

<b>Borrower:</b>	Twin Creek 4 Housing Associates LLLP
<b>Program:</b>	Coal Trust Multifamily Homes Loan Program
<b>Type:</b>	Permanent Amortizing
<b>Amount:</b>	\$7,686,748
<b>Term:</b>	30 years
<b>Amortization Period:</b>	30 years
<b>Rate:</b>	3.8325% based on August 2023 application
<b>Security:</b>	1 <sup>ST</sup> lien position non-recourse
<b>Property Taxes:</b>	Yes, will be subject to property taxes.
<b>Loan Fees:</b>	1% of Loan amount paid at closing.
<b>Escrows:</b>	Will be held with Montana Housing
<b>Underwriting</b>	
<b>Assumptions:</b>	As outlined in Housing Credit Qualified Allocation Plan
<b>Closing and Stabilization</b>	
<b>Conditions:</b>	On or after 3 months of stabilized occupancy.

## STAFF RECOMMENDATION (if any)

Staff supports proposal noted above.

## MOTION OPTION(S)

1. Move to approve \$7,686,748 Coal Trust Multifamily Homes Loan in first lien position with a 30-year amortization, 30-year term and at a 3.8325% interest rate that will close on or after 3 months of stabilized occupancy, with the staff's discretion to change loan terms or funding pool if needed.
2. No motion, proposal fails.

# BOARD AGENDA ITEM

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## PROGRAM

Multifamily Program

## AGENDA ITEM

Twin Creeks 9 Apartments - Coal Trust Multifamily Homes Loan Approval

## BACKGROUND

Twin Creek 9 Apartments is new construction development located in Helena. The Project will consist of 20 affordable one-bedroom units.

Unit amenities include air conditioning, carport/garage dishwasher, microwave, patio/balcony, washer/dryer hookups. Property amenities include an on-site manager unit, library, outdoor community area, play area, basketball hoop/pad, and electric car plug-ins.

Proposal:

<b>Borrower:</b>	Twin Creek 9 Housing Association LLLP
<b>Program:</b>	Coal Trust Multifamily Homes Loan Program
<b>Type:</b>	Permanent Amortizing
<b>Amount:</b>	\$474,940
<b>Term:</b>	<b>30 years (Board previously approved 16 years)</b>
<b>Amortization Period:</b>	30 years
<b>Rate:</b>	3.8325% based on August 2023 application
<b>Security:</b>	1 <sup>ST</sup> lien position non-recourse
<b>Property Taxes:</b>	Yes, will be subject to property taxes.
<b>Loan Fees:</b>	1% of Loan amount paid at closing.
<b>Escrows:</b>	Will be held with Montana Housing
<b>Underwriting</b>	
<b>Assumptions:</b>	As outlined in Housing Credit Qualified Allocation Plan
<b>Closing and Stabilization</b>	
<b>Conditions:</b>	On or after 3 months of stabilized occupancy.

## STAFF RECOMMENDATION (if any)

Staff supports proposal noted above.

## MOTION OPTION(S)

1. Move to approve \$474,940 Coal Trust Multifamily Homes Loan in first lien position with a 30-year amortization, **30-year term** and at a 3.8325% interest rate that will close on or after 3 months of stabilized occupancy, with the staff's discretion to change loan terms or funding pool if needed.
2. No motion, proposal fails.

# BOARD AGENDA ITEM

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## PROGRAM

Multifamily Program

## AGENDA ITEM

7<sup>th</sup> & Aspen 4 – Bond Resolution No. 24-0108-MF02

## BACKGROUND

The 7<sup>th</sup> & Aspen 4 project is located at 706 North 7<sup>th</sup> Ave in Bozeman, Montana. The property is a planned new construction of 23 family units. These 23 housing units consist of 4 efficiency/studio units, 10 one-bedroom units, 6 two-bedroom units, and 3 three-bedroom units. This property will serve all 23 units at 60% AMI.

Property amenities include a community garden, community room, computers for tenant use, outdoor community area, and wi-fi. Unit amenities include dishwasher, disposals, extra storage outside and a microwave.

This project has submitted a full application that has been reviewed and meets the requirements of the current QAP.

The developer is requesting approval of a bond resolution for a not to exceed amount of \$4,300,000 with an expected estimated bond issue of \$3,800,000. The difference being a buffer for unexpected increases during pre-development.

## STAFF RECOMMENDATION (if any)

Staff supports this request.

## MOTION OPTION(S)

1. Move to approve resolution 24-0108-MF02 (7<sup>th</sup> & Aspen).
2. No motion, proposal fails.

## **RESOLUTION NO. 24-0108-MF02**

A RESOLUTION OF THE MONTANA BOARD OF HOUSING MAKING FINDINGS WITH RESPECT TO HOUSING NEEDS WITHIN MONTANA; APPROVING A BORROWING, AND REPAYMENT THEREOF, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$4,300,000; APPROVING A FUNDING LOAN AGREEMENT, BORROWER LOAN AGREEMENT AND OTHER RELATED DOCUMENTS; AUTHORIZING THE EXECUTION OF SUCH DOCUMENTS; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

WHEREAS, the Montana Board of Housing (the “Board”) is authorized pursuant to the Montana Housing Act of 1975, Montana Code Annotated, Sections 90-6-101 through 90-6-127, as amended (the “Act”), to borrow and issue evidences of indebtedness concerning repayment thereof and to make loans and purchase mortgage loans in order to finance housing which will provide decent, safe and sanitary housing for persons and families of lower income in the State of Montana; and

WHEREAS, the Board intends to borrow on a non-recourse limited obligation basis from Glacier Bank (or such other financial institution as is approved by the Chair, Vice Chair or Executive Director and Treasurer) (the “Funding Lender”) an aggregate principal amount not to exceed \$4,300,000, the proceeds of which will be used to finance a mortgage loan for the acquisition, construction and equipping of Midtown Aspen, a 23-unit affordable housing development located in Bozeman, Montana (the “Project”); and

WHEREAS, the borrowing by the Board will be pursuant to a Funding Loan Agreement, among the Board, the Funding Lender and a fiscal agent to be determined by the Board (the “Fiscal Agent”) (the “Funding Loan Agreement”), and the agreement to repay such borrowing shall be reflected in a non-recourse revenue debt obligation (the “Obligation”) to be issued to the Funding Lender pursuant thereto, which Funding Loan Agreement and Obligation will be in substantially the form approved by the Board with respect to the Highland Manor financing in 2023 (the “Highland Manor Financing”), subject to the terms, conditions and limitations established herein and in the Funding Loan Agreement; and

WHEREAS, the proceeds of the borrowing will be used to finance a loan (the “Mortgage Loan”) to Midtown Aspen 4 LLLP, a Montana limited liability limited partnership, or a similar affiliate of Human Resource Development Council of District IX, Inc. and Boundary Development LLC, or subsidiaries or affiliates thereof (collectively, the “Borrower”), pursuant to a Borrower Loan Agreement, by and among the Board, the Borrower and the Funding Lender (the “Borrower Loan Agreement”), which will be in substantially the form used in the Highland Manor Financing; and

WHEREAS, the interest on the Obligation is intended to qualify for a federal tax exemption under Section 142 of the Internal Revenue Code of 1986 (the “Code”), and to ensure that the Obligation maintains its tax exempt status, the Borrower will enter into a Regulatory Agreement and Declaration of Restrictive Covenants (the “Regulatory Agreement”), which will be in substantially the same form as such agreement approved by the Board with respect to the Highland Manor Financing.

NOW, THEREFORE, BE IT RESOLVED BY THE MONTANA BOARD OF HOUSING AS FOLLOWS:

**Section 1. Public Hearing and Findings.**

(a) The Board hereby finds and determines that the Project financed through the above described borrowing and issuance of the Obligation constitutes a “housing development” within the meaning of Section 90-6-103(8) of the Act; and

(b) In accordance with Section 90-6-109 of the Act, following a public hearing, the Board finds:

(i) that there exists a shortage of decent, safe and sanitary housing at rentals or prices which persons and families of lower income can afford within the general housing market area to be served;

(ii) that private enterprise has not provided an adequate supply of decent, safe and sanitary housing in the housing market area at rentals or prices which persons or families of lower income can afford or provided sufficient mortgage financing for homes for occupancy by persons or families of lower income;

(iii) that the conditions, restrictions and limitations contained in the Funding Loan Agreement and contained in the program documents relating to the mortgage loan financed thereby and to be financed are sufficient to ensure that the Project will be well planned and well designed so as to constitute decent, safe and sanitary housing and that the “housing sponsors” (as defined in Section 90-6-103(10) of the Act) are financially responsible;

(iv) that the Project to be financed which is referred to in paragraph (a) above will be of public use and will provide a public benefit, taking into account the existence of local government comprehensive plans, housing and land use plans and regulations, area-wide plans and other public desires;

(v) that the Project to be financed with the proceeds of the Obligation does not involve the construction of “second homes,” which are defined in the Act to mean homes which would not qualify as the primary residence of the taxpayer for federal income tax purposes relating to capital gains on the sale or exchange of residential property; and

(vi) that if the Mortgage Loan constitutes a direct loan, in accordance with Section 90-6-109(1)(f), by virtue of the Board effectuating the loan of the Obligation proceeds to the Borrower pursuant to the Borrower Loan Agreement, the Project qualifies for federal funds through its receipt of 4% federal low-income housing tax credits.

