

RESOLUTION 2023-081

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS TO EXPEND A COMBINATION OF 2006 AND 2018 OPEN SPACE BOND PROCEEDS IN AN AMOUNT NOT TO EXCEED \$1,000,000 FOR THE PURPOSE OF ACQUIRING 480 ACRES AS PART OF THE MARSHALL MOUNTAIN PARK PROJECT, RELATED TRANSACTION COSTS, AND INITIAL CAPITAL IMPROVEMENTS RELATED TO ESSENTIAL PUBLIC SAFETY AND SITE ACCESS.

WHEREAS, the State of Montana authorizes local government to issue, sell, and administer general obligation bonds for the purposes of acquiring open space consistent with the provisions of Title 76, Section 6, Section 101 through 110, M.C.A.; and

WHEREAS, The Missoula County Commissioners passed Resolution Number 2006-093 placing a measure on the November 7, 2006 ballot providing the electorate in Missoula County with an opportunity to vote on a \$10,000,000 bond issue for Open Space acquisition and protection; and

WHEREAS, the Missoula County electorate approved the Open Space Bond measure on November 7, 2006; and

WHEREAS, the Missoula County Commissioners created the Missoula County Open Lands Citizen Advisory Committee (OLC) to review and recommend action on the expenditures of the Open Space Bond funds; and

WHEREAS, the Missoula County Commissioners adopted an Interlocal Agreement Between the City of Missoula and the County of Missoula Related to Open Space Bond Acquisition and Use of Open Space Bond Proceeds dated April 5, 2007, outlining the process for applying for and approving bond expenditures; and

WHEREAS, the Missoula County Commissioners passed Resolution Number 2007-040 establishing criteria for use by the Missoula County Open Land Citizen Advisory Committee; and

WHEREAS, the Missoula County Commissioners passed Resolution Number 2018-111 placing a measure on the November 6, 2018 ballot providing the electorate in Missoula County with an opportunity to vote on a \$15,000,000 bond issue for the purpose of conserving, enjoying, and enhancing open-space lands in Missoula County; and

WHEREAS, the Missoula County electorate approved the Open Space Bond measure on November 6, 2018; and

WHEREAS, the Missoula County Commissioners adopted an Interlocal Agreement Between the City of Missoula and the County of Missoula Related to Use of 2018 Open Space Bond Proceeds dated May 20, 2020, outlining the process for applying for and approving bond expenditures; and

WHEREAS, Missoula County Commissioners and the City of Missoula adopted the *2019 Missoula Urban Area Open Space Plan ("Open Space Plan")*, which provides a vision for continuing to expand upon community open space and trail systems throughout the greater

Missoula area and identifies the “Mount Jumbo and Marshall Canyon Cornerstone” as a high-priority community open space which includes high open space value, and encourages the preservation of scenic open space, wildlife habitat, rare and unique plant communities, and protection of lands for recreation, public access, and trails; and

WHEREAS, the project supports the following goals identified in the 2016 Missoula County Growth Policy: Conserving vital natural resources including surface and groundwater, air quality, agricultural resources, iconic landscapes, fish and wildlife species and their habitats, native plant communities, and promoting the responsible use and enjoyment of publicly-owned lands; and

WHEREAS, the proposed acquisition of Marshall Mountain is consistent with City and County climate adaptation objectives, as it eliminates the threat of residential development in a high wildfire risk area and mitigates wildfire risk related to both structures and first responders; allows for active forest management as necessary by the city, county, and/or public agency partners; and helps to protect and improve the headwaters of Marshall Creek which is a tributary of the Clark Fork River, allowing for improved water quality and aquatic wildlife habitat; and

WHEREAS, the Missoula County Commissioners passed Resolution Number 2023-047 for the Marshall Mountain Park Open Space Project establishing compliance with reimbursement bond regulations under the Internal Revenue Code and qualifying the project for funding as outlined in Article IV Section 4.1 of the Interlocal Agreement with the City of Missoula; and

WHEREAS, on July 13, 2023, a quorum of the County Open Lands Committee (OLC) and a quorum of the City Open Space Advisory Committee (OSAC) each voted in a joint meeting to recommend the use of up to, but not to exceed, one million dollars (\$1,000,000) each of City and County allocated Open Space Bond Funds for the acquisition of Marshall Mountain, related eligible costs, and for essential public safety and public access improvements; and

Whereas, on September 21, 2023 the County Parks and Trails Advisory Board voted to recommend that the Board of County Commissioners does acquire, own, and manage Marshall Mountain Park and recommends finalizing a County/City Interlocal Agreement and Conceptual Master Plan with the acknowledgement that the Board of County Commissioners focus on maximizing revenue generation in order to decrease the tax burden on Missoula County residents; and

Whereas, Marshall Mountain sits in the heart of Séliš-Q̓íispé aboriginal territories, an important part of their homelands for thousands of years, Marshall Creek is known in Salish as Ep S̓č̓ ił̓, meaning Has White Clay, a highly prized resource for cleaning white buckskin, among other uses, and many other Salish place-names surround this place, reflecting its centrality in the traditional tribal way of life and its continuing importance today to members of the Confederated Salish and Kootenai Tribes; and

Whereas, In the 1855 Treaty of Hellgate, title to this land was ceded by the leaders of the Salish, Upper Pend d'Oreille, and Kootenai Tribes to the United States, but the tribes reserved the right to continue hunting, fishing, gathering plants, and pasturing their livestock in this area and on "open and unclaimed lands" throughout their ceded lands; and

Whereas, Missoula County and the City of Missoula are actively seeking new locations for operating current, and adding more, outdoor education and recreation programs, and the Marshall Mountain properties will provide a new and suitable location in which to host those programs, and allow people of all ages and abilities the opportunity to grow, experience, learn, and enjoy the natural world in an affordable manner; and

