

MONTANA

BOARD OF INVESTMENTS

SPECIAL BOARD MEETING
Zoom Conference
September 23, 2022
10:00 am

- Tab 1 CALL TO ORDER – Karl Englund, Board Chairman
- Notice of Video/Audio Recording
 - Roll Call
 - Public Comment – *Public Comment on issues with Board Jurisdiction*
- Tab 2 Administrative Rule Adoption RE: MAR Notice No. 8-97-101 –
Decision
- Tab 3 Board Policy Manual – ***Decision***
- Tab 4 Montana Properties Sale - ***Decision***
- Adjournment

MONTANA

BOARD OF INVESTMENTS

TO: Dan Villa, Executive Director
FROM: Dan Whyte, Chief Legal Counsel
DATE: September 13, 2022
RE: Board's Adoption of Administrative Rules, MAR 8-97-101

Below are notes for the September 16, 2022, Board Meeting to adopt the administrative rules (copied below with edits and a clean copy).

- On July 6, 2022, Dan Whyte, Chief Legal Counsel, sent a draft notice for amending rules to the Montana Secretary of State. On the same day, the Notice was sent to Jameson Walker, staffer to the Legislature's Economic Affairs Interim Committee, to notify the Committee of the amendments, pursuant to § 2-4-302(2), MCA.
- On July 22, 2022, the Board published Notice No. 8-97-101 in the Montana Administrative Register for two rule amendments.
- The Amendments are:
 - ARM 8.97.313 is the rule addressing confidentiality, amended to clearly state what Board documents and other information is kept confidential, including PII, documents relating to attorney-client privilege and attorney work product, personnel matters, and intellectual property, and
 - ARM 8.97.1707 is amended to delete a reference to ARM 8.97.1706, a rule previously repealed.
- On August 16, 2022, The Board held a public hearing discussing the rule amendments. The public was invited, but no public comment was offered.
- As required by § 2-4-302, MCA, more than 30 days has passed since publication in the Montana Administrative Register. No public comments were received during the interim.
- Therefore, no changes have been made to the rules as amended and the rules are ready for final Board approval.
- Assuming Board approval on September 16, 2022, the final rules will be filed with Secretary of State for publication on October 7, 2022, effective October 8, 2022.

Administrative Rule Amendments (with Edits)

8.97.313 CONFIDENTIALITY OF INFORMATION (1) ~~Except as provided in (2),~~ information submitted to the board will be treated as public information, Information except when the demand of individual privacy clearly exceeds the merits of public disclosure, the information is confidential, or contains intellectual property or proprietary information.

(2) ~~Pursuant to Montana law, Confidential information provided by a financial institution and a borrower will be treated as confidential, except the following includes:~~

- ~~(a) information determined to be personally identifiable information under Montana law;~~
- ~~(b) documents and discussions protected by the attorney-client privilege or attorney work product doctrine; and~~
- ~~(c) personnel matters.~~

(3) Intellectual property and proprietary information will be protected from public disclosure in accordance with the board's nondisclosure agreement.

- ~~(a) name and address of financial institution;~~
- ~~(b) name and address of borrower;~~
- ~~(c) short description of proposed project, including location of project;~~
- ~~(d) amount of proposed loan;~~
- ~~(e) the program(s) under which the financial institution or borrower is applying;~~
- ~~(f) any other information in which the demand of individual privacy does not clearly exceed the merits of public disclosure; and~~

~~(g) any information in which the demand of individual privacy clearly exceeds the merits of public disclosure when the borrower has expressly waived his right to privacy.~~

(3) ~~The board shall maintain public files on each completed application received containing the following information:~~

- ~~(a) items (2)(a) through (g) of this rule;~~
- ~~(b) all written documents received or prepared concerning items (2)(a) through (g) of this rule;~~
- ~~(c) the investment officer's or their designee's recommendation to the board regarding items (2)(a) through (g) and their recommendation for approval or denial of the application; and~~
- ~~(d) a summary of board action regarding the application including the board's approval or disapproval of the application, the terms and interest rate of the financing, and the loan repayment record.~~

8.97.1707 APPLICATION PROCEDURES AND PUBLIC HEARING REQUIREMENTS (1) through (5) remain the same.

(6) If the board determines that time is of the essence to an applicant applying for financing from federally tax-exempt bonds, the board may adopt a preliminary inducement resolution after an application has been submitted in accordance with ~~ARM 8.97.1706 and upon such other~~ terms and conditions deemed necessary by the board.

(7) through (9) remain the same.

Administrative Rule Amendments (Final)

8.97.313 CONFIDENTIALITY OF INFORMATION (1) Information submitted to the board will be treated as public information, except when the demand of individual privacy clearly exceeds the merits of public disclosure, the information is confidential, or contains intellectual property or proprietary information.

(2) Confidential information includes:

- (a) information determined to be personally identifiable information under Montana law;
- (b) documents and discussions protected by the attorney-client privilege or attorney work product doctrine; and
- (c) personnel matters.

(3) Intellectual property and proprietary information will be protected from public disclosure in accordance with the board's nondisclosure agreement.

8.97.1707 APPLICATION PROCEDURES AND PUBLIC HEARING REQUIREMENTS

* * *

(6) If the board determines that time is of the essence to an applicant applying for financing from federally tax-exempt bonds, the board may adopt a preliminary inducement resolution after an application has been submitted in accordance with terms and conditions deemed necessary by the board.

* * *

POLICY NUMBER: 10.162

EFFECTIVE DATE: October 26, 2022

TITLE: Human Resources Committee Charter SUPERSEDES: November 30, 2021

BOARD ADOPTION: November 30, 2021

REVIEWED: July 20, 2022

I. Human Resources Committee Charter

A. Purpose of Committee

1. The purpose of the Human Resources Committee (Committee) is to assist the Board in fulfilling its oversight responsibilities relating to personnel matters and compensation of exempt Board staff.

B. Committee Authority and Resources

1. The Committee has authority to conduct or authorize an investigation on any matters within its scope of responsibility. It is empowered to:
 - a) Select and retain external legal counsel or others to advise the Committee, or assist in the conduct of an investigation, as it deems appropriate.
 - b) Seek any information it requires from any Board employee, all of whom are directed to cooperate with the Committee's requests or external party requests on behalf of the Committee.
 - c) Meet with Board management and external parties, as necessary.

C. Committee Membership

1. The Committee shall consist of at least three (3) Board Members. The Chair of the Board shall serve as an ex officio member of the Committee. The Board Chair will appoint committee members and the Committee Chair per Policy 10.160 of the Governance Manual.

D. Committee Meetings

1. The Committee will meet at least twice a year, with authority to convene additional meetings, as circumstances require.
 - a) Committee members are expected to attend each meeting in person or by alternative electronic means.
 - b) Minutes will be prepared.
2. The Committee may invite members of Board staff or others to attend meetings and provide pertinent information.
3. The Executive Director shall attend all meetings, except when excused by the Committee for the purposes of reviewing the Executive Director's performance or compensation.

E. Board Staff Duties and Responsibilities

1. In consultation with the Committee Chair, Board staff will prepare meeting agendas which will be provided in advance to committee members, along with appropriate briefing materials.

2. Board staff will direct and recommend to the Committee the hiring of exempt staff, excluding the Executive Director and Chief Investment Officer (CIO) positions.
3. The Executive Director, CIO, or portfolio director will prepare performance evaluations for any exempt staff reporting to them. The Executive Director and CIO will review any evaluation prepared by portfolio directors.
4. The Executive Director shall prepare an improvement plan for exempt staff reporting to the Executive Director or CIO, if necessary.

F. Committee Duties and Responsibilities

1. Exempt staff hiring, disciplinary, or termination action, including:
 - a) Direct and recommend to the Board hiring, discipline or termination of the Executive Director and CIO.
 - b) Upon recommendation of the Executive Director, approve hiring, job duties and compensation of other exempt staff.
 - c) Upon recommendation of the Executive Director, approve or deny unpaid suspension of 10 days or more, demotion, or termination of exempt staff.
2. Exempt staff human resource policies, including:
 - a) Review and approve policies relating to the evaluation or compensation of exempt staff, subject to budget constraints.
 - b) Oversee the development and implementation of compensation programs.
 - c) Review and advise the Board concerning the adequacy and competitiveness of the Board's compensation programs.
 - (1) This activity may include the commissioning of peer salary surveys, the reviewing of such surveys, and establishing pay ranges based on the surveys.
3. Exempt staff evaluation and compensation, including:
 - a) Evaluate and advise the Board concerning the performance of the Executive Director and CIO against established goals and objectives of the Committee.
 - b) Review job descriptions and performance for the other exempt staff as prepared by the Executive Director or CIO against established goals and objectives.
 - c) Recommend to the Board the compensation level for all exempt staff, within budget constraints, for the upcoming year.
 - (1) The Committee may consider, among other factors:
 - (a) The Board's investment performance and return relative to investment performance at comparable investment boards.
 - (b) The awards given to the exempt staff in past years.
 - (c) The provisions of the Board's compensation plan for exempt staff.
 - d) Recommend, as appropriate, a course of action to remedy deficiencies or improve performance.
4. Other Responsibilities
 - a) Oversee the Executive Director in the development and maintenance of a succession plan for exempt staff and other key employees.

- b) Oversee regulatory compliance with respect to compensation matters for all employees, in consultation with the Executive Director.
- c) Consider and act on written employee appeals and grievances when the Executive Director is unable to resolve differences with exempt employees.
- d) Review and assess the adequacy of the Committee charter annually, requesting Board approval for proposed changes.
- e) Perform other activities related to human resources management, as requested by the Board.

G. Committee Reports

1. The Committee will keep the Board informed on a timely basis on actions taken, recommendations, and decisions made by the Committee.
 - a) The Committee has the discretion to keep specific personnel matters within the Committee or, if required by the Board, to report on any such matter in executive session of the Board.

MONTANA

BOARD OF INVESTMENTS

BOARD ADOPTED POLICY

POLICY NUMBER: 10.163

EFFECTIVE DATE: October 26, 2022

TITLE: Loan Committee Charter

SUPERSEDES: November 30, 2021

BOARD ADOPTION: November 30, 2021

REVIEWED: June 23, 2022

I. Loan Committee Charter

A. Delegated Authority

1. This Charter delegates authority to Board staff and the Loan Committee (Committee) as follows:
 - a) Board staff may approve federally guaranteed loans of any size.
 - b) Board staff and committee authority is based upon the aggregate dollar amount of any requested credit under consideration and any remaining credit balance outstanding for any single borrower of all Coal Tax Trust loans.
 - c) Board staff may approve all Coal Tax Trust and INTERCAP loans up to \$1.0 million, provided that the underwriting for such loans complies with all provisions of the relevant loan policies approved by the Board.
 - d) Board staff may authorize enhancement of up to \$1.0 million in Montana Facility Finance Authority Act (MFFA) bonds.
 - e) Board staff may approve all Coal Tax Trust and INTERCAP loans greater than \$1.0 million and up to \$5.0 million only with approval of the Committee.
 - f) All non-federally guaranteed Coal Tax Trust and INTERCAP loans in excess of \$5.0 million must be reviewed and approved by the Committee and recommended to the full Board for final approval.
 - g) Board staff may authorize write-downs to a single borrower of all Coal Tax Trust and INTERCAP loans up to \$1.0 million without approval of the Committee.
 - (1) Board staff shall report write-downs to the full Board at its next scheduled meeting.
 - (2) Coal Tax Trust and INTERCAP loan write-downs greater than \$1.0 million and up to \$5.0 million require Committee approval.
 - (3) Coal Tax Trust and INTERCAP loan write-downs in excess of \$5.0 million shall be reviewed and approved by the Committee and recommended to the full Board for final approval.
 - h) Board staff may authorize enhancement of MFFA bonds greater than \$1.0 million and up to \$5.0 million, only with approval of the Committee. Enhancement of MFFA bonds greater than \$5.0 million shall be reviewed by the Committee and recommended to the full Board for final approval.
2. For purposes of this Charter, loan amounts include only the Board's portion of a participation loan.

Adopted: November 30, 2021

Revised: October 26, 2022

Reviewed: June 23, 2022

B. Loan Parameters

1. Commercial maximum loan size is limited by law to ten percent (10%) of the Coal Tax Trust.
2. Value-Added maximum loan size is limited by law to one percent (1%) of the Coal Tax Trust.
3. Value-Added minimum loan size is set by law at \$250,000.
4. Maximum amount of Value-Added loans outstanding is limited by law to \$70.0 million.
5. Infrastructure maximum loan size is limited by law to \$16,666 per job created.
6. Infrastructure minimum loan size is set by law at \$250,000.
7. Maximum amount of Infrastructure loans outstanding is limited by law to \$80.0 million.
8. Maximum Board participation in commercial loans is eighty percent (80%).
9. Board participation in Value-Added loans is set by law at seventy-five percent (75%).
10. Infrastructure loans are made directly to local government entities.

C. Purpose of Committee

1. Provide the due diligence required for Coal Tax Trust loans and enhancement of MFFA bonds in an amount greater than \$1.0 million.
2. Review and approve Coal Tax Loan Program Policy and Residential Loan Program Policy prior to presentation to the Board.
3. Provide guidance regarding pricing of loans.

D. The Committee Is Charged with:

1. Reviewing and taking appropriate action on all staff recommendations for non-federally guaranteed Coal Tax Trust loans, INTERCAP loans, and the enhancement of MFFA bonds in excess of \$1.0 million and up to \$5.0 million.
2. Reviewing staff recommendations for non-federally guaranteed Coal Tax Trust loans and INTERCAP loans in excess of \$5.0 million and enhancement of MFFA bonds in excess of \$5.0 million and making a recommendation to the full Board.
3. Reviewing staff recommendations to issue additional INTERCAP bonds and recommending to the full Board approval of the recommendation as modified by the Committee.

E. Committee Membership

1. The Committee shall consist of at least three (3) Board members.
2. The Board Chair shall:
 - a) Appoint members.
 - b) Notify the Board of all appointments as they are made.
 - c) Designate one (1) member of the Committee as its chairperson.

3. The Board Chair may remove a committee member at any time and appoint a replacement to complete the removed Member's term, provided the Board Chair notifies the Board of the removal and the reasons at the time of the removal.

F. Committee Structure and Operations

1. Loans, Loan Write-Downs, and Bond Enhancement Greater than \$1.0 Million and up to \$5.0 Million:

- a) Staff shall provide written recommendations to each committee member.

- (1) Such documents shall include all pertinent information required by members to fulfill their obligations under this Charter.
- (2) After reviewing such documents, the Committee must meet as required to perform their obligations under this Charter.
 - (a) In lieu of meeting in person or telephonically, members may e-mail staff with their input and approval, subject to the "Confidentiality" provisions of this Charter.
- (3) Committee members may require that certain loan or loan write-down provisions, loan participation share (when permitted by law), or loan covenants recommended by staff be revised.
- (4) If two (2) committee members do not concur with staff recommendations for loan or loan write-down approval as modified or revised by members, the staff recommendation shall be forwarded to the full Board at a public meeting in which the lender and the borrower may be present.
- (5) If committee approval is granted via e-mail, such approval shall serve as a written record of approval.

2. Loans, Loan Write-Downs and Bond Enhancement Greater than \$5.0 million

- a) Staff shall provide loan and loan write-down approval recommendations to each committee member.

- (1) Such documents shall include all pertinent information required by members to fulfill their obligations under this Charter.
- (2) After reviewing such documents, the Committee must meet as required to perform their obligations under this Charter
- (3) Committee members may require that certain loan or loan write-down provisions, loan participation share (when permitted by law), or loan covenants recommended by staff be revised.
 - (a) Such revisions shall be incorporated into the staff recommendations and if the staff recommendations with any such revisions are approved by at least two (2) members, the recommendations shall be forwarded to the full Board for a final decision.
 - (b) If the staff recommendations with any such revisions are not approved by at least two (2) members, the lender and the borrower may appeal such decision to the full Board at its next regularly scheduled meeting.

G. Committee Duties and Responsibilities

1. Review staff recommendations to approve Coal Tax Trust loans and INTERCAP loans and loan write-downs, and MFFA bond enhancement greater than \$1.0 million and up to \$5.0 million and suggest revisions or modifications to the staff recommendations as necessary.
2. Concur or not concur with staff recommendations as revised or modified by Committee members.
3. Review staff recommendations to approve Coal Tax Trust loans and INTERCAP loans and loan write-downs, and MFFA bond enhancement in excess of \$5.0 million, and recommend to the full Board modifications to or approval of the staff recommendations.
4. Review staff recommendations to approve the issuance of Municipal Finance Consolidation Act bonds and the purchase of tendered bonds that have not been remarketed and recommend to the full Board modifications to and approval of the staff recommendations.
5. Provide, when necessary and appropriate, an appeals function for lenders and borrowers whose loan applications have been disapproved by staff.
6. Review staff-recommended revisions to the various loan program policies/applications and recommend to the full Board the approval, denial, or modifications of such revisions.
7. Recommend to the full Board the waiver of certain loan policy provisions as long as such waiver is limited to the merits of an individual loan application and is considered by the Committee to be in the public interest.
8. Advise the Executive Director on the job performance of the loan and bond program staff.
9. Prepare and deliver to the Board, at such time as the Board shall request and as required by this Charter, reports concerning the activities and recommendations of the Committee.
10. Perform other duties or responsibilities expressly delegated to the Committee by the Board relating to in-state investments.

