

# MONTANA HOUSING

DoubleTree by Hilton Billings – 27 N. 27<sup>th</sup> St. – Billings MT 59101  
February 13, 2018

## **ROLL CALL OF BOARD**

### **MEMBERS:**

Pat Melby, Chairman (Present)

Bob Gauthier (Excused)

Johnnie McClusky (Present)

Jeanette McKee (Present)

Sheila Rice (Present)

Eric Schindler (Excused)

Amber Sundsted (Present)

### **STAFF:**

Bruce Brensdal, Executive Director

Ginger Pfankuch, Finance Program

Vicki Bauer, Homeownership Program

Mary Bair, Multifamily Program

Mary Palkovich, Loan Servicing Program

Stacy Collette, Executive Operations Manager

Penny Cope, Research & Outreach Specialist

Paula Loving, Executive Assistant

Todd Jackson, Marketing

Ashly Amato, Administrative Assistant

Kellie Guariglia, Multifamily Program

Danyel Bauer, Homeownership Program

Hannah Rotter, Homeownership Program

### **COUNSEL:**

Greg Gould, Luxan and Murfitt

John Wagner, Kutak Rock

Drew Page, Kutak Rock

### **UNDERWRITERS:**

Mina Choo, RBC Capital

Paul Hoek, Wilmington Trust, NA

Patrick Zhang, RBC Capital

### **OTHERS:**

Alex Burkhalter, Housing Solutions, LLC

Craig Taylor, Communities for Veterans

Kristi Harris, PrimeLending

Adrienne Bombelles

Tyler Currence, Housing Solutions, LLC

Don Sterhan, Mountain Plains Equity Group

Kirk Bruce

*These written minutes, together with the audio recordings of this meeting and the Board Packet, constitute the official minutes of the referenced meeting of the Montana Board of Housing (MBOH). References in these written minutes to tapes (e.g., FILE 1 – 4:34) refer to the location in the audio recordings of the meeting where the discussion occurred, and the page numbers refer to the page in the Board Packet. The audio recordings and Board Packet of the MBOH meeting of this date are hereby incorporated by reference and made a part of these minutes. The referenced audio recordings and Board Packet are available on the MBOH website at [Meetings and Minutes](#).*

### **CALL MEETING TO ORDER**

- 3:20 Chairman Pat Melby called the Montana Board of Housing (MBOH) meeting to order at 8:30 a.m.
- 3:47 Bruce Brensdal reviewed the Webinar details for the meeting.
- 5:17 Introductions of Board members were made.
- 8:20 Chairman Melby asked for public comment on items not listed on the agenda.

### **APPROVAL OF MINUTES**

#### **January 8, 2018 MBOH Board Meeting Minutes – page 3 of the packet**

- 8:37 Motion: Jeanette McKee  
Second: Sheila Rice  
The January 8, 2018 MBOH Board meeting minutes were approved unanimously.

### **FINANCE PROGRAM**

#### **Financial Update – page 5 of the packet**

- 9:10 Ginger Pfankuch provided the Finance program update.

### **HOMEOWNERSHIP PROGRAM**

#### **Replenish DPA – page 6 of packet**

- 11:57 Presenters: Vick Bauer,  
Motion: Sheila Rice  
Second: Johnnie McClusky  
Down Payment Assistance programs allocations were approved unanimously.

#### **Lender Approval – page 8 of the packet**

- 16:40 Presenters: Vick Bauer,  
Motion: Amber Sunsted  
Second: Jeanette McKee

PrimeLending, a PlainsCapital Company, was approved unanimously as an MBOH participating lender.

**Hazard Insurance Policy – page 10 of the packet**

21:50 Presenters: Vick Bauer,

Motion: Sheila Rice

Second: Johnnie McClusky

The Hazard Insurance Policy to allow a @2,500 or 1% deductible on wind and hail and leaves the standard deductible requirement at \$1,500 or 1% was approved unanimously.

**MCC Resolution – page 11 of the packet**

24:17 Presenters: Vick Bauer,

Motion: Johnnie McClusky

Second: Amber Sundsted

MCC Resolution No. 18-0213-SF01 was approved unanimously.

**Homeownership Program Update – page 15 of the packet**

26:50 Vicki Bauer provided the Board with the Homeownership program update.

**MORTGAGE SERVICING PROGRAM**

**Mortgage Servicing Program Update – page 20 of the packet**

34:05 Mary Palkovich provided the Board with the Mortgage Servicing program update.

**OPERATIONS**

**Operations Update – page 21 of the packet**

37:36 Stacy Collette provided the Board with the Montana Housing Operations update.

**MULTIFAMILY PROGRAM**

**Freedoms Path Request for Forward Allocation – page 26 of the packet**

43:05 Presenters: Mary Bair, Craig Taylor, Greg Gould Dave Durbin, Don Sterhan, Alex Burkhalter

Motion: Sheila Rice

Second: Amber Sundsted

Motion 2 – page 47 of the packet; See Attachment I.

A Roll call vote was taken:

Sheila Rice                      Yes

Amber Sundsted	Yes
Johnnie McClusky	Yes
Jeanette McKee	No
Pat Melby	Yes

The Freedoms Path Request for Forward Allocation was approved.

### **2019 Qualified Allocation Plan – page 49 of the packet**

1:28:50 Presenters: Mary Bair, Greg Gould, Alex Burkhalter

The motion to approve the 2019 Qualified Allocation Plan (QAP) as presented to the Board.

Motion: Sheila Rice

Second: Jeanette McKee

Mary Bair and Greg Gould reviewed all highlighted sections of 2019 QAP plan based on public comments.

1:58:54 Motion to amend original motion to include proposed "Credit Refresh" Amendment; See Attachment II.

Motion: Sheila Rice

Second: Johnnie McClusky

A Roll call vote was taken:

Sheila Rice	Yes
Amber Sundsted	Yes
Johnnie McClusky	Yes
Jeanette McKee	No
Pat Melby	Yes

The Credit Refresh Amendment was approved.

2:00:43 A Roll call vote was taken for the 2019 Amended Qualified Allocation Plan:

Sheila Rice	Yes
Amber Sundsted	Yes
Johnnie McClusky	Yes
Jeanette McKee	Yes
Pat Melby	Yes

### **Multifamily Program Update**

2:01:21 Mary Bair provided the Board with the Multifamily program update.



**EXECUTIVE DIRECTOR**

**Executive Director**

2:01:53 Bruce Brensdal provided an Executive Director update.

**MEETING ADJOURNMENT**

2:03:09 Meeting was adjourned at 10:30 a.m.

Motion: Amber Sundsted

Second: Johnnie McClusky



Sheila Rice, Secretary



Date

## ATTACHMENT I

### ALTERNATIVE MOTION NO. 2

Moved that the Board hereby finds, determines and resolves:

1. That the Freedom's Path Project (the "Project") was awarded housing credits in the 2016 competitive award cycle, such credits were reserved for allocation to the Project buildings and the Project received a carryover commitment requiring that the Project be completed and placed in service by December 31, 2018;
2. That due to factors beyond the Owner's control, the Project cannot be completed and placed in service by December 31, 2018;
3. That the Project is to be located on VA leased land, after the credit award the VA requested a reconfiguration of the Project buildings, the carryover does not allow for tax credits for all of the buildings as the Project was reconfigured and the carryover cannot be revised to allow credits for all such buildings;
4. That extensive resources and efforts have been expended in the development of the Project to date, there is great need among the target population for the housing units to be provided by the Project and it is in the best interests of MBOH, the Housing Credit Program and low-income persons in the State of Montana that the Project be completed;
5. That upon the Project's return of the awarded 2016 credits to MBOH, the credits be immediately re-reserved to the Project as 2018 credits, by execution of a Reservation Agreement, subject to and conditional upon: (a) retaining the project-based VASH vouchers previously awarded by HUD; and (b) the Project's compliance with such further submission and other requirements as MBOH staff shall determine reasonably necessary for legal compliance;
6. That the reservation of such credits to the Project shall be conditioned upon the Project making payment of the applicable Reservation Fee;
7. That any and all subsequent processes in the allocation process (e.g., Carryover Commitment, 8609 issuance, etc.) shall be subject to the Project's payment of any applicable fees;
8. That the Project's return of the 2016 credits as provided in item 5, above, shall not cause such credits to become "available for award" within the meaning of the Board's January 8, 2018 resolution providing for award of additional available credits in a specified order of priority to certain 2018 award cycle applicants;
9. That Section 4 of the 2018 QAP provides that the Board, in its discretion, may waive any requirement of the QAP if it determines such waiver to be in the best interests of MBOH, the HC program or the application cycle (2018 QAP, Section 4, pp. 23); and

10. That any provision of any QAP inconsistent with this resolution is hereby waived solely to the extent and for the specific purpose provided in this resolution.

DATED this 13<sup>th</sup> Day of February 2018.

**PROPOSED "CREDIT REFRESH" QAP AMENDMENT**

1. Amend definition:

**"Applicable QAP"** means: (a) for purposes of any substantive issues relating to an Award, the Development Evaluation Criteria, Scoring, Selection Criteria and Selection Standard for such Award, and the fee amounts charged for Letter of Intent, Application, 10% Cost Certification and Final Allocation, the particular year's QAP under which the Application is or was submitted, evaluated and Awarded HCs; ~~or~~ (b) for purposes of Project changes, Reservation (Initial Allocation), Declaration of Restrictive Covenants, Carryover Commitment, 10% Cost Certification (other than the fee amount), Final Allocation (other than the fee amount), compliance requirements, compliance audits, and any post-Award procedures, the QAP most recently adopted; or (c) for purposes of a Credit Refresh application, consideration and determination regarding a Credit Request Application, and payment of MBOH legal fees relating to or required as a result of a Credit Refresh application or Credit Refresh, and for post-Credit Refresh Project changes, Reservation, Declaration of Restrictive Covenants, Carryover Commitment, 10% Cost Certification and Final Allocation (including fees and fee amounts for the foregoing specified post-award items), the QAP most recently adopted as of the date of submission of the Credit refresh application; except that for Projects that have received a Credit Refresh and purposes of compliance requirements, compliance audits, and any other post-Award procedures, the QAP most recently adopted.

2. Add new definition:

"Credit Refresh" means a conversion of previously awarded Credits, from the original credit year (i.e., the year of the Available Annual Credit Allocation from which the Credits were awarded) to a more recent Credit year, pursuant to a Board-approved return of the Credits and immediate re-Reservation of the Credits as a more recent year's Credits, as approved by the MBOH Board in accordance with the requirements of the Applicable QAP.

3. Amend Section:

**SECTION 10 – RESERVATION, CARRYOVER, CREDIT REFRESH AND FINAL ALLOCATION**

Once MBOH has selected Projects and determined the Award of Housing Credits and amount of Credits to be reserved, MBOH will provide a Reservation Agreement, Gross Rent Floor Election, and Declaration of Restrictive Covenants to the partnership for execution and return to MBOH. Upon recording, the original recorded Restrictive Covenants must be returned promptly to MBOH. The following requirements apply to Reservation Agreement, Gross Rent Floor Election, Declaration of Restrictive Covenants, Carryover Commitment, 10% Test, Credit Refresh, Placed in Service and Final Allocations/8609.

4. Add New Subsection:



## **F. Refreshing Credits**

The MBOH Board may in its sole discretion approve a Credit Refresh for Projects that have been issued a Carryover Commitment by MBOH as provided in Subsection D, above, and that have submitted all required 10% Cost Certification materials and fees, and for which MBOH has approved such 10% Cost Certification, as provided in Subsection E, above.

To obtain a Credit Refresh, the Owner must submit a Credit Refresh Application to MBOH in the form and according to the requirements provided in the Credit Refresh Application Form, along with the Credit Refresh fee as specified in the Fee Schedule. Upon receipt of a complying Credit Refresh Application Form and completion of staff evaluation of such application, the application will be placed on the agenda for consideration at the next MBOH meeting. The Owner or its representative should appear at the meeting to answer Board questions, if any, regarding the application and the factors leading to the submission of the application.

The MBOH Board may approve or deny the application, or may defer action on the application pending additional information or compliance with specified conditions. The Board may place any one or more conditions on approval or further consideration of an application.

In considering and making its determination regarding an application, the Board may consider any or all of the following:

1. The diligence, or lack of diligence, by the Development Team, Owner or other Project participant in seeking to complete the development, approval, construction and opening of the Project;
2. Any factors beyond the control of the Development Team, Owner or other Project participant, significantly contributing to the need for the Credit Refresh;
3. The likelihood that the Project will be completed and placed in Service within a reasonable time, under the circumstances, if the Credit Refresh is approved;
4. The likelihood that the Project will not be completed or placed in Service if the Credit Refresh is denied;
5. The need for the Project, as determined in the original Application and Award processes;
6. Any significant changes in market conditions or other factors that affect the financial feasibility of or need for the Project; and
7. Any other factor or factors that the Board deems relevant to the determination.

Upon approval of an application, the Owner shall return the Credits according to the instructions of MBOH staff and staff shall promptly provide for the re-Reservation of the Credits, as refreshed, to the Owner by providing a Reservation Agreement in accordance with Subsection A, above.

In addition to payment of any applicable fees, the Owner will be required to reimburse MBOH for legal fees and expenses incurred by MBOH in connection with the Credit Refresh Application in accordance with the Applicable QAP.

All requirements of the Applicable QAP and applicable law shall apply to such Reservation and Credits as if such Reservation were the original Reservation of Credits for the Project, including without limitation, Gross Rent Floor Election, Declaration of Restrictive Covenants, Carryover, 10% Test, Placed on Service and Final Allocations/8609 and payment of the Reservation fee and all other applicable fees; provided, that no further submission of executed and recorded Restrictive Covenants, or related survey or title



## ATTACHMENT II

commitment, shall be required if previously submitted in accordance with Applicable QAP requirements, but amendment of such covenants will be required as necessary to conform the covenants to the refreshed credits or to comply with any additional or different requirements in the Applicable QAP.

5. Amend fee schedule to add Credit Refresh Application Fee.
6. Renumber subsequent subsections and conform other QAP provisions as necessary.

DRAFT



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**Meeting Location:** DoubleTree by Hilton Billings  
27 N. 27<sup>th</sup> St., Billings MT 59101  
Phone: 406.238.4304

**Date:** Tuesday, February 13, 2018

**Time:** 8:30 a.m.

**Chairperson:** Pat Melby

**Remote Attendance Information:** Join our meetings remotely via webinar and phone.

**Dial** (877) 273-4202, Access Code: 7233056#

**Webinar:** [Click here to register](#)

**Board Offices:** Montana Housing

301 S Park Ave., Room 240, Helena MT 59601  
Phone: 406.841.2840

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## AGENDA ITEMS

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

### Minutes

- ❖ Approve Prior Board Meeting Minutes

### Finance Program (Manager: Ginger Pfankuch)

- ❖ Financial Update

### Homeownership Program (Manager: Vicki Bauer)

- ❖ Replenish DPA
- ❖ Lender Approval
- ❖ Hazard Insurance Policy
- ❖ Manufactured Homes, if needed

- ❖ MCC Resolution
- ❖ Homeownership Update

### Mortgage Servicing (Manager: Mary Palkovich)

- ❖ Servicing Update

### Operations (Stacy Collette)

- ❖ Operations Update

### Multifamily Program (Manager: Mary Bair)

- ❖ Nemont Manor Bond Resolution
- ❖ Freedoms Path Request for Forward Allocation
- ❖ 2019 Qualified Allocation Plan
- ❖ Bond Resolutions (if needed)
- ❖ Reverse Annuity Mortgage Exceptions (if needed)
- ❖ Multifamily Update

### Executive Director (Bruce Brensdal)

- ❖ Update

### Miscellaneous

#### Meeting Adjourns

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

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

#### Future Meeting Dates and Locations (subject to change)

March 12, 2018: No meeting	July 9, 2018: No meeting	November 19, 2018: Helena
April 9, 2018: No meeting	August 13, 2018: No meeting	December 11, 2018: No meeting
April 30, 2018: Butte (Hsing Conf.)	September (9) 10, 2018: Missoula	January 7, 2019: Webinar
June 25, 2018: Helena	October 15, 2018: No meeting	

*The Board of Housing's mission is to create affordable housing opportunities for Montanans whose needs are not met by the market. We value people, families, communities, fairness, teamwork, mutual respect, integrity. We are committed and passionate about collaborating with our partners to make sure Montana's families and communities have attainable, affordable, accessible and sustainable homes.*



301 S. Park Avenue, Room 226 and Webinar – Helena, Montana 59601  
January 8, 2018

## **ROLL CALL OF BOARD**

### **MEMBERS:**

Pat Melby, Chairman (Present)	Sheila Rice (Present)
Bob Gauthier (Excused)	Eric Schindler (Present)
Johnnie McClusky (Present)	Amber Sundsted (Present)
Jeanette McKee (Present)	

### **STAFF:**

Bruce Brensdal, Executive Director	Penny Cope, Research & Outreach Specialist
Ginger Pfankuch, Finance Program	Paula Loving, Executive Assistant
Vicki Bauer, Homeownership Program	Todd Jackson, Marketing
Stacy Collette, Executive Operations Manager	Kellie Guariglia, Multifamily Program

### **COUNSEL:**

Greg Gould, Luxan and Murfitt	Drew Page, Kutak Rock
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### **UNDERWRITERS:**

Mina Choo, RBC Capital

### **OTHERS:**

*These written minutes, together with the audio recordings of this meeting and the Board Packet, constitute the official minutes of the referenced meeting of the Montana Board of Housing (MBOH). References in these written minutes to tapes (e.g., FILE 1 – 4:34) refer to the location in the audio recordings of the meeting where the discussion occurred and the page numbers refer to the page in the Board Packet. The audio recordings and Board Packet of the MBOH meeting of this date are hereby incorporated by reference and made a part of these minutes. The referenced audio recordings and Board Packet are available on the MBOH website at [Meetings and Minutes](#).*

## **CALL MEETING TO ORDER**

0:28	Chairman Pat Melby called the Montana Board of Housing (MBOH) meeting to order at 8:33 a.m.
0:40	Bruce Brensdal reviewed the Webinar details for the meeting.
1:10	Introductions of Board members were made.
2:35	Chairman Melby asked for public comment on items not listed on the agenda.

## **APPROVAL OF MINUTES**

### **December 12, 2017 MBOH Board Meeting Minutes – page 2 of the packet**

2:49 Motion: Sheila Rice

Second: Jeanette McKee

The December 12, 2017 MBOH Board meeting minutes were approved unanimously.

## **MULTIFAMILY PROGRAM**

### **2019 Qualified Allocation Plan – Release for Public Comment – page 4 of the packet**

3:37 Presenters: Bruce Brensdal and Greg Gould, with Board participation

56:35 The 2019 Qualified Allocation Plan was released for public comment.

## **MEETING ADJOURNMENT**

59:20 Meeting was adjourned at 9:32 a.m.

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Sheila Rice, Secretary

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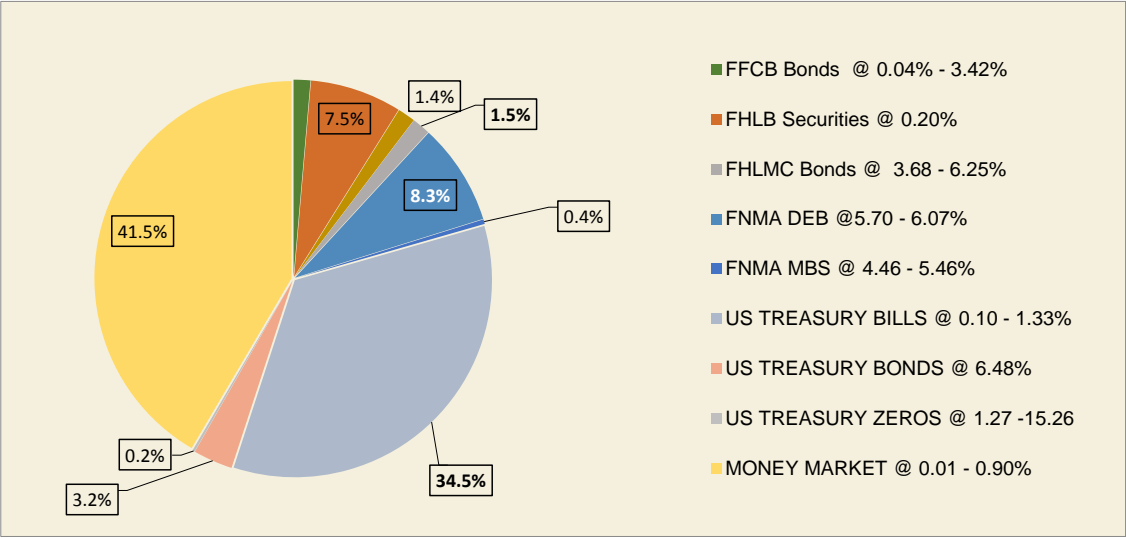
Date



# Accounting & Finance Dashboard

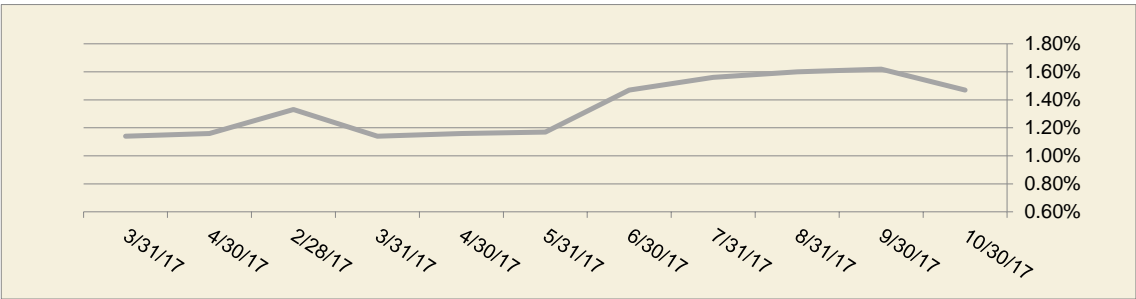
Data as of October 31, 2017

## INVESTMENT DIVERSIFICATION



FNMA = Federal National Mortgage Association  
FHLB = Federal Home Loan Bank  
FHLMC = Federal Home Loan Mortgage Corporation  
FFCB = Federal Farm Credit Bank

## WEIGHTED AVERAGE YIELD TREND



## PORTFOLIO MATURITY

For October 31, 2017

Available Now	< 1 year	1 to 5 years	6 to 10 years	11 to 15 years	16 to 20 years	21 to 25 years	Grand Total
\$ 80,285,474	\$ 45,627,000	\$ 20,107,000	\$ 17,919,000	\$ -	\$ 494,202	\$ 2,291,727	\$ 166,724,403

# BOARD AGENDA ITEM

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## PROGRAM

Homeownership Program

## AGENDA ITEM

Down Payment Assistance Program Allocations

## BACKGROUND

Board of Housing Offers 2 DPA Programs:

- Score Advantage:** up to 5% of purchase price •15-year, uninsured junior lien, fully amortized, Max. \$6,500 loan amount, 620 minimum credit score

- SAME interest rate on 1st and 2<sup>nd</sup> mortgage depending on Borrower Credit Score:
  - 3.75% Mid-Credit Score 740+ Fixed
  - 4.00% Mid-Credit Score 700-739 Fixed
  - 4.25% Mid-Credit Score 660-699 Fixed
  - 4.50% Mid-Credit Score 620-659 Fixed

Program started in April 2013 with an allocation of \$1.5 million of Special Reserve funds, \$140,000 of that allocation remains.

### Program Stats

6 reserved

245 purchased

Average loan amount \$5,400

Prepaid 19

Active 177

Delinquent 8

Foreclosed 9

Paid off 32

- MBOH Plus 0% Deferred:** up to 5% of purchase price, due in full upon Sale, transfer of property or refinance of 1<sup>st</sup> mortgage, Max. \$6,500 loan amount, 620 minimum credit score and 43% DTI

- Interest rate on 1st set at .25bp higher than regular rate (currently 3.75)

Program started in April 2017 with an allocation of \$1 million of Special Reserve funds, \$436,000 of that allocation remains.

# BOARD AGENDA ITEM

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## Program Stats (1<sup>st</sup> mortgages)

18 reserved

78 purchased

Average loan amount \$5,900

Prepaid 5

Active 72

Delinquent 1

Foreclosed 0

Paid off 0

## % of MBOH Borrowers with MBOH DPA

2013 6%

2014 11%

2015 10%

2016 22%

2017 30%

## PROPOSAL

Staff has determined there are adequate funds available and requests the Board to approve an additional \$500,000 be allocated to the Score Advantage Program and an additional \$1,000,000 to the MBOH Plus 0% Program.

# BOARD AGENDA ITEM

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## PROGRAM

Homeownership Program

## AGENDA ITEM

Lender Approval – PrimeLending, a PlainsCapital Company

## BACKGROUND

PrimeLending, is a residential mortgage originator licensed to originate and close loans in 50 states and the District of Columbia. PrimeLending is a wholly owned subsidiary of PlainsCapital Corporation headquartered in Dallas, Texas. Their Montana lending location is in Bozeman, where they have staff who have experience with Board programs.

PrimeLending is interested in participating in the Board's MCC program and they are approved to underwrite FHA, RD and VA Loans. They will sell the servicing of our loans to MBOH.

Per their December 31, 2016 (audited) Balance Sheet PrimeLending had equity to asset ratio of 12.16%, and per their September 30, 2017 (unaudited) Balance Sheet, they have equity to asset ratio of 11.94%, meeting the criteria for MBOH participating lenders (6%).

All required Errors and Omissions and Fidelity Bond Insurance coverage requirements have been met.

PrimeLending financial statements are available to Board members for review. Staff thought it is important to note that the following information was listed in the notes to financials that PrimeLending provided.

As a part of an industry-wide inquiry, Primelending received a subpoena from the Office of Inspector General of the U.S. Department of Housing and Urban Development regarding mortgage-related practices, including those relating to origination practices for loans insured by the Federal Housing Administration (the "FHA"). On August 20, 2014, Primelending received a Civil Investigative Demand from the United States Department of Justice (the "DOJ") related to this Inquiry. According to the Civil Investigative Demand, the DOJ is conducting an investigation to determine whether Primelending has violated the False Claims Act in connection with originating and underwriting single-family residential mortgage loans insured by the FHA. Primelending cannot predict the ultimate outcome of this investigation, and cannot make a reasonable estimate of potential liability, if any, at this time. Primelending is cooperating with the investigation.

# BOARD AGENDA ITEM

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## PROPOSAL

Staff requests for the Board to approve PrimeLending, a PlainsCapital Company as a participating lender with MBOH.



# BOARD AGENDA ITEM

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## PROGRAM

Homeownership Program

## AGENDA ITEM

Hazard Insurance Policy

## BACKGROUND

In February of 2016 the Board changed the hazard insurance deductible requirement from \$1,000 or 1% to \$1,500 or 1% for all perils.

With wind and hail storms in eastern Montana, our borrowers are having a very hard time finding insurance companies that will offer a wind and hail deductible for less than \$2,500 and if they can find one, it is very expensive.

We polled neighboring states, here are their requirements:

Wyoming - 2% all perils

North Dakota - \$1,500 or 1%, wind and hail \$2,500 or 1%

Idaho – lesser of \$2,500 or 2%

## PROPOSAL

Staff requests for the Board allow a \$2,500 or 1% deductible on wind and hail and leaves the standard deductible requirement of \$1,500 or 1%.

# BOARD AGENDA ITEM

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## PROGRAM

Homeownership Program

## AGENDA ITEM

MCC Resolution Approval

## BACKGROUND

The Mortgage Credit Certificate allows eligible homebuyers to receive a dollar-for-dollar reduction in their federal income taxes of up to 20% of the annual interest paid on their mortgage. Borrowers can file an amended withholding statement with their employer and increase their monthly take-home pay by the amount of the credit. This additional income can be used to help qualify a borrower for a loan. The MCC can be attached to any loan statewide, except for a loan financed through the Montana Board of Housing Bond Program.

There is enough authority left in the 2016 MCC Series to support approximately \$5,000,000 in loans.

Attached is a Resolution for your consideration that authorizes the use \$48,000,000 of bond cap which will provide \$12,000,000 of tax credit authority, it is a 4 to 1 trade off.

## PROPOSAL

Staff requests that the Board approve the attached resolution.

## **RESOLUTION NO. 18-0213-SF01**

A RESOLUTION AUTHORIZING THE ISSUANCE OF MORTGAGE CREDIT CERTIFICATES (“MCCs”); APPROVING THE FORMS OF THE MCC PROGRAM GUIDE AND RELATED ITEMS; AUTHORIZING THE EXECUTIVE DIRECTOR TO FILE ONE OR MORE MCC ELECTIONS WITH THE INTERNAL REVENUE SERVICE; AUTHORIZING THE EXECUTIVE DIRECTOR TO DETERMINE THE MCC RATES, TERMS AND CRITERIA; AND AUTHORIZING THE EXECUTIVE DIRECTOR TO GIVE NOTICE AS REQUIRED BY THE FEDERAL TAX LAWS OF THE IMPLEMENTATION OF THE MCC PROGRAM.

WHEREAS, the Montana Board of Housing (the “Board”) is authorized by Montana Code Annotated Sections 90-6-100 through 90-6-127 and Section 2-15-1814 (the “Act”) to issue its bonds and to purchase mortgage loans in order to finance single-family housing which will provide decent, safe and sanitary housing for persons and families of lower income in the State; and

WHEREAS, the Board is an authorized issuer of “qualified mortgage bonds” described in Section 143 of the Internal Revenue Code of 1986, as amended (the “Code”), and receives volume cap under Section 146 of the Code to issue such qualified mortgage bonds and other private activity bonds; and

WHEREAS, Section 25 of the Code and the regulations promulgated thereunder permit the Board to exchange its authority to issue qualified mortgage bonds and other private activity bonds for which it has volume cap in order to issue mortgage credit certificates under a qualified mortgage credit certificate program; and

WHEREAS, an MCC provides housing assistance in the form of a nonrefundable, federal tax credit, the value of which is equal to a portion of the mortgage interest paid by a homeowner on certain qualifying loans, and the holder of an MCC may apply this tax credit against his or her federal income taxes in each year the MCC is effective; and

WHEREAS, the Board desires to provide the widest range of alternatives to lower-income borrowers to enable them to finance the acquisition of single-family residences at the lowest effective cost to such borrowers (collectively, such alternatives are referred to as the “Single Family Programs”); and

WHEREAS, as part of the Single Family Programs, the Board currently administers an MCC program (the “MCC Program”) and wishes to increase the amount available for MCCs; and

WHEREAS, in connection with such MCC Program, the Board desires to elect not to issue private activity bonds which it could otherwise issue (including from any unused carryforward of private activity bond authority from prior calendar years);

NOW, THEREFORE, BE IT RESOLVED BY THE MONTANA BOARD OF HOUSING, as follows:

**Section 1.** The Board approves and authorizes a continuation of the current MCC Program, pursuant to one or more elections, benefiting qualified homebuyers and homeowners who incur mortgage loans for eligible purposes. The parameters and purposes of this continued MCC Program shall be substantially similar to the Board's current MCC Program, and such parameters are hereby approved in substance, with such changes and modifications as the Executive Director, the staff and counsel to the Board deem necessary and advisable, and are incorporated by reference as part of this Resolution.

**Section 2.** The Board finds and determines that it is necessary to exchange its authority to issue up to \$48,000,000 of private activity bonds for the authority to issue MCCs. The Board directs the Executive Director to make one or more elections, pursuant to Section 25 of the Code, not to issue up to an aggregate of \$48,000,000 of private activity bonds (the "nonissued bond amount") that the Board is authorized and has volume cap available to issue (including any unused carryforward). The nonissued bond amount shall be allocated to a continuation of the current MCC Program. To effectuate the foregoing, the Executive Director is directed to file notice of such election or elections with the Internal Revenue Service, as required by the Code and the regulations.

**Section 3.** The Board authorizes the Executive Director to establish one or more credit rates (based on the criteria he deems appropriate pursuant to the following sentence) for the mortgage loans described therein, determine the program expiration date, select the types of mortgage loans for which MCCs may be issued, approve the terms and conditions on which participating lenders make loans that are eligible for MCC financing, and make other determinations as appropriate, all in accordance with the terms and provisions of Section 25 of the Code and the regulations thereunder and this Resolution. The Executive Director and the staff are hereby directed to further define the MCC Program parameters, as they deem appropriate and necessary to maximize the availability of lower cost financing to low- and moderate-income persons under the Single Family Programs.

**Section 4.** The forms of the MCC Program Guide and related items shall be substantially the same as those for the current MCC Program, which are hereby approved in substance, with such changes and modifications as the Executive Director and counsel to the Board deem necessary, appropriate and advisable.

**Section 5.** The Executive Director shall give notice to the public of the establishment of each MCC program as required by Section 25 of the Code and the regulations thereunder prior to the issuance of any MCCs under the MCC Program.

**Section 6.** The Board ratifies and approves the use of any unused private activity bond volume cap allocated to the Board (including any amount carried forward for the previous calendar years) in connection with the issuance of MCCs.

**Section 7.** This Resolution shall become effective immediately.

ADOPTED by the Montana Board of Housing this 13<sup>th</sup> day of February 2018.

MONTANA BOARD OF HOUSING

By \_\_\_\_\_  
Chairman

Attest:

By \_\_\_\_\_  
Treasurer/Executive Director



# Montana Board of Housing

12/31/2017

## MCC Program Monthly Loan Reservation Activity

	2015		2016		2017	
	# of loans	\$ of loans	# of loans	\$ of loans	# of loans	\$ of loans
January	8	\$1,447,142	11	\$1,973,403	7	\$1,545,005
February	16	\$3,021,984	4	\$885,262	7	\$1,458,771
March	6	\$1,040,872	8	\$1,536,149	17	\$3,538,742
April	14	\$2,409,453	9	\$1,729,746	14	\$2,820,899
May	13	\$2,334,841	10	\$1,905,407	18	\$3,516,038
June	16	\$3,066,800	29	\$5,729,130	23	\$4,626,660
July	10	\$1,999,770	13	\$2,770,640	18	\$3,577,094
August	14	\$2,633,266	10	\$2,003,249	17	\$3,280,904
September	6	\$1,017,324	7	\$1,325,539	25	\$5,216,328
October	13	\$2,520,971	15	\$2,891,290	13	\$2,520,489
November	12	\$2,222,166	9	\$1,540,508	12	\$2,644,462
December	8	\$1,521,016	12	\$2,291,214	2	\$371,821
yearly total	136	\$25,235,605	137	\$26,581,537	173	\$35,117,213
Average	11	\$185,556	11	\$194,025.82	14	\$202,989.67

## Source and use tax credit authority

Election Date	Series	Waived bond authority	volume of loans supported	Dollar amt of loans @12/31/17	No of certs issued	Amt reserved	remaining balance available
1988-1992	prior system						(closed)
12/16/2002	900	\$40 million	\$50,000,000	\$5,803,018	50		(closed)
10/17/2005	901	\$5 million	\$6,250,000	\$6,229,750	42		(closed)
4/7/2008	902	\$4 million	\$5,000,000	\$4,981,634	32		(closed)
1/12/2009	903	\$10 million	\$12,500,000	\$12,497,814	79		(closed)
10/19/2009	904	\$10 million	\$12,500,000	\$12,379,315	79		(closed)
2/7/2011	905	\$12 million	\$15,000,000	\$14,996,446	95		(closed)
6/26/2012	906	\$16 million	\$20,000,000	\$19,988,943	113		(closed)
8/12/2013	907	\$24 million	\$30,000,000	\$29,994,501	171		(closed)
6/9/2014	908	\$40 million	\$50,000,000	\$49,352,093	258		(closed)
6/6/2016	909	\$36 million	\$45,000,000	\$37,042,112	186	\$913,169	\$7,044,719
				\$193,265,626	1105	\$913,169	\$7,044,719

## Average Tax Credit

Series	# of families	Average loan	MCC Rate	Average Tax Credit per household
900	50	\$116,060	20%	\$23,212
901	42	\$148,327	20%	\$29,665
902	32	\$155,676	20%	\$31,135
903	79	\$158,200	20%	\$31,640
904	79	\$156,700	20%	\$31,340
905	95	\$157,857	20%	\$31,571
906	113	\$176,893	20%	\$35,379
907	170	\$176,438	20%	\$35,288
908	258	\$191,287	20%	\$38,257
909	186	\$199,151	20%	\$39,830

# BOARD AGENDA ITEM

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## PROGRAM

Homeownership Program

## AGENDA ITEM

Program Update

## BACKGROUND

### Purchase Price Limit Update

Below is information from John Wagner regarding the Purchase Price Limits we use for our programs.

