

**RESOLUTION NO. 2023-089
ORDINANCE NO. 2023-03**

AN ORDINANCE AND RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MISSOULA COUNTY, MONTANA CREATING THE WYE 2 TARGETED ECONOMIC DEVELOPMENT DISTRICT IN SUPPORT OF VALUE-ADDING ECONOMIC DEVELOPEMENT PROJECTS PURSUANT TO TITLE 7, CHAPTER 15, PARTS 42 AND 43 OF THE MONTANA CODE ANNOTATED

**ESTABLISHING THE BOUNDARIES THEREOF AND ADOPTING THE COMPREHENSIVE DEVELOPMENT PLAN;
ESTABLISHING A TAX INCREMENT FINANCING PROGRAM TO ASSIST IN FINANCING NECESSARY PUBLIC INFRASTRUCTURE TO ENCOURAGE THE GROWTH, LOCATION AND RETENTION OF SECONDARY, VALUE-ADDING ECONOMIC DEVELOPMENT PROJECTS; PROVIDING FOR DEFINITION OF TERMS;
ESTABLISHING THE COSTS WHICH MAY BE PAID BY TAX INCREMENT FINANCING;
ESTABLISHING JANUARY 1, 2023, AS THE BASE TAXABLE YEAR FOR THE PURPOSES OF CALCULATING THE TAX INCREMENT;
PROVIDING FOR THE REPEAL OF ALL PARTS OF ORDINANCES AND RESOLUTIONS IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF**

WHEREAS, the Board of County Commissioners of Missoula County, Montana, is interested in fostering the growth, location, and retention of secondary, value-adding economic development projects in the WYE area, to promote, stimulate, develop and advance the general welfare, commerce, economic development and prosperity of our citizens, Missoula County, and the State of Montana; and

WHEREAS, pursuant to §7-15-4278, MCA, Missoula County concurs that infrastructure deficient areas exist and constitute a serious impediment to the development of infrastructure intensive, value-adding economic development in the WYE area and that Missoula County lacks sufficient capital to rectify infrastructure-deficiencies, thus impeding its ability to achieve economic growth through the development of value-adding industries; and

WHEREAS, the creation of a Targeted Economic Development District (a "TEDD"), as authorized in Title 7, Chapter 15, Parts 42 and 43, Montana Code Annotated (the "MCA"), will help fund the supportive public infrastructure needed for the development of secondary, value adding projects in the WYE area; and

WHEREAS, Missoula County, Montana is interested in using Tax Increment Financing as a tool to foster economic and community development, fund public infrastructure, and as revenues permit, may issue tax increment financing bonds; and

WHEREAS, on November 12, 2020, the Missoula County Commission passed Ordinance No. 2020-104, described as: "AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MISSOULA COUNTY, MONTANA CREATING THE WYE TARGETED ECONOMIC DEVELOPMENT DISTRICT IN SUPPORT OF VALUE ADDING ECONOMIC DEVELOPMENT PROJECTS PURSUANT TO TITLE 7, CHAPTER 15, PARTS 42 AND 43 OF THE MONTANA CODE ANNOTATED", approving the WYE Targeted Economic Development District (TEDD) and Comprehensive Development Plan (Plan), effective on December 12, 2020. The Plan

includes a Tax Increment Financing (TIF) provision with a base year calculated as of January 1, 2020; and

WHEREAS, since establishment of the original WYE TEDD, subsequent land use planning efforts by Missoula County have determined that there is additional land at the WYE vicinity suitable for economic development, as reflected in the current Missoula County Growth Policy (amended in 2019 and adopted via Resolution No. 2019-090), and current Missoula County Zoning Regulations (most recently adopted September 14, 2023, by Resolution No. 2023-067); and

NOW THEREFORE BE IT ORDAINED by the Board of County Commissioners of Missoula County, Montana (the "County"), as follows:

Section 1: Recitals.