H. Reports

1. A written summary of recommendations, decisions made, and actions taken by the Committee shall be presented to the Board at the Board meeting following the action/decision.

I. Resources and Authority of the Committee

1. The Committee shall have the resources and authority appropriate to discharge its duties and responsibilities.

MONTANA

BOARD OF INVESTMENTS

BOARD ADOPTED POLICY

POLICY NUMBER: 10.217

EFFECTIVE DATE: October 26, 2022

TITLE: Staff Authorization for
Investment Managers

SUPERSEDES: April 20, 2022

BOARD ADOPTION: November 30, 2021

REVIEWED: June 23, 2022

I. Staff Authorization for Investment Managers

A. The Board designates its Executive Director as agent of the Board to deal with investment managers.

1. The investment managers are authorized to deal with the Executive Director or the Executive Director's designated staff as agents of the Board. Board staff may not transact business with investment managers without the specific approval of the Executive Director.
2. The investment managers are authorized to accept all orders for purchases and sales and all instructions given by the Executive Director or the Executive Director's designated staff on behalf of the Board without further inquiry as to their authority.
3. The investment managers are authorized to receive any funds, securities, or property for the account of the Board. Board funds may not be committed, wired, or otherwise transferred to an investment firm without the specific approval of the Executive Director.
4. The investment managers are authorized to sell, assign, transfer, or deliver any funds, securities, or other property held for the account of the Board, to said persons or otherwise, as ordered by the Executive Director or the Executive Director's designated staff.
 - a) Orders shall be in writing or verbal with subsequent confirmation in writing.
 - b) Funds, securities, or other property are in bearer form, in street certificates, or in such names as directed by the Executive Director or the Executive Director's designated staff.
5. The investment managers shall send all confirmations, notices, demands, and other communications to the Executive Director or the Executive Director's designated staff, and the Board, at the following address:

Montana Board of Investments
P.O. Box 200126
Helena, MT 59620-0126

B. The establishment and maintenance of all the accounts, and the actions of the Executive Director or the Executive Director's designated staff member shown, acting on behalf of the Board dealing with investment managers related to said accounts since January 21, 1993, are approved and ratified.

C. The Board authorizes the Executive Director to:

1. Close any account,
2. Open new accounts,
3. Designate staff members to act on behalf of the Board for the purpose of dealing with investment managers regarding any account, or

Adopted: November 30, 2021

Revised: October 26, 2022

Reviewed: June 23, 2022

4. Remove the authority of any staff member to act on behalf of the Board for purposes of dealing with investment managers regarding any account.
- D. An investment manager may continue to act in reliance upon the foregoing policy and subsequent designations by the Executive Director of staff members acting on behalf of the Board, until receipt of written notice that the authority of a designated staff member to act on behalf of the Board has been terminated.
- E. The Executive Director shall provide an annual report to the Board showing the staff members and the accounts added to, or deleted from, and the date on which the addition or deletion occurred. The report shall be provided at the last regularly scheduled Board meeting of each calendar year.

MONTANA

BOARD OF INVESTMENTS

BOARD ADOPTED POLICY

POLICY NUMBER: 10.250

EFFECTIVE DATE: October 26, 2022

TITLE: Securities and Litigation

SUPERSEDES: November 30, 2021

BOARD ADOPTION: November 30, 2021

REVIEWED: June 23, 2022

I. Securities and Litigation

A. Purpose

1. The Board shall adopt, maintain, and revise as necessary, a process and policy to ensure that it participates in all class action litigation to which it is entitled.

B. Principles

1. The Board manages the assets entrusted to it “in accordance with the prudent expert principle” which requires that the Board act “with the care, skill, prudence, and diligence, under the circumstances then prevailing, that a prudent person acting in a like capacity with the same resources and familiar with like matters exercises in the conduct of an enterprise of a like character and with like aims.” Section 17-6-201, MCA. See also, Montana Constitution, Art. VIII, Sec.13.
2. Claims under state and federal securities laws arising out of losses on securities under the Board’s management are assets subject to the Board’s fiduciary duty of prudent management. Accordingly, the Board shall take reasonable steps to identify and recover on such claims. Such steps may include:
 - a) Participation as a passive class member in class actions brought by others and filing a proof of claim when action is settled/resolved.
 - b) Enhanced participation as a class member in class actions brought and led by others by considering objections or comments on settlements.
 - c) Active participation in a class action litigation, including serving as a “lead plaintiff” or “co-lead plaintiff” pursuant to the Private Securities Litigation Reform Act.
 - d) Separate litigation on behalf of the Board.
3. The Board shall delegate the responsibility to take steps to identify, analyze, pursue, and collect on securities law claims to qualified service providers.
 - a) The duties of each service provider shall be clearly articulated in contracts and the Board shall adopt prudent documented procedures to monitor the implementation of its policies.

C. Policies

1. The Board shall take reasonable, cost-effective steps to identify, pursue, and collect upon claims under state and federal securities laws for losses suffered by the Board on its investments because of alleged or proven violations of securities laws.
2. A proof of claim shall be filed on behalf of the Board in connection with every securities class action litigation settlement or judgment in which the Board is a member of the plaintiff class.
3. Unless the Board determines otherwise, it shall not initiate separate litigation or be a lead plaintiff with respect to any claim unless the value of the claim is at least \$1,000,000.

Adopted: November 30, 2021

Revised: October 26 2022

Reviewed: June 23, 2022

4. When the losses exceed \$1,000,000, the Board may commence separate litigation or apply for lead or co-lead plaintiff status, after receiving advice from the Board's legal counsel that it is in the interest of the Board to do so.
 - a) The criteria to be considered in deciding whether to commence separate litigation or apply for lead plaintiff status are set forth in Policy 10.251.
5. If the Board has suffered losses of \$500,000 or more, and the Board is not pursuing separate litigation or acting as lead or co-lead plaintiff in a class action, the Board may play an enhanced role. This may include review of the terms of any settlement, including applications for legal fees, to determine if the Board should file a comment or objection with respect to the settlement, or opt out of the class.
 - a) The criteria for deciding whether to opt out are set forth in Policy 10.251.
 - b) The Board is authorized to direct the filing of a comment or objection.
6. The Board shall act only as a passive class member with respect to any claim in which the losses suffered are less than \$500,000. Proofs of claim shall be filed on behalf of the Board upon a settlement or final judgment awarding damages in relevant class actions.
7. The Board delegates the decision to seek lead or co-lead plaintiff status or to play an enhanced role in a class action under this Policy to the Audit Committee.
8. The Executive Director, the Chief Investment Officer, the Board's legal counsel, and the Board's investment consultant shall receive reports from the Monitoring Firm, regarding the status of all securities class action litigation matters in which the Board is or could be a member.
 - a) The Executive Director shall receive such reports at least quarterly and upon each filing of proofs of claim.

D. Roles and Authority

1. Board Role and Authority
 - a) Review staff reports regarding securities litigation matters.
 - b) Periodically review and, as appropriate, modify this Policy.
 - c) Establish, periodically review, and, as appropriate, modify protocols for implementation of this Policy.
 - d) Select a securities class action monitoring firm to identify and evaluate potential claims and oversee the process for selecting such firm.
 - e) Approve, modify, or terminate agreements with service providers responsible for implementation of this policy.
2. Audit Committee Role and Authority
 - a) Authorize commencement of separate litigation or filing of motion for lead plaintiff or co-lead plaintiff status or support for another's application for lead plaintiff status, consistent with this Policy.
 - b) Approve settlement of separate litigation or class action in which the Board is lead plaintiff or co-lead plaintiff, consistent with Board policy.
 - c) Authorize opting out of a class settlement, consistent with this Policy.
 - d) Authorize filing of objections and comments on settlements, consistent with Board policy.
 - e) Receive and review staff reports on the status of matters other than passive claim filings.
3. Staff Role and Authority
 - a) Circulate to Board members, legal counsel, and investment consultant the reports from the custodian and monitoring firm showing status of all securities litigation matters in which the

Board may have an interest. The status includes:

- (1) Date case filed.
- (2) Date of settlement.
- (3) Due date for claim filing.
- (4) Date Board's claim filed.
- (5) Date of recovery.

- b) Approve, circulate, and review responses to requests for proposals for monitoring firm services and make recommendations to the Board regarding selection.
- c) Monitor, with assistance from the Board's legal counsel, performance of the Monitoring Firm and report deficiencies to the Board.
- d) As appropriate, recommend to the Board modifications to this Policy and to implementation protocols.

4. Board Legal Counsel Role and Authority

- a) Assist in the preparation of requests for proposals for a monitoring firm, review responses and make recommendations to Board members and staff regarding candidates.
- b) Assist in negotiations of terms and agreements with the Monitoring Firm, with assistance from the Board's investment consultant.
- c) Prior to submission to the Audit Committee, review, all recommendations from the Monitoring Firm regarding whether to commence separate litigation or seek lead plaintiff or co-lead plaintiff designation, or to opt out of or object to class settlements.
- d) Prior to submission to the Audit Committee, review all recommendations from the Monitoring Firm regarding proposed settlements of separate actions brought by the Board or class actions in which the Board is lead or co-lead plaintiff.
- e) Prior to submission to the Audit Committee, review all recommendations from the Monitoring Firm regarding whether to file objections to or comment upon settlements.
- f) Supervise and monitor outside legal counsel conduct of litigation when the Board pursues separate litigation or acts as lead or co-lead plaintiff.

5. Custodian Role and Authority

- a) Maintain and communicate data necessary to identify the Board's securities holdings and transactions to determine if the Board is a class member and calculate losses.
- b) Collect and distribute to the Monitoring Firm all notices regarding the commencement, class certification and settlement of class action lawsuits in which the Board has an interest as an actual or potential class member.
- c) Collect, record on the Board's custody statements, and deposit into appropriate accounts for investment, proceeds from the Board's claims.

6. Custodian/Class Action Role and Authority

- a) Establish and implement procedures to identify all securities class actions filed by others in which the Board is or may be a class member.
- b) Collect and distribute official notices of pendency of class actions in which the Board, according to this Policy, may consider applying for lead plaintiff status or pursuing separate litigation.
- c) Timely file accurate proofs of claim on behalf of the Board in all class actions in which the Board may participate as class member and notify the Monitoring Firm.

- d) Provide necessary custody data to the Monitoring Firm.

7. Monitoring Firm Role and Authority

- a) Ensure by written communication that the Custodian has filed the appropriate documents for Board participation in pending class action litigation.
- b) Identify circumstances in which the Board may have incurred investment losses in excess of the minimum threshold which would give rise to potentially meritorious claims for the Board which are not yet the subject of litigation.
- c) Evaluate claims over \$1,000,000 and recommend whether the Board should pursue separate litigation or lead or co-lead plaintiff designation.
- d) Evaluate settlements of actions in which the Board is not lead plaintiff where losses exceed \$500,000 and recommend whether Board should object to, comment upon, or opt out of settlement.
- e) File objections to and comments upon settlements as authorized.

E. Implementation

- 1. These Policies shall be implemented in accordance with a written statement of procedures to be adopted by the Board incorporated as Policy 10.251.

MONTANA

BOARD OF INVESTMENTS

BOARD ADOPTED POLICY

POLICY NUMBER: 10.251

EFFECTIVE DATE: October 26, 2022

TITLE: Decision Criteria to Pursue Litigation

SUPERSEDES: November 30, 2021

BOARD ADOPTION: November 30, 2021

REVIEWED: June 23, 2022

I. Considerations in Deciding on Separate Litigation, Lead, or Co-Lead Plaintiff Status

A. When deciding to act as a lead or co-lead or to engage in separate litigation, the Board shall consider, as appropriate, the following:

1. Size of the Board's damages measured by standards applicable to securities litigation.
2. Strength of claims, including evaluation of defenses.
3. Special circumstances which render the Board's claims different from, stronger, or weaker than claims of typical class members such that it would be in the interest of the Board to act as lead or co-lead plaintiff.
4. Venue of litigation.
5. Resources available to pay a significant judgment.
 - a) Financial condition of potential defendants.
 - b) Availability of insurance.
 - c) Potential for bankruptcy.
6. Qualifications of other lead plaintiff candidates and their counsel and the likelihood that the Board would be selected as lead or co-lead plaintiff.
7. Relation of claims to other corporate governance issues of special interest to the Board and impact on other Board holdings.
8. Potential for non-monetary remedies of special importance to the Board which other class members/lead plaintiffs may not pursue.
9. Costs to the Board of separate litigation/lead or co-lead plaintiff status such as discovery, legal fees, and Board staff time and resources needed to monitor litigation more actively.
10. Potential exposure to counterclaims/court costs and willingness of litigation counsel to indemnify the Board against such exposure.

II. Board Considerations in Deciding to Opt Out, Object to, or Comment on Settlements

A. In deciding whether to opt out, object to, or comment on settlements, the Board shall consider, as appropriate, the following:

1. Financial value of settlement to the class and the Board in particular.
2. The presence or absence of non-monetary aspects of settlement such as corporate governance.
3. Amount of attorney's fees sought and merits of attorney's fee claim.
4. Expense and risk, including value which might be lost if settlement is disrupted or rejected, associated with opting out, commenting, or objecting in relation to expected benefits of doing so.

Adopted: November 30, 2021

Revised: October 26, 2022

Reviewed: June 23, 2022

MONTANA

BOARD OF INVESTMENTS

BOARD ADOPTED POLICY

POLICY NUMBER: 10.300

EFFECTIVE DATE: October 26, 2022

TITLE: Investment Consultant

SUPERSEDES: November 30, 2021

BOARD ADOPTION: November 30, 2021

REVIEWED: July 20, 2022

I. Investment Consultant

- A. The Board has the authority to procure and select the Investment Consultant. The Executive Director shall prepare a competitive selection process to be used in solicitation and selection of an Investment Consultant after which, the Executive Director shall negotiate a contract.
- B. The purpose of this Policy is to acknowledge the complex and substantial role of the Investment Consultant, describe the range of services provided, and establish the minimum qualifications for respondents.
- C. The Investment Consultant provides a range of services, including, but not limited to:
 1. Conducting annual review of asset allocations,
 2. Providing quarterly investment performance reports,
 3. Advising the Board's investment manager structure,
 4. Assisting in searches for external investment managers,
 5. Reviewing benchmarks for all external managers, internally managed portfolios, and investment pools,
 6. Providing pacing studies,
 7. Reviewing investment guidelines and policies,
 8. Conducting asset liability studies,
 9. Assisting in searches for custody and securities lending services, and
 10. Providing training to Board members and staff on requested investment topics.
- D. Given the complex role, responsibility, and trust associated with the Board's Investment Consultant, the Board specifies the following *minimum* qualifications for respondents. Respondents must:
 1. Be a registered investment advisor under the Investment Advisers Act of 1940,
 2. Have five (5) years of experience providing investment consulting services to at least five (5) public institutional investors with assets of at least \$5 billion,
 3. Have five (5) years of experience completing asset/liability studies and have completed at least three (3) studies within the past three (3) years,
 4. Agree to be a fiduciary to the Board and UIP Funds as that term is defined by the laws and rules governing the Board,
 5. Not have any direct or indirect ownership of investment managers, investment brokers, investment banking services, or manage other entities monies.
 6. Disclose annually to the Board any revenues or income received by the consultant or any affiliates from investment managers, brokerage firms, investment banks, or other financial services businesses, and

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7. Submit current Uniform Application for Investment Adviser Registration and Report by Exempt Reporting Advisor Form (ADV Parts I and II).
- E. In addition to the above minimum qualifications, respondents must be able to demonstrate to the Board's satisfaction their investment strategy, financial stability, and ability to provide superior investment consulting services which further the Board's mission.

