

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY given that the Montana Department of Public Health and Human Services will hold a public hearing on **Wednesday, April 22, 2026, at 10AM – 1PM and 4PM – 6PM at the Laurel Public Library, 720 West 3rd St, Laurel, Montana,** about a proposed new forensic mental health facility and allow for input per the Montana Environmental Policy Act (MEPA) and other needs of public participation.

The site of the proposed project is located at 1425 US HWY 10 and is legally described as Lots 1-3, Block 1 of the Rossmoor Subdivision in Yellowstone County. The proposed facility will include a 32,000 square-foot, 32-bed building and associated site improvements. The facility will expand forensic inpatient services in Montana by providing secure, therapeutic care of individuals with mental illness who are in the criminal justice system.

The purpose of the hearing is to involve the public in identifying potentially significant issues, alternatives, or impacts of both doing or not doing the proposed facility. Any interested party may participate in person at the public hearing or submit written comments by email to FMHF_Comment@mt.gov or by mail to:

Public Comment
Forensic Mental Health Facility
111 N Sanders
2nd Floor
Helena, MT 59601

Written communications received in writing prior to 10 A.M. on April 22, 2026, will be considered.

-end-

MONTANA

BOARD OF INVESTMENTS

Statement of Board of Investments Executive Director Dan Villa August 20, 2025, Meeting

“I received a call Monday from the Executive that, in my opinion, necessitates a pause by the Board. The Executive and Legislative branches currently hold differing interpretations of the Board’s authority under Section 17 of House Bill 5 relating to the construction of a Behavioral Health Facility. In respect of both branches, in compliance with the Act, and to avoid acting without clear direction, I recommend the Board suspend any further consideration and forgo further implementation of House Bill 5 until we receive written guidance specifying services to be provided at the facility, the general location desired for the facility, and confirmation that the facility is to be built as an investment security held in trust for the State. The Board must avoid being placed between coequal branches to which we owe legal and fiduciary duties.

I thank local leaders of Billings and Laurel for their candid input, especially Councilmen Aspenlieder and Kennedy, Billings City Administrator Chris Kukulski, Laurel City Administrator Kurt Markegard, Director Brereton and staff at DPHHS, Budget Director Osmundson and staff at OBPP, as well as Senators Esp, Yakawich, Lenz, Ricci, and Representatives Etchart, Brewster and Schomer. Their efforts reflect a shared commitment to expanding behavioral health service capacity while protecting community safety and interests.

If due diligence resumes upon receipt of written guidance, no previously reviewed sites—including those on Skyway Drive—are viable, given local feedback, infrastructure costs, local zoning regulations, impacts on targeted economic development districts, and state land leasing processes. If BOI is to engage further, our future work must begin with clarity on services and siting from our partners, while still meeting our obligations to secure profits and cost savings for Montanans.”

OFFICE OF THE GOVERNOR
STATE OF MONTANA

GREG GIANFORTE
GOVERNOR



KRISTEN JURAS
LT. GOVERNOR

September 10, 2025

Montana Board of Investments
PO Box 200126
Helena, MT 59620-0126

Dear Members of the Montana Board of Investments,

Thank you for the brief pause you have placed on developing and constructing the behavioral health facility contemplated by House Bill 5, which the Legislature passed and I signed into law. At the most recent meeting of the Board of Investments (BOI), the Board requested written guidance from my office about how to best proceed with implementing House Bill 5 so that we can continue addressing the behavioral health challenges across our state.

As you know, House Bill 5 provided \$26.5 million to BOI to prepare and build a behavioral health facility in Eastern Montana in coordination with the Department of Public Health and Human Services (DPHHS) as an investment for the State. Under the law, the Legislature directed BOI and DPHHS to prepare a plan for facility type and location subject to approval by the Director of the Governor's Office of Budget and Program Planning.

Over the course of the last few months, this project has gained the attention of many in the public, both because of the great need for the proposed facility and because its location impacts their communities. In proceeding with this project, public participation should play a critical role as it moves forward. Engaging the public and stakeholders will ensure that these decisions are made in the open, allowing Montanans to have a voice in how their hard-earned tax dollars are spent.

As the Board moves expeditiously to resume implementation of House Bill 5, I encourage BOI to work closely with DPHHS during the development of the behavioral health facility plan to specify services to be provided at the facility and ensure that the public has an opportunity to be heard. While the building is to be constructed by BOI, it is important that DPHHS work closely alongside the Board so that the facility meets the behavioral health needs of Montanans. To ensure that all interested communities have the opportunity to provide feedback, I also encourage the Board to work with DPHHS to consider additional locations beyond the previously reviewed sites.

This project is of great importance to the State of Montana, as DPHHS must continue to build out capacity to take care of Montanans in need of behavioral health services. I share the goals of

Board of Investments
September 10, 2025
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the Legislature to complete this project quickly while also ensuring transparency, fairness, and public involvement.

Thank you to each member of the Board for their work on this important project. Should you have any additional questions, please do not hesitate to reach out to my office.

Sincerely,



Greg Gianforte
Governor



October 6, 2025

Dan Villa
Executive Director
Montana Board of Investments
2401 Colonial Drive, 3rd Floor
PO Box 200126
Helena, MT 59620-0126

Executive Director Villa,

I write regarding the following language from House Bill 5, passed by the 2025 Montana Legislature and signed into law by Governor Gianforte on June 19, 2025:

Section 17. Transfer of funds -- plan and reporting. (1) *By June 30, 2026, the state treasurer shall transfer \$26.5 million from the capital developments long-range building program account established in 17-7209 to the board of investments for the purposes of building a behavioral health facility.*

(2) *Prior to the transfer in subsection (1) taking place, the budget director shall adopt a plan from the board of investments and the department of public health and human services on the facility type and location. The board of investments and the department of public health and human services shall report to the health and human services interim budget committee established in 5-12-501 on the progress of choosing the facility type and location. Once a plan is adopted by the budget director, the board of investments and the department of public health and human services shall provide a progress report at each subsequent meeting of the health and human services interim budget committee and each subsequent meeting of the long-range planning budget committee that are held prior to December 31, 2026.*

(3) *Any unspent funds must revert to the capital developments long-range building program account.*

Pursuant to these statutory requirements, the Department of Public Health and Human Services (DPHHS) looks forward to continuing our collaboration with the Board of Investments (BOI) to build a much-needed behavioral health facility for Montanans. As we enter the next phase of this critical project, I am providing you with the following guidance concerning DPHHS's preferred location for the facility, as well as the type and purpose of the facility that we believe should be built based on our observed demand for state psychiatric services.

Site Location

While DPHHS remains interested in site opportunities in Yellowstone County, it is important that all Eastern Montana communities equipped with adequate infrastructure and a potential workforce are afforded the opportunity to submit proposals for hosting our new facility. As

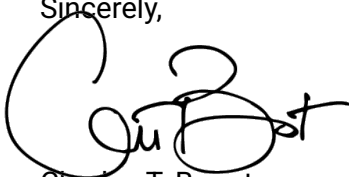
we've agreed, a Due Diligence Questionnaire process would help solicit input from all communities in Eastern Montana, and the Department authorizes BOI to proceed on our behalf with that process. In light of anticipated future demand for state psychiatric services, communities and stakeholders should be aware that any site selected must allow for potential expansion in future years. Working together, I am confident that both of our agencies will facilitate robust engagement with local stakeholders when appropriate and prior to final site selection.

Facility Type and Purpose

As demonstrated in the enclosed analysis, DPHHS seeks to construct and operationalize a 32-bed forensic mental health facility. The facility would be designed with scalability in mind should the agency determine a need to leverage beds for the civil population in the future. From our perspective, it is most appropriate to "build up" to forensic facility standards and be able to scale down as deemed necessary. As many Montanans know, DPHHS has experienced surging demand for forensic psychiatric services over the past several years, resulting in a problematic statewide waitlist that adversely impacts local communities. While we have taken a variety of steps to try to address this issue operationally, our bed capacity remains severely limited, and the agency believes that the funds granted to us by the Legislature must be prioritized for the forensic population.

I thank you and BOI for your partnership and support of our work on behalf of the Montanans we serve.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Brereton". The signature is stylized and cursive, with a large initial "C" and a distinct "B" and "R" for the last name.

Charles T. Brereton
Director

Enclosure: Building a Foundation for Future Generations: Montana's New Behavioral Health Facility

BUILDING A FOUNDATION FOR FUTURE GENERATIONS: MONTANA'S NEW BEHAVIORAL HEALTH FACILITY

Prioritizing Forensic Capacity to Resolve a Systemic Bottleneck

October 2025



**DEPARTMENT OF
PUBLIC HEALTH &
HUMAN SERVICES**

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EXECUTIVE SUMMARY

Montana's behavioral health system is facing an ongoing and critical challenge: a growing forensic psychiatric population is overwhelming the state's limited capacity, resulting in delayed treatment and adjudication, as well as admission waitlists that adversely impact local detention facilities. In response to this issue, the Montana Department of Public Health and Human Services (DPHHS) seeks to prioritize the construction of a 32-bed forensic psychiatric facility in Eastern Montana. This expansion will address urgent legal, clinical, and operational needs while improving geographic equity and system efficiency. Importantly, the facility will be strategically designed to allow DPHHS to convert wings or pods for civil commitment use if demand shifts in the future.

BACKGROUND

DPHHS is responsible for providing inpatient psychiatric care to individuals who require involuntary treatment due to severe mental illness. These individuals fall into two primary categories: forensic and civil patients.

- **Forensic patients** are individuals who are involved in the criminal justice system. They may be:
 - Awaiting trial but in need of a mental health evaluation to determine if they are competent to stand trial.
 - Found Unfit to Proceed (UTP) and in need of inpatient restoration services.
 - Sentenced under Montana Code Annotated (MCA) 46-14-312, which mandates DPHHS to provide treatment for individuals found Guilty but Mentally Ill (GBMI) or Not Guilty by Reason of Mental Illness (NGMI).
- **Civil patients** are individuals who, due to a mental illness, pose a danger to themselves or others, and/or are unable to care for their basic needs. These individuals are typically admitted through civil commitment proceedings.

To meet the needs of both populations, the Gianforte administration has secured funding for renovations and expansions at Montana State Hospital (MSH), MSH Grasslands, and the Montana Mental Health Nursing Care Center (MMHNCC), which will increase total state psychiatric bed capacity to 307 beds, with a potential net increase of 40 beds.

In addition to funding provided to MSH during the 2025 Legislative Session, the Gianforte administration secured funding to reopen the D wing at MMHNCC. Reopening the D wing will add 24 civil beds to serve the geriatric psychiatric population, including some patients previously served on the Spratt Unit.

This ultimately maintains the existing number of civil beds in the civil care continuum.

Wing/Unit	Type	Current	Proposed	Difference
Alpha	Civil	31	41	10
Bravo	Civil	26	34	8
Echo	Civil	25	23	-2
Grasslands	Civil	0	20	20
Spratt	Civil	60	0	-60
MMHNCC-D-Wing	Civil	0	24	24
TOTAL		142	142	0
Delta	Forensic	31	41	10
Galen	Forensic	54	54	0
Group Homes	Forensic	40	40	0
Former Spratt	Forensic	0	30	30
TOTAL		125	165	40

SYSTEMS OF CARE

Forensic

At MSH, individuals involved in the criminal justice system may be admitted for forensic psychiatric evaluation or treatment. The typical process for a forensic patient includes the following steps:

1. Fitness Evaluation/Court-Ordered Evaluation (COE)

A court may order a mental health evaluation, frequently referred to as a COE, to determine whether a defendant is fit to proceed to trial. This is an initial “fitness” evaluation and is restricted to a diagnosis of the mental condition of the defendant, including opinions as to: a) whether the defendant suffers from a mental disorder and may require commitment or is seriously developmentally disabled, and b) if the defendant suffers from a mental disease or disorder or developmental disability, whether the defendant has the capacity to: i) understand the proceedings against the defendant, and ii) assist in the defendant’s own defense.

- This evaluation can be conducted in the community through an investment made possible by the Behavioral Health System for Future Generations (BHSFG) Commission or may require inpatient admission to the Forensic Mental Health Facility (FMHF) in Galen.
- If the individual is found competent, they are returned to the county of origin to proceed with trial.

2. **Unfit to Proceed (UTP)**

If the initial fitness evaluation (COE) determines the individual is not fit to proceed to trial, they must be ordered to be admitted to the FMHF in Galen for inpatient restoration treatment.

- These individuals do not go to the Delta Unit at this stage.

3. **Non-Restorable Cases**

If the individual cannot be restored to fitness due to a persistent mental illness, their criminal case may be dismissed.

- They may then be ordered to be civilly involuntarily committed for ongoing treatment.

4. **Pre-Sentence Evaluation (PSE)**

In some cases, a PSE is ordered to determine whether the individual met the legal criteria for GBMI at the time of the offense as part of a sentencing proceeding.

5. **Sentenced Forensic Patients (GBMI)**

Individuals found “Guilty but Mentally Ill” are initially admitted to the FMHF in Galen and placed on a waitlist for transfer to the Delta Unit, which houses sentenced forensic patients.

- These patients progress through a Level 1–10 privilege system at MSH.
- Those reaching Level 6 or higher may be eligible for placement in on-campus group homes or, in the future, the converted Spratt Unit.

Civil

MSH also serves individuals who are civilly involuntarily committed. These are individuals who, due to a mental illness, are considered a danger to themselves or others, and/or are unable to meet their basic needs.

The typical process for a civil patient at MSH or MSH Grasslands is as follows:

1. **Admission through Civil Commitment**

A court orders the individual to receive inpatient psychiatric care based on clinical evidence of risk and/or inability to care for themselves.

2. **Evaluation and Stabilization**

Upon arrival, the patient is admitted to the admissions wing (Echo) at MSH, where they undergo evaluation and receive initial stabilization treatment.

3. **Discharge or Continued Treatment**

- If the patient stabilizes quickly, they may be discharged and returned to their home or community with appropriate supports.

- If further care is needed, the patient is transferred to a treatment wing (Alpha or Bravo) for continued therapy and rehabilitation, with the goal of eventual discharge.

Note: This is a simplified overview intended to illustrate the general continuum of care. Individual treatment plans and legal processes may vary based on clinical needs and statutory requirements.

WHY PRIORITIZE THE FORENSIC POPULATION VS. THE CIVIL POPULATION?

SYSTEM BOTTLENECK

The FMHF in Galen is currently the only facility in the state equipped to restore individuals who a court has determined are UTP. It also serves as the admission point for defendants sentenced as GBMI, and those committed to the custody of the director of DPHHS to be placed in an appropriate mental health facility for custody, care, and treatment after the court has determined they present a danger to themselves or others. This set of defendants, as distinguished from GBMI defendants, is referred to as NGMI patients.

Since 2022, the FMHF in Galen has consistently maintained a waitlist of over 70 patients, creating a significant bottleneck that affects:

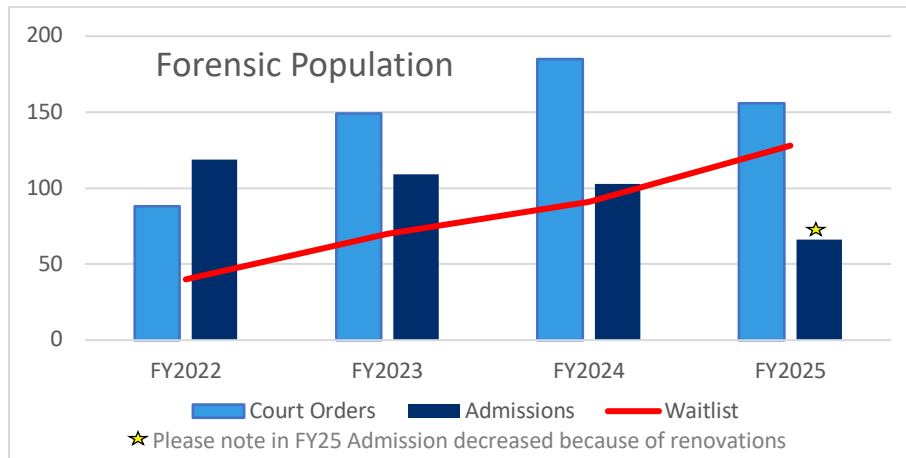
- County court proceedings
- Jail populations
- Local mental health systems

This backlog delays access to treatment, strains public safety systems, and increases the state's legal risk.

RAPID GROWTH IN FORENSIC DEMAND AND WAITLIST

Forensic court orders have surged 77% since FY 2022, with GBMI orders increasing 650%. In contrast, civil admissions have remained relatively stable, aided by the MSH Grasslands facility and other community-based supports. The forensic system, however, has no such relief valve, making the sought expansion urgent.

As noted above, Montana has experienced a sharp increase in forensic court orders over the past four years, which has consequently increased DPHHS's forensic waitlist. As the state's population grows, the number of individuals requiring forensic evaluation and treatment is expected to rise proportionally in accordance with national trends.



The following table reflects the court orders, by type, issued in each fiscal year.

TYPE	FY 2022	FY 2023	FY 2024	FY 2025	% Change FY 2022 to FY 2025	AAGR FY 2022- FY 2025
COE	55	93	81	67	21.80%	13.00%
UTP	23	42	52	43	86.90%	29.70%
PSE	6	7	13	20	333%	52.10%
GBMI	4	7	39	26	650%	166%
NGMI	0	0	0	0	N/A	N/A
TOTAL	88	149	185	156	77.20%	25.90%

Note: Not all COE orders result in admission to the FMHF in Galen. Some evaluations are being completed in the community through the aforementioned BHSFG initiative launched in 2024.

Forensic Waitlist Growth and Contributing Factors

The forensic waitlist for the FMHF in Galen has grown significantly in recent years; however, this growth is not a straightforward function of court orders minus admissions. The waitlist is shaped by a variety of operational and legal factors, including court orders from multiple fiscal years.

Why Waitlist Numbers Are Complex

Several factors contribute to the growing waitlist:

- **Community-Based Evaluations:** Some COEs and PSEs are completed by DPHHS-approved providers in the community, without requiring admission to the FMHF in Galen.
- **Dismissed Cases:** A defendant’s case may be dismissed by a court due to a determination that a defendant cannot be made fit within the reasonably foreseeable future and that alternatives to forensic commitment are inappropriate, due to speedy trial violations, or due to other Constitutional considerations. This may remove the defendant from the system before admission, which is an outcome that DPHHS seeks to avoid through expanding forensic bed capacity.
- **Non-Court-Ordered/Emergency Admissions:** Some admissions are for patients who are held up to 72 hours in connection with an “emergency detention.” An emergency detention is coordinated with a county attorney, the state hospital, and other mental health facilities for individuals who are experiencing acute crises, have rapidly decompensated, or require higher security, even if they are not tied to a court order.

The following table reflects the waitlist at the end of the fiscal year and the fiscal year in which the court order was initially issued.

FY	Waitlist	Year the Court Order was Issued				
		FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
2022	40	4	36			
2023	70		4	66		
2024	91		1	5	85	
2025	128*			1	26	101

**Note: FY 2025 totals were impacted by renovations and pod reconfigurations that temporarily reduced forensic admissions capacity.*

The waitlist is not just a backlog. It is a dynamic, multi-year accumulation of unmet forensic service needs. This underscores the importance of expanding capacity and building flexible infrastructure that can absorb fluctuations in demand and operational disruptions.

Conversely, DPHHS has not observed a corresponding rapid increase in the waitlist for the civil population. When operating at full capacity, MSH typically admits around 650 civil patients per year. While admissions declined in FY 2025 due to limited bed space associated with renovations required for CMS certification, by the end of FY 2025, only five individuals were on the civil waitlist, and they were ultimately cleared for admission.

While infrastructure upgrades have temporarily impacted civil admissions, the system is functioning effectively and has adapted through initiatives such as opening MSH Grasslands. This reinforces the need to prioritize forensic expansion, where the misalignment between demand and capacity is more acute.

OPERATIONAL CONSTRAINTS AT THE FMHF IN GALEN

Renovations, pod closures, and gender-based housing needs have further reduced forensic capacity. Internal transfers (e.g., from Delta Unit to Galen) consume bed space without reducing the waitlist, furthering the need for dedicated additional capacity.

The following table reflects the number of admissions and the fiscal year in which the known court order was issued.

FY	Number of Admissions	Year the Court Order was Issued					
		Unknown	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
2022	119	76	4	39			
2023	109	26		14	69		
2024	103			1	43	59	
2025	66*					47	19

Admissions Are Not Always Court-Driven

- Annual admissions include individuals with court orders from multiple fiscal years, not just the current one.
- Some admissions are not tied to new court orders. For example, patients from the Delta Unit may be temporarily transferred back to Galen if they decompensate and require a higher-security setting.

Gender-Based Pod Reconfiguration

The growth of Montana’s forensic population is further complicated by the need to separate male and female patients, which is a requirement driven by both safety and clinical standards. Over the last five years, roughly 20% of forensic orders have been for female patients.

- The FMHF in Galen consists of two large pods and one small pod.
- This layout limits flexibility in managing gender-specific housing needs, especially when demand fluctuates.

To address a growing female waitlist, over the past four years, one pod has been converted from male to female housing twice. To safely complete the transition, overall male capacity is temporarily reduced, and new male admissions are paused, worsening one component of the statewide forensic waitlist.

LEGAL RISKS OF FORENSIC BED SHORTAGES

A shortage of forensic psychiatric beds poses **serious legal and constitutional risks** for the State of Montana and its counties. These risks stem from the inability to provide timely mental health treatment to individuals who are legally entitled to it.

Due Process Violations

- Defendants found incompetent to stand trial must receive treatment to restore their competency.
- Delays in admission can result in individuals spending more time in jail than they would have if convicted, violating their constitutional right to due process.
- Prolonged incarceration without treatment can lead to worsening mental health and increased suicide risk, potentially protracting treatment at the FMHF in Galen upon admission and worsening the existing bottleneck.

Risk of Federal Intervention and Litigation

- Other states, such as Washington, have faced class-action lawsuits and federal court oversight due to delays in forensic mental health services.
- Courts have required states to:
 - Expand forensic capacity
 - Improve access to treatment
 - Pay damages for constitutional violations

Montana's Current Exposure

While Montana has not yet faced federal intervention, Department leadership believes the risk is growing. The number of **court orders dismissed due to speedy trial violations** – a direct result of forensic bed shortages – demonstrates this legal vulnerability. In FY 2024 and 2025, the number of court orders dismissed totaled 12.

Why This Matters

- Forensic patients are often held in jails while awaiting admission, where they may not receive adequate psychiatric care.
- Delays in restoration can lead to constitutional violations, including speedy trial and due process concerns.
- Civil patients, while also in need, have more diversified treatment pathways (e.g., Grasslands, community-based services), whereas forensic patients rely most exclusively on the FMHF in Galen.

- Each dismissal represents a missed opportunity for treatment, a potential public safety concern, and a legal liability for the state.

ADDITIONAL RATIONALE

National and Regional Benchmarking

By early 2026, MSH is projected to operate with:

- 142 civil beds (including 24 at MMHNCC) – 13.10 civil beds per 100,000 residents
- 125 forensic beds (including those for sentenced patients) – 11.53 beds per 100,000 residents
- Total: 24.63 state psychiatric beds per 100,000 residents

National benchmarks recommend 20–40 state psychiatric beds per 100,000 population (TAC, KFF). Montana's current capacity places it at the lower end of the national benchmark for total civil and forensic beds. The Department's desired changes to system bed capacity, as described above, will ultimately increase state psychiatric beds to 339 in total, bringing Montana's per 100,000 rate to a midpoint of 31.27.

Note: Increase in capacity is a combination of changes referenced in the chart on page 4 and the proposed new forensic facility.

National Trends in Forensic Psychiatric Populations

Across the United States, states are experiencing a sustained surge in forensic psychiatric demand, particularly related to competency to stand trial evaluations and restorations.

Growth in Competency Cases

- From 1999 to 2014, there was a 76% increase in forensic patients in state hospitals.
- From 2017 to 2024, the number of individuals found incompetent to stand trial rose by 23%.
- National forensic waitlists have ballooned – from 883 in 2019 to approximately 2,400 by 2024 – leading to overcrowding in jails and emergency departments.

Other State Responses: Expanding Forensic Capacity

According to a July 2025 report by NRI, Inc., 11 states added over 1,300 forensic beds between 2022 and 2024, and an additional 317 beds were added in 2025 alone.

- Mississippi: Built an 83-bed maximum-security forensic unit, doubling capacity to 123 beds.
- Kansas: Constructed two new state psychiatric hospitals following a legal settlement.
- Pennsylvania: Built a 270-bed forensic facility at Norristown State Hospital.
- New York: Added 125 beds in four months, with 325 total added under the current governor's administration.

PROJECTED IMPACT OF THE 32-BED EXPANSION

- **DPHHS projects that adding 32 forensic beds would increase annual capacity to serve approximately 170 patients.**
- This represents a 60% increase in the availability of care, significantly reducing wait times and improving access to timely evaluation and restoration services.
- Montana's forensic system is under-resourced relative to national benchmarks and uniquely strained by legal sentencing practices.
- Expanding forensic capacity is a strategic, data-driven response to both current deficiencies and future needs.