1.01. Title 7, Chapter 15, Parts 42 and 43, Montana Code Annotated, as amended, (the "Act") provides that a local governing body, including the board of county commissioners of a county, may create by ordinance, after a public hearing, a targeted economic development district (a "TEDD") in support of secondary value-adding economic development projects, to encourage the location and retention of secondary value-adding industries and to use tax increment financing within such districts for infrastructure development projects; and

1.02. The County has had prepared a "Statement of Infrastructure Deficiency" to provide the necessary foundation upon which to establish a TEDD to foster secondary, value adding economic development in the area of the intersection of Interstate 90 and U.S. Highway 93 commonly known as the WYE; and

1.03. Pursuant to §7-15-4279, MCA, the County found that area of the WYE 2 was deficient in infrastructure improvements as stated in Resolution No. 2023-065, the resolution of necessity pursuant to §7-15-4280, with adoption of the Resolution occurring on August 24, 2023; and

1.04. The County has found, pursuant to Resolution No. 2023-065, the creation of a TEDD for the purposes of addressing infrastructure deficiencies in the area to encourage the location, growth, and retention of secondary value-adding industries to be necessary in the interest of public health, safety, or welfare of the residents of Missoula County, and that this investment in infrastructure be made with a commitment to quality improvement and a commitment to property owner and community involvement in decision making; and

1.05. Pursuant to §7-15-4212 and 4279, MCA, the County has caused a comprehensive development plan to be prepared to enable the County to use Tax Increment Financing as a tool to foster targeted economic development and help fund the supportive public infrastructure for the growth of infrastructure intensive secondary, value adding economic development in the TEDD-ready area of the WYE 2, and as revenues permit may issue tax increment financed bonds and therefore has included it as an implementation strategy in the Plan; and

1.06. The WYE 2 Targeted Economic Development District Comprehensive Development Plan (the "Plan"), attached as Exhibit "A", includes a map representing the boundary to be found on page 3 and a description of the boundary to be found on pages 11-13; and pursuant to §7-15-4279, MCA consists of a continuous area with an accurately described boundary; and

1.07. The WYE 2 Targeted Economic Development District (the "WYE 2 TEDD") area is comprised of industrial, commercial, and residential land use designated properties and encompasses an area of approximately 3,200 acres, generally located in the all quadrants (northeast, northwest, southeast, and southwest) from the intersection of Interstate 90 and U.S. Highway 93, west of the City of Missoula, Montana, in all or portions of Sections 20, 21, 22, 26, 27, 28, 29, 32, 33, 34, and 35, Township 14 North, Range 20 West, Principal Meridian Montana (PMM); Missoula County, Montana, excluding the existing Wye Targeted Economic Development District with occupies the majority of Section 28 and small portions of Sections 21 and 27, Township 14 North, Range 20 West, PMM; Missoula County, Montana. The area is large enough to host a diversified tenant base of multiple independent tenants and was not designed to serve the needs of a single district tenant or group of non-independent tenants as required by §7-15-4279, MCA; and

1.09. In accordance with §7-15-4279, MCA the property within the WYE 2 TEDD is not included within an existing tax increment financing district; and

1.010. The County will notify the Montana Department of Revenue of its intention to create the WYE 2 TEDD on before December 31, 2023; and

1.011. The County has adopted a growth policy pursuant to §76-1-601, MCA; and

1.012. The Missoula County Growth Policy was adopted July 13, 2016, by Resolution 2016-098 and amended June 6, 2019, by Resolution 2019-090; and

1.013. The Plan was submitted to the Missoula Consolidated Planning Board for review, and on October 17, 2023, said Planning Board executed a resolution recommending to the Missoula Board of County Commissioners that the Plan is in conformance with the Missoula County Growth Policy and the area of the TEDD is zoned for uses in accordance with the Missoula County Growth Policy; and

1.014. The zoning within the WYE 2 TEDD is in accordance with the Growth Policy as defined in §76-1-103, MCA as required by §7-15-4279, MCA; and

1.015. Notice, required by 7-15-4214(1), MCA of the public hearing(s), in substantially the form as required under 7-15-4215, MCA was mailed on September 29, 2023, not less than 10 days prior to the date of the hearing, by mail to all property owners in the district based on a list obtained from the Montana Department of Revenue of the geocodes for all real property, the assessor codes for all personal property, and a description of all centrally assessed property located within the WYE 2 TEDD at the time of its creation; and

1.016. Pursuant to §7-15-4282, MCA, the County provided notice to the school districts and provided the school districts with the opportunity to meet and consult in a public

meeting with the opportunity for public comment regarding the proposed tax increment financing provision and its effect on the school district; and

1.017. The County held an informational meeting with Missoula County Hellgate Elementary School District No. 4, Frenchtown and DeSmet School Districts on September 12, 2023, to inform them of its intent to create the WYE 2 TEDD; and