IRS Rev. Proc. 2017-27, which is the currently effective pronouncement on Single Family purchase price limits, in Section 3.03 provides that if FHA releases updated loan limits after December 1, 2016, an HFA “may” use the newer FHA loan limits to compute new Single Family purchase price limits. This is done by dividing the new FHA loan limit by 0.9775 (and then applying the applicable 90%/110% to such numbers).

On December 7, FHA released its loan limits for 2018 and they went up in most places due to increases in home purchase prices. Although we are not required to use the new loan limits we had the option to do so.

To provide the most opportunity for borrowers to use our programs in this time of increasing purchase prices, staff calculated and implemented new limits for our programs. They went into effect January 29.

The new limits as they compare to the 2017 limits are attached for your review.

This also affected the VHLP Loan Limit, it was adjusted to \$257,606.75.

### Bond Resolution 2018A Update

All the proceeds of the 2017B bond issue have been reserved and we have begun accepting reservations for loans that will be bridged for a 2018A bond issue. In November a single family bond resolution was adopted that authorized up to \$200 million of single family bonds, whether COBS or regular bonds. Since we didn't issue the SF COBs in December because the tax bill did not affect single family bonds, that approved resolution is available for the issuance of the proposed 2018 bonds.

County / area	2017 Purchase Price Limit	2018 Purchase Price Limit	amount of change
Beaverhead	\$253,809	\$271,165	\$17,356
Big Horn	\$253,809	\$271,165	\$17,356
* Blaine	\$310,211	\$331,423	\$21,212
Broadwater	\$253,809	\$271,165	\$17,356
Carbon	\$253,809	\$271,165	\$17,356
Carter	\$253,809	\$271,165	\$17,356
Cascade	\$253,809	\$271,165	\$17,356
* City of Great Falls	\$310,211	\$331,423	\$21,212
Chouteau	\$253,809	\$271,165	\$17,356
Custer	\$253,809	\$271,165	\$17,356
Daniels	\$253,809	\$271,165	\$17,356
Dawson	\$253,809	\$271,165	\$17,356
* Deer Lodge	\$310,211	\$331,423	\$21,212
Fallon	\$260,471	\$271,165	\$10,694
Fergus	\$253,809	\$271,165	\$17,356
* Flathead	\$339,059	\$339,059	\$0
Gallatin	\$328,235	\$351,529	\$23,294
Gallatin Census			
* Tracts 6 and 11.01	\$401,177	\$429,647	\$28,470
Garfield	\$253,809	\$271,165	\$17,356
Glacier	\$253,809	\$271,165	\$17,356
Golden Valley	\$253,809	\$271,165	\$17,356
Granite	\$253,809	\$271,165	\$17,356
* Hill	\$310,211	\$331,423	\$21,212
Jefferson	\$263,647	\$273,176	\$9,529
Judith Basin	\$253,809	\$271,165	\$17,356
Lake	\$253,809	\$271,165	\$17,356
Lewis & Clark	\$263,647	\$273,176	\$9,530
Liberty	\$253,809	\$271,165	\$17,356
Lincoln	\$253,809	\$271,165	\$17,356
* Lincoln Census Tr 2	\$310,211	\$331,423	\$21,212
Madison	\$299,647	\$299,647	\$0
McCone	\$253,809	\$271,165	\$17,356
Meagher	\$253,809	\$271,165	\$17,356
* Mineral	\$310,211	\$331,423	\$21,212
* Missoula	\$332,588	\$357,176	\$24,588
Musselshell	\$253,809	\$271,165	\$17,356
Park	\$253,809	\$271,165	\$17,356
Petroleum	\$253,809	\$271,165	\$17,356
Phillips	\$253,809	\$271,165	\$17,356
Pondera	\$253,809	\$271,165	\$17,356
Powder River	\$253,809	\$271,165	\$17,356
Powell	\$253,809	\$271,165	\$17,356
Prairie	\$253,809	\$271,165	\$17,356
Ravalli	\$253,809	\$271,165	\$17,356
Richland	\$253,809	\$271,165	\$17,356
Roosevelt	\$253,809	\$271,165	\$17,356
Rosebud	\$253,809	\$271,165	\$17,356
* Sanders	\$310,211	\$331,423	\$21,212
Sheridan	\$253,809	\$271,165	\$17,356
* Silver Bow	\$310,211	\$331,423	\$21,212
Stillwater	\$253,809	\$271,165	\$17,356
Sweet Grass	\$266,824	\$271,165	\$4,341
Teton	\$253,809	\$271,165	\$17,356
Toole	\$253,809	\$271,165	\$17,356
Treasure	\$253,809	\$271,165	\$17,356
Valley	\$253,809	\$271,165	\$17,356
Wheatland	\$253,809	\$271,165	\$17,356
Wibaux	\$253,809	\$271,165	\$17,356
Yellowstone	\$253,809	\$271,165	\$17,356

\* Targeted Areas

# Homeownership Program Dashboard

February 1, 2018

## RATES

	<u>CURRENT</u>	<u>LAST MONTH</u>	<u>LAST YEAR</u>
MBOH	3.50	3.50	3.25
Market	4.03	3.75	4.19
10 yr treasury	2.78	2.46	2.48
30 yr Fannie Mae	3.90	3.54	3.71

## LOAN PROGRAMS

	JANUARY 2018		TOTAL		ORIGINAL	
	<u>RESERVATIONS</u>	<u>AMOUNT</u>	<u>NUMBER</u>	<u>AMOUNT</u>	<u>AMOUNT</u>	<u>BALANCE</u>
<b>REGULAR PROGRAM</b>						
Series 2018A(12.22.17)	21	3,477,634	26	3,825,014	0	(3,825,014)
Series 2017B(5.23.17)	0	0	173	30,300,000	30,300,000	0
80% Combined (20+)	0	0	85	11,054,442	Funded w/ Reg	5,000,000
<b>OTHER PROGRAMS</b>						
Veterans (Orig)	2	395,829	266	48,989,036	Revolving	3,285,055
909 Mrtg Cr Cert (MCC)	7	1,602,935	198	39,816,216	45,000,000	5,183,784
<b>SET-ASIDE PROGRAMS</b>						
Score Advantage	4	20,874	252	1,362,708	1,500,000	137,292
MBOH Plus	5	30,100	98	576,436	1,000,000	423,564
Set-aside Pool (10.1.17)	2	308,099	14	1,975,229	7,000,000	5,024,771
NeighborWorks	1	134,310	6	719,458		
CAP NWMT CLT			2	335,262		
Missoula HRDC XI			1	94,118		
Bozeman HRDC IX						
Home\$tart			1	201,188		
HUD 184			1	210,583		
Dream Makers						
City of Billings	1	173,789	3	414,620		
Foreclosure Prevent	0	0	0	0	50,000	50,000
Disabled Accessible	0	0	227	16,497,050	Ongoing	862,950
Lot Refi	0	0	12	1,273,560	2,000,000	726,440
FY18 Habitat	0	0	5	538,247	2,000,000	1,461,753

## DECEMBER CHANGES IN PORTFOLIO

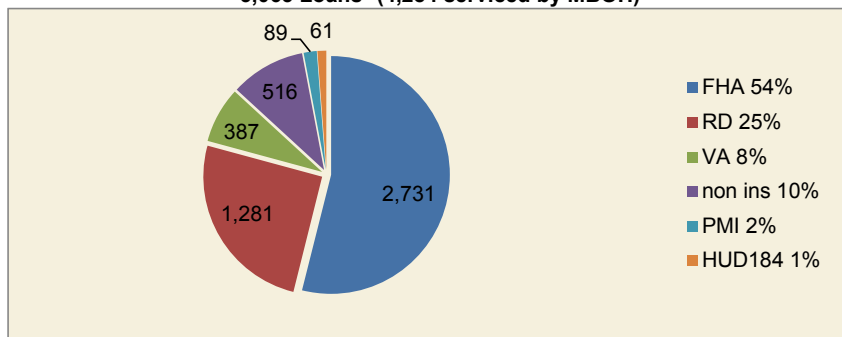
	<u># loans</u>	<u>Princ Bal</u>
<b>November Balance</b>	<b>5,085</b>	<b>431,350,349.03</b>
December Purchases	31	3,625,861.00
Amortization		(1,108,543.24)
December Payoffs	(47)	(3,600,085.02)
December Foreclosures	(4)	(235,228.21)
<b>December Balance</b>	<b>5,065</b>	<b>\$ 430,032,353.56</b>

## DELINQUENCY AND FORECLOSURE RATES

	MONTANA BOARD OF HOUSING			MORTGAGE BANKERS ASSOC. 9/2017			(most recent available)
	<u>Dec-17</u>	<u>Nov-17</u>	<u>Dec-16</u>	<u>Montana</u>	<u>Region</u>	<u>Nation</u>	
30 Days	1.93	1.44	2.08	1.55	1.91	2.84	
60 Days	0.62	0.88	0.75	0.47	0.57	0.86	
90 Days	<u>1.44</u>	<u>1.36</u>	<u>1.92</u>	<u>0.59</u>	<u>0.74</u>	<u>1.29</u>	
Total Delinquencies	3.99	3.68	4.75	2.61	3.22	4.99	
In Foreclosure	0.91	1.00	1.28	0.58	0.64	1.23	

## MBOH PORTFOLIO AS OF NOVEMBER

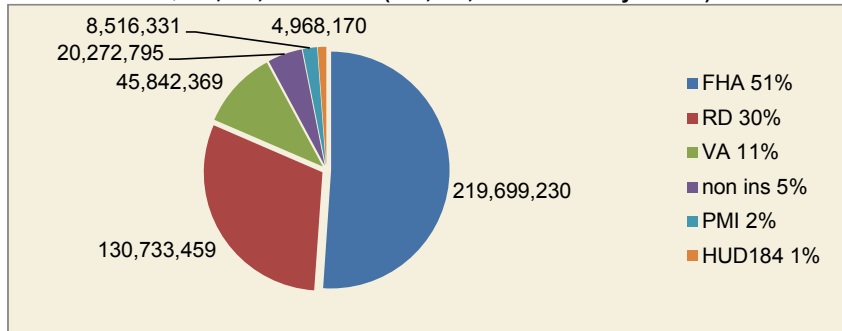
5,065 Loans\* (4,284 serviced by MBOH)



Weighted Average  
Interest Rate  
4.26%

\*This a 1.73% decrease in portfolio size from December 2016 when we had 5,154 loans

\$430,032,354 Loans\* (360,180,882 serviced by MBOH)



\*This a 0.22% increase in portfolio size from December 2016 when we had \$429,093,611 loans

## LENDER/REALTOR/PUBLIC OUTREACH

<u>Date</u>	<u>Event</u>
Nov 20-22, 2017	<u>Lender Visits/Miles City Presentation</u> Stockman Bank, Billings Mann Mortgage Billings Western Security, Billings The Home Center, Billings MBOH Presentation at Miles City Library First Interstate Bank, Billings
Dec 14, 2017	Lender On-Line Webinar, Stockman Bank
Dec 19, 2017	Lender On-Line Webinar, Fairway Mortgage
Jan 20, 2018	Homebuyer Ed in Helena
Jan 23, 2018	Webinar with First Federal Bank & Trust
Jan 31, 2018	Office visit with Fairway in Great Falls

Various outreach efforts were made to lenders, realtors and housing partners in the month of December by MBOH staff to ask for support and to update about the Federal Tax Bill proposals that effected the continuation of our programs.

### Homeownership Notes

In further efforts to build efficiency into our processes and make things easier for our lenders, all program documents will generate and auto populate from our Lender On-Line system beginning January 2018. Origination documents will no longer be available on the Board's website.

## Mortgage Servicing Program Dashboard Effective 01/31/18

	Last Year	Last Month	This Month
MONTH	JAN 2017	DEC 2017	JAN 2018
PORTFOLIO TOTAL LOANS	4678	4631	4647
MBOH	4371	4321	4337
BOI	290	294	294
MULTI FAMILY	17	16	16
PRINCIPAL (all loans)	\$ 423,338,708.43	\$ 431,594,451.27	\$ 433,865,114.65
ESCROW (all loans)	\$ 4,959,634.04	\$ 3,534,687.84	\$ 4,278,610.78
LOSS DRAFT (all loans)	\$ 912,410.04	\$ 625,580.95	\$ 639,290.66
LOANS DELINQUENT (60+ days)	276	201	180
ACTUAL FORECLOSURE SALES IN MONTH	1	4	2
FORECLOSURES TOTAL CALENDAR YEAR	1	38	2
DELINQUENT CONTACTS TO MAKE	788	689	639
LATE FEES - NUMBER OF LOANS	795	678	862
LATE FEES - TOTAL AMOUNT	\$ 22,715.25	\$ 19,075.82	\$ 24,173.28
PAYOFFS	42	34	26
NEW LOANS/TRANSFERS	13	45	45

## Quarterly Servicing Report 2018 - 1st Quarter

LOSS MITIGATION	JANUARY	<b>HUD's National Servicing Center TRSII Reporting FY2017 Q4 98.35% Tier 1 - Grade A</b>
ACTIVE FINANCIAL PACKETS	13	
REPAYMENT/FORBEARANCE	30	
SHORT SALE	0	
DEED IN LIEU	0	
HAMPS/PARTIAL CLAIMS & MODS PNDG	18	
PRESERVATION PROPERTIES	15	
REAL ESTATE OWNED PROPERTIES	5	
CHAPTER 13 BANKRUPTCIES	18	

# Administrative Dashboard

February 9, 2018

## Board Meetings

### Operations Update

#### Staffing:

Our Section 8 Program Manager, Dave Parker has submitted his notice to retire. We have posted the position and are actively recruiting. We have also added a vista volunteer to the Section 8 program, Tippie Greene, and she will assist us with the ongoing front-facing Section 8 applications and internal processes.

In Mortgage Servicing we have added a part-time staffer to address the vacancies and alternative work schedules for staff, and we plan to hire a second part-time experienced staffer in delinquency.

Jeanene Maas continues to help us resolve long standing large projects as a returning temporary worker and we are grateful for her assistance in both Homeownership and now Mortgage Servicing.

#### Large Scale Projects:

##### FANNIE MAE:

We submitted our application to become a Fannie Mae Seller Servicer in January 2018. We are actively involved with an assigned HFA team to assess our readiness. In the next 60 days we will have one on site visit, several work sessions and opportunities to complete our evaluation. By the end of April, we should have a good idea of our standings and the next steps for implementation.

##### FINANCIAL ADVISOR:

We have drafted a request for proposal and we are in the process of reviewing the internal processes. Ideally, we will release the RFP by February 20 and have a recommendation to the Board by April 30.

*Montana Housing is seeking a qualified Financial Advisor to provide advisory services including pipeline management, program analysis and other necessary advice for both Single Family and Multifamily Programs. The qualified institution must have experience with housing finance agencies using mortgage revenue bonds and assisting in the diversification of program offerings within the marketplace.*

##### REBRANDING:

We have released our new logo and single name: Montana Housing. Our leadership team has worked diligently in navigating this change and it has been well received by the public.

##### STRATEGIC PLANNING:

The leadership team is evaluating the 2018 strategic plan (board plan is attached to this document for review). Through some evaluation, we have determined a need to do a more robust education of program activity and internal development and have added that to the existing schedule of trainings and development.

##### BOARD TRAINING:

Please consider the following opportunities for training and confirm participation:

March 5-7      NCSHA Legislative Conference – Washington DC

May 7-9      Mountain Plains Housing Summit – Lincoln, Nebraska

October 12-16      NCSHA National Conference – Austin Texas



# Administrative Dashboard (continued)

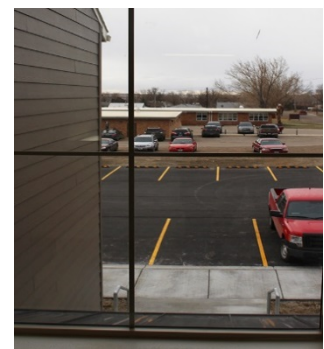
February 9, 2018

## Program Promotions: Grand Openings, Ground Breakings & Public Events

LITTLE JON APARTMENTS GRAND OPENING IN BIG FORK:



NORTH STAR APARTMENTS GRAND OPENING IN WOLF POINT:



# Administrative Dashboard (continued)

February 9, 2018

HIGHLIGHTING SOME COMMUNITY INVOLVEMENT BY MBOH STAFF:

2007 HELENA AREA HABITAT FOR HUMANITY VOLUNTEER BUILD DAY



2017 HELENA AREA HABITAT FOR HUMANITY VOLUNTEER REHAB DAY – **SAME HOUSE !**





# Administrative Dashboard (continued)

February 9, 2018



## SPECIAL OLYMPICS – JETT BRENSDAL



# Administrative Dashboard (continued)

February 9, 2018

BOWLING FUNDRAISER FOR BIG BROTHER BIG SISTER



520 WREATHS ON VETERANS' GRAVES AT FORT HARRISON



# BOARD AGENDA ITEM

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## PROGRAM

Multifamily Program

## AGENDA ITEM

Freedom's Path request for forward allocation of "19" housing credits

## BACKGROUND

Freedom's Path has requested a forward allocation of credits, replacing their 2016 allocation of housing credits.

## PROPOSAL

A memo from Greg Gould and Nick Mazanec, Board Counsel



To: Bruce Brensdahl  
From: Craig Taylor  
Re: Freedom's Path at Ft. Harrison Tax Credit Allocation Swap Request  
Date: 1/31/2018

In 2010, the U. S. Dept. of Veterans Affairs made a bold commitment to end homelessness among Veterans by 2015. At that time the number of homeless Veterans was estimated to be about 100,000. Then Secretary of the VA, General Shinzeki, called this a national disgrace.

One element of the campaign to end Veteran homelessness was designed by the VA: offer vacant or underutilized buildings and land to private sector developers for the purpose of redeveloping these properties as permanent supportive housing for homeless Veterans.

The program was announced in 2011 as the Building Utilization Review and Repurposing program (BURR) and in subsequent years, 48 Requests for Proposals were sent out nationwide to solicit developers to participate. Communities for Veterans was one of the respondents, and was eventually selected to redevelop eight sites around the country (Illinois, Texas, Washington, Montana, Ohio, New York, Georgia (2).

To do this redevelopment, the VA was authorized to use a Congressionally approved method of land re-use called an Enhanced Use Lease. The VA would provide long-term ground leases to the developers. However, problematically, the VA would not pledge any interest in its land as a means of assisting in the financing of the projects. Further, the initial leases were for only 5 years, which itself turned out to be a significant impediment to redevelopment efforts.

These initial 5 year leases were signed in December of 2011. Since all of the financing was to come from the private sector, and the housing was to be developed as supportive housing for the homeless, the type of financing and operations/services to do this meant that the projects had to be done with no repayable debt and with operating subsidies. The timing for these financing and subsidy sources was not synchronous, meaning that securing the capital sources to do the projects took a long time (years), if successful at all.

Additionally, being located on "federal reservations" as each of these projects was necessitated a prodigious amount of education and coordination among public and private sector participants in exactly how the projects would work. Not being willing to subordinate the land to lenders was no small factor. Also, at least five (5) federal agencies are directly and significantly involved in every project (the VA, HUD, the EPA, the Dept. of the Interior-NPS, and the GAO). This coordination matrix was exacerbated by the many State, Local and private sector entities that had to be folded into the financing and development process.

This coordination was further complicated by the many issues plaguing the VA during these years, which led to significant staff turnover at local VA Medical Centers (VAMC's), a diversion of focus from ending

Veteran homelessness, and the need to re-educate and foster recommitments by the local VAMC's to the mission.

The net effect of all of this is demonstrated in the attrition in the program and the extraordinary time and energy it has taken to complete these projects. As of the end of 2017, of the 48 projects approved, 17 never got out of the ground (35%). The first projects to be completed under the program only came on line in 2015 (of which one of our developments in Hines, Illinois is included). To date, 24 have been completed (50%), with another three (3) under construction, and four (4), including Ft. Harrison, still in the process of being closed, or assembling the final pieces of financing.

Of the completed projects or those under construction, Communities for Veterans (CfV) has accounted for 7 of those and has generated 381 units of housing for formerly homeless Veterans (see attached chart). As such, it is not a function of not knowing how to do these developments that inhibits CfV from completing its remaining projects. Like its peers, who have also struggled mightily to complete even one project in their local communities, the hurdles are substantial. No other developer outside of CfV has done more than one of these projects.

Recognizing the huge public benefit that these projects meet (housing the homeless Veterans who served us proudly and willingly at one point in their lives), and coming to grips with the enormous difficulties these projects must overcome to get built, the Housing Finance Agencies in Washington, Illinois, Ohio and Georgia were all willing to grant new credits to projects that could not be completed within the initially allotted time frames for the tax credits. Further, in several cases, including Montana, the VA has been willing to extend the lease period. In each case where the credits were renewed, the developments have been successfully completed.

We are at a similar point with Ft. Harrison. Given the host of "moving parts" on this project, the actual project itself has morphed with the passage of time, and that fact, along with the host of entities involved, has led us to where we are. For the reasons noted below, while finally shovel ready, we cannot guarantee and more importantly, our syndicator is not willing to take the risk that we can complete the project by December 31, 2018 in order to preserve the tax credits.

Also, based on the opinion of legal tax counsel (see the attached explanation), the present award of tax credits, through no one's fault, but as a function of the complex juggling act required to make one of these projects successful, is not valid. Unfortunately, there is no way to "fix" this through a revision of the Carryover.

We have provided updates all along of the issues involved with the development, but to provide a quick summary, initially, this project entailed the renovation of 11 historic structures and one new construction building. The VA came to us and requested that we remove three of the historic structures from our plan as the local VA had other plans for those buildings. We did so at the point of applying for the tax credits.

Subsequently, the VA notified us that the plans for those three buildings had not worked out. Since the buildings were historic, and the VA was engaged in the process of designating the entire campus as a



historic district, the buildings needed to be renovated and preserved. Would we take them back and do so? We agreed, and modified our plans and scope accordingly, while requesting and receiving your approval.

However, the process of securing the campus wide historic designation took a very long time. Further, we had to do the necessary work-up on these three buildings for submittal for those buildings for historic certification. This had to be done along with all of the other due diligence on those three buildings, further delaying the process. Even as this is being written, the Part 2 certification is still pending at the National Park Service for approval. This approval documents the provision of historic credits, a critical element of the financing. While imminent, we cannot close on the financing without this approval.

Perhaps more problematic, an unforeseen result of changing out buildings was what tax counsel is concluding to be a problem with the Carryover. The project was contemplated to be eight (8) rehab buildings and four (4) new construction buildings and we now have 11 rehab structures and one (1) new construction building. Further, this was all listed initially under one address and only subsequently, assigned separate addresses. While the conclusion is technical, the tax credit investor and its counsel have concluded that the present Carryover is not valid and cannot be corrected (note again the attached legal conclusion).

As the attached article demonstrates, we have begun to slide backwards in this noble effort to end homelessness among Veterans. Given that retrenchment, it would be an even further tragedy to lose this project after so much has been accomplished. Further, as noted in the article, it is not just housing that is needed, but services. Located on the VA campus, with Case Managers provided through the HUD-VASH vouchers (which would also be lost), this project is the exact type of project needed by homeless Veterans. And finally, the provision of these 42 units would give Montana the ability to meet a goal of ending Veteran homelessness in the State.

Therefore, we are requesting the Board grant a special, one time waiver of the QAP prohibition against forward allocating credits, and ask that the Board “refresh” the 2016 credits with 2019 credits. We know this is not this agency’s policy, but based on our understanding as noted below, the Board has the authority to do this.

The MBOH Board, in its discretion, may waive any requirement of this QAP if it determines such waiver to be in the best interests of MBOH, the HC program or the Award cycle.

This will afford to the project the time needed to complete the renovations and provide 42 additional units of housing for this worthy, underserved population. As mentioned, this project is ready to close once the Part 2 historic certification is received. This type of project is unique and is certainly unique in Montana. It is not typical of any other tax credit project that has, or probably will be done. We are strongly aware of the nature of this request, and were it not “for the Veterans” we would not be taking this step. But, because it is for them, we are emboldened to make this request. Please grant it.

**Freedom's Path Timeline**

<b>Document</b>	<b>Due Date</b>
Reservation Agreement	06/13/16
Carryover Paperwork	12/01/18
Carryover Paperwork	05/31/17
10% paperwork	05/31/17
10% paperwork follow-up	
Updated Legal Description	07/28/17
Restrictive Covenants	
Quarterly report	04/10/16
Quarterly report	07/10/16
Quarterly report	10/10/16
Quarterly report	01/10/17
Quarterly report	04/10/17
Quarterly report	07/10/17
updated implementation schedule	07/15/17
Quarterly report	10/10/17
Quarterly Report	01/10/18
	01/31/18
Partnership Agreement	at closing

**Original Implementaion Schedule:**

Construction Start	07/01/16
Construction Complete	9/1/2017

**Status**

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yes

all projects received extension

board granted an additional 90 day extension

yes (corrections needed but was responsive)

emailed 8/2/17, no response; follow up email 8/10/17 rec'd response

yes

received upon recording

late 4/19/16

on time

on time

on time

on time- anticipated closing & site acquisition scheduled for mid-May

on time

on time

on time

on time but not complete; never turned in complete one

request for forward allocation

have not yet closed with investor/syndicator

construction not started

One of the requirements for a valid carryover is that it include “the address of each building in the project, or if none exists, a specific description of the location of each building” (Treasury Regulation 1.42-6(d)(1)). Although in this particular project there is one overall address, this is quite unusual and the point of the requirement in Treasury Regulation 1.42-6(d)(1) is to ensure that the carryover is issued to a specified building. A carryover is issued to a specific building or buildings and the credits cannot be transferred to a different building or buildings not covered by the carryover.

Due to the drafting of the carryover, the issue is not immediately obvious if one only reviews the carryover (though the change of building type is obvious if one reviews the reservation). However, the underlying fact is that at the time that the carryover was issued, 8 rehabbed buildings and 4 new buildings were contemplated. The request to change the configuration to 11 rehabbed buildings and 1 new building was made after the carryover was issued. Accordingly, the carryover was issued to the specific buildings in the prior configuration (8 rehabbed buildings and 4 new buildings). Accordingly, only the 8 rehabbed buildings and 1 new building is covered by the carryover, the three subsequently approved rehab buildings are not covered by the 2016 carryover and would not be eligible to receive credits under the 2016 carryover.

Although an agency may issue a technical correction in certain instances pursuant to Treasury Regulation 1.42-13, such procedure is only permissible for administrative errors or omissions and cannot be used to make a substantive change (such as changing buildings). The only way to cover the three added rehabbed buildings is to have a new 2018 (or 2019) carryover issued.

## BURR EUL Projects since 2011

Completed Projects	All Units	CfV Units
Bedford, MA	69	
Hines, IL	72	72
Kerrville, TX	49	49
Lyons, NJ	61	
Menlo Park, CA	60	
Minneapolis, MN	58	
Newington, CT	74	
Roseburg, OR	54	
Tuscaloosa, AL	50	
Vancouver, WA	50	50
Walla Walla, WA	40	
Canandaigua, NY	33	
Northampton, MA	60	
Viera, FL	86	
Dayton, OH	55	
Brockton, MA	14	
St. Cloud, MN	37	
Chillicothe, OH	60	60
Danville, IL	65	
Grand Island, NE	26	
Minneapolis, MN	100	
Lincoln, NE	70	
Augusta, GA	70	70
Augusta, GA	28	28
<b>TOTAL</b>	<b>1,341</b>	<b>329</b>
<b>Under Construction</b>		
Togus, ME	21	
Hines, IL	52	52
Perry Point, MY	75	
<b>TOTAL</b>	<b>148</b>	<b>52</b>
<b>TOTAL EUL Units thru 1/31/2018</b>	<b>1,489</b>	<b>381</b>
Percentage of all VA EUL Units Developed by CfV		<b>26%</b>
<b>In Development</b>		
Ft. Harrison, MT	42	42
Northport, NY	110	110
Dublin, GA (approved by VA in July, 2017)	60	60
Lyons, NJ	50	

**Projects with Development Suspended**

Ft. Howard, MY  
Cheyenne, WY  
Viera, FL  
Leestown, KY  
Milwaukee, WI  
Battle Creek, MI  
Bath, NY  
Dayton, OH  
Salem, VA  
Topeka, KS  
Alexandria, LA  
Knoxville, IA  
Butler, IL  
Castle Point, NY  
Martinsburg, WV  
Montrose, NY  
White City, OR

# The Obstacles Facing VA In Its Fight To End Veteran Homelessness

By **JAMES CLARK**  
on January 22, 2018

T&P ON FACEBOOK

At a time when the Department of Veterans Affairs has its hands full combating [the opiate epidemic among veterans](#); walking a tightrope on [medical cannabis research](#); chipping away at its claims backlog; and [ending veterans suicide](#), it's struggling to find time and resources to end veteran homelessness.

For the first time in seven years, the number of homeless veterans has increased in the United States. There were 585 more homeless veterans in 2017 than the year prior — the first time that number has risen since 2010, when then-President Barack Obama set the goal of ending veteran homelessness by 2015 — [a deadline that obviously was not met](#).

The VA and the Department of Housing and Urban Development — the two federal agencies taking lead on that front — have made considerable gains in the last seven years, with vet homelessness dropping overall by 46%. But watchdogs worry that efforts to shelter more than 40,000 veterans still living on U.S. streets are stalling.

“It seems to us there is no longer an emphasis and determination to get every veteran off the streets,” Stephen Peck, the president of [U.S. VETS](#), a nonprofit that provides housing and employment assistance to homeless veterans, said at a Jan. 18 congressional hearing on veteran homelessness. “This is no time to be taking our eye off the ball.”

Here's what you need to know about the challenges facing the Department of Veterans Affairs as it seeks to end this longstanding problem.



## It's not just about housing

Since 2010, [when the VA rolled out its plan to end veteran homelessness](#), more than 480,000 veterans and their families have been permanently housed, quickly moved into new homes, or otherwise prevented from becoming homeless through various federal programs, [according to](#) a statement by HUD last month.

Housing programs provide sunny metrics for administrators, but they don't get at a lot of root causes for homelessness.

"I think it's important we look at the entire continuum," Peck said at the hearing. "There has been a tendency to look for a single fix — [Housing First](#) was the answer there for a while — but I think it's critical that we provide those more intensive services."

## Here's what else is required

Housing takes care of homeless veterans' most immediate need, but it doesn't get at the root causes of homelessness. That requires a broader approach "so that veterans coming in from off the street get the services they require, whether it be mental health, substance abuse, education, or whatever it may be," Peck said.

On the ground, this could mean pairing homeless veterans with social workers; getting those who need it into substance abuse programs; assisting veterans in finding gainful employment; and childcare service for veterans with children.

## Women veterans face nearly twice the risk of homelessness as male peers

Women veterans face a greater risk of becoming homeless — 2.4% — compared to male vets, who face a 1.4% risk. Contributing factors include post-traumatic stress disorder; loss of employment; dissolution of marriage; and a lack of gender-specific

support, [according to](#) a Jan. 18 Veterans of Foreign Wars' statement. Additionally, one-fifth of homeless female veterans have dependent children, which places added emphasis on the need for support services like child-care.

## **Minority veterans, urban dwellers, and those suffering from substance abuse are at the highest risk**

The majority of homeless veterans are single; live in urban areas; suffer from mental health, substance, and/or alcohol abuse disorder; and account for roughly 11% of the adult homeless population, according to the [National Coalition for Homeless Veterans](#). Roughly 45% of all homeless veterans are African American or Hispanic, [even though those groups only make up about 30% of the active military ranks](#). Homeless vets are younger on average — compared to the entire vet population — and nearly half of all homeless veterans served during the Vietnam War, and a third of all homeless veterans served in a war zone. A further 1.4 million veterans are considered “at risk” of homelessness, due to a lack of support, poverty, overcrowded and substandard housing.

## **Housing and support programs require significant funding**

In December, [Politico reported](#) that the VA planned to pull \$460 million specifically set aside for the HUD-Veterans Affairs Supportive Housing (or [HUD-VASH](#)) program, which provides vets with housing vouchers. The plan was to redirect those funds to local VA hospitals, where individual directors could determine how the money was used. That proposal prompted an outcry from veteran advocates and lawmakers who feared funds would go to other uses, and the VA backtracked on the decision.

## **Advocates continue to worry about VA cuts to homeless programs**

“While VA has backed away from this decision for the time being, this could’ve dramatically reduced case management for vulnerable veterans,” Kathryn Monet, chief executive officer of the [National Coalition for Homeless Veterans](#) said at [Thursday’s hearing](#). “To remove it would be catastrophic to the housing stability of veterans using these vouchers.”

At a Senate Committee on Veterans Affairs hearing Jan. 17, VA Secretary David Shulkin stated that any changes to changes to veteran homelessness programs would bring more resources to bear on the problem, not fewer. “We need to do this better,” Shulkin said. “We have to rethink our effort. We need to double down on things that work and come up with a fresh approach here. I’m not satisfied with the progress we’re making.”

## **It’s not entirely clear where veteran homelessness stands as a VA priority**

The obstacles facing veteran homelessness don’t boil down to funding alone, but resources play a major role. They also serve as an indicator of the Department of Veterans Affairs’ priorities.

“Our feeling is that they’ve either given up thinking this is going to work, or they have other priorities,” Peck told Task & Purpose. “Secretary Shulkin [has five priorities](#), but homelessness is not one of them.” Indeed, Shulkin told lawmakers last May that his priorities are greater health care choices for vets, modernizing VA, increasing efficiency, improving timeliness, and ending veteran suicide — all laudable, but not directly addressing homelessness.

“One of the things we’ve heard is that he wants more money to use for those five priorities,” Peck said.

When asked for a comment, VA Press Secretary Curt Cashour said in an email: “We have a dedicated team of more than 5,000 staff across the country focusing on Veteran

homelessness as their primary responsibility every day. But there are limits to what VA can do affect the supply of affordable housing, which is more dependent on state and local policies and community involvement.”

## **VA’s spokesman says the main culprit is expensive big cities**

The high rate of homelessness in urban centers like Los Angeles— [which saw a 26% increase in overall homelessness since 2016](#) — is closely tied to rising housing costs, and a workaround requires coordination between city, county, and state organizations and the federal government, but there’s only so much the VA can do alone, Cashour said. “An inadequate supply of affordable housing and major increases in rental costs, particularly in Seattle and Los Angeles, are the top challenges, considering that those two cities are where we’ve seen the largest uptick in Veteran homelessness recently.”

**MEMORANDUM TO BOARD  
REGARDING FREEDOM'S PATH REQUEST  
FOR HOUSING CREDIT "SWAP"**

**Greg Gould and Nick Mazanec, Board Counsel**

**February 6, 2018**

This memorandum is provided to assist the Board in its consideration of the Tax Credit Allocation Swap Request (the "Request") submitted to the Board by Craig Taylor, on behalf of the Freedom's Path at Fort Harrison project (the "Project").

**BACKGROUND**

The Board awarded \$6,704,660 in housing credits to the Freedom's Path Project in the 2016 Housing Credit competitive round. MBOH and the Owner entered into a Reservation Agreement in May 2016, reserving the credits from MBOH's 2016 credit authority for allocation to 12 buildings listed in the Reservation Agreement. The listed buildings include 4 buildings to be newly constructed and 8 existing buildings to be rehabilitated. The same street address is listed for all 12 buildings.