**Section 2. Approval of Funding Loan Agreement.** The Funding Loan Agreement is hereby approved in the form hereinabove described, and the Chair, the Vice Chair or the Executive Director and Treasurer of the Board (each an “Authorized Officer”) is hereby authorized and directed to select a Fiscal Agent and to execute and deliver the Funding Loan Agreement, with such changes, insertions or omissions therein as may be approved by such signatory, such approval to be evidenced conclusively by such execution of the Funding Loan Agreement.

**Section 3. Authorization and Execution of the Obligation.** The execution and delivery of the Board’s Obligation to the Funding Lender is hereby authorized and approved. The final amount and terms of the Obligation shall be determined by an Authorized Officer, consistent with the terms of the Funding Loan Agreement and subject to the following conditions. The Obligation shall not be a general obligation of the Board but shall be a limited non-recourse obligation payable solely and only from Mortgage Loan payments and any other moneys pledged under the Funding Loan Agreement by the Borrower as required by the Borrower Loan Agreement. The Obligation shall mature no later than 40 years from its date of issuance, bear interest at a fixed or floating rate no greater than the net rate paid on the Mortgage Loan (i.e., net of fees due to the Board and any other parties), be in a principal amount not to exceed \$4,300,000, be subject to prepayment and have the other terms and provisions as described to the Board, and definitively set forth in the Funding Loan Agreement upon execution and delivery as aforesaid in Section 2 hereof. The Obligation shall be executed and delivered substantially in the form set forth in the Funding Loan Agreement, with such additions, omissions and changes as are required or permitted by the Funding Loan Agreement and approved by the signatories thereto. The Obligation shall be executed in the name of the Board by the Chair or the Vice Chair of the Board, and attested to by the Secretary or the Treasurer, each of whom is hereby appointed as an Authorized Governmental Lender Representative (as such term is defined in the Funding Loan Agreement) for purposes of executing and attesting the Obligation, and their execution shall evidence their approval of the final terms thereof. Such signatures may be by facsimile; provided, however, that such Obligation shall not be valid or obligatory for any purpose unless the attestation by the authorized officer of the Board shall be a manual signature or the Obligation is authenticated by the manual signature of an authorized officer of the Fiscal Agent.

**Section 4. Approval of Borrower Loan Agreement.** The Borrower Loan Agreement is hereby approved in the form hereinabove described, and an Authorized Officer is hereby authorized to execute and deliver the Borrower Loan Agreement, with such changes, insertions or omissions therein as may be approved by such person, such approval to be evidenced conclusively by such execution of the Borrower Loan Agreement.

**Section 5. Approval of Regulatory Agreement.** The Regulatory Agreement is hereby approved in the form hereinabove described, and an Authorized Officer is authorized and directed to execute and deliver the same, with such changes, insertions or omissions therein as may be



approved by such person, such approval to be evidenced conclusively by such execution of the Regulatory Agreement.

**Section 6. Ratification of Prior Actions.** All action previously taken by the officers, members or staff of the Board within the authority granted herein, with respect to the Funding Loan Agreement, the Borrower Loan Agreement, the Regulatory Agreement and the Obligation is hereby approved, confirmed and ratified.

**Section 7. Execution of Documents.** In the event of the absence or disability of an Authorized Officer, or if for any other reason any of them are unable to execute the documents referred to in this Resolution, such documents may be executed by another member of the Board or by the Multifamily Program Manager or the Accounting and Finance Manager, with the same effect as if done by an Authorized Officer and without the further authorization of the Board. The execution of such documents by such member shall be conclusive evidence of his or her authority to so act.

**Section 8. Execution of No-Arbitrage Certificate.** An Authorized Officer is hereby authorized to issue certifications as to the Board's reasonable expectations regarding the amount and use of the proceeds of the Obligation as described in Section 148 of the Code.

**Section 9. Additional Actions Authorized.** The Chair, the Vice Chair, the Secretary or any other member of the Board, and the Executive Director and Treasurer, the Multifamily Program Manager and the Accounting and Finance Manager, acting alone or acting with others, are hereby authorized and directed to execute and deliver any or all other documents which may be required under the terms of the Funding Loan Agreement and the Borrower Loan Agreement, and to take such other action as may be required or appropriate for the performance of the duties imposed thereby or to carry out the purposes thereof, and the members and officers named above are hereby designated as Authorized Governmental Lender Representatives for such purposes. With respect to the issuance of the Bonds authorized by this Resolution, such Authorized Governmental Lender Representatives are also authorized, with the advice of General Counsel or Bond Counsel, to interpret and apply the Board's Policy for Conduit Multifamily Housing Revenue Bonds (the "Policy") and to waive any requirement of the Policy to the extent such interpretation, application or waiver is consistent with the purpose of the Policy.

**Section 10. Effective Date.** This Resolution shall become effective immediately.

[Remainder of Page Intentionally Left Blank]

ADOPTED by the Montana Board of Housing this 9th day of January, 2024.

MONTANA BOARD OF HOUSING

Attest:

By \_\_\_\_\_  
Bruce Posey, Chair

By \_\_\_\_\_  
Cheryl Cohen, Executive Director

## Cover Letter

Date: **August 7<sup>th</sup>, 2023**

Montana Board of Housing  
PO Box 200528  
Helena MT 59620-0528

RE: HC Application – **7<sup>th</sup> and Aspen, Combined 4% and 9%**

Dear Board of Housing:

Boundary Development and HRDC (together “Developer”) are pleased to submit this 4% and 9% housing credit application for consideration by the Montana Board of Housing. For the past 3 years, our team has endeavored to identify a developable site in Bozeman that can help to address the increasingly acute housing issues in our area. Boundary Development acquired the project site in January 2023 at 7<sup>th</sup> Avenue and Aspen Street in the heart of Bozeman in an urban, walkable location in a historical downtown neighborhood. The site is located in the Midtown Urban Renewal District which provides excellent access off I-90 and great walkability to Bozeman’s main street and neighborhood amenities. The Midtown area is designated as a Tax Increment Finance District and was recently designated as a Qualified Census Tract, providing additional subsidies that allow the Project to be built in a high-cost area such as Bozeman. In addition to the subsidies, we have received a letter of intent to provide \$1.0 MM of low-cost subordinate financing provided by NeighborWorks Montana, a certified Community Development Financial Institution.

### Project Structure and Financing

The Project will include 40 units in total, and will be divided into two separate condominiums (a “4% Parcel” and “9% Parcel”) and will be financed using both 4% and 9% tax credits as well as tax exempt bonds (on the 4% Parcel only). The 9% Parcel includes 23 units, while the 4% parcel includes 17 units. The parcels were sized in order to allow for a viable financing structure for both components, maximizing the total unit count. Glacier Bank has submitted a letter of intent to provide construction and permanent financing for the Project. Boundary, HRDC and Glacier have a track-record of working together to successfully execute on complex project financings together. Given the higher cost of land and construction costs in Gallatin County, and elevated interest rates, an award of both credits will be necessary in order to make the project feasible.

### Project Description and Amenities

The units will range in size from 1 to 3 bedrooms and will be offered at rents restricted to 50 – 60% of Average Median Income. Boundary and HRDC have elected Income Averaging and commit to the meet an average of 53% or below. We have agreed to maintain all units for low income occupancy for 35 years beyond the initial 15 year compliance period for a total of 50 years of affordability.

The building design will incorporate a total of (16) 2-bedroom and 3-bedroom family units (40% of total). The units will include Energy Star appliances, locally-sourced wood flooring, open living and kitchen areas and great light and views. The building will include on-site parking, bike storage and common open space, both indoor and outdoor. Our design will incorporate sustainability principles and conform to the MBOH Green Building requirements. The Project will be developed alongside a larger master-plan on the site that will include retail, hospitality and potentially market rate apartments. We have included preliminary renderings and schematic design in our application submission.

Our team is exploring both traditional stick-built construction as well as modular, off-site construction methodologies. Preliminary estimates are indicating a hard cost budget of approximately \$180-\$200/sf, which will allow the project to be feasible. We anticipate that modular construction could ultimately result in up to 10% savings.