1.018. On September 29, 2023, the County mailed a letter to all affected taxing jurisdictions noticing the opportunity to meet and consult at the public hearing before the Board of County Commissioners held on October 26, 2023; and

1.019. After proper legal notice was given, the Board of County Commissioners duly held the public hearing on October 26, 2023, and based on representations made to the Board of County Commissioners to date and taking into consideration all comments received, including taking into consideration the affected school districts, hereby made findings, determinations and declarations regarding the WYE 2 TEDD, and

1.020. The Montana Department of Revenue will certify the base taxable value of a newly created TEDD as of January 1, 2023, if the department determines that the information required in Montana Administrative Rule 42.19.1404 exists and has been provided to the department by the local government that has created the TEDD when it notifies the department that the TEDD has been created.

Section 2: Legislative Findings.

2.01. According to the US Census Bureau, the 2021 Median Household Income (MHI) in Missoula County is \$61,423, about the same as MHI in Montana of \$60,560, and about 90% of MHI for United States of \$69,021 (US Census Bureau, 2021).

2.02. The Missoula County Growth Policy was adopted July 13, 2016, by Resolution 2016-098 and amended June 6, 2019, by Resolution 2019-090.

2.03. The Missoula County Growth Policy goals seek to:

Goal #5 - Promote economic development that creates opportunities throughout Missoula County including people living and working in rural communities and across wage levels.

Goal #6 - Embrace emerging economic trends and new technologies that will prepare Missoula County for the economy that will exist in 20 years.

Goal #7 - Sustain and promote the land- and resource-based industries of agriculture, timber, restoration, and recreation that are part of the local economy and heritage.

Goal #8 - Proactively plan and provide for the logical growth of communities while protecting rural character and sustaining county resources by guiding development to areas most suited for it.

Goal #9 - As part of planning, support the provision of infrastructure and services to and within rural communities.

2.04. The WYE 2 TEDD through the Comprehensive Development Plan (the "Plan") seeks to provide long term economic stability, and to use planning and the development of public infrastructure as tools for managed growth.

2.05. The goals of the WYE 2 TEDD as stated in the Plan are:

- Goal 1. Promote Economic Development in Support of Secondary Value-adding Industry
- Goal 2. Invest in Efficient Delivery of Public Infrastructure
- Goal 3. Support Development of Attainable Workforce Housing
- Goal 4. Enhance Public Safety Services

Section 3: Definitions. The definitions found throughout Title 7, Chapter 15, Parts 42 and 43, Montana Code Annotated apply unless otherwise provided or indicated by the context. The following terms wherever used or referred to in this Ordinance shall have the following meanings:

3.01. "Act" means Title 7, Chapter 15, Parts 42 and 43, Montana Code Annotated, the State's Urban Renewal Law.

3.02. "Targeted economic development area" means an infrastructure deficient area that the Board of County Commissioners has designated as appropriate for a targeted economic development project or projects.

3.03. "Targeted economic development district" means the TEDD area designated by the Board of County Commissioners in accordance with the provisions of this Ordinance and created in support of secondary value-adding economic development projects with the purpose of the district being the development of infrastructure to encourage the location and retention of secondary value-adding projects in the city, county and state.

3.04. "Targeted economic development district comprehensive development plan" means the plan for a TEDD area/district which describes potential projects or programs which was adopted by the Board of County Commissioners in accordance with the provisions of this Ordinance in conformance with the Growth Policy.

3.05. "TEDD infrastructure development project or program" means undertakings or activities of the County in a TEDD area that consists of any or all of the activities authorized by §7-15-4288, MCA, in accordance with the comprehensive development plan; a targeted economic development project may not include property that was condemned pursuant to Title 70, chapter 30 for anything other than a public use.

3.06. The WYE 2 Targeted Economic Development District means the TEDD area/district designated and created by this Ordinance, consisting of a continuous area within an accurately described boundary, zoned in accordance and planned in conformance with the Growth Policy, and found to be deficient in infrastructure improvements for targeted economic development of secondary, value adding industry.

Section 4: Establishment and Creation of the District. The WYE 2 Targeted Economic Development District is hereby established and created.

Section 5. Designation of the Area, Boundary Description and Map. The WYE 2 Targeted Economic Development Area is hereby designated as shown on the boundary description and map of the WYE 2 Targeted Economic Development District in Exhibit "A".