Unless a carryover commitment was issued before the end of 2016, the Project would have had to be placed in service by December 31, 2016 or the Project would have lost the credits. The applicable QAP required that, to obtain a carryover commitment, projects awarded 2016 credits obtain and submit proof of ownership and an executed and recorded declaration of restrictive covenants by December 1, 2016. Because a significant number of projects awarded 2016 credits were unable to meet these submission requirements by December 1, 2016, due to circumstances beyond their control, the Board granted an extension for these submissions and allowed immediate issuance of carryover commitments for projects awarded 2016 credits.

In May 2017, the Board approved an additional 90-day extension for Freedom's Path to make these submissions. On August 31, 2017, the Project's VA Lease and restrictive covenants were completed and submitted to MBOH within the extension period.

MBOH issued the carryover commitment to the Project on December 6, 2016. The carryover commitment requires that the buildings be placed in service on or before December 31, 2018. The carryover commitment again lists the same 12 buildings (identified by building number) as listed in the reservation agreement. However, according to the Request, at some unspecified time after the application, the VA asked the developer to revert to an earlier plan to rehab 11 existing buildings and build only one new building. The developer did not request that MBOH change the building configuration until after the carryover was issued. While the Request describes the changes in building configurations, it does not include the specific dates of these changes relative to the issuance of the carryover.

A carryover is issued to one or more specific buildings, and credits cannot be transferred to a different building or buildings. Therefore, the tax credit investor's tax counsel has advised that the carryover is invalid as to the buildings not listed in the December 6, 2016 carryover and the 3 additional rehab buildings would not be eligible to receive credits under the carryover. *See* explanation of tax counsel attached to the Request. This invalidity and the inability to obtain a clean tax counsel opinion on this issue would prevent the Project from obtaining the tax credit investment or financing. MBOH staff offered to cooperate in amending the carryover, but tax counsel has advised that this problem cannot be corrected by amending the carryover.

In addition to the issue regarding the carryover validity, the Request indicates that the Project cannot be completed and placed in service by the December 31, 2018 deadline applicable to the 2016 housing credits. The Request describes various obstacles and delays, including difficulties obtaining capital and issues specific to the VA involvement in the Project and other similar projects around the country. The Request indicates that the developer, Communities for Veterans (CfV), accounts for 7 such projects completed or under construction nationwide. CfV asserts that such projects have required various extensions and/or grants of new credits, but that where such have been granted, the developments were successfully completed.

Freedom's Path requests that the Board allow a one-time waiver of the QAP prohibition against forward-allocating credits and "refresh" the 2016 credits with 2019 credits. The Request states that this would allow time to complete the Project and provide its 42 units of housing for veterans. For the Board's information, Board staff has also prepared and provided the attached timeline showing the Project's compliance with the required steps in the allocation process to date.

### **FORWARD ALLOCATION OF 2019 CREDITS**

MBOH historically has maintained a policy prohibiting forward allocation of credits. This prohibition is included in the 2018 QAP:

MBOH does not commit tax credits from future years, except as specifically provided in this QAP. The MBOH Board may Award Housing Credits from a future year's Available Annual Credit Allocation at any time outside the competitive cycle for purposes of funding repair or replacement of a Project building due to a life/safety emergency as determined by the MBOH Board in its discretion. The Applicant must submit a Letter of Intent and the Board must invite the Applicant to submit an Application before making an Award. The Application must meet all QAP requirements.

2018 QAP, p. 27.

As noted in the Request, the QAP does provide that the MBOH Board, in its discretion, may waive any requirement of the QAP if it determines such waiver to be in the best interests of MBOH, the Housing Credit program or the application cycle. 2018 QAP, p. 23.

The QAP provision regarding forward allocation includes an exception for repair or replacement of a Project building due to a life/safety emergency. To obtain such a forward

allocation, the QAP requires that the Applicant submit a Letter of Intent and that the Board invite the Applicant to submit an Application before making an Award. The QAP also authorizes forward allocation in the “Corrective Award” set aside provision. *See* 2018 QAP, pp. 27-28. This set-aside provision addresses court-ordered awards of credits, and was designed to allow awarded projects to move forward despite an unsuccessful applicant’s legal challenge. To receive the set aside award, the QAP requires that the Applicant submit an updated Application and pay the reservation fee required under the QAP. To our knowledge, credits have never been awarded through either of these forward-allocation processes.

For these particular situations, the most recent 2018 QAP and the proposed 2019 QAP specifically establish the allocation plans’ prioritization for awards in the specified circumstances. Further, the QAP provisions establish the processes and requirements to be followed for consideration and award of credits in these situations. Neither the 2018 QAP nor the 2019 QAP as currently proposed recognize such a priority or process for forward allocation in the circumstances reflected in the Request now before the Board.

While the Board does have waiver authority as authorized in the QAP, a waiver of the general prohibition on forward commitment of credits raises a number of issues and concerns in this context. Presumably, the Request by Freedom’s Path does not contemplate that the Project would submit a new letter of intent or application, or that it would compete against other applications for the award of credits. The Request clearly contemplates that the Board would bypass all these processes and requirements and simply award new 2019 credits to replace the returned 2016 credits. Essentially, the Request contemplates an award of credits outside, rather than as provided in, the 2019 QAP.

Because such a forward allocation of credits would be a new award of different credits, federal law would require that the allocation be made pursuant to an established QAP. Such federal requirements cannot be waived under the QAP’s waiver provision. Unless the Board adds new forward-allocation language to the 2019 QAP<sup>1</sup>, prioritization of an award for forward allocation under the present circumstances may fail to comply with such requirements. Thus, proceeding with a forward-allocation process under the current circumstances presents risks that the award would be flawed and vulnerable to legal challenge. Forward allocation of 2019 credits would reduce the pool of credits available for the 2019 competitive round, and unsuccessful applicants might have incentive to challenge a forward allocation.

For the foregoing reasons, we do not recommend that the Board authorize a forward allocation of 2019 credits. If the Board is inclined to approve some remedial action to address the Freedom’s Path situation, it may consider an alternative approach that is less problematic.

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<sup>1</sup> Such language has not been proposed or drafted to date. The Board’s agenda for its February 13 meeting includes adoption of the 2019 QAP. To meet timing requirements for final adoption of the 2019 QAP before submission of 2019 letters of intent, any new forward allocation language would have to be drafted, considered and adopted as part of the 2019 QAP at the February 13 meeting. While the Board potentially could develop, consider and adopt such language for the 2019 QAP, there would be little time to fully consider the details or the policy ramifications of such a provision.



## **ALTERNATIVE “RE-RESERVATION” OF CREDITS APPROACH**

If the Project’s 2016 credits are returned to MBOH during 2018, the credits automatically become 2018 credits.<sup>2</sup> Upon return to MBOH, the credits could immediately be “re-reserved” to the Project. The substance of this transaction would be to convert the same 2016 credits into 2018 credits, allowing the Project the opportunity to obtain a valid carryover and a later, achievable completion deadline.

Like the forward allocation approach, this approach is not addressed or established by the QAP. However, this approach arguably would not involve a *new award of different credits* (as the forward allocation approach discussed above would do). Rather, the re-reservation would be a continuation of the award made in the 2016 competitive round in accordance with the applicable QAP. Thus, submission of and evaluation of a new letter of intent or application would not be required. The process would be considerably less complicated and more consistent with the relief contemplated in the Request.

As noted above, if the Project were to return its 2016 credits, the returned 2016 credits would become 2018 credits. Under the forward-allocation approach, the returned credits would become available for award. As such, the credits would be subject to the Board’s determination at the 2018 credit award meeting, i.e., that additional 2018 or earlier year credits that become “available for award” will be awarded to other 2018 Applicants in the specified order of priority. This determination clearly contemplated credits returned because the returning project was unable to move forward; this determination likely did not contemplate the current situation or Request.

Under this “re-reservation” approach, Freedom’s Path would not be stepping ahead of the prioritized 2018 projects to receive additional credits that became available, but merely converting its previously-awarded credits into more recent credits. This process does not take away from other projects any credits that would otherwise be available.

For clarity, if the Board elects to approve this re-reservation process, its resolution should specify that the return of the Freedom’s Path credits does not make the credits “available for award” under the 2018 priority list, because the credits remain dedicated to the previously-awarded Project and are being returned solely for purposes of conversion to 2018 credits to allow the Project’s completion.

The Board may be concerned that both forward allocation and re-reservation may encourage additional similar requests or even create a disincentive to complete projects diligently and timely. This is a valid consideration, although this concern may be counteracted by incentives inherent in the development of these projects, such as accrual of additional costs due to delay, demands of investors, etc. In addition, the Board could consider adoption in a future QAP of other measures specifically aimed at discouraging project delays.

## **APPROVAL CONDITIONS**

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<sup>2</sup> Except that, if returned during a short window of time at the end of 2018, the credits would become 2019 credits.

As Board members will recall, HUD has awarded this Project project-based VASH vouchers. These vouchers are critical to the financial feasibility of the Project. If the Board adopts either the forward allocation or the re-reservation approach, the Board should consider requiring that any re-reservation of credits condition allocation of the credits on retaining the project-based VASH vouchers.

In addition, if the Board adopts either the forward allocation or the re-reservation approach, its resolution should also address the requirement to pay applicable fees, such as the reservation fee, carryover fee and other fees for steps in the process that will be repeated as a result of the forward allocation or re-reservation.

### **CONCLUSION**

We have attempted to outline the affirmative options available to the Board. We note that the Board is not required to approve either forward allocation or the alternative “re-reservation” approach. It is within the Board’s discretion whether to grant some type of relief in this situation. The Board may properly determine not to take any action and to allow the process to determine the outcome through the normal operation of the established requirements and deadlines. The Project could reapply in the 2019 award round, although it would have to compete for credits and any award might not come in time to save the project.

### **OPTIONS**

The Board may consider at least the following alternatives:

1. Decline to grant the requested forward allocation of 2019 credits or the “re-reservation” option discussed above.
2. Waive the QAP’s prohibition on forward allocation of credits, allow Freedom’s Path to return its 2016 credits and receive a forward allocation of 2019 credits through a process to be developed by Board staff as necessary to ensure legal compliance (or a process established by the Board), subject to appropriate conditions. *See* Alternative Motion 1, attached.
3. Allow Freedom’s Path to convert its 2016 credits to 2018 credits by returning the 2016 credits to MBOH and receiving an immediate re-reservation of the credits as 2018 credits, subject to appropriate conditions. *See* Alternative Motion 2, attached.

We leave to the Board’s discretion whether to grant some form of relief to the Project. However, if the Board determines to grant relief, we recommend that it adopt the “re-reservation” approach (Option 3 – Alternative Motion 2) *rather than* the Forward Allocation approach (Option 2 – Alternative Motion 1).

We will be available at the Board meeting to answer any further questions you may have.

## **ALTERNATIVE MOTION NO. 1**

Moved that the Board hereby finds, determines and resolves:

1. That the Freedom's Path Project (the "Project") was awarded housing credits in the 2016 competitive award cycle, such credits were reserved for allocation to the Project buildings and the Project received a carryover commitment requiring that the Project be completed and placed in service by December 31, 2018;
2. That due to factors beyond the Owner's control, the Project cannot be completed and placed in service by December 31, 2018;
3. That the Project is to be located on VA leased land, after the credit award the VA requested a reconfiguration of the Project buildings, the carryover does not allow for tax credits for all of the buildings as the Project was reconfigured and the carryover cannot be revised to allow credits for all such buildings;
4. That extensive resources and efforts have been expended in the development of the Project to date, there is great need among the target population for the housing units to be provided by the Project and it is in the best interests of MBOH, the Housing Credit Program and low-income persons in the State of Montana that the Project be completed;
5. That Section 4 of the 2018 QAP provides that the Board, in its discretion, may waive any requirement of the QAP if it determines such waiver to be in the best interests of MBOH, the HC program or the application cycle (2018 QAP, Section 4, pp. 23);
6. That a waiver of the provision in the 2018 QAP and the succeeding 2019 QAP providing that MBOH does not commit tax credits from future years is in the best interests of MBOH, the Housing Credit Program and the 2016, 2018 and 2019 application cycles;
7. That the QAP provision that MBOH does not commit tax credits from future years (and any other provision of any QAP inconsistent with this resolution) is hereby waived solely to the extent and for the specific purpose provided in this resolution;
8. That upon the Project's return of the awarded 2016 credits to MBOH, the Project be awarded 2019 Housing Credits in advance of and outside the award cycle provided in the 2019 QAP, subject to and conditional upon: (a) retaining the project-based VASH vouchers previously awarded by HUD; and (b) the Project's compliance with such further submission and other requirements as MBOH staff shall determine reasonably necessary for legal compliance; and
9. That the award of 2019 credits shall further be conditioned upon the Project making payment of the application fee that would otherwise be required under the 2019 QAP

and any additional applicable fees (e.g., Reservation Fee, Carryover Commitment Fee, 8609 issuance Fee, etc.).

DATED this 13<sup>th</sup> Day of February 2018.

## **ALTERNATIVE MOTION NO. 2**

Moved that the Board hereby finds, determines and resolves:

1. That the Freedom's Path Project (the "Project") was awarded housing credits in the 2016 competitive award cycle, such credits were reserved for allocation to the Project buildings and the Project received a carryover commitment requiring that the Project be completed and placed in service by December 31, 2018;
2. That due to factors beyond the Owner's control, the Project cannot be completed and placed in service by December 31, 2018;
3. That the Project is to be located on VA leased land, after the credit award the VA requested a reconfiguration of the Project buildings, the carryover does not allow for tax credits for all of the buildings as the Project was reconfigured and the carryover cannot be revised to allow credits for all such buildings;
4. That extensive resources and efforts have been expended in the development of the Project to date, there is great need among the target population for the housing units to be provided by the Project and it is in the best interests of MBOH, the Housing Credit Program and low-income persons in the State of Montana that the Project be completed;
5. That upon the Project's return of the awarded 2016 credits to MBOH, the credits be immediately re-reserved to the Project as 2018 credits, by execution of a Reservation Agreement, subject to and conditional upon: (a) retaining the project-based VASH vouchers previously awarded by HUD; and (b) the Project's compliance with such further submission and other requirements as MBOH staff shall determine reasonably necessary for legal compliance;
6. That the reservation of such credits to the Project shall be conditioned upon the Project making payment of the applicable Reservation Fee;
7. That any and all subsequent processes in the allocation process (e.g., Carryover Commitment, 8609 issuance, etc.) shall be subject to the Project's payment of any applicable fees;
8. That the Project's return of the 2016 credits as provided in item 5, above, shall not cause such credits to become "available for award" within the meaning of the Board's January 8, 2018 resolution providing for award of additional available credits in a specified order of priority to certain 2018 award cycle applicants;
9. That Section 4 of the 2018 QAP provides that the Board, in its discretion, may waive any requirement of the QAP if it determines such waiver to be in the best interests of MBOH, the HC program or the application cycle (2018 QAP, Section 4, pp. 23); and

10. That any provision of any QAP inconsistent with this resolution is hereby waived solely to the extent and for the specific purpose provided in this resolution.

DATED this 13<sup>th</sup> Day of February 2018.

# BOARD AGENDA ITEM

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## PROGRAM

Multifamily Program

## AGENDA ITEM

2019 Qualified Allocation Plan

## BACKGROUND

Every state Housing Credit allocating agency is required by Section 42 to have a Qualified Allocation Plan (QAP). The Housing Credits are awarded once a year. The QAP is the rulebook for the Housing Credit Program for the year. This is the proposed Montana QAP for 2019.

## PROPOSAL

The 2019 QAP draft has been created by staff working with developers and other interested parties in the open annual roundtable. Changes were made to update the QAP in an effort to clarify and change processes. A Public Hearing was held on January 23rd. Commenters have submitted written comment.

Staff is presenting the 2019 QAP for board members to consider and proposes approval of the document. Written Public Comments received will be presented as well as an active discussion of the proposed processes.



# MONTANA BOARD OF HOUSING

## HOUSING CREDIT PROGRAM

### 201~~9~~<sup>8</sup> QUALIFIED ALLOCATION PLAN (QAP)

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## INTRODUCTION

The Low Income Housing Tax Credit is established under Section 42 of the Internal Revenue Code of 1986 ("Section 42"). The credit is a federal income tax credit for Owners of qualifying rental housing which meets certain low income occupancy and rent limitation requirements.

Congress established the Low Income Housing Tax Credit program by enactment of the Tax Reform Act of 1986. Montana Board of Housing (MBOH) implemented and began administering the Low Income Housing Tax Credit program in 1987 in the State of Montana. Since then, the program has assisted in providing for the retention, rehabilitation, and construction of rental housing for low income individuals and families for over 6,000 units throughout Montana.

The Omnibus Budget Reconciliation Act of 1989 required the appropriate administering agencies (in this case, MBOH) to allocate credits pursuant to a Qualified Allocation Plan (QAP), which sets forth the priorities, considerations, criteria and process for making Allocations to Projects in Montana. The Omnibus Budget Reconciliation Act of 1993 provided a permanent extension for the Low Income Housing Tax Credit.

MBOH is the state agency that allocates the tax credits for housing located in Montana. The per state resident amount of tax credit allocated annually for housing is limited to the amount specified by the IRS and adjusted from time to time as provided in notice from the IRS. The current allocation of Tax Credits plus any inflation factor the IRS may calculate is posted to the MBOH website, normally in August or September each year. Montana receives the minimum cap because of its population.

An Owner must obtain a Final Allocation from MBOH and meet all other applicable requirements before claiming the tax credit.

This QAP is intended to ensure the selection of those developments which best meet the most pressing housing needs of low income people within the State of Montana in accordance with the guidelines and requirements established by the federal government and the requirements, considerations, factors, limitations, criteria and priorities established by the MBOH Board.

At its ~~February 13, 2017~~ January 8, 2018 meeting, the MBOH Board considered and approved public notice and distribution of the proposed 201~~98~~ QAP. Public notice of the proposed 201~~98~~ QAP and the opportunity for public comment was published and distributed on ~~February 14, 2017~~ January 8, 2018 with a public hearing on ~~February 28, 2017~~ January 23, 2018. At its ~~March 14, 2017~~ February 13, 2018 meeting, after considering written and oral public comment on the proposed 201~~98~~ QAP, the MBOH Board approved the proposed 201~~89~~ QAP for submission to and approval by the Montana Governor. The Governor of Montana, Steve Bullock, approved the plan as the final 201~~98~~ QAP on ~~March 21, 2017~~ February 13, 2018.

Commented [A1]: To be completed upon Governor's approval.

MBOH annually makes available for reservation and Allocation its authorized volume cap of credit authority subject to the provisions of this QAP. Montana's QAP for the current and prior years, along with current Forms, are available at <http://housing.mt.gov/MFOAP-MBOH> <http://housing.mt.gov/MFOAP>. MBOH evaluates tax credit Applications, selects the Projects for which tax credits will be reserved, and allocates credits to the selected developments meeting applicable requirements. Federal legislation requires that the administering agency allocate only the amount of credit it determines necessary to the financial feasibility of the development.

Tax credits not Awarded during a given round or any unused credits from earlier rounds may, at the discretion of MBOH, be carried forward for the next round of allocation or, as MBOH determines necessary for financial feasibility, be used to increase the amount of tax credits Awarded for a Project selected for an Award of tax credits in a prior round.

Consistent with the foregoing and notwithstanding any other provision of this QAP, all tax credit Awards, Reservation (Initial Allocations), Carryover Commitments, 10% Cost Certifications and Final Allocations are subject to and conditional upon IRS authorization and allocation of tax credits for the State of Montana.

## SECTION 1 – DEFINITIONS

As used in this QAP, the following definitions apply unless the context clearly requires a different meaning:

“4% Credits” means HCs that may be Awarded in accordance with the applicable QAP to Projects with tax-exempt financing under the volume limitation on private activity bonds and, except as otherwise provided by this QAP for Applications combining 4% and 9% Credits, outside the competitive allocation process applicable to 9% Credits.

“9% Credits” means HCs that may be Awarded through the competitive process in accordance with the applicable QAP.

“10% Cost Certification” ~~means an independent third-party CPA audit report, including a statement of eligible and qualified basis for the Project, submitted to MBOH on the Form specified by and in accordance with the requirements of this QAP means the certification that must be provided to MBOH using the MBOH 10% Cost Certification Forms.~~

Commented [A2]: See new definition of “Fee Schedule” and definition of Form, below.

“Absorption Rate” means the number of months projected in the Application’s market study for a Project to become fully leased, using the calculations listed in the full market study guidelines posted on the MBOH website.

“Acquisition” means obtaining title, lease or other Land and Property Control over a property for purposes of an HC Project. Acquisition includes purchase, lease, donation or other means of obtaining Land and Property Control.

“Acquisition/Rehab” means Acquisition of a property with one or more existing buildings and renovation meeting Montana’s minimum Rehabilitation standard set forth in Section 3, Substantial Rehabilitation, for existing buildings on the property that are part of an HC Project.

~~“Adjusted Construction Costs” means Construction Costs excluding General Requirements.~~

“Allocation” means an Initial Allocation or a Final Allocation.

“Applicable QAP” means: (a) for purposes of any substantive issues relating to an Award, the Development Evaluation Criteria, Scoring, Selection Criteria and Selection Standard for such Award, and the fee amounts charged for Letter of Intent, Application, 10% Cost Certification and Final Allocation, the particular year’s QAP under which the Application is or was submitted, evaluated and Awarded HCs; or (b) for purposes of Project changes, Reservation (Initial Allocation), Carryover Commitment, 10% Cost Certification (other than the fee amount), Final Allocation (other than the fee amount), compliance requirements, compliance audits, and any post-Award procedures, the QAP most recently adopted.

“Applicant” means the entity identified as such in the Application, and who is and will remain responsible to MBOH for the Application. When used in reference to a Letter of

Intent, the term means the person or entity on whose behalf the Letter of Intent is submitted and who is and will remain responsible to MBOH for the Letter of Intent.

“Application” means a request for an Award of HCs submitted in the ~~form~~ Form specified by and according to the requirements of this QAP.

“Architect” means a professional licensed by the applicable state authority as a building architect.

“Available Annual Credit Allocation” is defined as and includes the state’s actual or estimated credit ceiling for the current year plus any other available credits from prior year credit authority determined as of 20 business days prior to the applicable Application deadline, and includes any credits held back pursuant to court order or subject to Award under the Corrective Award set aside.

“Award” means selection of a Project by the MBOH Board to receive a Reservation of HCs.

“Award Determination Meeting” means the meeting of the MBOH Board at which the Board selects one or more Applicants to receive an Award.

“Carryover” means the process and determination of MBOH by which Awarded and reserved HCs are continued and carried into the second year after Award of the HCs by MBOH issuance of a Carryover Commitment, according to the specific requirements of this QAP.

“Carryover Commitment” means a Carryover of HCs based upon an MBOH Carryover determination, which commitment is conditional upon the Applicant performing all conditions and requirements for Final Allocation as set forth in the Applicable QAP, the Carryover Commitment document issued by MBOH and applicable law. “Cold Weather Development and Construction” means experience of the HC Developer or Consultant on one or more Projects located above the 40 degrees north parallel.

“Commercial Purposes” means use of any Project Amenities, common space or other Project property or facilities by others than tenants for which the Project owner or management receives any compensation for such use, whether in cash or in kind.

“Common Area” means any space in the building(s) on the Project property that is not in the units (except manager units), i.e. hallways, stairways, community rooms, laundry rooms, garages/carports, manager units, etc. Common Area is eligible to be paid for with Housing Credits.

“Compliance Period” means, with respect to any building, the initial period of 15 taxable years beginning with the 1st taxable year of the applicable credit period as provided in 26 U.S.C. § 42.

“Construction Costs” means all costs listed on the UniApp, Section C, Uses of Funds, under the Site Work and Construction and Rehab sections.

“Consultant” or “HC Consultant” means an individual or entity advising a Developer or Owner with respect to the HC Application and/or development process.

“Contractor’s Overhead” means the contractor’s overhead shown in the Applicant’s properly completed UniApp Supplement, Section C, Cost Limitations and Requirements.

“Contractor Profit” means the contractor’s profit shown in the Applicant’s properly completed UniApp Supplement, Section C, Cost Limitations and Requirements.



"Debt Coverage Ratio" or "DCR" means the ratio of a Project's net operating income (rental income less Operating Expenses and reserve payments) to foreclosable, currently amortizing debt service obligations.

"Design Professional" means a housing/building design professional.

"Developer" means the individual(s) and/or entity(ies) specifically listed and identified as the developer in the Uniform Application, Section A - Applicant Developer/Sponsor, responsible for development, construction and completion of an HC Project.

"Developer Fee" means those costs included by the Applicant in the UniApp, adjusted as necessary to comply with the maximum Developer's fee specified in Section 3, Additional Cost Limitations, Developer Fees, which are included as Developer's fees by the Cost Analysis.

"Development Evaluation Criteria" means the evaluation and scoring criteria set forth in QAP Section 9, Evaluation and Award.

"Development Team" means and includes the Applicant, Owner, Developer, General Partner, Qualified Management Company, and HC Consultant identified as such in the Application.

"Difficult Development Areas" or "DDA" means an area designated by HUD as a Difficult Development Area.

"Disqualify" or "Disqualification" means, with respect to an Application, that the Application is returned to the Applicant by MBOH without scoring and without consideration for an Award of HCs, as authorized or required by this QAP.

"Elderly Property" means a Project for which a Fair Housing Act exemption for housing for older persons will apply, i.e., for households that include at least one individual age 55 or older or in which all household members are age 62 or older, as more specifically defined in the Fair Housing Act definition of "housing for older persons" as codified at 42 U.S.C. § 3607(b)(2)(B), (C) and (C)(i). If permitted by the rules applicable to other federal funding sources involved in the Project, households may also include disabled individuals below the specified age thresholds.

"Expense Coverage Ratio" means, with respect to a Project with no hard debt included in the UniApp, the ratio of the Project's operating income to expenses.

"Experienced Developer" means a Developer who was entitled by written agreement to receive at least 50% of the Development Fees on a prior low-income housing tax credit Project that has achieved 100% qualified occupancy and for which the applicable state housing finance agency has conducted a compliance audit which revealed no significant problems.

"Experienced Partner" means a member of the Development Team who was a member of the Development Team on a prior low-income housing tax credit Project that has achieved 100% qualified occupancy and for which the applicable state housing finance agency has conducted a compliance audit which revealed no significant problems.

"Extended Use Period" means the Compliance Period plus an additional period of at least 15 years, or a longer period, as specified in the Application and the Restrictive Covenants.

"Fee Schedule" means the most current version of the Fee Schedule Form referenced in this QAP. The Fee Schedule is available on the MBOH website.

**Commented [A3]:** The Fee Schedule will be a Form as defined in the QAP, and this definition establishes "Fee Schedule" as a defined terms referencing the Fee Schedule Form.

"Final Allocation" means, with respect to HCs, MBOH issuance of an IRS Form 8609(s) (Low Income Housing Credit Allocation Certificate) for a Project after building construction or Rehabilitation has been completed according to the Project Application and any MBOH or MBOH Board-approved changes and the building has been Placed in Service.

"Final Cost Certification" means an independent ~~third-party~~third-party CPA audit report~~cost certification~~, including a statement of eligible and qualified basis for the Project, submitted to MBOH on the form specified by and in accordance with the requirements of this QAP, for purposes of obtaining IRS Form 8609(s).

"Form" means the most current version of any MBOH Form referenced in this QAP. All Forms are available on the MBOH website.

Commented [A4]: Added to distinguish MBOH Forms from other forms, such as IRS tax forms.

"General Partner" means the general partner of a partnership entity that is formed for purposes of a Project.

"General Requirements" means the contractor's miscellaneous administrative and procedural activities and expenses that do not fall into a major-function construction category and are Project-specific and therefore not part of the contractor's general overhead, categorized in accordance with NCSHA standards and shown in the Applicant's properly completed UniApp Supplement, Section C, Limitations and Requirements.

"Gut Rehab" means a Project that includes the replacement and/or improvement of all major systems of the building, including (a) removing walls/ceilings back to the studs/rafters and replacing them; (b) removing/replacing trim, windows, doors, exterior siding and roof; (c) replacing HVAC, plumbing and electrical systems; and (d) replacing and/or improving the building envelope (i.e., the air barrier and thermal barrier separating exterior from interior space) by either removing materials down to the studs or structural masonry on one side of the exterior walls and subsequently improving the building envelope to meet the whole-building energy performance levels for the project type, or creating a new thermal and air barrier around the building.

"Hard Costs" means and includes ~~all costs other than Soft Costs, land Acquisition and costs, operating and replacement reserve costs. Hard Costs include any building Acquisition costs, Site Work costs and Construction and Rehab costs, as shown in the Applicant's properly completed UniApp Supplement, Sections , and .~~

Commented [A5]: References to be completed by staff.

"Hard Cost Per Square Foot" means Hard Costs divided by Project Square Footage shown in the Applicant's properly completed UniApp Supplement, Section C, Cost Limitations and Requirements.

"Hard Cost Per Unit" means an amount calculated by dividing Hard Costs by the number of units in the Project, as calculated in the UniApp Supplement, Section C, Cost Limitations and Requirements, Part XI, line "Cost Per Unit."

"Housing Credits" or "HCs" or "Credits" means federal low-income housing tax credits allocated or available for allocation under this Montana QAP.

"Initial Allocation" means the conditional setting aside by MBOH of HCs from a particular year's federal LIHTC allocation to the state for purposes of later Carryover Commitment and/or Final Allocation to a particular Project, as documented by and subject to the requirements and conditions set forth in a written Reservation Agreement, the Applicable QAP and federal law.

"Investor" means an entity that will directly or indirectly purchase HCs from the awardee.

"Land or Property Control" means legally binding documentation of title or right to possession and use of the property, or the right to acquire title or right to possession and

use of the property, for purposes the Project, including but not limited to documentation of fee ownership, lease, buy/sell agreement, option to purchase or lease, or other right, title or interest that will allow the Owner to acquire Proof of Ownership for purposes of Carryover.

“Large Project” means, for purposes of the Soft Cost Ratio, a Project with more than 24 low-income units.

“Letter of Intent” means a letter and attachment submitted to MBOH on the MBOH Letter of Intent Form.

“Low-Income Housing Tax Credits” means federal low-income housing tax credits, referred to in this QAP as HCs.

“Management Company” means a person or entity that has contracted with the Owner to manage the Project property, including such activities as leasing units, enforcing lease requirements and rules, repairs and maintenance, Housing Credit compliance and other matters relating to the operation of the project.

“Nationally-Recognized LIHTC Compliance Training Company” means a company recognized in the Low Income Housing Tax Credit industry as a qualified Low Income Housing Tax Credit compliance trainer.

“NCSHA” means the National Council of State Housing Agencies.

“New Construction” means construction of one or more new buildings, and includes Gut Rehabs.

“Operating Expenses” means projected ongoing costs to run or operate a property, not including expenses for amortization, depreciation or mortgage-related interest.

“Owner” means the legal entity that owns the Project.

“Permanent Supportive Housing” combines affordable housing with wrap-around supportive services for people experiencing homelessness, as well as other people with disabilities.

“Placed in Service” means the certification of the building or the date of certification of the building as being suitable for occupancy in accordance with state or local law through issuance of a certificate of occupancy, except as otherwise provided in this QAP or Section 42.

“Preservation” means Projects that are for the Acquisition and/or Rehabilitation of existing affordable housing stock.

“Project” means the low income residential rental building, or buildings, that are the subject of an Application for or an Award of HCs.

“Project Square Footage” means such portion of the total square feet applicable to low-income Units and Common Areas and used for the applicable square footage calculation in the UniApp under Section B - Program Information, Part X, “Project Uses.” Project Square Footage includes all building square footage available to or serving tenants, including units, management unit(s) and offices, Common Area, balconies, patios, storage and parking structures.

“Proof of Ownership” means title or right to possession and use of the property for the duration of the Compliance Period and any Extended Use Period plus one year, e.g., a recorded deed or an executed lease agreement.

“Qualified Allocation Plan” or “QAP” means this Montana qualified allocation plan required by Section 42 of the Code.

“Qualified Census Tract” or “QCT” means an area designated as such by HUD.

“Qualified Management Company” means a Management Company that meets the education requirements specified in Section 12, Education Requirements, and is not disqualified by MBOH to serve as a Management Company on existing, new or additional tax credit Properties or Projects, based upon the company’s: (a) failure to complete timely any required training; (b) failure to have or maintain any required certification; (c) record of noncompliance, or lack of cooperation in correcting or refusal to correct noncompliance, on or with respect to any tax credit or other publicly subsidized low-income housing property; or (d) delinquent MBOH late fees (unless the Management Company demonstrates to the satisfaction of MBOH that such noncompliance or lack of cooperation was beyond such company’s control).

“Qualified Nonprofit Organization” means, with respect to a Project, an organization exempt from federal income tax under Section 501(c) (3) or (4) of the Internal Revenue Code, which is not and during the Compliance Period will not be affiliated with or controlled by a for-profit organization, whose exempt purposes include the fostering of low income housing, which owns an interest in the Project, which will materially participate in the development and operation of the Project throughout the Compliance Period, and which is not affiliated with or controlled by a for-profit organization.

“Rehabilitation,” “Rehab” or “Substantial Rehabilitation” means renovation of a building or buildings to house HC units meeting the required minimum Hard Cost Per Unit thresholds specified in Section 3, Substantial Rehabilitation.

“Related Party” means an individual or entity whose financial, family or business relationship to the individual or entity in question permit significant influence over the other to an extent that one or more parties might be prevented from fully pursuing its own separate interests. Related parties include but are not limited to: (a) family members (sibling, spouse, domestic partner, ancestor or lineal descendant); (b) a subsidiary, parent or other entity that owns or is owned by the individual or entity; (c) an entity with common control or ownership (e.g., common officers, directors, or shareholders or officers or directors who are family members of each other); (d) an entity owned or controlled through ownership or control of at least a 50% interest by an individual (the interest of the individual and individual’s family members are aggregated for such purposes) or the entity (the interest of the entity, its principals and management are aggregated for such purposes); and (e) an individual or entity who has been a Related Party in the last year or who is likely to become a Related Party in the next year.

“Reservation” means MBOH’s Initial Allocation of HCs from a particular year’s federal LIHTC allocation to the state for purposes of later Carryover Commitment and/or Final Allocation to a particular Project, as documented by and subject to the requirements and conditions set forth in a written Reservation Agreement, the Applicable QAP and federal law.

“Reservation Agreement” means a written contract entered into between MBOH and the taxpayer to provide for a Reservation and setting forth the terms and conditions under which the taxpayer may obtain a Carryover Commitment or Final Allocation.

“Restrictive Covenants” means the recorded covenants required by Section 42 of the Code.

“Selection Criteria” means and includes all of the requirements, considerations, factors, limitations, Development Evaluation Criteria, set asides and priorities set forth in this QAP and all federal requirements.

“Selection Standard” means the standard for selection of Projects to receive an Award of HCs set forth in the Award Determination subsection of Section 9, Evaluation and

Award, i.e., the MBOH Board's determination that one or more Projects best meet the most pressing housing needs of low income people within the state of Montana as more specifically set forth in such subsection.

"Small Project" means a Project with 24 or fewer low-income units.

"Small Rural Project" means, for purposes of the Small Rural Project set aside, a Project: (a) for which the submitted tax credit Application requests tax credits in an amount up to but no more than 12.5% of the state's Available Annual Credit Allocation, and (b) proposed to be developed and constructed in a location that is not within the city limits of Billings, Bozeman, Butte, Great Falls, Helena, Kalispell, or Missoula.

"Soft Costs" means the costs of professional work and fees, interim costs, financing fees and expenses, syndication costs and Developer's fees ~~as shown in the Applicant's properly completed UniApp Supplement, Sections [ ] and [ ] included by the Applicant in the UniApp.~~ Soft Costs do not include operating or replacement reserves.

Commented [A6]: References to be completed by staff.

"Soft-Cost-to-Hard-Cost Ratio" or "Soft Cost Ratio" means total Soft Costs ~~(less the applicable Letter of Intent fee, Application Fee, Reservation Fee, 10% Cost Certification Fee and Final Allocation (8609) fee)~~ divided by the sum of total Hard Costs (as calculated in the UniApp) and land value ~~(the higher value of what is shown by in a comparative market analysis, or appraisal or arm's length sale).~~ Land value is added regardless of whether land is donated, leased, purchased or otherwise acquired.