WHY THE INTEREST IN EASTERN MONTANA?

Geographic Balance and Access

Because Eastern and Central Montana currently lack essential forensic infrastructure, counties are forced to transport patients long distances to the FMHF in Galen, which delays care and increases costs. Establishing a new facility in Eastern Montana would improve geographic balance.

Strategic Advantages

The proposed 32-bed forensic facility is being considered for Eastern Montana, a region with limited access to forensic psychiatric services and one that provides a growing share of the state's forensic admissions. This location is expected to:

- Improve geographic access for law enforcement, court systems, defendants, and families in Eastern and Central Montana.
- Reduce transportation burdens for counties that currently face long distances when transporting defendants to the FMHF in Galen.
- Support regional equity by expanding behavioral health infrastructure beyond the western corridor.

THE IMPORTANCE OF A FLEXIBLE DESIGN

The facility will be designed for medium- to low-security forensic care, which allows for conversion to civil use if future demand shifts and DPHHS determines a need to repurpose pods/units. Designing the new forensic facility with scalability and adaptability in mind offers significant long-term cost savings.

A modular layout and medium- to low-security infrastructure will allow the facility to be scaled up or down based on changing demand, whether that means expanding forensic capacity, converting pods/units for civil use, or adjusting gender-specific housing.

This flexibility reduces the need for costly new construction or major retrofits in the future. By investing in a facility that can evolve with Montana's behavioral health landscape, the state can maximize the return on capital investment, avoid duplication of infrastructure, and ensure that taxpayer dollars are used efficiently and effectively over time.

With the new facility, DPHHS will be better positioned to provide state psychiatric services regardless of what type of capacity (forensic or civil) is most strained in future years.

CONCLUSION

Montana's forensic psychiatric system is under significant and growing strain. Without immediate investment in expanded capacity, the state faces serious and far-reaching consequences not only for individuals with mental illness, but also for the legal system, public safety, and public finances.

County jails are increasingly housing individuals who require psychiatric care, not incarceration. These facilities are not equipped to provide appropriate treatment, leading to worsening symptoms, increased risk of self-harm, and potential violations of constitutional rights. Concurrently, the lack of available forensic beds has forced courts to dismiss charges or release individuals without treatment, contributing to a cycle of relapse, homelessness, and recidivism. These consequences often adversely impact the civil mental health system, which is not designed to manage forensic-level acuity.

The proposed 32-bed forensic facility in Eastern Montana offers a strategic, flexible, and future-ready solution. It will:

- Relieve pressure on local governments and jails, as well as reduce legal exposure
- Improve access to timely, appropriate treatment
- Expand geographic equity in behavioral health services

- Increase forensic evaluation capacity by 60%
- Boost annual forensic care delivery from 106 to 170 patients (estimated)
- Provide long-term adaptability for DPHHS to shift between forensic and civil use as needed

By designing the facility with scalability in mind, Montana can avoid costly retrofits or duplicative construction in the future. This investment not only addresses today's most pressing behavioral health challenge, but it also builds a more resilient, efficient, and balanced system for the future.

Inaction carries a high cost. DPHHS's desired expansion of forensic beds is a fiscally responsible, legally sound, and clinically necessary way to continue building a stronger statewide behavioral health system for future generations.



Frequently Asked Questions (FAQs): Montana's New Behavioral Health Facility

1. What funding is the State of Montana using to build a new behavioral health facility?

House Bill 5, passed by the 2025 Montana Legislature and signed into law by Governor Gianforte on June 19, 2025, provides \$26.5 million to build a behavioral health facility. House Bill 5 requires the Department of Public Health and Human Services (DPHHS) and Board of Investments (BOI) to jointly develop a plan identifying the type and location of the facility.

2. What is the type and purpose of the facility?

Based on a statewide [needs assessment](#), this facility will provide secure, therapeutic care for individuals with serious mental illness who are in the criminal justice system. These individuals may include:

- A person awaiting trial who needs a mental health evaluation to determine if they are mentally fit to stand trial.
- A person found Unfit to Proceed (UTP) who requires inpatient treatment to restore their competency.
- A person found Guilty but Mentally Ill (GBMI) or Not Guilty by Reason of Mental Illness (NGMI) who is court-ordered to receive treatment in a secure psychiatric facility.

3. Who is responsible for this facility?

The facility will be managed and operated by DPHHS.

Under Montana Code Annotated (MCA) Title 53, Chapter 21, DPHHS is legally responsible for providing inpatient psychiatric care to individuals who are either civilly committed or involved in the criminal justice system due to serious mental illness.

This new facility will be part of the state's broader behavioral health system and will be staffed, licensed, and overseen in accordance with state law and clinical best practices.

4. Why is the facility focused on mental health treatment for individuals who are involved in the criminal justice system?

Montana is experiencing a growing crisis in forensic psychiatric care and lacks sufficient capacity to meet demand. At the end of Fiscal Year 2025, 128 individuals were on the waitlist for admission to the existing Forensic Mental Health Facility in Galen, which is managed and operated by DPHHS.



Currently, this facility is the only facility in Montana that can serve this population, and the bed space is inadequate for current and projected demand.

Without timely access to treatment, individuals may be held in local jails for extended periods, which can worsen psychiatric symptoms and delay recovery.

This new facility will:

- Provide faster access to treatment, allowing for earlier patient stabilization, reducing the risk of harm to self or others.
- Help individuals regain competency and move through the legal system appropriately, reducing risks of recidivism, homelessness, or untreated mental illness.
- Create capacity for local jail, ensuring critical public safety resources are used effectively.

5. Why was Eastern Montana identified as the preferred location?

Eastern Montana was selected to improve geographic access to behavioral health services and reduce pressure on the existing DPHHS facility in Galen (Western Montana). A facility in Eastern Montana will:

- Reduce transportation burdens for counties in Eastern and Central Montana.
- Improve regional access for law enforcement, courts, and families.
- Expand necessary behavioral health infrastructure in an underserved part of the state.

6. Will the facility only serve forensic patients?

While the immediate need is to serve individuals in the criminal justice system who require psychiatric evaluation or treatment, the facility is being designed with flexibility and scalability in mind for future needs.

Its primary purpose is to address Montana's urgent shortage of forensic psychiatric beds. However, if future demand shifts, the facility can be adapted to serve civil patients.

By building a facility that can evolve with Montana's behavioral health needs, the state is making a smart, future-ready investment that avoids the cost of building new infrastructure down the road.



7. Can patients voluntarily leave this facility?

No. All individuals admitted to this type of facility are either court ordered or sentenced to DPHHS. The facility will operate under strict security and clinical protocols to ensure the safety of patients, staff, and the broader community.

8. What security measures are implemented at this type of facility?

As a forensic facility, security is significantly tighter than in traditional locked psychiatric units.

Security features include:

- 'Sally port' doors, which ensure one door is closed before the other opens to prevent patient elopement
- Double-layer security fences around all outdoor areas
- A central command station that operates facility access control and manages patient and staff movements
- 24/7 interior and exterior live video monitoring

No firearms are on-site, and staff are trained in de-escalation and safe behavioral management techniques.

9. What is the anticipated length of stay for patients, and what criteria are used to determine their readiness for release?

Based on the model of the existing Forensic Mental Health Facility in Galen, DPHHS anticipates that patients ordered by the court for evaluation and restoration will stay for approximately 3 to 6 months. Their release depends on their treatment progress and usually involves returning to a county jail or being transferred to the Montana State Hospital.

For patients placed in the care of DPHHS, the length of stay depends on their sentence and behavior. Patients who complete their sentence while at the facility will collaborate with DPHHS discharge planners to develop a plan for their return to the community with suitable follow-up care. Release is also coordinated with Probation and Parole.

10. Will individuals be released into communities after treatment?

No one will be released from the facility, and from incarceration, without a structured discharge plan.

All individuals treated at this facility will be either court-ordered or sentenced to DPHHS. Discharge planning is coordinated with the courts and appropriate agencies to ensure



that individuals return to their home jurisdictions or are transferred to appropriate settings such as the Montana State Hospital, supervised housing, community-based treatment, or another secure facility. Most evaluation patients will transfer back to the county detention facility from where they were originally transferred to await sentencing.

No one will be released without:

- A formal discharge plan
- Oversight or monitoring as required
- Coordination with local law enforcement, Probation and Parole, or behavioral health providers, when appropriate

It is important to note that DPHHS, in coordination with the judicial system, typically works to return individuals to their county of origin.

11. Who is responsible for the discharge planning?

DPHHS is ultimately responsible for the discharge planning of patients who have completed their sentence at the facility. Discharge planning is a dedicated function within the operations of the facility. It is carried out by trained staff who specialize in coordinating safe and appropriate transitions for individuals leaving care.

This process is done in close collaboration with:

- Medical and clinical professionals
- The court system
- Community-based providers
- Other relevant agencies (e.g., law enforcement, Probation and Parole, housing, or treatment programs)

Every discharge is guided by a structured plan that ensures individuals are placed in the right setting with the right supports whether that's returning to their home jurisdiction, entering a supervised program, or continuing care in another facility. Public safety and continuity of care are central to every decision.

12. What kind of staffing is required for a 32-bed forensic facility?

It is anticipated that 90-100 staff will be required to safely operate the facility across multiple shifts 24/7/365. The staffing model is based on best practices at the existing Forensic Mental Health Facility in Galen and will be largely comprised of clinical staff (RNs, LPNs, Psychiatric Technicians) as well as support staff. The staffing model will evolve as the facility design and operational models are finalized.



13. How is Montana addressing workforce challenges for this facility?

Montana is actively investing in workforce development strategies to ensure the facility is properly staffed. This includes training pipelines, recruitment incentives, and partnerships with educational institutions. Through the 406 Jobs Initiative, the Behavioral Health System for Future Generations Initiative, and the future Rural Health Transformation Program, the State is continuing to expand education, certification, and career advancement opportunities in critical behavioral health fields such as psychiatry, psychology, social work, and nursing.

14. How will the selected community be involved in the planning process for the facility?

Once a site and location for the facility is formally selected, there will be a series of local meetings to explain the process for designing, building, and operating the facility and gather feedback from community members and leaders.

15. What are the legal risks of not building this facility?

Montana and local jurisdictions are at risk of legal exposure if forensic capacity is not expanded. Delays in forensic psychiatric care can result in:

- Violations of constitutional rights, including due process and speedy trial protections
- Dismissed court cases due to prolonged detention without treatment
- Federal litigation or oversight, as seen in other states



To: Speaker Ler
From: Julie Johnson, Staff Attorney
Re: Securities Classification of the Construction of a Behavioral Health Unit Pursuant to Section 17 of House Bill 5 from the 2025 Legislative Session
Date: October 1, 2025

I. Introduction and Issue

At the September meeting of the Legislative Finance Committee, legal staff was asked to work with Chair Kassmier to request an Attorney General Opinion on the following question of law:

Whether the behavioral health unit that the Legislature directed the Board of Investments to have constructed in House Bill 5 is a security under state and federal securities laws?

This memo provides basic research and points of law bearing upon the request. The memo also reaches a preliminary conclusion that the building would most likely constitute a security.

II. Factual Background

Article VIII, section 13, of the Montana Constitution mandates the creation of a “unified investment program for public funds.” This unified investment program is overseen and managed by the Board of Investments. The total market value of the Montana Board of Investments’ Unified Investment Program as of June 30, 2024, was \$29.6 billion.

Part of the board’s investment portfolio includes real estate and buildings. The Board of Investments owns several buildings that it rents to state agencies or third parties as a part of its real estate investment portfolio. This includes the workforce housing apartments that the Board of Investments had built pursuant to House Bill 819 from the 2023 legislative session. These assets are included in common investment pools and are commingled with other participants’ assets. These asset pools are managed by the staff at the Board of Investments with no individual participant control.

During the 2025 session, the Legislature passed House Bill 5, which provided for the construction of a behavioral health facility. See section 17 of HB 5. Specifically, the Legislature directed the transfer of \$26.5 million from the capital developments long-range building program account to the Board of Investments “for the purposes of building a behavioral health facility.”¹ According to section 17(2) of HB 5, prior to the transfer of funds to the Board of Investments, the budget director “shall adopt a plan from the board of investments and the department of public health and human services on the facility type and location.”

At its September 18, 2025, meeting, the Legislative Finance Committee discussed the

¹ Rent for the behavioral health facility may be eligible for federal reimbursement.

construction of the behavioral health facility and the committee members' understanding that the building constitutes a security under Montana law. Members want to make certain this understanding is correct. Therefore, given the importance of the facility's timely construction and the legislative directive to the Board of Investments to construct this facility instead of the Department of Administration Office of Architecture and Engineering, the Legislative Finance Committee has requested an Attorney General opinion on this question of law.

III. Applicable Law

A. Federal Law

In S.E.C. v. W.J. Howey Co., 328 U.S. 293, 66 S.Ct. 1100, 90 L.Ed. (1946), the United States Supreme Court set out what is now commonly referred to as the Howey test to determine whether an investment contract exists. The Supreme Court stated that the test to determine whether an investment contract exists "is whether the scheme involves an investment of money in a common enterprise with profits to come solely from the efforts of others." Howey, 328 U.S. at 301.

The Ninth Circuit Court of Appeals distilled the Howey definition into a three-part test, which requires the following:

- (1) an investment of money
- (2) in a common enterprise
- (3) with an expectation of profits produced by the efforts of others.

Warfield v. Alaniz, 569 F.3d 1015, 1020 (9th Cir. 2009). The Montana Supreme Court has also noted that "[t]he leading case for determining the existence of an investment contract security is S.E.C. v. W.J. Howey Co." and has similarly reiterated that the "established three criteria to the determination of an investment contract security" under Howey is: "an investment, a common enterprise, and the expectation of profits *solely* from the efforts of others." State v. Duncan, 181 Mont. 382, 390-91, 593 P.2d 1026, 1031-32 (1979) (Emphasis in original).

B. State Law

As discussed above, the three-part Howey test determines whether an investment contract exists. Under Montana law, an investment contract is a security pursuant to § 30-10-103(24)(xiii), MCA.

C. Law Governing the Board of Investments

The Board of Investments is charged with the creation of a "unified investment program for public funds" under Article VIII, section 13, of the Montana Constitution. §17-6-201, MCA,

provides that the Board of Investments must administer public funds “in accordance with the prudent expert principle,” which requires the board to:

- (a) discharge the duties with the care, skill, prudence, and diligence, under the circumstances then prevailing, that a prudent person acting in a like capacity with the same resources and familiar with like matters exercises in the conduct of an enterprise of a like character with like aims;
- (b) diversify the holdings of each fund within the unified investment program to minimize the risk of loss and to maximize the rate of return unless, under the circumstances, it is clearly prudent not to do so; and
- (c) discharge the duties solely in the interest of and for the benefit of the funds forming the unified investment program.

§17-6-201(1), MCA (Emphasis added). The Board of Investments is charged with maximizing the rate of return on investments for the benefit of funds within the unified investment program. The board is also granted the power to execute conveyance deeds for real property and to direct the sale of securities. §17-6-201(6), MCA.

IV. Analysis

Because a security is defined as an investment contract under Montana law, the three-part Howey test applies.

1. Is there an investment of money? Yes, 26.5 million is to be invested in the construction of a behavioral health unit pursuant to section 17 of HB 5 (2025).
2. Is there a common enterprise? Most likely, yes. HB 5 does not explicitly provide that the building will be included in a common investment pool managed by the Board of Investments. However, it is reasonable to infer that the Legislature, by directing the board, instead of the Department of Administration Office of Architecture and Engineering, to construct the building, intended to have the building be included in the “unified investment program for public funds.”
3. Is there an expectation of profits produced by the efforts of others? Most likely, yes. The Board of Investments charges rent to state agencies and third parties on buildings in its real estate portfolio. HB 5 does not explicitly provide that the board will charge rent on the new behavioral health facility. However, given the board’s duty under §17-6-201, MCA, to maximize its rate of return and produce profits for its investors, it is reasonable to infer that the Legislature intended the board to charge whoever occupies the behavioral health facility a rent that yields a rate of return. It is possible that the building rent would be partially reimbursed with federal funds, which depends on the purpose of the facility. If the building rent is reimbursed with federal funds, it is not clear how the Board of Investments can maximize profits while adhering to strict policies for federal reimbursement.

V. Preliminary Conclusion

The three-part Howey test indicates that the behavioral health facility would most likely be considered a security under state and federal law. This conclusion is bolstered by the fact that the workforce housing project constructed by the Board of Investments pursuant to House Bill 219 in the 2023 session is included in the board's real estate portfolio that is in a common investment pool. Lastly, had the Legislature not intended the facility to be considered a security, it would have instead directed the Department of Administration Office of Architecture and Engineering to construct the facility, and not the Board of Investments.



December 19, 2025

Sent via USPS and Email

Speaker Brandon Ler
Montana House of Representatives
P.O. Box 200400
Helena, MT 59620
(406) 444-4800
Brandon.Ler@legmt.gov

RE: Request for Attorney General's Opinion

Dear Speaker Ler:

The Attorney General received your formal opinion request dated October 28, 2025. As Speaker of the Montana House of Representatives, you are authorized to request legal opinions on matters pertinent to your office. *See* Mont. Code Ann. § 2-15-501(7).

However, the Attorney General typically resolves some requests through informal letters of advice due to concerns such as the separation of powers and potential for litigation. In this case, a letter of advice will be provided because the specific financial instrument(s) evidencing BOI's investment has not been provided for consideration as part of this review. Thus, this response shall be construed as a letter of advice and **shall not be cited and/or presented as controlling authority nor carrying the force of law.**

The Attorney General rephrases your question as follows:

Whether the Montana Board of Investments' statutory mandate to build a behavioral health facility, utilizing transferred funds, may be classified as a "security" under applicable law.

DEPARTMENT OF JUSTICE

215 North Sanders
PO Box 201401
Helena, MT 59620-1401

(406) 444-2026
Contactdoj@mt.gov
mtdoj.gov

BACKGROUND

I. Board of Investments

The Montana Legislature established the Board of Investments (the “BOI”) in 1971. The BOI functions as an independent, quasi-judicial body having full and final authority over its two major responsibilities: the Unified Investment Program and the In-State Investment Program. *See* Mont. Code Ann. § 2-15-1808 (creating BOI); §17-6-201 (creating Unified Investment Program); and §§ 17-6-301 et. seq. (the Montana In-State Investment Act of 1983).

Article VIII, section 13 of the Montana Constitution mandates that the Unified Investment Program (“UIP”) be managed by BOI in accordance with “prudent expert principle.” Mont. Code Ann. § 17-6-201(1). Therefore, the BOI has “primary authority to invest state funds” and “shall direct the investment of state funds in accordance with the laws and constitution of this state.” Mont. Code Ann. § 17-6-201(4). Montana law grants BOI broad authority in fulfilling this mandate. *See* Mont. Code Ann. § 17-6-201(5) (granting BOI the specific authority to “determine the type of investment to be made”, among others).

II. House Bill 5

During Montana’s 2025 Legislative Session, an executive proposal included a one-time transfer of several million dollars to the BOI for the purpose of constructing a regional health facility as part of a behavioral health initiative backed by Montana’s Department of Public Health and Human Services (“DPHHS”).

A final version of the proposal was ultimately incorporated into [Montana House Bill 5](#) as follows:

Section 17. Transfer of funds – plan and reporting.

(1) By June 30, 2026, the state treasurer shall transfer \$26.5 million from the capital developments long-range building program account established in 17-7-209 to the board of investments for the purpose of building a behavioral health facility.

(2) Prior to the transfer in subsection (1) taking place, the budget director shall adopt a plan from the board of investments and the department of public health and human services on the facility type and location. The board of investments and the department of public health and human services shall report to the health and human services interim budget committee established in 5-12-201 on the progress of choosing the facility type and location. Once a plan is adopted by the budget director, the board of investments and the department of public health and human services shall provide a progress report at each

subsequent meeting of the long-range planning budget committee that are held prior to December 31, 2026.

(3) Any unspent funds must revert to the capital developments long-range building program account.

DISCUSSION

The issue here is whether BOI's statutory mandate to build a behavioral health facility, utilizing transferred funds, may be classified as a "security" under applicable law.

Federal and state securities laws apply to instruments that meet the definition of "security". Simply put, a security is a financial instrument that represents a claim or interest in an asset. A physical building itself is not a security by default, but an investment in a building or real estate may be classified as a security depending on how the transaction is structured. While there are many types of such instruments, a real estate offering is typically analyzed as an "investment contract." *Revan v. SEC Realty Corp.*, 18 F.3d 81 (2nd Cir. 1994).

The Securities Act of 1933, as amended, defines "security" to include any "investment contract". 15 U.S.C. § 77b(a)(1). The Securities Act of Montana similarly provides that an "investment contract" is a type of "security." Mont. Code Ann. § 30-10-103(24)(a)(xiii).

The term "investment contract" is undefined by state and federal securities laws. The term has come to be defined in case law as "a contract or scheme for the placing of capital or laying out of money in a way intended to secure income or profit from its employment." *S.E.C. v. W.J. Howey Co.*, 328 U.S. 293, 298 (1946) (citing *State v. Gopher Tire & Rubber Co.*, 146 Minn. 52, 56, 177 N.W. 937, 938 (1920)). *State v. Duncan*, 181 Mont. 382, 593 P.2d 1026 (1979) (The touchstone of an investment contract is the presence of an investment in a common venture premised on a reasonable expectation of profits to be derived from the entrepreneurial or managerial efforts of others.).

To be considered an investment contract, and thereby a security, the instrument must meet the following elements: (1) an investment, (2) in a common venture, (3) with a reasonable expectation of profits, and (4) derived through the entrepreneurial or managerial efforts of others. *Redding v. Montana First Judicial Dist. Court*, 365 Mont. 316, 281 P.3d 189 (2012). Though Montana's third element differs slightly,¹ this test restates the elements announced by the United States Supreme Court in *Howey*.

¹ The third element of Montana's test differs from the *Howey* test, where the profits were to derive "solely" from the efforts of the third party. The *Redding* court explained

A. BOI's Use of the Transferred Funds Constitutes an Investment.

The first issue under the *Howey* test is whether the BOI's use of the transferred funds may be considered an investment.

Montana Code Annotated § 17-1-102(4) requires state agencies to report the receipt, use, and disposition of all public money and property in accordance with generally accepted accounting principles (GAAP). Applicable here is GAAP's requirement that real estate be classified either as an investment or a capital asset, depending on its primary use. If the future use of the building is predominantly for housing the investor's own operations, the building should be classified as a capital asset. See [BOI Financial Compliance Audit](#), Ch. II – Findings and Recommendations at 08-04A (Dec. 2008) (citing Mont. Code Ann. § 17-1-102(4)).

Because the statute authorizes BOI to build a behavioral health facility in connection with a DPHHS initiative, the property will not be used to house the investor's own operations but those of DPHHS. Therefore, the BOI's use of the transferred funds to develop real estate is considered an investment.

B. BOI Likely Satisfies the Commonality Element.

The Montana Supreme Court has analyzed the commonality element as “met when return on investment is dependent on the efforts of the ‘enterprise’ to generate it.” *Redding*, 365 Mont. at 326, 281 P.3d at 196–97 (internal citation omitted) (also explaining that Montana has not expressly adopted an explicit test and concluding that “a common venture can be established by satisfying the elements of...horizontal, broad vertical, or narrow vertical commonality.”).

“[T]he requirement that profits be derived from the entrepreneurial or managerial efforts of others is generally satisfied so long as ‘the efforts made by those other than the investor are undeniably significant ones, those essential managerial efforts which affect the failure or success of the enterprise’.” *Redding*, 365 Mont. at 330, 281 P.3d at 199 (citing *SEC v. SG Ltd.*, 265 F.3d 42, 55 (1st Cir. 2001)).

HB 5 does not explicitly require that the building will be included in a common investment pool managed by BOI. Past practice, see HB 219 (2023), indicates this is likely to occur and consistent with legislative intent. This would satisfy the commonality element.

the word “solely” “was purposely left out of our test.” *Redding*, 365 Mont. at 329, 281 P.3d at 199.

C. The Attorney General Lacks Sufficient Information to Make a Determination on the Final Two Elements.

Because the respective financial instrument(s) evidencing BOI's investment has not been provided for consideration as part of this review, the second two elements of the investment contract test cannot be analyzed. BOI currently charges rent to tenants of buildings in its real estate portfolio. These agreements can comply with the *Howey* test, but in absence of a specific agreement, I cannot offer an opinion or advice as to whether the project in HB 5 will comply.

Sincerely,

A handwritten signature in blue ink, appearing to read "Austin Knudsen".

