COMMITTEE OF THE WHOLE

JUNE 21, 2021

6:00 PM

1. Discussion on sewer rates increases

NOTICE FOR, AND AGENDA FOR, A REGULAR MEETING OF THE CITY COMMISSION, CITY OF LEWISTOWN, JUNE 21, 2021 AT 7:00 P.M. AT THE CENTRAL MONTANA COMMUNITY CENTER LOCATED AT 307 W WATSON

To participate virtually the options are as follows:

To join by zoom: https://zoom.us/j/8486275925?pwd=dTVGbndDK253ZUJLMjRuZXU5QVpMdz09

Meeting ID: 848 627 5925   Passcode: 59457

To participate by phone: dial (253) 215-8782   Meeting ID: 848 627 5925   Passcode: 59457

CALL TO ORDER
PLEDGE OF ALLEGIANCE
ROLL CALL
APPROVAL OF MINUTES – May 17, 2021 & June 3, 2021
COURTESIES
PROCLAMATIONS
BOARD AND COMMISSION REPORTS
CITY MANAGER REPORT
PUBLIC COMMENT – non agenda items

CONSENT AGENDA

Acknowledgment of the claims that have been paid from June 1, 2021 to June 17, 2021 for a total of $140,346.91

***REGULAR AGENDA – Resolutions, Ordinance & Other Action Items:**

1. Discussion and action on entering into a Kone elevator maintenance contract for the Lewistown Public Library and authorizing the City Manager to sign the agreement (**Action: approve, disapprove or amend entering into a Kone elevator maintenance contract and authorizing City Manager to sign**) City Manager Holly Phelps

2. Discussion and action on authorizing the City Manager to sign a memorandum of understanding between the Montana Department of Transportation and the City of Lewistown to receive the funding for the maintenance of the Kiwanis Park public rest area (**Action: approve, disapprove or amend authorizing the City Manager to sign the MOU between the MDT & the City**) City Manager Holly Phelps

3. Public hearing to hear comments on Resolution No. 4052, a resolution approving the fiscal year 2022 work plan and budget for Tourism Business Improvement District #1

4. Discussion and action on approving Resolution No. 4052, a resolution approving the fiscal year 2022 work plan and budget for Tourism Business Improvement District #1 (**Action: approve, disapprove or amend Resolution No. 4052**) City Manager Holly Phelps

5. Discussion and action on approving Resolution No. 4053, a resolution approving an assessment to defray the cost of the work plan and budget for Tourism Business Improvement District #1 for fiscal year 2022 (**Action: approve, disapprove or amend Resolution No. 4053**) City Manager Holly Phelps

6. Public hearing to hear comments on Resolution No. 4054, a resolution amending the 2020-2021 budget of the City of Lewistown