"Sources and Uses" means the sources and uses of funds as specified in the Application.

"Substantial Change" means a substantial change in the Project from the Project as set forth in the Application, and includes a change in or to:

- A member of the Development Team occurring prior to Placed in Service;
- Participating local entity;
- Quality or durability of construction;
- Number of units or unit composition;
- Site or floor plan;
- Square footage of Project building(s);
- Project amenities;
- Income or rent targeting;
- Rental subsidies;
- Target group;
- Project location;
- Sources and Uses (to the extent any line item changes by 10% or more);
- Common Space square footage, location or purposes;
- Housing Credits required for the Project;
- Extended Use Period;
- Any Application item or information required by the Applicable QAP;
- Any item that would have resulted in a lower Development Evaluation Criteria Score under the Applicable QAP; and
- Any other significant feature, characteristic or aspect of the Project.

"Total Project Cost" mean all costs shown in UniApp Section C, Part II, Uses of Funds line "Total Projects Costs without Grant Admin". Total Project Cost does not include grant administration costs.

"Total Project Cost Per Square Foot" means Total Project Costs divided by Project Square Footage shown in the Applicant's properly completed UniApp Supplement, Section C, Cost Limitations and Requirements.

"Total Project Cost Per Unit" means an amount calculated by dividing Total Project Costs by the number of units in the Project, as calculated in the UniApp Supplement, Section C, Cost Limitations and Requirements, Part XI, line "Cost Per Unit."

"UniApp, ~~for other application system~~" means the most current Uniform Application and Supplement available on the MBOH website at:  
<http://housing.mt.gov/FAR/housingapps.mcp.x>.

"UniApp Supplement" means the Supplement portion of the UniApp.

"Unit" means an income-restricted or market rate tenant or management (manager, security or other) residential apartment or single-family home.

"Vacancy Rate" means percentage of vacant affordable units in the Application's market area or in the property.

**Commented [A7]:** References to the UniApp could change as MBOH's new Funding Application enters application data directly into the system. References to the UniApp throughout the QAP will be adjusted appropriately as the new system is developed and implemented.

**Commented [A8R7]:** Any necessary reference changes will be made in next year's QAP. If the application system changes before that time, interested parties will be notified on the MBOH website and provide access to all new systems and materials.

## SECTION 2 - OVERVIEW OF ~~MBOH~~ HOUSING CREDITS

~~THE FOLLOWING IS~~ A BRIEF SUMMARY OF SOME ELEMENTS OF THE HOUSING CREDIT AND IS ~~AVAILABLE ON THE MBOH WEBSITE AND IS~~ PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THERE ARE NUMEROUS TECHNICAL RULES GOVERNING A BUILDING'S QUALIFICATION FOR THE HOUSING CREDIT, THE AMOUNT OF THE HOUSING CREDIT, AND AN OWNER'S ABILITY TO USE THE HOUSING CREDIT TO OFFSET FEDERAL INCOME TAXES. ANYONE CONSIDERING APPLYING FOR HOUSING CREDITS SHOULD REFER, IN ADDITION TO THIS QAP, TO SECTION 42 OF THE UNITED STATES INTERNAL REVENUE CODE (26 U.S.C. § 42). DEVELOPERS OR OWNERS INTERESTED IN APPLYING FOR A CREDIT ALLOCATION SHOULD CONSULT THEIR OWN TAX ACCOUNTANT OR ATTORNEY IN PLANNING A SPECIFIC TRANSACTION.

**Commented [A9]:** There are various readily accessible external resources that describe the credit.

**Commented [A10R9]:** Some of the language in this Section 2 is Montana-specific and, unless it appears elsewhere in the QAP, should be retained in order to avoid deleting these requirements. Such language has been highlighted below and has been added to other sections of the QAP as noted.

~~Low Income Housing Tax Credits, referred to in this QAP as Housing Credits or HCs, are Awarded by the State of Montana through MBOH to applicants based on the information submitted in or in connection with Applications; other information obtained by MBOH staff as provided in this QAP and justification with support documentation supplied by the Applicants. At or before the time an Application is made, the Applicant must solicit an Investor who will purchase the tax credits, if Awarded.~~

~~The Housing Credits are Awarded each year for a ten-year period. Hypothetically, a Project Awarded \$100,000 in Housing Credits is essentially Awarded \$1,000,000 (\$100,000 X 10 years) for the ten-year period. When an Investor purchases the Credits, the money from the purchase is infused into the financing for the building of the Project. The Investor purchases the Housing Credits, for example, \$.75 on the dollar (\$100,000 X \$.75 X 10 years) equating to \$750,000. Typically, the Investor pays at a range of \$.70 to \$.90 on the dollar. This money directly reduces the amount of dollars financed in a Project, thereby reducing the rents that must be charged to tenants as well as assuring that the Project cash flows.~~

~~The Investor, through a limited liability limited partnership (LLLP) or other legal entity, must be a 99.99% Owner of the Project for fifteen years during which the Investor declares \$100,000 each year for ten years as credit on the Investor's income tax. Generally, once fifteen years have passed, the Project is sold back to the General Partner (the .01% partner) for a negotiated amount and the ownership is transferred.~~

~~Throughout the Housing Credit Extended Use Period, the Project must comply with the requirements of Housing Credit administration as set forth in the current QAP and Section 42. Periodic file audits and inspection of units will be performed by MBOH staff.~~

**Commented [A11]:** Language added to Section 12 preamble.

The Housing Credit is available for residential rental buildings which are part of a qualifying low income Project. The rental units must be available to the general public. Residential properties which are ineligible for the Credit generally include transient housing, housing initially leased for less than six (6) months, buildings of four (4) units or less which are occupied by the Owner or a relative of the Owner, nursing homes, life care facilities, retirement homes providing significant services other than housing, dormitories, and trailer parks.

Projects with tax-exempt financing under the Montana's volume limitation for private activity bonds may be eligible to receive Housing Credits outside the state's Housing Credit allocation volume cap. See specific requirements in Section 3, Montana Specific Requirements, Tax-Exempt Bond Financed Projects.

The Housing Credit can be used to assist in financing Acquisition with Substantial Rehabilitation, Substantial Rehabilitation, construction of qualifying residential rental, or eventual homeownership housing. The applicable percentage rate (APR) for each Project will depend upon the type of building and its financing, the floating APR or other APR set by the federal government, and the Project's election of the APR. As long as the building continues to qualify for the Credit, the Owner may claim the Credit each year during the 10-year credit period.

#### **A. New Construction or Substantial Rehabilitation**

New Construction and Rehabilitation Projects using competitive Credits will qualify for the 9% rate or another percentage rate permitted by federal law. The applicable tax credit rate is elected by the taxpayer and locked at Reservation/Initial Allocation or at Placed in Service, as specified in the Reservation Agreement. If an Owner Substantially Rehabilitates a building (basically by incurring Rehabilitation expenditures in an amount that equals or exceeds the greater of: (1) the Montana-specific Substantial Rehabilitation per rental unit standard specified in Section 3, "Substantial Rehabilitation," or (2) 30% of the adjusted basis of the building during a 24 month or shorter period), the Rehabilitation expenditure is treated as a separate new building for purposes of the Housing Credit. The "per unit" calculation is the total amount of Hard Costs for the Project divided by the number of units within the Project. **Because Montana's Substantial Rehabilitation standard is higher than the federal minimum of \$6,200.00 in Hard Costs and 20% of adjusted basis, Montana's higher Substantial Rehabilitation standard applies.**

Commented [A12]: Language added to Section 3.H.

#### **B. Acquisition and Substantial Rehabilitation**

For an existing building which is acquired and Substantially Rehabilitated, the Housing Credit will be approximately four (4) percent for qualified Acquisition costs and nine (9) percent for the qualified Substantial Rehabilitation costs, provided that the Rehabilitation is not federally subsidized.

#### **C. Eventual Home Ownership**

**The opportunity for eventual home ownership allows for Projects, with sufficient justification, to make units available to be purchased by the current tenants after 15 years of successful performance as an affordable rental. See Section 3, Eventual Home Ownership.**

Commented [A13]: Language added to Section 3.J.

#### **D. Federally Subsidized Buildings**

Projects funded by tax exempt bonds are considered federally subsidized and qualify only for 4% of the qualified basis for New Construction, Acquisition, and Rehabilitation. Buildings directly or indirectly financed with below market federal loans are not considered federally subsidized. Below market loans made to the Project from the proceeds of grants made



under the HOME Investments Partnership Act or loans made to Projects through the Native American Housing Assistance and Self-Determination Act of 1996 are no longer considered to be federal subsidy. Section 8 rental "certificate" or "voucher" subsidy is not considered to be federal subsidy.

## **E. Qualifying Buildings**

In order to qualify for the Housing Credit, an eligible building must be part of a qualifying low income Project. A Project is a qualifying Project only if it meets one of the following requirements:

At least 20% of its units are rent restricted and rented to households with incomes at 50% or less of area median gross income, adjusted for family size (the "20-50 test"), or

At least 40% of its units are rent restricted and rented to households with income at 60% or less of area median income, adjusted for family size (the "40-60 test").

## **F. Election**

The Owner must make an irrevocable election between the 20-50 test and the 40-60 test. Regardless of the election made, the credit is only allowed for the portion of the building dedicated to low income use (for example, if the Owner elects the 40-60 test and a minimum of 40% of the units are low income, the Owner would qualify for Housing Credits on a minimum of 40% of the eligible basis).

### **1. Rent Limitation**

The gross rent for each Housing Credit unit may not exceed 30% of the applicable income ceiling (30% of 50% of median or 30% of 60% of median, as applicable, calculated based on the number of bedrooms in the unit, which is the "Maximum Rent"). For purposes of the rent limitation, the gross rent is the sum of the rent amount payable by the tenant, a utility allowance amount determined in accordance with this QAP (see Section 3, Underwriting Assumptions and Limitations, "Utility Allowances") and any mandatory fees payable by the tenant. Rental assistance payments made by government agencies such as Section 8, Rural Development, or any comparable rental assistance program are not included in gross rent. Gross rent does not include any fee for supportive services as described in 26 U.S.C. §42(g)(2)(B)(iii). Gross Rent is expressed as follows:

$$\text{Tenant paid rent} + \text{Utility Allowance} + \text{Mandatory Fees equals the Gross Rent}$$

The Gross Rent must be less than or equal to the Maximum Rent (i.e., 30% of the applicable income ceiling).

## **G. Basis**

### **1. Eligible Basis**

Eligible basis of a qualifying building is generally the same as its adjusted basis for tax purposes, determined at the time the building is Placed in Service. Generally, eligible basis consists of:

- The cost of New Construction or Substantial Rehabilitation; or
- The cost of purchasing an existing building and the cost of Substantial Rehabilitation.

Eligible basis will be determined in accordance with Internal Revenue Code Section 42.

### **2. Qualified Basis**

To determine the qualified basis of a qualifying building, the taxpayer multiplies the eligible basis of the building by the lesser of the "unit percentage" or the "floor space percentage". The "unit percentage" is the number of low income units in the building expressed as a

Commented [A14]: Language added to Section 3.E.8.

percentage of the number of all residential rental units in the building. The "floor-space percentage" is the total floor space of the low-income units in the building expressed as a percentage of the total floor space of all residential rental units in the building. Low-income units are eligible units which are occupied by qualified low-income tenants (with income at or below 50% or 60% of area median gross income, depending on the Owner's election of the 20-50 or 40-60 test) and which comply with the gross rent limitation (30% of the applicable 50% or 60% income limit). The Credit is only allowed for the portion of the building dedicated to low-income use.

## **~~H. Credit Calculations~~**

To calculate the Credit each year, the taxpayer applies the applicable credit percentage to the qualified basis of a qualifying building. The "qualified basis" is that portion of the "eligible basis" attributable to low-income units in the building.

### **~~I. Allocation of Credit~~**

#### **~~1. Need for Allocation~~**

All Projects including Projects financed with tax-exempt bonds must first obtain a Final Allocation from MBOH before claiming the Housing Credit. MBOH makes a Final Allocation by issuance of IRS Form 8609(s).

#### **~~2. Allocation Applies Throughout Credit Period~~**

An Owner needs to obtain a Final Allocation only once with respect to a building for which the Credit will be claimed. The Final Allocation then applies each year during the 10-year Credit period. Regardless of the maximum Credit otherwise available (based on applying the applicable credit percentage to the qualified basis), the Credit claimed each year for a building may not exceed the amount of the Final Allocation for that building.

#### **~~3. Time for Obtaining Carryover Commitment~~**

An Owner who receives an Award of Credits must either:

- Place the building in service and receive a Final Allocation by MBOH issuance of IRS Form 8609(s) by the close of the calendar year corresponding to the annual tax credit ceiling from which the Credits are allocated (e.g., by the close of calendar year 2017 for 2017 credits Awarded in January 2017), or
- Obtain a Carryover Commitment as provided below, **and** place the building in service **and** receive a Final Allocation by MBOH issuance of IRS Form 8609(s).

#### **~~4. Carryover Provision~~**

A Carryover of a Housing Credit Allocation will be permitted for a period of two (2) years beyond the end of the calendar year corresponding to the annual tax credit ceiling from which the Credits are allocated (e.g., by the close of calendar year 2019 for 2017 credits Awarded in January 2017), contingent upon meeting 10% requirements (see Section 10).

## **~~J. Compliance Period~~**

The Compliance Period is the initial period of 15 taxable years beginning with the 1st taxable year of the applicable credit period as provided in 26 U.S.C. § 42. The Application must specify an additional period of 15 or more years in which the Applicant agrees to maintain units for low-income occupancy. The Compliance Period plus the additional 15 or more year period together are referred to as the Extended Use Period. These restrictions

will be included in the Declaration of Restrictive Covenants and will be effective for the entire Extended Use Period.

An Owner must continue to meet the requirements of Section 42 for a Compliance Period of 15 years. Failure to comply, reducing the number of the HC units, or reducing floor space for which the Credit is based during the Compliance Period, may result in IRS recapture of Housing Credits, including non-deductible interest, of at least a portion of the Housing Credits taken previously by the Owner.

To be eligible for HCs, a building must be subject to an extended low income housing commitment between the Owner and the state agency, which commitment must be established by recorded Restrictive Covenants effective for the full Extended Use Period. The Owner must meet compliance criteria for the full Extended Use Period specified in the Restrictive Covenants. Through execution and recording of the Declaration of Restrictive Covenants with respect to Housing Credits, all Owners waive and forfeit the right to request that MBOH locate a non-profit qualified buyer (the "qualified contract process") and the Owner must maintain HC units through the Extended Use Period as provided in the Restrictive Covenants. The Extended Use Period specified in the Declaration of Restrictive Covenants may not be terminated early through the qualified contract process.

Commented [A15]: Language added to Section 10.C.

#### **1. Three-year Tenant Protection Period**

HC rent requirements and restrictions will continue for a period of three years following the termination or expiration of the Extended Use Period. The Owner cannot evict or terminate the tenancy of an existing tenant of any HC unit other than for good cause during the Extended Use Period or during the additional three-year tenant protection period.

## **SECTION 3 - MONTANA SPECIFIC REQUIREMENTS**

### **A. Eligible Applicants**

An Applicant who previously received an Award of Credits for its first Housing Credit Project in Montana may not receive an Award of Credits for another Housing Credit Project until the first Project has achieved 100% qualified occupancy and an MBOH compliance audit has been conducted which revealed no significant problems. For purposes of this rule, Applicants are considered to be the same Applicant if the Applicants are Related Parties or if the same Developer or a Related Party of the Developer will receive more than 50% of the Development Fees for both Projects. The foregoing rule does not apply to a subsequent Housing Credit Application if the Developer partners with an Experienced Developer who will be entitled under a written agreement to receive at least 50% of the Developer Fee on the subsequent Project. The Applicant is not eligible to apply for Credits if the Applicant or any member of the Applicant's Development Team is debarred from federal programs or FHLB (Federal Home Loan Bank), prohibited from applying for LIHTCs by another state HFA for disciplinary reasons, or has delinquent late fees due and payable to MBOH. If any member of the Development Team has delinquent late fees due and payable to MBOH at any time from submission of Letter of Intent through the Award Board meeting, the Application will be ineligible for an Award of Credits until such fees are paid in full. If such late fees are not paid in full within ten (10) business days of written notice, the Application will be returned and will receive no further consideration. Application fees will not be refunded.

### **B. Housing Credit Proceeds**

In order to allow MBOH to adequately evaluate Sources and Uses for Housing Credit Projects, the Applicant is required to provide information to MBOH regarding the proceeds or receipts generated from the Housing Credit.

At Application, expected Credit proceeds must be estimated by the Applicant. **Within 30 days after the partnership or operating agreement is signed by all parties, the Applicant must provide MBOH with a copy of the executed agreement.** If MBOH does not receive a copy of the executed agreement within 30 days of execution, a late fee ~~of \$500.00~~ will be assessed. Prior to issuance of IRS Form 8609(s), MBOH will require the accountant's certification to include gross syndication proceeds and costs of syndication, even though the costs are not allowed for eligible basis.

### **C. Sources and Uses Certification**

Applicants must certify that they have disclosed all of a Project's Sources and Uses, as well as its total financing, and must disclose to MBOH in writing any future changes in Sources and Uses over 10% in any line item or any increase in Soft Costs throughout the development period (until 8609's are received). Applicant's certification of such disclosure must be provided to MBOH at Application, at 10% Cost Certification and at Final Cost Certification on the MBOH Disclosure Certification Form.

### **D. Development Cost Limitations**

To balance housing needs in Montana with appropriate and efficient use of the state's allocation of tax credit authority, MBOH has adopted the following cost limitations and requirements for purposes of calculating the Housing Credit amount for a particular Project. These cost limitations are based upon and in accordance with NCSHA standards.

#### **1. Hard Cost Per Unit/Hard Cost Per Square Foot and Total Project Cost Per Unit/Total Project Cost Per Square Foot**

Hard Cost Per Unit, Hard Cost Per Square Foot, Total Project Cost Per Unit and Total Project Cost Per Square Foot are subject to the specific limitations provided in other sections of this QAP. In addition, even for those projects meeting such specific limitations, MBOH will evaluate such Cost Per Unit and Cost Per Square Foot for all Projects for reasonableness, taking into account the type of housing, other development costs as detailed below, unit sizes, the intended target group of the housing and other relevant factors. MBOH will also consider in this review the area of the state and the community where the Project will be located.

All Applications must provide justification for development costs. These costs will be analyzed and scrutinized considering the individual characteristics of the Project listed above and will be compared to other like Projects.

Even though the costs of some Projects may be justifiable and even in some contexts considered reasonable given their unique characteristics, MBOH may decline to Award Credits to a Project where it determines that costs do not reflect the optimal use of Housing Credits.

The following limit must be met:

- o Total Project Costs Per Unit may not exceed \$235,000.

Applications exceeding this limit will be returned un-scored and will receive no further consideration, and the application fee will not be refunded. Projects must meet this limit at Letter of Intent, Application, 10% Cost Certification and Final Cost Certification. If this limit is exceeded at Final Cost Certification, negative points will be assessed with respect to future Applications as provided in Section 9, Item 9, Developer Knowledge and Responsiveness. The negative points assessment provided in this paragraph for exceeding the Total Project Costs Per Unit limit will apply only prospectively to Projects Awarded Credits in the 2017 or later Award rounds.

## 2. Additional Cost Limitations

Applications must comply with the following limitations on Contractor Overhead, General Requirements, Contractor Profit and Developer Fee. To the extent an Application exceeds these cost limitations, as calculated in UniApp Section C, Cost Limitations and Requirements, the excessive costs will be reduced to the limit amount for all purposes under the HC program, including without limitation, calculation of basis and eligible Project costs, determination of Credit eligibility, and any Award, Reservation (Initial Allocation) or Final Allocation of Credits.

### a. Contractor's Overhead

Contractor's Overhead is limited to a maximum of 2% of Construction Costs.

### b. General Requirements

General Requirements are limited to a maximum of 6% of ~~Adjusted~~ Construction Costs.

### c. Contractor Profit

Contractor Profit will be limited to a maximum of 6% of Construction Costs.

### d. Developer Fees

Developer Fees for New Construction or Rehabilitation will be limited to a maximum of 15% of Total Project Costs. For purposes of this Developer Fee limit, Total Project Costs do not include Developer Fees, ~~Contractor Profit~~ Project reserves or land costs. HC Consultant fees (amount must be disclosed) will be included as part of and subject to the limit on Developer Fees. Architectural, engineering, and legal services are considered to be professional services, and fees for such services are not included as Developer Fees for purposes of ~~this limitation; however, fees for professional services will be examined for reasonableness.~~

Developer fees for Acquisition will be limited to a maximum of 15% of the Project Acquisition costs.

### e. Disclosure of Transactions Involving Related Parties

If the development includes transactions with Related Parties, any profit from those transactions must be subtracted from the Total Project Cost before calculating the 15% maximum Developer Fee and 6% maximum Contractor Profit. Failure to fully disclose Related Party transactions may result in the Project's not receiving an Award of Housing Credits. MBOH reserves the right to negotiate lower Developer Fees and Contractor Profit on Projects involving Related Party transactions.

### f. Limitation on Soft Costs

The Soft-Cost-to-Hard-Cost Ratio ("Soft Cost Ratio") for the Project, based upon the Application's UniApp, may not exceed ~~30%~~ 32% for Large Projects (more than 24 units) and ~~35%~~ 37% for Small Projects (24 or fewer units) or Small Rural Projects. For combined 4%/9% Projects, this limit will apply to the Soft Cost Ratio calculated based upon the combined costs for the 4% and 9% Projects. If the Soft Cost Ratio for a Project exceeds the applicable maximum, MBOH will contact the Applicant regarding the excessive costs and allow the Applicant to specify how and by what amount its Soft Costs will be reduced to comply with the maximum. The Applicant must communicate its chosen Soft Costs adjustments to MBOH staff in writing within ten (10) business days after such communication and the Application will be deemed amended to reflect such adjustments for all purposes under the HC program. All such Soft Cost adjustments and the Application, as amended to reflect such adjustments, must comply with this QAP in all other respects. If the Applicant fails to communicate its Soft Cost adjustments to MBOH staff within the required time, MBOH staff will decide how and by what amount Soft Costs will be reduced to

comply with the maximum and the Application will be deemed amended to reflect such adjustments for all purposes under the HC program. Projects must meet this limit at Letter of Intent, Application, 10% Cost Certification and Final Cost Certification. For Projects Awarded Credits for 2018 or later years, if this limit is exceeded at Final Cost Certification, negative points will be assessed with respect to future Applications as provided in Section 9, Item 9, Developer Knowledge and Responsiveness.

g. Professional Fees

Professional fees include but are not limited to fees for architectural, engineering, environmental, accounting, legal, market analysis, construction management and asset management services. The Application narrative must address and provide justification for professional fees. These fees will be compared as a percentage to construction costs for reasonableness. Specific limits may be adopted in a future plan if needed.

**E. Underwriting Assumptions and Limitations**

**1. Credit Percentage Rate for Housing Credit Calculation**

The credit percentage rate published by the federal government for the month prior to the date of Application will be used by Applicants and MBOH for purposes of preparation, submission, underwriting and evaluation of Applications and Award of HCs.

**2. Operating Expenses**

MBOH will evaluate Operating Expenses and Vacancy Rate underwriting assumptions for all Projects for reasonableness, taking into account the type of housing, unit sizes, intended target group of the housing and the location of the Project within the area of the state and the community. Staff may require the Applicant to provide additional justification and documentation regarding any Operating Costs deemed to be outside the normal range.

**3. Debt Coverage Ratio**

The Debt Coverage Ratio ("DCR") should be:

- For Projects whose DCR is projected to trend upward through the first 15 years of normal operation, the DCR should be between 1.15 and 1.35 in the first year of normal operation, i.e., year 1 as shown on the DCR calculation of the UniApp.
- For Projects whose DCR is projected to trend downward through the first 15 years of normal operation, the DCR should be between 1.10 and 1.50 during the entire first 15 years of normal operation i.e., the 15-year period that begins with year 1 as shown on the DCR calculation of the UniApp.

DCR's outside these ranges must be justified in the Application narrative to the satisfaction of MBOH, in its sole discretion. In determining whether the Applicant's justification is acceptable, MBOH will consider the reasonableness of the Project's proposed rent levels, Operating Expenses, reserve payments, projected Vacancy Rates, debt service obligations, Soft Costs and amount of Credits requested. If the DCR, as underwritten by MBOH at Application, falls outside the ranges specified above without justification acceptable to MBOH, MBOH will reduce the amount of Credits requested by the Applicant to an amount determined by MBOH to be necessary for the financial feasibility of the development and its viability as a qualified low income housing Project throughout the Compliance Period.

MBOH considers several variables, including projected Vacancy Rates (which may require upward adjustment for Small Projects) and Operating Cost data, in conjunction with debt service coverage, in judging the long-term financial viability of Projects. MBOH may require

adjustments to rents or Credit amount to assure the Credits Awarded are no greater than necessary to make the Project feasible.

MBOH will evaluate the DCR at Application, at 10% Cost Certification and at Final Cost Certification. In addition, for Projects Awarded Credits for 2018 or later years, if the DCR at 10% or Final Cost Certification has changed significantly from the DCR as underwritten by MBOH at Application, MBOH may assess negative points to the next Application that includes any member of the Development Team.

#### **4. Total Expense Ratio**

MBOH will review the Project's Total Expense Ratio for reasonableness. The Total Expense Ratio is the total income divided by total expenses, including debt service. As a benchmark, NCSHA recommended practices use a 1.10 ratio. The Board will consider projects on a case by case basis that deviate materially from this ratio. Projects should discuss this ratio in their narrative if this ratio deviates materially.

#### **5. Maximum Rents**

The MBOH Board may require that rents be maintained at a specified percentage of maximum target rent throughout the Extended Use Period. If required for a particular Project, this limitation must be specifically included as a condition of the HC Award and included in the Project's Restrictive Covenants.

#### **6. Operating Reserves**

Minimum operating reserves must be established and maintained in an amount equal to at least four months of projected Operating Expenses, debt service payments, and annual replacement reserve payments. The specific requirements for reserves, including the term for which reserves must be held, must be included in the limited partnership or operating agreement and meet the requirements of the Investor. Using an acceptable third party source, this requirement can be met by either cash, letter of credit from a financial institution, or a Developer guarantee that a syndicator has accepted the responsibility for a reserve.

#### **7. Replacement Reserves**

Replacement reserves must be contributed in an amount equal to at least \$300.00 per unit annually. Exceptions may be made for certain special needs or supportive housing developments. Exceptions must be documented and will be reviewed on a case by case basis. The specific requirements for reserves, including the term for which reserves must be held, will be included in the limited partnership or operating agreement and meet the requirements of the Investor.

#### **8. Utility Allowances**

The Montana Department of Commerce Section 8 Utility Allowances are the only acceptable utility allowances for Applications, unless otherwise provided by USDA (Rural Development), an MBOH-approved allowance or a ~~HUD Utility Model~~~~HOME-approved allowance~~. Utility allowances provided by utility providers will not be considered or accepted. For purposes of calculating the Maximum Rent limitation under this QAP, the gross rent is the sum of the rent amount payable by the tenant and the utility allowance amount determined in accordance with this Subsection 8.

**Commented [A16]:** Retained from Section 2.F.1 to clarify that this utility allowance standard applies for purposes of calculation of the rent limitation.

#### **9. Additional Underwriting Assumptions**

The following underwriting assumptions will be used by MBOH for underwriting of all Applications:



- Vacancy rates: 10% - 20 units and less, 7% - more than 20 and up to 50 units, 5% - more than 50 units or 100% project based rental assistance;
- Income Trending: 2%;
- Expense Trending: 3%;
- Reserves Trending: as proposed in Application but not to exceed 3%;
- Debt Coverage Ratio: see "Debt Coverage Ratio" subsection above;
- Structured Debt for pro-forma not allowed; and
- Operating expenses per unit: \$3,000-\$6,000 annually.

These underwriting assumptions will be used at Application, 10% Cost Certification and Final Cost Certification. Credits will not be Awarded in an amount beyond those needed to make the Project feasible according to these underwriting assumptions.

## F. Project Accessibility Requirements

The Fair Housing Act, including design and accessibility requirements, applies to HC properties. In addition to meeting Fair Housing Act requirements, **MBOH requires that all** New Construction units and common areas and Rehabilitation that at least replaces interior walls and doors must incorporate the following:

For Rehab, items 3 and 4 below apply to all units and all floors where moving walls, removing wall coverings, or doing new wiring or rewiring.

1. 36 inch doors for all living areas (except pantry, storage, and closets).
2. All door hardware must comply with Fair Housing Act standards for all units.
3. Outlets mounted not less than 18 inches above floor covering.
4. Light switches, control boxes and/or thermostats mounted from 36 to 48 inches above floor covering.
5. Walls adjacent to toilets, bath tubs and shower stalls must be reinforced for later installation of grab bars.
6. All faucets must be lever style.
7. A minimum of a ground floor level half-bath with a 30X48 inch turn space (also required in Rehabilitation unless waived by staff for structural limitations or excessive cost, etc.) (does not apply if there is no living space on the ground floor level).
8. No-step entry to all ground floor level units.
9. Compliance with accessibility requirements must be certified in the architect's letter of certification submitted with the 8609(s) submission. It is suggested but not required that Projects also include parking for caregivers for tenants with disabilities and that a lease addendum provide for moving a household without tenants with disabilities from a handicapped accessible unit to a regular unit if the handicapped accessible unit is needed for rental to a tenant with a disability.

## G. Energy, Green Building and Other Initiatives, Goals and Requirements

The following items in Subparagraphs A through K specify voluntary initiatives and goals which MBOH encourages Developers to consider in the planning and development of Projects, as well as certain Project requirements. These items are required only where so indicated by the use of mandatory language (e.g., "must"). Such initiatives, goals and requirements are subject to any further applicable provisions of this QAP.

### 1. Integrated Design Process and Community Connectivity

Project development and design includes a holistic approach. Processes include neighborhood and community involvement to ensure Project acceptance and enhancement.

Integrated design processes ensure higher quality finish Project. Existing neighborhood edges, characteristics, fabric are considered in the Project design. Some considerations may include but are not limited to a community design charrette, incorporating Project into neighborhood fabric, energy modeling, commissioning, infrared testing, etc. (see Required Infrared Testing for Projects Awarded Credits, below).

## **2. Visitability and Universal Design Principles**

Applicants should consider inclusion of visitability and universal design principles in development of the Project. MBOH encourages strong advertising of accessible features when advertising new construction through the Multiple listing services or through MontanaHousingSearch.com.

## **3. Sustainable Site, Location and Design**

The building(s) and Project site, including the surrounding area, provide opportunities for education, alternative transportation, services, and community facilities. This is evidenced, for example, by Projects using existing infrastructure, reusing a building or existing housing, redeveloping a greyfield/brownfield, or developing in an existing neighborhood. Design elements use the site's characteristics and reduce impact on the site allowing for open space and other amenities, such as infill projects, rehabilitating existing building(s), rehabilitating existing housing, providing carpooling opportunities, using well water for landscaping, etc.

## **4. Passive House Standard**

Passive House is a voluntary international building standard developed by the Passive House Institute (PHI), located in Darmstadt, Germany (referred to as the "Passive House Standard"). The Passive House Standard is composed of several strict performance requirements for new building construction. For the renovation of existing buildings, PHI developed a similar if slightly more lenient performance standard. The resulting performance represents a roughly 90% reduction in heating and cooling energy usage and up to a 75% reduction in primary energy usage from existing building stock.

## **5. Energy and Water Conservation**

Design features, product selection and renewable energy options directly reduce use of resources and result in cost savings. Design and product selection exceeds applicable energy codes in performance. Examples include but are not limited to Energy Star appliances, drip irrigation, low flow fixtures, dual flush or composting toilets, ground source heat, duct sealing, rain water collection, and low water consumption plants.

## **6. Material and Resource Efficiency**

Material selections are better quality, designed for durability and long term performance with reduced maintenance. Products used are available locally and/or contain recycled content. Construction waste is reduced in the Project through efficient installation or recycling waste during construction. Considerations include but are not limited to construction waste management specification, recycled content products, local materials, reuse existing building materials, certified lumber, and sustainable harvest lumber.

## **7. Amenities**

Applicants may consider for inclusion in the Project the amenities listed in the Amenities Form to be provided at no charge to tenants in the Project. Luxury amenities will not be considered or funded with tax credits. Items deemed luxury amenities include but are not limited to swimming pools, golf courses, tennis courts and similar amenities. The added costs of the Project attributable to higher quality amenities will be considered on a Project by Project basis for a cost to benefit assessment.

Amenities provided will not be used for Commercial Purposes. All Projects previously Awarded tax credits are subject to this restriction but are grandfathered only to the extent Commercial Purposes were specifically included in the Application.

#### **8. Healthy Living Environments (Indoor Environmental Quality)**

Materials and design contribute to a healthy and comfortable living environment. Mechanical system design, construction methods and materials preserve indoor air quality during construction as well as the long term performance such as fresh air circulation and exhaust fans, bathroom and kitchen fans exhausting air and moisture, material selection with low toxicity and low VOC (volatile organic compounds) paints, sealants, and adhesives.

#### **9. Smoke-Free Housing**

Promoting healthy behaviors can also have a large impact on residents at no additional cost to the Developer. Smoke-free policies protect residents against the harmful health impacts of tobacco smoke, greatly reduce the risk of fires, and prevent damage to units caused by tobacco smoke. Such policies also make properties more attractive to those who do not allow smoking in their own homes.

For New Construction Projects seeking or awarded 2016 or later year Credits, the Owner (and any Management Company) must establish and implement a written policy that prohibits smoking in the units and the indoor Common Areas of the Project, including a non-smoking clause in the lease for every Project unit. The Owner (and any Management Company) rather than MBOH will be responsible to establish, implement and enforce such written policy and lease clause. The Owner and Management Company also must make educational materials on tobacco treatment programs, including the phone number for the Montana Tobacco Quit Line, available to all tenants of the Project. The Montana Tobacco Use Prevention Program Smokefree Housing Project can provide educational materials and smokefree signage to property owners and managers free of charge, as requested. If smoking is allowed outside on the Project property, it is recommended that the written smoking policy require that smoking be restricted to areas no closer than 20 feet from all building entrances and exits. The written policy must provide appropriate exceptions for bona fide cultural or religious practices.

#### **10. State of Montana Building Code**

All Projects must comply with State of Montana Building Code, whether or not the State of Montana building code has been adopted in the Project's jurisdiction.

#### **11. Required Infrared Testing for Projects Awarded Credits**

*For Rehabilitation Projects Awarded HCs:* Infrared tests will be required on at least 10% of units and a representative sampling of Common Areas both before and after the Rehabilitation to demonstrate that improvement has been achieved. MBOH staff may approve changes to the sample selected. Proof of such testing must be submitted to MBOH within 30 days of testing and reviewed by MBOH to qualify for issuance of IRS Form 8609(s), demonstrating that at the time of testing there was at least 20 degrees temperature difference from outdoors to inside the unit. Infrared testing must be performed by a certified tester.

### **H. Substantial Rehabilitation**

Montana's minimum Substantial Rehabilitation standard is expenditures the greater of (1) \$15,000 (for 4% ~~p~~Projects)/\$25,000 (for 9% Projects) of Hard Cost Per Unit, or (2) an amount which is not less than 30% of the adjusted basis of the building during a 24-month or shorter period. Because Montana's Substantial Rehabilitation standard is higher than the

**Commented [A17]:** Retained from Section 2.A to clarify that Montana's higher minimum standard applies.

federal minimum of \$6,200.00 in Hard Costs and 20% of adjusted basis, Montana's higher Substantial Rehabilitation standard applies.

Rehabilitation Projects applying for (9%) competitive credits must meet all requirements of the capital needs assessment and the Application must also include a list of items in each unit that will be replaced, refinished, repaired, upgraded, or otherwise rehabilitation in the Project and a detailed narrative explaining the scope, details and expectations of the rehabilitation.