Austin Knudsen

ATTORNEY GENERAL OF MONTANA

October

2025

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2	3	4
5	6 DPHHS responds to BOI information request.	7	8	9	10 Due Diligence Questionnaire released at www.hb5.mt.gov .	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

November

2025

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3	4	5 <i>CFH&HS Interim Committee</i>	6	7	8
9	10 Due Diligence Questionnaire responses due at 5PM to www.hb5.mt.gov .	11 All Due Diligence Questionnaires posted. Review process	12	13	14	15
16	17	18	19 On site reviews and local government presentations.	20 On site reviews and local government presentations.	21 On site reviews and local government presentations.	22
23	24	25	26 Final proposal submitted to Budget Director for approval.	27 THANKSGIVING	28	29
30						



AN ACT APPROPRIATING MONEY FOR MAJOR REPAIR AND CAPITAL DEVELOPMENT PROJECTS FOR THE BIENNIUM ENDING JUNE 30, 2027; PROVIDING FOR OTHER MATTERS RELATING TO THE APPROPRIATIONS; PROVIDING FOR A TRANSFER OF FUNDS FROM THE GENERAL FUND TO THE CAPITAL DEVELOPMENTS LONG-RANGE BUILDING PROGRAM ACCOUNT AND A TRANSFER OF FUNDS FROM THE GENERAL FUND TO A STATE SPECIAL REVENUE FUND; PROVIDING FOR A MODIFICATION TO THE LONG-RANGE BUILDING PROGRAM; INCREASING CERTAIN VALUE THRESHOLDS FROM \$150,000 TO \$300,000; ESTABLISHING REPORTING REQUIREMENTS; ALLOWING A COMBINATION OF PREVIOUSLY APPROVED APPROPRIATIONS FOR THE CLAPP BUILDING; AMENDING SECTIONS 17-7-201, 17-7-202, 17-7-210, AND 17-7-223, MCA; AMENDING SECTION 1, CHAPTER 468, LAWS OF 2021, SECTION 9(1), CHAPTER 739, LAWS OF 2023, SECTION 14(1), CHAPTER 762, LAWS OF 2023, AND SECTION 3, CHAPTER 763, LAWS OF 2023; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Definitions. For the purposes of [sections 1 through 10], unless otherwise stated, the following definitions apply:

- (1) "Authority only" means approval provided by the legislature to expend money that does not require an appropriation, including grants, donations, auxiliary funds, proprietary funds, nonstate funds, and university funds.
- (2) "Capital development" has the same meaning as provided in 17-7-201(2).
- (3) "Capital project" means the planning, design, renovation, construction, alteration, replacement, furnishing, repair, improvement, site, utility, or land acquisition project provided for in [sections 1 through 10].
- (4) "LRBP capital development" means the long-range building program capital developments

account in the capital projects fund type provided for in 17-7-209.

(5) "LRBP major repair" means the long-range building program major repair account in the capital projects fund type provided for in 17-7-221.

(6) "Major repair" means capital projects provided for in 17-7-201(7).

(7) "Other funding sources" means money other than LRBP money, state special revenue, or federal special revenue that accrues to an agency under the provisions of law.

(8) "SBECP" means funds from the state building energy conservation program account in the capital projects fund type which may be utilized on either or both major repair or capital development projects.

Section 2. Major repair projects appropriations and authorizations. (1) The following money is appropriated to the department of administration for the indicated major repair projects from the indicated sources. Funds not requiring legislative appropriation are included for the purpose of authorization. The department of administration is authorized to adjust capital project amounts within the legislative intent of the major repair account-funded projects, subject to available revenues, if approved by the office of budget and program planning, and to transfer the appropriations, authority, or both among the necessary fund types for these projects:

Agency/Project	LRBP	State	Federal	Authority	Total
	MR	Special	Special	Only	
	Fund	Revenue	Revenue	Sources	
MUS	MSU Completion of Montana Hall Life Safety Improvements				
	2,100,000				2,100,000
DPHHS	MMHNCC Completion of Door Access Controls				
	130,000				130,000
MUS	UM Missoula College Mechanical, Electrical, and Accessibility Upgrades				
	2,200,000				2,200,000
MUS	UM Montana Tech Selected Upgrades Exterior Steps, Stairs, Ramps				
	710,000				710,000
DPHHS	MMHNCC Additional Security Cameras				

		300,000	300,000
MUS	UM-W Selected Fire Alarm Upgrades		
		500,000	500,000
DOC	MSP MCE New Emergency Generators		
		200,000	200,000
DOA	Aviation Support Facility Shop Building New Fire Suppression System		
		950,000	950,000
MUS	UM Montana Tech Campus Heating Plant Boiler System Upgrade		
		2,400,000	2,400,000
DOAg	State Grain Lab Heating System Upgrades		
		150,000	150,000
MUS	MSU GFC Campus Heating and Domestic Hot Water Upgrades		
		400,000	400,000
DOJ	MHP Boulder MHP/IBC Campus Heating System Upgrades		
		2,350,000	2,350,000
MUS	UM Helena College Donaldson/Airport Boiler System Replacement		
		150,000	150,000
DOA	Original Governor's Mansion Heating and Fire Alarm Systems		
		300,000	300,000
MUS	UM-W Swysgood Tech Center HVAC Cooling System Replacement		
		370,000	370,000
DOC	Continuation of Xanthopoulos Building Repairs		
		2,200,000	2,200,000
MUS	MSU Linfield Hall Roof Replacement		
		850,000	850,000
DOA	State Print and Mail Building Roof Replacement		
		825,000	825,000
MUS	MSU-N Cowan Hall Exterior Envelope Upgrades		

	1,725,000	1,725,000
	DPHHS EMVH Water Infiltration and Exterior Envelope Repairs	
	1,900,000	1,900,000
MUS	MSU-N Automotive Technology Building Roof Replacement	
	460,000	460,000
MUS	UM HC Donaldson Campus Roofing Replacement	
	2,400,000	2,400,000
DOC	MSP MCE Roof Replacements	
	1,350,000	1,350,000
DOA	Aviation Support Fac Hangar Door Reconstruction and Replacement	
	320,000	320,000
MUS	UM Montana Tech Campus-wide Building Electrical System Upgrades	
	1,300,000	1,300,000
MSDB	Completion of Parking Lot Improvements	
	780,000	780,000
MUS	UM-W Selected Sewer Main Repairs and Replacement	
	690,000	690,000
OPI	Montana Learning Center Site Infrastructure Upgrades	
	700,000	700,000
MUS	UM-W Steam Distribution System Upgrades	
	475,000	475,000
DOC	PHYCF Utility Tunnel and Heating System Repairs	
	1,200,000	1,200,000
MUS	UM Selected Building Electrical System Upgrades	
	1,100,000	1,100,000
MUS	MSU South Campus Primary Electrical Distribution Upgrades	
	1,750,000	1,750,000
DOC	MSP Gravel Pit Equipment Generator Replacement	

		180,000		180,000
DLI	Kalispell Job Service Renovations			
		325,000		325,000
MUS	UM Selected Elevator System Upgrades			
		1,675,000		1,675,000
MUS	MT Tech Science and Engineering, and ELC Building Elevator Upgrades			
		400,000		400,000
DOL	New Laboratory Casework and Fixed Equipment, Combined Labs Building			
		1,000,000		1,000,000
MSDB	Selected HVAC Systems Upgrades			
		2,000,000		2,000,000
MUS	MSU McCall Hall Demolition			
		1,100,000	300,000	1,400,000
DOA	Capitol Building Interior Lighting Restoration			
		125,000		125,000
DOA	Capitol Complex Restroom Renovations			
		625,000		625,000
DOC	MSP MCE Restroom Repairs			
		200,000		200,000
DOJ	MLEA Air Conditioning Installation			
		300,000		300,000
MUS	MT Tech Mining and Geology Building Temp Controls System			
		300,000		300,000
DOA	Statewide Facility Condition Assessment Services for Agencies			
		750,000		750,000
DOA	Statewide Selected Feasibility Studies for Agencies			
		500,000		500,000
MUS	MSU Replace Failed Data Center Cooling Systems			

1,900,000 1,900,000

(4) The department of administration shall bundle requests for the purchase and installation of the electrical generators into a single project for bid.

Section 3. Capital development projects appropriations and authorizations. (1) The following money is appropriated to the department of administration for the indicated capital development projects from the indicated sources. Funds not requiring legislative appropriation are included for the purpose of authorization. The department of administration is authorized to transfer the appropriations, authority, or both among the necessary fund types for these projects:

Agency/Project	LRBP	State	Federal	Authority	Total
	CD	Special	Special	Only	
	Fund	Revenue	Revenue	Sources	
DOC	MSP Low-Side Housing Expansion				
	150,000,000				150,000,000

Funding is provided to expand the capital project in Section 2, Chapter 765, Laws of 2023. The department may extend existing design, construction, and other contracts at its sole discretion, in order to expedite the project.

DOC	MSP Site Infrastructure Upgrades				
	21,000,000				21,000,000

Funding is provided to expand the capital project in Section 2, Chapter 765, Laws of 2023. The department may also extend existing design, construction, and other contracts at its sole discretion, in order to expedite the project.

	DPHHS MSH Comprehensive Mechanical System Replacement				
	11,200,000				11,200,000
DOC	MSP Comprehensive Mechanical System Replacement				
	4,750,000				4,750,000
	DPHHS MSH Spratt Building Upgrades for Licensure and Facility Fences				
	14,660,000				14,660,000

Funding may be redirected by the office of budget and program planning to address other capital project needs at the Montana State Hospital, subject to 17-7-210.

DPHHS MMHNCC Unit D

Remodel for Licensure

700,000	700,000
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MUS UM Selected Classrooms and Teaching Labs Modernization

11,600,000	11,600,000
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DNRC Missoula New Forestry and Trust Lands Office Building

2,000,000	2,000,000
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DNRC Bunkhouses in Helena, Libby, and Plains and Office Addition

1,500,000	600,000	2,100,000
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The department of administration may prioritize the funding, design, and construction between each of the bunkhouses and office additions as necessary to meet the intent of [sections 3(8)(c) and 3(9)].

DOA Capitol Complex Roof Replacements

4,100,000	4,100,000
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MUS UM Selected Roof Replacements

3,000,000	3,000,000
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MUS MT Tech Highlands College Roof Replacement

5,000,000	5,000,000
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MUS MSUB Cisel Hall HVAC and Plumbing System Upgrades

4,000,000	4,000,000
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DOA Capitol Complex Elevator System Upgrades

5,700,000	5,700,000
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MSDB Vocational Building Demolition and New Construction

4,000,000	4,000,000
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MUS MSU Lewis Hall New Elevator and ADA Upgrades

4,600,000	4,600,000
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MUS UM Music Building Renovation

		7,250,000	7,250,000	14,500,000
DOA	1227 11th Avenue Renovation			
		3,600,000		3,600,000
DOA	1300 11th Avenue Renovation			
		4,150,000		4,150,000
MUS	UM Mansfield Library Renovation			
		9,000,000	9,000,000	18,000,000
MUS	MSU Hamilton Hall 3rd and 4th Floor Renovation			
		5,230,000		5,230,000
DOA	5 South Last Chance Gulch Building Renovation			
		17,300,000		17,300,000
DMA	SMART Deferred Maintenance Program, Statewide			
		1,500,000	4,500,000	6,000,000
DOC	MSP Construction Education Program Building and Old Territorial Prison Repair			
		4,200,000		4,200,000
DMA	Billings Limited Army Aviation Support Facility, Phase 2			
		23,100,000		23,100,000
DMA	MTANG New Training Drop Zone			
		1,800,000		1,800,000
DOJ	MLEA New Indoor Firing Range			
		10,000,000		10,000,000
DMA	MT State Veterans' Cemetery, New Interment Processing Center			
		600,000		600,000
FWP	Central Services Site Upgrades Phase 2			
		13,350,000		13,350,000
FWP	Central Services Site Upgrades Phase 3			
		16,680,000		16,680,000
FWP	State Park Storage Building at Cooney Park and Deadman Basin FAS			

375,000

375,000

The department of administration may prioritize the funding, design, and construction between each of the storage buildings as necessary to meet the intent of [sections 3(8)(c) and 3(10)].

MDT Equipment Storage Buildings at Three Forks, Wolf Creek, Lodge Grass, Conrad, and Miles City

5,300,000

5,300,000

The department of administration may prioritize the funding, design, and construction between each of the equipment storage buildings as necessary to meet the intent of [sections 3(8)(c) and 3(11)].

MDT Purchase of Equipment Repair Shop and Property

8,500,000

8,500,000

MUS MSUB New Art Building

13,400,000

13,400,000

MUS UM New Bandy Ranch Field Research Housing

2,000,000

2,000,000

MUS UM Bio Research Building Addition

8,000,000

8,000,000

MUS MSU Instructional Space Modernization

4,000,000

4,000,000

MUS UM Law School Interior Remodel

3,000,000

3,000,000

MUS UM McGill Hall Addition

3,000,000

3,000,000

Authority-only increase is provided for the project in Section 3, Chapter 763, Laws of 2023.

MUS MSU Nopper Building Purchase

6,500,000

6,500,000

MUS UM Undergraduate Research Lab Upgrades and Improvements

10,000,000

10,000,000

MUS UM South Campus Tennis Court Complex

8,300,000

8,300,000

MUS	MSU Visual Communications Building Classroom Addition		
		11,500,000	11,500,000

Authority-only increase is provided for the project in Section 2, Chapter 422, Laws of 2019, and Section 3, Chapter 763, Laws of 2023.

MUS	Women's Soccer Locker Room Remodel and Lighting		
		400,000	400,000
MUS	Montana Tech Campus Expansion and Upgrades	50,000,000	50,000,000

(2) The following money is appropriated to the department of military affairs for the indicated capital development projects from the indicated sources. Funds not requiring legislative appropriation are included for the purpose of authorization and are subject to the provisions of 18-2-103.

Agency/Project	LRBP	State	Federal	Authority	Total
	CD	Special	Special	Only	
	Fund	Revenue	Revenue	Sources	
DMA	Fort Harrison Open Bay Barracks		10,500,000		10,500,000

Federal special revenue is provided for the purposes of construction for the project consented to by the governor in August 2024 in accordance with 18-2-102(2)(e) for use of \$1,880,000 of federal funds for design only.

DMA	Fort Harrison Vehicle Paint Shop Construction		4,000,000		4,000,000
DMA	MTARNG Vehicle Maintenance Shop Construction		20,000,000		20,000,000
DMA	Limestone Hills Target Storage Building Replacement		60,000		60,000
DMA	Veterans' Cemetery Expansions, Statewide		1,000,000		1,000,000
DMA	Capital Reserve Fund		31,505,000		31,505,000

(3) (a) The capital reserve fund may be used by the department of military affairs to fund projects

in [section 3] subsequently identified after the passage of [this act].

(b) A project must be prepared that describes each task to be completed with a budget for each proposed project. The project description must be submitted by the department of military affairs through the department of administration to the general government budget committee and the long-range planning budget committee. After the project description has been submitted to those committees, the budget director may approve, modify, or deny the proposed project.

(4) (a) The following money is appropriated to the office of budget and program planning for the indicated capital development project from the indicated source for the purpose of major repairs and capital projects on the Capitol complex:

Agency/Project	LRBP	State	Federal	Authority	Total
	CD	Special	Special	Only	
	Fund	Revenue	Revenue	Sources	
OBPP	Capitol Complex Deferred Maintenance and Renewal				
	50,000,000				50,000,000

(b) The office of budget and program planning is authorized to transfer any or all of the appropriation to the department of administration. The department of administration is authorized to adjust major repair or capital development project amounts within the legislative intent, if approved by the office of budget and program planning, and to transfer the appropriations, authority, or both among the necessary fund types.

(c) The funds may be used in conjunction with projects appropriated in Section 14, Subsection 4, Chapter 762, Laws of 2023. The department may also extend existing design, construction, and other contracts at its sole discretion.

(d) The funds may not be utilized in or for space leased or to be leased by a state agency or to construct or acquire additional state-owned square footage.

(5) (a) The following money is appropriated to the department of administration for the purpose of capital development projects planning studies for agencies, including the university system, on capital projects that are anticipated to be greater than a total project cost of \$10 million:

Agency/Project	LRBP	State	Federal	Authority	Total
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	CD	Special	Special	Only
	Fund	Revenue	Revenue	Sources
DOA	Capital Development Projects Planning Studies			
	2,000,000			2,000,000

(b) Prior to usage of the funds, the department shall require agencies to submit individual capital project applications, along with 6-year facilities strategic plans, and make recommendations to the office of budget and program planning. A planning study must be approved by the office of budget and program planning prior to commencement by the department.

(c) The results of a planning study must contain the full narrative and explanation of the needs, project scope and programmatic information, design and construction schedule, itemized total capital project costs, any future staffing costs, and any future operations and maintenance costs.

(d) Subject to 17-7-211, agencies, including the university system, may utilize other funding sources to initiate or participate in a capital projects planning study.

(6) (a) The following money is appropriated to the department of administration as reserve funding on major repair-type and capital development-type capital projects:

Agency/Project	LRBP	State	Federal	Authority	Total
	CD	Special	Special	Only	
	Fund	Revenue	Revenue	Sources	
DOA	Reserve Funds for Market, Supply Chain, and Inflationary Impacts				
	10,000,000				10,000,000

(b) Prior to usage of the funds, the department shall submit a recommendation with sufficient justification for approval to the office of budget and program planning.

(c) Funding may not be used to expand beyond the scope of a project authorized by the legislature. This aggregate amount does not limit or restrict 17-7-211.

(7) (a) Pursuant to 17-7-210, if construction or acquisition of a new facility requires an immediate or future increase in state funding for program expansion or operations and maintenance, the legislature may not authorize the new facility unless it also appropriates funds for the increase in state funding for program expansion and operations and maintenance. To the extent allowed by law, at the end of each fiscal year

following approval of a new facility but prior to receipt of its certificate of occupancy, the appropriation made in this subsection reverts to its originating fund. The appropriation is not subject to the provisions of 17-7-304.

(b) Subject to subsection (7)(e), the following money is appropriated for the biennium beginning July 1, 2025, to the indicated agency from the indicated sources for program expansion or operations and maintenance for the indicated new facility:

Agency/Project	General Fund	State Special Revenue	Federal Special Revenue	Authority Only Sources	Total
DNRC Missoula New Forestry and Trust Lands Office Building		50,876			50,876
DNRC Helena Wildland Firefighter Bunkhouses		66,360			66,360
DNRC Libby Wildland Firefighter Bunkhouses and Office Addition		33,180			33,180
DNRC Plains Wildland Firefighter Bunkhouse		33,180			33,180
MUS MSU Lewis Hall New Elevator and ADA Upgrades	37,800				37,800
DOA 5 South Last Chance Gulch Building Renovation	173,550				173,550
DMA Billings Limited Army Aviation Support Facility, Phase 2			107,400		107,400
DOJ MLEA New Indoor Firing Range		150,000			150,000
DMA MT State Veterans' Cemetery, New Interment Processing Center	9,625				9,625
FWP Central Services Site Upgrades Phase 2		133,468			133,468

FWP	Central Services Site Upgrades Phase 3	208,545	208,545
FWP	Region 5 Cooney State Park Storage Building	2,778	2,778
FWP	Region 5 Deadman's Basin FAS Storage Building	4,250	4,250
MDT	Three Forks Equipment Storage Building	48,150	48,150
MDT	Wolf Creek Equipment Storage Building	33,400	33,400
MDT	Lodge Grass Equipment Storage Building	33,400	33,400
MDT	Conrad Equipment Storage Building	41,650	41,650
MDT	Miles City Equipment Storage Building	44,750	44,750
MUS	MSUB New Art Building	257,680	257,680
MUS	UM New Bandy Ranch Field Research Housing	108,705	108,705
MUS	UM Bio Research Building Addition	246,050	246,050
MUS	UM McGill Hall Addition	71,968	71,968
MUS	MSU Nopper Building Purchase	1,252,186	1,252,186
MUS	UM South Campus Tennis Court Complex		
		359,086	359,086

MUS	MSU Visual Communications Building Classroom Addition		
		59,286	140,403 199,689
DMA	Fort Harrison Open Bay Barracks		
		204,800	204,800
DMA	Fort Harrison Vehicle Paint Shop Construction		
		42,100	42,100
DMA	MTARNG Vehicle Maintenance Shop Construction		
		134,800	134,800
DMA	Fort Harrison Facility Maintenance Shop #3 (FMS #3) Acquisition		
		31,000	31,000
MUS	Montana Tech Campus Expansion and Upgrades		
		2,543,693	2,543,693

Funds for operations and maintenance are provided upon completion of the transfer of the facility from federal to state ownership. The department of administration may utilize the FMS #3 to construct either or both the capital projects DMA DES State Emergency Coordination Center Expansion and DMA DES State Disaster Warehouse in Section 3, Chapter 763, Laws of 2023. If constructed within the FMS #3, the operations and maintenance funding for either or both the projects in Section 3, Chapter 763, Laws of 2023, shall transfer to the acquired FMS #3.

DMA	Billings Readiness Center and Innovation Campus (BRIC)		
		98,500 (General Fund)	98,500 (Federal Special Revenue) 197,000 (Total)

Funds for operations and maintenance are provided for the project in Section 3, Chapter 763, Laws of 2023, and are contingent on the sale of the existing Billings Armed Forces Reserve Center (BAFRC). After the sale, operations and maintenance funding currently appropriated to the department of military affairs for the existing Billings Armed Forces Reserve Center shall then be added to and utilized for the new Billings Readiness Center operations and maintenance.

DOA	Governor's Office, 720 Madison Avenue		
		270,250 (General Fund)	270,250 (Total)

Funds for operations and maintenance are provided upon completion of the transfer of the real property

to the department of administration.

(c) Subject to subsection (7)(e), the following money is appropriated for fiscal year 2027 to the indicated agency from the indicated sources for program expansion or operations and maintenance for the indicated new facility:

Agency/Project	General State	Federal Authority		Total
	Fund	Special Revenue	Special Revenue	Only Sources
DOC MSP Low-Side Housing Expansion	6,950,000			6,950,000

(d) It is the legislature’s intent that the appropriations in this subsection become part of the respective agency’s base budget for the biennium beginning July 1, 2025.

(e) Appropriations in subsections (7)(b) and (7)(c) are contingent on the passage and approval of a bill that includes an appropriation for the construction of the indicated projects in subsections (7)(b) and (7)(c).

(f) Funds appropriated in [this act] and prior appropriations, including House Bill 2, House Bill 5, and House Bill 872 from the 2023 session, may not be used to construct or staff a guard house at the Montana state hospital.

(8) The department of administration shall prioritize the project management and contracting for design and construction of capital projects contained in [this act] and may combine or bundle projects at its discretion, in the following order:

(a) (i) projects for the department of public health and human services, specifically DPHHS MSH Comprehensive Mechanical System Replacement, DPHHS MSH Spratt Building Upgrades for Licensure and Facility Fences, and the DPHHS MMHNCC D-Wing Remodel for Licensure;

(ii) projects for the department of corrections, specifically DOC MSP Low-Side Housing Expansion, DOC MSP Site Infrastructure Upgrades, DOC MSP Comprehensive Mechanical System Replacement, and the DOC MSP Construction Education Program Building Renovation and Old Territorial Prison Repair;

(iii) remaining projects in [this act] as determined by the department in accordance with 18-2-104 and taking into consideration prior appropriated capital projects.

(b) Based upon project type or location, the department may combine or bundle the procurement

of design services, bidding, and construction contracting for the purposes of efficiently implementing capital projects in either [section 2] or [section 3] or both.

(c) The department may also extend existing design, construction, and other contracts for capital projects in either [section 2] or [section 3] or both at its sole discretion, in order to expedite the implementation, design, and construction of capital projects in [this act].

(d) Should funding in House Bill 3 be insufficient for the replacement of the security doors in the RHU and SAU facilities at the Montana State Prison, the department of administration is authorized to adjust prior capital project appropriations in House Bill 817 of the 68th session and appropriations in [this act] for the department of corrections to complete the replacement of the security doors.

(9) The department shall develop standardized designs for bunkhouses used by all state agencies differentiated only by the number of beds they contain. Only one architectural fee may be paid for the bunkhouse design.

(10) The department shall develop standardized designs for storage sheds used by all state agencies differentiated only by the size of the shed. Only one architectural fee may be paid for the storage shed design.

(11) The department shall develop standardized designs for department of transportation equipment storage buildings differentiated only by the number of equipment bays in the structure. Only one architectural fee may be paid for the equipment storage building design.

(12) The architecture and engineering division of the department of administration shall provide a written report on the progress in implementing the projects identified as priority projects in subsections (8)(a)(i) and (8)(a)(ii) and the work done to implement projects in subsection (8)(a)(iii) 5 days prior to a meeting of the following committees:

- (a) the legislative finance committee; and
- (b) the long-range planning budget committee.

Section 4. Capital improvement projects. (1) The following money is appropriated to the department of fish, wildlife, and parks in the indicated amounts for the purpose of making capital improvements to statewide facilities. Funds not requiring legislative appropriation are included for the purpose of authorization.