MONTANA

BOARD OF INVESTMENTS

BOARD ADOPTED POLICY

POLICY NUMBER: 10.310

EFFECTIVE DATE: October 26, 2022

TITLE: Custodial Bank

SUPERSEDES: November 30, 2021

BOARD ADOPTION: November 30, 2021

REVIEWED: July 20, 2022

I. Custodial Bank

- A. The Board has the authority to procure and select the Custodial Bank. The Executive Director shall prepare a competitive selection process to be used in solicitation and selection of a Custodial Bank after which, the Executive Director shall negotiate a contract.
- B. The Board acknowledges the complex and substantial role of the Custodial Bank and the associated custodial credit risk specific to the custodial bank relationship.
- C. The purpose of this Policy is to describe the range of services provided, establish the minimum qualifications for respondents, and establish requirements to help mitigate risks.
 1. Risk in this context is the event of failure of the financial institution in possession of the Board's assets whereby the state is not able to recover the investments or collateral securities.
 2. This risk is not limited only to the Custodial Bank; there may be sub-custodial banks particularly in foreign countries that may not be affiliates of the primary Custodial Bank.
- D. The Custodial Bank provides a range of services including, but not limited to:
 1. Safekeeping securities and settlement services including global and domestic U.S. custody,
 2. Processing global and domestic cash including foreign exchange,
 3. Accounting and reporting securities,
 4. Providing participant (transfer agent) accounting and reporting,
 5. Reporting investment performance and analytics,
 6. Lending custodial securities or facilitating non-custodial securities lending at the Board's option, and
 7. Providing and maintaining a comprehensive online accounting system to account for the Board's entire portfolio and all transactions.
- E. Given the complex role, responsibility, and trust associated with the Board's Custodial Bank, the Board specifies the following *minimum* qualifications for respondents. Respondents must:
 1. Have been providing domestic and global master custody services for at least ten (10) years,
 2. Have under custody at least \$1 trillion in assets at fair value, \$500 billion of which must include international foreign currency assets,
 3. Have been providing domestic and global master custody services for at least ten (10) public or corporate pension funds, each with assets of at least \$10 billion, at fair value for a minimum of five (5) years,
 4. Have provided securities lending services for public pension and non-pension funds for a minimum of ten (10) years,

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5. Have daily average of \$40 billion in fair value of securities on loan during the twelve (12) preceding months,
 6. Be able to perform all procedures necessary to convert from the current Custodial Bank's system to the new Custodial Bank's system of record. Offeror must have completed transitions of at least five (5) public funds with diversified assets totaling at least \$25 billion at fair value,
 7. Be able to provide participant (transfer agent) accounting and reporting (mutual fund type accounting) and be able to demonstrate to the Board's satisfaction its ability to provide such accounting,
 8. Be able to provide on-line comprehensive securities accounting and be able to demonstrate to the Board's satisfaction its ability to provide such accounting,
 9. Allow Board staff to customize reports and provide an electronic interface for such reports,
 10. Be able to provide a direct interface between its securities accounting system and the Board's Financial Asset and Investment Management System (the Board's trade order management system),
 11. Be able to provide assurance through a third party, in writing, that its internal control reviews are conducted in compliance with applicable audit standards, including, but not limited to Report on Controls at a Service Organization, and
 12. Have in place an internal audit staff who consistently evaluates all internal control systems and risks associated with master trust/custody services.
- F. In addition to the above minimum qualifications, respondents must be able to demonstrate to the Board's satisfaction:
1. Organizational resources, technology and staffing securities safekeeping, and core servicing securities,
 2. Settlement, accounting, cash reporting, and exposure management,
 3. Foreign exchange securities lending, and
 4. Comprehensive accounting system including transfer agency performance measurement and portfolio risk analysis transition and conversion.
- G. The Board acknowledges that the Custodial Bank shall generally have investment and deposit options available to the Board. To mitigate risk, the Custodial Bank must:
1. Demonstrate it has sufficient financial strength to protect the interests of the Board,
 2. Be rated at a minimum at the sixth (6th) highest investment grade rating by at least two (2) nationally recognized statistical rating organizations, and
 3. Hold any cash balance deposits of Custodial Bank or sub-custodial banks in the name of the Board. All cash balances may be held for short periods while awaiting proper instructions.
- H. The Board designates the Custodial Bank as the investment 'book of record' but, the Board reserves its fiduciary responsibility to assure accurate records regarding both holdings and performance.
- I. The Board acknowledges and allows that some of its fiduciary assets are by their nature held elsewhere, other than by the Custodial Bank, and by cross-reference to Policy 30.400, directs and requires the Chief Investment Officer to set appropriate due diligence and control standards to provide for the prudent safeguarding of assets such as:
1. Index Funds,
 2. Private equity and real estate ownership interests, and
 3. Any commingled funds held within managed accounts (these would include use of any ETF's or proprietary commingled funds in the form of an institutional trust vehicle).

MONTANA

BOARD OF INVESTMENTS

BOARD ADOPTED POLICY

POLICY NUMBER: 10.402

EFFECTIVE DATE: October 26, 2022

TITLE: Administrative Rules

SUPERSEDES: November 30, 2021

BOARD ADOPTION: November 30, 2021

REVIEWED: June 23, 2022

I. Administrative Rules

- A. The Board has rulemaking authority under state law and Article VIII, Section 13 of the Montana Constitution.
 - 1. Administrative rules are regulations, standards, or statements of applicability that implement, interpret, or set law or policy.
 - 2. Administrative rules can also describe the organization, procedures, or practice requirements of the Board.
 - 3. The Board adopts, by reference, Administrative Rules of Montana Title 8, chapter 97.
- B. The authority to revise Board administrative rules may not be delegated to staff.

MONTANA

BOARD OF INVESTMENTS

BOARD ADOPTED POLICY

POLICY NUMBER: 10.500

EFFECTIVE DATE: October 26, 2022

TITLE: Coal Tax Trust Loan Policies

SUPERSEDES: November 30, 2021

BOARD ADOPTION: November 30, 2021

REVIEWED: June 23, 2022

I. Coal Tax Trust Loan Policies

- A. The Board shall create, maintain, and revise loan policies for each of the Coal Tax Trust loan programs assigned to it by law.
 - 1. The loan policies shall be based on the law creating the programs and may be revised from time to time to accommodate changes in the law or to enhance or clarify the programs.
 - 2. Loan policy revisions may be made only by the Board and may not be delegated to staff.
 - 3. All loan policies shall be posted on the Board's website.
 - a) Specific loan policies can be found in Chapter 70, Section 700.
- B. The Board shall establish and approve an interest rate setting process for loan programs for which it has discretion to set rates.
 - 1. Staff shall utilize the approved process and post the rates weekly on the Board's website.

MONTANA

BOARD OF INVESTMENTS

BOARD ADOPTED POLICY

POLICY NUMBER: 10.600

EFFECTIVE DATE: October 26, 2022

TITLE: Bond Program Policies

SUPERSEDES: November 30, 2021

BOARD ADOPTION: November 30, 2021

REVIEWED: June 23, 2022

I. Bond Program Policies

- A. The Board shall create, maintain, and revise policies for its various bond programs assigned to it by law.
 1. The bond program policies shall be based on the law creating the programs and may be revised from time to time to accommodate changes in the law or to enhance or clarify the programs.
 2. Bond program policy revisions may be made only by the Board and may not be delegated to staff.
 3. All bond program policies shall be posted on the Board's website.
 4. Specific program policies can be found in Chapter 70 of the Governance Manual.

MONTANA

BOARD OF INVESTMENTS

BOARD ADOPTED POLICY

POLICY NUMBER: 10.700

EFFECTIVE DATE: October 26, 2022

TITLE: Credit Enhancement

SUPERSEDES: November 30, 2021

BOARD ADOPTION: November 30, 2021

REVIEWED: July 20, 2022

I. Credit Enhancement

- A. The Board has the primary authority to invest state funds and to determine the types of investments to be made, subject to the restrictions of the Montana Constitution and the Unified Investment Program Act.
- B. The Board adopts this Policy to codify and clarify the circumstances under which the Board provides Credit Enhancement and to authorize the Executive Director to honor and fulfill the Board's obligations under the bond documents and Capital Reserve Account Agreement.
- C. The Board may approve Credit Enhancement for the Municipal Finance Consolidation Act (MFCA) and the Montana Health Facility Finance Authority (MFFA) Bonds.
- D. The decision to provide Credit Enhancement is specific to each series of Bonds to be issued.
- E. The Board provides Credit Enhancement when it is prudent to do so and, in the Board's judgment, would result in a lower interest rate to the borrowers under the MFCA and MFFA than could be otherwise obtained.
- F. The funds in the Unified Investment Program from which the Board's Credit Enhancement obligations could be satisfied, include but are not limited to:
 1. The Coal Severance Tax Permanent Fund,
 2. The Short-Term Investment Pool, or
 3. The Treasurer's Fund.
- G. Authorization
 1. Each series of the MFFA Bonds for which Credit Enhancement is provided, requires a resolution from the Board. The resolution authorizes the Board to enter into an agreement with the MFFA whereby the Board agrees to make an interest-bearing loan to the Capital Reserve Account to restore any deficiency.
 2. The Board may provide Credit Enhancements including purchase of defaulting bonds issued or funds to the MFCA.
- H. Duties of the Executive Director
 1. The Executive Director is authorized to take all necessary actions to implement Credit Enhancement activity authorized by the Board.
 2. If the Executive Director makes a loan or purchases bonds pursuant to the bond documents, he/she shall:
 - a) Notify Board members via e-mail within three (3) business days of such action, and
 - b) Provide a full report to the Board at its next regularly scheduled meeting, specifying:
 - (1) The reasons for such action,

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- (2) The dollar amount, and
- (3) The terms and the funding source for the loan or bond purchase.

MONTANA

BOARD OF INVESTMENTS

BOARD ADOPTED POLICY

POLICY NUMBER: 10.900

EFFECTIVE DATE: October 26, 2022

TITLE: Asset Allocation

SUPERSEDES: November 30, 2021

BOARD ADOPTION: November 30, 2021

REVIEWED: June 23, 2022

I. Asset Allocation

- A. The Board, as the fiduciary of the Unified Investment Program, is responsible for establishing the investment parameters of the Unified Investment Program.
- B. The Board has the authority to allocate portfolios to any asset class in the proportions it considers prudent, subject to such limitations as are contained in law.
- C. Asset allocation decisions shall be made by the Board and may not be delegated to staff.
- D. The Board shall review and affirm pension allocation ranges at least annually.

MONTANA

BOARD OF INVESTMENTS

BOARD ADOPTED POLICY

POLICY NUMBER: 30.240

EFFECTIVE DATE: October 26, 2022

TITLE: Contracts Generally

SUPERSEDES: April 20, 2022

BOARD ADOPTION: November 30, 2021

REVIEWED: July 20, 2022

I. Contracts in General

A. The Board reserves the sole discretion to enter into investment-related contracts necessary for the Board to meet its fiduciary responsibilities under the Montana Constitution, Article VIII, Section 13 and Section 17-6-201, MCA.

1. The Executive Director is authorized to negotiate and enter into contracts necessary to carry out the Board's mission without advance approval of the Board, except for contracts with the Board's Custodial Bank and Investment Consultant.
2. Legal counsel shall review all contracts subject to state law and Board policies.

B. Building Management Services

1. The Executive Director is authorized to make all day-to-day decisions required in managing the Board's direct real estate holdings. These decisions, include but are not limited to:
 - a) Negotiating and signing leases.
 - b) Authorizing payment of invoices.
 - c) Authorizing repair and renovation.
 - d) Authorizing improvement, construction, and contracting with a Building Manager.
2. The Board must approve the purchase and sale of all direct real estate.

C. Personal Services Contracts

1. The Executive Director is empowered to negotiate personal services contracts as necessary to ensure proper staffing levels or to obtain specialized services not otherwise available.

D. Interagency Agreements

1. The Executive Director is empowered to sign Interagency Agreements and contracts with other state agencies as necessary to fulfill the Board's mission or to implement recently enacted legislation.

MONTANA

BOARD OF INVESTMENTS

BOARD ADOPTED POLICY

POLICY NUMBER: 30.260

EFFECTIVE DATE: October 26, 2022

TITLE: Credit Enhancement Implementation

SUPERSEDES: April 20, 2022

BOARD ADOPTION: November 30, 2021

REVIEWED: July 20, 2022

I. Credit Enhancement Implementation

- A. The Executive Director is authorized to take all necessary actions to implement credit enhancement activity authorized by the Board per Policy 10.700 of the Governance Manual.

Repealed

MONTANA

BOARD OF INVESTMENTS

BOARD ADOPTED POLICY

POLICY NUMBER: 40.603

EFFECTIVE DATE: October 26, 2022

TITLE: Definitions

SUPERSEDES: November 30, 2021

BOARD ADOPTION: November 30, 2021

REVIEWED: July 20, 2022

I. Definitions

- A. **Asset-Backed Security:** Bonds or notes backed by loan paper or accounts receivable originated by banks, credit card companies, or other providers of credit. Not mortgages.
- B. **Banker's Acceptance:** A short-term credit investment which is created by a non-financial firm and whose payment is guaranteed by a bank. Often used in importing and exporting, and as a discount money market fund investment.
- C. **Certificate of Deposit (CD):** A short-or medium-term, interest-bearing deposit obligation offered by banks and savings and loans. These may include "Yankee CDs" which are CDs issued by foreign banks or their U.S. affiliates in the U.S. which are denominated in U.S. dollars.
- D. **Commercial Paper:** An unsecured obligation issued by a corporation or bank to finance its short-term credit needs, such as accounts receivable and inventory. Maturities typically range from two (2) to two hundred seventy (270) days. Commercial paper is available in a wide range of denominations, can be either discounted or interest-bearing, and usually have a limited or nonexistent secondary market. Commercial paper is usually issued by companies with high credit ratings, meaning that the investment is almost always relatively low risk.
- E. **Corporate Note:** A type of unsecured debt issued by a corporation that may be longer-term than Commercial Paper, but shorter-term than a typical Corporate Bond.
- F. **Repurchase Agreement:** A contract in which the seller of securities, such as Treasury Bills, agrees to buy them back at a specified time and price. May also be called "Repo" or "Buyback." Typically used a short-term form of collateralized borrowing by a bank or securities dealer.
- G. **Reverse Repurchase Agreement:** A purchase of securities with an agreement to resell them at a higher price at a specific future date. The investor essentially borrows money and allows its securities to be held as collateral. Reverse Repurchase Agreements occur most often in government securities or other securities that are highly valued and thus considered a good form of collateral.

MONTANA

BOARD OF INVESTMENTS

BOARD ADOPTED POLICY

POLICY NUMBER: 70.100

EFFECTIVE DATE: October 26, 2022

TITLE: INTERCAP Loan Program

SUPERSEDES: November 30, 2021

BOARD ADOPTION: November 30, 2021

REVIEWED: July 20, 2022

I. INTERCAP Loan Program

A. Requirements for all INTERCAP Loans

1. For purposes of INTERCAP loans under this policy, the definitions in Section 17-5-1604, MCA, apply.
2. The INTERCAP Loan Program may not be used to finance Tax Increment Financing (TIF) or Targeted Economic Development (TEDD) bonds or loans.
3. Applications may be completed online at <https://investmentmt.com/INTERCAP/>. A hard copy application is available upon request.
4. Upon loan approval, a Term Sheet explaining the conditions of the loan will be forwarded to the Borrower for review.
5. Borrower has one (1) year from date of receipt of the Term Sheet to access the funds. A Borrower who fails to access the funds within the year may be required to reapply for the loan.
6. Three (3) weeks prior to accessing the funds, the Borrower must notify Board staff of their intention to access the funds.
7. Prior to receiving funds, the Borrower must complete, execute, and return to Board staff the original loan documents, including:
 - a) A resolution from the local governing body approving the loan.
 - b) A form signed by the local government unit counsel stating the local government unit has the authority to participate in the loan program, that the project qualifies for the loan program, and that the loan is legal and binding on the local government.
8. Execution of original documents may be a manual signature or electronic signature.
9. The local government is required to annually appropriate funds for the repayment of the loan.
10. Invoices or certificates of completed work must be submitted before INTERCAP funds are disbursed.
11. The Interest Adjustment Date is effective February 16 of each year.
12. A new interest rate will be posted on the Board's website and adjusted amortization schedules mailed out in March.
13. Any state or federal permits required must be obtained prior to closing the loan.
14. If the project is dependent on other funding sources, those funding sources must be committed prior to funding the INTERCAP loan.

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15. Eligible government units must adhere to Montana law when financing capital projects.
 - a) Board staff will consider the maximum loan term authorized in statute, as well as the repayment ability of the eligible Borrower, when reviewing loan requests.
 - b) Loan terms may not exceed fifteen (15) years or the useful life of the project being financed, whichever is less.
16. The maximum amount of the loan is limited to the Borrower's legal debt limit.
17. Loans previously approved by the Board may be increased by the Executive Director in an amount up to ten percent (10%) of the original approved loan amount.

B. Short-Term Loans Criteria

1. Short-term INTERCAP loans may be made to cover two types of needs:
 - a) Money to provide financing on an interim basis for projects funded from other sources.
 - b) Operating money to cover a temporary cash flow deficit.

Examples of eligible temporary project funding include, but are not limited to, interim financing in anticipation of state or federal grants and/or long-term loans. Specific written evidence of the commitment for funding of the grant or long-term loan is required prior to releasing funds.

2. Counties, cities, towns, and school districts are statutorily authorized to borrow for cash flow deficits to be repaid within the statutory time limit. Other types of local governments may borrow through their respective county.

C. Enterprise Debt Loans Criteria

1. Enterprise funds are used to report the functions presented as business-type activities in government-wide financial statements. Enterprise project financing pledges revenues of the Borrower to repay the loan for associated costs.
2. The Board must receive documentation of revenue rates currently in effect and any proposed adjustments.
3. Enterprise debt requires the Borrower to:
 - a) Pledge the revenues of the system.
 - b) Set and maintain rates and charges that will generate net revenues to cover debt service by a factor of one and a quarter (1.25).
 - c) Maintain a reserve account of one (1) year debt service or ten percent (10%) of the loan, whichever is less.
4. In most cases the obligation is not required to be secured by the full faith and credit of the issuer and the obligation does not require voter approval.
5. If the revenue pledged for repayment is on parity, or in equal position, with other outstanding debt, the Board will require Montana-licensed bond counsel to prepare the parity revenue bond documents and provide the opinion at the Borrower's expense.