#### Market Need

Between 2010 and 2022 the population in the Primary Market Area increased by 29,758, equating to 45% growth. The population is expected to grow by another nearly 8,000 over the next 5 years. There is very little new affordable housing planned to accommodate that growth and only 730 existing competitive units with essentially no vacancy. Further, Novogradac estimates 5,561 income-eligible households in the Market Area and 1,668 eligible households (based on 30% mobility rate) equating to a very low 2.4% capture rate. As the City and County grow at a rapid pace, new housing supply cannot keep up with demand, driving local families out of the area. Construction costs and interest rates have escalated significantly over the past few years, which will further impact the supply of new housing, worsening the crisis. Further, 4% tax credit projects have becoming increasingly difficult to pencil given higher rates, so in our opinion, 4%/9% twin projects are the only viable means for delivering affordable housing in the current economic environment.

#### Sponsor overview:

The Project will be developed, owned and managed by Boundary Development and HRDC. Boundary Development is a design and innovation-led real estate developer focused on building one of a kind places and delivering creative, high-quality housing solutions. Boundary development currently has \$150 million of Projects in various stages of development.

HRDC is a non-profit Community Action Agency (CAA) dedicated to strengthening community and advancing the quality of people's lives in southwest Montana. HRDC instills hope, develops resources, designs solutions and changes lives. The HRDC team has completed a total of over \$100 million dollars in housing and public facilities development.

We greatly appreciate your support and consideration. If you have any questions, please contact me at:

Crosby Branch | [crosby@boundarydev.com](mailto:crosby@boundarydev.com) | 763-248-3004

Sincerely,

*Crosby Branch*

Crosby Branch, Boundary Development  
HRDC



Heather Grenier, President/CEO,

# **MARKET STUDY SUMMARY**

## MARKET STUDY SUMMARY

The following section provides all information requested for the Market Study Summary per MBOH market study guidelines.

### Average Comparable Market Rents

The following table illustrates the Subject's rents as a percentage of the comparable average market rents by bedroom type.

#### AVERAGE COMPARABLE MARKET UNIT RENTS RELATIVE TO PROPOSED PROJECT RENTS

Unit Type	Average Comparable Market Rent	Subject's Proposed LIHTC Rent	Subject Rent as a Percentage of Average Market Rent
1BR/1BA	\$1,981	\$891	45%
1BR/1BA	\$1,981	\$1,089	55%
2BR/2BA	\$2,248	\$1,056	47%
2BR/2BA	\$2,248	\$1,293	58%
3BR/2BA	\$2,577	\$1,210	47%
3BR/2BA	\$2,577	\$1,483	58%

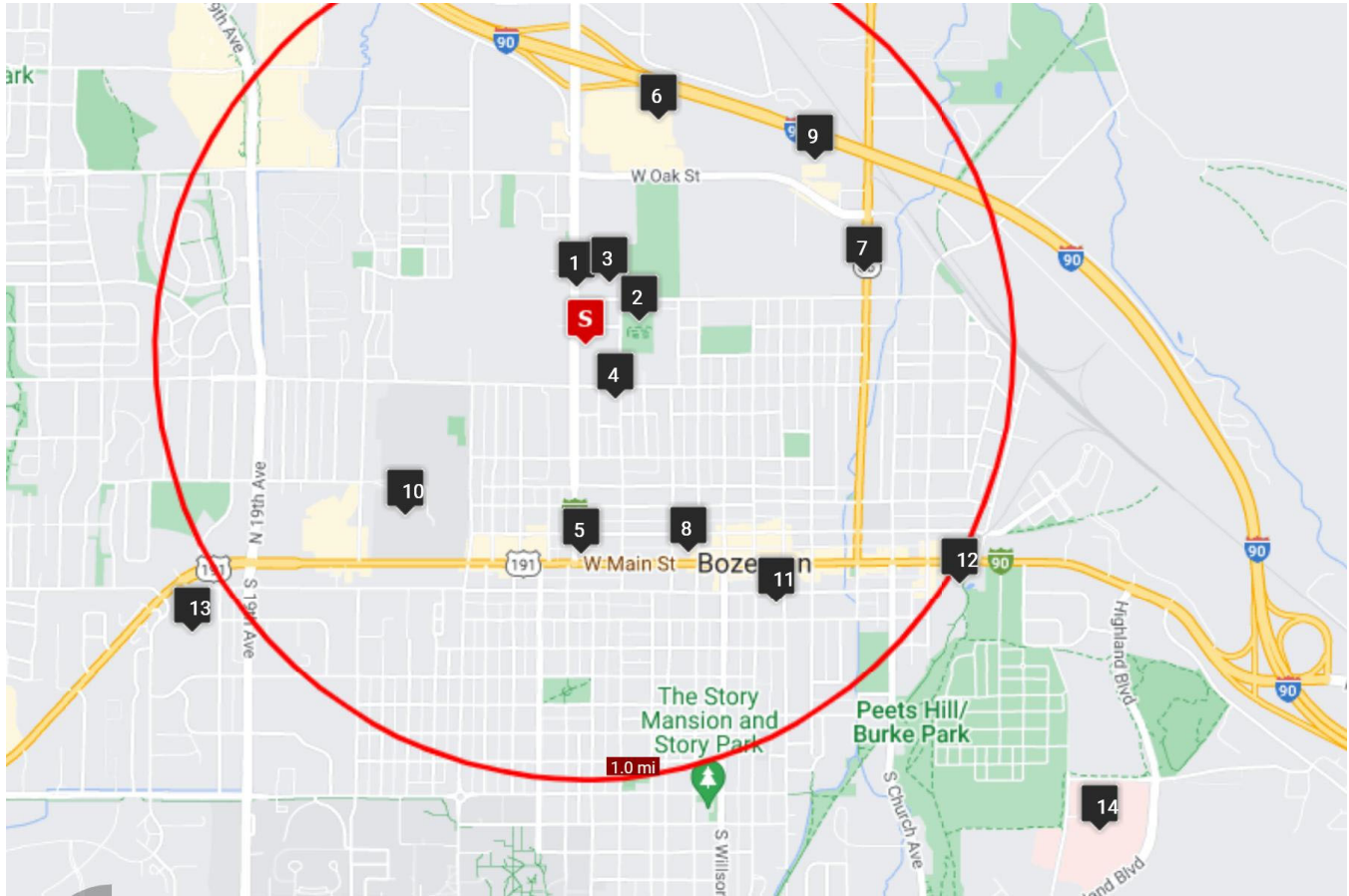
Market Study Reference Pages: 103-105

### Vacancy, Demand, and Absorption

The following table illustrates conclusions on vacancy, demand, and absorption for the Subject as proposed.

MARKET STUDY SUMMARY			
Comparable Vacancy Rate	1.4%	Reference Page:	101
Capture Rate (projected income eligible tenants who will move in next year/proposed units)	2.2%	Reference Page:	109-111
Units needed in market area	1,668	Reference Page:	110
Absorption Rate (projected units/existing LIHTC, market area units required)	13.6%	Reference Page:	114
Penetration Rate (existing LIHTC units/total eligible households)	0.01%	Reference Page:	110-112
Number of LI households that can afford rent of proposed project	5,561	Reference Page:	109

## Distances to Essential Services



Source: Google Earth, August 2023

## LOCATIONAL AMENITIES

#	Service or Amenity	Distance to Subject	Drive Time	#	Service or Amenity	Distance to Subject	Drive Time
1	7th at M View Plaza bus stop	0.1 mile	0 min	8	Wells Fargo Bank	0.9 mile	4 min
2	Westlake Park	0.2 mile	1 min	9	Bozeman Elementary School	1.0 mile	3 min
3	Price Rite Pharmacy	0.3 mile	1 min	10	Bozeman High School	1.2 miles	5 min
4	Whittier Middle School	0.3 mile	2 min	11	United States Postal Service	1.4 miles	6 min
5	Conoco gas station	0.7 mile	3 min	12	Bozeman Library	1.8 miles	6 min
6	Walmart Supercenter	0.8 mile	3 min	13	Albertsons grocery	1.9 miles	8 min
7	Police Department	0.9 mile	2 min	14	Bozeman Deaconess Hospital	4.2 miles	8 min

County	Gallatin
Project Name	7th and Aspen - 4% <del>Boundary Development</del>
Developer / General Ptnr	LLC
Set-aside	General
HC Requested	2,097,880
Project Type	Family
Construction Type	New Const
Projected Construction Start	Jul-24
Projected Completion	Jul-25