The department of fish, wildlife, and parks is authorized to transfer the appropriations, authority, or both among the necessary fund types for these projects:

Agency/Project	State Special Revenue	Federal Special Revenue	Authority Only Source	Total
FWP Statewide Administrative Facilities Major Maintenance	2,800,000			2,800,000
FWP Fishing Access Site Major Maintenance	1,590,000			1,590,000
FWP Statewide Hatchery Maintenance and Repairs	2,500,000			2,500,000
FWP Fishing Access Site Noxious Weed Control	250,000			250,000
FWP Wildlife Management Area Maintenance	3,380,000			3,380,000
FWP State Parks Major Maintenance	4,500,000			4,500,000
FWP State Parks Noxious Weed Control	250,000			250,000
FWP Statewide Wildlife Habitat Management Areas Improvements	680,000			680,000
FWP Future Fisheries	2,000,000			2,000,000
FWP Contract Programs	2,250,000			2,250,000
FWP Fish Connectivity	1,635,000	1,775,000		3,410,000
FWP Lewis and Clark Caverns State Park Water System				

		692,500	692,500	1,385,000
FWP	Community Fishing Ponds			
		200,000		200,000
FWP	Parks and Outdoor Recreation Site Development and Upgrades			
		4,509,680	510,000	5,019,680

For the Judith Landing Site, noxious weed control must be performed with a portion of the funds appropriated for the location.

FWP	Upland Game Bird Enhancement Program			
		2,000,000		2,000,000
FWP	Dam Maintenance			
		90,000		90,000
FWP	Region 5 HQ Pemberton Lane Improvements			
		255,000		255,000
FWP	Grants Programs			
		5,800,000	7,900,000	13,700,000
FWP	Bannack State Park Historic Preservation			
		250,000		250,000
FWP	Forest Management Program			
		250,000		250,000
FWP	Tongue/Yellowstone/Muggli Fishery Infrastructure Improvements			
		1,430,000		1,430,000

(2) Authority is granted to the Montana university system for the purpose of making capital improvements to campus facilities statewide. Authority-only funds may include donations, grants, auxiliary funds, proprietary funds, nonstate funds, and university funds. Use of authority-only funds may be allocated at not more than \$2,500,000 per project and are subject to the provisions of 18-2-103. All costs for the operations and maintenance of any improvements constructed under this authorization must be paid by the Montana university system from nonstate sources:

Agency/Project LRBP	State	Federal	Authority	Total
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Fund	Special Revenue	Special Revenue	Only Sources	
General Spending Authority, MUS All Campuses			20,000,000	20,000,000

(3) The following money is appropriated to the department of transportation in the indicated amount for the purpose of making capital improvements to statewide facilities as indicated and are subject to the provisions of 18-2-103:

Agency/Project LRBP	State	Federal	Authority	Total
Fund	Special Revenue	Special Revenue	Only Sources	
Maintenance, Repair, and Small Projects, Statewide				
	3,000,000			3,000,000

(4) The following money is appropriated to the department of military affairs in the indicated amount for the purpose of making capital improvements to statewide facilities. The capital improvements are subject to the provisions of 18-2-103. All costs for the operation and maintenance of any improvements constructed with these funds must be paid by the department of military affairs from nonstate sources:

Agency/Project LRBP	State	Federal	Authority	Total
Fund	Special Revenue	Special Revenue	Only Sources	
Federal Spending Authority		3,000,000		3,000,000

(5) The following money is appropriated to the department of environmental quality in the indicated amount for the purpose of leaking petroleum tank remediation to address risks to human health or the environment at petroleum sites where there is no readily apparent potentially liable person or entity that is financially viable:

Agency/Project LRBP	State	Federal	Authority	Total
Fund	Special Revenue	Special Revenue	Only Sources	Revenue
Remediation of Leaking Petroleum Tanks				
	2,000,000			2,000,000

Section 5. Land acquisition appropriations. The following money is appropriated to the department of fish, wildlife, and parks in the indicated amounts for the purposes of land acquisition, land leasing, easement purchase, or development agreements. The department of fish, wildlife, and parks is authorized to transfer the appropriations, authority, or both among the necessary fund types for these projects:

Agency/Project	State Special Revenue	Federal Special Revenue	Authority Only Sources	Total
FWP Habitat Montana	12,000,000			12,000,000
FWP Fishing Access Site Acquisition	500,000			500,000
FWP Habitat Montana -- Enhanced 701 Funding	18,000,000			18,000,000

Section 6. Planning and design. The department of administration may proceed with the planning and design of capital projects in either or both [sections 2 and 3] prior to the receipt of other funding sources. The department may use interentity loans in accordance with 17-2-107 to pay planning and design costs incurred before the receipt of other funding sources.

Section 7. Capital projects -- contingent funds. (1) If a capital project is financed, in whole or in part, with appropriations contingent on the receipt of other funding sources, the department of administration may not let the project for bid until a financial plan and agreement with the agency has been approved by the director of the department of administration. A financial plan and agreement may not be approved by the director if:

- (a) the level of funding and authorization provided under the financial plan and agreement deviates substantially from the funding level provided in either or both [sections 2 and 3] for that project; or
- (b) the scope of the project is substantially altered or revised from the concept and intent for that

project as presented to the 69th legislature.

(2) For any capital project financed, in whole or in part, with appropriations contingent on the receipt of other funding sources in this biennium and any prior biennium, the agency, including the university system, for which the capital project is for must submit a report through the department of administration architecture and engineering division to the Joint Appropriations Subcommittee for Long-Range Planning indicating the status of the other sources of funding, how much funding has been received, projections of when the funding is anticipated to be received, or if the project should be canceled. A report must be provided to the subcommittee during every regular session of the legislature until a project begins construction or is canceled by the legislature.

(3) This section does not limit or restrict the application of 17-7-211.

Section 8. Review by department of environmental quality. The department of environmental quality shall review capital projects authorized in either or both [sections 2 and 3] for potential inclusion in the state building energy conservation program (SBCEP) under Title 90, chapter 4, part 6. When a review shows that a capital project will result in energy or utility savings and improvements, that project must be submitted to the energy conservation program for funding consideration by the SBCEP. Funding provided under the energy conservation program guidelines must be used to offset or add to the authorized funding for the project, and the amount will be dependent on the annual utility savings resulting from the capital project. Agencies must be notified of potential funding after the review and are obligated to utilize the SBCEP funding, if available, on the terms and conditions specified by the department.

Section 9. Legislative intent. The appropriations authorized in [sections 2 through 5] constitute legislative consent for the capital projects contained in [sections 2 through 5] within the meaning of 17-7-201 and 18-2-102.

Section 10. Increase in state funding for program expansion or operations and maintenance. If an immediate or future increase in state funding for program expansion or operations and maintenance is required for a new facility in [section 3] but the increase is not appropriated by the 69th legislature, that new

facility in [section 3] is not appropriated or authorized as provided in 17-7-210.

Section 11. Section 17-7-201, MCA, is amended to read:

"17-7-201. Definitions. In this part, the following definitions apply:

- (1) (a) "Building" includes a:
 - (i) building, facility, or structure constructed or purchased wholly or in part with state money;
 - (ii) building, facility, or structure at a state institution;
 - (iii) building, facility, or structure owned or to be owned by a state agency, including the department of transportation.
- (b) The term does not include a:
 - (i) building, facility, or structure owned or to be owned by a county, city, town, school district, or special improvement district;
 - (ii) facility or structure used as a component part of a highway or water conservation project.
- (2) "Capital development" means a:
 - (a) renovation, construction, alteration, site, or utility project with a total cost of \$2.5 million or more;
 - (b) new facility with a construction cost of \$250,000 or more; or
 - (c) purchase of real property for which an appropriation is required to fund the purchase.
- (3) "Construction" includes construction, repair, alteration, renovation, and equipping and furnishing during construction, repair, or alteration.
- (4) "Division" means the architecture and engineering division of the department of administration.
- (5) "High-performance building" means a building that integrates and optimizes all major high-performance building attributes, including but not limited to:
 - (a) energy efficiency;
 - (b) durability;
 - (c) life-cycle performance; and
 - (d) occupant productivity.
- (6) (a) "Long-range building program-eligible building" means a building, facility, or structure

eligible for major repair account funding that:

(i) is owned or fully operated by a state agency and for which the operation and maintenance are funded with state general fund money; or

(ii) supports academic missions of the university system and for which the operation and maintenance are funded with current unrestricted university funds.

(b) The term does not include a building, facility, or structure:

(i) owned or operated by a state agency and for which the operation and maintenance are entirely funded with state special revenue, federal special revenue, or proprietary funds; or

(ii) that supports nonacademic functions of the university system and for which the operation and maintenance are funded from nonstate and nontuition sources.

(7) (a) "Major repair" means:

(i) a renovation, alteration, replacement, or repair project with a total cost of less than \$2.5 million;

(ii) a site or utility improvement with a total cost of less than \$2.5 million; or

(iii) a new facility with a total construction cost of less than \$250,000.

(b) The term does not include operations and maintenance as defined in this section.

(8) (a) "New facility" means the construction or acquisition of a new building on state property regardless of funding source and includes:

(i) an addition to an existing building; and

(ii) the enclosure of space that was not previously fully enclosed.

(b) The term does not include the replacement of state-owned space that is demolished or that is otherwise removed from state use if the total construction cost of the replacement space is less than \$2.5 million.

(9) "Operations and maintenance" means operational costs and regular, ongoing, and routine repairs and maintenance funded in an agency operating budget that does not extend the capacity, function, or lifespan of a facility.

(10) "Replacement cost of existing long-range building program-eligible building" means the current replacement value of all long-range building program-eligible buildings included in the statewide facility inventory and condition assessment as provided in 17-7-202."

Section 12. Section 17-7-202, MCA, is amended to read:

"17-7-202. Preparation of building programs and submission to department of administration -- statewide facility inventory and condition assessment. (1) Before ~~July 1~~April 1 of the year preceding a legislative session, each state agency and institution shall submit to the architecture and engineering division of the department of administration, on forms furnished by the division, a proposed long-range building program for major repair projects and capital developments, if any, for the agency or institution along with the agency's or institution's 6-year capital development facilities strategic plan. Excluding major repair projects greater than \$2,500,000, the division may not include a capital development project request in the information provided pursuant to 17-7-202(4) without the project also being included in an agency's or institution's 6-year capital development facilities strategic plan, unless approved by the office of budget and program planning. Each agency and institution shall furnish any additional information requested by the division relating to the utilization of or need for major repair projects and capital developments.

(2) (a) Except as provided in subsection (3), the division shall compile and maintain a statewide facility inventory and condition assessment that:

(i) for each state-owned building:

(A) identifies its location and total square footage;

(B) identifies the agency or agencies using or occupying the building and how much square footage each agency uses or occupies;

(C) lists the current replacement value of the building in its entirety and each agency's portion of the building; and

(D) identifies whether the building is a long-range building program-eligible building; and

(ii) for each long-range building program-eligible building:

(A) includes a facility condition assessment of the building and an itemized list of the building's deficiencies; and

(B) compares the building's current building deficiency ratio to its deficiency ratio in the previous biennium.

(b) The division may contract with a private vendor to collect, analyze, and compile the building

information required in this subsection (2).

(c) The facility inventory and condition assessment must be updated as determined by the division.

(d) The division may incorporate in the statewide facility inventory and condition assessment any facility condition assessment or similar document compiled by an agency.

(e) The division shall provide the statewide facility inventory and condition assessment, including a calculation of the deferred maintenance backlog and overall building deficiency ratio of the long-range building program-eligible buildings, to the office of budget and program planning and the legislative finance committee by September 1 of the year preceding a regular legislative session in an electronic format. The division shall provide a copy of the report to the legislature in accordance with 5-11-210.

(3) The division is not required to include a state-owned building that has a current replacement value of ~~\$150,000~~ \$300,000 or less in the facility inventory and condition assessment.

(4) The division shall examine the information furnished by each agency and institution and shall gather whatever additional information is necessary and conduct whatever surveys are necessary in order to provide a factual basis for determining the need for and the feasibility of major repair projects and capital developments. The information compiled by the division shall be submitted to the governor before October 1 of the year preceding a regular legislative session."

Section 13. Section 17-7-210, MCA, is amended to read:

"17-7-210. Required funding for maintenance of newly authorized state buildings. (1) If construction or acquisition of a new facility requires an immediate or future increase in state funding for program expansion or operations and maintenance, the legislature may not authorize the new facility unless it also appropriates funds for the increase in state funding for program expansion and operations and maintenance.

(2) (a) To the extent allowed by law, at the end of each fiscal year following approval of a new facility but prior to receipt of its certificate of occupancy or acquisition, the appropriation made pursuant to subsection (1) reverts to its originating fund. The appropriation is not subject to the provisions of 17-7-304.

(b) When a certificate of occupancy or acquisition for a new facility is received prior to the end of the fiscal year, the amount of the appropriation made pursuant to subsection (1) that reverts to its originating

fund is the prorated amount from the beginning of the fiscal year to the date of the receipt of the certificate of occupancy."

Section 14. Section 17-7-223, MCA, is amended to read:

"17-7-223. Major repair -- submission of list to legislature -- priorities. (1) By November 15 of the year preceding a regular legislative session, the division shall, on behalf of all state agencies, submit a list of anticipated major repair projects to the governor. The governor shall review the list of anticipated long-range building program-eligible major repair projects recommended by the division and submit it to the legislature.

(2) The division shall ensure that the list identifies:

(a) single projects that cost more than ~~\$150,000~~ \$300,000;

(b) multiple projects within a single building or facility that collectively cost more than ~~\$150,000~~ \$300,000; and

(c) single projects that will be constructed in phases with an aggregate cost of more than ~~\$150,000~~ \$300,000.

(3) Unless otherwise directed by the legislature, the division shall execute major repair projects from the prioritized list submitted to the legislature up to the level of appropriation made by the legislature.

(4) In prioritizing major repair projects, the division shall consider the results of the statewide facility inventory and condition assessment prepared pursuant to 17-7-202.

(5) In prioritizing major repair projects, the division shall allocate at least 80% of the funds that the legislature appropriates for major repair to:

(a) projects that address:

(i) any issue that impacts health and safety;

(ii) failing building envelopes;

(iii) structural deficiencies;

(iv) energy, utility, or water savings;

(b) projects that upgrade, repair, or replace:

(i) mechanical, plumbing, or control systems;

(ii) electrical systems;

- (iii) fixed equipment;
- (iv) an essential building component; or
- (v) infrastructure, including a utility tunnel, water line, gas line, sewer line, roof, parking lot, or road;

or

(c) projects that demolish and replace an existing building or facility that is in extensive disrepair and cannot be fixed by repair or maintenance.

(6) In prioritizing major repair projects, the division shall allocate no more than 20% of the funds that the legislature appropriates for major repair to:

- (a) remodeling and aesthetic upgrades to meet programmatic needs; or
- (b) construct an addition to an existing building or facility."

Section 15. Section 3, Chapter 763, Laws of 2023, is amended to read:

The portion of section 3(1), Chapter 763, Laws of 2023, appropriating money from the capital development account to the department of administration for the indicated capital project is amended to read:

"DPHHS MSH Compliance Upgrades for Recertification & Deferred Maintenance

15,903,000

15,903,000

~~Up to \$10,000,000 of funding for the project must be used for rebuilding a water line constructed by the state serving the Montana State Hospital. The department is authorized to contract with Anaconda-Deer Lodge County for this portion of the project at the department's discretion."~~

Section 16. Transfer of funds. (1) By June 30, 2027, the department of administration shall transfer \$150 million from the general fund to the capital developments long-range building program account established in 17-7-209.

(2) By July 1, 2025, the state treasurer shall transfer \$2 million from the general fund to a state special account within the department of environmental quality for the purpose of leaking petroleum tank remediation.

Section 17. Transfer of funds -- plan and reporting. (1) By June 30, 2026, the state treasurer shall

transfer \$26.5 million from the capital developments long-range building program account established in 17-7-209 to the board of investments for the purposes of building a behavioral health facility.

(2) Prior to the transfer in subsection (1) taking place, the budget director shall adopt a plan from the board of investments and the department of public health and human services on the facility type and location. The board of investments and the department of public health and human services shall report to the health and human services interim budget committee established in 5-12-501 on the progress of choosing the facility type and location. Once a plan is adopted by the budget director, the board of investments and the department of public health and human services shall provide a progress report at each subsequent meeting of the health and human services interim budget committee and each subsequent meeting of the long-range planning budget committee that are held prior to December 31, 2026.

(3) Any unspent funds must revert to the capital developments long-range building program account.

Section 18. Coordination instruction. If both House Bill No. 217 and [this act] are passed and approved, then the reference to the department of environmental quality in [section 8 of this act] must be changed to "the department of administration architecture and engineering division".

Section 19. Section 14(1), Chapter 762, Laws of 2023, is amended to read:

"Section 14. Appropriations. (1) There is appropriated ~~\$42.5~~ \$15 million from the account established in [section 11] to the legislative branch for the biennium beginning July 1, 2023, for the purposes set forth in subsections (2) and (3). This appropriation is reappropriated for the purposes of the original appropriation until the funds are fully expended."

Section 20. Section 9(1), Chapter 739, Laws of 2023, is amended to read:

"Section 9. Appropriations for capital projects. (1) After the administrative rules have been adopted under [section 4] and only after the commission transmits its summary report on its recommendations to the governor after following the process set forth in [section 2], there is appropriated ~~\$55~~ \$28.5 million to the department of administration from the capital developments long-range building program account in the capital

projects fund type provided for in 17-7-209 for the behavioral health system for future generations capital development."

Section 21. Operations and maintenance appropriation. (1) The amount of \$10 million is appropriated from the general fund to the department of public health and human services for the fiscal year beginning July 1, 2026, for program expansion or operations and maintenance for the indicated new setting.

(2) It is the intent of the legislature that the appropriation in subsection (1) become part of the base budget for the department of public health and human services for the biennium beginning July 1, 2027.

Section 22. Section 1, Chapter 468, Laws of 2021, is amended to read:

The portion of section 1, Chapter 468, Laws of 2021, appropriating money from the capital development account to the department of administration for the indicated capital project is amended to read:

"MONTANA UNIVERSITY SYSTEM

~~UM Forestry Conservation & Science Lab~~

~~_____ 25,000,000 _____ 20,000,000 _____ 45,000,000"~~

Section 23. Section 3, Chapter 763, Laws of 2023, is amended to read:

The portion of section 3(1), Chapter 763, Laws of 2023, appropriating money from the capital development account to the department of administration for the indicated capital project is amended to read:

"MUS UM Clapp Building ~~Renovation~~ Replacement

~~27,000,000 _____ 10,000,000 _____ 37,000,000~~

52,000,000 _____ 20,000,000 _____ 72,000,000"

Section 24. Combination of capital development appropriations. (1) The architecture and engineering division of the department of administration shall combine the UM Forestry Conservation & Science Lab capital project previously authorized in section 1, Chapter 468, Laws of 2021, with the Clapp Building Replacement capital project, previously authorized in section 3, Chapter 763, Laws of 2023. The combined appropriation must result in a single facility of not more than the gross square footage of the existing Clapp

Building on the same site and may not expand existing programs into other UM facilities or result in any new programs.

(2) The architecture and engineering division of the department of administration may reutilize portions of the existing Clapp Building, including the basement, foundation, and utility systems, or other portions of the existing building, based on analysis of the existing facility taking into consideration existing asbestos containing materials, seismic and structural conditions, mechanical and electrical or plumbing systems, energy efficiency, functionality, UM program needs, and long-term operational and maintenance costs.

Section 25. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 26. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
HB 5, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2025.

President of the Senate

Signed this _____ day
of _____, 2025.

HOUSE BILL NO. 5

INTRODUCED BY J. FITZPATRICK

BY REQUEST OF THE OFFICE OF BUDGET AND PROGRAM PLANNING

AN ACT APPROPRIATING MONEY FOR MAJOR REPAIR AND CAPITAL DEVELOPMENT PROJECTS FOR THE BIENNIUM ENDING JUNE 30, 2027; PROVIDING FOR OTHER MATTERS RELATING TO THE APPROPRIATIONS; PROVIDING FOR A TRANSFER OF FUNDS FROM THE GENERAL FUND TO THE CAPITAL DEVELOPMENTS LONG-RANGE BUILDING PROGRAM ACCOUNT AND A TRANSFER OF FUNDS FROM THE GENERAL FUND TO A STATE SPECIAL REVENUE FUND; PROVIDING FOR A MODIFICATION TO THE LONG-RANGE BUILDING PROGRAM; INCREASING CERTAIN VALUE THRESHOLDS FROM \$150,000 TO \$300,000; ESTABLISHING REPORTING REQUIREMENTS; ALLOWING A COMBINATION OF PREVIOUSLY APPROVED APPROPRIATIONS FOR THE CLAPP BUILDING; AMENDING SECTIONS 17-7-201, 17-7-202, 17-7-210, AND 17-7-223, MCA; AMENDING SECTION 1, CHAPTER 468, LAWS OF 2021, SECTION 9(1), CHAPTER 739, LAWS OF 2023, SECTION 14(1), CHAPTER 762, LAWS OF 2023, AND SECTION 3, CHAPTER 763, LAWS OF 2023; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.



DEPARTMENT OF
**PUBLIC HEALTH &
HUMAN SERVICES**

MONTANA
BOARD OF INVESTMENTS

November 26, 2025

Ryan Osmundson
State Budget Director
Office of Budget and Program Planning
PO Box 200802
Helena, MT 59620-0802

Director Osmundson,

Pursuant to HB 5, please accept the following as the proposed plan for the construction of a new behavioral health facility for the Department of Public Health and Human Services (DPHHS). The statute reads as follows:

Section 17. Transfer of funds – plan and reporting. (1) *By June 30, 2026, the state treasurer shall transfer \$26.5 million from the capital developments long-range building program account established in 17-7209 to the board of investments for the purposes of building a behavioral health facility.*

(2) Prior to the transfer in subsection (1) taking place, the budget director shall adopt a plan from the board of investments and the department of public health and human services on the facility type and location. *The board of investments and the department of public health and human services shall report to the health and human services interim budget committee established in 5-12-501 on the progress of choosing the facility type and location. Once a plan is adopted by the budget director, the board of investments and the department of public health and human services shall provide a progress report at each subsequent meeting of the health and human services interim budget committee and each subsequent meeting of the long-range planning budget committee that are held prior to December 31, 2026.*

(3) Any unspent funds must revert to the capital developments long-range building program account.

Facility Type and Location

As demonstrated in the enclosed analysis, DPHHS seeks to construct and operationalize a 32-bed forensic mental health facility. The facility would be designed with scalability in mind should the agency determine a need to leverage beds for the civil population in the future. From our perspective, it is most appropriate to "build up" to forensic facility

standards and be able to scale down as deemed necessary. As many Montanans know, DPHHS has experienced surging demand for forensic psychiatric services over the past several years, resulting in a problematic statewide waitlist that adversely impacts local communities. While DPHHS has taken a variety of steps to try to address this issue operationally, its bed capacity remains severely limited, and the agency believes that the funds granted to us by the Legislature must be prioritized for the forensic population.


The Board of Investments (BOI) will oversee construction of the facility using its established real estate development process, which has successfully delivered, owned, leased, and managed income distribution from directly held real estate securities for over 40 years. BOI and its contractors will obtain all required permits, annexations, zoning, and other local approvals in full compliance with applicable ordinances and resolutions. Upon completion of construction, DPHHS will enter into a lease agreement with BOI for a minimum term of 20 years.

DPHHS has selected Laurel, Montana as the location for the facility. Laurel provides access to a critical health care workforce and infrastructure necessary to ensure the facility's success. Laurel's geographic location is ideally situated for improving access and transportation logistics for patients and their families, staff, and law enforcement across central and eastern Montana.

As you know, the Legislature allocated \$26.5 million for this project to BOI, pending your approval. However, it is anticipated that these funds may be insufficient to construct a "hardened" facility designed to safely and securely serve a forensic population. Once BOI can more precisely determine the total project costs, DPHHS is prepared to allocate additional funding from the remaining Behavioral Health Systems for Future Generations (BHSFG) state special revenue capital account balance, which currently holds an available balance of \$41,970,000, to address any amount exceeding the HB 5 transfer. The Office of Budget and Program Planning (OBPP), as the statutory approving authority, will be consulted throughout this process.

DPHHS and BOI have worked in strong partnership for several months. Specialized consultants have been engaged to support facility research and design, as well as the development of an effective program structure. With your approval, work can begin immediately to continue strengthening Montana's behavioral health system.

Thank you for your timely attention to this urgent matter.