D. Preliminary Engineering Report (PER) Loans Criteria

1. Local governments may finance the costs to prepare the PER planning document required by many state and federal funding agencies for utility improvement loans.
2. The engineer must be a registered professional licensed to practice in his or her area(s) of competence and expertise in the State of Montana prior to the Board's commitment.
3. The maximum PER loan term is six (6) years.
 - a) At the time of loan application review, Board staff will determine if the loan will be repayable interest-only for up to three (3) years with an optional three (3) year amortization of principal and interest thereafter or amortized principal and interest over the six (6) year term.
 - b) Rates and fees will be annually reviewed and increased as necessary to provide adequate repayment of debt.
4. A written approval from a state or federal engineer stating the PER scope of work generally conforms to the requirements outlined in the Uniform Preliminary Engineering Report for Montana Public Facility Projects.
5. Special or Rural Improvement Districts are not eligible for PER loans.

E. Grant Writing Loans Criteria

1. Local governments may finance the costs to prepare grant applications.
2. The maximum loan term is six (6) years.
3. Board staff will determine at the time of loan application review if the loan will be repayable interest-only for up to three (3) years with an optional three (3) year amortization of principal and interest thereafter or amortized principal and interest over the six (6) year term.
4. Rates and fees will be annually reviewed and increased as necessary to provide adequate repayment of debt.

F. General Obligation Loans Criteria

1. Voter-approved general obligation debt has the backing by the full faith and credit of the issuer and obligates the issuer to levy a tax sufficient to repay the obligation. The Board will require copies of the election process leading up to and the results of the election for review.
2. Bond counsel is required to certify that all legal requirements for the loan have been met. The cost of bond counsel opinion is to be paid by the Borrower.

G. Special or Rural Improvement District (SID/RID) Loans Criteria

1. SID/RID loans are payable from special assessments levied against real property in the district to finance improvements to projects such as streets, roads, curbing, etc. The loans are not full faith and credit obligations of the city or county.
2. All statutory requirements for establishing the SID/RID must be met prior to the loan and available for review as part of the loan process.
3. City or county funds must secure the SID/RID with a pledge to levy for and maintain the revolving fund to the maximum amount permitted by law.
4. All local government SID/RIDs and the balance in the revolving fund are subject to review as part of the loan process.
5. Preliminary engineering loans will not be made to SIDs/RIDs.

H. Street Maintenance District Loans Criteria

1. Street Maintenance Districts are loans payable from special assessments levied against real property in the district to finance improvements to projects such as streets, roads, curbing, etc.

Street Maintenance District loans do not require voter approval and are not secured by the local government's revolving fund.

2. The appropriate steps to create the Street Maintenance District and set the annual assessments must comply with Section 7-12-44, MCA, and be available for review as part of the loan process.
3. Assessment revenue will be pledged to the repayment of the loan and must be set to generate net revenues to cover the debt service by a factor of one and a quarter (1.25).
4. If revenue pledge for repayment is on parity with other outstanding debt, the Board will require Montana-licensed bond counsel to prepare the parity revenue bond documents and provide the opinion at the Borrower's expense.
5. The Board will require a reserve account that is equal to one (1) year debt service or ten percent (10%) of the loan, whichever is less.

MONTANA

BOARD OF INVESTMENTS

BOARD ADOPTED POLICY

POLICY NUMBER: 70.110

EFFECTIVE DATE: October 26, 2022

TITLE: University System INTERCAP
Agreements

SUPERSEDES: November 30, 2021

BOARD ADOPTION: November 30, 2021

REVIEWED: July 20, 2022

I. University System INTERCAP Agreements

A. Purpose

1. The purpose of this policy is to provide a means for the University System to obtain low-cost financing for capital projects.

B. The Board administers the INTERCAP loan program (INTERCAP) under the Municipal Finance Consolidation Act (Act) as a means of providing low interest loans to eligible Montana government entities to finance capital improvements and other needs.

C. The 1991 Legislature amended the Act to include the Board of Regents as an eligible borrower.

1. The legal authority for the Board of Regents to borrow through INTERCAP is found on Section 17-5-1604(3), MCA, and Section 20-25-402, MCA.

D. Procedures

1. Board staff may, without the concurrence of the Loan Committee, authorize University System loan requests in an amount up to \$1.0 million.
2. Board staff may, with the concurrence of the Loan Committee, authorize University System loan requests in an amount greater than \$1.0 million and up to \$5.0 million.
3. The Board must authorize University System loan requests in excess of \$5 million.

E. Loan Concentration Cap

1. University of Montana campuses (UM)

- a) The aggregate outstanding principal amount of all INTERCAP loans (Loan) made by the Board to UM, when added to the maximum principal amount of such proposed Loan, may not exceed nineteen percent (19%) of the principal amount of INTERCAP Bonds outstanding.

2. Montana State University campuses (MSU)

- a) The aggregate outstanding principal amount of all Loans made by the Board to MSU, when added to the maximum principal amount of such proposed Loan, may not exceed nineteen percent (19%) of the principal amount INTERCAP Bonds outstanding.

3. For the purpose of making the foregoing calculations, a Loan to the UM or MSU is deemed to be outstanding in the maximum principal amount of the committed amount of the Loan, even if only a portion or none of such committed amount is advanced as of the date of calculation.

4. The unadvanced commitment of a Loan will be disregarded for the purpose of determining the outstanding principal amount of Loans to the Borrower if at the time of making the calculation:
 - a) The Board has received written notice from the Borrower that no further advances on the Loan are contemplated and the Board is directed by the Borrower to release the unadvanced principal from the loan commitment; or
 - b) The loan commitment has expired by its terms.

MONTANA

BOARD OF INVESTMENTS

BOARD ADOPTED POLICY

POLICY NUMBER: 70.710

EFFECTIVE DATE: October 26, 2022

TITLE: Approved Lenders

SUPERSEDES: November 30, 2021

BOARD ADOPTION: November 30, 2021

REVIEWED: July 20, 2022

I. Approved Lender Requirements

- A. Any financial institution meeting the requirements found in Section 17-6-302(7), MCA, and whose business activity meets the requirements found in Section 17-6-302(12), MCA, may request approval to Participant to sell loans to the Board on a whole or participation basis and services the loan throughout the term.
- B. All requests must include:
 1. A listing of the applicant's principal officers and officer(s) authorized to execute contracts, agreements, and other documents, and
 2. A certificate of errors and omissions insurance coverage in an amount to be determined by the Board, at the time of approval.
- C. An applicant that is governed by one or more regulatory agencies must:
 1. Submit its most recent quarterly consolidated report of condition and income or its most recent quarter-end balance sheet and income statement, and
 2. If available, copies of its previous three years' consolidated reports of condition and income or audited financial statements, including both balance sheets and income statements which must:
 - a) Indicate a positive return on average assets based on generally accepted accounting principles (GAAP), and
 - b) Indicate a total capital as a percentage of average assets of at least six percent (6%) or meet all applicable capital requirements of the regulatory agency.
- D. An applicant that is not governed by a regulatory agency defined herein, must submit:
 1. Evidence of its current corporate and ownership structure demonstrating more than three (3) years of existence,
 2. Copies of its last three (3) years audited financial statements, including both balance sheets and income statements, and
 3. Its most recent quarter-end balance sheet and income statement which must:
 - a) Have been prepared within sixty (60) days of submission,
 - b) Indicate a positive return on average assets, and
 - c) Indicate total capital as a percentage of average assets of at least six percent (6%) with a minimum GAAP net worth of \$1,000,000.
- E. Board staff will determine approval of each applicant after reviewing the application.
- F. If approved as a Participant, the financial institution must sign the appropriate sales and servicing agreement(s) and an electronic funds transfer authorization form.

Adopted: November 30, 2021

Revised: October 26, 2022

Reviewed: July 20, 2022

- G. The Board may suspend approval of a Participant and discontinue purchasing loans or otherwise participating with the Participant in purchasing and servicing loans if any of the following situations occur:
1. Fees due to the Board by the Participant remain unpaid for more than thirty (30) calendar days,
 2. The Board determines that more than seven percent (7%) of loan payments have been delinquent for more than ninety (90) calendar days, or
 3. The Board determines that the Participant has violated the servicing or participation agreement, or rules adopted by the Board.

POLICY NUMBER: 70.720

EFFECTIVE DATE: October 26, 2022

TITLE: Commercial Loan Program

SUPERSEDES: November 30, 2021

BOARD ADOPTION: November 30, 2021

REVIEWED: July 20, 2022

I. Commercial Loan Program

A. General Parameters for Commercial and Multi-Tenant Housing Loans:

1. The Board does not lend directly to businesses and participates only with Approved Lenders in making loans to Montana businesses.
2. Approved Lenders originate all loans and submit loan applications and loan reservation forms.
3. The term Borrower means the Borrower applying for a loan from the Lender.
4. Borrowers must give preference to Montana labor when constructing projects.
5. Project construction contractors are subject to prevailing wages.
6. Small Business Loan Incentives are only available for Commercial Coal Tax Trust loans.
7. Job Credit Interest Rate Reductions are only available for Commercial Coal Tax Trust loans.
8. Commercial Coal Tax Trust loans maximum size is limited to ten percent (10%) of the Trust.
9. Commercial Coal Tax Trust loans exceeding six percent (6%) of the Trust require thirty percent (30%) Lender Participation.
10. The submission of a fee with the Loan Reservation Form locks an interest rate and reserves funding.

B. Interest Rates

1. Interest rates are effective for a one (1) week period and are posted on the Commercial Loan Rate Sheet.
2. The Commercial Loan Rate Sheet is posted on the Board's website each Thursday.
3. The interest rates reflect net yield to the Board and are exclusive of any Lender fees.
4. Initial interest rate is determined by the interest rate posted on the Commercial Loan Rate Sheet on the date the loan reservation form is received.

C. Loan Reservations

1. Reservations with an Identifiable Borrower
 - a) Lenders with an identifiable Borrower(s) at the time of the reservation, may reserve funds for one year (365 days) with a fee of one quarter percent (0.25%) of the reserved amount.
 - b) Lenders may lock interest rates at any time during the one-year (365 days) period at the rate last set.
 - c) If the loan has **not** been committed and the Board's interest rates decline after a Lender has locked interest rates during the one-year (365 days) period, a reservation at the lower rate for an additional one-year (365 days) may be obtained via payment of another one-quarter percent (0.25%) fee.

- d) If the loan has been committed and the Board's interest rates decline after a Lender has locked interest rates during the one-year (365 days) period, the lower rate may be obtained via payment of another one-quarter percent (0.25%) fee, but the original commitment letter expiration date will remain the same.
- e) Lenders must offer, underwrite, accept, and close the loan during the one-year (365 days) period.
- f) All applicable checklist items must be received within ninety (90) days after expiration of the one-year (365 days) period.
- g) The reservation may be extended as outlined in Section C.2. of this Policy.
- h) Blended interest rates may be applied for increases in the reserved amount of an existing reservation.
- i) The last fee paid is refundable if the loan is funded or the application is rejected.

2. Reservation Extensions

- a) If the project for which the loan proceeds will be utilized is not completed within the initial one-year (365 days) reservation period, up to two (2) additional one-year (365 days) increments may be granted upon written request and payment of an additional one-quarter percent (0.25%) fee for each extension.
- b) Additional one-year (365 days) extensions will not be granted if the project has been completed within the existing reservation/commitment period.
- c) Extension fees must be received via ACH within fifteen (15) working days after the expiration date of the current one-year (365 days) period in order to keep the reservation in force.

D. Financial Institution Incentive for Small Business Loans

- 1. The Board's interest rates may be reduced by one-half percent (0.50%) for loans of less than five-hundredths percent (0.05%) of the Montana Permanent Coal Tax Trust balance at the most recent fiscal year-end. The amount is posted weekly with the interest rates.
- 2. This reduction is available for loans made to small businesses, which the Board defines as businesses with gross annual payroll of less than \$10.0 million (Section 17-6-319, MCA).

E. Job Creation Interest Rate Reduction

- 1. With the exception of Link Deposit and Value-Added loans, Borrowers who create jobs as a result of a Commercial Coal Tax Trust Loan are entitled to an interest rate reduction of five-hundredths percent (0.05%) for each qualifying job created up to a maximum of two and a half percent (2.50%).
- 2. One job is equal to the Private Annual Wage shown on the weekly posted Commercial Loan Rate Sheet.
- 3. For jobs paying more than the Private Annual Wage, job credits will be increased proportionately for each twenty-five percent (25%) increment above the Private Annual Wage to a maximum of two jobs.
- 4. For jobs paying less than the Private Annual wage, job credits will be reduced proportionately for each twenty-five percent (25%) increment below the Private Annual Wage.
- 5. Job credits are not available unless one whole job is created.
- 6. Nonprofit corporations may qualify for the job credit interest rate reductions if the interest rate reduction passes through to a for-profit business creating the jobs.
- 7. The Board may increase the interest rate commensurate with the number of jobs eliminated if the Borrower eliminates qualifying jobs. Lenders must notify the Board if the Borrower

eliminates qualifying jobs.

8. The beginning date for counting jobs created is the date of the first written contact from the Lender or the Borrower pertaining to the project.
9. Applications for interest rate reductions may be delivered with the loan funding documents or at least ten (10) working days before the end of each calendar quarter.
10. The Borrower seeking an interest rate reduction must provide payroll records as evidence of the creation of jobs.
11. The Board shall notify the Lender within fifteen (15) business days of the action has been taken on an interest rate reduction request.
12. Investors owning business properties may receive an interest rate reduction if the lease passes the reduction to the lessee for the full term of the loan.
13. Interest rate reductions provided in this part will be effective on the next scheduled payment date.
14. The posted Private Annual Wage and State of Montana minimum wage will be used in calculating a job creation interest rate reduction request. Job credit interest rate reductions are not available for jobs paying less than the state minimum wage.

F. Interest Rate Buy Down on Existing Commercial Loans

1. The Board's portion of an outstanding loan interest rate may be reduced to the Board's current rate at the time the Loan Reservation Form and fee are received.
2. The interest rate will be calculated by rounding the remaining term up to the nearest year and applying the buy down interest rate for that specific year. The fee is:
 - a) One percent (1%) of outstanding Board loan balance, for sixty (60) months or less,
 - b) One and a half percent (1.5%) of outstanding Board loan balance for sixty-one to one hundred and twenty (61 to 120) months, or
 - c) Two percent (2%) of outstanding Board loan balance for one hundred and twenty-one (121) months or more.
3. Interest rate reductions are effective on the next payment due date after the fee is received and the reduction is approved by the Board.
4. Job creation interest rate reduction can be applied to the buy down interest rate for all new jobs created after the date of the rate buy down.
 - a) If a rate reduction resulting from the creation of jobs was applied to the loan prior to the interest rate buy down the previously applied rate reduction and any new job-related rate reduction after the interest rate buy down cannot exceed a total of two and a half percent (2.50%).
 - b) The previously used job credit rate reduction cannot be applied to the buy down interest rate.

G. Collateral Requirements

1. Collateral requirements include:
 - a) A first mortgage/lien position shared proportionately with Lender,
 - b) Sufficient economic life to support the term of the loan,
 - c) Personal guarantees as required by Lender or the Board,
 - d) Due-on-sale clauses, requiring Lender’s consent prior to loan transfer,
 - e) An attorney opinion on authority of Borrower to borrow and all collateral documents if required by Lender, and
 - f) Other collateral as required by Lender or the Board.

H. Appraisals Requirements

1. Licensed Montana commercial appraisers are preferred unless a specialized property collateral requires an out-of-state appraiser.
2. Requirements apply to all appraisals irrespective of the Lender’s appraisal or loan policy appraisal requirements and are based on the total loan amount shown below:
 - a) Up To \$500,000 - As required by Lender to provide basis for value.
 - b) Over \$500,000 - Appraisal Report, as defined by the Uniform Standards of Professional Appraisal Practice.
3. Appraisal requirements are based on the total loan amount.

I. Pricing Adjustment for Participation Loans Based on Loan-To-Value

1. Loan-To-Value (LTV) is based on the lessor of reasonable project costs or market value appraisal. Reasonable project costs do not include any form of payout to an owner, developer, or shareholder.
2. The following risk adjustments for Loan-To-Value on collateral will be made to the posted interest rate:

<u>Loan-To-Collateral Value</u>	<u>Board Participation</u>	<u>Net Yield To Board</u>
1-75% LTV	80%	Posted Rate
76% - 80% LTV	70%	Posted Rate
81% - 85% LTV	60%	Posted Rate
86% - 90% LTV	50%	Posted Rate
<u>OR:</u>		
76% - 80% LTV	75%	Posted Rate + .25%
81% - 85% LTV	70%	Posted Rate + .50%
86% - 90% LTV	65%	Posted Rate + .75%

J. Fundings

1. The loan in which the Board is to participate must be closed prior to the commitment letter expiration date.
2. Funding documents required in the commitment letter must be received within ninety (90) days following the first principal and interest payment due date of the project term note or the commitment date expiration, whichever comes first.
3. Fundings should occur on or around the tenth (10) day of the month.
4. At least thirty (30) days’ notice must be provided to be eligible for fundings.

K. Ineligible Loans

1. Ineligible loans are:
 - a) Loans classified as substandard, doubtful, loss or similar category in Lender's most recent examination report,
 - b) Loans to businesses with classified loans at the Lender, other than the loan offered to the Board,
 - c) Loans to trusts,
 - d) Loans for land development or speculative ventures,
 - e) Revolving lines of credit, working capital or operating money, or
 - f) Loans to pay delinquent taxes.

