

# MONTANA

## BOARD OF INVESTMENTS

## BOARD ADOPTED POLICY

POLICY NUMBER: 70.730

EFFECTIVE DATE: May 22, 2024

TITLE: Infrastructure Loan Program

SUPERSEDES: September 23, 2022

BOARD ADOPTION: November 30, 2021

REVIEWED: May 22, 2024

### I. Infrastructure Loan Program

#### A. General Parameters for Infrastructure Loans

1. The program is funded by an \$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 for which fifty percent (50%) or more will be purchased by in-state residents in lieu of 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 under 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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### 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 the 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 non-residents.
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.

Authority: Montana Code Annotated, Art. VIII, Section 13  
Section 2-15-1808, MCA  
Section 17-6-201, MCA  
Title 17, chapter 6, part 3, MCA  
Title 18, chapter 2, part 4, MCA  
ARM 8.97.1301 and 8.97.1308 through 8.97.1310

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