Signed by:

61408679875F473...
Charles I. Brereton

Director

Department of Public Health and Human Services

DocuSigned by:

21DF48F786AE4F4...
Dadi Villal

Executive Director

Montana Board of Investments

Attachments:

1. "Building a Foundation for Future Generations: Montana's New Behavioral Health Facility"
2. "Frequently Asked Questions: Montana's New Behavioral Health Facility"
3. "Securities Classification of the Construction of Behavioral Health Unit Pursuant to Section 17 of House Bill 5 from the 2025 Legislative Session"
4. Letter from the City of Laurel, MT
5. Draft Floor Plan



October 6, 2025

Dan Villa
Executive Director
Montana Board of Investments
2401 Colonial Drive, 3rd Floor
PO Box 200126
Helena, MT 59620-0126

Executive Director Villa,

I write regarding the following language from House Bill 5, passed by the 2025 Montana Legislature and signed into law by Governor Gianforte on June 19, 2025:

Section 17. Transfer of funds -- plan and reporting. (1) *By June 30, 2026, the state treasurer shall transfer \$26.5 million from the capital developments long-range building program account established in 17-7209 to the board of investments for the purposes of building a behavioral health facility.*

(2) *Prior to the transfer in subsection (1) taking place, the budget director shall adopt a plan from the board of investments and the department of public health and human services on the facility type and location. The board of investments and the department of public health and human services shall report to the health and human services interim budget committee established in 5-12-501 on the progress of choosing the facility type and location. Once a plan is adopted by the budget director, the board of investments and the department of public health and human services shall provide a progress report at each subsequent meeting of the health and human services interim budget committee and each subsequent meeting of the long-range planning budget committee that are held prior to December 31, 2026.*

(3) *Any unspent funds must revert to the capital developments long-range building program account.*

Pursuant to these statutory requirements, the Department of Public Health and Human Services (DPHHS) looks forward to continuing our collaboration with the Board of Investments (BOI) to build a much-needed behavioral health facility for Montanans. As we enter the next phase of this critical project, I am providing you with the following guidance concerning DPHHS's preferred location for the facility, as well as the type and purpose of the facility that we believe should be built based on our observed demand for state psychiatric services.

Site Location

While DPHHS remains interested in site opportunities in Yellowstone County, it is important that all Eastern Montana communities equipped with adequate infrastructure and a potential workforce are afforded the opportunity to submit proposals for hosting our new facility. As

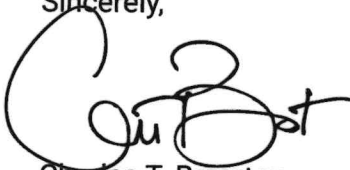
we've agreed, a Due Diligence Questionnaire process would help solicit input from all communities in Eastern Montana, and the Department authorizes BOI to proceed on our behalf with that process. In light of anticipated future demand for state psychiatric services, communities and stakeholders should be aware that any site selected must allow for potential expansion in future years. Working together, I am confident that both of our agencies will facilitate robust engagement with local stakeholders when appropriate and prior to final site selection.

Facility Type and Purpose

As demonstrated in the enclosed analysis, DPHHS seeks to construct and operationalize a 32-bed forensic mental health facility. The facility would be designed with scalability in mind should the agency determine a need to leverage beds for the civil population in the future. From our perspective, it is most appropriate to "build up" to forensic facility standards and be able to scale down as deemed necessary. As many Montanans know, DPHHS has experienced surging demand for forensic psychiatric services over the past several years, resulting in a problematic statewide waitlist that adversely impacts local communities. While we have taken a variety of steps to try to address this issue operationally, our bed capacity remains severely limited, and the agency believes that the funds granted to us by the Legislature must be prioritized for the forensic population.

I thank you and BOI for your partnership and support of our work on behalf of the Montanans we serve.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Brereton", written over a large, stylized circular flourish.

Charles T. Brereton
Director

Enclosure: Building a Foundation for Future Generations: Montana's New Behavioral Health Facility

BUILDING A FOUNDATION FOR FUTURE GENERATIONS: MONTANA'S NEW BEHAVIORAL HEALTH FACILITY

Prioritizing Forensic Capacity to Resolve a Systemic Bottleneck

October 2025



DEPARTMENT OF
**PUBLIC HEALTH &
HUMAN SERVICES**



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EXECUTIVE SUMMARY

Montana's behavioral health system is facing an ongoing and critical challenge: a growing forensic psychiatric population is overwhelming the state's limited capacity, resulting in delayed treatment and adjudication, as well as admission waitlists that adversely impact local detention facilities. In response to this issue, the Montana Department of Public Health and Human Services (DPHHS) seeks to prioritize the construction of a 32-bed forensic psychiatric facility in Eastern Montana. This expansion will address urgent legal, clinical, and operational needs while improving geographic equity and system efficiency. Importantly, the facility will be strategically designed to allow DPHHS to convert wings or pods for civil commitment use if demand shifts in the future.

BACKGROUND

DPHHS is responsible for providing inpatient psychiatric care to individuals who require involuntary treatment due to severe mental illness. These individuals fall into two primary categories: forensic and civil patients.

- **Forensic patients** are individuals who are involved in the criminal justice system. They may be:
 - Awaiting trial but in need of a mental health evaluation to determine if they are competent to stand trial.
 - Found Unfit to Proceed (UTP) and in need of inpatient restoration services.
 - Sentenced under Montana Code Annotated (MCA) 46-14-312, which mandates DPHHS to provide treatment for individuals found Guilty but Mentally Ill (GBMI) or Not Guilty by Reason of Mental Illness (NGMI).
- **Civil patients** are individuals who, due to a mental illness, pose a danger to themselves or others, and/or are unable to care for their basic needs. These individuals are typically admitted through civil commitment proceedings.

To meet the needs of both populations, the Gianforte administration has secured funding for renovations and expansions at Montana State Hospital (MSH), MSH Grasslands, and the Montana Mental Health Nursing Care Center (MMHNCC), which will increase total state psychiatric bed capacity to 307 beds, with a potential net increase of 40 beds.

In addition to funding provided to MSH during the 2025 Legislative Session, the Gianforte administration secured funding to reopen the D wing at MMHNCC. Reopening the D wing will add 24 civil beds to serve the geriatric psychiatric population, including some patients previously served on the Spratt Unit.

This ultimately maintains the existing number of civil beds in the civil care continuum.

Wing/Unit	Type	Current	Proposed	Difference
Alpha	Civil	31	41	10
Bravo	Civil	26	34	8
Echo	Civil	25	23	-2
Grasslands	Civil	0	20	20
Spratt	Civil	60	0	-60
MMHNCC-D-Wing	Civil	0	24	24
TOTAL		142	142	0
Delta	Forensic	31	41	10
Galen	Forensic	54	54	0
Group Homes	Forensic	40	40	0
Former Spratt	Forensic	0	30	30
TOTAL		125	165	40

SYSTEMS OF CARE

Forensic

At MSH, individuals involved in the criminal justice system may be admitted for forensic psychiatric evaluation or treatment. The typical process for a forensic patient includes the following steps:

1. **Fitness Evaluation/Court-Ordered Evaluation (COE)**

A court may order a mental health evaluation, frequently referred to as a COE, to determine whether a defendant is fit to proceed to trial. This is an initial “fitness” evaluation and is restricted to a diagnosis of the mental condition of the defendant, including opinions as to: a) whether the defendant suffers from a mental disorder and may require commitment or is seriously developmentally disabled, and b) if the defendant suffers from a mental disease or disorder or developmental disability, whether the defendant has the capacity to: i) understand the proceedings against the defendant, and ii) assist in the defendant’s own defense.

- This evaluation can be conducted in the community through an investment made possible by the Behavioral Health System for Future Generations (BHSFG) Commission or may require inpatient admission to the Forensic Mental Health Facility (FMHF) in Galen.
- If the individual is found competent, they are returned to the county of origin to proceed with trial.

2. **Unfit to Proceed (UTP)**

If the initial fitness evaluation (COE) determines the individual is not fit to proceed to trial, they must be ordered to be admitted to the FMHF in Galen for inpatient restoration treatment.

- These individuals do not go to the Delta Unit at this stage.

3. **Non-Restorable Cases**

If the individual cannot be restored to fitness due to a persistent mental illness, their criminal case may be dismissed.

- They may then be ordered to be civilly involuntarily committed for ongoing treatment.

4. **Pre-Sentence Evaluation (PSE)**

In some cases, a PSE is ordered to determine whether the individual met the legal criteria for GBMI at the time of the offense as part of a sentencing proceeding.

5. **Sentenced Forensic Patients (GBMI)**

Individuals found "Guilty but Mentally Ill" are initially admitted to the FMHF in Galen and placed on a waitlist for transfer to the Delta Unit, which houses sentenced forensic patients.

- These patients progress through a Level 1–10 privilege system at MSH.
- Those reaching Level 6 or higher may be eligible for placement in on-campus group homes or, in the future, the converted Spratt Unit.

Civil

MSH also serves individuals who are civilly involuntarily committed. These are individuals who, due to a mental illness, are considered a danger to themselves or others, and/or are unable to meet their basic needs.

The typical process for a civil patient at MSH or MSH Grasslands is as follows:

1. **Admission through Civil Commitment**

A court orders the individual to receive inpatient psychiatric care based on clinical evidence of risk and/or inability to care for themselves.

2. **Evaluation and Stabilization**

Upon arrival, the patient is admitted to the admissions wing (Echo) at MSH, where they undergo evaluation and receive initial stabilization treatment.

3. **Discharge or Continued Treatment**

- If the patient stabilizes quickly, they may be discharged and returned to their home or community with appropriate supports.

- If further care is needed, the patient is transferred to a treatment wing (Alpha or Bravo) for continued therapy and rehabilitation, with the goal of eventual discharge.

Note: This is a simplified overview intended to illustrate the general continuum of care. Individual treatment plans and legal processes may vary based on clinical needs and statutory requirements.

WHY PRIORITIZE THE FORENSIC POPULATION VS. THE CIVIL POPULATION?

SYSTEM BOTTLENECK

The FMHF in Galen is currently the only facility in the state equipped to restore individuals who a court has determined are UTP. It also serves as the admission point for defendants sentenced as GBMI, and those committed to the custody of the director of DPHHS to be placed in an appropriate mental health facility for custody, care, and treatment after the court has determined they present a danger to themselves or others. This set of defendants, as distinguished from GBMI defendants, is referred to as NGMI patients.

Since 2022, the FMHF in Galen has consistently maintained a waitlist of over 70 patients, creating a significant bottleneck that affects:

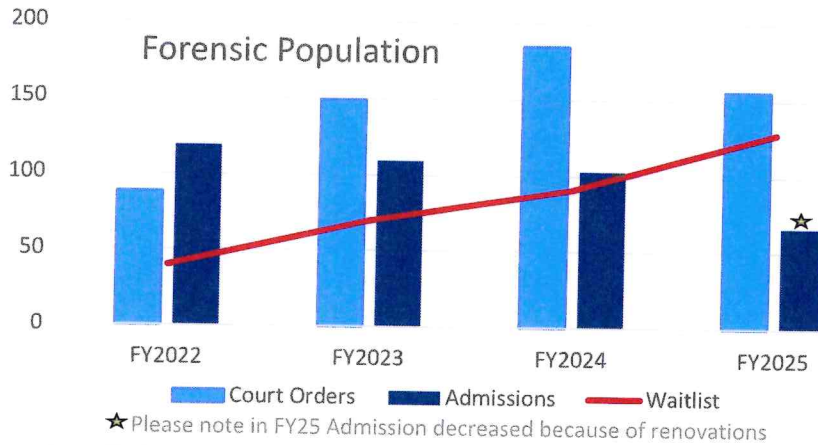
- County court proceedings
- Jail populations
- Local mental health systems

This backlog delays access to treatment, strains public safety systems, and increases the state's legal risk.

RAPID GROWTH IN FORENSIC DEMAND AND WAITLIST

Forensic court orders have surged 77% since FY 2022, with GBMI orders increasing 650%. In contrast, civil admissions have remained relatively stable, aided by the MSH Grasslands facility and other community-based supports. The forensic system, however, has no such relief valve, making the sought expansion urgent.

As noted above, Montana has experienced a sharp increase in forensic court orders over the past four years, which has consequently increased DPHHS's forensic waitlist. As the state's population grows, the number of individuals requiring forensic evaluation and treatment is expected to rise proportionally in accordance with national trends.



The following table reflects the court orders, by type, issued in each fiscal year.

TYPE	FY 2022	FY 2023	FY 2024	FY 2025	% Change FY 2022 to FY 2025	AAGR FY 2022-FY 2025
COE	55	93	81	67	21.80%	13.00%
UTP	23	42	52	43	86.90%	29.70%
PSE	6	7	13	20	333%	52.10%
GBMI	4	7	39	26	650%	166%
NGMI	0	0	0	0	N/A	N/A
TOTAL	88	149	185	156	77.20%	25.90%

Note: Not all COE orders result in admission to the FMHF in Galen. Some evaluations are being completed in the community through the aforementioned BHSFG initiative launched in 2024.

Forensic Waitlist Growth and Contributing Factors

The forensic waitlist for the FMHF in Galen has grown significantly in recent years; however, this growth is not a straightforward function of court orders minus admissions. The waitlist is shaped by a variety of operational and legal factors, including court orders from multiple fiscal years.

Why Waitlist Numbers Are Complex

Several factors contribute to the growing waitlist:

- **Community-Based Evaluations:** Some COEs and PSEs are completed by DPHHS-approved providers in the community, without requiring admission to the FMHF in Galen.
- **Dismissed Cases:** A defendant’s case may be dismissed by a court due to a determination that a defendant cannot be made fit within the reasonably foreseeable future and that alternatives to forensic commitment are inappropriate, due to speedy trial violations, or due to other Constitutional considerations. This may remove the defendant from the system before admission, which is an outcome that DPHHS seeks to avoid through expanding forensic bed capacity.
- **Non-Court-Ordered/Emergency Admissions:** Some admissions are for patients who are held up to 72 hours in connection with an “emergency detention.” An emergency detention is coordinated with a county attorney, the state hospital, and other mental health facilities for individuals who are experiencing acute crises, have rapidly decompensated, or require higher security, even if they are not tied to a court order.

The following table reflects the waitlist at the end of the fiscal year and the fiscal year in which the court order was initially issued.

FY	Waitlist	Year the Court Order was Issued				
		FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
2022	40	4	36			
2023	70		4	66		
2024	91		1	5	85	
2025	128*			1	26	101

**Note: FY 2025 totals were impacted by renovations and pod reconfigurations that temporarily reduced forensic admissions capacity.*

The waitlist is not just a backlog. It is a dynamic, multi-year accumulation of unmet forensic service needs. This underscores the importance of expanding capacity and building flexible infrastructure that can absorb fluctuations in demand and operational disruptions.

Conversely, DPHHS has not observed a corresponding rapid increase in the waitlist for the civil population. When operating at full capacity, MSH typically admits around 650 civil patients per year. While admissions declined in FY 2025 due to limited bed space associated with renovations required for CMS certification, by the end of FY 2025, only five individuals were on the civil waitlist, and they were ultimately cleared for admission.

While infrastructure upgrades have temporarily impacted civil admissions, the system is functioning effectively and has adapted through initiatives such as opening MSH Grasslands. This reinforces the need to prioritize forensic expansion, where the misalignment between demand and capacity is more acute.

OPERATIONAL CONSTRAINTS AT THE FMHF IN GALEN

Renovations, pod closures, and gender-based housing needs have further reduced forensic capacity. Internal transfers (e.g., from Delta Unit to Galen) consume bed space without reducing the waitlist, furthering the need for dedicated additional capacity.

The following table reflects the number of admissions and the fiscal year in which the known court order was issued.

FY	Number of Admissions	Year the Court Order was Issued					
		Unknown	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
2022	119	76	4	39			
2023	109	26		14	69		
2024	103			1	43	59	
2025	66*					47	19

Admissions Are Not Always Court-Driven

- Annual admissions include individuals with court orders from multiple fiscal years, not just the current one.
- Some admissions are not tied to new court orders. For example, patients from the Delta Unit may be temporarily transferred back to Galen if they decompensate and require a higher-security setting.

Gender-Based Pod Reconfiguration

The growth of Montana’s forensic population is further complicated by the need to separate male and female patients, which is a requirement driven by both safety and clinical standards. Over the last five years, roughly 20% of forensic orders have been for female patients.

- The FMHF in Galen consists of two large pods and one small pod.
- This layout limits flexibility in managing gender-specific housing needs, especially when demand fluctuates.

To address a growing female waitlist, over the past four years, one pod has been converted from male to female housing twice. To safely complete the transition, overall male capacity is temporarily reduced, and new male admissions are paused, worsening one component of the statewide forensic waitlist.

LEGAL RISKS OF FORENSIC BED SHORTAGES

A shortage of forensic psychiatric beds poses **serious legal and constitutional risks** for the State of Montana and its counties. These risks stem from the inability to provide timely mental health treatment to individuals who are legally entitled to it.

Due Process Violations

- Defendants found incompetent to stand trial must receive treatment to restore their competency.
- Delays in admission can result in individuals spending more time in jail than they would have if convicted, violating their constitutional right to due process.
- Prolonged incarceration without treatment can lead to worsening mental health and increased suicide risk, potentially protracting treatment at the FMHF in Galen upon admission and worsening the existing bottleneck.

Risk of Federal Intervention and Litigation

- Other states, such as Washington, have faced class-action lawsuits and federal court oversight due to delays in forensic mental health services.
- Courts have required states to:
 - Expand forensic capacity
 - Improve access to treatment
 - Pay damages for constitutional violations

Montana's Current Exposure

While Montana has not yet faced federal intervention, Department leadership believes the risk is growing. The number of **court orders dismissed due to speedy trial violations** – a direct result of forensic bed shortages – demonstrates this legal vulnerability. In FY 2024 and 2025, the number of court orders dismissed totaled 12.

Why This Matters

- Forensic patients are often held in jails while awaiting admission, where they may not receive adequate psychiatric care.
- Delays in restoration can lead to constitutional violations, including speedy trial and due process concerns.
- Civil patients, while also in need, have more diversified treatment pathways (e.g., Grasslands, community-based services), whereas forensic patients rely most exclusively on the FMHF in Galen.

- Each dismissal represents a missed opportunity for treatment, a potential public safety concern, and a legal liability for the state.

ADDITIONAL RATIONALE

National and Regional Benchmarking

By early 2026, MSH is projected to operate with:

- 142 civil beds (including 24 at MMHNCC) – 13.10 civil beds per 100,000 residents
- 125 forensic beds (including those for sentenced patients) – 11.53 beds per 100,000 residents
- Total: 24.63 state psychiatric beds per 100,000 residents

National benchmarks recommend 20–40 state psychiatric beds per 100,000 population (TAC, KFF). Montana's current capacity places it at the lower end of the national benchmark for total civil and forensic beds. The Department's desired changes to system bed capacity, as described above, will ultimately increase state psychiatric beds to 339 in total, bringing Montana's per 100,000 rate to a midpoint of 31.27.

Note: Increase in capacity is a combination of changes referenced in the chart on page 4 and the proposed new forensic facility.

National Trends in Forensic Psychiatric Populations

Across the United States, states are experiencing a sustained surge in forensic psychiatric demand, particularly related to competency to stand trial evaluations and restorations.

Growth in Competency Cases

- From 1999 to 2014, there was a 76% increase in forensic patients in state hospitals.
- From 2017 to 2024, the number of individuals found incompetent to stand trial rose by 23%.
- National forensic waitlists have ballooned – from 883 in 2019 to approximately 2,400 by 2024 – leading to overcrowding in jails and emergency departments.

Other State Responses: Expanding Forensic Capacity

According to a July 2025 report by NRI, Inc., 11 states added over 1,300 forensic beds between 2022 and 2024, and an additional 317 beds were added in 2025 alone.

- Mississippi: Built an 83-bed maximum-security forensic unit, doubling capacity to 123 beds.
- Kansas: Constructed two new state psychiatric hospitals following a legal settlement.
- Pennsylvania: Built a 270-bed forensic facility at Norristown State Hospital.
- New York: Added 125 beds in four months, with 325 total added under the current governor's administration.

PROJECTED IMPACT OF THE 32-BED EXPANSION

- **DPHHS projects that adding 32 forensic beds would increase annual capacity to serve approximately 170 patients.**
- This represents a 60% increase in the availability of care, significantly reducing wait times and improving access to timely evaluation and restoration services.
- Montana's forensic system is under-resourced relative to national benchmarks and uniquely strained by legal sentencing practices.
- Expanding forensic capacity is a strategic, data-driven response to both current deficiencies and future needs.

WHY THE INTEREST IN EASTERN MONTANA?

Geographic Balance and Access

Because Eastern and Central Montana currently lack essential forensic infrastructure, counties are forced to transport patients long distances to the FMHF in Galen, which delays care and increases costs. Establishing a new facility in Eastern Montana would improve geographic balance.

Strategic Advantages

The proposed 32-bed forensic facility is being considered for Eastern Montana, a region with limited access to forensic psychiatric services and one that provides a growing share of the state's forensic admissions. This location is expected to:

- Improve geographic access for law enforcement, court systems, defendants, and families in Eastern and Central Montana.
- Reduce transportation burdens for counties that currently face long distances when transporting defendants to the FMHF in Galen.
- Support regional equity by expanding behavioral health infrastructure beyond the western corridor.

THE IMPORTANCE OF A FLEXIBLE DESIGN

The facility will be designed for medium- to low-security forensic care, which allows for conversion to civil use if future demand shifts and DPHHS determines a need to repurpose pods/units. Designing the new forensic facility with scalability and adaptability in mind offers significant long-term cost savings.

A modular layout and medium- to low-security infrastructure will allow the facility to be scaled up or down based on changing demand, whether that means expanding forensic capacity, converting pods/units for civil use, or adjusting gender-specific housing.

This flexibility reduces the need for costly new construction or major retrofits in the future. By investing in a facility that can evolve with Montana's behavioral health landscape, the state can maximize the return on capital investment, avoid duplication of infrastructure, and ensure that taxpayer dollars are used efficiently and effectively over time.

With the new facility, DPHHS will be better positioned to provide state psychiatric services regardless of what type of capacity (forensic or civil) is most strained in future years.

CONCLUSION

Montana's forensic psychiatric system is under significant and growing strain. Without immediate investment in expanded capacity, the state faces serious and far-reaching consequences not only for individuals with mental illness, but also for the legal system, public safety, and public finances.

County jails are increasingly housing individuals who require psychiatric care, not incarceration. These facilities are not equipped to provide appropriate treatment, leading to worsening symptoms, increased risk of self-harm, and potential violations of constitutional rights. Concurrently, the lack of available forensic beds has forced courts to dismiss charges or release individuals without treatment, contributing to a cycle of relapse, homelessness, and recidivism. These consequences often adversely impact the civil mental health system, which is not designed to manage forensic-level acuity.

The proposed 32-bed forensic facility in Eastern Montana offers a strategic, flexible, and future-ready solution. It will:

- Relieve pressure on local governments and jails, as well as reduce legal exposure
- Improve access to timely, appropriate treatment
- Expand geographic equity in behavioral health services

- Increase forensic evaluation capacity by 60%
- Boost annual forensic care delivery from 106 to 170 patients (estimated)
- Provide long-term adaptability for DPHHS to shift between forensic and civil use as needed

By designing the facility with scalability in mind, Montana can avoid costly retrofits or duplicative construction in the future. This investment not only addresses today's most pressing behavioral health challenge, but it also builds a more resilient, efficient, and balanced system for the future.

Inaction carries a high cost. DPHHS's desired expansion of forensic beds is a fiscally responsible, legally sound, and clinically necessary way to continue building a stronger statewide behavioral health system for future generations.



Frequently Asked Questions (FAQs): Montana's New Behavioral Health Facility

1. What funding is the State of Montana using to build a new behavioral health facility?

House Bill 5, passed by the 2025 Montana Legislature and signed into law by Governor Gianforte on June 19, 2025, provides \$26.5 million to build a behavioral health facility. House Bill 5 requires the Department of Public Health and Human Services (DPHHS) and Board of Investments (BOI) to jointly develop a plan identifying the type and location of the facility.

2. What is the type and purpose of the facility?

Based on a statewide [needs assessment](#), this facility will provide secure, therapeutic care for individuals with serious mental illness who are in the criminal justice system. These individuals may include:

- A person awaiting trial who needs a mental health evaluation to determine if they are mentally fit to stand trial.
- A person found Unfit to Proceed (UTP) who requires inpatient treatment to restore their competency.
- A person found Guilty but Mentally Ill (GBMI) or Not Guilty by Reason of Mental Illness (NGMI) who is court-ordered to receive treatment in a secure psychiatric facility.

3. Who is responsible for this facility?

The facility will be managed and operated by DPHHS.

Under Montana Code Annotated (MCA) Title 53, Chapter 21, DPHHS is legally responsible for providing inpatient psychiatric care to individuals who are either civilly committed or involved in the criminal justice system due to serious mental illness.

This new facility will be part of the state's broader behavioral health system and will be staffed, licensed, and overseen in accordance with state law and clinical best practices.

4. Why is the facility focused on mental health treatment for individuals who are involved in the criminal justice system?

Montana is experiencing a growing crisis in forensic psychiatric care and lacks sufficient capacity to meet demand. At the end of Fiscal Year 2025, 128 individuals were on the waitlist for admission to the existing Forensic Mental Health Facility in Galen, which is managed and operated by DPHHS.



Currently, this facility is the only facility in Montana that can serve this population, and the bed space is inadequate for current and projected demand.

Without timely access to treatment, individuals may be held in local jails for extended periods, which can worsen psychiatric symptoms and delay recovery.