## **I. Tax Exempt Bond Financed Projects**

Projects with tax-exempt financing under the volume limitation on private activity bonds ("4% Projects") may be eligible to receive Housing Credits outside the state's tax credit allocation volume cap. Applications must meet all requirements of the applicable QAP and must meet at least the minimum Development Evaluation Criteria score specified in Section 9, below, to receive an Allocation of Housing Credits. Projects with tax exempt financing must submit a certification from the bond financing agency indicating that the Project meets the public purpose requirements of the bonds and that the Project is consistent with the needs of the community. For purposes of Application, evaluation and Awarding tax credits with respect to 4% Projects, the Applicable QAP is the version of the QAP most recently and finally adopted as of the date of Application submission.

## **J. Eventual Home Ownership**

The opportunity for eventual home ownership allows for Projects, with sufficient justification, to make units available to be purchased by the current tenants after 15 years of successful performance as an affordable rental. Several supplemental Application documents are required for Projects that include eventual home ownership. The Application must: (1) address how the Owner will administer the transfer of ownership to a qualified homebuyer at the end of the Compliance Period; (2) either identify the price at the time of the title transfer or a reasonable process to determine the price; (3) document that the potential owners will be required to complete a homebuyer counseling program; and (4) identify how Reserve for Replacement funds will be used at the time of sale of the properties.

At the time of sale, the HC Owner must provide a copy of the title transfer together with a certificate verifying that the new homeowner completed a homebuyer program within five years prior to the transfer of title. Enforceable covenants must maintain the home as affordable and prevent sale or resale to a realtor, financial institution, or a family with an income over 80% AMI, or more than 80% of FHA appraised value. Families who exceed income levels of 80% of AMI at the time of the sale must have qualified at the appropriate AMI contained in the recorded Restrictive Covenants for the Project evidenced by the Tenant Income Certification at the initial rent-up for the family. Tenant qualification documentation must be sent to MBOH for approval before the sale is completed. Please contact MBOH for current forms. Units not sold under the Eventual Home Ownership Program must remain in compliance with Section 42 until such time as they are sold to a qualified buyer or the end of the Extended Use Period.

## **K. 130% Basis Boost**

### **1. Basis Boost for QCT and DDA Projects**

Federal law permits MBOH to reserve Housing Credits based on a "basis boost" of 30% for Projects in a Qualified Census Tract ("QCT") or in HUD designated Difficult Development Areas ("DDA"). In addition, a 30% "basis boost" may be available for non-QCT or DDA Projects based upon the specific requirements specified below.

**Commented [A18]:** Language retained from Section 2.C to clarify requirements.

## 2. MBOH Discretionary Basis Boost for Non-QCT/DDA Projects

For buildings not already eligible for the 30% “basis boost” by virtue of being located in a QCT or DDA, up to 130% of the eligible basis of a New Construction building or the Rehabilitation portion of an existing building may be considered in Awarding Housing Credits if MBOH determines that an increase in Housing Credits is necessary to achieve the Project’s feasibility. MBOH staff may recommend an Award of Housing Credits, and the MBOH Board, at the time it considers authorizing Reservations of Housing Credits, may Award Credits for such buildings based upon a basis boost of up to 30%. Applications for Projects not located in a DDA or QCT may be submitted with requested Housing Credits calculated at up to 130% of eligible basis. The explanation, justification and supporting documentation must specify and explain in detail the applicable considerations supporting the need for the requested basis boost (i.e., any of items a through e, below) and provide a detailed justification for the requested basis boost. The justification must explain why the Project would not be feasible without the basis boost. In addition to the explanation and justification, MBOH may consider the following factors in determining whether Housing Credits will be awarded based upon the discretionary basis boost:

- a. Qualification of the Application for the Small Rural Project set aside;
- b. Qualification of the building location for Rural Development funding;
- c. Targeting of more than 75% of Project units to 50% or below area median income level;
- d. The Project includes historical preservation, Preservation or replacement of existing affordable housing; or
- e. The Project is located within a community where unusual market conditions produce higher than normal labor and material costs, unusually high land cost and/or rent and income limits which are too low to support the cash flows required by the Project’s financial structure.

The MBOH discretionary basis boost does not apply to non-competitive 4% Credits.

## L. Non-Housing Amenities

Swimming pools, tennis courts, golf courses, and other similar amenities will not be funded by Housing Credits. Proposed Projects may include such amenities only if the amenities are funded by sources other than Housing Credits. Subject to the requirements of this QAP, garages or car ports may be funded by Housing Credits considering Montana’s extreme winter weather.

## M.Accountant and Owner Certification

Prior to the 10% Cost Certification deadline and at Final Cost Certification, MBOH requires an independent third party Certified Public Accountant (CPA) audit report complying with the specific requirements listed in the CPA Audit Report Formform (#) cost certification, including a statement of eligible and qualified basis for the Project, as more specifically provided in Section 10 of this QAP. ~~The Accountant Certification must include a breakdown of costs similar to the Project Sources and Uses of the Application, including development cost limitation categories as discussed in this QAP. The Owner must provide the CPA certification, under penalty of perjury, providing the Owner’s name and address, the Placed in Service date, taxpayer identification number, the Project name and address, building(s) address(s), building identification numbers, the total eligible and qualified basis, and, if applicable, the percentage of the Project financed by tax-exempt bonds. The most current forms from the MBOH website must be used.~~

Commented [A19]: Inserts name of Form.

## N. Information Request and Release Policy

Requests for information and documents from MBOH will be handled in accordance with and subject to applicable law and the MBOH Information and Release Policy, which policy is available on the MBOH website.

### **O. Ex Parte Communication Policy**

MBOH Board members should refrain from ex parte communications with interested persons or parties, or their representatives, who may be affected by any matter on which members may take official Board action. Ex parte communications may include communications that take place outside a duly noticed meeting or hearing of the Board, relate to a matter on which the Board may take action to determine to rights or obligations of the person or party, and which convey information or may otherwise influence the Board member regarding the matter.

If a Board member is unable to avoid such communications, the member will be required to disclose at a public meeting of the Board the full content of such communication and the identity of the person making the communication. In addition, the Board member may be disqualified from participating in Board action on the matter. Such communications may also subject the Board to challenge regarding its action on the matter.

Ex parte communications do not include communications regarding general matters of housing, funding for low-income housing, or other Board policy, and do not include Board member speaking appearances, conferences, consulting engagements or other events or settings to the extent not involving communications such as those described above.

The foregoing statement is provided as general information. Ex parte communications are addressed in further detail and governed by the MBOH Ex Parte Communication Policy, available on the MBOH website.

## **SECTION 4 - APPLICATION SUBMISSION AND AWARD SCHEDULE – MANNER OF SUBMISSION**

### **A. Competitive 9% Credit Applications**

Applicants may apply for an Award of 9% Credits (including an Award for a Project combining 9% Credits and other credit sources) for a particular Project no later than the applicable submission deadline specified below or otherwise set by MBOH.

Applicants must submit the Application and the applicable fee (~~based on the fee schedule below was set forth in Fee Schedule-Form~~) to MBOH as required in this QAP.

Commented [A20]: Conforms to defined term.

A single Application that combines 9% Credits and other credit sources must include sub-applications with a separate UniAPP for each credit source that provides the Project numbers attributable to the sub-application's credit source.

For Projects involving multiple properties in different locations to which different utility allowances and/or income limits apply, a combined Application with sub-applications for each property location must be submitted. Each sub-application must include a separate UniAPP that provides the Project numbers attributable to each location. A single Application or sub-application should include all buildings within a single Project.

Complete Letters of Intent/Applications meeting all requirements of this QAP must be received at MBOH's office by 5:00 pm Mountain Time on the Letter of Intent/Application submission date specified below. In the event that any submission date falls upon a weekend or holiday observed by Montana State government, the submission date will be the next business day thereafter as posted on MBOH's website.

## B. First Award Round:

- o Letter of Intent Submission ~~Friday June 9, 2017~~ Tuesday May 14, 2018
- o Applicant Presentations/  
Board Invitations to Apply June ~~4, 2018~~ 2017 MBOH Board Meeting
- o Application Submission ~~Tuesday September 5, 2017~~ Monday  
August 27, 2018
- o Award Determination Meeting November ~~2017~~ 2018 MBOH Board

## C. Second Award Round (if any):

The Board may decide in its discretion to hold a second award round that is either: (1) limited to those Applicants invited to submit an Application but not awarded Housing Credits in the first award round (a "Closed Round"); or (2) open to submission of Letters of Intent by any interested party (an "Open Round").

If the Board elects to hold a Closed Round, the Board will announce (and post on MBOH's website) such Closed Round, along with all applicable submission requirements and deadlines, presentation opportunities and award meeting dates. A Closed Round need not include additional Letters of Intent or Applications, but may include only such additional documents and information submissions as the Board deems appropriate for purposes of such Closed Round.

If the Board decides to hold an Open Round, it will determine and post on MBOH's website the dates for submission of Letters of Intent and Applications, Board review, discussion and invitation to apply, Applicant presentations and Award determination.

## D. Changes in Deadlines or Dates ~~or~~; Board Waiver of QAP Requirements; Award Amounts

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1. Deadlines and Dates. Any of the above deadlines and dates may be extended or changed by MBOH if circumstances warrant, and in such event MBOH will provide notice of such extension or change by posting on MBOH's website.
- ~~1-2.~~ Waiver of QAP Requirements. The MBOH Board, in its discretion, may waive any requirement of this QAP if it determines such waiver to be in the best interests of MBOH, the HC program or the Award cycle.
- ~~2-3.~~ Award Amounts. In any Award round or rounds, the MBOH Board may elect to Award less than all available Credits or to not Award any Credits if the MBOH Board determines that such is in the best interests of MBOH, the HC program or the Award cycle.

## E. Board Consideration and Determination Process

At the MBOH Board's meeting in the month specified or established in accordance with the above schedule, MBOH staff will present Letters of Intent to the MBOH Board. MBOH will provide an opportunity for Applicants to make a presentation to the MBOH Board regarding their Projects and Letters of Intent and will provide an opportunity for public comment on proposed Projects and Applications. Applicant presentations will be limited to 10 minutes or less. The MBOH Board may ask questions of Applicants and discuss proposed Projects for purposes of assisting the Board in determining which Projects it will invite to submit Applications and assisting Applicants in presenting better Applications, but such questions, answers and discussions shall not be binding upon MBOH in any later Award determination



or other MBOH process. Applicant presentations will include any comments from any party on the development team, videos and presentation materials. Public comment will include in-person comments, live conference call comments and written comments. Comments are subject to reasonable limitation by the Chair to minimize duplication, reading of written materials, etc.

After considering the Letters of Intent, presentations, questions and answers and discussion, the MBOH Board will select those Projects that it will invite to submit Applications. Selection for invitation to submit an Application may be based upon consideration of any of the Selection Criteria permitted to be considered for purposes of an Award under this QAP, but no evaluation or scoring of Letters of Intent will be done or considered for purposes of selection for invitation to submit an Application. No more than 8 Projects will be selected. If the total Credits requested in the Applications for such 8 Projects is less than the amount of Credits available for Award in such round, the Board may invite one or more additional Projects to submit Applications, but may invite only the number of additional Projects necessary to meet the amount of Credits available for Award (the "ceiling"), except that the invited Project that brings the total amount of Credits requested from invited Projects to the ceiling may cause the total Credits request to exceed the ceiling. Each Project so selected by the MBOH Board will be deemed invited to submit an Application. An Application may be submitted only for a Project invited by the MBOH Board to submit an Application. All other Applications will be returned without consideration.

At the Award Determination Meeting, MBOH staff will provide Project Application information to the MBOH Board. Applicants should be available to the MBOH Board to answer questions regarding their respective Applications. The MBOH Board may ask questions of Applicants and discuss proposed Projects but there will be no Applicant presentations. MBOH will provide an opportunity for public comment on proposed Projects and Applications. Applicants shall have a brief opportunity to make comments and respond to any information presented regarding their Applications.

#### **F. 4% Credit Applications for Tax Exempt Bond/Loan Financed Projects**

Projects with tax-exempt financing under the volume limitation on private activity bonds ("4% Projects") may be eligible to receive tax credits outside the state's tax credit allocation volume cap. An Applicant for tax-exempt financing under the volume limitation on private activity bonds also seeking an Award of 4% Credits for a scattered-site Project under a single partnership may apply for such credits by submission of a single Application that includes sub-applications for each property included in the Project.

Full Applications for tax-exempt financing and related 4% Credits may be submitted at any time; submission is not limited to the Application schedule set forth above for 9% Credit competitive awards. However, complete Applications must be received by MBOH at least 6 weeks before the scheduled MBOH Board meeting at which the Application is to be considered. Changes to the Application that require MBOH to re-underwrite the Application will restart the minimum 6-week period.

The Application fee for 4% Projects ~~is 1% of the amount of annual Credits requested in the Application and~~ must be submitted to and received in the MBOH office for the Application to receive consideration. In addition, Final Allocation of 4% Credits is subject to payment in full of applicable bond closing fees at bond closing per the MBOH Private Placement policy available on the MBOH website.

Additionally, a 42M letter fee will be charged~~in the amount of 4% of the Credit amount.~~

Applications for 4% Projects must meet all requirements of the Applicable QAP, including meeting at least the minimum Development Evaluation Criteria threshold score specified in Section 9 to receive an Allocation of Housing Credits. Projects with tax exempt financing must submit a certification from the bond financing agency indicating that the Project meets the public purpose requirements of the bonds and that the Project is consistent with the needs of the community. For purposes of Application, evaluation and Awarding Housing Credits with respect to 4% Projects, the Applicable QAP is the version of the QAP most recently and finally adopted as of the date of Application submission.

For 4% only projects, a Letter of Intent must be submitted with the request for an inducement resolution. The Letter of Intent does not require a Letter of Intent fee or a market study or mini-market study.

### **G. Combined Credit Applications for Projects Involving Multiple Credit Sources**

A single Applicant may apply for credits by submission of a single Application that combines sub-applications for each property/credit request included in the Project (for example, combined 9%/4% applications, or a Housing Credit application that combines Housing Credits and another credit source). Each sub-application must include a separate UniAPP that provides the Project numbers attributable to the sub-application's credit source. Letters of Intent and Application for Projects combining 9% Credits with other credit sources must be submitted in a competitive 9% Credit round and by the applicable deadlines specified for such competitive round.

### **H. Application Submission Method for 4% and 9% Letter of Intent and Credit Applications**

Electronic submission of Applications using MBOH's system (currently ShareFile or funding portal) is preferred but hard copy Applications will also be accepted. Please contact staff (preferably at least a week ahead of the submission deadline) for set up and for specific instructions on how to access this system. In submitting or preparing to submit Applications, Applicants shall not change or create folders or otherwise change the file structure within the ShareFile submission. An Applicant may request an additional folder by contacting MBOH staff.

### **I. Request for Increase in Amount of Credit Reservation**

As MBOH, in its discretion, determines necessary for financial feasibility, returned or unreserved Housing Credits may be used to increase the amount of Housing Credits reserved for a Project after the first round Awards have been made. In considering a request for an increase under this subsection, MBOH may consider any anticipated potential need for returned or unreserved Credits to fund Projects that would otherwise be funded or require greater funding under the Corrective Award set aside under Section 7. An Applicant seeking an increase in the amount of reserved Credits must apply to staff in writing for such increase and must submit new financials (UniApp Section C) and supporting documentation for the cost increases (e.g., higher bids than expected, material costs, etc.). Applications for additional Credits must be submitted to staff. Staff will review and evaluate supporting financials and new cost documentation application materials and present a recommendation and a staff recommendation will be presented at a later MBOH Board meeting for consideration. Staff will not recommend and the MBOH Board will not approve any increase beyond that necessary to make the Project feasible. Any request for Credits above the amount initially Awarded is considered a request for additional Credits after Initial Allocation and is subject to the provisions of this subsection. An Application and Reservation fee of

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10% of the additional Housing Credits Requested is due with the request. In the event an increase for the additional requested Credits is not approved, the Reservation fee in the amount of 9% will be refunded.

Commented [A23]: Included in Fee Schedule.

## SECTION 5 - FEE SCHEDULE

The amount(s) of and due dates for all fees required or imposed by this OAP, including but not limited to Application, Reservation, 10% Cost Certification, 8609 and Compliance fees, are as specified in the MBOH Housing Credit Fee Schedule Form (the "Fee Schedule"). All fee amounts may be adjusted by MBOH from time to time. Fees are set by MBOH staff, subject to Board approval. The amount and due date of each fee shall be posted on the MBOH website and any adjustments to any fee amount or due date shall be posted on the MBOH website in advance of the effective date of each adjustment.

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All fees are nonrefundable unless otherwise specified in this OAP or the Fee Schedule. MBOH will not consider an Application or Letter of Intent if the applicable fee is not paid by the deadline set forth in the Fee Schedule.

### A. Letter of Intent

See Fee Schedule Form. The Letter of Intent fee is \$3,000.00 and must be submitted to and received in the MBOH office by the applicable Letter of Intent deadline. MBOH will not consider Letters of Intent submitted without the Letter of Intent fee. The Letter of Intent fee is not refundable.

### B. Application

See Fee Schedule Form. The application fee is 1% of the amount of credits requested in the Application and must be submitted to and received in the MBOH office by the applicable application deadline. MBOH will not consider Applications submitted without the application fee. The application fee is not refundable and will not be adjusted even if the MBOH Board Awards no credits or only a portion of the tax credits requested.

### C. Reservation Agreement

See Fee Schedule Form. In addition to the aApplication fee, a Reservation fee in the amount of 10.0% of the credits reserved is due on or before December 1 of the credit ceiling year from which the Award is made (e.g., for 2018 Credits awarded in November 2017, the fee is due on or before December 1, 2018). After a Reservation Agreement is executed the Reservation fee is not nonrefundable. If the conditions described in the Reservation Agreement are not met, the entire Reservation fee will be forfeited to MBOH.

### E.D. Requesting Additional Credits After Initial Allocation

See Fee Schedule Form. As MBOH, in its discretion, determines necessary for financial feasibility, returned or unreserved Housing Credits may be used to increase the amount of Housing Credits reserved for a Project after the first round Awards have been made. In considering a request for an increase under this paragraph, MBOH may consider any anticipated potential need for returned or unreserved Credits to fund Projects that would otherwise be funded or require greater funding under the Corrective Award set aside under Section 7. An Applicant seeking an increase in the amount of reserved Credits must apply to staff in writing for such increase and must submit new financials (UniApp Section C) and supporting documentation for the cost increases (e.g., higher bids than expected, material costs, etc.). Applications for additional Credits must be submitted to staff. Staff will review and evaluate supporting financials and new cost documentation application materials and present a recommendation and a staff recommendation will be presented at a later MBOH

~~Board meeting for consideration. Staff will not recommend and the MBOH Board will not approve any increase beyond that necessary to make the Project feasible.~~

~~Any request for Credits above the amount initially Awarded is considered a request for additional Credits after Initial Allocation and is subject to the provisions of this section.~~

~~An Application and Reservation fee of 10% of the additional Housing Credits requested is due with the request. In the event an increase for the additional requested Credits is not approved, the Reservation fee in the amount of 9% will be refunded.~~

#### ~~D.E.~~ **Compliance Fees**

See [Fee Schedule Form](#) and Section 12, Compliance Monitoring.

#### ~~E.F.~~ **Developer/Owner Reimbursement of Board Legal Expenses**

~~See Fee Schedule Form.~~ The Developer/Owner of any Project awarded credits will be required to reimburse MBOH for legal fees and expenses incurred by MBOH with respect to any non-standard request, change, document or other matters relating to Reservation (Initial Allocation), Carryover Commitment, compliance or other aspects of qualifying for or obtaining Housing Credits. Such fees and expenses must be paid within 30 days of MBOH's submission of an invoice. MBOH shall not be required to complete any pending process, approval or other action until such fees and expenses are paid in full.

## **SECTION 6 - MAXIMUM AWARDS**

### **A. Maximum Credit Award**

Twenty-five percent (25%) of the state's Available Annual Credit Allocation will be the maximum Credit Awarded or Allocated to any one Project or Developer. The state's Available Annual Credit Allocation is defined as and includes the state's actual or estimated credit ceiling for the current year plus any other available Credits from prior year credit authority determined as of 20 business days prior to the applicable application deadline, and includes any Credits held back pursuant to court order or subject to Award under the Corrective Award set aside. The Developer's percentage of the Development Fee, as specified in a written development agreement, will be that Developer's percentage of the 25% limit. The maximum Credit Award for a Project will be determined based upon the state's Available Annual Credit Allocation for the Housing Credit year from which the Project is first Awarded HCs. If the state's Available Annual Credit Allocation is not known as of 20 business days prior to the applicable application deadline, the Available Annual Credit Allocation from the previous year will be used, subject to later adjustment once the state's actual Available Annual Credit Allocation is known. If an estimated amount is used for Award purposes, all Awards based upon such estimate shall be conditional upon a final determination of the state's actual Available Annual Credit Allocation.

MBOH does not commit tax credits from future years, except as specifically provided in this QAP. The MBOH Board may Award Housing Credits from a future year's Available Annual Credit Allocation at any time outside the competitive cycle for purposes of funding repair or replacement of a Project building due to a life/safety emergency as determined by the MBOH Board in its discretion. The Applicant must submit a Letter of Intent and the Board must invite the Applicant to submit an Application before making an Award. The Application must meet all QAP requirements.

## **SECTION 7 – SET ASIDES**

## A. Non-profit

Ten percent of each state's credit ceiling must be set aside for buildings which are part of one or more Projects involving Qualified Nonprofit Organizations.

The 10% non-profit set-aside requirement may be met by an Award to a Project involving a Qualified Nonprofit Organization out of any other set-aside or the general pool. If no Project Awarded HCs involves a Qualified Nonprofit Organization, the non-profit set aside (i.e., 10% of the state's credit ceiling) will be held back for later Award to a Project involving a Qualified Nonprofit Organization.

## B. Corrective Award

Such portion of the state's Available Annual Credit Allocation is reserved and set-aside as is necessary for Award of credits to:

- Any Project for which an Application was submitted in a prior round or year, if:
  - a final order of a court of competent jurisdiction determines or declares that such Applicant was entitled to an Award in such prior round or year or requires MBOH to make an Award or Allocation of tax credits to such Project;
  - a final order of a court of competent jurisdiction invalidates or sets aside an Award of credits to an approved Project from such prior round or year and a Reservation Agreement was executed by MBOH and such Applicant prior to issuance of such court order, unless such court order determines that such Project was not eligible or qualified under the applicable QAP to receive an Award of tax credits; or
  - MBOH, upon further consideration of any Award determination as required by and in accordance with the order of a court of competent jurisdiction, determines that such Project was entitled to an Award in such prior round or year.

All requirements and conditions of this Corrective Award set aside provision must be met to receive an Award under this set aside provision. The amount of any Award under the Corrective Award set aside shall be the amount specified by the court, or if no Award amount is specified by the court, an amount determined by MBOH in accordance with this QAP. The Corrective Award set aside shall be funded first from returned or unreserved tax credits from a prior year. Awards may be "future allocated" under this Corrective Action set aside, i.e., such Awards may be made from returned or unreserved tax credits from a prior year and/or the current year's credits at any MBOH Board meeting after the final court order has been issued and presented to MBOH. Such Award need not await the annual Application and Award cycle.

Where a court orders that an amount of the current year's credits be set aside for a Project pending the decision of the court, if the court's decision is not received before the end of the current year, the credits set aside will become classified as the next year's credits, as required by federal code.

If the court orders MBOH to Award credits to any Project under this set-aside, the Project must submit an updated Application so the MBOH can review and underwrite current numbers and assumptions to verify that the amount of credits requested or some other credit amount is justified for Project feasibility, unless otherwise ordered by the court. The corrective awardee must pay the Reservation fee as required in [Section 5 the Fee Schedule Form](#).

## C. Small Rural Projects

Twenty percent (20%) of the state's Available Annual Credit Allocation is set-aside for Small Rural Projects. For purposes of this set-aside, a Small Rural Project is a Project: (1) for which the submitted tax credit Application requests tax credits in an amount up to but no more than 12.5% of the state's Available Annual Credit Allocation, and (2) proposed to be developed and constructed in a location that is not within the city limits of Billings, Bozeman, Butte, Great Falls, Helena, Kalispell, or Missoula.

#### **D. General Rules Regarding Set Asides**

MBOH reserves the right to determine in which set-aside a Project will be reviewed (subject to its eligibility), regardless of its eligibility for any other set-aside. For example, if a Project is submitted as a Small Rural Project in order to utilize the Small Rural Project set-aside when it is clearly part of a larger or non-rural Project, the Project will be placed in the proper category as determined by MBOH staff.

To qualify and receive consideration to receive an Award of credits under a set-aside, the Project must meet all applicable requirements of this QAP and must receive minimum Development Evaluation Criteria score specified in this QAP.

The MBOH Board reserves the right to not Award credits to a qualifying Small Rural Project even if the Project meets the minimum required score, if the MBOH Board, at its discretion, determines another Project or Projects better meet the most pressing housing needs of low income people within the state of Montana, taking into consideration the Selection Criteria of this QAP as determined in accordance with Section 9.

In the event there are insufficient tax credits available to fully fund all set aside categories, the respective set asides categories shall be funded in the following order of priority: (1) Non-profit; (2) Corrective Award; and (3) Small Rural Project.

### **SECTION 8 – LETTER OF INTENT AND APPLICATION PROCESS**

Applicants are responsible to read and comply with this Qualified Allocation Plan (QAP) (and any other Applicable QAP) and accompanying materials.

Applicants are responsible to determine the degree that their building(s) and development correspond to the MBOH's Selection Criteria contained in this QAP.

Applicants are responsible to consult their own tax attorney or accountant concerning: (a) each building's eligibility for the tax credit; (b) the amount of the credit, if any, for which their building(s) may be eligible; and (c) their ability and/or their Investor's ability to use the tax credit.

#### **A. Letter of Intent**

All Projects wishing to apply for HCs in Montana must submit a Letter of Intent by the deadline specified in Section 4 with the applicable fee.

All Letters of Intent must be submitted ~~in the format using the forms~~ Forms posted on the Board's website. The Project Location, type (e.g., family or elderly), and Developer specified in the Letter of Intent may not be changed in any later Application. Other information in the Letter of Intent (e.g., cost information, number of units, unit sizes, income targeting, rents, hard and soft loan sources, etc.) will be considered the Applicant's best estimates and may be changed in the Application. A market study or mini-market study is required for purposes of a Letter of Intent, and the Letter of Intent must include the

completed ~~market study summary~~ **Market Study Summary** Form posted on the MBOH website.

## **B. Application**

An Application may not be submitted for a Project unless a Letter of Intent has been submitted with respect to the Project according to the requirements of this QAP and the Board has invited that Project to submit an Application. MBOH will return all other Applications without consideration, along with the application fee.

Applicants must commission a full market study as outlined in the MBOH Market Study Form. Such Market Study must be included with the Application submission in accordance with the Threshold Requirements below.

Applicants must complete and submit the Uniform Application and Supplement, all Threshold Requirements, full market study and full application fee by the applicable application deadline (see Section 4, Application Submission and Award Schedule). Applicants must use the most current ~~form~~ **Form** of the Uniform Application (UniApp) and Supplement available on the MBOH website at: <http://housing.mt.gov/UniformApplication>.

## **C. Incomplete Letter of Intent or Application**

The Developer/Owner that submits either a Letter of Intent or Application that does not include any threshold item or that is substantially incomplete may submit additional information as requested and within the time specified by MBOH staff. If the applicant does not submit the additional information and applicable fee, the Letter of Intent or Application will be returned to the Applicant and will not be considered further.

Commented [A25]: Revised for clarity.

## **D. Threshold Requirements Are Mandatory**

Threshold Requirements are mandatory for all Letters of Intent and Applications. Letters of Intent and Applications received not meeting all Threshold Requirements or other requirements of this QAP will be returned un-scored and will receive no further consideration, except as provided above in subsection 8.C. Fees will not be refunded.

Submit complete Applications to MBOH. Electronic submission of Applications using MBOH's system (currently ShareFile) is preferred but hard copy Applications will also be accepted. Please contact staff (preferably at least a week ahead of the submission deadline) for specific instructions on how to access this system. In submitting or preparing to submit Applications, Applicants shall not change or create folders or otherwise change the file structure within the ShareFile submission. Applicants may request an additional folder by contacting MBOH staff.

~~MBOH staff may communicate with Applicants for purposes of providing interpretive guidance or other information or for purposes of clarifying Applications. MBOH staff may allow minor corrections to Applications, but will return and will not further consider Applications requiring substantial revision or those that are substantially incomplete.~~

## **D.E. Threshold Requirements**

To be eligible for further consideration, all Letters of Intent and Applications must be submitted in accordance with the requirements of this QAP and the following Threshold Requirements.

ALL MBOH FORMS REFERENCED IN THIS QAP ARE AVAILABLE ON THE MBOH WEBSITE AT [URL]. ALL FORMS SUBMITTED TO MBOH IN OR AS PART OF THE APPLICATION, DEVELOPMENT, UNDERWRITING, ALLOCATION, COST CERTIFICATION, COMPLIANCE OR OTHER PROCESSES UNDER THIS QAP MUST BE THE MOST CURRENT FORM AVAILABLE ON



THE MBOH WEBSITE. If the most current Form(s) are not used, submissions may be returned and required to be resubmitted on the correct Form.

Letters of Intent must:

1. -Include the applicable fee;
2. -Be received by the applicable deadline;
3. Include a market study or mini-market study;
- Include the completed ~~market study summary~~ **Market Study Summary** Form posted on the MBOH website;
- 4. Preliminary title search or commitment;** and
5. Be substantially complete and in the format prescribed in the MBOH Letter of Intent Form.

Applications must:

1. Include the application fee;
2. Be received by the applicable deadline;
3. Include all of the documents, information and other items specified in Threshold Requirements 4 through 29 below;
4. Include a cover letter summarizing the Project, limited to 2 pages, which will be provided to MBOH Board members within one week following the Application deadline;
5. Include a fully completed, UniApp, including all applicable Forms, all in the most current forms as posted on the MBOH website;
6. Specify the Qualified Management Company that will provide property management service to the Project and provide a copy of the written agreement with the Management Company evidencing the company's commitment to provide management services. Upon written notice from MBOH that the Application has identified a Management Company that is not a Qualified Management Company, the Applicant must submit to MBOH within ten (10) days a written designation of a Qualified Management Company and a copy of the written agreement with the Management Company evidencing the replacement company's commitment to provide management services;
7. Include a Market Study prepared and signed by a disinterested third party analyst, with certificate (included in MBOH Market Study Form) signed by analyst and notarized. Market Studies must be completed within six (6) months prior to the submission date of the Application, must have the market analyst complete a physical inspection of the market area within one (1) year of the Application and must adhere to minimum market study requirements in MBOH Market Study Form;
8. Include documentation of Land or Property Control;
- ~~8-9.~~ **Preliminary title search or commitment, updated if any changes have been made prior to the date of Application submission;**
- ~~9-10.~~ Include documentation from the applicable local zoning authority that applicable zoning requirements are met or otherwise addressed, e.g., Project is within applicable zoning requirements, part of an approved planned unit development, subject to a zoning change request for which a change request has been submitted, or not subject to any existing zoning requirements. Acquisition/Rehabilitation Projects may provide documentation that the Project will not require a change in zoning requirements;
- ~~10-11.~~ Include documentation of availability and capacity of utilities to serve the Project, including documentation that utilities are available to the Project and the present proximity of utilities to the Project location. Such documentation must be in the form of a letter or email from the electric, gas/propane, water and/or

**Commented [A26]:** This will ensure that MBOH has an accurate legal description.

**Commented [A27R26]:** Comments indicated that this is too early in the process to obtain or submit a preliminary title commitment. Projects are not required to have finally selected a site by this stage, and doing so could advantage property sellers in negotiations with developers. Also, there may not yet be a legal description, as additional survey work may yet be required. Staff recommends deleting this proposed change and, instead, including language below in Section 10.D addressing timely submission of recorded restrictive covenants.

**Commented [A28]:** Revised for clarity and to reference "commitment," the more commonly used term.

sewer/septic provider/company, as applicable verifying that the utilities are or will be available to the property and that the provider has the capacity to handle the load or additional load to be added by the Project. Such documentation must address water, sewer, electricity, and as appropriate, gas, propane and garbage pickup. ~~Documentation must be in the form of a letter from the utility provider verifying that the utilities are or will be available to the property and that the provider has the capacity to handle the load or additional load to be added by the Project.~~

Acquisition/Rehabilitation Projects need only provide a letter or email from the utility provider such documentation for any documenting the expected additional-utility load and the utility's ability to meet such additional load. Documentation of utility availability and capacity must be current (within 18 months prior to Application date). MBOH staff may in its discretion require the Applicant to provide updated documentation. If Applicant obtains an updated letter from the utility provider, a copy of the updated letter must be provided to MBOH at Reservation or with the next submitted quarterly report;

~~11-12.~~ 12. Include a preliminary financing letter from a lender indicating the proposed terms and conditions of the loan. The financing letter must formally express interest in financing the Project sufficient to support the terms and conditions represented in the Project financing section of the Application;

~~12-13.~~ 13. Include a letter of interest from an equity provider including an anticipated price based on the market at time of the Application;

~~13-14.~~ 14. Except as otherwise provided in this Subparagraph 13, include a comparative market analysis ("CMA") or an appraisal done by an independent (non-related) party. Such CMA or appraisal is required regardless of the manner or method of Acquisition and must cover all real estate acquired, including land and/or buildings.

**Land and existing building values must be listed separately.** A CMA or appraisal is not required to be submitted for property located within the exterior boundaries of a reservation. To qualify for this exception, the Application must include documentation demonstrating that the property is located within the exterior boundaries of a reservation;

~~14-15.~~ 15. For Rehabilitation Applications, include a full scale Capital Needs Assessment on the USDA Rural Development Capital Needs Assessment (CNA) template or similar form, a list of items in each unit that will be replaced, refinished, repaired, upgraded or otherwise rehabilitated, and a detailed narrative explaining the scope, details and expectations of the Rehabilitation. If the CNA will be more than 1 year old as of the date of Application submission, the CNA must include an update to within the most recent 6 months;

~~15-16.~~ 16. For Applications proposing Rehabilitation or replacement of existing units, include a preliminary relocation plan addressing the logistics of moving tenants out of their residences and providing temporary housing during the Rehabilitation or replacement and returning tenants to their residences upon completion of the Rehabilitation or replacement;

~~16-17.~~ 17. Include a site plan, and a Design Professional's preliminary floor plan and elevations/photos of existing properties for the Project;

~~17-18.~~ 18. For Applications for Projects involving Qualified Nonprofit Organizations and seeking to qualify for the non-profit set aside under Section 7, include: (a) a copy of the IRS determination letter documenting such organization's 501(c)(3) or (4) status; (b) an affidavit by the organization's managing partner or member certifying that the organization is not and during the Compliance Period will not be affiliated with or controlled by a for-profit organization; and (c) documentation that one of the exempt purposes of the organization includes the fostering of low-income housing;

~~18-19.~~ 19. For Applications proposing a property tax exemption for rental housing providing affordable housing to lower-income tenants pursuant to Mont. Code Ann. §

15-6-221, include documentation of intent to request that the local government unit where the property is located conduct a public hearing as required by Mont. Code Ann. § 15-6-221(2). Such public hearing must be conducted by the unit of local government where the property is located and documentation of such public hearing must be submitted prior to issuance of the Carryover Commitment. If the Application does not include documentation of intent to conduct the required public hearing, the Project will be underwritten as if no exemption was or will be received;

~~19-20.~~ Specify the Extended Use Period;

~~20-21.~~ For Projects targeted for Eventual Homeownership, provide the supplemental Application documents and information specified in Section 3, Eventual Home Ownership;

~~21-22.~~ Specify the selected minimum set aside (20-50 test) or (40-60 test);

~~22-23.~~ Include a copy of both the public notice and the **affidavit of publication** from the publisher, meeting the requirements specified in this Section 8, Public Notice;

a. Public Notice

An Applicant must place a notice in the local newspaper of the intent to apply for Housing Credits, and encouraging submission of public comment to MBOH. Such notice must include name of Project, number of units, location of Project, for-profit or non-profit status, and, if applicable, intent to request tax-exempt status for the Project. The notice will be placed as a box advertisement in the newspaper within 90 days prior to the due date of the Application and will allow for not less than 30 days for submission of comments to MBOH. The notice must be published twice within a seven-day period. A copy of the notice, together with an affidavit of publication showing the dates published, must be included in the Application.

b. Example of Public Notice

(Name of Developer, address, telephone number), a (for-profit/non-profit) organization, hereby notifies all interested persons of (city, town, community name) that we are planning to develop, (Name of Project) an affordable multi-family rental housing complex on the site at (street location). This complex will consist of (number) (one bedroom, two bedroom, or three bedroom) units for (elderly persons/families). This Project (will/will not) be exempt from property taxes.