L. Project Specific Requirements

1. Any contract to construct a project financed by loan proceeds must require all contractors to give preference to the employment of bona fide Montana residents, as defined in Section 18-2-401, MCA, in the performance of the work on the projects, if their qualifications are substantially equal to those of nonresidents.
2. Substantially equal qualifications mean the qualifications of two (2) or more persons among whom the employer cannot make a reasonable determination that the qualifications held by one person are significantly better suited for the position than the qualifications held by the other persons.
3. If the Board participates in construction financing and its share of the loan equals or exceeds \$1.5 million, the general contractor and all subcontractors shall be subject to Montana's prevailing wage law specified in Section 18-2-4, MCA.

M. Other Commercial Loan Policy Considerations

1. A loan that includes refinance of existing debt, other than construction financing, will be considered if, at a minimum, the refinanced amount is retained by the Lender.
2. The Board participation will not exceed eighty percent (80%) of the total loan.
3. If the Borrower already has a loan participated with the Board and the Borrower wants to acquire additional debt, which would consolidate the existing participated loan and a new construction/equipment loan, using the same or a different Lender, the Board will not consider its portion of the existing participated loan as a refinance. The additional debt should create new jobs and/or create economic development.
4. Investor properties must cash flow with coverage at one and a quarter times (1.25X) on a twenty (20) year amortization or other financial consideration. The Board may establish a higher coverage ratio depending on economic conditions and/or industry.
5. Balloon payment loans are eligible provided Loan-To-Value at maturity is acceptable to the Board.
6. The Board will proportionately participate in any prepayment penalty required by the Lender.
7. Loans for projects on leased land will be considered if the lease does not expire prior to loan maturity.
8. Loan assumptions are permitted upon Board approval with a loan assumption fee of \$500.00.
9. Escrow impounds may be required for taxes and hazard insurance when Loan-To-Value exceeds fifty percent (50%).
10. Maximum loan amount to any Borrower is limited to ten percent (10%) of the book value of the Permanent Coal Tax Trust as of the month-end prior to a loan commitment.

11. If a Borrower has received or will receive a Value-Added Loan from the Board or is a business for which a local government has provided infrastructure funded by an infrastructure loan made by the Board, the outstanding principal of the value-added and/or infrastructure loan will be applied against the ten percent (10%) maximum loan size.
12. Any loan exceeding six percent (6%) of the Trust requires thirty percent (30%) Lender participation.
13. The Board may apply different criteria to loan requests from nonprofit Borrowers.
14. Maximum loan terms are:
 - a) Participation with Federal Guarantee, thirty (30) years,
 - b) Participation, twenty-five (25) years, or
 - c) Link Deposit, twenty (20) years.
15. All loans submitted for participation to the Board from Board members or Board staff shall first be approved by the Board before the loan is committed and funded.
16. Any time an approved Lender downgrades a commercial loan participated with the Board, the approved Lender must notify the Board of the downgrade within thirty (30) days. Notification must include the most recent Lender credit review and an explanation of why the credit was downgraded.
17. If the approved Lender applies a default interest rate to a participated loan, the Board interest rate will also be increased to that default interest rate and remain effective for the same period of time as for the approved Lender.
18. Thirty percent (30%) cash equity is required for hotel/motel facilities. The Loan-To-Value will consider the lower of hard costs or appraised value.
19. The Board may require additional due diligence and research on loans at its sole discretion.
20. Loans must cash flow with coverage at a one and a quarter times (1.25X) debt service.

POLICY NUMBER: 70.730

EFFECTIVE DATE: October 26, 2022

TITLE: Infrastructure Loan Program

SUPERSEDES: November 30, 2021

BOARD ADOPTION: November 30, 2021

REVIEWED: July 20, 2022

I. Infrastructure Loan Program

A. General Parameters for Infrastructure Loans

1. The program is funded by a \$80.0 million allocation from the Permanent Coal Tax Trust.
2. The term Borrower means the public entity applying for the loan from the Board.
3. Applications must be submitted by eligible local governments.
4. The user of the infrastructure must meet one of the following Basic Sector definitions and is referred to as the Business:
 - a) Business activity conducted in-state that produces goods and services for which fifty percent (50%) or more of the gross revenues are derived from out-of-state sources; or
 - b) Business activity conducted in-state that produces goods and services, fifty percent (50%) or more of which will be purchased by in-state residents in lieu of like or similar goods and services which would otherwise be purchased from out-of-state sources.
5. The Loans will fund infrastructure projects that provide facilities/services to Businesses.
6. The Business pays a user fee to the local government that is pledged to the Board for loan repayment.
7. Businesses may reduce their Montana state income tax liability by the amount of the fee, (Section 15-31-301, MCA).
8. The Business must create at least fifteen (15) full-time jobs to be eligible for the program. Created jobs are based on Job Creation Interest Rate Reduction criteria.
9. The maximum loan size is \$16,666 times the number of full-time jobs created.
10. The minimum loan size is \$250,000.
11. The maximum loan term is twenty-five (25) years.
12. The loan amount will not exceed seventy-five percent (75%) of the loan-to-value. The loan-to-value is based on the lesser of the reasonable project cost or market value appraisal. Reasonable project costs do not include any form of payment to an owner, developer, or shareholder.

B. Interest Rates

1. Interest rates are posted weekly on the Commercial Loan Rate Sheet and are effective for a one (1) week period.
2. The Commercial Loan Rate Sheet is posted on the Board's website each Thursday.
3. Initial interest rate is determined by the interest rate posted on the Commercial Loan Rate Sheet on the date the Infrastructure Loan application is received.

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Revised: October 26, 2022

Reviewed: July 20, 2022

C. Job Creation Interest Rate Reduction

1. A Business creating jobs as a result of an Infrastructure Loan is entitled to an interest rate reduction of five-hundredths percent (0.05%) for each job created up to a maximum of two and a half percent (2.50%). The reduction will be reflected in the user fee rate charged to the Business.
2. One job is equal to the Private Annual Wage shown on the weekly posted Commercial Loan Rate Sheet.
3. For jobs paying more than the Private Annual Wage, job credits will be increased proportionately for each twenty-five percent (25%) increment above the Private Annual Wage to a maximum of two jobs.
4. For jobs paying less than the Private Annual Wage, job credits will be reduced proportionately for each twenty-five percent (25%) increment below the Private Annual Wage.
5. Job credits are not available unless one whole job is created.
6. Job credit interest rate reductions are not available for jobs paying less than the State of Montana minimum wage.
7. The Business must provide evidence of the creation of jobs prior to any reduction and annually thereafter.
8. Interest rate reductions will be effective on the next scheduled payment date.
9. The Board may increase the interest rate commensurate with the number of jobs eliminated if the Business eliminates qualifying jobs. The Business must notify the Board if it eliminates qualifying jobs.
10. The beginning date for counting jobs created is the date of the first written contact from the Borrower or the Business pertaining to the project.

D. Collateral Requirements

1. Collateral requirements include:
 - a) A note or other evidence of indebtedness,
 - b) A loan agreement,
 - c) First mortgage/lien position, when appropriate,
 - d) A pledge from the local government of infrastructure fees for repayment of the loan,
 - e) The loan resolution adopted by the local government,
 - f) All necessary state, federal, and local government permits must be obtained before loan closing,
 - g) Sufficient economic life to support the term of the loan,
 - h) Personal or corporate guaranty as determined by the Board,
 - i) Attorney opinion on authority of local government to borrow and the validity of all collateral documents,
 - j) Attorney opinion to the local government on the legal and binding nature of obligations on the local government and the Business for which the infrastructure is provide, and
 - k) Other collateral or loan documents as required by Board.

E. Appraisal Requirements

1. Licensed Montana commercial appraisers are preferred unless a specialized property collateral requires an out-of-state appraiser.

2. Requirements apply to all appraisals irrespective of the Lender's appraisal or loan policy and appraisal requirements and are based on the total loan amount shown below:
 - a) Up To \$500,000 - As required by Board to provide basis for value.
 - b) Over \$500,000 - Appraisal Report, as defined by the Uniform Standards of Professional Appraisal Practice.

F. Ineligible Loans

1. Ineligible loans include:
 - a) Loans to any local government in default on any obligation,
 - b) Loans to local governments for infrastructure to Businesses in default on any obligation, and
 - c) Loans providing infrastructure to Businesses creating fewer than fifteen (15) jobs in a four (4) year period.

G. Project Specific Requirements

1. Any contract to construct a project financed by loan proceeds must require all contractors to give preference to the employment of bona fide Montana residents, as defined in Section 18-2-401, MCA, in the performance of the work on the projects, if their qualifications are substantially equal to those of nonresidents.
2. Substantially equal qualifications mean the qualifications of two (2) or more persons among whom the employer cannot make a reasonable determination that the qualifications held by one person are significantly better suited for the position than the qualifications held by the other persons.
3. If the Board participates in construction financing and its share of the loan equals or exceeds \$1.5 million, the general contractor and all subcontractors shall be subject to Montana's prevailing wage law specified in Section 18-2-401, MCA.

H. Other Infrastructure Loan Policy Considerations

1. Loans for infrastructure on leased land will be considered if the lease does not expire prior to loan maturity.
2. Consultant fees may be financed as part of the larger project but may not be financed on a stand-alone basis.
3. Commercial Loan Program Policy underwriting criteria will be considered.
4. If there are not a sufficient number of jobs created within the first four (4) years of the infrastructure loan, the Business:
 - a) Will have ninety (90) additional days to create those jobs, or
 - b) Will have to pay down the infrastructure loan to a level to which the current number of jobs supports.
5. The Business will reimburse the Board for all legal fees and closing costs associated with the preparation of the loan documents.
6. Investor loans are not eligible.
7. The Board may require additional due diligence and research on loans at its sole discretion.

MONTANA

BOARD OF INVESTMENTS

BOARD ADOPTED POLICY

POLICY NUMBER: 70.740

EFFECTIVE DATE: October 26 2022

TITLE: Value Added Loan Program

SUPERSEDES: November 30, 2021

BOARD ADOPTION: November 30, 2021

REVIEWED: July 20, 2022

I. Value Added Loan Program

A. General Parameters for the Value-Added Loans

1. Value-Added means the mechanical, physical, or chemical transformation of materials, substances, or components into new products.
2. The program is funded by a \$70.0 million allocation from the Permanent Coal Tax Trust.
3. The Board does not lend directly to Businesses and participates only with approved Lenders in making loans to Montana Businesses.
4. Approved Lenders originate all loans and submit loan applications.
5. The Montana Business must be a "Value-Added" Business.
6. The loan amount will not exceed seventy-five percent (75%) of the Loan-To-Value (LTV). The Loan-To-Value is based on the lesser of reasonable project cost or market value appraisal. Reasonable project costs do not include any form of payout to an owner, developer, or shareholder.
7. The Montana Business must create or retain at least ten (10) jobs.
8. The term "jobs" as it relates to program eligibility is defined in the Job Creation/Retention Requirements section of this Policy.
9. The term "Borrower" means the Borrower applying for a loan from the Lender.
10. Borrowers must provide preference to Montana labor when constructing projects.
11. Project construction contractors may be subject to prevailing wages.
12. Board loan participation is seventy-five percent (75%) and Lender participation is twenty-five percent (25%).
13. The Lender service fee is limited to one-half percent (.5%) on the participated portion.
14. Board interest rates and maximum loan term are set by law.
15. Fees to reserve funds or lock interest rates are not required. Reservation is considered effective upon receipt of application.
16. Loan prepayments penalties are not permitted.
17. Minimum loan size is \$250,000, of which the Board may participate up to seventy-five percent (75%).
18. Maximum loan size (the 75% Board's Share) is limited to one percent (1%) of the Permanent Coal Tax Trust.

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19. Interest rate reductions for job credit and small business loans are not available.
20. The Board shares proportionately in all security or guarantees obtained by the Lender.
21. Borrower must operate a Value-Added Business, examples of which are listed in the Value-Added Business Examples section.
22. Loan term is limited to fifteen (15) years from date of note, including any construction financing, if the Board participates in the construction loan.
23. Borrower must provide equity of at least twenty-five percent (25%) of the total loan amount.
24. If at any time during the term of the loan, the Business and all the required jobs are moved out of state, the Board may request the Lender to repurchase the participated loan amount.
25. No bonuses or dividends can be paid to investors, if the loan is outstanding, except as provided by Section 17-6-317(5)(b)(c) MCA.
26. A public utility regulated by the Public Service Commission in accordance with Title 69 of the MCA, or a Business enterprise for the production of alcohol to be used as provided in Section 15-70-5, MCA, may pay dividends to investors and bonuses to employees if the Business enterprise is current on its loan payments and has available funds equal to at least fifteen percent (15%) of the outstanding principal balance of the loan.
27. For purposes of this policy, available funds are considered to be cash and cash equivalents plus trade receivables minus total current liabilities and such funds shall be calculated using Generally Accepted Accounting Principles.
28. The Borrower shall furnish annual audited financial statements satisfactory to the Approved Lender and the Board within one hundred and twenty (120) days after the end of the period covered.

B. Interest Rates

1. During construction financing or permanent loan funding, and prior to the Borrower's meeting the minimum job requirements, the interest rate will be set at the Commercial Loan Program's posted rate.
2. Once the ten (10) or fifteen (15) jobs eligibility requirement is met and certified to the Board, the interest rate will be reduced to the level appropriate to the number of jobs created/retained. Rates for the program are:
 - a) Two percent (2%) for the first five (5) years if fifteen (15) or more jobs are created or retained,
 - b) Four percent (4%) for the first five (5) years if ten to fourteen (10 -14) jobs are created or retained,
 - c) Six percent (6%) for the second five (5) years, and
 - d) The Board's posted rate for the third five (5) years, but not to exceed ten percent (10%) per year.
3. If a Business reduces the number of required jobs, the Board may apply a graduated scale to increase the interest rate, not to exceed the Board's posted rate.
4. All rate changes are effective on the payment date following approval.

C. Collateral and Underwriting Requirements

1. Requirements include:

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- a) First mortgage/lien position shared proportionately with Lender,
 - b) Sufficient economic life to support the term of the loan,
 - c) A Loan-To-Value based on the lesser of reasonable project costs (including architecture, engineering, and capitalized interest) or the market value appraisal,
 - d) Personal guarantees as required by Lender to be shared proportionally with the Board,
 - e) Collateral documents must contain due-on-sale clauses, requiring Lender's consent prior to loan transfer,
 - f) Environmental risk assessment as required by Lender,
 - g) An attorney opinion on authority of Borrower to borrow and all collateral documents if required by the Lender, or
 - h) Other collateral as required by Lender or Board.
2. Loans for projects on leased land will be considered if the lease does not expire prior to loan maturity.
 3. Escrow accounts may be required for taxes and hazard insurance when Loan-To-Value exceeds fifty percent (50%).
 4. Commercial Loan Policy underwriting criteria will also be considered.
 5. The Board may require additional due diligence and research on loans at its sole discretion.

D. Appraisal Requirements

1. Licensed Montana commercial appraisers are preferred unless a specialized property collateral requires an out-of-state appraiser.
2. Requirements apply to all appraisals irrespective of the Lender's appraisal or loan policy appraisal requirements and are based on the total loan amount shown below:
 - a) Up To \$500,000 - As required by Board to provide basis for value.
 - b) Over \$500,000 - Appraisal Report, as defined by the Uniform Standards of Professional Appraisal Practice.

E. Job Creation/Retention Requirements

1. One job is equal to the Private Annual Wage shown on the weekly posted Commercial Loan Rate Sheet.
2. For jobs paying more than the Private Annual Wage, job credits will be increased proportionately for each twenty-five percent (25%) increment above the Private Annual Wage to a maximum of two jobs.
3. For jobs paying less than the Private Annual wage, job credits will be reduced proportionately for each twenty-five percent (25%) increment below the Private Annual Wage.
4. Job credits are not available unless one whole job is created.
5. Job credit interest rate reductions are not available for jobs paying less than the state minimum wage.
6. During the terms of reduced interest rates, the Borrower must annually submit appropriate payroll documents to the Board to certify the number of jobs maintained or retained.

7. Borrowers applying for a loan under the “retention” provision must submit all financial statements and Business plans required by the Board to assist the Board in determining if a Value-Added Loan will prevent the elimination of jobs.

F. Value-Added Business Examples

1. Although Businesses may be reviewed on a case-by-cases basis, the following are examples of specific Businesses that would or would not qualify for the Value-Added Loan Program.