This new facility will:

- Provide faster access to treatment, allowing for earlier patient stabilization, reducing the risk of harm to self or others.
- Help individuals regain competency and move through the legal system appropriately, reducing risks of recidivism, homelessness, or untreated mental illness.
- Create capacity for local jail, ensuring critical public safety resources are used effectively.

5. Why was Eastern Montana identified as the preferred location?

Eastern Montana was selected to improve geographic access to behavioral health services and reduce pressure on the existing DPHHS facility in Galen (Western Montana). A facility in Eastern Montana will:

- Reduce transportation burdens for counties in Eastern and Central Montana.
- Improve regional access for law enforcement, courts, and families.
- Expand necessary behavioral health infrastructure in an underserved part of the state.

6. Will the facility only serve forensic patients?

While the immediate need is to serve individuals in the criminal justice system who require psychiatric evaluation or treatment, the facility is being designed with flexibility and scalability in mind for future needs.

Its primary purpose is to address Montana's urgent shortage of forensic psychiatric beds. However, if future demand shifts, the facility can be adapted to serve civil patients.

By building a facility that can evolve with Montana's behavioral health needs, the state is making a smart, future-ready investment that avoids the cost of building new infrastructure down the road.



7. Can patients voluntarily leave this facility?

No. All individuals admitted to this type of facility are either court ordered or sentenced to DPHHS. The facility will operate under strict security and clinical protocols to ensure the safety of patients, staff, and the broader community.

8. What security measures are implemented at this type of facility?

As a forensic facility, security is significantly tighter than in traditional locked psychiatric units.

Security features include:

- 'Sally port' doors, which ensure one door is closed before the other opens to prevent patient elopement
- Double-layer security fences around all outdoor areas
- A central command station that operates facility access control and manages patient and staff movements
- 24/7 interior and exterior live video monitoring

No firearms are on-site, and staff are trained in de-escalation and safe behavioral management techniques.

9. What is the anticipated length of stay for patients, and what criteria are used to determine their readiness for release?

Based on the model of the existing Forensic Mental Health Facility in Galen, DPHHS anticipates that patients ordered by the court for evaluation and restoration will stay for approximately 3 to 6 months. Their release depends on their treatment progress and usually involves returning to a county jail or being transferred to the Montana State Hospital.

For patients placed in the care of DPHHS, the length of stay depends on their sentence and behavior. Patients who complete their sentence while at the facility will collaborate with DPHHS discharge planners to develop a plan for their return to the community with suitable follow-up care. Release is also coordinated with Probation and Parole.

10. Will individuals be released into communities after treatment?

No one will be released from the facility, and from incarceration, without a structured discharge plan.

All individuals treated at this facility will be either court-ordered or sentenced to DPHHS. Discharge planning is coordinated with the courts and appropriate agencies to ensure



that individuals return to their home jurisdictions or are transferred to appropriate settings such as the Montana State Hospital, supervised housing, community-based treatment, or another secure facility. Most evaluation patients will transfer back to the county detention facility from where they were originally transferred to await sentencing.

No one will be released without:

- A formal discharge plan
- Oversight or monitoring as required
- Coordination with local law enforcement, Probation and Parole, or behavioral health providers, when appropriate

It is important to note that DPHHS, in coordination with the judicial system, typically works to return individuals to their county of origin.

11. Who is responsible for the discharge planning?

DPHHS is ultimately responsible for the discharge planning of patients who have completed their sentence at the facility. Discharge planning is a dedicated function within the operations of the facility. It is carried out by trained staff who specialize in coordinating safe and appropriate transitions for individuals leaving care.

This process is done in close collaboration with:

- Medical and clinical professionals
- The court system
- Community-based providers
- Other relevant agencies (e.g., law enforcement, Probation and Parole, housing, or treatment programs)

Every discharge is guided by a structured plan that ensures individuals are placed in the right setting with the right supports whether that's returning to their home jurisdiction, entering a supervised program, or continuing care in another facility. Public safety and continuity of care are central to every decision.

12. What kind of staffing is required for a 32-bed forensic facility?

It is anticipated that 90-100 staff will be required to safely operate the facility across multiple shifts 24/7/365. The staffing model is based on best practices at the existing Forensic Mental Health Facility in Galen and will be largely comprised of clinical staff (RNs, LPNs, Psychiatric Technicians) as well as support staff. The staffing model will evolve as the facility design and operational models are finalized.



13. How is Montana addressing workforce challenges for this facility?

Montana is actively investing in workforce development strategies to ensure the facility is properly staffed. This includes training pipelines, recruitment incentives, and partnerships with educational institutions. Through the 406 Jobs Initiative, the Behavioral Health System for Future Generations Initiative, and the future Rural Health Transformation Program, the State is continuing to expand education, certification, and career advancement opportunities in critical behavioral health fields such as psychiatry, psychology, social work, and nursing.

14. How will the selected community be involved in the planning process for the facility?

Once a site and location for the facility is formally selected, there will be a series of local meetings to explain the process for designing, building, and operating the facility and gather feedback from community members and leaders.

15. What are the legal risks of not building this facility?

Montana and local jurisdictions are at risk of legal exposure if forensic capacity is not expanded. Delays in forensic psychiatric care can result in:

- Violations of constitutional rights, including due process and speedy trial protections
- Dismissed court cases due to prolonged detention without treatment
- Federal litigation or oversight, as seen in other states



To: Speaker Ler
From: Julie Johnson, Staff Attorney
Re: Securities Classification of the Construction of a Behavioral Health Unit Pursuant to Section 17 of House Bill 5 from the 2025 Legislative Session
Date: October 1, 2025

I. Introduction and Issue

At the September meeting of the Legislative Finance Committee, legal staff was asked to work with Chair Kassmier to request an Attorney General Opinion on the following question of law:

Whether the behavioral health unit that the Legislature directed the Board of Investments to have constructed in House Bill 5 is a security under state and federal securities laws?

This memo provides basic research and points of law bearing upon the request. The memo also reaches a preliminary conclusion that the building would most likely constitute a security.

II. Factual Background

Article VIII, section 13, of the Montana Constitution mandates the creation of a “unified investment program for public funds.” This unified investment program is overseen and managed by the Board of Investments. The total market value of the Montana Board of Investments’ Unified Investment Program as of June 30, 2024, was \$29.6 billion.

Part of the board’s investment portfolio includes real estate and buildings. The Board of Investments owns several buildings that it rents to state agencies or third parties as a part of its real estate investment portfolio. This includes the workforce housing apartments that the Board of Investments had built pursuant to House Bill 819 from the 2023 legislative session. These assets are included in common investment pools and are commingled with other participants’ assets. These asset pools are managed by the staff at the Board of Investments with no individual participant control.

During the 2025 session, the Legislature passed House Bill 5, which provided for the construction of a behavioral health facility. See section 17 of HB 5. Specifically, the Legislature directed the transfer of \$26.5 million from the capital developments long-range building program account to the Board of Investments “for the purposes of building a behavioral health facility.”¹ According to section 17(2) of HB 5, prior to the transfer of funds to the Board of Investments, the budget director “shall adopt a plan from the board of investments and the department of public health and human services on the facility type and location.”

At its September 18, 2025, meeting, the Legislative Finance Committee discussed the

¹ Rent for the behavioral health facility may be eligible for federal reimbursement.

construction of the behavioral health facility and the committee members' understanding that the building constitutes a security under Montana law. Members want to make certain this understanding is correct. Therefore, given the importance of the facility's timely construction and the legislative directive to the Board of Investments to construct this facility instead of the Department of Administration Office of Architecture and Engineering, the Legislative Finance Committee has requested an Attorney General opinion on this question of law.

III. Applicable Law

A. Federal Law

In S.E.C. v. W.J. Howey Co., 328 U.S. 293, 66 S.Ct. 1100, 90 L.Ed. (1946), the United States Supreme Court set out what is now commonly referred to as the Howey test to determine whether an investment contract exists. The Supreme Court stated that the test to determine whether an investment contract exists "is whether the scheme involves an investment of money in a common enterprise with profits to come solely from the efforts of others." Howey, 328 U.S. at 301.

The Ninth Circuit Court of Appeals distilled the Howey definition into a three-part test, which requires the following:

- (1) an investment of money
- (2) in a common enterprise
- (3) with an expectation of profits produced by the efforts of others.

Warfield v. Alaniz, 569 F.3d 1015, 1020 (9th Cir. 2009). The Montana Supreme Court has also noted that "[t]he leading case for determining the existence of an investment contract security is S.E.C. v. W.J. Howey Co." and has similarly reiterated that the "established three criteria to the determination of an investment contract security" under Howey is: "an investment, a common enterprise, and the expectation of profits *solely* from the efforts of others." State v. Duncan, 181 Mont. 382, 390-91, 593 P.2d 1026, 1031-32 (1979) (Emphasis in original).

B. State Law

As discussed above, the three-part Howey test determines whether an investment contract exists. Under Montana law, an investment contract is a security pursuant to § 30-10-103(24)(xiii), MCA.

C. Law Governing the Board of Investments

The Board of Investments is charged with the creation of a "unified investment program for public funds" under Article VIII, section 13, of the Montana Constitution. §17-6-201, MCA,

provides that the Board of Investments must administer public funds “in accordance with the prudent expert principle,” which requires the board to:

- (a) discharge the duties with the care, skill, prudence, and diligence, under the circumstances then prevailing, that a prudent person acting in a like capacity with the same resources and familiar with like matters exercises in the conduct of an enterprise of a like character with like aims;
- (b) diversify the holdings of each fund within the unified investment program to minimize the risk of loss and to maximize the rate of return unless, under the circumstances, it is clearly prudent not to do so; and
- (c) discharge the duties solely in the interest of and for the benefit of the funds forming the unified investment program.

§17-6-201(1), MCA (Emphasis added). The Board of Investments is charged with maximizing the rate of return on investments for the benefit of funds within the unified investment program. The board is also granted the power to execute conveyance deeds for real property and to direct the sale of securities. §17-6-201(6), MCA.

IV. Analysis

Because a security is defined as an investment contract under Montana law, the three-part Howey test applies.

1. Is there an investment of money? Yes, 26.5 million is to be invested in the construction of a behavioral health unit pursuant to section 17 of HB 5 (2025).
2. Is there a common enterprise? Most likely, yes. HB 5 does not explicitly provide that the building will be included in a common investment pool managed by the Board of Investments. However, it is reasonable to infer that the Legislature, by directing the board, instead of the Department of Administration Office of Architecture and Engineering, to construct the building, intended to have the building be included in the “unified investment program for public funds.”
3. Is there an expectation of profits produced by the efforts of others? Most likely, yes. The Board of Investments charges rent to state agencies and third parties on buildings in its real estate portfolio. HB 5 does not explicitly provide that the board will charge rent on the new behavioral health facility. However, given the board’s duty under §17-6-201, MCA, to maximize its rate of return and produce profits for its investors, it is reasonable to infer that the Legislature intended the board to charge whoever occupies the behavioral health facility a rent that yields a rate of return. It is possible that the building rent would be partially reimbursed with federal funds, which depends on the purpose of the facility. If the building rent is reimbursed with federal funds, it is not clear how the Board of Investments can maximize profits while adhering to strict policies for federal reimbursement.

V. Preliminary Conclusion

The three-part Howey test indicates that the behavioral health facility would most likely be considered a security under state and federal law. This conclusion is bolstered by the fact that the workforce housing project constructed by the Board of Investments pursuant to House Bill 219 in the 2023 session is included in the board's real estate portfolio that is in a common investment pool. Lastly, had the Legislature not intended the facility to be considered a security, it would have instead directed the Department of Administration Office of Architecture and Engineering to construct the facility, and not the Board of Investments.

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WATER OFC.: 628-7431
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City Of Laurel

P.O. Box 10
Laurel, Montana 59044



Office of the CAO

November 17, 2025

Mr. Dan Villa
Executive Director
Board of Investments

I would like to explain why the City of Laurel did not nominate itself for the potential location for a new Forensic Mental Health Facility the State of Montana intends to build. Inside the city of Laurel limits there is no location that would be suitable for the facility and so therefore I cannot ask the Laurel City Council to consider applying.

Laurel's Mayor David Waggoner and I have described to you a location just outside Laurel's city limits that has most of the criteria that would make building the facility remarkably successful. The land has adjacent water and sewer lines that are currently being installed. The area also has natural gas, an electrical power line, cable tv, fire hydrants and I believe fiber optic lines. These necessary elements are crucial in providing all the needs a mental health facility development would need. This location would lower the initial cost to construct such a facility versus lands that do not have some or any of the infrastructure to build out such a facility.

As I stated, this location is just outside the city limits and therefore must go through the legal process to be considered for any city services. The City Council passed an annexation resolution in 2008 that set the criteria for receiving city services. To annex any property the City relies on Montana Code Annotated Title 7, Chapter 2, part 42 through 47. If the City of Laurel were to consider any type of annexation from parts 42 through 47, we would need to follow those Montana laws, and this includes the right for public participation and public hearing. Due to the requirements in City Council resolution R08-22, land outside city limits must be annexed to receive city services and this is why Laurel could not apply during the recent process for consideration for the state's facility.

The process city staff has always followed with regards to annexation is a pre-application meeting with owners or potential owners of land to be considered for annexation. This meeting will discuss all the necessary steps Laurel will require and annexation requirements in Montana Code Annotated (MCA). MCA 7-2-44 is the process for annexation of contiguous government land if the state would like to consider the location just outside city limits. In the past, buy/sell agreements could be made until the public process has taken place and a favorable vote for annexation is complete by Laurel's City Council.

If the State is considering any City for the location of the Forensic Mental Health Facility, I would hope that those cities follow their ordinances and resolutions as I have advised our elected officials on following Laurel's ordinances and resolutions.

The right to have the public speak on the benefits or concerns they may have about any annexation or provision of local services is well documented in Laurel. I applaud the efforts to get community involvement in choosing the location for the facility, but I believe the process did not allow the location I pointed out to you during the summer tour to be nominated.

If anyone from the State would like to speak to Laurel's Mayor or city staff, I am sure that we could arrange a meeting to discuss this letter in more detail or what policies we have for the Laurel community.

Sincerely,

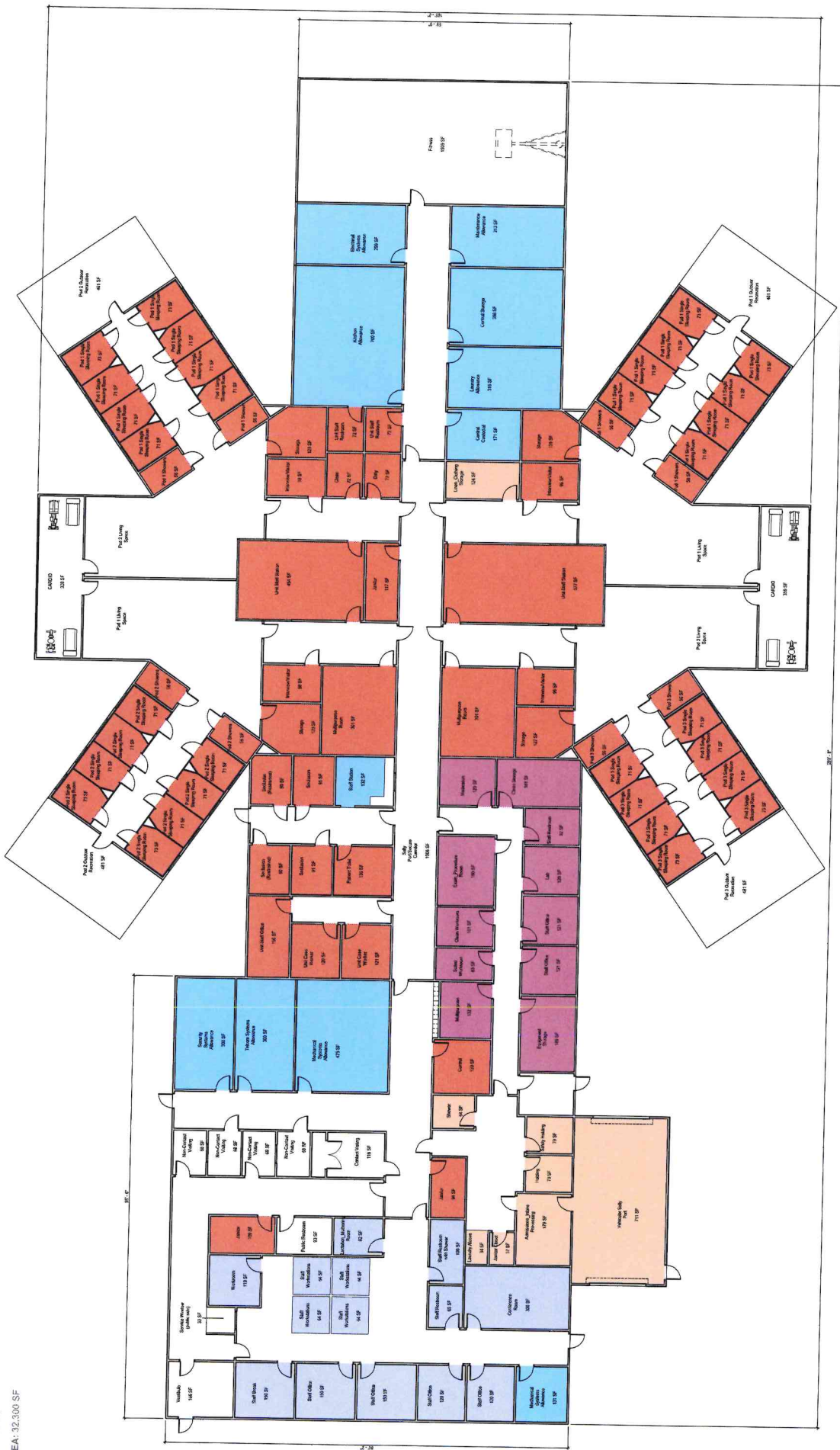


Kurt Markegard,
Chief Administrative Officer
City of Laurel

Cc. Mayor David Waggoner

- HOUSING
- STAFF
- PUBLIC
- BUILDING SUPPORT
- ADMIN
- MEDICAL

TOTAL AREA: 32,300 SF



OVERALL PROGRAM PIECES - SINGLE STORY OPTION

BUY-SELL AGREEMENT (Land)
(Including Earnest Money Receipt)

This Agreement stipulates the terms of sale of this property. Read carefully before signing. This is a legally binding contract. If not understood, seek competent advice.

1 Date: 1/13/2026

2 Montana Board Of Investments

3 as joint tenants with rights of survivorship, tenants in common, individually, other
4 _____ (hereafter the "Buyer") agrees to purchase, and the Seller agrees to sell the
5 following described real property (hereafter the "Property") commonly known as NA

6
7 in the City of Laurel, County of Yellowstone, Montana, legally described
8 as:

9 ROSSMOOR SUBD, S08, T02 S, R24 E, Block 1, Lot 3, 28.87 AC,
10 ROSSMOOR SUBD, S08, T02 S, R24 E, Block 1, Lot 2
11 ROSSMOOR SUBD, S08, T02 S, R24 E, Block 1, Lot 1

12 TOGETHER with all interest of Seller in vacated streets and alleys adjacent thereto, all easements and other
13 appurtenances thereto, uncut timber and non-harvested crops and all improvements thereon except:
14 _____

15
16 **PERSONAL PROPERTY:** The following items of personal property, free of liens and without warranty of condition, are
17 included and shall transfer to the Buyer at Closing: NA
18 _____

19
20 Buyer acknowledges that only the personal property set forth above is to transfer to the Buyer at Closing regardless of
21 any other advertisements or information to the contrary.
22

23 **PURCHASE PRICE AND TERMS:**

24 \$ 4,250,000.00 Purchase Price: Four Million Two Hundred Fifty Thousand (U.S. Dollars)

25 \$ 42,500.00 Earnest Money (credited to Buyer at closing)

26 \$ 4,207,500.00 Balance Due (not including closing costs, prepaids and prorations) payable as follows
27 (check one):

28 All cash at closing (no financing contingency);

29 Certification of cash funds provided with offer **OR** delivered by Buyer within _____
30 days of the date all parties have signed this Agreement.

31 Additional cash down payment at closing in the minimum amount of:

32 \$ _____ **OR** _____ % of the Purchase Price

33 Balance to be financed as indicated below:

34 Conventional Other Financing Seller Financing Assumption Home Equity

35 Other

36 NA

37
38
39
40
41
42
43 Pre-approval letter from financial institution provided with offer **OR** delivered by Buyer
44 within NA days of the date all parties have signed this Agreement.

45
46 **CLOSING DATE:** The date of closing shall be (date) 7/13/2026 (the "Closing Date"). The parties may, by
47 mutual agreement, close the transaction anticipated by this Agreement at any time prior to the date specified. The Buyer
48 and Seller will deposit with the closing agent all instruments and funds necessary to complete the purchase in
49 accordance with this Agreement. If third-party financing is required by the terms of this Agreement (including
50 assumptions, contracts for deed, and lender financing), the Closing Date may be extended without amendment by not
51 more than 15 days to accommodate delays attributable solely to such third-party financing. If the Closing Date,

Buyer's Initials

Seller's Initials

52 or any extension of the Closing Date, falls on a Saturday, Sunday, or Montana or federal holiday, it shall automatically
53 be extended to the first day immediately following that is not a Saturday, Sunday, or Montana or federal holiday.

54
55 **POSSESSION:** Seller shall deliver to Buyer possession of the Property and allow occupancy:

- 56 when the closing agent is in receipt of all required, signed documents and all funds necessary for the purchase; OR
57 upon recording of the deed or notice of purchaser's interest, OR

58 _____
59
60 Seller shall provide keys and/or means to operate locks, mailboxes, security systems, alarms, garage door opener(s),
61 and Homeowner's Association facilities, if applicable

62
63 **EARNEST MONEY:** (check one)

- 64 Broker/Salesperson acknowledges actual receipt of earnest money in the amount as set forth herein as evidenced
65 by check, cash, or wire transfer.

66
67 Broker/Salesperson: _____
68 (name printed) (signature acknowledging receipt of earnest money)

69
70 **OR**

- 71
72 Buyer agrees to provide earnest money in the amount as set forth herein within 3 days, by 5:00 p.m. (Mountain
73 Time), of the date all parties have signed this Agreement. If the date the earnest money is due falls on a Saturday,
74 Sunday or Montana or federal holiday, it shall be paid on the first day immediately following the due date that is not a
75 Saturday, Sunday, Montana or federal holiday.

76
77 Earnest money may be made by check, cash or wire transfer and shall be held in trust by Flying S Title
78 _____ If Buyer fails to provide earnest money as set forth herein,
79 buyer will be in default and Seller may declare this Agreement terminated and any earnest money already paid forfeited.
80 The parties agree that accrued interest, if any, shall be payable to the holder of the funds and that sums so paid are
81 consideration for services rendered.

82
83 **FINANCING CONDITIONS AND OBLIGATIONS:**

84
85 **BUYER'S REPRESENTATION OF FUNDS:** Buyer represents that they have sufficient funds for the down
86 payment and closing costs to close this sale in accordance with this Agreement and are not relying upon any
87 contingent source of such funds unless otherwise expressly set forth herein.

88
89 **LOAN APPLICATION:** If Buyer fails to make written application for financing with a lender which shall include
90 providing a fully executed copy of this Agreement to the lender and pay to the lender any required fees, apply
91 for assumption of an existing loan or contract, or initiate any action required for completion of seller
92 financing by 5:00 pm (Mountain Time) (date) NA
93 Buyer will be in breach of this Agreement and Seller can exercise Seller's remedies under this Agreement.

94
95 **CONTINGENCIES:** The contingencies set forth in this Agreement or on attached addenda shall be deemed to have been
96 released, waived, or satisfied, and the transaction shall continue to closing, unless by 5:00 pm (Mountain Time) on the
97 date specified for each contingency, the party requesting that contingency has notified the other party or the other party's
98 Broker/Salesperson in writing that the contingency is not released, waived, or satisfied. If a party has notified the other
99 party on or before the release date that a contingency is not released, waived or satisfied, this transaction is terminated,
100 and the earnest money will be returned to the Buyer, unless the parties negotiate other terms or provisions.

101
102 **FINANCING CONTINGENCY:**

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


Buyer's Initials


Seller's Initials

106 **APPRAISAL CONTINGENCY:**

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

112
113 This Agreement is contingent upon the Property appraising for at least the Purchase Price OR at least
114 \$ _____ . Release Date: _____ at 5:00 p.m. (Mountain Time).

115
116 **TITLE CONTINGENCY:** This Agreement is contingent upon Buyer's receipt and approval (to Buyer's
117 satisfaction) of the preliminary title commitment (the "Commitment") issued for the Property. However, Buyer
118 may not object to the standard pre-printed exceptions (general exceptions not unique to the Property). Release
119 Date: 15 days from the earlier of Buyer's or Buyer Broker's/Salesperson's receipt of the
120 Commitment.