Whereas, Marshall Mountain has a rich history as a local community mountain recreation area for skiing, hiking, mountain biking, wildlife viewing, birding, and many other related outdoor recreation activities, and that many public and private partners have invested substantial time and resources to protect the site for continued public access; and

Whereas, protecting Marshall Mountain has been a persistent and concerted community-driven effort by many private and public entities since the commercial ski area closed in 2002; and

Whereas, the City and County value the efforts of private landowners and conservation organizations that have led the way on preserving the mountain and protecting public access; and

Whereas, the Marshall Mountain properties are within the U.S. Forest Service's 13,000-acre Marshall Woods project area, a collaboratively developed project to restore functioning ecosystems, emulate fire's role on the landscape, and provide diverse trail-based recreation; and

Whereas, the project site provides for front country recreation and backcountry access opportunities while protecting the southern end of a block of public and tribal land that extends north all the way to Glacier National Park, includes multiple Wilderness Areas, and contains some of the most intact wildland on the entire continent which has been the focus of many conservation efforts, including The Montana Legacy Project, Roundtable on the Crown of the Continent, and the Yellowstone to Yukon Conservation Initiative; and

Whereas, the project allows for the active management and protection of a rare, local native population of genetically pure Westslope cutthroat trout in Marshall Creek, and allows for the City and County to work with state and federal partners to restore and improve Marshall Creek riparian habitat and stream health; and

Whereas, acquisition of the three properties making up the Marshall Mountain project will provide opportunities to partner with state and federal agencies and other public and private partners to actively manage critical habitat and resources in the area for thirteen threatened/endangered and/or State Species of Concern which have ranges that occur in the Marshall Creek Drainage, including Canada Lynx, Fisher, Grizzly Bear, Wolverine, Cassin's Finch, Clark's Nutcracker, Flammulated owl, Pacific Wren, Varied Thrush, Northern Alligator Lizard, Westslope cutthroat trout, *Austrolyla montani* (a millipede), and Stalk-leaved Monkey flower; and

Whereas, as of the date of this resolution, the population of Missoula County and the City of Missoula has grown by 9.5% and 18.4%, respectively, since 2010 and continues to grow, creating an inherent need to protect open space for current and future residents, provide more access for front country outdoor recreation experiences, and add more youth and adult outdoor recreation programs and services; and

Whereas, the 2018 Parks, Recreation, Open Space, and Trails (PROST) survey indicated that the majority of Missoula County residents support purchasing lands at Marshall Mountain for biking, hiking, and skiing; want more or better dirt trails for hiking, biking and running; and/or want more or better natural areas and wildlife habitat; and

Whereas, the *Marshall Mountain Park Conceptual Master Plan* was created with a high level of public input received through multiple in-person and online engagements and will guide future development of the site; and

Whereas, the purpose of this Open Space Bond funding is for public acquisition of the entire 480 acres as open space per Title 76, Chapter 6, Part 1, MCA; and

Whereas, the principles of the proposed partnership between the City of Missoula and Missoula County, which will be further articulated in an Interlocal Agreement, includes Missoula County acquiring the entire 480 acres, Missoula County managing the site for maximum public benefit, and both local governments working collaboratively to manage and improve Marshall Mountain Park; and

Whereas, the total project cost for the Marshall Mountain acquisition and improvements related to essential public safety and access will be provided by a combination of Open Space Bond funds, grants, and private donations; and

WHEREAS, the Board of County Commissioners held a joint public hearing with Missoula City Council on October 4th, 2023; and

WHEREAS, the notice of the public hearing was provided in the Missoulian on September 23rd and 30th, 2023; and

WHEREAS, the project meets the following purposes of the Open Space Bond, as listed in the Interlocal Agreements: protecting fish and wildlife habitat; managing for growth; protecting the water quality of rivers, lakes and streams; providing recreational trails; making improvements to lands acquired as open space; and providing open space, scenic landscapes, and public access to water and land.

Now therefore, be it resolved that the Missoula Board of County Commissioners hereby approves the expenditure of a combination of 2006 and 2018 Open Space Bond funds in an amount not to exceed \$1 Million for the purpose of public acquisition of Marshall Mountain including 480 acres consisting of The Conservation Fund, Five Valley's Land Trust, and Izzy Dog, LLC properties of 160 acres each, with the intent of local government to acquire and manage, and acknowledge that said funds shall be used for a combination of fee title acquisition costs, match for grant funding, and initial capital improvements related to essential public safety and access to the site; and

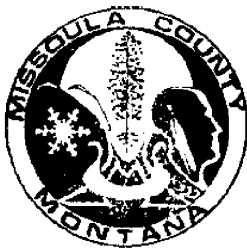
Be it further resolved that the Missoula Board of County Commissioners supports the development of an interlocal agreement between Missoula County and the City of Missoula to ensure the area is maintained and improved in alignment with the Marshall Mountain Park Conceptual Master Plan, to support existing and increasing program services provided by Missoula

Parks and Recreation, and ensuring equitable public access, and conservation of important natural resources in perpetuity.

APPROVED AND ADOPTED THIS 04 DAY OF OCTOBER, 2023

ATTEST:


F041C347708866B1FE14B1915AF64B77 ready-sign
Tyler Gerhart, Clerk and Recorder



BOARD OF COUNTY COMMISSIONERS
MISSOULA COUNTY


13P051ED80FA2244FFA409546FBDD56F ready-sign
Josh Slotnick, Chair


A6ACE081F2595A3A089677FEBBB8C812 ready-sign
David Strohmaier Commissioner


0F45D96BCC41E9C2B2D512DC9A576B2 ready-sign
Juanita Vero, Commissioner