An Application (will be/has been) submitted to the Montana Board of Housing for federal tax credits financing. You are encouraged to submit comments regarding the need for affordable multi-family rental housing in your area to the Montana Board of Housing, PO Box 200528, Helena, MT 59620-0528 or FAX (406) 841-2841. Comments will be accepted until 5 PM on (specify the date 3 weeks before the MBOH Board Award Determination Meeting (see Section 4, Application Cycle));

~~23-24.~~ Include letters of community support. These support letters must be Project specific and address how the Project meets the needs of the community. New letters of support (as well as new letters of non-support) must be submitted for each Application for each Application round. Generic support for affordable housing will not be considered support for the specific Project being considered. These letters will be provided to the MBOH Board for its consideration;

~~24-25.~~ If the Project is an Elderly Property, specify which exemption for housing for older persons will apply;

~~25-26.~~ Include a narrative addressing each of the Development Evaluation Criteria, demonstrating how the Application meets each of these criteria, and providing a specific explanation and justification of the points sought for each scoring item. Narrative references to the Market Study must cite the specific page and paragraph of the Market Study. The narrative must include the Applicant's own proposed total score for each scoring item in the Development Evaluation Criteria and, at the conclusion of the narrative, the Applicant's own proposed total score;

~~26-27.~~ Include the completed and signed Indemnification Form and Cost Sponsor Certification Form;

~~27-28.~~ For Applicants that include as part of the Development Team a Developer with no previous history with the Montana Housing Credit Program, include the completed and signed Indemnification Form, Cost Sponsor Certification Form and Release of Information Form;

~~28-29.~~ Include the explanation and justification for a request for discretionary basis boost, if applicable;

~~29-30.~~ Identify the name of the entity that will have Legal ownership of the Project (LP, LLP, etc.);

~~30-31.~~ Documentation of the number of households on current waiting lists for the local public housing authority (the PHA/HRC for the area in which the Project is located) (as required by IRC); and

~~31-32.~~ Include the completed ~~amenity form~~ Amenity Form. This completed Form will be provided to the MBOH Board for its consideration.

Applications must also demonstrate that the proposed Projects are financially sound. This includes reasonable financing terms, costs, expenses, and sufficient cash flow to support the operations of the Project, all of which must meet the underwriting standards of MBOH.

## SECTION 9 – EVALUATION AND AWARD

### A. Threshold Evaluation and Considerations

MBOH staff will review all Applications received by the applicable submission deadline for compliance with all Threshold Requirements, including but not limited to completeness, soundness of the development, and eligibility based on federal requirements and this QAP. ~~Except as provided above in subsection 8.C,~~ Applications determined by MBOH staff to not substantially meet all Threshold Requirements or other requirements of this QAP or federal law will be returned un-scored and will receive no further consideration. Except as specifically provided in this QAP, Application fees will not be refunded.

Commented [A29]: Conforms this provision to new language in 8.C.

MBOH staff may communicate with Applicants for purposes of providing interpretive guidance or other information or for purposes of clarifying, verifying or confirming any information in Applications. ~~MBOH staff may allow minor corrections to Applications, but will return and will not further consider Applications requiring substantial revision or those that are substantially incomplete.~~

Commented [A30]: Conforms this provision to new language in 8.C.

MBOH staff may query an Applicant or other persons regarding any concerns related to a Housing Credit Application or the management, construction or operation of a proposed or existing low-income housing Project. Questionable or illegal housing practices or management, insufficient or inadequate response by the Applicant, General Partners, or Management Company as a whole or in part, may be grounds for Disqualification of an Application and non-consideration for an Award of Housing Credits.

As part of its review of Applications, ~~if~~ MBOH ~~has not received comments from staff with~~ contact community officials of the Project location, staff will contact such local community officials to discuss relevant evaluation criteria information pertaining to the Application and

the proposed Project MBOH may also contact any other third parties to confirm or seek clarification regarding any information in the Application, including but not limited to checking Development Team references, verifying credit reports and verifying information through direct contact with the Project Developer.

Between the submission deadline and the MBOH Board Award Determination Meeting, as required by federal law, MBOH will provide notice of the Project to notify the chief executive officer (or the equivalent) of the local jurisdiction within which the Project will be located and provide such individual a reasonable opportunity to comment on the Project of each proposed development requesting comments on the development.

Housing Credit Allocations will be subject to three underwriting evaluations: (1) evaluation for purposes of Award/Reservation and, for Projects that have received an Award of credits and entered into a Reservation Agreement, (2) evaluation for purposes of the 10% Cost Certification, and (3) evaluation for purposes of Final Cost Certification.

MBOH will return and will not consider for an Award of Credits:

1. Incomplete Applications, except as provided above in subsection 8.C.;
2. Unsound Applications, i.e., Projects for which the Market Study and other available market information fails to demonstrate adequate market need within the proposed location community or Projects that are not financially feasible, including but not limited to viable cash flow, based upon MBOH underwriting standards as set forth in this QAP;
3. An Application submitted by an entity with a demonstrated poor track record in completion of development or management of low income housing, whether located in Montana or another state;
4. Applications submitted by Applicants with current Project(s) that have/had numerous or unresolved substantial non-compliance issues or IRS 8823's (consideration will be given to the type of 8823);
5. Any other Application failing to meet any mandatory requirement of this QAP or federal law; and
6. Any Application as otherwise specified in this QAP.

Applications meeting all minimum Threshold Requirements and not excluded from further consideration under this QAP will be evaluated for the amount of tax credits needed for feasibility and long term viability and will be evaluated and scored according to the Development Evaluation Criteria section below.

## **B. Amount of Housing Credit Allocation**

Although a proposed development may be technically eligible for a certain Credit amount, federal law prohibits MBOH from allocating more Credits than necessary for the financial feasibility of the development and its viability as a qualified low income housing Project throughout the Compliance Period. Accordingly, an Award of Housing Credits under this QAP will be limited to the amount of Credits that MBOH, in its sole discretion, deems necessary to make the development feasible and viable throughout the Compliance Period.

In determining the amount of Credits necessary, MBOH will consider:

1. The Sources and Uses of funds and the total financing planned for the Project. Funds, including funds from federal sources, such as HOME grant money, Rural Development, and similar funds, may be loaned by or through a parent organization to a Project at an interest rate below the Applicable Federal Rate (AFR). Such loans will not reduce the basis for the Project providing they are true loans.
2. Grants made with federal funds directly to a Project, which will reduce basis.
3. Any proceeds or receipts expected to be generated by the Housing Credits.

4. The reasonableness of the development and operational costs of the Project.

Based on its evaluation, MBOH will make a preliminary determination of the amount of Credits deemed necessary for the financial feasibility of the development and its viability as a qualified low income housing Project throughout the Compliance Period. This determination is made solely at MBOH's discretion, and is not intended to be a representation or warranty to anyone as to the feasibility of the development. Rather, it will serve as the basis for making an Award of Credits. A similar analysis will be done at the time of 10% Cost Certification and at Final Cost Certification prior to issuing IRS Form(s) 8609. Neither the selection of a Project to receive an Award of Housing Credits nor the amount of Credits to be allocated constitutes a representation or warranty that the Owner or Developer should undertake the development, or that no risk is involved for the Investor.

### C. Full Funding of Applications

Just as MBOH will not allocate more Credits than necessary for the financial feasibility of the development and its viability, MBOH will not award Credits in an amount less than it deems necessary for these purposes. Therefore, if the Board Awards Credits to a Project, it will Award the amount of Credits determined by MBOH staff for the Project based upon the Applicant's requested amount (except for any *de minimis* reduction because of lack of available Credits to fully fund the full Credit amount). If the remaining amount of available Credits is insufficient to fully fund an additional Project, before Awarding Credits to a Project in an amount less than requested by the Applicant (except for any such *de minimis* reduction), the Board will prioritize the remaining Projects for an Award from the remaining Credits, and the first priority Project for such an Award will be allowed 30 days to re-submit its Application resized to the amount of Credits remaining available. After staff underwriting and evaluation of the resized Application, if MBOH staff determines based upon the resized Application that the development is financially feasible and viable as a qualified low income housing Project throughout the Compliance Period, MBOH staff will enter into a Reservation Agreement for the Project. If the first priority Project fails to submit a resized Application within 30 days or MBOH staff determines that the Project is not financially feasible or viable as proposed in the resized Application, the next priority Project will be invited to submit a resized Application, and so on, until remaining Credits are reserved for one of the prioritized Projects.

### D. Development Evaluation Criteria and Scoring

In addition to evaluation under all other QAP Selection Criteria, Applications will be evaluated and scored according to the following Development Evaluation Criteria.

Awarding of points to Projects pursuant to these Development Evaluation Criteria is for purposes of determining that the Projects meet at least a minimum threshold of ~~4400-1000~~ of the total possible ~~4290-1260~~ available points to qualify for further consideration. Developments not scoring the minimum Development Evaluation Criteria score of ~~4400~~ 1000 of the total possible ~~4290-1260~~ available points will not receive further consideration.

Non-competitive 4% Credit Bond Deals will meet at least a minimum threshold of ~~850-800~~ of the total possible ~~4290-1260~~ available points to qualify for further consideration. Non-competitive developments not scoring the minimum Development Evaluation Criteria score of ~~850-800~~ of the total possible ~~4290-1260~~ available points will not receive further consideration.

The Development Evaluation Criteria, other QAP Selection Criteria and information submitted or obtained with respect to Projects will be used to assist the MBOH Board in evaluating and comparing Projects.

Development Evaluation Criteria scoring is only one of several considerations taken into account by the MBOH Board. It does not control the selection of Projects that will receive an Award of tax credits. For purposes of this QAP and HC Awards and Allocations, the QAP Selection Criteria include all of the requirements, considerations, factors, limitations, Development Evaluation Criteria, set asides, priorities and data set forth in this QAP and all federal requirements.

### 1. Extended Low Income Use\* (100 points possible)

Federal law requires a 30-year or longer Extended Use Period. An Application in which the Applicant agrees to maintain units for low income occupancy beyond the ~~Compliance~~ Extended Use Period will receive points as indicated below and must incorporate these restrictions into the Restrictive Covenants.

#### Years beyond initial 15

<del>15 years</del> <u>Less than 31 years</u>	0 points	<del>(30 total years)</del>
<del>16 – 20 years</del>	<del>40 points</del>	<del>(31 – 35 years)</del>
<del>21 – 25 years</del>	<del>60 points</del>	<del>(36 – 40 years)</del>
<del>26 – 30 years</del>	<del>80 points</del>	<del>(41 – 45 years)</del>
<u>Over 30/31 or more</u> years	100 points	(46 years +)

**Commented [A31]:** Since the "Compliance Period" is only 15 years, this change is necessary to conform the provision to the elimination of point awards for a commitment less than 31 years.

Eventual Home Ownership\* Applications must also specify an Extended Use Period and will receive points for the Extended Use Period ~~chosen~~ as provided above (refer to the "Eventual Home Ownership" portion of Section 3 for supplemental Application documentation and information requirements).

### 2. Lower Income Tenants\* (~~220-200~~ 200 points possible)

An Application will receive points for the percentage of eligible units at the percentages of area median income ("AMI") levels listed below. An Application will receive points for 40%, 50%, and 60% categories when the development targets those income and rent levels. Points awarded for 40% units are independent of and not calculated as part of 50% or 60% units, except that the number of 40% units included in the Project, if any, that exceed 10% of eligible units will be added to the number of 50% units for purposes of point scoring under the chart below. Developments will be bound by the terms committed to in the application process through the ~~use of the mandatory~~ Declaration of Restrictive Covenants. Section C, Part IV, Rent and Forecasted Income of the UniApp will be used to calculate the score for this item. Scoring under the following chart is based upon the total number of HC units including a manager's unit if applicable.

Target Median Income Level	Percentage of Eligible Units	Points
40%	10% (or greater)	20 NOTE 1
50%	15-20%	60 NOTE 1
50%	21-40%	80 NOTE 1
50%	41-60%	150 NOTE 1
50%	61-100%	<del>200-180</del> NOTE 1
60%	40%	0
60%	41-60%	20



60%

61-100%

40

NOTE 1: Rents @ 40% allowed to income qualify to 49% AMI.

Rents @ 50% allowed to income qualify to 55% AMI (40-60 election must apply)

(Applicable to all existing HC properties)——

### 3. Project Location\* (100 points possible)

An Application will be awarded points to the extent the Project is located in an area where amenities and/or essential services will be available to tenants, determined according to the following specifications. For scattered site Projects, all site locations must meet the following criteria for any points to be awarded. An Application will be awarded points with respect to an amenity or service as specified below, if: (i) a Project is located within 1½ miles of the specified amenity or essential service; (ii) public or contracted transportation (not including taxi or school bus service) is reasonably available to the specified amenity or service (i.e., the Project is located within ¼ mile of fixed bus stop or on a same day call basis), (or letter from provider committing to establish such service); or (iii) where applicable, the specified amenity or service is available via a no-charge delivery service to the Project Location (all distances must be as specified in the Project's market study):

- 20 points for grocery store (convenience store does not count); and/or
- 10 points for each of the following, up to a maximum of 80 points:
  - One or more public schools;
  - Senior Center;
  - Bank;
  - Laundromat (only if washer/dryer not included in unit or onsite);
  - Medical services appropriate and available to all prospective tenants (e.g., hospital, doctor offices, etc.);
  - Pharmacy services appropriate and available to all prospective tenants;
  - Gas station and/or convenience store;
  - Post Office;
  - Public Park;
  - Shopping (department, clothing or essentials — does not include convenience store); or
  - Public Library.

### 4. Housing Needs Characteristics\* (~~150~~ 100 points possible)

Development meets area housing needs and priorities and addresses area market concerns, such as public housing waiting lists\* (for all units and tenants), Vacancy Rate and type of housing required.

- a. Local Community Input (~~40~~ 30 points possible): 30 points Up to a total of 40 points will be awarded if the Application includes documentation of at least one of the following forms of Local Community Input: 20 points will be awarded for any of the items (i) through (iv) (not to exceed total of 40 points) through which local community input regarding the proposed Project was gathered, as shown by evidence provided in the Application or in response to MBOH inquiries: (i) local neighborhood meetings held expressly for this Application with attendance rosters and minutes; (ii) local charrettes held expressly for this Application with supporting documents, concept drawings, and input from local community; (iii) other appropriate form of local community input specifically designed to gather local community input for this Application and/or (iv) City or County Commission meeting. In order to obtain the available points under any item ~~(iii)~~, there must be actual local community

input in some form. If a community meeting is held but there is no attendance, another form of local community input must be used. No points will be awarded if the meeting or charrette is part of another public or design meeting, unless the minutes demonstrate that a portion of the meeting was specifically dedicated to community input for this Application. No points will be awarded if the Application does not provide evidence of qualifying local community input, including minutes of any meeting, charrette or other form of local community input and copies of any written comments received. Documentation of community outreach efforts to inform and invite community members to attend any of the community input events must be included. All meetings, charrettes and other Local Community input events must be held within 6 months before the Application deadline.

- b. **Appropriate Size (50-35 points possible)**: Points will be awarded for the appropriateness of size of the development for market needs and concerns as reflected in the Market Study. ~~50-35~~ points will be awarded if the number of units being proposed is 50% or less than the number of units needed as projected by the Project's Market Study. No points will be awarded if the number of units being proposed is more than 50% of the number of units needed as projected by the Project's Market Study. For projects developed, rehabilitated or constructed in a location that is not within the city limits of Billings, Bozeman, Butte, Great Falls, Helena, Kalispell, or Missoula, no points will be awarded if the number of units being proposed is more than 75% (rather than 50%) of the number of units needed as projected by the Project's Market Study. If the Project is existing in the community, the number of units in the Project will be added to the new units needed and the above test will be applied. The Application narrative must address this scoring item with citations to the relevant pages and paragraphs of the market study.
- c. **Market Need (35-50 points possible)**: The Application will be awarded ~~35~~ points based upon the required Market Study's documentation that the Project meets the market needs of the community, as follows:
  - o Vacancy Rate is at or below 5% ~~(20 points)~~;
  - o Absorption rate is less than ~~54~~ months ~~(20 points)~~ or ~~Absorption rate is 4 or more months and less than 6 months (10 points)~~; and
  - o Rents are at least 10% below adjusted market rents ~~(20 points)~~.

Narrative references to the Market Study must cite the referenced page and paragraph of the Market Study.

**5. Project Characteristics\* (~~230-200~~ points possible):**

- a. **100 points for any one of the following items Preservation of or Increase in Housing Stock (50 points possible)**:
  - i. **Affordable Housing Stock**: ~~50 points will be awarded if the~~ The Application proposes ~~either~~ the Preservation of existing affordable housing stock ~~(including as part of a local (not national, state or regional) community revitalization plan\* or similar plan)~~ or increases the affordable housing stock through the use of ~~federal funds or~~ funds from other sources (e.g., donation of land, other substantial donations, reduction in taxes through tax abatement (other than non-profit exemption) or impact fees) to leverage the tax credit dollars.

**Qualified Census Tract\* or Community Revitalization Plan\* (10 points possible)**

- ii. **Qualified Census Tract/Local Community Revitalization Plan: 10 points will be awarded if the** The Project is located in a Qualified Census Tract,\* **and its development contributes to** or involves existing housing as part of a local (not national, state or regional) community revitalization plan\* or similar plan. The Application must include any such local community revitalization plan and identify where in the plan such existing housing may be found.

**b. Preservation of Affordable Housing Projects\* (20 points possible)**

- iii. Historic Preservation:** The Application proposes the Acquisition and/or Rehabilitation of buildings with local, state, and/or federal historic\* preservation designations, **existing affordable housing stock, or Projects applying for Rehabilitation tax credits that have completed their Compliance Period.**

**c. Project-based rental subsidy or permanent supportive housing (50 points possible):**

- 0 points for less than 25% of the units;
- 10 points for at least 25% of the units;
- 20 points for at least 35% of the units;

- iv. Project-Based Rental Subsidy:** The Project has project-based rental subsidy **30 points for at least 50% of the units; The Application must provide a copy of the relevant contract or other documentary proof of subsidy from the provider. MBOH staff will verify claimed subsidies with the funding source.**

- 40 points for at least 75% of the units; or
- 50 points for 100% of the units).

The Application must provide a copy of the relevant contract or other documentary proof of subsidy from the provider. MBOH staff will verify claimed subsidies with funding source.

**d.b. 100 points for Green Building and Energy Conservation Standards\* (100 points possible):**

Applicant's justification for green building and energy conservation includes but is not limited to Energy Star building and appliance initiatives, water saving devices and green construction and materials. **For New Construction and Rehabilitation, the Application will be awarded 100 points if the Project will include at least 10 of the items as listed and described on The green building and energy conservation items are listed and further described, and the available points and evaluation scoring criteria are specified, for New Construction and Rehabilitation in the MBOH Green Building and Energy Form.** The Application must include the completed MBOH Green Building and Energy Form. The Applicant's architect, who is qualified with respect to energy and green building standards, must provide a letter confirming the listed green building items, as shown in the MBOH Green Building and Energy Form which is referenced in and attached to the architect letter, are incorporated into the Project. For all Projects (New Construction and Rehab), the Form must list each scoring item and **specify each unit** by unit number or number of each unit type (e.g., 4 of the 10 3-bedroom units) that will include the item.

This letter and the accompanying Form must be included in the Application. NOTE: The Applicant's architect also must provide certification at Final Cost Certification for 8609(s) purposes confirming that the initiatives were incorporated.

Please refer to Section 3 for mandatory infrared testing for Projects that have been Awarded HCs.

**6. Development Team Characteristics\* (~~330~~ 400 points possible):**

Applications meeting all of the requirements of subsections a., b. and c. of this Section 6 will be awarded 400 points. Applications failing to meet any of the requirements of subsection a., b. or c. will be awarded no points for Development Team Characteristics.

**a. Development Team Experience (~~180~~ points possible):**

Participation by an entity with a demonstrated track record of quality experience in completed development or management of low income housing tax credit Projects. MBOH will consider all members of the Development Team (Applicant, Owner, Developer, General Partner, Management Company, and HC Consultant) and whether housing Projects have been developed and operated with the highest quality either in Montana or another state. Special attention will be paid to existing Projects, amount of active local community participation used to develop Projects, and a management entity with a good compliance track record and specialized training. If a new Developer, this requirement may be met these points can be obtained through Experienced Partners.

**b. Management Education (~~60~~ points possible):**

~~Thirty points each will be awarded for~~ (i) one member of the Management Company ~~meeting-meets~~ the education requirement under Section 12, and (ii) one member of the Development Team (other than the Management Company) who is directly and actively involved with the Project ~~that~~ has been trained by a Nationally Recognized LIHTC Compliance Training Company. For MBOH purposes, to maintain certification, the person must attend a complete class with a Nationally Recognized LIHTC Compliance Training Company at least once every four years (certificates must be attached with each Application). MBOH annual compliance training does not qualify for credit under this category.

**c. Cold Weather Development Experience (~~90~~ points possible):**

~~Ninety points will be awarded if the~~ The Project's Developer or Consultant who is actively involved in the actual construction process has experience with Cold Weather Development and Construction, as reported on the MBOH Cold Weather Experience Form. Cold Weather Development and Construction is defined as experience of the HC Developer or Consultant on one or more Projects located above the 40 degrees north parallel.

The application must list all affordable housing including low-income housing tax credit Projects in Montana or any other state developed, owned, managed or consulted on by Applicant and any member of the Development Team or for which an Award of tax credits was received, whether or not such Projects were successfully completed. All Development Team members, including Applicant, Developer, General Partner/Owner, Management Company, and HC Consultant must consent in writing, on a form provided in the UniApp Supplement, to the release of information by any other applicable state tax credit agencies to MBOH regarding the Applicant's history of performance on other tax credit Projects.

**7. Participation of Local Entity (60 points possible)**

The MBOH Board has determined that Owner/Developer communication with local entities and/or having a significant participation of local entities ~~entity participate at a significant level~~

increases the success and acceptance of the Project into the community. For purposes of this scoring item, a local entity includes a provider serving the Project locality from a physical office in the region of the state where the Project is located even if the provider does not maintain a local office in the locality.

**a. Communication/Relationships (30 points possible):**

~~30 points will be awarded if the Application includes documentation in the form of a detailed and descriptive narrative, confirmed in writing by the local entity, indicating that the Owner/Developer has met with one or more local entities to discuss the local entities' participation in the Project through provision of any of the following. Up to but not more than 60 total points may be awarded for participation of one or more local entities. 10 points will be awarded for each local entity for each of the participation items (a) through (f) documented in the Application as provided below.~~

~~Qualifying participation includes local entities providing:~~

- ~~a. screening and referring of individuals as prospective tenants;~~
- ~~b. providing on-site services to Project tenants;~~
- ~~c. donation of land or sale at a reduced price to enhance affordability;~~
- ~~d. use of grant money to develop infrastructure or for other uses;~~
- ~~e. significant fee waivers on local government fees; or~~
- ~~f. other forms of significant monetary or in-kind support.~~

**b. Service Commitments/Understandings (30 points possible):**

~~30 points will be awarded if the Application includes a narrative in which the Owner/Developer commits to provide or arrange for provision of one or more specifically described supportive services for the duration of the Extended Use Period. Each item of local entity participation must be evidenced by a binding written agreement to participate, binding grant or conveyance, binding commitment for fee waivers, etc. Such written agreements must specifically identify and describe the particular services the entity is providing and how such services will benefit the project and must separately identify each of the items in (a) through (f) above. Such agreements may be conditioned upon an Award of Credits. Formal written agreements are required; letters, offers or other non-binding documents will not be accepted as sufficient documentation of local entity participation under this section. Only new or updated agreements, land donations, and/or grants requested or negotiated for the current round will be considered for awarding points. The Application narrative must provide evidence of how such local entity support described supportive services will benefit the property. Formal written agreement for ongoing services must be extended or replaced so that a binding agreement remains in place for the duration of the Extended Use Period (with such agreement preserving the Owner's right to cancel the agreement and obtain a replacement agreement with a new servicer if existing servicer is unable to provide the services). The same component of participation by a local entity may not be counted toward more than one item, and may be given credit by an award of points only once. Points will not be awarded for the same item in both this Development Evaluation Criteria 7 and Development Evaluation Criteria 5, Preservation of Affordable Housing.~~

**8. Tenant Populations with Special Housing Needs\* (100 points possible)**

An Application will be awarded 10 points for each 5% of the units targeting or meeting the following identified needs up to a maximum of 100 points. The Application must specify the

number of units targeted for or meeting each category. Section B Part XII, Units Accessibility, of the UniApp will be used to calculate the score for this item. Units may not be counted more than once or in more than one category for purposes of awarding points.

- a. Units targeted specifically for individuals with children or large families (units with 2 or more bedrooms).
- b. Units targeted specifically as Section 504 fully accessible units exceeding minimum fair housing requirements.
- c. Units targeted specifically for persons with disabilities (limited to a maximum of 25% of units in the Project) (Application must describe the strategy that will be used to market available units to disabled persons throughout the Extended Use Period).
- d. Units targeted to veterans (limited to a maximum of 25% of units in the Project).
- e. Units targeted to victims of domestic violence (limited to a maximum of 25% of units in the Project).
- e-f. Units that provide permanent supportive housing (limited to a maximum of 25% of units in the Project).

If the Project is an Elderly Property as defined in federal law, the Application will receive 100 points under this provision.

**Example:**

2 – 2 bdrm units meet family requirement 20% – 40 points

2 – 1 bdrm units exceed section 504 20% – 40 points

1 – 1 bdrm unit targeted to mental illness 10% – 20 points

5 – 1 bdrm units with no targeting 50% – 0 points

10 – Total units in Project – 100 total points received

**9. Developer Knowledge and Responsiveness (*Up to minus (-) 400 points possible*)**

If an entity or individual participating in a Project as a member of the Development Team identified in an Application has a demonstrated poor track record or demonstrated past management weaknesses with respect to developments in Montana or in another state, or has failed in the past to respond timely to an MBOH letter of Inquiry with respect to a Project, MBOH may assign negative points.

MBOH will provide written notice within thirty (30) days of MBOH learning of any event that will result in a negative point assignment, unless MBOH learns of the event after Application submission and prior to the MBOH Board's Award meeting. If MBOH learns of the event after Application submission and prior to the MBOH Board's Award meeting, MBOH will provide written notice to the Applicant within five (5) business days. The written notice must describe the event giving rise to the negative point assignment and specify the Development Team member or members affected by the negative point assignment, the number of negative points to be assigned and the number of future Applications to which negative points will be assigned. If MBOH has learned of the event after Application submission and prior to the MBOH Board's Award meeting, the notice must be provided to the Applicant and affected members of the Development Team and inform such persons or entities that they may respond in writing to MBOH within five (5) business days of the date of the notice or, if earlier, by 3 days prior to the MBOH Board's Award meeting. If MBOH learns of the event outside the period from Application submission to MBOH Board Award meeting, the notice must be provided to the particular Development Team member affected and inform such Development Team member that they may respond in writing to MBOH within thirty (30) days of the date of the notice.

**a. Demonstrated Poor Track Record**

For purposes of determining a participant's track record, MBOH may contact community officials, Development Team or Development Team member references, credit bureaus, other state tax credit administering agencies and any other sources as MBOH deems appropriate. Up to minus (-) 100 points may be assigned for each of the following: (i) demonstrated poor track record with respect to developments in Montana or in another state, and/or (ii) failure to respond within 10 working days of MBOH letter of inquiry. (***Up to Minus (-) 200 points possible***)

**b. Demonstrated Management Weaknesses**

Development Team members with past demonstrated management weaknesses, including but not limited to those management weaknesses listed below may be assigned negative points for this section (***Up to Minus (-) 200 points possible***), for example:

- i. Has not followed-through on the development of a Project from Application to rent-up and operation;
- ii. Has not complied with MBOH submission, compliance or other requirements applicable during Project development, construction and Extended Use Period;
- iii. Has not maintained a Project to Section 42 or other program standards;
- iv. Has or had numerous or outstanding substantial non-compliance issues or IRS 8823's (consideration will be given the type of 8823);
- v. Has not completed required training in a certified compliance training program;
- vi. Has not completed required management compliance retraining at least every four years;
- vii. Has requested income targeting changes that are not supported by unanticipated hardship;
- viii. For Projects Awarded Credits for 2018 or later years, has a debt coverage ratio at 10% cost certification or final allocation that has changed significantly from the debt coverage ratio as underwritten by MBOH at Application;
- ix. Has requested additional credits more than once;
- x. Has made Substantial Changes to previous tax credit applications or has failed to notify MBOH and seek approval of Substantial Changes according to QAP requirements;
- xi. Has significantly diminished the quality and long term viability of a previous Project by lowering costs below a reasonable level;
- xii. Has delinquent late fees due and payable to MBOH;
- xiii. Has intentionally provided false information to MBOH in connection with an Application, Project or any related Board inquiry or process;
- xiv. Has been a member of the Development Team for a prior Project that exceeded maximum Hard Cost Per Unit or Total Project Cost Per Unit at Final Cost Certification; or
- xv. Has been a member of the Development Team for a prior Project Awarded Credits from 2018 or later years that exceeded the applicable maximum Soft Cost Ratio at Final Cost Certification.

Negative points may not be assigned for the same matter under both Section 9(a) and 9(b).

**c. Method of Assigning Negative Points**

Any negative points will be assigned as follows:



- i. The factors that will be considered in determining whether to assign negative points and the number of any negative points to be assigned with respect to poor track record items, management weaknesses and failure to response to MBOH letters of inquiry, include:
  - A. The nature and seriousness of the incident(s);
  - B. The frequency of such incidents;
  - C. The incidents were or were not within the control of the individual or entity;
  - D. The degree and timeliness to and with which the entity or individual responded to correction and educational efforts;
  - E. The responsiveness of the individual or entity in responding timely to fees, penalties and other sanctions imposed;
  - F. The cost or financial harm caused to the Project, the tax credit agency or third parties;
  - G. The nature and extent of inconvenience and harm caused to Project tenants;
  - H. The nature and extent of damage or expense caused to Project property;
  - I. The extent to which the Project as completed failed to comply with the Project as represented in the Application or in approved Project changes;
  - J. The extent to which the incident would have affected scoring of the Project Application if known as the time (although no such effect on Application scoring need be shown to justify an assignment of negative points);
  - K. The extent to which completion of a Project that received an Award of Credits was substantially delayed or prevented;
  - L. The extent to which Credits that were Awarded were recaptured;
  - M. The extent to which unreasonable or excessive fees, profits or other improper remuneration was derived improperly from a Credit Award or Project; and
  - N. The presence of any other relevant factors or considerations.
- ii. Except as otherwise provided in this Section, negative points will be assigned on the next competitive 9% Credit Application (or multiple Applications in the same competitive round) which includes as part of its Development Team any person or entity that participated as a Development Team member in the Project or Projects giving rise to the negative point assignment.
- iii. If multiple and/or repeat instances of poor performance, management weakness or fail to respond occur or have occurred, negative points may be assigned with respect to a Development Team member for not only the first competitive round in which an Application involving such member participates but may also be assigned for such Applications in multiple future years or competitive rounds.
- iv. If negative points are assigned as a result of poor track record, management weakness or failure to respond that occurred as part of the development/construction/rehabilitation process prior to beginning of lease-up activities or other involvement of the Qualified Management Company, negative points will not be assigned with respect to such Qualified Management Company.
- v. If more than one Development Team member subject to a negative point assignment from a prior Project is part of the Development Team on a current or future Project Application, the total negative points assigned to

- the Application will be the greatest number of negative points assigned with respect to any one such participating Development Team member.
- vi. If the Project giving rise to the negative points would have received a lower Development Evaluation Criteria score under the QAP under which the Project initially was evaluated, scored and awarded credits had the poor track record, management weakness or failure to respond been known as of Application scoring, the negative points assigned with respect to a Development Team member from the earlier Application will be the number of points corresponding to the difference in scoring that would have resulted. Such point difference shall be converted as appropriate and necessary to correspond to the current QAP point scoring system.

\* Indicates federally mandated criteria

## E. Minimum Scoring Threshold

Developments not scoring the minimum Development Evaluation Criteria score of ~~1100~~ 1000 points (or ~~850-800~~ points for non-competitive 4% Credit Bond Deals will not receive further consideration. Applications scoring at least the minimum Development Evaluation Criteria score of ~~1100-1000~~ points or ~~850-800~~ points for non-competitive 4% Credit Bond Deals and meeting all other requirements of this QAP will be considered for an Award of Housing Credits as provided in this QAP.

## F. Award Determination Selection Standard

### 1. Selection Standard

The MBOH Board will select those Projects to receive an Award of Housing Credits that it determines best meet the most pressing housing needs of low income people within the state of Montana, taking into consideration: (a) all of the requirements, considerations, factors, limitations, Development Evaluation Criteria, set asides, priorities and data (including without limitation the statistical data in the MBOH Statistical Data Form) set forth in this QAP and all federal requirements (together referred to in this QAP as the "Selection Criteria"); (b) the Development Evaluation Criteria scoring; and (c) all other information provided to the MBOH Board regarding the applicant Projects.

The awarding of points to Projects pursuant to the Development Evaluation Criteria is for purposes of determining that the Projects meet at least the minimum Development Evaluation Criteria required for further consideration and to assist the MBOH Board in evaluating and comparing Projects. Development Evaluation Criteria scoring is only one of several considerations taken into account by the MBOH Board and does not control the selection of Projects that will receive an Award of Housing Credits.

### 2. Additional Selection Factors

In addition to any other Selection Criteria specified in this QAP, the MBOH Board may consider the following factors in selecting Projects for an Award of Housing Credits to qualifying Projects:

- The geographical distribution of Housing Credit Projects;
- The rural or urban location of the Projects;
- The overall income levels targeted by the Projects (including deeper targeting of income levels);
- The need for affordable housing in the community, including but not limited to current Vacancy Rates;
- Rehabilitation of existing ~~low income~~ low-income housing stock;
- Sustainable energy savings initiatives;

- g. Financial and operational ability of the Applicant to fund, complete and maintain the Project through the Extended Use Period;
- h. Past performance of an Applicant in initiating and completing tax credit Projects;
- i. Cost of construction, land and utilities, including but not limited to costs/credits per square foot/unit;
- j. The Project is being developed in or near a historic downtown neighborhood; and/or
- k. The frequency of Awards in the respective areas where Projects are located.

If the MBOH Board Awards Credits to an Applicant where the Award is not in keeping with the Selection Criteria of this QAP, it will publish a written explanation that will be made available to the general public pursuant to Section 42(m)(1)(A)(iv) of the Internal Revenue Code.

If all of the authorized Credits are Awarded after a particular cycle, MBOH may place qualifying Applications which did not receive an Award of tax credits on a waiting list for potential Award of Housing Credits in the event Credits become available at a later date. Any available Credits that are not Awarded or reserved in a particular cycle may in the discretion of the MBOH Board be made available for Award in a future cycle or may be used to increase the amount of Housing Credits reserved for a previously Awarded Project as provided in this QAP.

## **SECTION 10 – RESERVATION, CARRYOVER AND FINAL ALLOCATION**

Once MBOH has selected Projects and determined the Award of Housing Credits and amount of Credits to be reserved, MBOH will provide a Reservation Agreement, Gross Rent Floor Election, and Declaration of Restrictive Covenants to the partnership for execution and return to MBOH. Upon recording, the original recorded Restrictive Covenants must be returned promptly to MBOH.