Wood Products		Loan Eligibility
Logging		NO
Timber Tracts		NO
Christmas Tree Farm		NO
Tree Nurseries		NO
Log Home Crafters	YES	
Modular Home Manufacturers	YES	
Sawmills	YES	
Wood Components (Trusses, Beams, Wall Panels)	YES	
Chip Mill	YES	
Pulp Mills	YES	
Manufacturing		Loan Eligibility
Businesses engaged in the mechanical, physical, or chemical transformation of materials, substances or components into new products that meets the North American Industry Classification System (NAICS) classification of manufacturing		YES
Agriculture		Loan Eligibility
Farming		NO
Ranching		NO
Orchards		NO
Crop Harvesting		NO
Landscaping		NO
Retail Plant Nurseries		NO
Wholesale Plant Nurseries	YES	
Retail Bakeries		NO
Wholesale Bakeries	YES	
Sugar Refinery	YES	
Cattle Feed Lots	YES	
Dairies	YES	
Winery	YES	
Meat Processing Plants	YES	
Grain Milling and Processing	YES	
Information Technology		Loan Eligibility
Printing/Publishing		NO
Internet Service Provider (ISP)		NO
Call Centers		NO
Data Transmission Lines		NO
Computer Consultant Services		NO
Software Production & Licensing	YES	
Computer Hardware Manufacturing	YES	
Construction		Loan Eligibility

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Businesses meeting the NAICS definition of a heavy medium or light construction enterprise.		NO
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G. Lender Requirements

1. A participating private financial institution may charge interest in an amount equal to the national prime interest rate, adjusted on January 1 of each year, but the interest rate may not be less than six percent (6%) or greater than twelve percent (12%).
2. At the Borrower's discretion, the Borrower may request the lead Lender to change this prime rate to an adjustable or fixed rate on terms acceptable to the Borrower and Lender. However, the interest rate may not be less than six percent (6%) and no greater than twelve percent (12%).
3. Lenders may require Borrower to provide guarantees.
4. Any federal guarantees provided are shared seventy-five percent (75%) to the Board and twenty-five percent (25%) to the Lender.
5. A participating private financial institution or lead private financial institution, if more than one is participating, may charge a one-half percent (0.5%) annual service fee on the participated loan amount.
6. The loan agreement must contain provisions providing for pro rata lien priority and pro rata liquidation provisions based upon the loan percentage of the Board and each participating private Lender.
7. If a portion of a loan made pursuant to this section is for construction, disbursement of that portion of the loan must be made based upon the percentage of completion to ensure that the construction portion of the loan is advanced prior to completion of the project.
8. A private financial institution shall participate in a loan made pursuant to this section to the extent of eighty-five percent (85%) of its lending limit or twenty-five percent (25%) of the loan, whichever is less. However, the Board's participation in the loan must be seventy-five percent (75%) of the loan amount.
9. Lender will have an initial one-year (365 days) from the date the application is received by the Board to close, fund, and participate the Value-Added Loan with the Board.
10. If the project for which the loan proceeds will be utilized is not completed within the initial one-year (365 days) period, up to two additional one-year (365 days) increments may be granted upon written request from the Lender for each requested extension.
11. The loan must be closed prior to the expiration of the commitment letter.
12. Funding documents required in the commitment letter must be received within ninety (90) days after the first principal and interest payment date of the project term note or the commitment date expiration, whichever comes first.
13. Loans must cash flow with coverage at one and a quarter times (1.25X) debt service.
14. The Board may require additional due diligence and research on loans at its sole discretion.

H. Project Specific Requirements

1. Any contract to construct a project financed by loan proceeds must require all contractors to give preference to the employment of bona fide Montana residents, as defined in Section 18-2-401, MCA, in the performance of the work on the projects, if their qualifications are substantially equal to those of nonresidents.

2. Substantially equal qualifications mean the qualifications of two (2) or more persons among whom the employer cannot make a reasonable determination that the qualifications held by one person are significantly better suited for the position than the qualifications held by the other persons.
3. If the Board participates in construction financing and its share of the loan equals or exceeds \$1.5 million, the general contractor and all subcontractors shall be subject to Montana's prevailing wage law specified in Section 18-2-4, MCA.

MONTANA

BOARD OF INVESTMENTS

BOARD ADOPTED POLICY

POLICY NUMBER: 70.750

EFFECTIVE DATE: October 26, 2022

TITLE: Residential Loan Program

SUPERSEDES: November 30, 2021

BOARD ADOPTION: November 30, 2021

REVIEWED: July 20, 2022

I. Residential Loan Program

A. General Parameters for the Board's Mortgage Loans

1. Interest rates, effective for a one-week period, are posted each Thursday.
2. Interest rates may be locked in for a thirty (30) and sixty (60) calendar day reservation period during the one-week posting period.
3. Interest rates may be locked for a one hundred and eighty (180) and two hundred and forty (240) calendar day reservation period at the rate during the one-week posting period for take-out loans on residences under construction.
4. Conventional loans shall be submitted by means of Automated Underwriting through Federal Home Loan Mortgage Company (FHLMC) or Federal National Mortgage Association (FNMA) only, subject to the Board's criteria.
5. Residential loans must be secured by property owned by fee simple interest and located in Montana.
6. Maximum loan term is thirty (30) years and each loan must be amortized monthly over the loan term.
7. FHLMC underwriting guidelines are used to evaluate all conforming conventional loans.
8. For loans requiring private mortgage insurance after July 29, 1999, the Board will consider cancellation of such required insurance when the Homeowners Protection Act and/or FHLMC guidelines have been met.

B. Interest Rates

1. Interest rates are effective for a one (1) week period and are posted on the Residential Loan Rate Sheet.
2. The Residential Loan Rate Sheet is posted on the Board's website each Thursday.
3. The posted rates reflect net yield to the Board and are exclusive of any Lender fees.
4. The net yield requirements on property not the primary residence of one of the Borrowers, will be one-quarter of one percent (0.25%) above the residential rates.

C. Reservations

1. Participants may lock interest rates for a thirty (30) calendar day or sixty (60) calendar day reservation period at the rate last set.
2. Participants may lock interest rates for a one hundred and eighty (180) calendar day or two hundred and forty (240) calendar day reservation period at the rate last set for take-out loans on residences under construction.
3. A loan must be offered, underwritten, accepted, and closed by the Participant during the

reservation period.

4. All documentation required for delivery under the commitment letter must be delivered to the Board as a complete package by the delivery due date. The delivery date shall be no later than sixty (60) days after expiration of the stated reservation period.
5. The Board reserves the right to take whatever action it deems appropriate to protect its interests and enforce its rights in the event of late or non-delivery of documentation required under the commitment letter, including, but not limited to, assessing late delivery fees of up to one half of a percent (.50%) of the committed amount.
6. The Board will process mortgage reservations through electronic confirmation to Participants within five (5) business days of receipt. A reservation number will be assigned for each confirmed reservation and the number will be permanently used by the Board and the Participant to identify the Reservation and the Loan.

D. Take-Out Loans for Residences Under Construction

1. The first reservation period for a construction loan may be extended in thirty (30) day increments up to a maximum of three hundred and sixty (360) days upon written request.
2. The Board will adjust to the higher of the original reservation rate or the prevailing interest at the time of the request to compensate for changes in its interest rate from the original commitment.

E. General Requirements One to Four Unit Family Residential Loans

1. The following requirements apply to all residential loans purchased by the Board:
 - a) Mortgages must be secured by property owned by fee simple interest and located within the State of Montana.
 - b) Only loans secured by a first mortgage on real property will be considered for purchase.
 - c) The minimum size loan that the Board will purchase is \$20,000.
 - d) The maximum term for a loan offering is thirty (30) years. Each loan must be amortized monthly over the loan term.
 - e) Mortgage offerings will be purchased on a net yield basis, with consideration given to the amount of funds available for investment and the return available on other permissible investments at the time of offering.
 - f) In computing the yield to maturity, twelve (12) years average life estimate will be used for residential mortgages amortized for sixteen (16) years or more, and eight (8) years average life estimate for residential mortgages amortized for fifteen (15) years or less.
 - g) Partial release of secured property will be considered. The Participant should provide a recommendation and furnish all necessary information and items in the form of a written request including the reasons for the partial release, anticipated use of the land, the legal description of the land to be released, and survey, if required. The Board will not assume any costs associated with the release.
 - h) The Participant must notify the Board of any transfer of ownership on a loan purchased by the Board. Transfers include, but are not limited to, sales on contract and wraparounds.
 - i) The Participant must enforce the "due-on-sale" clause where it exists for all transfers and sales. The acceleration of the due date may be waived upon approval by the Board and upon written agreement on the rate of interest payable on the remaining amount.
 - j) The Participant may not change the interest rate or Participant fee rate without written approval.
 - k) All loans submitted for purchase to the Board from Board members or Board staff shall first be approved by the Board before the loan is committed and funded.

F. Conventional Loans – Appraisals

1. Licensed Montana appraisers are required. In submitting the appraisal, the Participant certifies that the appraiser is competent, has the appropriate experience, lacks a conflict of interest regarding the appraised property, and that the appraisal report has been made in conformity with Uniform Standards of Professional Appraisal Practices (USPAP).
2. If the appraisal is not acceptable, another appraisal may be requested of the Participant.
3. Participants are responsible for the selection of appraisers and are solely accountable for the quality of the appraiser's work.
4. The following specific appraisal formats and requirements will be required for different classes of real property:
 - a) Freddie Mac/Federal National Mortgage Association or Fannie Mae Quantitative Analysis Appraisal Report Form 2055 on a previously occupied single-family owner-occupied residence.
 - b) A uniform residential appraisal report is mandatory if required by the Desktop Underwriter finding report or Loan Prospector's feedback report. All appraisals must include internal/external inspections.

G. Conventional Loans - Underwriting

1. Only conforming conventional loans offerings utilizing Automated Underwriting through FHLMC or FNMA will be accepted subject to the following:
 - a) Credit approval must be at least Accept or Approve Eligible.
 - b) Freddie Mac/Fannie Mae Quantitative Analysis Appraisal Report Form 2055 on a previously occupied single-family owner-occupied residence.
 - (1) A uniform residential appraisal report is mandatory, if required by the Desktop Underwriter finding report or Loan Prospector's feedback report.
 - (2) All appraisals must include internal/external inspections.
 - c) Review and approval of qualified appraisal of the subject property by the Board.
 - d) Investor-owned properties are ineligible for Automated Underwriting.
2. Freddie Mac underwriting guidelines will be used in evaluating all conforming conventional loans.
3. A manufactured home will be considered if it meets all FHA and Freddie Mac underwriting requirements, but is subject to the following limitations:
 - a) No single-wide manufactured homes.
 - b) Must have been built after June 15, 1976.
 - c) Foundations must meet FHA requirements.
4. By submitting the loan application, the Participant warrants that the property is, or will be, in finished condition prior to the Board's purchase of the loan.
5. Escrow account requirements will be based on Freddie Mac policy.
6. Unique characteristics that affect the marketability of a particular property in a particular community will be considered in determining whether the Board will require a lower Loan-To-Value ratio.

H. Conventional Loans - Restrictions

1. Ineligible loans include:
 - a) Loans to trusts.
 - b) Loans with conservation easements.
 - c) A single lot (surveyed from a larger parcel) which does not abut a public road or is not in a neighborhood of like properties; determined on a case-by-case basis.
 - d) Property which is in significant disrepair as determined in the appraisal or home inspection report.
2. Sweat equity will be considered in cases where the value of the work performed by the Borrower is verified at the time of application by an estimate from an independent contractor experienced in the type of work performed who is not involved in the construction of the property.
 - a) The Borrower must verify his or her qualifications for satisfactorily completing the work. In no event will sweat equity be allowed to exceed the lesser of fifty percent (50%) of the total equity requirement, or ten percent (10%) of the appraised value.
 - b) A separate inspection of work performed by the Borrower may be required.
3. Second-home property will be considered at a maximum Loan-To-Value of sixty-five percent (65%) if approved by FHLMC or FNMA automated underwriting guidelines.
4. Condominium projects will be considered if ninety percent (90%) of the units have been sold, all phases or add-ons to the project have been completed and the homeowner's association has been controlled by the unit owners, other than the developer, for at least two (2) years.
5. Condominium projects less than two (2) years old will be considered if unit owners are in complete control of the homeowner's association, the project is one hundred percent (100%) complete, including recreational facilities and common areas and the project is not subject to further phasing or annexation. The project must also have FNMA or FHLMC approval.

I. Conventional Loans - Private Mortgage Insurance

1. For loans requiring private mortgage insurance prior to July 29, 1999, the Board will consider cancellation of the required insurance when the following requirements are met and a written request to cancel is submitted to the Board by the Participant:
 - a) The Board must have held the loan for at least three years unless a substantial cash reduction has been applied to principal or substantial improvements have been made to the property.
 - b) Submission of a current acceptable appraisal prepared by an approved appraiser. The current appraisal must be performed within one hundred and twenty (120) days of the date on which the Participant receives the Borrower's request to cancel mortgage insurance.
 - c) The loan balance must not exceed eighty percent (80%) of the current appraisal or original cost, whichever is less.
 - d) The Borrower's payment history must, as it applies to the age of the Mortgage, show:
 - (1) No payment thirty (30) days or more past due in the last twelve (12) months, and
 - (2) No payment sixty (60) days or more past due in the last twenty-four (24) months.
 - e) Automatic Cancellation
 - (1) The cancellation point shall be at the midpoint of the amortization period.
 - (2) All principal, interest, and escrow payments with a due date prior to the midpoint must be paid by the midpoint in order for mortgage insurance to be canceled.

(3) The requirements for the automatic cancellation of mortgage insurance are mandatory effective January 2, 2001.

- f) For loans requiring private mortgage insurance after July 29, 1999, the Board will consider cancellation of the required insurance when the requirements of the Homeowners Protection Act and/or the Freddie Mac guidelines have been met.

J. Conventional Loans - Title Insurance

1. The following requirements apply to all residential loans purchased by the Board:
 - a) The title agent must have a title plant or access to a title plant,
 - b) The underwriter company must be registered with the State Auditor/Insurance Commissioner, and
 - c) "Curbstoning" is not acceptable.

K. Hazard Insurance

1. The following requirements apply to all residential loans purchased by the Board.
 - a) The insurance company must be rated by A.M. Best as B+ or better.
 - b) Re-insurance companies are not acceptable.
 - c) On loans with Loan-To-Values greater than fifty percent (50%), the maximum deductible is \$1,000.
 - d) On loans with loan to values less than fifty percent (50%), the maximum deductible is subject to Freddie Mac requirements and Board approval.
 - e) Guaranteed replacement cost for the loan amount or value of improvement, whichever is lesser.

L. General Requirements - FHA and VA Loans

1. Maximum exposure to the Board shall not exceed sixty-five percent (65%) of VA offerings.
2. Each VA offering must include any combination of a down payment and VA guarantee, which equals at least thirty-five percent (35%) of the lower of cost or appraisal.
3. Automated Underwritten loans are acceptable for purchase.
4. Streamline refinances are eligible for purchase.

M. Conventional, FHA, and VA Loan Assumptions

1. Conventional loans may not be assumed.
2. FHA and VA loans may be assumed without payment of a fee.

N. Participant - Loan Delinquency

1. The Participant shall service the Mortgage Loans in accordance with acceptable mortgage practices.
2. The Participant must monitor the delinquent portfolio in a prompt and efficient manner.
3. The Participant must vary collections efforts in order to accommodate hardship cases and should avoid establishment of fixed procedures, which may be ineffective in counseling Borrowers who are frequently delinquent.
4. Modifications of repayment terms and conditions must be approved by the Board.
5. The Participant must establish a definite commitment with the delinquent Borrower to cure the delinquency.
6. The Participant must submit, by the 25th of the month, a Loan Service Report, to be provided

by the Board, for all loans in arrears sixty (60) days or more.

7. The Participant must also submit, by the 25th of each month, a Supplemental Loan Service Report until the loan is either current or liquidated
8. The Participant must also submit, by the 25th of each month, a property inspection report, to be provided by the Board, for all loans in arrears ninety (90) days or more.
9. The Participant must also submit a supplemental property inspection report every sixty (60) days until the loan is either current or liquidated
10. The Participant must comply with all requirements imposed by federal agencies or private mortgage insurers guaranteeing or insuring the loan.
11. Copies of all required notices must be furnished to the Board.

O. Participant - Loan Foreclosure

1. The Participant shall, upon the request and under the direction of the Board, assist in the foreclosure or other acquisition of the property securing the collection of any applicable mortgage insurance.
2. The Participant must manage and protect the mortgaged property from waste.
3. As directed by the Board, the Participant shall manage, operate, improve, rent, and sell such real estate.
4. Upon the sale of such real estate, on terms as specified by the buyer, if payments are deferred and payable under contract or mortgage, the Participant shall service the same until completely liquidated, upon the terms provided for the servicing of mortgages.
5. The Board will reimburse the Participant for the Board's portion of reasonable out-of-pocket expenses incurred during the liquidation of the mortgaged property provided that such items are made part of the claim, and upon receipt of the Cash Disbursement Request Form, to be provided by the Board.
6. If warranty violations or deficiencies exist, the Participant may be required to repurchase the Board's interest in the loan including accrued interest.

P. Remittance and Reporting

1. The Participant shall transmit by Electronic Funds Transfer (EFT) on or before the 25th of each month, all funds applicable to the monthly payment of principal and interest on the Mortgage Loans serviced by the Participant.
2. Remittances shall be reported and submitted to the Board of Housing on the Reconciliation Statement of Mortgage Loans and Exception Reporting Forms.
 - a) These forms, prepared by the Participant, are based on an Exception Reporting system of accounting and detail all mortgage loan activity for the reporting period from the twenty-first day of the previous month to the twentieth day of the current month.
 - b) The Participant shall transmit the Reconciliation Statement to the Board of Housing, subject to the warranty in the Servicing Agreement.

Q. Remedies

1. The Participant shall repurchase any Mortgage Loan purchased by the Board in accordance with the Servicing Agreement, if the Board determines that:
 - a) Any representation herein was untrue when made,
 - b) Any warranty or term hereunder has been breached, or
 - c) A misstatement of a material fact by the Participant exists in any of the documents for such Mortgage Loan to include items listed in Schedule A of the Commitment Letter.