**Unit Numbers**

**Target**

0-bdrm	20%	-
0-bdrm	30%	-
0-bdrm	40%	-
0-bdrm	50% (Low HM)	-
0-bdrm	50%	-
0-bdrm	60%	-
0-bdrm	70%	-
0-bdrm	80%	-
0-bdrm		-
0-bdrm		-
1-bdrm	20%	-
1-bdrm	30%	-
1-bdrm	50% (Low HM)	-
1-bdrm	40%	-
1-bdrm	50%	-
1-bdrm	60%	10
1-bdrm	70%	-
1-bdrm	80%	-
1-bdrm		-
1-bdrm		-
2-bdrm	20%	-
2-bdrm	30%	-
2-bdrm	40%	-
2-bdrm	50% (Low HM)	-
2-bdrm	50%	-
2-bdrm	60%	5
2-bdrm	70%	-
2-bdrm	80%	-
2-bdrm		-
2-bdrm		-
3-bdrm	20%	-
3-bdrm	30%	-
3-bdrm	40%	-
3-bdrm	50% (Low HM)	-
3-bdrm	50%	-
3-bdrm	60%	2
3-bdrm	70%	-
3-bdrm	80%	-
3-bdrm		-
3-bdrm		-
4-bdrm	20%	-
4-bdrm	30%	-



County	Gallatin		
Project Name	7th and Aspen - 4% <del>Boundary Development</del>		
Developer / General Ptnr	LLC		
4-bdrm	40%	-	
4-bdrm	50% (Low HM)	-	
4-bdrm	50%	-	
4-bdrm	60%	-	
4-bdrm	70%	-	
4-bdrm	80%	-	
4-bdrm		-	
4-bdrm		-	
other	20%	-	
other	30%	-	
other	40%	-	
other	50% (Low HM)	-	
other	50%	-	
other	60%	-	
other	70%	-	
other	80%	-	
other		-	
other	mkt	-	
other	mgr(60%)	-	
Total Units		17	
Average Income Targeting		60.00%	

#### Square Footage

Income Restricted Units	11,328
Managers Unit(s)	-
Supportive Services	-
Common Space	3,160
Market/Commercial	-
Total	14,488

#### Unit Rents

0-bdrm	20%	-
0-bdrm	30%	-
0-bdrm	40%	-
0-bdrm	50% (Low HM)	-
0-bdrm	50%	-
0-bdrm	60%	-
0-bdrm	70%	-
0-bdrm	80%	-
0-bdrm		-
0-bdrm		-
1-bdrm	20%	-
1-bdrm	30%	-
1-bdrm	40%	-
1-bdrm	50% (Low HM)	-
1-bdrm	50%	-
1-bdrm	60%	1,089
1-bdrm	70%	-
1-bdrm	80%	-
1-bdrm		-

County	Gallatin	
Project Name	7th and Aspen - 4% <del>Boundary Development</del>	
Developer / General Ptnr	LLC	
1-bdrm		-
2-bdrm	20%	-
2-bdrm	30%	-
2-bdrm	40%	-
2-bdrm	50% (Low HM)	-
2-bdrm	50%	-
2-bdrm	60%	1,293
2-bdrm	70%	-
2-bdrm	80%	-
2-bdrm		-
2-bdrm		-
3-bdrm	20%	-
3-bdrm	30%	-
3-bdrm	40%	-
3-bdrm	50% (Low HM)	-
3-bdrm	50%	-
3-bdrm	60%	1,482
3-bdrm	70%	-
3-bdrm	80%	-
3-bdrm		-
3-bdrm		-
4-bdrm	20%	-
4-bdrm	30%	-
4-bdrm	40%	-
4-bdrm	50% (Low HM)	-
4-bdrm	50%	-
4-bdrm	60%	-
4-bdrm	70%	-
4-bdrm	80%	-
4-bdrm		-
4-bdrm		-
other	20%	-
other	30%	-
other	40%	-
other	50% (Low HM)	-
other	50%	-
other	60%	-
other	70%	-
other	80%	-
other		-
other	mkt	-
other	mgt(60%)	-
Total Monthly Rents		20,319
vacancy factor		7.00%
Adjusted Rent		18,897
other/commercial income		-
total rent		18,897
x 12 months		12
Total Annual Income		226,760

<b>County</b>	<b>Gallatin</b>
<b>Project Name</b>	<b>7th and Aspen - 4% Boundary Development</b>
<b>Developer / General Ptnr</b>	<b>LLC</b>
<b><u>Expenses</u></b>	
Administration	3,826
Management	17,007
Maintenance	12,608
Operating	26,181
Taxes	-
Replacement Reserve	5,100
Total Expenses	<u>64,722</u>

Net Income Before	
Debt Service	162,038

**Financing Sources**

Hard Loan	2,040,000
Hard Loan	1,000,000
Soft Loan	-
Soft Loan	-
State HOME	-
State CDBG	-
State NHTF	-
Other	-
Other	-
Other	-
Other	-
Deferred Dev Fee	-
HC Equity Competitive	1,890,000
HC Equity Non-Competitive	-
Total Sources:	<u>4,930,000</u>
% of Project Financed by HC:	38.34%

**Return on Sale of HTC**

HTC Requested	2,097,880
HTC Equity	1,890,000
HTC Return on Sale	0.901

**Ratios**

Rent (Income)	226,760
Operating	59,622
Replacement	5,100
Net Income	162,038
Total Debt Service	136,310
Debt Coverage Ratio (DCR)	1.19
Total Expense Ratio	1.13

**Project Costs**

Land	675,750
Building/Acquisition	-

<b>County</b>	<b>Gallatin</b>
<b>Project Name</b>	<b>7th and Aspen - 4% <del>Boundary Development</del></b>
<b>Developer / General Ptnr</b>	<b>LLC</b>
Site Work	148,750
Construction / Rehab	2,749,379
Soft Costs	725,070
Developer Fees	516,449
Reserves	114,602
Total Project Costs	4,930,000
Supportive Services Costs	-
Residential Costs	4,930,000

### **Costs versus Sources**

Total Project Costs	4,930,000
Total Financing Sources	4,930,000
Difference	0

### **Project Cost Limitations**

	<b><u>Limits</u></b>	
General Requirements	6.00%	3.10%
Contractor Overhead	2.00%	1.55%
Contractor Profit	6.00%	3.87%
Developer Fees	15.00%	14.25%
Soft Cost	32 or 37 or 40%	42.84%

### **Per Unit Comparison**

	<b><u>Limits</u></b>	
Cost per unit total	n/a	290,000
Cost per unit residential only	\$350,000	290,000
Cost per unit Const / Rehab	n/a	170,478
Credits per unit	n/a	123,405
Operating Cost per unit	\$3,000 min	3,507
Replacement Reserves	\$300 min	300

### **Per Square Foot Comparison**

Construction / Rehab per sq ft	189.77
Total Project Cost per sq ft	340.28
Credits per sq ft	144.80
Credits per sq ft (residential only)	185.19

<b><u>Utilities Paid by (Tenant / Owner)</u></b>	Tenant
--	--------

### **Market Study Data:**

Vacancy Rates	1.4%
Absorption Rate	13.6%
Months to Absorb	2
Average Project Rent	1,307
Average Market Rent	2,271
Units needed for Targeted AMI's	1,668

<b>County</b>	<b>Gallatin</b>
<b>Project Name</b>	<b>7th and Aspen - 4%</b>
<b>Developer / General Ptnr</b>	<b>Boundary Development LLC</b>

Market Rents

0-bdrms	-
1-bdrms	1,987
2-bdrms	2,248
3-bdrms	2,577
4-bdrms	-
other	-

**Acq Rehab Info:**

Reserves kept by existing owner	-
Other cash out by existing owner	-
Current Debt on Property	-
	-
	-
	-
	-

**Development Evaluation Criteria and Selection**

Lower Income Tenants

Income and Rent Level Targeting.	No
Project-Based Rental Subsidy.	NO

Project Characteristics

Amenities	Grocery & Medical
Small Town / Tribal Designation Area	na
Affordable Housing Stock	na
Historic Preservation	na

Local Involvement

Community Input	Local Community Input
QCT / Local Community Revitalization Plan	QCT & Local Plan
Communication / Relationships	na

Green Building and Energy Conservation Standards

Green & Energy Std Met

Tenant Populations with Special Housing Needs

Family Projects	Family Project
Elderly Projects	na

## 7<sup>th</sup> & Aspen



# Multi Family Program Dashboard

## January 8, 2024

### Coal Trust Multifamily Homes Program, Multifamily Loan Program and Montana Fund Loan Programs

### Housing

#### Available After Commitments

CTMH	\$13,471,441	From \$65M Authorized (including loan P&I payments)
MFLP	\$789,035	
HMF - AHRLF	\$116,425	