121
122 Buyer may approve the Commitment subject to the removal of specified exceptions. If Buyer provides Seller written
123 objections to the Commitment prior to the release date above, Seller shall have ten (10) days from receipt of those
124 objections to satisfy said objections or propose to Buyer a plan by which the objections would be satisfied within a
125 time frame satisfactory to Buyer. If within said ten (10) day period Seller has not either satisfied Buyer's objection
126 to the Commitment or proposed to Buyer a plan by which the objections would be satisfied, Buyer shall have three
127 (3) days after expiration of said ten (10) day period to notify Seller whether Buyer desires to (i) terminate this
128 Agreement in which case the earnest money shall be returned to the Buyer or (ii) waive said objections in which
129 case this Agreement shall remain in full force and effect. The two remedies stated above shall be Buyer's sole
130 remedies if Seller and Buyer are unable to resolve Buyer's objections to the Commitment.


131
132 Buyer shall have the right to examine any updated or revised Commitment at any time after the expiration of the
133 Release Date set forth above and to object to any new title exceptions created or suffered since the effective date of
134 the original Commitment. If Buyer notifies Seller of any such additional objections prior to the Closing Date, the
135 parties shall have the same rights set forth above and the Closing Date shall be extended by the number of days
136 equal to the number of days set forth after the Release Date, above, plus thirteen (13).

137
138 **PROPERTY INVESTIGATION:** This offer is contingent upon Buyer's independent investigation of the following
139 conditions relating to the Property, including but not limited to; covenants, zoning, access, easements, well
140 depths, septic and sanitation restrictions, surveys or other means of establishing the corners and boundaries,
141 special improvement districts, restrictions affecting use, special building requirements, future assessments, utility
142 hook up and installation costs, environmental hazards, airport affected area, road maintenance obligations or
143 anything else Buyer deems appropriate. Buyer agrees that any investigations or inspections undertaken by Buyer
144 or on his/her behalf shall not damage or destroy the Property, without the prior written consent of Seller. Further,
145 Buyer agrees to return the Property to its original condition and to indemnify Seller from any damage or
146 destruction to the Property caused by the Buyer's investigations or inspections, if Buyer does not purchase the
147 Property.

148
149 Unless Buyer delivers written notice(s) of Buyer's disapproval of the Property conditions on or before
150 (Notice Date) 7/1/2026 at 5:00 p.m. (Mountain Time), this inspection contingency shall be
151 of no further force or effect. **If Buyer disapproves** of the Property condition, Buyer shall deliver written notice to
152 the Seller or the Seller's Broker/Salesperson on or before the date specified above, together with a copy of ONLY
153 that portion of the inspection or report upon which the disapproval is based. Buyer shall also state whether Buyer
154 elects to immediately terminate the Agreement or negotiate a resolution of the conditions noted. **If Buyer elects**
155 **to negotiate** a resolution of the conditions noted, the notice must contain all of Buyer's objections and requested
156 remedies.

157
158 On or before the Notice Date set forth above, Buyer may deliver a written notice to the Seller or the Seller's
159 Broker/Salesperson electing to terminate the Agreement and withdrawing any prior notice or notices requesting
160 a resolution of the condition(s) noted, notwithstanding that Buyer may have previously delivered a notice or
161 notices electing to negotiate a resolution of the condition(s) noted, unless said prior notice(s) have been approved
162 and agreed to in writing by the Seller.


Buyer's Initials


Seller's Initials

163 If Buyer has provided and not withdrawn a notice electing to negotiate and the parties enter into a written
164 agreement in satisfaction of the condition(s) noted, this contingency shall be of no further force or effect. If the
165 parties cannot come to written agreement in satisfaction of the condition(s) noted or if the Buyer does not
166 withdraw, in writing, his/her disapproval of the condition(s) noted and elect to continue to closing without regard
167 to any and all previously provided inspection notices, on or before (Resolution Date) 7/1/2026
168 at 5:00 p.m. (Mountain Time), the earnest money shall be returned to the Buyer, and the Agreement then
169 terminated.

171 **This offer is contingent upon**
172 **Buyer has the right to terminate the contract for any reason prior to July 1, 2026.**

176 Release Date: 7/1/2026 at 5:00 p.m. (Mountain Time).

178 **This offer is contingent upon**
179 _____
180 _____
181 _____
182 _____

183 Release Date: _____ at 5:00 p.m. (Mountain Time).

185 **ADDITIONAL PROVISIONS:**

186 Seller will work in good faith, allow access to the property, sign any documents necessary, or
187 give the buyer signing authority to completed phase 1 and 2 environmental, soil testing, water
188 testing, hydrological studies, boundary surveys, biological and ecological surveys,
189 infrastructure and utility assessments, zoning change, annexation, or any other assessments.

190 Seller will provide any current lease or written agreement on the property. Seller will
191 determine if a crop is currently planted to be harvested in 2026. If there is a crop in the
192 ground at the time of signing the buy/sell the seller will notify the buyer within 3 business
193 days of what the crop is.

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

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

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

211 **WATER RIGHT OWNERSHIP UPDATE DISCLOSURE:** By Montana law, failure of the parties at closing or transfer of
212 real property to pay the required fee to the Montana Department of Natural Resources and Conservation for updating
213 water right ownership may result in the transferee of the property being subject to a penalty. Additionally, in the case of
214 water rights being exempted, severed, or divided, the failure of the parties to comply with section
215 85-2-424, MCA, could result in a penalty against the transferee and rejection of the deed for recording.

217 **NATURAL WATER BODIES AND LAND PRESERVATION DISCLOSURE:** Buyers of property in the State of Montana
218 should be aware that some properties contain or are adjacent to streams, rivers, wetlands, floodplains and other water
219 bodies. It is the general policy of the State of Montana, under the Montana Natural Streambed and Land Preservation


Buyer's Initials


Seller's Initials

220 Act of 1975, that natural water bodies and the lands immediately adjacent to them are to be protected and preserved
221 to be available in their natural or existing state, and to prohibit unauthorized projects related thereto. Property owners
222 should consult their local conservation district, a land use professional, or other qualified advisor, regarding any
223 applicable local, state or federal regulations, including permitting or other approvals, before working in or around any
224 streams, rivers, wetlands, floodplains or other water bodies, including vegetation removal.

225
226 **FLUCTUATING WATER LEVELS:** Buyers of waterfront property or property which has waterfront access should be
227 aware that fluctuating water levels may occasionally or permanently affect the ability to recreate, irrigate, or engage in
228 other uses of said water. Water provided to the Property by a well, spring, or other surface or subsurface water source,
229 may also fluctuate as to the quantity or quality of the water which may occasionally or permanently affect the ability to
230 irrigate or engage in other uses of said water.

231
232 **FLOOD PLAIN DISCLOSURE:** Property flooding can occur any time of year from both surface water as well as
233 groundwater (water rising up through the ground). Buyer's hazard insurance policy usually will NOT cover property
234 damage due to this type of flooding. If Property is determined to lie within a FEMA-designated 1% Flood Hazard Area
235 and the Buyer is obtaining a loan, Buyer's lender will likely require the purchase of flood insurance in connection with
236 Buyer's purchase of the Property. The Property could be impacted, learn more at FEMA.gov

237
238 **MINERAL RIGHTS:** "Mineral rights" as defined in this Agreement (which may be different than the definition under
239 Montana law) is a term used to describe the rights the owner of those rights has to use, mine, and/or produce any or all
240 of the minerals and hydrocarbons including oil, gas, coal, sand, gravel, etc. lying below the surface of property. These
241 mineral rights may be separate from the rights a property owner has for the surface of a property. In some cases, these
242 mineral rights have been transferred to a party other than the property owner and as a result the subsurface mineral
243 rights have been severed from the property owner's surface rights. If the mineral rights have been severed from the
244 surface rights, the owner of the mineral rights has the right to enter the land and occupy it in order to mine the minerals
245 even though they don't own the property. The undersigned Buyer acknowledges and agrees that neither the Seller nor
246 the brokerage firms, brokers and salespersons involved in the transaction anticipated by this Agreement warrant or
247 make any representations concerning the mineral rights, if any, for this Property and that neither the Seller nor the
248 brokerage firms, brokers and salespersons involved in the Buyer's purchase of the Property have conducted an
249 inspection or analysis of the mineral rights to and for the Property.

250
251 **CLOSING FEE:** The fee charged by the individual or company closing the transaction will be paid by Seller Buyer
252 Equally Shared.

253
254 **TITLE INSURANCE:** Seller, at Seller's expense and from a title insurance company chosen by Seller, shall furnish
255 Buyer with an ALTA Standard Coverage Owners Title Insurance Policy (as evidenced by a standard form American
256 Land Title Association title insurance commitment) in an amount equal to the purchase price. Buyer may purchase
257 additional owner's title insurance coverage in the form of "Extended Coverage" or "Enhanced Coverage" for an
258 additional cost to the Buyer. It is recommended that Buyer obtain details from a title company.

259
260 **CONDITION OF TITLE:** All mortgages, judgements and liens shall be paid or satisfied by the Seller at or prior to closing
261 unless otherwise provided herein. Seller agrees that no additional encumbrances, restrictions, easements or other
262 adverse title conditions will be placed against the title to the Property subsequent to the effective date of the preliminary
263 title commitment approved by the Buyer.

264
265 **SECTION 1031 LIKE-KIND EXCHANGE:** If either Buyer or Seller intends for this transaction to be part of a Section
266 1031 like-kind exchange, then the other party shall cooperate in the completion of the like-kind exchange provided the
267 cooperating party does not incur any additional liability or cost in doing so. Any party who intends for this transaction to
268 be part of a Section 1031 like-kind exchange may assign their rights under this Agreement to a qualified intermediary
269 or any entity expressly created for the purposes of completing a Section 1031 like-kind exchange, notwithstanding the
270 prohibition against the Buyer's assignment of this Agreement set forth in the "Binding Effect and Non-Assignability"
271 section below.

272
273 **SPECIAL IMPROVEMENT DISTRICTS AND ASSOCIATION SPECIAL ASSESSMENTS:** All Special Improvement
274 Districts (including rural SIDs), and all special or non-recurring assessments of any non-governmental association,
275 including those that have been noticed to Seller by City/County but not yet spread or currently assessed or that have
276 been approved but not yet billed or assessed, will be assumed by Buyer at closing unless otherwise agreed.



Buyer's Initials



Seller's Initials

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

281
282 **CONDITION OF PROPERTY:** Seller agrees that the Property shall be in the same condition, normal wear and tear
283 excepted, from the date of the execution of this Agreement up to the time Buyer takes possession of the Property. Seller
284 agrees to leave the Property free and clear of Seller's personal property and possessions, tenants, and occupants,
285 except as otherwise agreed to in the Agreement. Seller also agrees to allow Buyer a walk-through inspection of said
286 Property prior to closing to confirm that all appurtenances and personal property included in the sale remain on the
287 Property and that there has been no significant change in the condition of the Property, except for normal wear and tear
288 and changes agreed upon by the parties.

289
290 **NOXIOUS WEEDS DISCLOSURE:** Buyers of property in the state of Montana should be aware that some properties
291 contain noxious weeds. The laws of the State of Montana require owners of property within this state to control, and to
292 the extent possible, eradicate noxious weeds. For information concerning noxious weeds and your obligations as an
293 owner of property, contact either your local County extension agent or Weed Control Board.

294
295 **MEGAN'S LAW DISCLOSURE:** Pursuant to the provisions of Title 46, Chapter 23, Part 5 of the Montana Code
296 Annotated, certain individuals are required to register their address with the local law enforcement agencies as part of
297 Montana's Sexual and Violent Offender Registration Act. In some communities, law enforcement offices will make the
298 information concerning registered offenders available to the public. If you desire further information please contact the
299 local County Sheriff's office, the Montana Department of Justice, in Helena, Montana, and the probation officers
300 assigned to the area.

301
302 **BUYER'S REMEDIES:** (A) If a Seller fails to accept the offer contained in this Agreement within the time period provided
303 in the BUYER'S COMMITMENT section, all earnest money shall be returned to the Buyer.

304 (B) If the Seller accepts the offer contained in this Agreement, but refuses or neglects to consummate the transaction
305 anticipated by this Agreement within the time period provided in this Agreement, the Buyer may:

- 306 (1) Demand immediate repayment of any earnest money paid by the Buyer, and upon the return of such money, the
307 rights and duties of Buyer and Seller under this Agreement shall be terminated; **OR**
308 (2) Demand that Seller specifically perform Seller's obligation under this Agreement; **OR**
309 (3) Demand monetary damages from Seller for Seller's failure to perform the terms of this Agreement.

310
311 **SELLER'S REMEDIES:**

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

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

318
319 **BUYER'S AND SELLER'S CERTIFICATION:** By entering into this Agreement, each person or persons executing this
320 Agreement, as Buyer or Seller, represents that he/she is eighteen (18) years of age or older, of sound mind, and legally
321 competent to own or transfer real property in the State of Montana; and, if acting on behalf of a corporation, partnership,
322 or other non-human entity, that he/she is duly authorized to enter into this Agreement on behalf of such entity.

323
324 **FOREIGN PERSON OR ENTITY:** The Foreign Investor Real Property Tax Act of 1980 ("FIRPTA") provides for the
325 withholding of tax upon the sale of U.S. real property owned by a foreign entity or foreign person unless the amount
326 realized (usually the sales price) does not exceed \$300,000 and the Buyer intends to use the Property as a residence.
327 If the Seller is a foreign entity or foreign person, Seller acknowledges and agrees that the Buyer or closing agent is
328 required to deduct and withhold the applicable tax from the proceeds of sale at closing and submit the tax to the
329 Internal Revenue Service unless the transfer of the Property satisfies an exception provided for in FIRPTA. At or
330 prior to Closing, Seller agrees to perform any act and sign any document that is reasonably necessary to comply with
331 FIRPTA including a Statement of Non-Foreign Status. Seller acknowledges and agrees that in the event Seller does
332 not do so, Buyer or the closing agent may be required to withhold the applicable tax from the proceeds of sale at
333 Closing and submit this amount to the Internal Revenue Service, pursuant to FIRPTA.



Buyer's Initials



Seller's Initials

334 **AGRICULTURAL FOREIGN INVESTMENT DISCLOSURE ACT:** The Agricultural Foreign Investment Disclosure Act
335 of 1978 (AFIDA) requires any foreign person who acquires or transfers any interest, other than a security interest, in
336 agricultural land to submit a report to the Secretary of Agriculture not later than 90 days after the date of the acquisition
337 or transfer. If Buyer or Seller is or may be considered a foreign person under the AFIDA they are advised to consult
338 with an appropriate professional concerning any reporting that may be required by the AFIDA.
339

340 **CONSENT TO DISCLOSE INFORMATION:** Buyer and Seller hereby consent to the procurement and disclosure by
341 Buyer, Seller, and Brokers/Salespersons and their attorneys, agent, and other parties having interests essential to this
342 Agreement, of any and all information reasonably necessary to consummate the transaction described in this
343 Agreement, specifically including access to escrows for review of contracts, deeds, trust indentures, or similar
344 documents concerning this Property or underlying obligations pertaining thereto.
345

346 **WIRE FRAUD ALERT:** Criminals are hacking email accounts of title companies, real estate agents, settlement
347 attorneys and others, resulting in fraudulent wire instructions being used to divert funds to the account of the criminal.
348 The emails may look legitimate but they are not. Buyer and Seller are advised **NOT** to wire any funds without personally
349 speaking with the intended recipient of the wire to confirm the routing number and the account number. Buyer and Seller
350 should **NOT** send personal information such as social security numbers, bank account numbers and credit card numbers
351 through email.
352

353 **ACCURACY OF THIRD-PARTY INFORMATION:** Buyer is encouraged to do Buyer's own research and due diligence
354 concerning the Property and to not rely solely on information contained in any advertisements, descriptions, photos, or
355 information provided by a Multiple Listing Service. Buyer acknowledges and agrees that any information prepared by
356 third parties with respect to the Property and provided to the Buyers was obtained from a variety of sources and that
357 neither Seller nor any Brokers/Salesperson representing Seller or Buyer have made any independent investigation or
358 verification of such information. Buyer further acknowledges that while such information provided to Buyer is believed
359 to be from sources deemed reliable, some sources may have conflicting or incorrect information.
360

361 **RISK OF LOSS:** All loss or damage to any of the above-described real property or personal property from any cause
362 is assumed by Seller through the time of closing unless otherwise specified.
363

364 **TIME IS OF THE ESSENCE:** Time is of the essence as to the terms and provisions of this Agreement.
365

366 **BINDING EFFECT AND NON-ASSIGNABILITY:** This Agreement is binding upon the heirs, successors and assigns of
367 each of the parties hereto; however, Buyer's rights under this Agreement are not assignable without the Seller's express
368 written consent.
369

370 **ATTORNEY FEES:** In any action brought by the Buyer or the Seller to enforce any of the terms of this Agreement, the
371 prevailing party in such action shall be entitled to such reasonable attorney fees as the court or arbitrator shall determine
372 just.
373

374 **COMPENSATION:** The Seller's and/or Buyer's commitment to pay compensation in connection with the transaction
375 anticipated by this Agreement is an integral part of this Agreement. Seller and Buyer acknowledge that the agent(s)
376 representing the Seller and/or Buyer are entitled to the compensation as previously agreed to in any written
377 agreement(s) with the Seller and/or Buyer, and any addendums or amendments to this Agreement, and that the agent(s)
378 representing the Seller and/or Buyer shall be entitled to deliver a copy of said agreement(s) to the individual or company
379 closing the transaction for payment at closing. If Seller is obligated to pay the agent(s) representing the Seller and/or
380 Buyer, this Agreement shall constitute an irrevocable assignment of the proceeds payable to Seller at closing. If Buyer
381 is obligated to pay the agent(s) representing the Seller and/or Buyer, payment of said compensation shall be collected
382 from Buyer as a condition of closing. Buyer and Seller acknowledge and agree that any compensation payable is fully
383 negotiable and not set by Montana law, any board or association of REALTORS®, or any multiple listing service.
384

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



Buyer's Initials



Seller's Initials

391 **ENTIRE AGREEMENT:** This Agreement, together with any attached exhibits and any addenda or amendments signed
392 by the parties, shall constitute the entire agreement between Seller and Buyer, and supersedes any other written or oral
393 agreements between Seller and Buyer. This Agreement can be modified only in writing, signed by the Seller and Buyer.
394

395 **EARNEST MONEY DISPUTES:** Buyer and Seller agree that, in the event of any controversy regarding the earnest
396 money and things of value held by the Broker, closing agent, or any person or entity holding such money or property,
397 unless mutual written instructions are received by the holder of the earnest money and things of value, Broker or closing
398 agent shall not be required to take any action, but may await any proceedings, or, at Broker's or closing agent's option
399 and sole discretion, may interplead all parties and deposit any monies or things of value in a Court of competent
400 jurisdiction and may utilize as much of the earnest money deposit as may be necessary to advance the cost and fees
401 required for filing such action.
402

403 **ADDENDA AND/OR DISCLOSURES ATTACHED:** (check all that apply):

- 404 Contingency for Sale of Buyer's Property Back-up Offer
405 Addendum for Additional Provisions Seller Compensation Addendum
406 Water Rights Acknowledgement
407 _____
408 _____
409

410 **RELATIONSHIP CONFIRMATION:** The parties to this Agreement confirm that the real estate licensees identified
411 hereafter have been involved in the capacities indicated below and the parties have previously received the required
412 statutory disclosures setting forth the licensees' duties and the limits of their obligations to each party:
413

414 _____ Drew Smith _____ of _____ NAI _____
415 (name of licensee) (name of brokerage company)
416
417 _____ 3412 Colton Blvd, Suite 201 Billings MT 59102 _____
418 (licensee's Montana license number) (brokerage company address)
419
420 _____ dsmith@naibusinessproperties.com _____ 406.256.5000 _____
421 (licensee email address) (brokerage company phone number)
422
423 _____
424 (licensee phone number)

425 is acting as Seller's Agent Dual Agent Statutory Broker

426
427 _____ of _____
428 (name of licensee) (name of brokerage company)
429
430 _____
431 (licensee's Montana license number) (brokerage company address)
432
433 _____
434 (licensee email address) (brokerage company phone number)
435
436 _____
437 (licensee phone number)

438 is acting as Buyer's Agent Dual Agent Statutory Broker
439 Seller's Agent (includes Seller's Sub-Agent)
440

441 Buyer is not represented by a real estate agent and acknowledges and agrees that Buyer is NOT represented by the
442 licensee(s) identified above.
443

444 Seller is not represented by a real estate agent and acknowledges and agrees that Seller is NOT represented by the
445 licensee(s) identified above.



Buyer's Initials



Seller's Initials

Forensic Mental Health Facility Update

Matt Waller, Health Care Facilities Executive Director



DEPARTMENT OF
PUBLIC HEALTH &
HUMAN SERVICES

Why Expand Forensic Capacity in Montana?

Currently, the only facility in Montana that can serve the forensic population is located outside of Warm Springs at Galen, and the 53-bed space is inadequate for current and projected demand.

Without timely access to treatment, individuals may be held in local jails for extended periods, which can worsen psychiatric symptoms and delay recovery.

This new facility will:

- Provide faster access to treatment, allowing for earlier patient stabilization, reducing the risk of harm to self or others.
- Help individuals regain competency and move through the legal system appropriately, reducing risks of recidivism, homelessness, or untreated mental illness.
- Create capacity for local jails, ensuring critical public safety resources are used effectively.
- Bolster a critical and foundational component of our state's mental health infrastructure for all Montanans.



Facility Overview

Facility Scope and Size

- This 32-bed forensic mental health facility (FMHF) will provide secure, therapeutic care for individuals with serious mental illness who are in the criminal justice system. These individuals may include:
 - A person awaiting trial who needs a mental health evaluation to determine if they are mentally fit to stand trial.
 - A person found Unfit to Proceed (UTP) who requires inpatient treatment to restore their competency.
 - A person found Guilty but Mentally Ill (GBMI) or Not Guilty by Reason of Mental Illness

Anticipated Staffing Model

- It is anticipated that 90-100 staff will be required to safely operate the facility across multiple shifts, 24/7/365.
 - Based on best practices at the existing FMHF in Galen
 - Largely comprised of clinical staff (RNs, LPNs, Psychiatric Technicians) as well as support staff
 - Staffing model will evolve as the facility design and operational models are finalized



Facility Safety and Security Measures

Security Features

- As a forensic facility, security is significantly tighter than in traditional locked psychiatric units.
 - 'Sally port' doors, which ensure one door is closed before the other opens to prevent patient elopement. Each door must be unlocked individually and sequentially to reduce the risk of patient flight and bolster security within locked units.
 - A central command station that operates facility access control and manages patient and staff movements
 - 24/7 interior and exterior live video monitoring
 - No firearms are on-site, and staff are trained in de-escalation and safe behavioral management techniques.
- **Patients cannot voluntarily leave this facility, nor are they discharged into the community.**
 - ***All individuals admitted to this type of facility are either court-ordered or sentenced to DPHHS.***



Myth vs. Fact

Myth:

Patients will be discharged from this facility into the community and strain local resources.

Fact:

Unlike a civil facility, this type of forensic facility serves those involved in the criminal justice system and therefore **does not** discharge patients into the community. Patients are securely transported to and from the facility.

Myth vs. Fact

Myth:

The Yellowstone County Forensic Behavioral Health Gap Analysis, published in September 2025, states that the proposed facility would require approximately 450 full-time staff, exacerbating current staffing shortages across behavioral health service providers.

Fact:

It is anticipated that 90-100 staff will be required to safely operate the facility across multiple shifts, 24/7/365. The staffing model is aligned with best practices used at the existing FMHF in Galen.



Myth vs. Fact

Myth:

There will be an undue economic burden on city infrastructure.

Fact:

The Galen FMHF has averaged one EMS call per year.

Furthermore, the proposed facility will have on-site medical and security personnel.



Myth vs. Fact

Myth:

DPHHS will eventually move the Montana State Hospital in Warm Springs and/or the existing FMHF in Galen to the Laurel campus.

Fact:

DPHHS will continue operating the Montana State Hospital in Warm Springs and the existing FMHF in Galen. This is required to meet growing statewide demand for civil and forensic beds.

- DPHHS has invested more than \$75M in MSH and Galen since 2021, signaling no intention of shuttering either facility.



Myth vs. Fact

Myth:

The recently authorized new Department of Corrections women's prison will be built in Laurel on land being considered for the DPHHS facility.

Fact:

This has never been proposed or discussed by any state agency.



Myth vs. Fact

Myth:

The close proximity to schools and homes is dangerous and will place Laurel residents at risk.