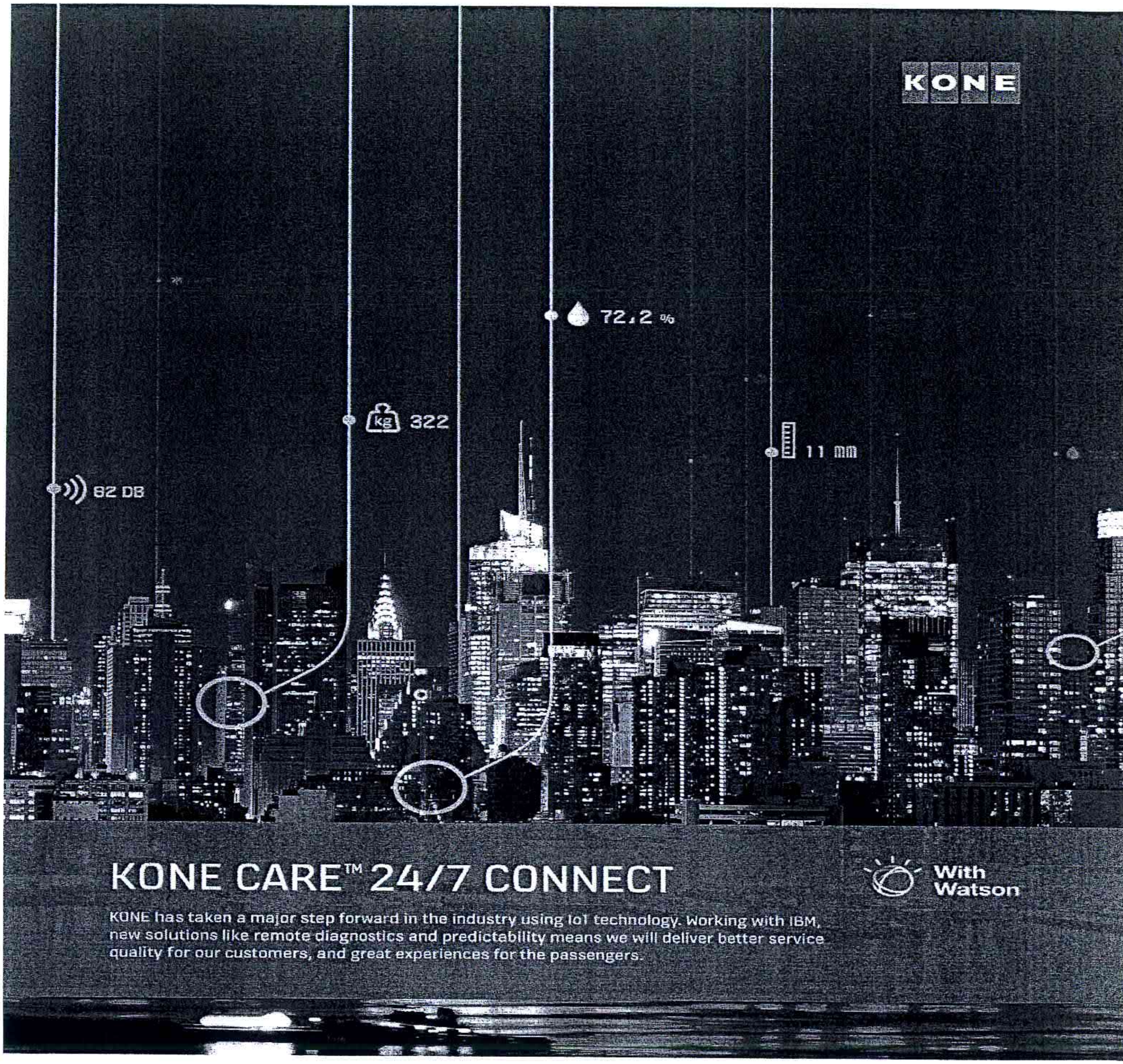
7. Discussion and action on approving Resolution No. 4054, a resolution amending the 2020-2021 budget of the City of Lewistown (**Action: approve, disapprove or amend Resolution No. 4054**) City Manager Holly Phelps

CITIZENS' REQUESTS

COMMISSIONER'S MINUTE

ADJOURNMENT

* All citizens are invited to make comment on any agenda item prior to action being taken by the Commission



KONE Care™ Maintenance Agreement

Prepared for: LEWISTOWN PUBLIC LIBRARY - Danie Buehler

Date: May 7, 2021

Issued by: Blain Bermingham

Dedicated to People Flow™ KONE

May 7, 2021
Lewistown Public Library
701 West Main Street
Lewistown, Montana, 59547

KONE
Helena
3157 Bozeman Ave.
Helena, MT
Phone: 406-531-3700
Fax:
Blain.Bermingham@KONE.com

Attn: Danie Buehler

Re: KONE Care™ Maintenance Agreement
Lewistown Public Library

Dear Danie Buehler,

Thank you for the opportunity to submit our KONE Care Maintenance Agreement for the vertical transportation equipment located at Lewistown Public Library.

KONE Care™ provides a detailed program that covers various components of your vertical transportation operation and is tailored to your specific facility, equipment, and needs. KONE's maintenance methods are utilized to maintain the safety, performance, and reliability of your equipment. Our trained service technicians follow proven performance procedures to help deliver a customized maintenance program, designed specifically to the profile for each piece of equipment.

As part of our advanced solutions, we also invite you to inquire about our KONE 24/7 Connected Services program, an innovative approach to connect your elevators and escalators for predictive monitoring services with IBM Watson. Please let me know if you would like to learn more about this service.