2. The Participant shall certify that the Mortgage Loan documents are true and accurate copies of their respective original documents.
 - a) The review by the Board of all loan documents or documents required under the Commitment Letter and Schedule A does not constitute the concurrence by the Board of the accuracy, validity, or legality of the documents presented.
 - b) The examination of said documents by the Board and/or legal counsel shall not constitute a waiver of any warranty, representation, or term thereof.
3. The Participant hereby waives the defense of any statute of limitation that could otherwise be raised in defense of any repurchase obligation or damage to the Board.

R. Funding

1. Funding will occur on the 15th and 25th of the month.

Suspended

MONTANA

BOARD OF INVESTMENTS

POLICY NUMBER: 70.760

EFFECTIVE DATE: October 26, 2022

TITLE: Intermediary Relending Loan Program SUPERSEDES: New

BOARD ADOPTION: October 26, 2022

REVIEWED: July 20, 2022

I. Intermediary Relending Loan Program (IRP)

A. General Parameters

1. The program is funded by a \$10.0 million allocation from the Permanent Coal Tax Trust.
2. IRP loans may be made to board-approved local economic development organizations with a revolving loan fund.
3. IRP loans may be offered only to an applicant that will pledge and use the loan funds as matching funds for the U.S. Department of Agriculture Rural Development Loan Program provided for in 42 U.S.C. 9812 and 9812a or other federal revolving loan programs, including but not limited to programs from the Economic Development Administration of the U.S. Department of Commerce and the Community Development Financial Institution Program from the U.S. Department of the Treasury.
4. Each IRP loan may not exceed \$500,000.
5. The Maximum aggregate dollar amount available to a local economic development organization is fifteen percent (15%) of the program allocation from the Permanent Coal Tax Trust.
6. Additional requirements are outlined in Sections 17-6-345 and 346, MCA.

Adopted: October 26, 2022

Revised:

Reviewed:

MONTANA

BOARD OF INVESTMENTS

BOARD ADOPTED POLICY

POLICY NUMBER: 90.300

EFFECTIVE DATE: October 26, 2022

TITLE: Executive Director Continuity

SUPERSEDES: Governance Manual
February 2021

BOARD ADOPTION: November 30, 2021

REVIEWED: June 13, 2022 (via e-mail)

I. Executive Director Continuity

- A. Mr. Dan Villa is the Executive Director of the Board as of September 25, 2018.
- B. Ms. Peggy MacEwen is the Deputy Director of the Board as of December 2, 2019.
- C. Mr. Jon Putnam is the Chief Investment Officer (CIO) of the Board as of February 12, 2020.
- D. The Board has empowered the Executive Director certain critical authority and duties as outlined in Policy 30.200, including the ability to sign any and all documents required to conduct Board business, unless there are specific written policies or instructions from the Board to the contrary.
- E. The Board has delegated certain critical authority and duties to its Executive Director that must be exercised and performed in the absence of the Executive Director.
- F. The Executive Director may be incapacitated or temporarily absent from the office under circumstances that render the Executive Director unavailable to exercise such authority and perform such duties.
- G. The Executive Director or the Deputy Director shall notify the Board Chair immediately at any time the Executive Director, due to incapacity or a temporary absence from the office, is unable to perform his/her duties. Incapacity means the occurrence of a mental or physical disability rendering the Executive Director incapable of exercising his/her authority and carrying out his/her duties.
- H. During an incapacity of the Executive Director, the Deputy Director is hereby designated Acting Executive Director.
- I. The Executive Director may, after notifying the Board Chair, delegate his/her executive authority to the Deputy Director to serve as Acting Executive Director during periods of official travel or authorized leave away from the Board's office, if in the judgment of the Executive Director, such delegation would be in the best interest of the Board.
- J. During any period that the Deputy Director is not available to assume the role of Acting Executive Director, the CIO shall serve as Acting Executive Director.
- K. The Acting Executive Director shall operate only within the authority and parameters established in the Board's Policy.

MONTANA

BOARD OF INVESTMENTS

BOARD ADOPTED POLICY

POLICY NUMBER: 90.400

EFFECTIVE DATE: October 26, 2022

TITLE: Chief Investment Officer Continuity

SUPERSEDES: Governance Manual
February 2021

BOARD ADOPTION: November 30, 2021

REVIEWED: June 13, 2022 (via e-mail)

I. Chief Investment Officer Continuity

- A. Mr. Jon Putnam is the Chief Investment Officer (CIO) of the Board as of February 12, 2020.
- B. Mr. Dan Villa is the Executive Director of the Board as of September 25, 2018.
- C. The Board has delegated certain critical authority and duties to its CIO that must be exercised and performed in the absence of the CIO.
- D. The CIO may be incapacitated or temporarily absent from the office under circumstances that render the CIO unavailable to exercise such authority and perform such duties.
- E. The Executive Director shall notify the Board Chair immediately at any time the CIO, due to incapacity, unexpected absence, or other circumstance, is unable to perform his/her duties.

II. Investment Manager Contracts

- A. During the period of incapacity, absence, or inability to perform the duties by the CIO, the Executive Director is hereby designated the Acting CIO and fully empowered to perform all the duties of this position except as further described herein below for Investment Manager Contracts.
- B. During the time that the Executive Director serves as the Acting CIO, in order that appropriate checks and balances are preserved for matters specifically and only pertaining to Investment Manager Contracts, as further prescribed by the Board's Governance Policy, that the oversight responsibilities regarding Investment Management Contracts held by the CIO shall be overseen by whomever the Board's portfolio manager is responsible for the relevant asset class involving the particular Investment Management Contract issue.

III. So long as the CIO is incapacitated, absent, or otherwise unable to perform their duties, and during the period that there is an Acting CIO, the Acting CIO must specifically update the Board, at its regularly scheduled meetings or at the Board's request, regarding all relevant matters pertaining to the need for the continued implementation of this Policy's delegations.

IV. The Acting CIO shall operate only within the authority and parameters established in the Board's Governance Policy, and as otherwise provided by Board policy and statute.

50 **POSSESSION:** Seller shall deliver to Buyer possession of the Property and allow occupancy:
51 when the closing agent is in receipt of all required, signed documents and all funds necessary for the purchase; **OR**
52 upon recording of the deed or notice of purchaser's interest, **OR**
53 _____.

54 Seller shall provide keys and/or means to operate locks, mailboxes, security systems, alarms, garage door opener(s),
55 and Homeowner's Association facilities, if applicable.

56
57 **EARNEST MONEY:** (check one)

58 Broker/Salesperson acknowledges actual receipt of earnest money in the amount as set forth herein as evidenced
59 by:

60 Cash or Check.

61 Broker/Salesperson: Mary Ahmann Hibbard _____
62 (name printed) (signature acknowledging receipt of earnest money)

63
64 **OR**

65
66 Buyer agrees to provide earnest money in the amount as set forth herein within 5 days, by 5:00 p.m. (Mountain
67 Time), of the date all parties have signed this Agreement.

68
69 Earnest money may be made by check, cash or wire transfer and shall be held in trust by _____
70 First Montana Land Title Co.. If Buyer fails to provide earnest money as set forth herein,
71 buyer will be in default and Seller may declare this Agreement terminated and any earnest money already paid forfeited.

72
73 **FINANCING CONDITIONS AND OBLIGATIONS:**

74
75 **BUYER'S REPRESENTATION OF FUNDS:** Buyer represents that they have sufficient funds for the down
76 payment and closing costs to close this sale in accordance with this Agreement and are not relying upon
77 any contingent source of such funds unless otherwise expressly set forth herein.

78
79 **LOAN APPLICATION:** If Buyer fails to make written application for financing and pay to the lender any
80 required fees, apply for assumption of an existing loan or contract, or initiate any action required for
81 completion of a contract for deed by 5:00 pm (Mountain Time) (date) n/a
82 Buyer will be in breach of this Agreement and Seller can exercise Seller's remedies under this Agreement.

83
84 **CONTINGENCIES:** The contingencies set forth in this Agreement or on attached addenda shall be deemed to have
85 been released, waived, or satisfied, and the transaction shall continue to closing, unless by 5:00 pm (Mountain Time) on
86 the date specified for each contingency, the party requesting that contingency has notified the other party or the other
87 party's Broker/Salesperson in writing that the contingency is not released, waived, or satisfied. If a party has notified the
88 other party on or before the release date that a contingency is not released, waived or satisfied, this transaction is
89 terminated, and the earnest money will be returned to the Buyer, unless the parties negotiate other terms or provisions.

90
91 **FINANCING CONTINGENCY:**

92 This Agreement is contingent upon Buyer obtaining the financing specified in the section of this Agreement
93 entitled "PURCHASE PRICE AND TERMS". If financing cannot be obtained by the Closing Date this
94 Agreement is terminated and the earnest money will be refunded to the Buyer.

95
96 **APPRAISAL CONTINGENCY:**

97 Property must appraise for at least the Purchase Price **OR** at least \$ _____. If the
98 Property does not appraise for at least the specified amount, this Agreement is terminated and earnest money
99 refunded to the Buyer unless the Buyer elects to proceed with closing this Agreement without regard to appraised
100 value. Written notice of Buyer's election to proceed shall be given to Seller or Seller's Broker/Salesperson within
101 _____ days of Buyer or Buyer's Broker/Salesperson receiving notice of appraised value; **OR**

102
103 This Agreement is contingent upon the Property appraising for at least the Purchase Price **OR** at least
104 \$ _____. Release Date: _____ at 5:00 p.m. (Mountain Time).

_____/_____
Buyer's Initials

_____/_____
Seller's Initials

105 **TITLE CONTINGENCY:** This Agreement is contingent upon Buyer's receipt and approval (to Buyer's
106 satisfaction) of the preliminary title commitment (the "Commitment") issued for the Property. However, Buyer
107 may not object to the standard pre-printed exceptions (general exceptions not unique to the Property). Release
108 Date: 10 days from the earlier of Buyer's or Buyer Broker's/Salesperson's receipt of the
109 Commitment.

110
111 Buyer may approve the Commitment subject to the removal of specified exceptions. If Buyer provides Seller
112 written objections to the Commitment prior to the release date above, Seller shall have ten (10) days from receipt
113 of those objections to satisfy said objections or propose to Buyer a plan by which the objections would be satisfied
114 within a time frame satisfactory to Buyer. If within said ten (10) day period Seller has not either satisfied Buyer's
115 objection to the Commitment or proposed to Buyer a plan by which the objections would be satisfied, Buyer shall
116 have three (3) days after expiration of said ten (10) day period to notify Seller whether Buyer desires to (i)
117 terminate this Agreement in which case the earnest money shall be returned to the Buyer or (ii) waive said
118 objections in which case this Agreement shall remain in full force and effect. The two remedies stated above shall
119 be Buyer's sole remedies if Seller and Buyer are unable to resolve Buyer's objections to the Commitment.

120
121 Buyer shall have the right to examine any updated or revised Commitment at any time after the expiration of the
122 Release Date set forth above and to object to any new title exceptions created or suffered since the effective date
123 of the original Commitment. If Buyer notifies Seller of any such additional objections prior to the Closing Date, the
124 parties shall have the same rights set forth above and the Closing Date shall be extended by the number of days
125 equal to the number of days set forth after the Release Date, above, plus thirteen (13).

126
127 **PROPERTY INVESTIGATION:** This offer is contingent upon Buyer's independent investigation of the following
128 conditions relating to the Property, including but not limited to; covenants, zoning, access, easements, well
129 depths, septic and sanitation restrictions, surveys or other means of establishing the corners and boundaries,
130 special improvement districts, restrictions affecting use, special building requirements, future assessments,
131 utility hook up and installation costs, environmental hazards, airport affected area, road maintenance
132 obligations or anything else Buyer deems appropriate. Buyer agrees that any investigations or inspections
133 undertaken by Buyer or on his/her behalf shall not damage or destroy the Property, without the prior written
134 consent of Seller. Further, Buyer agrees to return the Property to its original condition and to indemnify Seller
135 from any damage or destruction to the Property caused by the Buyer's investigations or inspections, if Buyer
136 does not purchase the Property. Release Date: 12/07/2022 at 5:00 p.m. (Mountain Time).

137
138 **This offer is contingent upon**
139 **The Montana Board of Investments approving this Buy/Sell at their next board meeting.**

140
141
142
143 Release Date: 09/23/2022 at 5:00 p.m. (Mountain Time).

144
145 **This offer is contingent upon**

146
147
148
149
150 Release Date: _____ at 5:00 p.m. (Mountain Time).

151
152 **ADDITIONAL PROVISIONS:**
153 **The seller requests a Right of First Refusal to purchase back the land and any improvements if/when**
154 **The Montana Land Reliance sells said property. This document to be drawn up by the attorney for The**
155 **Montana Land Reliance and agreed upon by both parties prior to closing.**

156 **Seller reserves the right to survey off up to a 1500 square foot portion of the easternmost portion**
157 **of the property, as approximately shown in the draft certificate of survey. Buyer will have an**
158 **opportunity to review and accept the final certificate of survey when completed and prior to closing.**
159 **All costs associated with this survey will be the sole responsibility of the seller.**

160 **The closing date of January 3, 2022 is dependent on the completion of the survey.**

161 **Buyer's agents fees shall be the sole responsibility of the buyer.**

_____/_____
Buyer's Initials

_____/_____
Seller's Initials



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CONVEYANCE: The Seller shall convey the real property by _____ warranty deed, free of all liens and encumbrances except those described in the title insurance commitment, as approved by Buyer. The Seller shall convey the personal property by Bill of Sale.

WATER: All water, including surface water or ground water, any legal entitlement to water, including statements of claim, certificates of water rights, permits to appropriate water, exempt existing rights, decreed basins or any ditches, ditch rights, or ditch easements appurtenant to and/or used in connection with the Property are included with the Property, except: _____

Filing or transfer fees will be paid by Seller, Buyer, **OR** split equally between Buyer and Seller.
Documents for transfer will be prepared by _____

WATER RIGHT OWNERSHIP UPDATE DISCLOSURE: By Montana law, failure of the parties at closing or transfer of real property to pay the required fee to the Montana Department of Natural Resources and Conservation for updating water right ownership may result in the transferee of the property being subject to a penalty. Additionally, in the case of water rights being exempted, severed, or divided, the failure of the parties to comply with section 85-2-424, MCA, could result in a penalty against the transferee and rejection of the deed for recording.

NATURAL WATER BODIES AND LAND PRESERVATION DISCLOSURE: Buyers of property in the State of Montana should be aware that some properties contain or are adjacent to streams, rivers, wetlands, floodplains and other water bodies. It is the general policy of the State of Montana that natural water bodies and the lands immediately adjacent to them are to be protected and preserved to be available in their natural or existing state, and to prohibit unauthorized projects related thereto. Property owners should consult their local soil conservation board, a land use professional, or other qualified advisor, regarding any applicable local, state or federal regulations, including permitting or other approvals, before working in or around any streams, rivers, wetlands, floodplains or other water bodies, including vegetation removal.

MINERAL RIGHTS: "Mineral rights" as defined in this Agreement (which may be different than the definition under Montana law) is a term used to describe the rights the owner of those rights has to use, mine, and/or produce any or all of the minerals and hydrocarbons including oil, gas, coal, sand, gravel, etc. lying below the surface of property. These mineral rights may be separate from the rights a property owner has for the surface of a property. In some cases, these mineral rights have been transferred to a party other than the property owner and as a result the subsurface mineral rights have been severed from the property owner's surface rights. If the mineral rights have been severed from the surface rights, the owner of the mineral rights has the right to enter the land and occupy it in order to mine the minerals even though they don't own the property. The undersigned Buyer acknowledges and agrees that neither the Seller nor the brokerage firms, brokers and salespersons involved in the transaction anticipated by this Agreement warrant or make any representations concerning the mineral rights, if any, for this Property and that neither the Seller nor the brokerage firms, brokers and salespersons involved in the Buyer's purchase of the Property have conducted an inspection or analysis of the mineral rights to and for the Property.

CLOSING FEE: The fee charged by the individual or company closing the transaction will be paid by Seller Buyer Equally Shared.

TITLE INSURANCE: Seller, at Seller's expense and from a title insurance company chosen by Seller, shall furnish Buyer with an ALTA Standard Coverage Owners Title Insurance Policy (as evidenced by a standard form American Land Title Association title insurance commitment) in an amount equal to the purchase price. Buyer may purchase additional owner's title insurance coverage in the form of "Extended Coverage" or "Enhanced Coverage" for an additional cost to the Buyer. It is recommended that Buyer obtain details from a title company.