Fact:

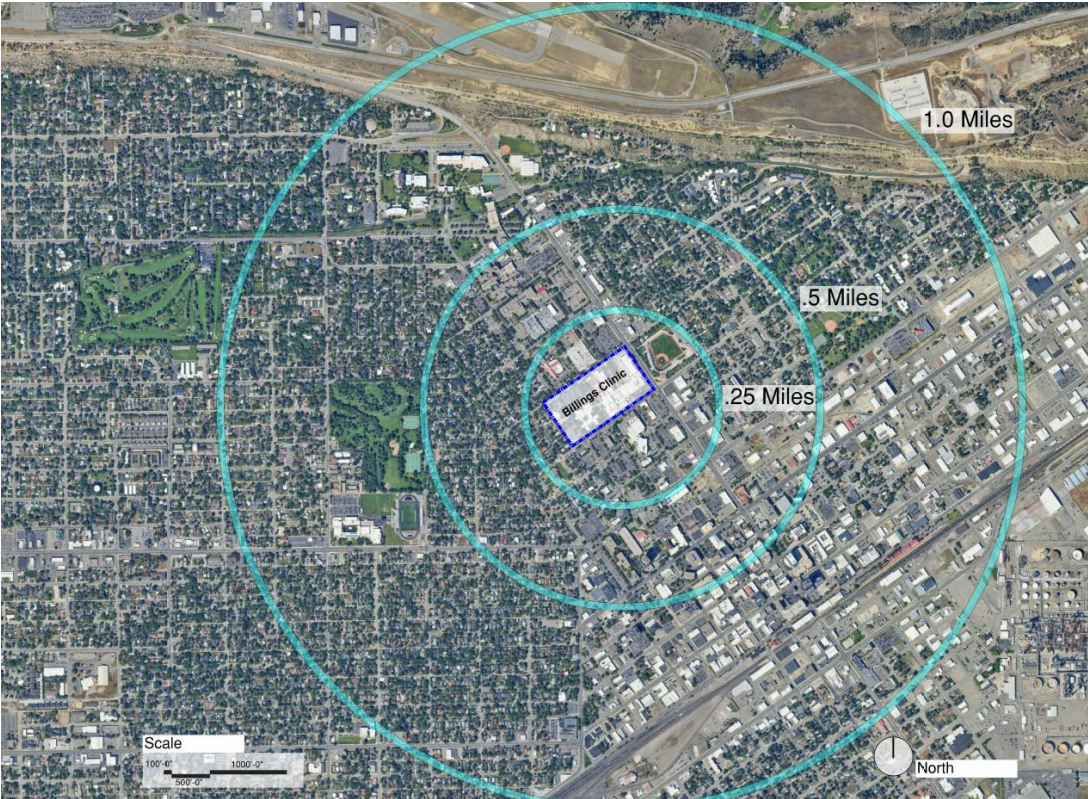
Essential public health and safety infrastructure frequently coexists within residential and commercial boundaries.



Facility Location



Facility Location (cont.)



Myth vs. Fact

Myth:

Property values surrounding the DPHHS facility will drop 10%.

Fact:

Empirical research shows these facilities have an indeterminate to neutral effect on property values. Once operational, any initial stigma is typically outweighed by the stability of a new major employer, higher demand for housing, increased school enrollments, and enhanced economic activity.



Myth vs. Fact

Myth:

This new facility blocks future growth for the Laurel community. The site location limits future commercial and residential development that could generate tax income for roads, water, schools, and emergency services.

Fact:

Review of recent city submissions to the Department of Environmental Quality shows adequate capacity for sewer and water infrastructure.

Further, water, sewer, and volunteer fire services are funded by assessments, not property taxes. All property owners pay them, regardless of tax-exempt status.



Myth vs. Fact

Myth:

The Laurel City Council learned of the State's Buy-Sell agreement from the press, not BOI.

Fact:

The City Council was briefed during public comment on January 20th, the first meeting after the Buy-Sell agreement was signed. News outlets reported on the agreement later.



Myth vs. Fact

Myth:

A legislative attorney has flagged unresolved legal questions about the financial structure of this project that the AG could not fully answer because BOI has not provided the financial instruments required to answer them.

Fact:

BOI requested affirmation that the facility was “an investment security of the state” in August 2025. The LSD opinion and AG review both affirm that the facility is an investment security.



DRAFT



DRAFT



DRAFT



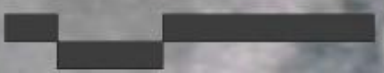
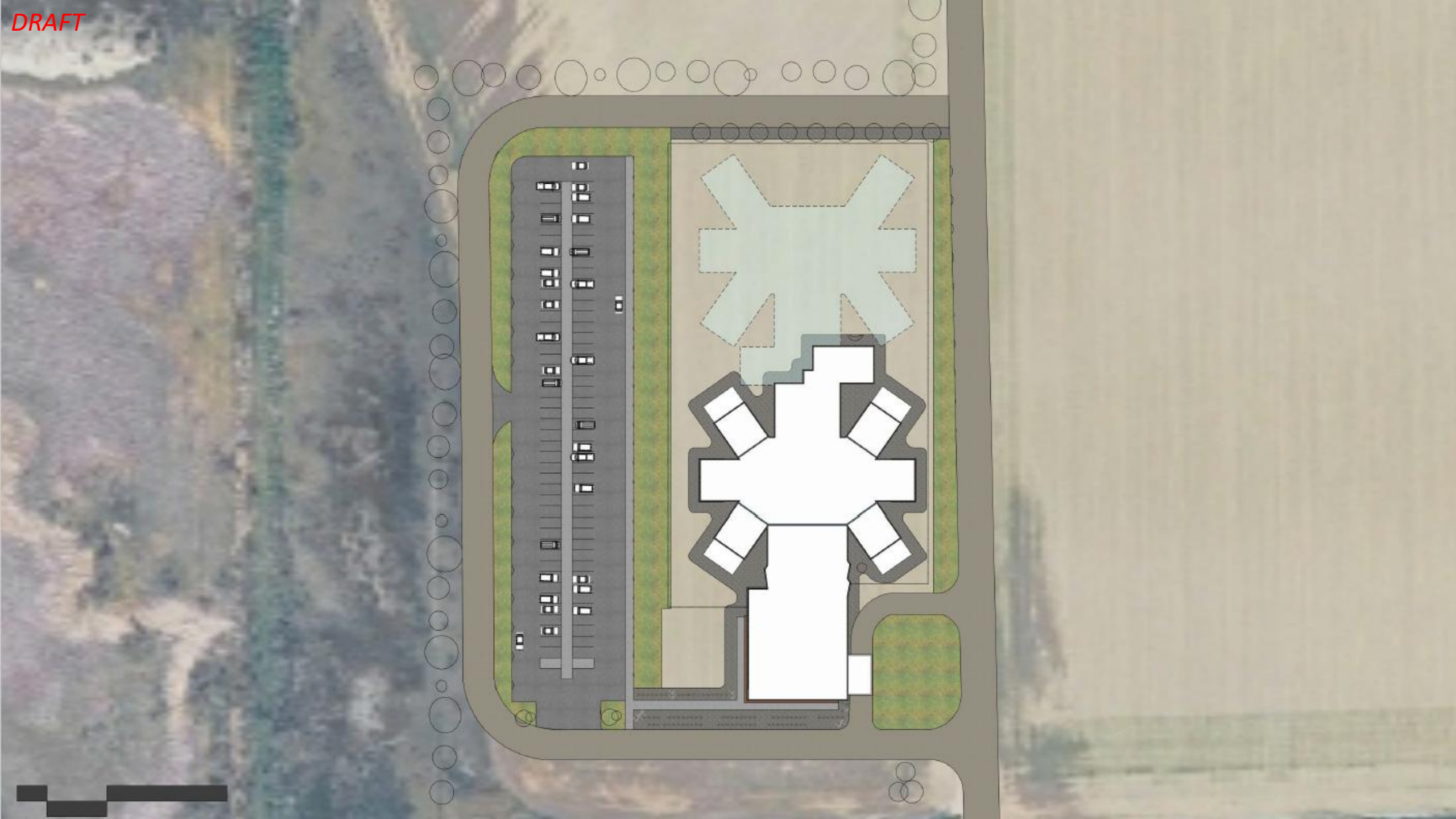
DRAFT



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DRAFT



DRAFT

Golf Course Rd

W 9th St

Old U.S. 10

.25 Miles

.5 Miles

1.0 Miles

Scale



Forensic Mental Health Facility Update

Charlie Brereton, Director

Dan Villa, Executive Director Board of Investments



DEPARTMENT OF
PUBLIC HEALTH &
HUMAN SERVICES

Project Status (DPHHS)

- Laurel, MT site selection
- Continued coordination with BOI on building requirements and design
 - Scheduled review of 35% design in early April
- Preliminary development of operational (including staffing) models
 - Key component of DPHHS 2029B Executive Planning Process (EPP)
- Addressing project-related misinformation



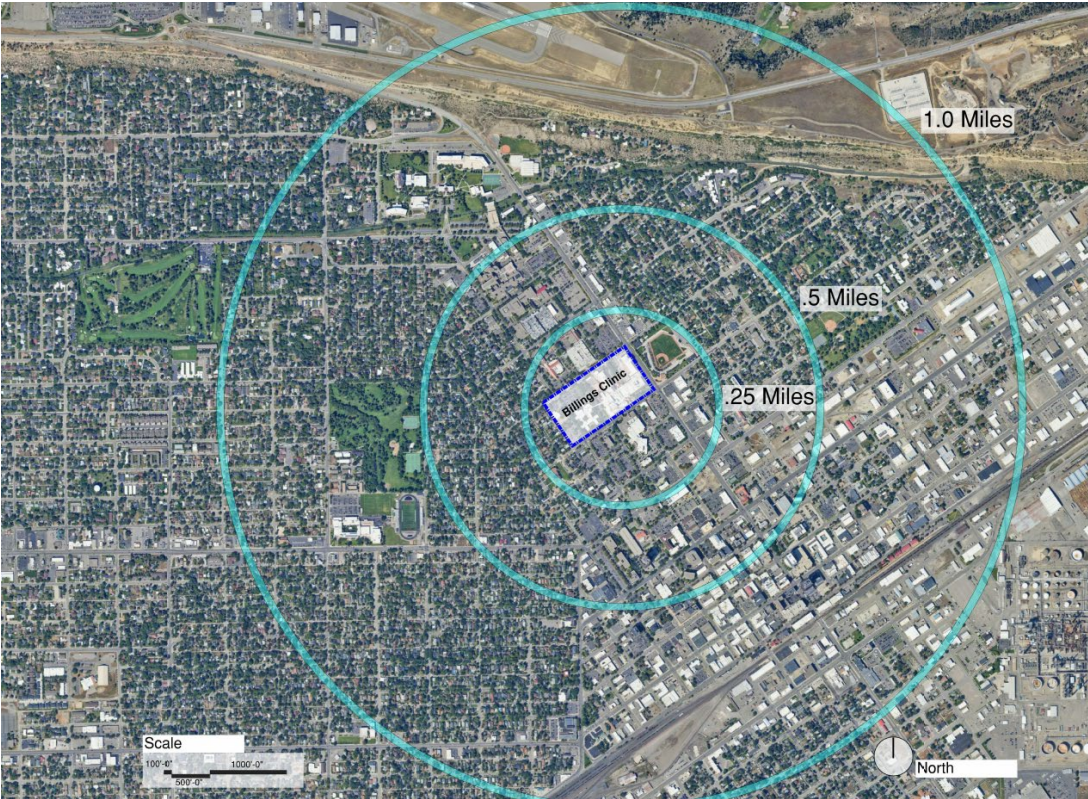
Project Status (BOI)

- Continuing Due Diligence on physical location
- Geotechnical analysis underway (core samples took place February 27-28)
 - Awaiting results
- Connecting DPHHS with specialists to continue design

Facility Location



Facility Location (cont.)



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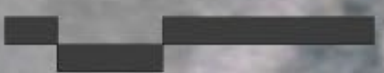
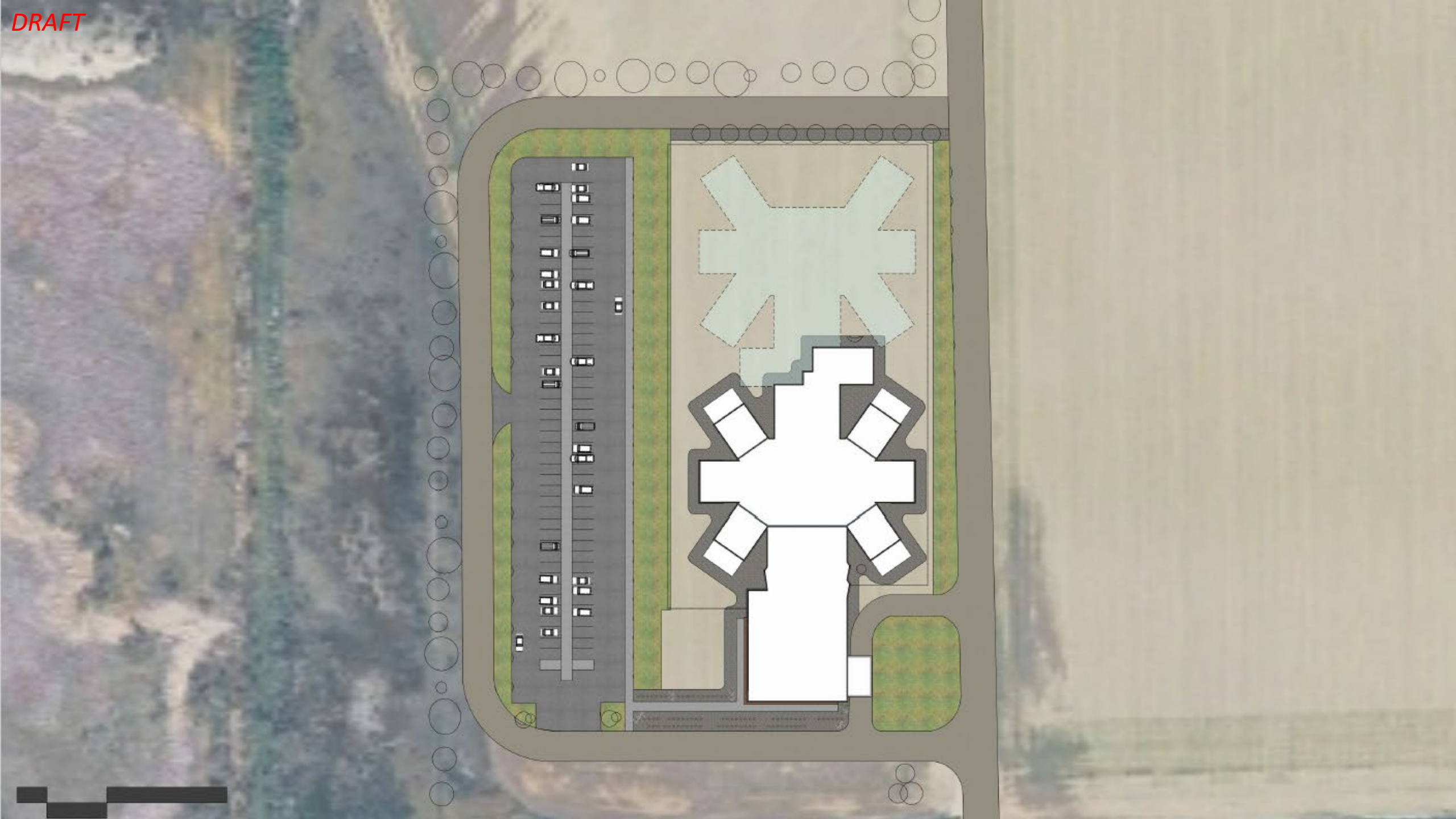
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DRAFT

Golf Course Rd

W 9th St

Old U.S. 10

.25 Miles

.5 Miles

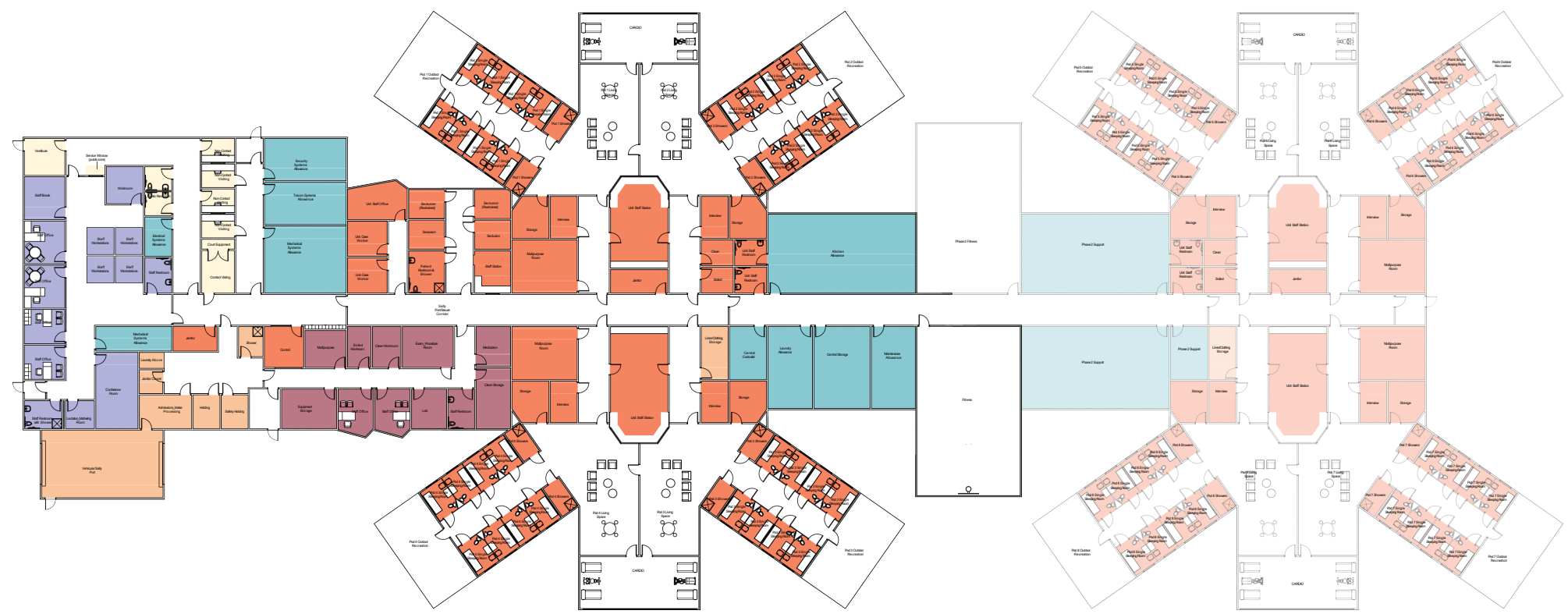
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Scale



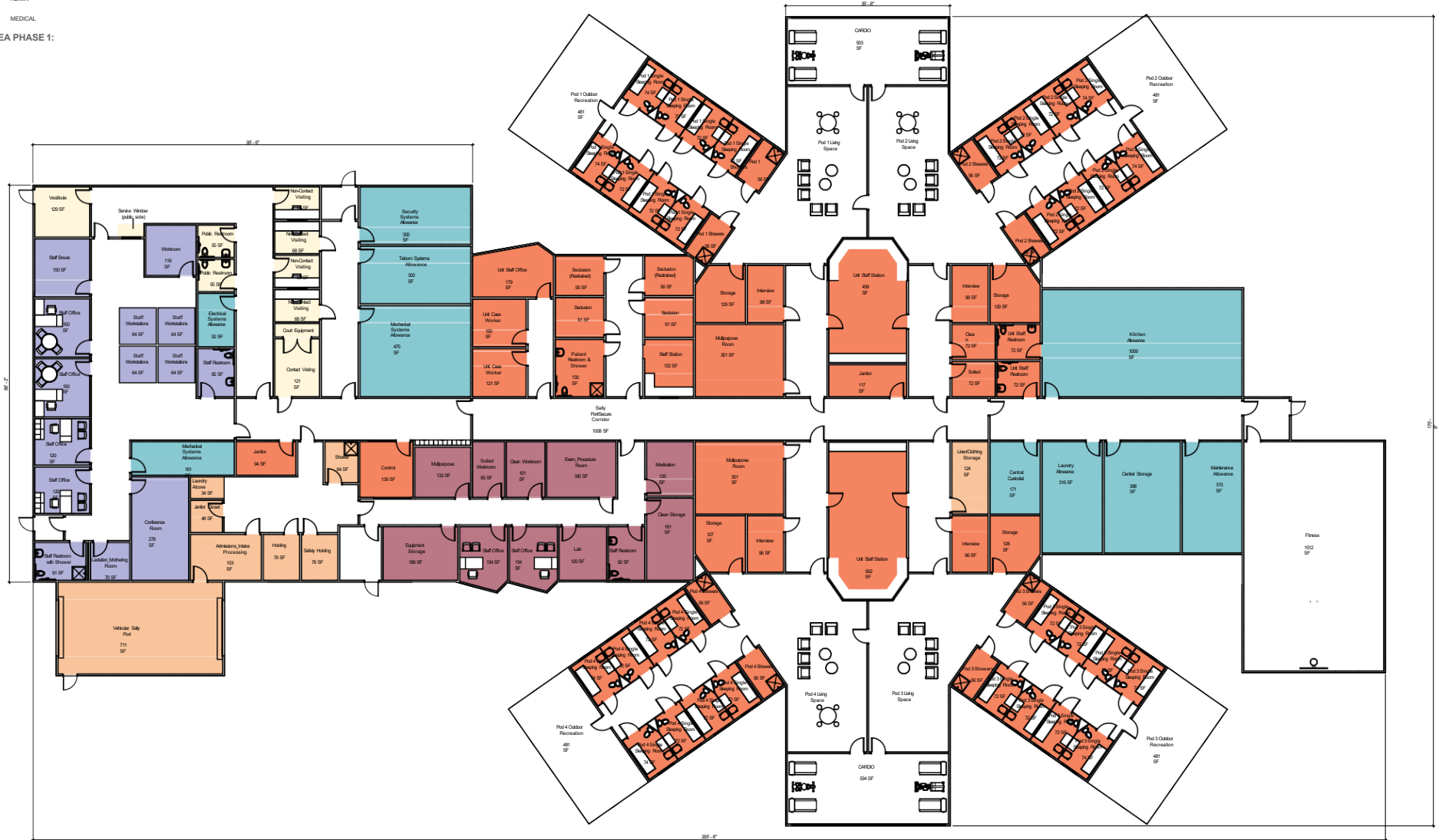
- HOUSING
- STAFF
- PUBLIC
- BUILDING SUPPORT
- ADMIT
- MEDICAL

TOTAL AREA PHASE 1: 32,803 SF
TOTAL AREA PHASE 2: 20,441 SF
TOTAL AREA COMBINED: 53,244 SF



- HOUSING
- STAFF
- PUBLIC
- BUILDING SUPPORT
- ADMIN
- MEDICAL

TOTAL AREA PHASE 1:
32,803 SF



MONTANA

BOARD OF INVESTMENTS

Comments to Laurel City Council January 20, 2026

From Executive Director Villa:

Mr. Mayor and Members of the Council, thank you for the opportunity to address you this evening.

As previously promised, I committed that the Laurel City Council would be the first to know of any actions regarding the development of the behavioral health facility authorized by the 2025 Legislature in House Bill 5, Section 17. I'm here tonight to fulfill that commitment.

The Montana Board of Investments has executed a buy/sell agreement to purchase approximately 114 acres located west of Laurel along Highway 10. With this agreement in place, BOI will now begin the formal process of requesting annexation and assignment of zoning from the City of Laurel.

A map indicating the specific location has been sent to Ms. Strecker for your records and information. I'm also including the plan submitted by Department of Public Health and Human Services Director Charles Brereton and myself that was approved by the State Budget Director on November 28, which does, in fact, include a draft floor plan.

I am concurrently informing local legislators to ensure they remain fully apprised as the project advances. BOI and all our partners look forward to working closely with city staff, elected officials, and community members throughout this process.

Thank you for your time this evening. I look forward to meeting you in person in the coming weeks.

MONTANA

BOARD OF INVESTMENTS

Comments to the Laurel City Council

March 24, 2026

From Executive Director Villa:

Mr. Mayor, members of the City Council, good evening.

For your record, I am Dan Villa, Executive Director of the Montana Board of Investments. Since our last discussion, BOI, the real estate developer for the forensic mental health project, and its professional engineers, architects, and environmental analysts have continued comprehensive due diligence on the Laurel site to determine whether it meets the programmatic and operational needs of the Department of Public Health and Human Services.

I'm here today to update you on the projects continuing progress. DPHHS has selected Laurel as the preferred alternative. That decision begins the formal public comment process.

A public listening session will be held on April 22 at 10 a.m. consistent with the Montana Environmental Policy Act and other public participation statutes. While legal interpretations on the necessity of this listening session differ, the State has elected to provide this forum so community members can share their views directly and on the record. Representatives of both DPHHS and BOI will be in attendance.

To keep this process moving, a request for governmental use designation has also been sent. Pursuant to Montana law, the relevant governing body may hold a public hearing, but that public hearing must occur within 30 days of the notice if it is to be held.

Notices will be published in the Laurel Outlook for state-sponsored public participation events.

Materials, including the floor plan, renderings of the facility, and other documents, can continue to be viewed at hb5.mt.gov.

Additionally, Director Brereton has extended invitations to Council President Canape and Vice President Klose to visit the Grasslands Treatment Center in Helena and the Galen Forensic Hospital to show your council's leadership how it operates its facilities.

Thank you for your time and your community's continued engagement as we enter a new phase of this necessary project's development.