#### Projects Underway

Dollar Amount	Program/Project	City/Units	Year Awarded	Recipient	Status*
7,500,000	CT/Forest Acres Trailer Park	Whitefish/100	2023	General One Construction	Approved in Decemeber
5,460,833	CT/Two Rivers	Lolo/59	2023	Two Rives Community, Inc.	Approved in Decemeber
5,356,765	CT/Stan's Garden Community	Belgrade/39	2023	NeighborWorks	Approved in Decemeber
3,189,229	CT/Alpenglow II	Whitefish/18	TBD	Housing Whitefish	Under review
30,460,886	9%/CT/4%Twin Creek	Helena/72	2024	United Housing Partners	Awarded in 2023
8,050,000	95/CT/Riverstone Senior	Hamilton/23	2024	Housing Solutions	Awarded in 2023
6,500,000	9%Elmore Roberts	Great Falls/60	2024	Community Preservation Partners	Awarded in 2023
13,197,880	9%/4%/7th & Aspen	Bozeman/46	2024	Boundry Dev & HRDC	Awarded in 2023
8,200,000	9%/CTMitchell Court	Billings/32	2024	GL Development	Awarded in 2023
2,090,000	CT/Welcome Way Apartments	Darby/24	2023	Summit Housing Group	Closed
10,963,840	4%/The Manor	Hamilton/60	TBD	Sapphire Lutheran Homes	Up for approval
18,341,480	4%/Parkview Village	Great Falls/84	2023	Vitus Development, LLC	Approved August
11,993,710	4%Baxter	Bozeman/50	2023	Devco Preservation	Approved in September
82,575,000	4%North 3rd Apartments	Bozeman/216	2023	Devco Preservation	Approved in July
58,551,220	4%/HMF/Lumberyard	Bozeman/155	2023	Rueter Walton Development	Approved in July
7,414,040	4%/Big Fork Senior	Big Fork/24	2023	Bigfork Senior Housing	Approved in May
14,342,680	4%/Union Place	Missoula/63	2023	Union Place Apartments LLC	Closed July 2023
23,985,160	4%/Sunshine Village	Great Falls/92	2023	Community Preservation Partners	Closed June 2023
24,103,280	4%/South Forty	Billings/101	2023	Lincoln Avenue Capital	Closed May 2023
6,435,000	9%/ANHA LIHTC #2	Crow Agency/23	2023	Apsaalook Nation HA	Awarded in 2022
6,500,000	9%/MF/Cabinet Affordable	Libby/24	2023	Cabinet Affordable Housing	Awarded in 2022
8,200,000	9%/CT/Carter Commons	Great Falls/25	2023	Carter Commons, LLLP	Awarded in 2022
41,961,750	9%/4%/Creek Side Apartments	Missoula/161	2023	Homeword	Awarded in 2022
7,700,000	9%/MF/Meadowlark Senior	Butte/26	2023	Group	Awarded in 2022
7,991,250	9%/MF/Riverview Apts	Big Sky/25	2022	Blueline	Under Construction
5,590,170	9%/Bicentennial Apts	Dillon/58	2022	Dawson Holdings	8609 submitted
6,100,000	9%/Baatz Block Apts	Great Falls/25	2022	Homeword	Credit Refresh
6,200,000	9%/Tapestry Apts	Billings/26	2022	CLDI	Under Construction
20,503,498	9%/4%/Junegrass 4/9	Kalispell/138	2022	GMD/Homeward	Under Construction
5,812,010	9%/ARPA/Laurel Depot	Laurel/19	2021	GL/North Fork Dev.	Under Construction
8,435,000	9%/ARPA/MRM Unified Campus	Billings/29	2021	MT Rescue Mission	Under Construction
8,435,000	9%/ARPA/Jackson Court	Billings/38	2021	GL Development	Under Construction
8,015,483	9%/ARPA/AHNA LIHTC 1	Crow Agency/43	2021	Apsaalooke Nation HA	Closed September 2022
6,435,000	9%/MF/Creekside Commons	Kalispell/36	2021	Housing Solutions	Under Construction
3,320,000	9%/Crowley Flats	Lewistown/16	2021	Homeword	Under Construction
5,555,150	4%/ARPA/Spruce Grove	Laurel/Bridger/62	2022	GL Development	Under Construction
6,649,597	4%/ARPA/Highland Manor	Havre/32	2021	Echo Enterprise	Closed October 2023
5,751,770	4%Castlebar	Bozeman/72	2021	Devco Preservation	Under Construction
74,254,570	4%/ARPA/Villagio	Missoula/200	2021	Blueline/Missoula HA	Almost done
62,425,730	4%ARPA/Trinity	Missoula/202	2021	Blueline.Homeword/Missoula HA	Almost done

	CTMH Projects	Loan Amount	Status
<b>HB 16</b> <b>\$15,000,000</b>	Belt - Golden Valley Homes	\$803,060	Approved February 2020; Closed
	Cascade - Quiet Day Manor	\$872,500	Approved February 2020; Closed
	Livingstone - Livingston Cottages	\$900,000	Approved February 2020; Closed
	Havre - Highland Manor	\$1,932,000	Approved February 2020
	Helena - Firetower	\$2,674,631	Approved April 2020; Closed
	Joliet / Laurel - Spruce Grove	\$5,173,486	Approved April 2020; Closed
	Havre - Oakwood Village	\$2,100,000	Approved April 2020; Closed
<b>HB 819</b> <b>\$50,000,000</b>	Great Falls - Carter Commons	\$1,700,000	Approved September 2023
	Helena - Twin Creek 9%	\$474,940	Approved October 2023
	Hamilton - Riverstone Senior	\$1,550,000	Approved October 2023
	Billings - Mitchell Court	\$1,700,000	Approved October 2023
	Darby - Welcome Way	\$2,090,000	Approved Oct 2023; Closed
	Whitefish - Forest Acres	\$7,500,000	Approved Nov & Dec 2023
	Lolo - Two Rivers	\$5,460,833	Approved December 2023
	Belgrade - Stan's Garden	\$5,356,765	Approved December 2023
	<i>Helena - Twin Creek 4%</i>	<i>\$7,686,748</i>	<i>Up for approval January 2024</i>
	<i>Whitefish - Housing Whitefish</i>	<i>\$4,000,000</i>	<i>Requested - staff underwriting</i>
<b>Total</b>		<b>\$51,974,963</b>	

## Events and Deadlines

9% LOI Deadline	4/8/2024
Letter of Intent Presentations	5/13/2024



# BOARD AGENDA ITEM

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## PROGRAM

Operations/Executive Director

## BOARD MEETINGS

The next Board meeting will be Monday, February 12, 2024, at 8:30 am via Zoom.

The 2024 Board meeting calendar is included after the meeting agenda in the Board packet. Please inform Cheryl Cohen and Stacey Waites as soon as possible if you have any conflicts with the 2024 schedule.

## BOARD TRAINING & CONFERENCE OPPORTUNITIES

- The NCSHA 2024 Legislative Conference (LegCon) will be held March 4 – 6, 2024 in Washington, D.C. LegCon is an opportunity for Board members to connect with and educate our legislators about the impact of federal housing programs in our state; the agenda will also include sessions with federal officials and industry leaders to gain their insights on the 2024 legislative agenda. Board members interested in attending LegCon can notify Cheryl Cohen and Stacey Waites. A preliminary agenda is available at [www.ncsha.org/event/2024-legislative-conference/agenda/](http://www.ncsha.org/event/2024-legislative-conference/agenda/).
- Staff are developing Board training content for 2024. For the April Board training session, we are exploring inclusion of the following topics:
  - Ex Parte Communications
  - Boardmanship Basics / Board Member Governance
  - Making Sense of HFA Audited Financial Statements
  - Fair Housing / Affirmatively Furthering Fair Housing
  - Other topics to-be-identified based on Performance Audit recommendations
- Greg Gould, Board General Counsel, will provide a Conflict of Interest training for Board members at the end of the January 8, 2024 Board meeting.
  - Staff are also considering incorporating some smaller scale trainings at the end of some of our scheduled Zoom Board meetings. If you have any feedback about the structure, timing or content of trainings for 2024, please let Cheryl Cohen know.

## CONTRACTS / PROCUREMENT

- Emphasys contract was executed on December 14, 2023.
- Rent Comparability Studies (RCS) Appraiser was executed on December 15, 2023, with MT Rent LLC.

## PERSONNEL UPDATE

Montana Housing is actively recruiting for:

- Quality Control Specialist in Operations (for Servicing side).

We welcome Janelle Egli back to Community Housing as a Program Specialist. Janelle previously worked in the same division for us prior to COVID-19.

# BOARD AGENDA ITEM

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## EMERGENCY RENTAL ASSISTANCE UPDATE

- As of January 2, 2024, we have awarded almost \$136.9 million in rent and utility assistance.
- Over \$48.5 million in potentially fraudulent applicants (2,785 applications) have been flagged, isolated, and ultimately denied. The team continues to actively pursue payment returns for overpaid situations (i.e., renter moves out before the three months future rent assistance has ended).
- The Montana Eviction Intervention Program through MLSA will be funded for at least another year.
- We have recouped some MERA funds.
- We are awaiting the Governor's approval to move forward with FAQ#46.