Section 6: District Comprehensive Development Plan. The WYE 2 Targeted Economic Development District Comprehensive Development Plan describing existing infrastructure deficiencies, goals and strategies and secondary, value adding development activities to be undertaken within the District is attached as Exhibit "A" and hereby adopted.

Section 7: Base Year. For the purpose of calculating the incremental taxable value for each year of the life of the District, the base taxable value shall be calculated as the taxable value of all real and personal property within the District as of January 1, 2023.

Section 8: Tax Increment Financing Provision. The County is hereby authorized to segregate, as received, the tax increment derived in the District, and use and deposit such increment into the District Fund for use as authorized by the Act and as authorized herein or by the Board of County Commissioners from time to time.

Section 9. Costs That May be Paid from Tax Increments. The tax increments received from the District may be used to directly pay costs of approved infrastructure projects, or to pay debt service on bonds issued to finance infrastructure improvements as defined under the Act as may from time to time be approved by the Board of County Commissioners. The Board of County Commissioners hereby authorizes the use of tax increment in the District to be used to pay debt service on internal and bank financed loans issued to finance all or a portion of the costs of eligible improvements in compliance with the Act, and subject to any limitations imposed by the Montana Constitution.

Section 10. Term of the Tax Increment Financing Provision. The tax increment financing provision of the District will terminate upon the later of:

10.01. The fifteenth year following the creation of the District; or

10.02. The payment or provision for payment in full or discharge of all loans, and the payment of interest thereon, for which the tax increment has been pledged. Bonds issued for which a tax increment is pledged must be designed to mature not later than 30 years from the original adoption of the tax increment provision.

10.03. After termination of the tax increment financing provision, all taxes shall continue to be levied upon the actual taxable value of the taxable property in the District but shall be paid into funds of the taxing bodies levying taxes within the District.

Section 11: Effect of TEDD Infrastructure Development Project or Program. The establishment of a TEDD infrastructure development project or program or the approval of a TEDD infrastructure development project or program does not affect, abrogate, or supersede any rules, ordinances, or regulations of the County relating to zoning, building permits, or any other matters.

Section 12. Filing of the Ordinance. Missoula County shall file a copy of the Ordinance upon adoption with Missoula County High School District #1, Hellgate Elementary School District #4,

Frenchtown School District #40, DeSmet School District #20, and any other affected taxing jurisdiction levying a property tax against the property located in the district.

Section 13. Calculation of Base. Actual and Incremental Taxable Values. Missoula County shall cause to be filed a certified copy of the TEDD Plan, executed Ordinance and a complete TEDD certification packet with the Montana Department of Revenue (the "Department") prior to February 1, 2024; and request that the Department certify the WYE 2 TEDD, calculate and report to the County and any other affected taxing jurisdiction the base, actual and incremental taxable values of properly.

Section 14. Conflict with Other Ordinances and Resolutions. All parts of ordinances and resolutions in conflict herewith are hereby repealed.

Section 15. Legislative and Administrative Amendments. All statutory references herein and applicable administrative rules include future amendments to the applicable statutes and administrative rules and the TEDD plan shall be construed in a manner to be in compliance with such statutes and administrative rules if required by law.

Section 16: Severability. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof, other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the code of Missoula County as a whole.

Section 17. Codification. This Ordinance shall not be codified but shall be kept by the Missoula County Clerk and Recorder and entered into a disposition list in numerical order with all other ordinances of the County.

Section 18. Effective Date. The effective date of this Ordinance is thirty (30) days after final adoption on second reading. This Ordinance shall be in full force and effect on December 9, 2023.

INTRODUCED AND PROVISIONALLY ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS, MISSOULA COUNTY, MONTANA, ON FIRST READING, ON THIS 26th DAY OF OCTOBER 2023.


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Chair, Board of County Commissioners

ATTEST:


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County Clerk & Recorder/Treasurer



PASSED, FINALLY ADOPTED AND APPROVED BY THE BOARD OF COUNTY COMMISSIONERS, MISSOULA COUNTY, MONTANA, ON SECOND READING, ON THIS 9TH DAY OF NOVEMBER, 2023.


13C31ED69FA2244FFA409545EBDD56F ready-jm
Chair, Board of County Commissioners

ATTEST:



County Clerk & Recorder/Treasurer