### **A. Reservation Agreement**

MBOH will provide a Reservation Agreement, Gross Rent Floor Election, and Declaration of Restrictive Covenants to the partnership for execution and return to MBOH. The partnership should review, complete, sign, and return the Reservation Agreement and Gross Rent Floor Election, along with the additional information and materials required below. A Reservation Agreement is MBOH's conditional commitment to make a Carryover Commitment and/or Final Allocation to the Project, subject to the requirements and conditions of the Reservation Agreement, the QAP and federal law. Such requirements include but are not limited to submission of evidence of timely progress toward completion of the development acceptable to MBOH and compliance with federal tax credit requirements.

If an unsuccessful Applicant, or a party associated with such Applicant, commences any legal action or proceeding challenging MBOH's Award determination or process, MBOH will make a Carryover Commitment or Final Allocation of Housing Credits as required by an executed Reservation Agreement to the same extent it would have been bound to do in absence of the legal challenge, unless the court determines that such Applicant was not eligible or qualified under the applicable QAP to receive an Award of Housing Credits or MBOH otherwise determines that it is precluded by Court order from doing so. If a court determines in any such action or proceeding that MBOH must Award Credits to one or more unsuccessful Applicants from such round or year, such Award or Awards will be made using any available returned or unreserved Housing Credits or current year's Credits provided in Section 7.

MBOH will send the successful Applicant a Reservation Agreement shortly after Award and upon meeting the foregoing requirements. The Applicant will have a maximum of 120 days after award to accept, sign and return the Reservation Agreement. **Failure to return the Agreement by the deadline will result in a late fee as listed on the Fee Schedule Form of 25% of the Reservation Fee.** Where applicable, however, if the Owner elects the federal percentage(s) in the month that the Reservation (Initial Allocation) is issued by MBOH, the Reservation Agreement must be signed and returned on or before the 25<sup>th</sup> of that month to assure the lock-in of the rate. Owners electing the placed-in-service date should return the signed Reservation Agreement immediately. Upon receipt, MBOH will sign the Reservation Agreement, and return a copy to the partnership.

The Reservation Fee specified in ~~the fee schedule Form in Section 5.B~~ **Fee Schedule** will be due and must be received by MBOH on or before ~~the date specified in the Fee Schedule Form December 1 of the year in which the Award is made (e.g., December 1, 2016 for 2016 credit Awards made in January 2016).~~

Once the partnership enters into a Reservation Agreement with MBOH, the partnership must then meet the requirements and conditions described in the Reservation Agreement and provide the required documentation before it receives a Carryover Commitment or Final Allocation of Housing Credits.

MBOH will revoke an approved Reservation (Initial Allocation) and terminate the Reservation Agreement when a Project fails to make successful progress toward completion or otherwise fails to perform its obligations under the Reservation Agreement. Submitting quarterly status reports demonstrating satisfactory evidence of the Project's completion is the responsibility of the Applicant. Successful progress toward Project completion and Project completion require that such progress and completion are in substantial accordance with the Project as described and proposed in the Project Application, except to the extent that Substantial Changes have been approved by MBOH or the MBOH Board as provided in the Applicable QAP.

NOTE: Reservation Agreements for tax credit Projects funded through tax-exempt bonds must be completed, signed, and returned to MBOH not later than five business days following the close of the bond financing agreement.

## B. Gross Rent Floor Election

The election on this form verifies when the Owner elects the gross rent floor for the Project. There are two options: at the Reservation/Initial Allocation, or at the date Placed in Service. This form reflects the election made by the Owner in the Reservation Agreement. This form must be returned with the executed Reservation Agreement.

## C. Declaration of Restrictive Covenants

**To be eligible for HCs, a building must be subject to an extended low income housing commitment between the Owner and MBOH, which commitment must be established by recorded Restrictive Covenants effective for the full Extended Use Period. The Owner must meet compliance criteria for the full Extended Use Period specified in the Restrictive Covenants. Through execution and recording of the Declaration of Restrictive Covenants with respect to Housing Credits, all Owners waive and forfeit the right to request that MBOH locate a non-profit qualified buyer (the "qualified contract process") and the Owner must maintain HC units through the Extended Use Period as provided in the Restrictive Covenants. The Extended Use Period specified in the Declaration of Restrictive Covenants may not be terminated early through the qualified contract process.**

The Declaration of Restrictive Covenants assures that the land and its use will be restricted for the purposes of providing low-income housing for the period proposed in the Application.

**Commented [A32]:** Retained from Section 2.J. This language includes important Montana-specific requirements not specified elsewhere in the QAP.

Provisions included in the Restrictive Covenants will include Exhibit A-1 (Legal Description of Project Land); Exhibit A-2 (Conditions of Tax Credit Allocation) indicating the number of units at the appropriate elected rent levels, e.g., 30%, 40%, 50%, 60% AMI as determined by the Application (Owners will be required to maintain those rent levels through the Extended Use Period of the Project); Exhibit A-3 (Energy and Green Building) indicating the architect's letter provided in the Application outlining those energy and green building initiatives; Exhibit A-4 (Amenities); Exhibit A-5 (Participation by Local Entity); and Exhibit A-6 (Special Housing Needs).

**It is the Developer's responsibility to record the Declaration of Restrictive Covenants in the county in which the Project real property is located. Upon recording, the original recorded Restrictive Covenants must be returned promptly to MBOH not later than the deadline specified in Section D, Carryover Commitment.**

**In unusual circumstances, and for good cause shown, MBOH may permit amendments to the Declaration of Restrictive Covenants at a subsequent date.**

### **D. Carryover Commitment**

MBOH will issue a Carryover Commitment in December of the year for which the credits are being Awarded and such Carryover will be for a period of two (2) years. To preserve this commitment the Owner/Developer must submit the 10% Cost Certification by the deadline specified in the Applicable QAP.

In order to receive a Carryover Commitment, Owners must provide the executed Reservation Agreement and Gross Rent Floor, Proof of Ownership (evidence of title or right to possession and use of the property for the duration of the Compliance Period and any Extended Use Period plus one year, e.g., a recorded deed or an executed lease agreement), executed and recorded Restrictive Covenants, and the Reservation fee. Land lease periods must be at least one year longer than the Restrictive Covenant period. When submitted to MBOH, the executed and recorded Restrictive Covenants must be accompanied by a copy of the ALTA survey and title commitment for the Project real property evidencing the recording priority of the Restrictive Covenants. If the title commitment does not show that the Restrictive Covenants are in a first priority position, MBOH will require a subordination agreement from the owner or holder of any prior-recorded lien or encumbrance as a condition of issuance of IRS Form 8609, unless such prior lien or encumbrance is required by a federal agency to have priority over the Restrictive Covenants or MBOH otherwise determines in writing that subordination is not required (e.g., where such lien or encumbrance would not preclude operation of the property as low-income housing in accordance with the Restrictive Covenants or preclude enforcement of the Restrictive Covenants).

These items must be received by December 1, of the year for which the Award of Credits was made. MBOH will issue Carryover Commitments before year end. MBOH staff may grant one or more reasonable extensions of the December 1 deadline for any of the required items upon written request of the Owner/Developer documenting good cause for such extension.

### **E. 10% Test**

MBOH requires that more than 10% of the expected basis in a Project, including land, must be expended by the 10% Cost Certification deadline. MBOH requires that Developers provide an independent third party CPA audit report Cost Certification, in a format and meeting the requirements established by MBOH, verifying compliance with the 10% test.

**Commented [A33]:** Clarifies the deadline for submission of recorded covenants.

**Commented [A34]:** The proposed language would require submission of the survey and title commitment, to document recording of the covenants with the correct legal description and first priority of the covenants. Delays in execution and recording of the covenants can lead to prior recording of financing liens, contrary to the general requirement that the covenants be in a first priority position. In such cases, MBOH would require a subordination agreement from the prior lien holder where appropriate.

Developers must submit the 10% requirements, including the required CPA ~~audit report~~~~Cost Certification~~, other documents and the 10% test underwriting fee by the deadline. Failure to do so will result in the loss of the Credit Award. See Fee Schedule Form for fees. ~~The fee for 10% test underwriting is \$1,500.00, which fee must be paid at the time of submission of 10% test information and documentation.~~

**Because MBOH's submission deadline is set at the latest date allowed by federal law, no extensions will be granted. If 10% test information is submitted by the deadline but any forms are incomplete or omitted, a ~~\$100~~ correction fee will be imposed for each incomplete or omitted item.**

At 10% Test, MBOH staff will re-evaluate:

1. The Sources and Uses of funds;
2. Total financing planned for the Project;
3. Proceeds or receipts expected to be generated by the Housing Credits;
4. Reasonableness of the development and operation costs;
5. Projected Rental Income and Operational Expenses;
6. Debt Coverage Ratio; and
7. Housing Credits required for financial feasibility of the Project.

Deadline for submission of the required 10% information is the first anniversary of the date on which MBOH executed the Reservation Agreement. This submission deadline will apply to 10% test submissions for Projects awarded Housing Credits in the 2016 or later year allocation rounds. Developers that fail to pay the required fee will be deemed not to have met the 10% Test requirements. Failure to submit certification for 10% documentation or to meet the 10% Test will cause forfeiture of Awarded, reserved or allocated Housing Credits for the Project.

## **F. Placed in Service**

Placed in Service is the certification of the building or the date of certification of the building as being suitable for occupancy in accordance with State or local law through issuance of a certificate of occupancy.

New Construction and Gut Rehabilitation buildings must be Placed in Service not later than the close of the second calendar year following the calendar year in which the Carryover Commitment is made.

Other Rehabs that are accomplished with residents in place during Rehab can be Placed in Service at the end of the 24 month or shorter period over which the required amount of expenditures are aggregated. The Owner selects the Placed in Service date in this case unless local approval is required.

## **G. Final Allocations/8609**

Documentation supporting a request for issuance of IRS Form 8609(s) must be submitted to MBOH within 6 months of the last building Placed in Service date. MBOH will not allocate tax credits on IRS Form 8609(s) until a qualified building is Placed in Service. A site visit and file audit by MBOH may be conducted prior to the issuance of the IRS Form 8609(s).

Notwithstanding other provisions of this QAP, to obtain issuance of IRS Form 8609(s), the Project must be Placed in Service in substantial accordance with the Project as described and proposed in the Project Application, except to the extent that Substantial Changes have been approved by MBOH or the MBOH Board as provided in the Applicable QAP.

The Final Allocation/8609 underwriting fee ~~is \$2,000.00, which fee must be paid at the time of submission of the request for issuance of IRS Form 8609(s).~~ If the paperwork is not received by MBOH within 6 months of the last building Placed in Service date, a ~~\$5,000.00~~

late fee will be assessed. **If 8609 information is submitted by the deadline but any forms are incomplete or omitted, a ~~\$100~~ correction fee will be imposed for each incomplete or omitted item. If a draft 8609 is sent to Developer for review and 8609s must be redone because of Developer/Accountant error, there will be a ~~\$1,250.00~~ fee for additional underwriting. See Fee Schedule Form for fees.**

The request for issuance of IRS Form 8609(s) must include:

1. Certification of required infrared test results (if not previously submitted);
2. The independent third party completed MBOH CPA's audit report ~~Cost Certification~~ and Owner's Statement Forms;
3. Sponsor Certification section of the UniApp;
4. The architect's verification that the items for green and amenities listed in the Application as well as provisions of accessibility listed in Section 3 have been incorporated;
5. Certificates of Occupancy (C of O's);
6. Copies of all permanent loan and/or grant documents;
7. Copy of partnership/operating agreement;
8. Detailed list of items or costs excluded from eligible basis (for example, parking lot is not in eligible basis);
9. Statement identifying the first year of the credit period, which statement must name the specific year (e.g., 2017); ~~and~~
10. The Final Allocation/8609 underwriting fee; ~~and~~
11. Documentation evidencing that the site manager and Management Company personnel ~~has have~~ completed a Nationally-Recognized LIHTC Compliance Training Company certification course, passing the test. ~~And must; and~~ have attended a class with a Nationally-Recognized LIHTC Compliance Training Company in the last four years.

If the required fee is not submitted, the Project will be deemed not to have met Final Allocation requirements and MBOH will not issue IRS Form 8609(s). MBOH will complete the final credit Allocation evaluation. Typical turn-around time for 8609(s) is 4-8 weeks after submission of all required documentation and the fee. Once the 8609(s) are issued and delivered to the Owner, the bottom half must be completed and signed.

**A copy of each completed and signed 8609 must be sent back to MBOH within 90 days of issuance. Failure to provide the completed and signed 8609(s) so that they are received by MBOH by the deadline will result in a ~~\$1,000.00~~ late fee. If the 8609(s) need to be reissued after completed by MBOH due to Developer error, the MBOH underwriting fee must be paid again. See Fee Schedule form.**

## SECTION 11 - DEVELOPER/APPLICANT RESPONSIBILITIES

Applicant must respond to a written MBOH request within 10 working days. Failure to do so may result in the Application being deemed ineligible for that funding round.

Applicant must proceed according to the timeframe identified in the Implementation Schedule. Adjustments of up to 60 days are acceptable. Any changes in the Implementation Schedule greater than 60 days must be submitted in writing with justification to MBOH within 10 business days of the change. Any changes not reported or not approved may jeopardize the credits. If the schedule is more than 60 days behind and has not been updated as stated above, a late fee ~~of \$1,000.00~~ will be assessed. See Fee Schedule form.

### A. State Law Requirements



The Applicant and Development Team must agree to comply with Montana State law requirements (e.g., certificate of contractor registration, workers compensation, unemployment compensation, and payroll taxes). MBOH will include this certification in the execution of all Reservation (Initial Allocation) and Carryover Commitment documents.

## **B. Public Notification**

Any public relations actions by a recipient of tax credits involving MBOH funds or tax credits must specifically state that a portion of the funding is from MBOH. This will be included in radio, television, and printed advertisements (excluding rental ads), public notices, and on signs at construction sites, e.g., "Housing Credits allocated by the Montana Board of Housing, Montana Department of Commerce."

## **C. Quarterly Status Reporting**

All Applicants receiving Reservations (initial Allocations) of credits must provide written status reports for each calendar quarter, beginning with the quarter in which the tax credit Award is made. Status reports will be due on or before January 10<sup>th</sup>, April 10<sup>th</sup>, July 10<sup>th</sup> & October 10<sup>th</sup> until the Applicant receives its 8609(s). The documentation regarding the progress must be development specific, and include such items as planning approval and building permits, firm debt and/or equity financing commitments, construction progress (foundation, framing, rough in, enclosed, drywall, etc., **for each Project building**), and lease up progress. Submission of photos is encouraged.

The following items must be addressed for **each building** on the quarterly report that is submitted to MBOH. If all items are not addressed, the report will be returned and must be corrected and resubmitted. If the resubmitted report is received after the due date the late fee will apply.

1. Updated implementation schedule if more than 60 days behind schedule submitted with application;
2. Advertising for construction bids;
3. Construction bid awards;
4. Pre-construction meeting date;
5. Groundbreaking ceremony date (at least 2 weeks' notice);
6. Future dates of construction/draw meetings;
7. Each phase of construction for **each building including photos** (excavation, foundation framed, etc.);
8. Certificate of Occupancy for **each building** as issued for the month of report;
9. Number of units occupied and number left to full lease up each quarter; and
10. Grand Opening date (at least 2 weeks' notice).

**Owners must provide a copy of the Certificate of Occupancy for each building. The Certificate of Occupancy must be included in the status report covering the period in which it was issued. Failure to provide the reports so that they are received by MBOH by the deadline will result in a ~~\$500.00~~ late fee. This also applies to those Properties with ARRA funding.**

All ARRA reports are due on or before the dates listed in the ARRA Exchange or TCAP Program Agreement.

~~\$500.00~~ Late fees will be assessed for each of the following:

~~1. the financial audit is not received by MBOH by the deadline.~~

~~\$500.00 late fee will be assessed if 2. the annual budget is not received by MBOH by the deadline, or~~

~~\$500.00 late fee will be assessed if 3. the annual insurance binder is not received by MBOH by the deadline.~~

~~See Fee Schedule form for all above fees.~~

## D. Changes to Project or Application

The Applicant must notify MBOH in writing at least 30 days before any proposed Substantial Changes in the Project. Proposed Substantial Changes to the Project must be approved by MBOH.

Specific approval by MBOH is required for Substantial Changes. MBOH staff will review requested Substantial Changes and may approve or deny approval of such changes, or may request Board consideration and determination of the change request. If MBOH staff denies approval of any Project Change, the Applicant may request Board review and approval of the change request. Requests must be submitted to MBOH with proper justification at least 30 days before the change is expected to take place. The Applicant must inform MBOH staff if the proposed change requires immediate or urgent review and approval. MBOH review and approval of changes must be completed prior to the change taking effect. Changes completed without MBOH approval may result in the termination of the Reservation Agreement and/or loss of some or all credits.

Any requested changes submitted requiring MBOH action may incur additional fees. Changes to the Project site, construction of building(s), architectural, engineering, or any on-site review by any member of MBOH will incur additional charges. Fees will be determined based upon the cost of MBOH Staff travel for that purpose.

## SECTION 12 - COMPLIANCE MONITORING

Federal law requires state allocating agencies (MBOH) to monitor compliance with provisions of Section 42 of the Internal Revenue Code (26 U.S.C. § 42). In addition, Federal law requires allocating agencies to provide a procedure the agency will follow in monitoring for non-compliance and to inform tax credit recipients (Owners) of procedures and requirements. ~~The Project must comply with the Housing Credit requirements set forth in Section 42 and this QAP for the entire Extended Use Period. Periodic file audits and inspection of units will be performed by MBOH staff as provided in this QAP.~~

**Commented [A35]:** From Section 2 of current QAP. Section 2 is generally proposed to be deleted but this language should be retained to clarify the duration of these requirements.

Included in the requirements are procedures for notifying the Internal Revenue Service (IRS) of any non-compliance of which the allocating agency becomes aware. Federal income tax regulations related to Procedures for Monitoring Compliance with Housing Credit Requirements are published in 26 CFR Part 1 and 602.

For complete HC compliance guidance, refer to the MBOH HC Compliance Manual, available at <http://housing.mt.gov/MFCompManual>

### A. Compliance Fees ~~(See Fee Schedule form for all fees mentioned below)~~

Developments will incur and must pay to MBOH a compliance monitoring fee to offset the costs for MBOH compliance monitoring. ~~The compliance monitoring fee is currently \$45.00 per each non-market unit, and may be adjusted by MBOH from time to time. The amount of the compliance monitoring fee shall be posted on the MBOH website and any adjustments to the fee amount shall be posted on the MBOH website in advance of the effective date of such adjustment.~~ The compliance monitoring fee is payable annually at the time of the

Owner's Submission of the Owner's Certificate of Continuing Program Compliance for the time period being submitted.

**A late fee will be assessed if the complete Annual Compliance Package is not received by the deadline, a late fee of \$100.00 or 25% of the annual compliance monitoring fee, whichever is greater, will be charged.**

Failure to provide corrections on noncompliance so that they are received by the deadline set by MBOH will result in an initial \$200.00 late fee and an additional \$200.00 per week fee until all required documentation is received by MBOH. A one-time extension may be granted if a written request is submitted to MBOH no later than 10 days prior to the deadline. If an extension is granted and the extension deadline passes without MBOH receipt of the complete documentation, a \$200.00 per week fee will be imposed until all required documentation is received by MBOH.

The following procedure describes MBOH plans for monitoring compliance on tax credit Projects. At minimum, each Project that has been Placed in Service will be subject to the following monitoring requirements:

## **B. Recordkeeping, Record Retention and Data Collection**

### **1. Recordkeeping**

The Owner of a low-income housing Project must keep records for each building in the Project that shows unit qualifications for each year throughout the term of the Declaration of Restricted Covenants, including the Compliance Period and the Extended Use Period in effect for such Project.

The information must show for each year in the Compliance Period:

- a. The total number of residential rental units in a building (including the number of bedrooms and the size in square feet of each residential rental unit);
- b. The percentage of residential rental units in the building that are qualified units;
- c. The rent charged on each residential rental unit in the building (including any utility allowances and mandatory fees);
- d. HC unit vacancies in the building and information that shows when, and to whom, the next available units were rented. If a unit is left vacant, or in a mixed use Project is rented to a non-qualifying tenant, the Owner must maintain documentation showing a diligent attempt was made to rent the unit to a qualifying tenant;
- e. The tenant income certification of each HC tenant (by unit), including annual certifications for each continuous tenant;
- f. Documentation to support each HC tenant's income certification. This must include a copy of (i) verification of income from third parties, or (ii) 6 consecutive paystubs;
- g. The eligible basis and qualified basis of the building at the end of the first year of the credit period; and
- h. The character and use of any non-residential portion of the building included in the eligible basis of the building, if applicable.

### **2. Records Retention**

Federal regulations require the Owner of a HC Project receiving tax credits to retain the records listed above. The Owner is required to retain such records for at least 6 years after the due date for filing the federal income tax return for that year. Records for the first year of the credit period must be retained for at least 6 years beyond the due date for filing the federal income tax return for the last year of the Compliance Period. Owner should also

retain records relating to the amount of credit claimed for the Montana Housing Tax Credit, including the **IRS** Form 8609(s) and Schedule A of **IRS** Form 8609(s).

### **3. Data Collection**

To the extent required by federal law, the Owner will assist the MBOH with meeting federal reporting requirements by collecting and submitting information annually concerning the race, ethnicity, family composition, age, income, use of rental assistance under section 8(o) of the United States Housing Act of 1937 or other similar assistance, disability status, and monthly rental payments of all qualified households.

### **C. Owners Certificate of Continuing Program Compliance**

The Owners Certificate of Continuing Program Compliance is required on an annual basis for each property. The certificate must be signed by the Owner and notarized. This statement must be filed with MBOH every year throughout the Extended Use Period. Owners must file annual certifications on the form provided by MBOH. Substitute forms are not acceptable. Failure to provide an annual certification before the date established by MBOH may trigger an IRS Form 8823.

### **D. Income and Expense Summary**

All property Owners must submit operating income and cost information for the property's latest fiscal period, including a current balance of replacement and operating reserve accounts.

### **E. Submission Deadlines**

The Owners Certificate of Continuing Program Compliance and Tenant Income Certifications (TIC) must be submitted on or before the 25th of the month following the assigned annual period. Federal regulations stipulate there must be no more than 12 months between certifications.

All submissions must be filed through Certification On Line (COL).

### **F. Review by MBOH staff**

MBOH will review the items listed above for compliance with the requirements of Section 42 of the Code and with the requirements of the MBOH HC program.

### **G. Ownership/Management Changes**

Written Notification of changes to property management companies, managers, site managers, or changes to points of contact must be submitted to MBOH prior to or immediately upon implementation of the change. Changes not received by MBOH prior to change or immediately upon change, or within a 15-day grace period thereafter, will result in an initial ~~\$500.00~~ late fee, and ~~\$500.00 per month~~ late fees thereafter until written notification is received. If no notification is received MBOH will research and identify the date of the change, and impose late fees based upon such date (and allowing for a 15-day grace period). No Change in Management Company shall be acceptable unless it results in a Qualified Management Company assuming management of the property. Replacement of a Management Company with a company that is not a Qualified Management Company or failure to timely submit such notification to MBOH may trigger issuance of a **IRS** Form 8823. All management companies, whether in place or being hired, must meet Qualified Management definition.

Subject to the requirements of Section 42 of the Code, the Restrictive Covenants and the Applicable QAP any other applicable restrictions, the Owner may sell, transfer or exchange

the entire Project at any time. No portion of a building to which the Restrictive Covenants apply may be sold to any person unless all of such building is sold to such person. Prior to such sale, transfer or exchange, however, the Owner must notify in writing and obtain the written agreement of any buyer, successor or other person acquiring the Project or any interest therein that such acquisition is subject to the requirements of the Restrictive Covenants, the requirements of Section 42 of the Code and applicable Regulations, and the Applicable QAP. Such written agreement of the buyer, successor or other person acquiring the Project must be in the form required by MBOH, which agreement form is available on the MBOH website. Such form, executed by the buyer, successor or other person acquiring the Project must be submitted to MBOH prior to closing of the sale, transfer or exchange. The Board may void any sale, transfer or exchange of the Project if the buyer, successor or other person fails to assume in writing the requirements of this Agreement and the requirements of Section 42 of the Code.

## H. Education Requirements

Persons responsible for qualifying tenants and verifying compliance (involved in tenant qualification and compliance) must be certified in LIHTC compliance by one of the Nationally-Recognized LIHTC Compliance Training Companies within the time specified in this section. Property managers and property Management Company personnel must complete a Nationally-Recognized LIHTC Compliance Training Company certification course, passing the test. ~~Once certification has been For-obtained MBOH purposes~~, to maintain certification for MBOH purposes, the person must attend a class with a Nationally-Recognized LIHTC Compliance Training Company at least once every four years. For each of the other three years, all property managers and property Management Company personnel should attend annual MBOH compliance training. The property Management Company and site manager for an HC property must be trained and certified before the property is Placed in Service. New site managers hired for existing HC properties must be certified within their first 6 months of employment. New property management companies hired for existing properties must be certified before they assume management of a property. On a case-by-case basis, MBOH in its sole discretion may approve its compliance training as adequate training until such time as the next Nationally-Recognized LIHTC Compliance Training Company program is available. Training requirements must be met to maintain Qualified Management Company status.

Persons responsible for qualifying tenants and verifying compliance (involved in tenant qualification and compliance) must also attend Fair Housing training at least once every four years. The manager for a HC property must complete such training before the property is Placed in Service. ~~New managers hired for existing HC properties must complete the training within their first year of employment.~~

Such Fair Housing training must include and cover the following subjects and requirements:

1. Protected Classes;
2. Accessibility requirements;
3. Reasonable accommodation/modification;
4. Applicant screening;
5. Disparate impact;
6. Domestic violence issues;
7. Occupancy standards;
8. Section 504; and
9. Service Animals.

## I. Tenant Income Certifications (TIC)

### **1. Frequency and Form**

Owners must complete the MBOH TIC *for all new move-ins* and file it with MBOH through Certification On Line (COL). Documentation supporting the TIC will not be submitted. MBOH staff will review supporting documentation during file audits. Timely annual Re-certifications (TICs) *for mixed Projects* (with market units) are required must be submitted to MBOH through COL.

The MBOH COL TIC must be used. Any other TIC must be preapproved by MBOH prior to use.

### **J. Student Status Certification**

Student status certifications must be completed *annually* within the 30 day period *prior to their move-in anniversary date*.

### **K. On-Site Inspections**

MBOH staff (staff) will perform an on-site inspection of each property at least once every three years during the Extended Use Period. Staff will notify the Owner/manager in advance of the inspection.

Staff must inspect and review at least 20% of the tenant files and corresponding units. MBOH will not notify the Project's manager, Owner or other representative of the unit selection before the site inspection. The selected sample may be expanded.

Complete copies of all tenant files for each unit from original lease-up forward must remain within the State of Montana at the location of the rental property or the regional in-state office.

If MBOH determines it is necessary, properties may be inspected on a cycle of more than once every three years. The cost of any additional inspections will be billed to the respective property.

MBOH may schedule on-site inspections at any time with minimal notice.

In event of non-compliance under Section 42 of the Code or the implementing regulations MBOH may be required or elect to undertake additional monitoring. The Owner will take any and all actions reasonably necessary to achieve and maintain compliance. Staff may require the Owner to document correction of non-compliance and/or MBOH may elect to conduct one or more site visit(s) to verify correction of non-compliance and/or require additional Owner or manager training. The Owner will pay a reasonable fee to MBOH for any such additional monitoring activities.

### **L. Notice To Owner (26 CFR 1.42 (e)(2))**

MBOH must provide prompt written notice to the Owner if MBOH becomes aware of non-compliance. These items include:

- Non-receipt of the certification(s) described in this QAP.
- Inaccessibility of tenant income supporting documentation, rent records, or the property.

In addition, MBOH must provide prompt written notice to the Owner if MBOH discovers by inspection, review, or in some other manner, that the Project is not in compliance with the provisions of Section 42.

### **M. Correction Period (26 CFR 1.42 (e)(4))**

The Owner will be given a reasonable correction period from the date of non-compliance. If Staff determines that good cause exists, an extension may be granted.

#### **N. Notice To IRS (26 CFR 1.42 (e)(3))**

MBOH must file IRS Form 8823 "Low-Income Housing Credit Agencies Report of Noncompliance" with the IRS (even if non-compliance has been corrected) no later than 45 days after the end of the correction period, and no earlier than the end of the correction period.

#### **O. Liability (26 CFR 1.42 (g))**

Compliance with the requirements of Section 42 is the responsibility of the Owner of the building for which the credit is allowable. MBOH's obligation to monitor for compliance with the requirements of Section 42 does not make the Agency liable for an Owner's noncompliance.

No member, officer, agent, or employee of MBOH shall be personally liable concerning any matters arising out of, or in relation to, the compliance monitoring of a low-income housing Project.

#### **P. Marketing the Project**

The Owner must put all HC properties into the free State-approved Housing Locator website, MTHousingSearch.com within one year after Placed in Service. If not completed within such time period, MBOH will do so and charge the Owner for the related costs. Properties will be contacted by MTHousingSearch for required information. Using this website meets the criteria for advertising vacant units and provides for broad coverage to those searching for affordable housing in Montana.

#### **Q. Qualified Contract Process**

Federal law, in Section 42 of the Code, provides for a state housing credit agency process for early termination of the Extended Use Period for certain Projects and subject to certain requirements. Such process provides for the early termination of the Extended Use Period: (1) if the Owner submits a written request to MBOH in accordance with certain requirements to find a person to acquire the Property, and (2) if MBOH is unable to present within a one-year period a qualified contract for the acquisition of the Property by any person who will continue to operate the low-income portion of the building as a low-income building as defined in Section 42 of the Code. MBOH has adopted certain requirements and procedures applicable to the qualified contract process in the Montana Board of Housing, Montana Housing Tax Credit Program, Qualified Contract Process and Instructions for Calculation of the Qualified Contract Price (March 2017). MBOH hereby adopts and incorporates herein by reference the Montana Board of Housing, Montana Housing Tax Credit Program, Qualified Contract Process and Instructions for Calculation of the Qualified Contract Price (March 2017) (the "Qualified Contract Process") for purposes of eligibility, submission, consideration, determination and all other aspects of a request for a qualified contract as provided in Section 42. The Qualified Contract Process shall govern all aspects of a Project Owner's request to MBOH for a qualified contract.

### **SECTION 13 – DISCLAIMER**

MBOH is charged with allocating no more tax credits to any given development than is required to make that development economically feasible. This decision shall be made solely at the discretion of MBOH, but in no way represents or warrants to any Applicant, Investor, lender, or others that the development is feasible or viable.



MBOH reviews documents submitted in connection with this Allocation for its own purposes. In Allocation of the tax credits, MBOH makes no representations to the Owner or anyone else regarding adherence to the Internal Revenue Code, Treasury regulations, or any other laws or regulations governing Montana Housing Tax Credits.

No member, officer, agent, or employee of MBOH shall be personally liable concerning any matters arising out of, or in relations to, the Allocation of the Housing Credit.

If it is determined that an Applicant or any member of the Development Team has intentionally submitted false information, a credit Award may be withdrawn or credits may be recaptured and the Applicant or any Applicant involving any related parties or any individual or entity supplying the false information will be ineligible to apply for credits for the next five years or may be assessed negative points as provided in Section 9.

### **A. MBOH Policy on Non-Discrimination**

Montana Board of Housing is an Equal Opportunity organization. All employees who work for MBOH, agree not to discriminate against any client or co-worker based on any protected class under applicable Federal or Montana law. The failure of any employee to comply with this policy may lead to disciplinary action in accordance with applicable employment policies and procedures, including but not limited to immediate termination of employment.

### **B. Qualified Allocation Plan Revisions**

This QAP may be amended at any time after compliance with applicable notice, comment and approval requirements.

### **C. MBOH Policy on Civil Rights Compliance**

The Owner, Developer, borrowers and any of their employees, agents, or sub-contractors, in doing business with the Montana Board of Housing understand and agree that it is the responsibility of the Owner(s) and such other persons and entities to comply with all applicable Federal Civil Rights laws and regulations, including without limitation applicable provisions of the Fair Housing Laws and Americans With Disabilities Act, and any applicable State and local Civil Rights Laws and regulations. Should requirements, such as design, not be specified by MBOH, it is nonetheless the Owner(s) responsibility to be aware of and comply with all applicable non-discrimination provisions related to any protected class under Federal or Montana law, including design requirements for construction or Rehabilitation, Equal Opportunity in regard to marketing and tenant selection and reasonable accommodation and modification for those tenants covered under the Laws.

## Housing Credit Forms:

All Forms Referenced in this QAP are available at:

<http://housing.mt.gov/MFOAP>

Applicants, Developers, Owners, Management Companies and all other interested persons submitting Applications, Cost Certifications, Compliance materials ~~and~~ other materials and any fees to MBOH are responsible to review the website and to make such submission on the most current Form, including the most current Fee Schedule available on the MBOH website as of the date of the submission. MBOH may require resubmission of any item if submitted without using or complying with the current Form or without submission of the current fee amount, and late fees may be incurred if the need for such resubmission results in late submission of the correct Form or fee. Please contact MBOH staff with any questions regarding the appropriate or current Form or fee.

Commented [A36]: Revised to reflect addition of Fee Schedule to be maintained by MBOH as a Form.

### Application Standard Fee Schedule

(all fees nonrefundable and will not be adjusted unless noted below)

Application Type	Fee Amount	Due Date
Letter of Intent (LOI) (9% competitive)	\$3,000.00	Submission deadline
Application fee (9% competitive)	1% of credit request	Submission deadline
Application fee (4% non-competitive)	1% of credit request	request adoption of bond resolution
42M letter fee (4% non-competitive)	4% of credit request	return of 42M letter
Reservation fee (9% competitive)	10% of credits reserved	on or before Dec 1 of credit year
Additional credit request	sum of application and reservation fee above	with request (9% refunded if not approved)
Board legal Fees	invoiced amount	30 days of MBOH sent invoice
10% Test underwriting fee	\$1,500.00	submitted with paperwork
8609	\$3,000.00	submitted with paperwork

### Application Late Fees

Application Type	Fee Amount	Due Date
Incomplete LOI/Application	\$1,000.00 for each item	submitted with correction
Failure to return Reservation Agreement by deadline	25% of Reservation Fee	submitted with paperwork
10% Test forms corrections, incomplete, or missing	\$100 for each correction, incomplete or omitted item	submitted with correction
Implementation Schedule behind more than 60 days & not updated	\$1,000.00	submitted with correction
8609 corrections	\$100.00 each correction, incomplete or omitted form	submitted with correction
8609 past 6 month last building Placed in Service	\$5,000.00	submitted with paperwork
Re-issuance of 8609 due to Developer/Accountant Error	\$1,250.00	submitted with paperwork
Completed 8609 not back to MBOH within 90 days of issuance	\$1,000.00	submitted with paperwork
Late Quarterly Reporting	\$500.00	submitted with paperwork
Late ARRA reporting	\$500.00 for each item	submitted with paperwork

### Compliance Standard Fee Schedule

Compliance Type	Fee Amount	Due Date
Compliance Monitoring fee	\$45.00/each non-market unit	Submission Deadline

### Compliance Late Fees

Compliance Type	Fee Amount	Due Date
Annual Compliance Package late	\$100.00 or 25% of monitoring fee whichever is greater	submitted with paperwork
Failure to provide corrections on non-compliance	\$200.00 late fee & \$200.00/week until docs received	submitted with correction

Extension granted & passes without completed documentation	\$200.00/week until docs received	submitted with correction
Ownership/Management change without notifying MBOH	\$500.00 intial late fee	written notification
Ownership/Management change without notifying MBOH	\$500.00/month	written notification
Additional Compliance Monitoring	determined based on costs of monitoring	on invoicing

**Housing Solutions, LLC**  
**Comments on the**  
**Draft 2019 Qualified Allocation Plan dated January 8, 2018**

Section 8 – E. Threshold Requirements

A new requirement for both Letter of Intent and Application has been added to the list of Threshold Requirements: Preliminary title search or commitment. Comment A24 indicates “This will ensure that MOBOH as an accurate legal description.” Our concerns with this addition are outlined below.