## HOMEOWNER ASSISTANCE FUND UPDATE

- As of January 2, 2024, there have been 1,118 applications submitted to the statewide program and HAF staff have approved and paid over \$3.4 million in total through all statewide program areas.
- HAF Home Repair program is receiving steady monthly applications and is progressing towards the next step of waiting for bids to be submitted. 74 applications have been submitted as of January 2, 2024.
- We are now able to pay forward facing mortgage payments, up to 6 months, for households whose mortgage payment is more than 30% of their income. This is also in the form of an interest free loan.
- Utility applications are now stand alone as of November 22, 2023, and we have started receiving applications.
- We are now fully staffed.

## COMMUNITY HOUSING UPDATE

- Montana's HOME-ARP allocation from HUD is \$11,309,211 (HUD's final amount following a \$150,557 reduction due to a HUD administrative error), or which 8.8% will be used to administer the funds through September 30, 2030. Applications were accepted through October 31, 2023. We received five applications requesting a total of \$7.5 million for construction of permanent supportive housing, non-congregate shelter and supportive services. Total project costs for these proposed projects is \$23 million, providing a 1:3 leverage. Staff completed rank and review of applications and presented recommendations to the Commerce Deputy Director on Wednesday, December 13, 2023. Award letters from Governor Gianforte were sent to the following four awardees on December 15, 2023:
  - Butte-Silver Bow - \$1,450,000 for construction of the Butte-Silver Bow Permanent Supportive Housing Units in Butte.
  - District XI Human Resource Council, Inc. - \$1,917,528 for construction of the Skalkaho Place Apartments in Hamilton.
  - Human Resource Development Council of District IX, Inc. - \$2,256,973 for the acquisition and rehabilitation of Wheat Suites project in Bozeman.
  - Samaritan House, Inc. - \$1,500,000 for construction of the Samaritan House Family Living Apartments in Kalispell.

## BOARD AGENDA ITEM

- For the Emergency Shelter Facility Grant (ESFG) program, the Community Housing team received eleven (11) applications from seven (7) communities, totaling \$5,938,912 in requests, by the November 30, 2023 application deadline. ESFG has ~\$5 million to grant to non-profits proposing capital improvements or expansion of shelter space. Proposals are under review and decisions are expected in January.

County	Type	ESFG request	Total project cost
Flathead	Rehab	\$750,000	\$7,344,649
Gallatin	Rehab	\$187,500	\$1,984,815
Gallatin	New Construction	\$562,500	\$16,150,000
Lewis & Clark	Rehab	\$750,000	\$1,388,590
Missoula	Rehab	\$369,183	\$5,769,624
Missoula	Rehab	\$228,593	\$228,593
Ravalli	Rehab and Expansion	\$750,000	\$3,273,462
Silver Bow	Rehab	\$750,000	\$2,359,683
Yellowstone	Rehab	\$750,000	\$3,767,076
Yellowstone	New Construction	\$750,000	\$3,989,352
Missoula	Rehab	\$91,136	\$182,272
	<b>TOTAL</b>	<b>\$5,938,912</b>	<b>\$56,438,116</b>

- The Community Housing team, in partnership with the Montana Department of Commerce Community MT Division, completed a Request For Proposals to select a consultant to support development of the state's next 5-year Consolidated Plan and an Analysis of Fair Housing Impediments/Affirmatively Furthering Fair Housing Equity Plan. Community & Policy Advisors LLC was the successful offeror. C&PA was the only offeror with experience developing and submitting a Consolidated Plan for a statewide jurisdiction (Wyoming). We are working to execute a contract and schedule a kick-off meeting.

## EXECUTIVE DIRECTOR UPDATE

- Effective December 13, 2023 and while the search for a new Montana Department of Commerce Director is underway, Mandy Rambo will serve as Acting Director.
- On December 13, 2023, Mandy Rambo presented Commerce's Annual Plan at Interim Budget Committee Section A General Government.

# BOARD AGENDA ITEM

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- Slides 8, 9 and 10 specifically address work in the Montana Housing Division. Committee members requested Cheryl Cohen return to present at their March 13, 2024 meeting on the topic of federal rental assistance voucher utilization.
  - <https://leg.mt.gov/content/Publications/fiscal/2025-Biennium/Section-A/Interim/COMM-Goals-Objectives-Presentation-12-13-23.pdf>
  - [Interim Budget Committee Section A - December 13, 2023 Video](#)
- On December 13, 2023, Cheryl Cohen provided updates on HB 819 Coal Trust Multifamily Homes Loan Program and the Emergency Shelter Facility Grant Program to Interim Budget Committee Section F Long Range Planning.
  - [Interim Budget Committee Section F - December 13, 2023 Video](#)
  - Committee members requested Cheryl Cohen return to present updates at their March 13, 2024 meeting.
- Governor's Housing Task Force. The next [Task Force](#) meeting will be Wednesday, January 17, 2023, from 10:00 – 11:30 am, via Teams/Zoom. Cheryl Cohen has now joined the Task Force and will provide information on the number of affordable, attainable housing that the Montana Housing Division supported in 2023. The Task Force will be breaking up into two sub-groups, one focusing on Housing Successes in the 2023 legislative session and another focusing on Continued Housing Development Issues. Cheryl Cohen has reached out to some of our developers to share any projects that highlight specific ongoing challenges and successes in Montana housing demand. If any developers or attendees at today's Board meeting have such a project to share, please contact Cheryl Cohen at [cheryl.cohen@mt.gov](mailto:cheryl.cohen@mt.gov).
- On January 24, 2024, Cheryl Cohen will present at the Local Government Interim Committee. This presentation will include an update on the Coal Trust Multifamily Homes program but will also aim to address questions from elected officials at the November LGIC meeting with respect to how to quantify Montana's affordable housing needs. The meeting agenda hasn't been posted yet, but details will be made available at <https://leg.mt.gov/committees/interim/lgic/meeting-info/>.

# **MONTANA BOARD OF HOUSING BOARD MEMBERSHIP TRAINING**

## **CONFLICT OF INTEREST**

**JANUARY 8, 2024**

Gregory G. Gould, Board Counsel  
Jackson, Murdo and Grant, P.C.  
Direct Dial: (406) 389-8242  
[ggould@jmgm.com](mailto:ggould@jmgm.com)

### **Board Membership – Background Principles**

A few important points that may affect conflict of interest issues:

1. Governor appoints members informed and experienced in housing, economics or finance.

Members are not considered to have conflict of interest under state ethics law *merely* because member is stockholder, officer or employee of a lending institution that may participate in Board's programs.

2. The Board is a “quasi-judicial board”:

A majority of Board membership constitutes a quorum; a favorable vote of at least a majority of *all Board members* is required to adopt any resolution, motion or other decision.

### **Ethics Rules: Code of Ethics/Standards of Conduct**

1. Mont. Code Ann. Title 2, Chapter 2 – Code of Conduct for Public Officers - conflict of interest rules are one part of the ethical conduct rules for public officers.

## **BOARD MEMBERSHIP TRAINING**

### **JANUARY 8, 2024**

2. The rules are intended to prohibit conflict between **public duty** and **private interest**:

**Public Duty:** The holding of public office or employment is a public trust, created by the confidence that the electorate reposes in the integrity of judicial officers, public officers, legislators, and public employees. **A public officer shall carry out the individual's duties for the benefit of the people of the state.**

**Private Interest:** an interest held by an individual include:

- (a) an ownership interest in a business;
- (b) a creditor interest in an insolvent business;
- (c) an employment or prospective employment for which negotiations have begun;
- (d) an ownership interest in real property;
- (e) a loan or other debtor interest; or
- (f) a directorship or officership in a business.

3. Potential conflicts of interest that could arise for MBOH members include:

- a. *Acceptance of Gifts:* Public officer may not accept a gift of substantial value or a substantial economic benefit tantamount to a gift:
  - (i) that would tend improperly to influence a reasonable person in the person's position to depart from the faithful and impartial discharge of the person's public duties; or
  - (ii) that the person knows or that a reasonable person in that position should know under the circumstances is primarily for the purpose of rewarding the person for official action taken.

## **BOARD MEMBERSHIP TRAINING JANUARY 8, 2024**

"Gift of substantial value" means a gift with a value of \$100 or more for an individual (threshold increased to \$100 from \$50 in HB 412, 2023 Legislature).

An "economic benefit tantamount to a gift" includes without limitation a loan at a rate of interest substantially lower than the commercial rate then currently prevalent for similar loans and compensation received for private services rendered at a rate substantially exceeding the fair market value of the services. Campaign contributions reported as required by statute are not gifts or economic benefits tantamount to gifts.