Buyer's Initials

Seller's Initials



217 **CONDITION OF TITLE:** All mortgages, judgements and liens shall be paid or satisfied by the Seller at or prior to
218 closing unless otherwise provided herein. Seller agrees that no additional encumbrances, restrictions, easements or
219 other adverse title conditions will be placed against the title to the Property subsequent to the effective date of the
220 preliminary title commitment approved by the Buyer.
221

222 **DEPOSIT OF FUNDS BY BROKER/SALESPERSON:** All parties agree, unless otherwise expressly stated herein,
223 that the earnest money and any other real estate funds in Broker's/Salesperson's possession shall be deposited or
224 delivered within 5 days (3 business days if blank) of receipt, or the date all parties have signed this Agreement,
225 whichever occurs later. The parties agree that accrued interest, if any, shall be payable to the holder of the funds and
226 that sums so paid are consideration for services rendered.
227

228 **SECTION 1031 LIKE-KIND EXCHANGE:** If either Buyer or Seller intends for this transaction to be part of a Section
229 1031 like-kind exchange, then the other party shall cooperate in the completion of the like-kind exchange provided the
230 cooperating party does not incur any additional liability or cost in doing so. Any party who intends for this transaction
231 to be part of a Section 1031 like-kind exchange may assign their rights under this Agreement to a qualified
232 intermediary or any entity expressly created for the purposes of completing a Section 1031 like-kind exchange,
233 notwithstanding the prohibition against the Buyer's assignment of this Agreement set forth in the "Binding Effect and
234 Non-Assignability" section below.
235

236 **SPECIAL IMPROVEMENT DISTRICTS AND ASSOCIATION SPECIAL ASSESSMENTS:** All Special Improvement
237 Districts (including rural SIDs), and all special or non-recurring assessments of any non-governmental association,
238 including those that have been noticed to Seller by City/County but not yet spread or currently assessed or that have
239 been approved but not yet billed or assessed, will be assumed by Buyer at closing unless otherwise agreed.
240

241 **PRORATION OF TAXES AND ASSESSMENTS:** Seller and Buyer agree to prorate taxes, Special Improvement
242 District and association special assessments for the current tax year, as well as prepaid rents, water and sewer
243 system charges, heating fuel and tank rental, irrigation assessments, Homeowner's Association dues and/or common
244 maintenance fees, as of the date of closing unless otherwise agreed.
245

246 **CONDITION OF PROPERTY:** Seller agrees that the Property shall be in the same condition, normal wear and tear
247 excepted, from the date of the execution of this Agreement up to the time Buyer takes possession of the Property.
248 Seller will remove all personal property not included in this sale prior to closing.
249

250 **NOXIOUS WEEDS DISCLOSURE:** Buyers of property in the state of Montana should be aware that some properties
251 contain noxious weeds. The laws of the State of Montana require owners of property within this state to control, and to
252 the extent possible, eradicate noxious weeds. For information concerning noxious weeds and your obligations as an
253 owner of property, contact either your local County extension agent or Weed Control Board.
254

255 **MEGAN'S LAW DISCLOSURE:** Pursuant to the provisions of Title 46, Chapter 23, Part 5 of the Montana Code
256 Annotated, certain individuals are required to register their address with the local law enforcement agencies as part of
257 Montana's Sexual and Violent Offender Registration Act. In some communities, law enforcement offices will make the
258 information concerning registered offenders available to the public. If you desire further information please contact the
259 local County Sheriff's office, the Montana Department of Justice, in Helena, Montana, and the probation officers
260 assigned to the area.
261

262 **BUYER'S REMEDIES:** (A) If a Seller fails to accept the offer contained in this Agreement within the time period
263 provided in the BUYER'S COMMITMENT section, all earnest money shall be returned to the Buyer.
264 (B) If the Seller accepts the offer contained in this Agreement, but refuses or neglects to consummate the transaction
265 anticipated by this Agreement within the time period provided in this Agreement, the Buyer may:
266 (1) Demand immediate repayment of any earnest money paid by the Buyer, and upon the return of such money, the
267 rights and duties of Buyer and Seller under this Agreement shall be terminated; **OR**
268 (2) Demand that Seller specifically perform Seller's obligation under this Agreement; **OR**
269 (3) Demand monetary damages from Seller for Seller's failure to perform the terms of this Agreement.

_____/_____
Buyer's Initials

_____/_____
Seller's Initials

270 **SELLER'S REMEDIES:**

271 If the Seller accepts the offer contained in this Agreement and Buyer refuses or neglects to consummate the
272 transaction within the time period provided in this Agreement, the Seller may:

- 273 (1) Declare the earnest money paid by Buyer be forfeited whereupon the rights and duties of the Buyer and Seller
- 274 under this Agreement shall be terminated; **OR**
- 275 (2) Demand that Buyer specifically perform Buyer's duties and obligations under this Agreement; **OR**
- 276 (3) Demand that Buyer pay monetary damages for Buyer's failure to perform the terms of this Agreement.

277
278 **BUYER'S AND SELLER'S CERTIFICATION:** By entering into this Agreement, each person or persons executing this
279 Agreement, as Buyer or Seller, represents that he/she is eighteen (18) years of age or older, of sound mind, and legally
280 competent to own or transfer real property in the State of Montana; and, if acting on behalf of a corporation, partnership,
281 or other non-human entity, that he/she is duly authorized to enter into this Agreement on behalf of such entity.

282
283 **FOREIGN PERSON OR ENTITY:** Section 1445 of the Internal Revenue Code provides for the withholding of tax
284 upon the sale of U.S. real property owned by a foreign entity or foreign person unless the amount realized (usually
285 the sales price) does not exceed \$300,000 and the Buyer intends to use the property as a residence. If the Seller is
286 a foreign entity or foreign person, Seller acknowledges and agrees that the Buyer or closing agent is required to
287 deduct and withhold the applicable tax from the proceeds of sale at closing and submit the tax to the Internal
288 Revenue Service unless the transfer of the property satisfies an exception provided for in Section 1445 of the
289 Internal Revenue Code.

290
291 **AGRICULTURAL FOREIGN INVESTMENT DISCLOSURE ACT:** The Agricultural Foreign Investment Disclosure Act
292 of 1978 (AFIDA) requires any foreign person who acquires or transfers any interest, other than a security interest, in
293 agricultural land to submit a report to the Secretary of Agriculture not later than 90 days after the date of the
294 acquisition or transfer. If Buyer or Seller is or may be considered a foreign person under the AFIDA they are advised
295 to consult with an appropriate professional concerning any reporting that may be required by the AFIDA.

296
297 **CONSENT TO DISCLOSE INFORMATION:** Buyer and Seller hereby consent to the procurement and disclosure by
298 Buyer, Seller, and Brokers/Salespersons and their attorneys, agent, and other parties having interests essential to this
299 Agreement, of any and all information reasonably necessary to consummate the transaction described in this
300 Agreement, specifically including access to escrows for review of contracts, deeds, trust indentures, or similar
301 documents concerning this Property or underlying obligations pertaining thereto.

302
303 **WIRE FRAUD ALERT:** Criminals are hacking email accounts of title companies, real estate agents, settlement
304 attorneys and others, resulting in fraudulent wire instructions being used to divert funds to the account of the criminal.
305 The emails may look legitimate but they are not. Buyer and Seller are advised **NOT** to wire any funds without
306 personally speaking with the intended recipient of the wire to confirm the routing number and the account number.
307 Buyer and Seller should **NOT** send personal information such as social security numbers, bank account numbers and
308 credit card numbers through email.

309
310 **RISK OF LOSS:** All loss or damage to any of the above-described real property or personal property to any cause is
311 assumed by Seller through the time of closing unless otherwise specified.

312
313 **TIME IS OF THE ESSENCE:** Time is of the essence as to the terms and provisions of this Agreement.

314
315 **BINDING EFFECT AND NON-ASSIGNABILITY:** This Agreement is binding upon the heirs, successors and assigns
316 of each of the parties hereto; however, Buyer's rights under this Agreement are not assignable without the Seller's
317 express written consent.

318
319 **ATTORNEY FEES:** In any action brought by the Buyer or the Seller to enforce any of the terms of this Agreement, the
320 prevailing party in such action shall be entitled to such reasonable attorney fees as the court or arbitrator shall
321 determine just.

322
323 **COMMISSION:** The Seller's and/or Buyer's commitment to pay a commission in connection with this transaction is an
324 integral part of this Agreement.

_____/_____
Buyer's Initials

_____/_____
Seller's Initials

325 **FAX/COUNTERPARTS/ELECTRONIC SIGNATURES:** This Agreement may be executed in counterparts and, when
326 all counterpart documents are executed, the counterparts shall constitute a single binding instrument. Moreover, a
327 signature transmitted by fax or other electronic means will be enforceable against any party who executes the
328 Agreement and transmits the signature by fax or other electronic means. The parties hereto, all agree that the
329 transaction contemplated by this document may be conducted by electronic means in accordance with the Montana
330 Uniform Electronic Transaction Act.

331
332 **ENTIRE AGREEMENT:** This Agreement, together with any attached exhibits and any addenda or amendments
333 signed by the parties, shall constitute the entire agreement between Seller and Buyer, and supersedes any other
334 written or oral agreements between Seller and Buyer. This Agreement can be modified only in writing, signed by the
335 Seller and Buyer.

336
337 **EARNEST MONEY DISPUTES:** Buyer and Seller agree that, in the event of any controversy regarding the earnest
338 money and things of value held by the Broker, closing agent, or any person or entity holding such money or property,
339 unless mutual written instructions are received by the holder of the earnest money and things of value, Broker or
340 closing agent shall not be required to take any action, but may await any proceedings, or, at Broker's or closing
341 agent's option and sole discretion, may interplead all parties and deposit any monies or things of value in a Court of
342 competent jurisdiction and may utilize as much of the earnest money deposit as may be necessary to advance the
343 cost and fees required for filing such action.

344
345 **ADDENDA AND/OR DISCLOSURES ATTACHED:** (check all that apply):
346 Contingency for Sale of Buyer's Property Back-up Offer
347 Addendum for Additional Provisions
348 Water Rights Acknowledgement
349
350

351
352 **RELATIONSHIP CONFIRMATION:** The parties to this Agreement confirm that the real estate licensees identified
353 hereafter have been involved in the capacities indicated below and the parties have previously received the required
354 statutory disclosures setting forth the licensees' duties and the limits of their obligations to each party:

355
356 _____ of _____
357 (name of licensee) (name of brokerage company)
358
359 _____
360 (licensee's Montana license number) (brokerage company address)
361
362 _____
363 (licensee email address) (brokerage company phone number)
364
365 _____
366 (licensee phone number)

367 is acting as Seller's Agent Dual Agent Statutory Broker
368
369 Mary Ahmann Hibbard of Helena Home Team
370 (name of licensee) (name of brokerage company)
371
372 BRO-LIC-54096 318 N Last Chance Gulch Helena MT 59601
373 (licensee's Montana license number) (brokerage company address)
374
375 mary@helenahometeam.com 406-439-0119
376 (licensee email address) (brokerage company phone number)
377
378 (406) 439-0119
379 (licensee phone number)
380 is acting as Buyer's Agent Dual Agent Statutory Broker
381 Seller's Agent (includes Seller's Sub-Agent)

Return to:
Name:
Address:

Grant of Right of First Refusal

Date of Grant:

Owner: **The Montana Land Reliance**, a Montana nonprofit corporation, with its principal place of business located at 324 Fuller Avenue, Helena, Montana 59601, and with a mailing address of P.O. Box 355, Helena, MT 59624 (“Owner”).

Grantee: **State of Montana Board of Investments**, of 2401 Colonial Dr. # 1, Helena, MT 59601 (“Grantee”).

INTENDING TO BE LEGALLY BOUND and in consideration of the sum of \$1.00, the above identified Owner grants to the above identified Grantee the rights described below affecting the Property described in the attached Property Description.

Certain initially capitalized terms used in this document are defined in §5.

1 Intent to Accept Third Party Offer

- 1.1 **Notice.** If the Owner receives a Third-Party Offer that the Owner intends to accept, the Owner must notify the Grantee of their intent, and not accept the Third-Party Offer, until the Grantee has had the opportunity to purchase as described in this Grant. The Owner’s notice to Grantee must incorporate a complete and accurate counterpart of the Third-Party Offer.
- 1.2 **Less than whole.** If a Third-Party Offer applies to only a portion of the Property, then the Grantee’s opportunity to purchase and the Grantee’s rights that would be ending as described in §§1-3 pertain only to that portion of the Property. The Grantee’s rights as to the remainder of the Property continue unchanged.

2 Opportunity of First Refusal

- 2.1 **Offer.** The Owner’s notice of intent to accept the Third-Party Offer constitutes the Owner’s offer to Transfer the Property to the Grantee on the same terms as set forth in the Third-Party Offer.
- 2.2 **Acceptance Period.** The Owner’s offer must remain open for acceptance by the Grantee for a period of ten days after receipt by the Grantee of the Owner’s notice (the “Acceptance Period”).
- 2.3 **Extension to finalize sales contract.** If the Third-Party Offer does not incorporate a complete sales contract, then the Grantee may notify the Owner within the Acceptance Period of the Grantee’s acceptance of the Owner’s offer on the terms of the Third-Party Offer reserving the right to withdraw its acceptance by notice to the Owner if, within thirty days following the end of the Acceptance Period (the “Finalization Period”) the Owner and the Grantee, both using good faith efforts, fail to find mutually acceptable terms for the sale of the Property (other than the terms set forth in the Owner’s offer, which are fixed unless otherwise agreed by the Owner and the Grantee) and memorialize those terms in a written sales contract signed by both the Owner and the Grantee. If not otherwise agreed, the form of sales contract is the then-current form of agreement for the sale of real estate published by the Montana Association of Realtors.

3 End of Grantee's Rights

3.1 **Conditions that end rights.** But for the reinstatement right in §3.2, the Grantee's rights under this Grant are ended and the Owner is free to accept the Third-Party Offer if:

- (a) at the end of the acceptance period, the Owner has not received notice that the Grantee either accepts the Owner's offer or accepts the Owner's offer conditionally under the terms of §2.3; or
- (b) at the end of the Finalization Period, (notwithstanding the good faith efforts of each) the Owner and the Grantee have failed to sign a mutually binding sales contract.

3.2 **Reinstatement of rights.** The Grantee's rights under this Grant, including notice and opportunity of first refusal described in §1 and §2, are reinstated if:

- (a) within one year following the end of the acceptance period, either the Owner does not complete a Transfer of the Property pursuant to the Third-Party Offer or the Owner intends to accept a new Third-Party Offer; or
- (b) the Owner and the Third Party materially change the terms of sale of the Third-Party Offer originally delivered to the Grantee or enter into a sales contract that includes the terms of the Third-Party Offer and substantially the same terms that were proposed by the Grantee to complete a sales contract under §2.3. The Owner must promptly furnish to the Grantee any amendment, rider or other document changing the terms of the Third-Party Offer or, if applicable, the sales contract with the Grantee.

4 Requirements for Giving Notice

Notices under this Grant, including notice of change of address, must be in writing and delivered to the Owner or the Grantee, as the case may be, at their respective addresses set forth on page 1 hereof by any of the following means: certified mail (return receipt requested), commercial courier guaranteeing next day delivery, or hand delivery.

5 Defined Terms

"Grant" means this granting document.

"Person" means an individual or entity including a trust, corporation, partnership, limited liability company, or other organization.

"Property" means the entirety of land described in the Property Description attached to and incorporated into this Grant as Exhibit A, or, as applied to a notice of intent to Transfer some but not all of the Property, then such lesser portion as is the subject of the notice.

"Third Party" means a Person other than the Owner, the Grantee, or a trust established for the benefit of the Owner or such Persons, or a Person controlled by the Owner.

"Third-Party Offer" means a firm written offer to purchase or otherwise accept the Transfer of the Property tendered by a Third Party to the Owner.

"Transfer" means a change of ownership or control of the Property and includes the direct or indirect sale, agreement to sell, assignment, or conveyance of the Property, whether in a single transaction or a series of transactions and whether the transfer is voluntary, involuntary, by operation of law, or otherwise. An involuntary taking by eminent domain is not a Transfer for purposes of this Grant; accordingly, receipt of a notice of condemnation or notice of intent to condemn or offer to acquire all or a portion of the Property in lieu of condemnation is not a Third-Party Offer for purposes of this Grant.

6 Recording

This Grant may, at the option of the Grantee, be recorded in the official records of the Clerk and Recorder for Lewis & Clark County, Montana. Once the Grantee's opportunities to purchase under this Grant have ended without possibility of reinstatement, the Grantee must execute, at

the request of the Owner, a release of this Grant for recording in the official records of Lewis & Clark County, Montana.

[THE REMAINDER OF THE PAGE IS INTENTIONALLY BLANK.]

INTENDING TO BE LEGALLY BOUND, the Owner has signed and delivered this Grant as of the Date of Grant identified above.

OWNER: THE MONTANA LAND RELIANCE,
a nonprofit corporation

By: _____
[Name and title]

STATE OF _____)
: ss.
County of _____)

This instrument was signed or acknowledged before me on _____, by _____ acting in the capacity of _____ on behalf of The Montana Land Reliance.

(Notary's Signature) (SEAL)

Affix seal/stamp as close to signature as possible.

The Grantee signs below to evidence its acceptance of the terms of this Grant:

GRANTEE: STATE OF MONTANA BOARD OF INVESTMENTS,

By: _____
[Name and title]

STATE OF _____)
: ss.
County of _____)

This instrument was signed or acknowledged before me on _____, by _____ acting in the capacity of _____ on behalf of the State of Montana Board of Investments.

(Notary's Signature) (SEAL)

Affix seal/stamp as close to signature as possible.

EXHIBIT A
Property Description

STREETER BROS MINOR SUBD, S28, T10 N, R03 W, Lot 2, COS #609142