First, in prior years having a site identified was not a requirement at the Letter of Intent stage. With the requirement of a Preliminary title search or commitment, you are requiring the submitter to have a site identified and such site be identified in public documents. When the Letter of Intent requirement was added a couple years back, we didn’t want to put projects in a position of being locked into a site after an Invitation to Apply as it would put them as a negotiating disadvantage with the land seller. The land seller would know they were the only option for the project and therefore could demand an unreasonable and above market price.

Second, and most importantly, requiring a preliminary title search at Letter of Intent and Application will limit applicants to project site that are already legally platted and existing prior to the Letter of Intent or Application. This, we feel, is an unnecessary restriction on site selection. It is fairly common to “break off” the land needed for a project by subdividing a larger parcel. With these applications being so sensitive to cost, breaking off an appropriately sized parcel is often times a tool used to be cost efficient by only purchasing the ground needed. The formal subdivision process is quite costly and would only be completed if the project was selected for funding.

We understand this requirement was placed, in part, from a desire to ensure the Declaration of Restrictive Covenants was being filed against the correct property using the correct legal description. This is a valid concern of the Board and should be addressed. I would suggest, rather than making a Preliminary title search or commitment a requirement at Letter of Intent and Application, the Board require funded projects submit a copy of the ALTA survey and title commitment along with the Recorded Declaration of Restrictive Covenants there-by providing evidence the Declaration of Restrictive Covenants have been recorded against the correct property. Alternatively, you could require an AS Built - ALTA survey be submitted which provides evidence of the restrictive covenants being recorded against the property as a condition of issuing the form 8609. We have attached a recent AS Built ALTA survey and indicated where the Recorded Declaration of Restrictive Covenants appears as an example.

**From:** Lauren Moore  
**To:** [Bair, Mary](#)  
**Cc:** [Tyson O'Connell](#)  
**Subject:** MBOH - QAP Review Comments  
**Date:** Monday, December 4, 2017 11:10:27 AM

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Hi Mary –

It was great to finally meet you in person on Friday! Tyson and I had a chance to review the items we covered last week and wanted to get you our comments. We hope that these can be incorporated into the QAP.

1. Section 3.G.10 – It isn't always possible to meet the new construction codes for Rehabilitation projects. At Vista Villa, we are meeting the Enterprise Green Community Standard and complying with all applicable construction codes (for system, plumbing, window upgrades, etc), but there are certain codes that don't apply because we aren't moving walls or adding elevators. We think the additional language you're adding to this section should clearly state, "Rehabilitation projects must meet the applicable building codes related to the planned scope of work."
2. Section \_\_\_\_\_ an "Other" Amenities option in the QAP. One thing that we've seen other state agencies (Mississippi & New Mexico specifically come to mind) do is have a deadline pre-application to get approval for an "Other" category amenity that the developer would like to utilize. If the agency decides that the request is acceptable, they send a pre-approval letter back and require the developer to include it in their application. This allows a developer to be creative in their design and also allows MBOH to maintain a level of control in what is acceptable. This is especially important for a Rehabilitation project is these points are 100 or 0, as we may pick 10 items that have a major green impact, but wouldn't qualify, while 10 of the qualifying point options with less of an impact may qualify.
3. Section 4.B – We think it's important for developers, MBOH, and Dept of Commerce to better coordinate the application deadlines and requirements. One single app for Tax Credits, HOME, and NHTF is the most efficient and how we've seen this handled in other states. We would be happy to help MBOH "streamline the application" for tax credits and HOME/NHTF.
4. Section 9.D.3 – If you have an existing scattered site project that you are rehabbing that has a building that doesn't qualify you may not qualify and would never get enough points to get the project funded. (One or two of the eight buildings at Vista Villa didn't qualify, and this seems unjust if we'd have used 9% credits).
5. Section 9.D.5.b – Again, there should be flexibility for a rehab to qualify for these points. Enterprise Green Community certification should automatically qualify for the 100 points.
6. We really like the idea of a top 10 list for violations or potential violations distributed by MBOH to developers and management companies each year. This will allow us as owners to make sure management companies are addressing your concerns even if we don't get an 8823.
7. We heard you mention the "funding app", is this going to be the new online application system? If it is the Funding App Collector program, we have recently submitted applications to Nebraska and Mississippi who both use the same system. If you have any questions or would like any feedback on it, please let us know!

Hope you're feeling better and looking forward to talking with you again soon!

**Lauren Moore**

**WISHROCK**

*National Developers of Affordable Housing*

131 South Higgins – Suite P-1 | Missoula, Montana 59802

C: (406) 360-7896 T: (406) 728-3040 ext 103

[lauren.moore@wishrockgroup.com](mailto:lauren.moore@wishrockgroup.com)

[www.wishrockgroup.com](http://www.wishrockgroup.com)

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ALTA / NSPS LAND TITLE SURVEY OF;  
LOT M1, OF RIDGEWATER RESIDENTIAL PHASE M-1 SUBDIVISION  
LOCATED IN A PORTION OF THE S 1/2 NW 1/4, SECTION 11, T.22 N.,R.20W.,  
P.M.M., LAKE COUNTY, MONTANA

PROPERTY OWNER: POLSON LANDING LLLP

SURVEY PREPARED AT THE REQUEST OF : HOUSING SOLUTIONS L.L.C.  
5014 ELK HILLS COURT MISSOULA, MT. 59803

FIRST AMERICAN TITLE COMPANY ORDER No. 626473-PO  
COMMITMENT DATE 12/14/2017.

TO: FIRST AMERICAN TITLE COMPANY ORDER No. 626473-PO  
PROPOSED INSURED: FIRST SECURITY BANK OF MISSOULA, A DIVISION OF  
GLACIER BANK, ITS SUCCESSORS AND/OR ASSIGNS AS THEIR INTEREST MAY  
APPEAR AS DEFINED IN THE CONDITIONS OF THIS POLICY.

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT  
IS BASED WERE MADE IN ACCORDANCE WITH THE 2016 MINIMUM STANDARD  
DETAIL REQUIREMENTS ADOPTED BY ALTA AND NSPS AND INCLUDE THE  
FOLLOWING OPTIONAL TABLE A ITEMS: 1,2,3,4,6(A), 6(B),7(A),7(B)(1),7(C),8,9,  
10(A), 11, 13, 14, 16, 17, 18 AND 19. WAS COMPLETED ON 12/28/2017.

CERTIFIED PARTIES:  
(i) POLSON LANDING L.L.P., A MONTANA LIMITED LIABILITY LIMITED PARTNERSHIP; (ii)  
COMMUNITY AFFORDABLE HOUSING FUND, LLC, A MONTANA LIMITED LIABILITY  
COMPANY; (iii) MPEG ACCEPTANCE CORPORATION, A MONTANA CORPORATION; (iv)  
MOUNTAIN PLAINS EQUITY GROUP, INC., A MONTANA CORPORATION; (v) OLD  
REPUBLIC NATIONAL TITLE INSURANCE COMPANY; AND (vi) FIRST AMERICAN TITLE  
COMPANY, AND EACH OF THEIR RESPECTIVE AFFILIATES, SUCCESSORS, AND/OR  
ASSIGNS.

SURVEY PREPARED AT THE REQUEST OF : HOUSING SOLUTIONS L.L.C.  
MARC J. CARSTENS 5940 LS (MT) DATE 1/5/2018

MARC J. CARSTENS 5940 LS

SURVEY PREPARED BY MARC CARSTENS, 5940 LS (MT) 1320 (C) 402 1st STREET EAST SUITE 202, POST OFFICE BOX 1374  
POLSON, MT. 59860  
PHONE (406) 883-2672 FAX (406) 883-2757  
EMAIL n81822@hotmail.com PREPARED 12/14/17 REV. 1/5/2018

LEGAL DESCRIPTION;  
METES AND BOUNDS

LOT M-1  
THE POINT OF BEGINNING BEING A SET CAPPED REBAR ON THE SOUTH EDGE OF RIDGEWATER DRIVE, A PUBLIC STREET, SAID POINT BEARS S 60°02'30"W 100.47' FROM THE SOUTHWEST CORNER PARCEL 2, COS No. 6884; THENCE RIGHT ALONG A NON TANGENT CURVE OF 30.00' RADIUS FOR AN ARC LENGTH OF 44.51 FT., SAID CURVE HAVING A CHORD BEARING OF S40° 47' 26"E FOR 40.54 FT.; THENCE S01° 42' 34"W FOR 9.36 FT.; THENCE LEFT ALONG A TANGENT CURVE OF 187.50 FT. RADIUS CURVE TO THE LEFT (CHORD BEARS S07° 18' 54"E 58.82 FT.) 59.07 FT.; THENCE S22° 43' 22"W FOR 141.54 FT. TO A SET CAPPED REBAR; THENCE S33° 43' 20"W FOR 174.42 FT. TO A SET CAPPED REBAR ON A LINE COMMON TO PARCELS 7 & 8, COS No. 6884; THENCE ALONG SAID COMMON LINE THE FOLLOWING THREE (3) COURSES: N59° 42' 22"W FOR 58.00 FT., N66° 20' 10"W FOR 201.30 FT.; N69° 13' 23"W FOR 169.06 FT.; THENCE LEAVING SAID LINE, N14° 32' 54"E FOR 173.03 FT.; THENCE N15° 18' 10"E FOR 82.76 FT. TO A POINT ON THE SOUTHERN EDGE OF RIDGEWATER DRIVE, A PUBLIC STREET; THENCE ALONG SAID RIDGEWATER DRIVE THE FOLLOWING THREE (3) COURSES: S89° 54' 43"E FOR 80.32 FT.; RIGHT ALONG A TANGENT CURVE OF 303.00 FT. RADIUS (CHORD BEARS S86° 36' 04"E 35.02 FT.); S83° 17' 26"E FOR 352.18 FT., TO THE POINT OF BEGINNING, THE AREA BEING 3.55 ACRES, SUBJECT TO ALL RESTRICTIONS, RESERVATIONS AND EASEMENTS, APPARENT OR OF RECORD.

(a) THE PROPERTY DESCRIBED IN THE METES AND BOUNDS LEGAL DESCRIPTION SET FORTH HEREON IS THE SAME AS THAT PROPERTY DESCRIBED IN THE PLATTED SUBDIVISION SHOWN HEREON; AND (b) THE PROPERTY DESCRIBED AND SHOWN ON THE SURVEY IS THE SAME AS THAT WHICH IS DESCRIBED IN 626473-PO TITLE COMMITMENT; LOT M-1 OF RIDGEWATER RESIDENTIAL PHASE M-1 SUBDIVISION, LOCATED IN PORTIONS OF THE S 1/2 NW 1/4, SECTION 11 T.22 N.,R.20 W., P.M.M., LAKE COUNTY MONTANA.

ELEVATION CONTROL PROVIDED BY UAV FLIGHT, ERROR, ECLIPSOID TO GROUND TIES, 0.05'  
BUILDING DIMENSIONS TAKEN AT FOUNDATION

LEGEND

- DENOTES SET 5/8" X 24" REBAR WITH 1 1/4" YPC STAMPED "M. CARSTENS 5940LS".
- DENOTES FOUND 5/8" REBAR WITH 1 1/4" YPC STAMPED "M. CARSTENS 5940LS".
- DENOTES PRELIMINARY APPROVED LOT LINES
- DENOTES FUTURE RIGHT OF WAYS SHOWN FOR INFORMATION PURPOSES ONLY
- DENOTES UTILITY EASEMENT LIMITS
- DENOTES EXISTING LOT LINES
- POB DENOTES POINT OF BEGINNING
- REC. DENOTES RECORD RIDGEWATER COMMERCIAL SUBDIVISION
- DENOTES ZONING SETBACKS AS NOTED
- DENOTES CENTERLINE RIDGEWATER DR.
- W --- W DENOTES WATER LINE
- DENOTES SERVICE LINE
- DENOTES VALVE
- DENOTES FIRE HYDRANT
- DENOTES LIGHT AND POLE
- DENOTES ADA SURFACE
- DENOTES SEWER MANHOLE
- SS --- SS DENOTES SEWER LINE
- DENOTES CURB
- DENOTES GUTTER
- DENOTES SIDEWALK

TABLE 'A' RESPONSES AND NOTES;

- MONUMENTS PLACED (OR A REFERENCE MONUMENT OR WITNESS TO THE CORNER) AT ALL MAJOR CORNERS OF THE BOUNDARY OF THE PROPERTY, UNLESS ALREADY MARKED OR REFERENCED BY EXISTING MONUMENTS OR WITNESSES IN CLOSE PROXIMITY TO THE CORNER.  
MONUMENTS ARE IN PLACE AS PER SUBDIVISION PLAT.
- ADDRESS OF THE SURVEYED PROPERTY IF DISCLOSED IN DOCUMENTS PROVIDED TO OR OBTAINED BY THE SURVEYOR, OR OBSERVED WHILE CONDUCTING THE FIELDWORK.  
402, A, B, & C, RIDGEWATER DRIVE.
- FLOOD ZONE CLASSIFICATION (WITH PROPER ANNOTATION BASED ON FEDERAL FLOOD INSURANCE RATE MAPS OR THE STATE OR LOCAL EQUIVALENT) DEPICTED BY SCALED MAP LOCATION AND GRAPHIC PLOTTING ONLY.  
SURVEYED PROPERTY IS SHOWN ON PANEL 545 OF 1275, COMMUNITY 3001550545 3/6/2013 ZONE 'X'.
- GROSS LAND AREA (AND OTHER AREAS IF SPECIFIED BY THE CLIENT).  
GROSS AREA IS 3.55 ACRES, OR 154,591 SQ. FT.
- (a) IF SET FORTH IN A ZONING REPORT OR LETTER PROVIDED TO THE SURVEYOR BY THE CLIENT, LIST THE CURRENT ZONING CLASSIFICATION, SETBACK REQUIREMENTS, THE HEIGHT AND FLOOR SPACE AREA RESTRICTIONS, AND PARKING REQUIREMENTS. IDENTIFY THE DATE AND SOURCE OF THE REPORT OR LETTER.  
PERTINENT ZONING - SOURCES: POLSON DEVELOPMENT CODE, 2016; CURRENTLY ZONED XRZD, (MIXED RESIDENTIAL DISTRICT) BUILDING WALL SETBACK ALONG FRONT OF LOT, 20', OPEN PORCH, DECKS 10' SIDE & AND BACK 15'; COMMON WALL 0'. HEIGHT LIMITS: 35'. PARKING REQUIREMENT AS PER POLSON DEVELOPMENT CODE IV.0 IS 1.5 PER DWELLING UNIT.  
(b) IF THE ZONING SETBACK REQUIREMENTS ARE SET FORTH IN A ZONING REPORT OR LETTER PROVIDED TO THE SURVEYOR BY THE CLIENT, AND IF THOSE REQUIREMENTS DO NOT REQUIRE AN INTERPRETATION BY THE SURVEYOR, GRAPHICALLY DEPICT THE BUILDING SETBACK REQUIREMENTS. IDENTIFY THE DATE AND SOURCE OF THE REPORT OR LETTER.  
SETBACKS ARE DEMONSTRATED ON THIS SURVEY. SOURCE IS "POLSON DEVELOPMENT CODES 2016"
- (a) EXTERIOR DIMENSIONS OF ALL BUILDINGS AT GROUND LEVEL.  
AS SHOWN  
(b) SQUARE FOOTAGE OF EXTERIOR FOOTPRINT OF ALL BUILDINGS AT GROUND LEVEL.  
AS SHOWN  
(c) MEASURED HEIGHT OF ALL BUILDINGS ABOVE GRADE AT A LOCATION SPECIFIED BY THE CLIENT. IF NO LOCATION IS SPECIFIED, THE POINT OF MEASUREMENT SHALL BE IDENTIFIED.  
BUILDINGS AND DIMENSIONS AS SHOWN
- SUBSTANTIAL FEATURES OBSERVED IN THE PROCESS OF CONDUCTING THE FIELDWORK (IN ADDITION TO THE IMPROVEMENTS AND FEATURES REQUIRED PURSUANT TO SECTION 5 ABOVE) (E.G., PARKING LOTS, BILLBOARDS, SIGNS, SWIMMING POOLS, LANDSCAPED AREAS, SUBSTANTIAL AREAS OF REFUSE).  
FEATURES WERE OBSERVED AND SHOWN ON THIS SURVEY OF THIS PROPERTY.
- NUMBER AND TYPE (E.G., DISABLED, MOTORCYCLE, REGULAR AND OTHER MARKED SPECIALIZED TYPES) OF CLEARLY IDENTIFIABLE PARKING SPACES ON SURFACE PARKING AREAS, JOTS AND IN PARKING STRUCTURES. STRIPING OF CLEARLY IDENTIFIABLE PARKING SPACES ON SURFACE PARKING AREAS AND LOTS.  
53 REGULAR PARKING SPACES, 3 HANDICAP PARKING SPACES.
- AS DESIGNATED BY THE CLIENT, A DETERMINATION OF THE RELATIONSHIP AND LOCATION OF CERTAIN DIVISION OR PARTY WALLS WITH RESPECT TO ADJOINING PROPERTIES (CLIENT TO OBTAIN NECESSARY PERMISSIONS).  
THE ADJACENT LOTS ARE VACANT, NO REQUEST TO LOCATE DIVISION OR PARTY WALLS WAS MADE.
- LOCATION OF UTILITIES EXISTING ON OR SERVING THE SURVEYED PROPERTY AS DETERMINED BY: OBSERVED EVIDENCE COLLECTED PURSUANT TO SECTION 5.E.IV. EVIDENCE FROM PLANS REQUESTED BY THE SURVEYOR AND OBTAINED FROM UTILITY COMPANIES, OR PROVIDED BY CLIENT (WITH REFERENCE AS TO THE SOURCES OF INFORMATION), AND MARKINGS REQUESTED BY THE SURVEYOR PURSUANT TO AN 811 UTILITY LOCATE OR SIMILAR REQUEST  
  
REPRESENTATIVE EXAMPLES OF SUCH UTILITIES INCLUDE, BUT ARE NOT LIMITED TO:  
MANHOLES, CATCH BASINS, VALVE VAULTS AND OTHER SURFACE INDICATIONS OF SUBTERRANEAN USES;  
WIRES AND CABLES (INCLUDING THEIR FUNCTION, IF READILY IDENTIFIABLE) CROSSING THE SURVEYED PROPERTY, AND ALL POLES ON OR WITHIN TEN FEET OF THE SURVEYED PROPERTY, WITHOUT EXPRESSING A LEGAL OPINION AS TO THE OWNERSHIP OR NATURE OF THE POTENTIAL ENCROACHMENT, THE DIMENSIONS OF ALL ENCROACHING UTILITY POLE CROSS MEMBERS OR OVERHANGS; AND UTILITY COMPANY INSTALLATIONS ON THE SURVEYED PROPERTY.  
AS SHOWN.
- NAMES OF ADJOINING OWNERS ACCORDING TO CURRENT TAX RECORDS. IF MORE THAN ONE OWNER, IDENTIFY THE FIRST OWNER'S NAME LISTED IN THE TAX RECORDS FOLLOWED BY "ET AL."  
PLOTTED ON DRAWING.
- AS SPECIFIED BY THE CLIENT, DISTANCE TO THE NEAREST INTERSECTING STREET.  
THE NEAREST STREET IS RIDGEWATER DRIVE AND WHITEWATER WAY, SOME 1370' EAST OF THE NORTH EAST CORNER OF LOT M-1.
- EVIDENCE OF RECENT EARTH MOVING WORK, BUILDING CONSTRUCTION, OR BUILDING ADDITIONS OBSERVED IN THE PROCESS OF CONDUCTING THE FIELDWORK.  
THE EARTH SURFACE HAS BEEN RECENTLY DISTURBED IN SEVERAL PLACES, ALONG THE NORTHERN 1/2 OF LOT M-1.
- PROPOSED CHANGES IN STREET RIGHT OF WAY LINES, IF SUCH INFORMATION IS MADE AVAILABLE TO THE SURVEYOR BY THE CONTROLLING JURISDICTION. EVIDENCE OF RECENT STREET OR SIDEWALK CONSTRUCTION OR REPAIRS OBSERVED IN THE PROCESS OF CONDUCTING THE FIELDWORK.  
NO PROPOSED CHANGES IN STREET RIGHT OF WAYS ARE KNOWN AT THIS TIME, SEE PLOTTED STREET OR SIDEWALK OBSERVED BY THIS SURVEY.
- IF THERE HAS BEEN A FIELD DELINEATION OF WETLANDS CONDUCTED BY A QUALIFIED SPECIALIST HIRED BY THE CLIENT, THE SURVEYOR SHALL LOCATE ANY DELINEATION MARKERS OBSERVED IN THE PROCESS OF CONDUCTING THE FIELDWORK AND SHOW THEM ON THE FACE OF THE PLAT OR MAP. IF NO MARKERS WERE OBSERVED, THE SURVEYOR SHALL SO STATE. NO WETLAND DELINEATION HAS BEEN MADE OR NOTED.
- INCLUDE ANY PLOTTABLE OFFSITE (I.E., APPURTENANT) EASEMENTS OR SERVITUDE DISCLOSED IN DOCUMENTS PROVIDED TO OR OBTAINED BY THE SURVEYOR AS PART OF THE SURVEY PURSUANT TO SECTIONS 5 AND 6 (AND APPLICABLE SELECTED TABLE A ITEMS) (CLIENT TO OBTAIN NECESSARY PERMISSIONS).  
NO PLOTTABLE OFFSITE EASEMENTS OR SERVITUDE WERE NOTED AS PER THIS PROPERTY.

NOTE: THIS PROPERTY IS NOT SERVED BY FLATHEAD IRRIGATION PROJECT.  
ACCESS NOTE: THE SURVEYED PROPERTY PHYSICALLY ABUTS AND HAS DIRECT PHYSICAL ACCESS TO RIDGEWATER DRIVE, A PUBLICLY DEDICATED RIGHT OF WAY AS PER "RIDGEWATER RESIDENTIAL PHASE M-1 SUBDIVISION PLAT".

ORT Form 4310 BI  
Schedule BI- ALTA Loan Policy of Title Insurance

SCHEDULE B -I

Policy No.: LX 11856325

EXCEPTIONS FROM COVERAGE

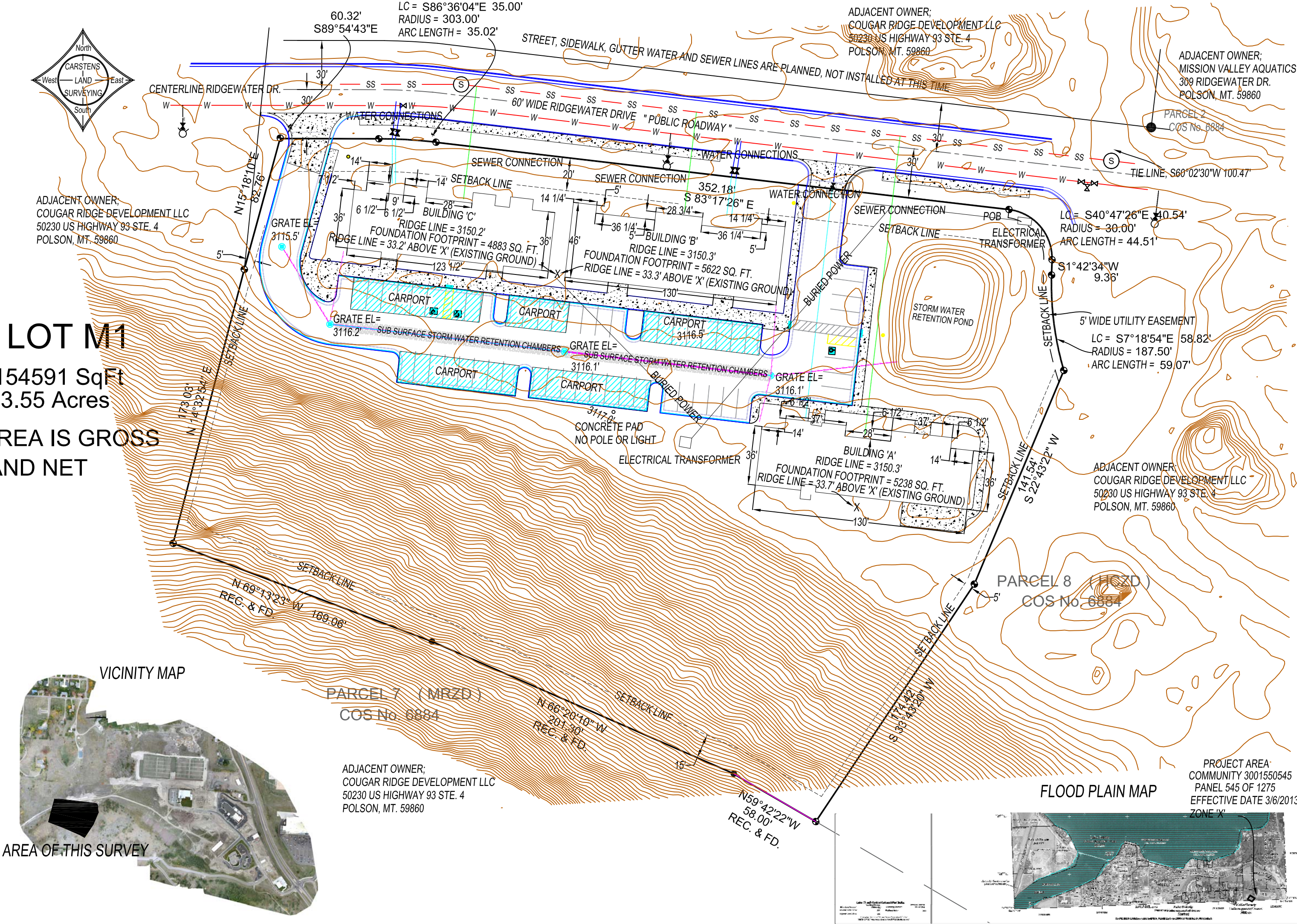
Except as provided in Schedule B - Part II, this policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses that arise by reason of:

- (a) Unpatented mining claims, (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof, (c) water rights, claims or title to water whether or not the matters excepted under (a), (b), or (c) are shown by the public records.  
Non Plottable
- Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public record.  
Non Plottable
- Any right, title or interest in any minerals, mineral rights or related matters, including but not limited to oil, gas, coal and other hydrocarbons, sand, gravel or other common variety materials, whether or not shown by the public records.  
Non Plottable
- 2017 taxes are an accruing lien, not yet payable.  
Non Plottable
- Paragraphs 1 and 2 of the Exclusions from Coverage are expressly extended to include those laws, ordinances or regulations of an Indian tribe or nation.  
Non Plottable
- Public Records as defined in this Policy do not include records of an Indian tribe or nation, or any other repository of Indian Land Records, including, but not limited to the Bureau of Indian Affairs Land Titles and Records Office.  
Non Plottable
- All matters, covenants, conditions, restrictions, easements and any rights, interests or claims which may exist by reason thereof, disclosed by the recorded plat of RIDGEWATER RESIDENTIAL PHASE M-1 SUBDIVISION, recorded June 8, 2017, as Instrument No. 555475, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c).  
Non Plottable
- 5' wide utility easement as disclosed on the plat recorded June 8, 2017 as Instrument No. 555475, and as to the extent shown on that certain ALTA Survey prepared by Marc J. Carstens dated March 20, 2017 and last revised June 9, 2017.  
Plotted
- Easements granted to United States of America, recorded as Instrument Nos. 353868 and 361332.  
CAREFUL EXAMINATION OF EASEMENT RECORDED 188501, INDICATES NO IMPACTS TO SUBJECT TRACT EASEMENTS 353868, AND 361332 ARE TO USA FOR POWER, THESE ARE NOT PLOTTABLE, WITH NEW POWER TRANSMISSION BEING INSTALLED IN DEDICATED AREAS AS SHOWN ON SUBDIVISION PLAT, THESE SERVICE EASEMENTS SHOULD NOT IMPACT SUBJECT TRACT.  
Non Plottable
- Zoning regulations disclosed by Ordinance #2016-003 recorded July 13, 2016 as Instrument No. 549211 and in Permanent File J-9113.  
CURRENT ZONING IS XRZD
- Pending such time as the improvements contemplated upon the insured premises shall be commenced, liability under this policy is limited to the purchase price for the land; but as and when the erection of such improvements shall be commenced, liability hereunder shall increase, as the improvements progress, in the amount of the cost thereof, up to the face amount of this Policy.  
Non Plottable
- Payment in Lieu of Taxes Agreement upon the terms, conditions and provisions contained therein:  
Parties: Polson Landing, LLLP and the City of Polson, a municipality of the State of Montana  
Recorded: June 14, 2017, Instrument No. 555569  
Non Plottable
- Declaration of Restrictive Covenants for Low-Income Housing Credits, Conditions and Restrictions recorded as Instrument No. 555570, but omitting any covenant, condition or restriction based on race, color, religion, sex, handicap, familial status, or national origin to the extent that such covenants, conditions or restrictions violate 42 USC 3604(c).  
Non Plottable

SCHEDULE B-II, NON PLOTTABLE

0' 50' 100' 150'  
SCALE 1" = 150'

BASIS OF BEARING, FILED PHASES OF RIDGEWATER COMMERCIAL SUBDIVISIONS





**From:** ncils.patera@bresnan.net  
**To:** [DOC Housing \(Webmail\)](#); [Bair, Mary](#); [Guariglia, Kellie](#); [Brensdal, Bruce](#); [Collette, Stacy](#)  
**Subject:** Public Comment on 2019 Qualified Allocation Plan (QAP)  
**Date:** Wednesday, January 24, 2018 12:36:49 PM

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Public Comment on 2019 Qualified Allocation Plan received from Shyla Patera.

Email: ncils.patera@bresnan.net

Telephone: (406) 781-1885

Title:

Organization: North Central Independent Living Services Inc.

Mailing Address: 1120 25th Avenue North East

Physical Address: 1120 25th Avenue North East

Black Eagle Montana 59414

Comment Body: I, Shyla Patera, Independent Living Specialist with North Central Independent Living Services ,Inc. submit the following comments on the qualified allocation plan: First, North Central Independent Living Services, Inc .supports accessibility and universal design throughout the building process. Universal design, accessibility, and visitability are the hallmarks of aging in place and community living. Building strong neighborhoods and communities is paramount. New home and apartment construction should include not only the built living environment ,but the pathways and access ways to enter homes. When one considers the leisure environment that builders and developers are designing, they should follow access standards for swimming pools, play areas ,as well as exercise areas .Builders and housing developers should also seek out assistive technology for those with sensory disabilities i.e. those Montanans who are blind,deaf and have other sensory disabilities as well. For help with this, I urge you to call your local independent living center.

Developers who seek to develop housing should also consider the outdoor built environment when considering developments and types of housing being considered. Points should be awarded for how housing connects to Neighborhood services not only in regards to infrastructure but also community services For Instance this could mean asking questions involving continuity of sidewalks, curb cuts, and accessible parking for those that drive NCILS encourages accessible and affordable housing units in all areas of Montana for Montanans with disabilities.

NCILS appreciates that the Board of Housing is willing to incorporate its income and occupancy standards as well as unit size guideline s into consideration when encouraging new housing construction. We hope that Board of Housing as well as the Housing Division encourage upkeep and renovation of current housing that benefits Montanans with disabilities. of all income levels. North Central Independent Living Services ,Inc fears that many developers are unwilling to deal with sources HUD of funding that benefit lower income properties and residents because developers have much invested in the property built . This could lead to less inclusive neighborhoods and less inclusive communities.

Thank you for the opportunity to comment on the 2019 QAP.

Shyla Patera

IL Specialist

1120 25th Avenue North East

Black Eagle, Montana 59414

(406) 452-9834

ncils.patera@bresnan.net

File (Optional):

# 2018 CALENDAR

January 2018						
Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

April 2018						
Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

July 2018						
Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

October 2018						
Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

February 2018						
Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28			

May 2018						
Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

August 2018						
Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

November 2018						
Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

March 2018						
Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

June 2018						
Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

September 2018						
Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

December 2018						
Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

## January 2018

- 7-12 – FHA Institute – Washington DC (staff)
- 8 – Board Meeting – Webinar

## February 2018

- 12-13 – Board Meeting & Training - Billings

## March 2018

- 1-4 – Home Improvement Show – Billings (staff)
- 5-7 – Legislative Conference – Washington DC (Executive Director and 2 Board)
- 12 – No Board Meeting
- 12-14 – Compliance Training – Fairmont

## April 2018

- 3 – MFEC Conference – Bozeman (staff)
- 30 – Board Meeting – Butte
- 30-5/2 – Montana Housing Conference – Butte

## May 2018

- 6-8 – Mountain Plains Housing Summit – Lincoln, NE (staff & Board)

## June 2018

- 19-22 – Housing Credit Connect – Chicago (staff)
- 25 – Board Meeting – Helena

## July 2018

- No Board Meeting

## August 2018

- No Board Meeting

## September 2018

- 9-10 – Strategic Planning and Board meeting - Missoula

## October 2018

- No Board Meeting
- 13-16 – Annual Conference – Austin TX (staff & Board)

## November 2018

- 19 – Board Meeting - Helena

## December 2018

- No Board Meeting

# Section 8 Program Dashboard

January 26, 2018

TENANT BASED, VETERANS' VOUCHERS, MOD REHAB, SHELTER PLUS CARE I and II, 811 PRA DEMO PROGRAMS:

CURRENT PERIOD: January 2018

	<u>Previous Month</u>	<u>Month</u>		<u>Year</u>	<u>HUD</u>	<u>Date</u>	
SECTION 8 PROGRAMS	<u>Dec-2017</u>	<u>Jan-2018</u>	<u>Change</u>	<u>HAP</u>	<u>Budget</u>	<u>Fees</u>	<u>Term</u>
Housing Choice Voucher (HCV)					15,426,099	109,432	CY 2017
PBS8 Opt-Out Conversion Funding							
Paid Units (3625 Agency contracts)	3,182	3,146	-36				
Current Month Payment Amount	1,531,665	1,503,655	-28,010	1,503,655		109,432	
Veterans Affairs Supportive Housing (VASH)							CY2017
Number Units Paid (321 Authorized)	295	301	6				
Payment Amount	167,840	164,786	-3,054	164,786			
Moderate Rehabilitation (ModRehab)					2,012,728		7-1-17-6-30-18
Number Contracts	18	18	0				
Paid Units (297 Authorized)	263	261	-2				
Payment Amount	137,565	139,354	1,789	139,354		8,427	8,427
Shelter Plus Care I (Individual) FY13 Grant Funds					195,488		8-1-17-7-31-18
Number Units Paid (28 Authorized)	25	24	-1		Grant Balance		
Payment Amount	12,219	11,151	-1,068	225,071	195,488		
Shelter Plus Care II (Family)					36,606		7-1-17-6-30-18
Number Units Paid (5 Authorized)	3	2	-1		Grant Balance		
Payment Amount	1,684	1,218	-466	46,985	27,291		
Project-Based (PBS8)						Admin Earnings	Fed Fiscal
Contracts	87	87	0			77,166	
Units Paid (4132 Authorized with 8bb)	3,653	3,725	72			Contract Extension	
Payment Amount	1,730,177	1,795,935	65,758			Expires 12/31/2017	
Calendar Year Admin Earnings						77,166	
811 Project Rental Assistance Demo (FY12 \$)					1,900,000	157,000	Five Year
Rental Assistance Contracts (RAC)	4	4	0	Disbursed:	128,577	Balance:	75,313
Units (grant requires 82)	12	12	0			8 Units Kalispell	
Payment Amount	7,701	8,884	1,183	53,381		40 Units Missoula	
						5 Units Ronan	
						21 Units Bozeman/Blegrade	
						74	

## TOTALS

	<u>Previous Month</u>	<u>Current Month</u>	<u>Change</u>
Paid Units:	7,421	7,459	38
Budgeted Units:		8,317	
All Section 8 HAPs	3,581,150	3,616,099	34,949