### *Exceptions:*

- Don't use gift - return within 30 days after receipt;
- Food and beverages consumed on occasion when participation in charitable, civic or community event bears relationship to office or member attends in an official capacity;
- Award presented publicly in recognition of public service;
- Educational material related directly to public service;
- Educational activity that (i) does not place or appear to place the recipient under obligation; (ii) clearly serves the public good; and (iii) is not lavish or extravagant.

b. *Confidential Information*: Disclosure or use of confidential information acquired in the course of official duties in order to further substantially the individual's personal economic interests.

c. *Overlapping Employment Compensation*: a public officer, legislator, or public employee may not receive salaries from two separate public employment positions that overlap for the hours being compensated, unless:

- (i) the public officer, legislator, or public employee reimburses the public entity from which the employee

## BOARD MEMBERSHIP TRAINING

### JANUARY 8, 2024

is absent for the salary paid for performing the function from which the officer, legislator, or employee is absent; or

(ii) the public officer's, legislator's, or public employee's salary from one employer is reduced by the amount of salary received from the other public employer in order to avoid duplicate compensation for the overlapping hours.

In order to determine compliance a public officer shall disclose the amounts received from the two separate public employment positions to the commissioner of political practices.

*Exception:* a public officer may receive income from the use of accrued leave or compensatory time during the period of overlapping employment.

d. *Use of Public Resources.* A public officer may not use public time, facilities, equipment, state letterhead, supplies, personnel, or funds for the officer's private business purposes.

e. *Advocacy for Compensation.* A public officer may not assist any person for a fee or other compensation in obtaining a contract, claim, license, or other economic benefit from the officer's agency.

f. *Related Parties.* A public officer may not **perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which the officer either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent.**

g. *Competing Parties.* A public officer or public employee may not perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when the officer or employee has a substantial personal interest in a competing firm or undertaking.



## **BOARD MEMBERSHIP TRAINING**

### **JANUARY 8, 2024**

h. *Acquisition of Interest.* A public officer may not acquire an interest in any business or undertaking that the officer has reason to believe may be directly and substantially affected to its economic benefit by official action to be taken by the officer's agency.

*See also* attached discussion regarding Board member ownership of MBOH bonds.

#### **4. Addressing Conflicts of Interest.**

a. If the member, a family member, a member business interest or an organization in which the member has a role would realize a substantial economic benefit from a proposed Board action, the member may have a conflict of interest.

b. Consult with Executive Director and/or Board Counsel for guidance.

c. Members are not considered to have conflict of interest under state ethics law *merely* because member is stockholder, officer or employee of a lending institution that may participate in Board's programs, but there may be more facts that indicate a conflict.

d. If there is a conflict or an appearance of a conflict, the member must *at a minimum* disclose the specific conflict on the record at a public meeting. Generally, the member must also recuse themselves from participation in and voting on the specific matter.

e. Recusal may not be required if the member's participation is necessary to establish a quorum or administer a statute and if the conflict is disclosed.

## **BOARD MEMBERSHIP TRAINING**

### **JANUARY 8, 2024**

5. Annual Conflict Disclosure. MBOH is adopting and requiring an annual Conflict of Interest Disclosure. See attached.
6. Enforcement of Ethics Rules.
  - a. Complaint to COPP.
  - b. Investigation.
  - c. Informal Contested Case hearing – open to public.
  - d. COPP decision.
  - e. Judicial review.
  - f. Penalties. Administrative penalty of not less than \$50 or more than \$1,000 (but \$500 to \$10, 000 for improper use of public resources for PSA with officer's name/picture/voice).

Avoidance of Board action. A Board action taken in violation of these rules could potentially be voided in Court action.

A Board member potentially could incur personal liability for taking official action without disclosing a conflict.

# **BOARD MEMBERSHIP TRAINING**

## **JANUARY 8, 2024**

### **PURCHASE OR OWNERSHIP OF MBOH BONDS** **BY BOARD MEMBER**

**Question:** Is the purchase or ownership of MBOH bonds by a Board member permitted under applicable conflict of interest rules?

**Answer:** Board members may purchase and hold MBOH bonds. However, a member should purchase MBOH bonds only if they intend to hold the bonds to maturity and should refrain from buying and selling MBOH bonds on a regular basis. Board members holding or intending to purchase MBOH bonds should not ask or otherwise communicate with staff or Board advisors regarding MBOH bonds that will be redeemed. A Board member holding MBOH bonds may be required to disclose such ownership and recuse themselves from participating in Board action where the Board action would directly and substantially benefit the member economically.

### **Assumptions**

MBOH routinely and frequently issues bonds pursuant to its statutory authority to finance the purchase of single family mortgage loans.

- The Board has engaged or entered into relationships with various professional advisors and firms with respect to its bond issues and related processes, including bond legal counsel, financial advisors and bond underwriters.
- Bond issues are structured and bond resolutions and related documents are prepared and recommended by and based upon the design and advice of these professionals.

## **BOARD MEMBERSHIP TRAINING**

### **JANUARY 8, 2024**

- Generally, the Board authorizes each bond issue by approval of a resolution setting forth the general terms of the bonds.
- Provisions relating to redemption of existing bonds may be included on the recommendation of professional advisors, but the Board and its members generally do not discuss, deliberate or take specific action on such details except through global approval of the bond resolution.

The Board does not set bond sale prices by Board action.

- MBOH bonds are sold to bond underwriters pursuant to bond purchase contracts which set the bond purchase price after a separate underwriter pricing process.
- The Board itself does not sell the bonds to individual investors; the bonds are sold by the underwriters to individuals or other investors.

A Board member purchasing MBOH bonds in the primary market would not receive any discount or special pricing.

- A Board member would purchase and hold MBOH bonds on the same arms-length terms generally available to members of the public.
- Board members are not provided with any non-public information that would create any advantage in selecting bonds for purchase.

### **Analysis**

February 22, 2000 opinion (attached) concluded that there is no conflict of interest where a member of the Board is a stockholder, officer or

## **BOARD MEMBERSHIP TRAINING**

### **JANUARY 8, 2024**

employee of a financial institution that purchases bonds issued by the Board.

- Opinion relied upon the language in Mont. Code Ann. § 2-15-1814 stating that a Board member does not have a conflict of interest merely because the Board member is a stockholder, officer or employee of a lending institution that participates in the Board's programs.
- However, that provision from 2-15-1814 would not apply to a Board member who directly purchases and holds MBOH bonds.

The standards of conduct potentially applicable include the following:

Section 2-2-105(2) provides that "... a public officer or public employee may not acquire an interest in any business or undertaking that the officer or employee has reason to believe may be directly and substantially affected to its economic benefit by official action to be taken by the officer's or employee's agency.

Section 2-2-121(2)(e) provides that a public officer or employee "may not ... perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which the officer or employee either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent..."

Section 2-2-201(1) provides that a state officer or employee "may not be interested in any contract made by them in their official capacity or by any body, agency, or board of which they are members or employees if they are directly involved with the contract."

- An MBOH bond could be considered a contract made by the Board, but Board members do not take any actions that

## **BOARD MEMBERSHIP TRAINING**

### **JANUARY 8, 2024**

constitute direct involvement with the bonds as defined in the statute.

- Section 2-2-201(2)(c) provides that the phrase “directly involved” means “the person directly monitors a contract, extends or amends a contract, audits a contractor, is responsible for conducting the procurement or for evaluating proposals or vendor responsibility, or renders legal advice concerning the contract.” (The statute was amended in 2001, after the opinion referenced above, to limit the prohibition to cases where the public officer is “directly involved in the contract.” Sec. 1, Ch. 181, L. 2001.)

When a Board member purchases MBOH bonds, the ownership of the bonds is subject to the terms already established in the bond resolution and documents.

The member’s interest in the bonds generally would not be “directly and substantially affected to its economic benefit” by official action to be taken later by the Board or Board member, and the Board generally would not have occasion to take official action that directly and substantially affects to its economic benefit previously issued bonds owned by a Board member.

In my opinion, Montana’s statutory standards of conduct do not prohibit a Board member from purchasing or owning MBOH bonds or from taking official action on bond resolutions simply because they have purchased and own MBOH bonds from one or more previous MBOH bond issues.

However:

- While Board members generally are not prohibited from purchasing and owning MBOH bonds or acting upon bond resolutions because of such purchase or ownership, issues could

## **BOARD MEMBERSHIP TRAINING**

### **JANUARY 8, 2024**

potentially come before the Board that would present a conflict of interest precluding such a member from participating.

- For example, a member owning certain MBOH bonds should not participate in a Board action selecting bonds to be redeemed from among various choices that include the bonds held by the member, because the action may directly and substantially benefit the member economically with respect to previously issued and purchased bonds.
- In such a case, the member would be required to disclose the conflict and would be advised to recuse themselves from voting unless their participation were required to allow the Board to act.

Federal securities laws prohibit a bondholder from taking advantage of inside information if they buy or sell a bond on the secondary market.

- Board members are presumed to have all of the knowledge of the agency itself, so if there is any question later about a Board member selling their bond because the agency has knowledge of adverse information, the Board member may be liable for damages to the secondary market purchaser.
- Board members generally have no knowledge of which bonds will be called and to minimize insider trading liability risk, Board members should not ask staff or the Board's advisors which bonds will be redeemed.
- To further minimize insider trading liability risk, Board members should only buy MBOH bonds if they intend to hold the bonds to maturity and should not buy and sell the bonds on a regular basis.

# LUXAN & MURFITT

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PATRICK E. MELBY  
E-mail: patm@luxanmurfitt.com

February 22, 2000

Tom Welch  
Pioneer Federal Savings and Loan  
102 North Washington  
P.O. Box 1103  
Dillon, MT 59725

RE: *Standards of Conduct for Public Officers and Employees*

Dear Tom:

In your letter of February 8, 2000, you have asked our opinion regarding the disclosure requirements for a member of the Montana Board of Housing who is employed by an entity, in your case a savings and loan organization, that purchases and holds bonds issued by the Board. While you did not inquire regarding it, a related issue regards a potential conflict of interest of a member of the Board employed by an entity that originates mortgages that may later be purchased by the Board. Because the two issues are so closely related, we have addressed the issue of conflict of interest and disclosure related to both in this opinion.

The Legislature has enacted standards of conduct for public officers and public employees, Title 2, chapter 2, MCA. There are several definitions in § 2-2-102, MCA, that are important to this opinion.

The term "Public employee" as used in the standards of conduct includes a member of a quasi-judicial board or commission or of a board, commission, or committee with rulemaking authority. Under that definition, you and other members of the Board would be considered public employees for purposes of the standards of conduct.

The term "'Business' includes a corporation, partnership, sole proprietorship, trust or foundation, or any other individual or organization carrying on a business, whether or not operated for profit." Clearly, Pioneer Federal Savings would be included within this definition.



Finally, the term "Private interest" among other things is defined as an interest held by an individual that is an ownership interest in a business, an employment, or a directorship or officership in a business. This definition would appear likely to include you in several capacities, both as president and as chief executive officer.

There are several provisions of the standards of conduct which may have some applicability to the situations described above. In § 2-2-105, MCA, certain ethical requirements for public officers and public employees are set out including the requirement in subsection (2) that "[e]xcept as provided in subsection (4), a public officer or public employee may not acquire an interest in any business or undertaking that the officer or employee has reason to believe may be directly and substantially affected to its economic benefit by official action to be taken by the officer's or employee's agency.

Similarly, in § 2-2-121, MCA, rules of conduct for public officers and public employees are set out and provide that the commission of any act enumerated in subsection (2) of that section is proof that the actor has breached a public duty. Included in the list of acts which are considered a breach of public duty is subsection (2)(e) which includes the "[performance of] an official act directly and substantially affecting to its economic benefit a business or other undertaking in which the officer or employee either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent.

Both of the above mentioned statutes have provisions under which a public officer or employee may make a disclosure of the potential conflict of interest and then participate in the action of the public body.

Both sections were adopted in the same act in 1977 as part of standards of conduct for public employees and officers. This act supplemented an existing section of law originally enacted in 1895 that had long provided standards of conduct for public officers and employees. That statute, § 2-2-201, MCA, provides in pertinent part that "... state ... officers ... or employee ... may not be interested in any contract made by them in their official capacity or by any body, agency, or board of which they are members or employees."

With nothing more, the relationship described between a member of the board who is also an employee of a financial institution that purchase bonds issued by the board or originates mortgages purchased by the board, would appear to be conduct proscribed by

the statutes described above. In 1977, however, when the Legislature transferred the Board of Housing from the former Department of Community Affairs to the Department of Administration, it recognized the benefit of having individuals as members of the Board of Housing who were also employees or officer of a financial institutions so that the Board would have the benefit of the expertise of those individuals regarding financial markets and the residential mortgage business. Consequently, the Legislature in § 2-15-1814(7), MCA, enacted a specific exception to the conflict of interest prohibitions which reads: "A member of the board [of housing] shall not be deemed to have a conflict of interest under the provisions of 2-2-201 merely because the member is a stockholder, officer, or employee of a lending institution who may participate in the board's programs."

Although this exception refers only to § 2-2-201, MCA, and omits any reference to §§ 2-1-105 and 2-1-121, that omission is more likely due to the fact that the latter two sections were enacted during the same legislative session as § 2-15-1814, MCA, rather than to a deliberate intention by the Legislature to apply those general sections to members of the Board of Housing while excepting them from the more specific conflict of interest statute. In any case, the prohibited conduct described in § 2-2-201, MCA, is broad enough that it most certainly encompasses the conduct proscribed by both §§ 2-1-105 and 2-1-121, MCA.

For the above reasons, it is our opinion that no conflict of interest is created by virtue of a member of the Board of Housing being a stockholder, officer or employee of a financial institution that purchases bonds issued by the Board or that originates loans purchased by the Board. As no conflict of interest is created as defined in §§ 2-2-201, 2-1-105 and 2-2-121, MCA, no disclosure is required.

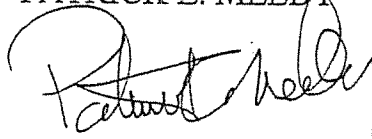
If a board member is still uncomfortable, however, there are provisions within the standards of conduct by which a board member can make a disclosure that will in effect allow the board member to fully participate in action of the board. Sections §§ 2-2-105(4) and 2-2-131, MCA, provide guidance to the public officer or employee of how conflicts of interest or even the appearance of impropriety can be avoided. Taken together, those statutes suggest 1) the annual filing of a written disclosure with the Secretary of State describing the board member's interest, and 2) a similar oral statement on the record of the board meeting prior to the action of the board. With these disclosures made, the board member can fully participate in the board's actions. We do not think, however, that such disclosures are required in your instance or that of other members of the board in similar circumstances because of the specific exception provided in § 2-2-201, MCA.

Tom Welch  
February 22, 2000  
Page 4

If you have any questions or need clarification of any part of this opinion, please do not hesitate to call me.

Sincerely,

PATRICK E. MELBY

A handwritten signature in black ink, appearing to read "Patrick E. Melby", written over the printed name.

for LUXAN & MURFITT, PLLP

PEM/kp  
cc: Maureen Rude

## **Montana Board of Housing (MBOH) Member's Annual Conflict of Interest Disclosure Statement**

The Montana Board of Housing expects and trusts its members to respect their public office and to act in an ethical manner in accordance with the rules applicable to Montana public officers. Members must use sound judgment and awareness regarding the discharge of their public duties to the citizens of Montana, avoiding any activities that compromise the public trust. All members must report any conflict of interest annually or as soon as a potential conflict becomes known to them.

Members must disclose and unless determined otherwise by the Board must not participate in Board action involving a direct benefit to the member or any person with whom the member has a personal or family relationship. This includes, but is not limited to, Board action involving the award of contracts, loans or tax credits.

The undersigned Member hereby acknowledges, represents and states:

1. The Member acknowledges and accepts the responsibility to follow all state laws and applicable policies regarding ethical conduct of public officials and MBOH members.
2. As a member of the Montana Board of Housing, I may not:
  - Use public time, facilities, equipment, supplies, personnel, or funds for private business purposes.
  - Engage in a substantial financial transaction for my private business purposes with a person whom I inspect or supervise in the course of my official duties.
  - Disclose or use confidential information acquired in the course of my official duties for my personal economic interests.
  - Perform an official act that will directly and substantially affect the economic benefit of a business or other undertaking in which I have a substantial financial interest or am engaged as counsel, consultant, representative, or agent.
  - Acquire an interest in any business or undertaking I have reason to believe may be directly and substantially affected to its economic benefit by actions taken by the Board.
  - Perform an official action which directly and substantially harms a business when I have a substantial personal interest in a competing business.
  - Accept gifts, use or disclose confidential information, or receive duplicate compensation of overlapping public positions in violation of applicable law or policies.
  - Take any official action related to MBOH that would result in the receipt of a substantial financial benefit to myself or my family, relatives, related parties, property or business or employment interests.

3. I must disclose to the Board in a public meeting and, except as otherwise approved by the Board, recuse myself from participation and/or voting in any Board action involving a possible conflict of interest.
4. I have the following personal or family relationships within MBOH or the Department of Commerce:

For each person, state the person's name and job title and the nature of relationship with the person. If none, state "NONE."

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5. I have the following relationships (including personal, business, ownership, governance or other) with the following persons or entities participating or potentially participating in or providing services to the Board in connection with Board programs, contracts, loans, tax credit awards or other Board programs or benefits:

For each person or entity, state the name of the person or entity, describe the nature of relationship (e.g., family relationship, ownership interest in business, parent/subsidiary of owned business, contractual relationship with entity, director or other governance role in entity, etc.) and identify the related MBOH program. If none, state "NONE."

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I have read and understand the Code of Ethics and Standards of Conduct found in §§ [2-2-201](#) through [2-2-304](#), MCA.

Submitted for Year: 20\_\_

DATED: \_\_\_\_\_, 20\_\_

Print Board Member Name: \_\_\_\_\_