Upon your approval, please sign and return two (2) copies of the KONE Care Maintenance Agreement to our local branch office. One fully executed copy of the maintenance agreement will be returned to you for your files.

Once again, thank you for the opportunity to serve your vertical transportation needs. Please feel free to contact me with any questions at 406-531-3700.

Respectfully,

Blain Bermingham
Sales Executive
KONE

Dedicated to People Flow™ KONE

Purchaser ("Purchaser"):	Service Location ("Premises"):	KONE Inc. ("KONE")
LEWISTOWN PUBLIC LIBRARY 701 W MAIN ST LEWISTOWN, Montana 59457	Lewistown Public Library 701 West Main Street Lewistown, Montana 59547	Helena 3157 Bozeman Ave. Helena, MT 59601

TENDER DATE: 05/07/2021 **EFFECTIVE DATE:** 07/01/2021

SCOPE OF SERVICES

1. **EQUIPMENT DESCRIPTION ("Equipment")**

Manufacturer	Type	Sub-Type	Count
Other	Other	Wheelchair Lift	1

2. **SERVICES**

KONE will provide the labor to perform 2 maintenance visits to examine and/or lubricate the following equipment areas per twelve month period.

- Control system
- Power unit and/or machines
- Hydraulic system accessories
- Hoistway and pit equipment
- Door equipment
- Signals and accessories
- Rails and guides

KONE will provide all lubricants, greases, and wiping cloths.

If KONE identifies items, which, in KONE's judgment, require replacement or repair, KONE will submit to Purchaser a separate proposal and contract for Purchaser's signature. KONE makes no guarantee that its examination will identify any items that require replacement or repair.

3. **HOURS OF SERVICE**

All services described above in this Agreement will be performed during the regular working hours of the regular working days of the elevator or escalator trade in the location where the services are performed, unless otherwise specified in the Agreement.

4. **REPORTING SERVICES**

KONE may provide Purchaser with access to KONE's online reporting tool. Based on the Purchaser's user access, Purchaser can view information about the performance and service of the Equipment. KONE may provide Purchaser with automatic email notifications that provide information on work performed.

5. **EXCLUSIONS**

This Agreement does not include hydraulic fluids.

No labor, except specified herein, parts or supplies will be furnished under this Agreement.

KONE shall not be obligated to: perform safety test other than those specified herein; install new attachments or make equipment changes, repairs or adjustments, corrected outstanding violations or deficiencies.

6. **REMOTE MONITORING**

If the Equipment is equipped with remote monitoring capabilities, Purchaser gives KONE the right to utilize this functionality and the phone line to the Equipment to collect data related to the use and operation of the Equipment.

TERMS AND CONDITIONS

1. **TERM AND TERMINATION**

   A. This Agreement will commence on the effective date and continue for an initial period of TWO (2) years and is non-cancelable. This Agreement will thereafter automatically renew for successive terms of TWO (2) years. Either party may terminate this Agreement at the end of the initial TWO (2) year term or at the end of any subsequent TWO (2) year term by giving the other party no less than ninety (90) days nor more than one hundred twenty (120) days written notice, via certified mail, prior to the expiration date of the then current term of the Agreement.

   B. If a party materially breaches the Agreement, the other party shall provide written notice of the breach and a reasonable time under the circumstances to cure the breach, but in no event less than a thirty (30) days cure period. If the breaching party fails to cure the breach within the specified time period, the non-breaching party may terminate the Agreement upon fifteen (15) days written notice to the other party.

   C. Upon termination of the of the Agreement, a $500 decommissioning and transfer fee shall apply for any elevator phone that needs reprogramming to a different number for emergency monitoring.

2. **CANCELLATION**

   If Purchaser cancels or otherwise terminates the Agreement in any way inconsistent with the termination provisions of the Agreement, such cancellation will constitute a material breach of the Agreement. In such case, Purchaser will pay as a cancellation fee an amount equal to fifty percent (50%) of the balance of the total price owed for the remaining term of the Agreement. Notwithstanding anything to the contrary in the Agreement, the cancellation fee will be paid by Purchaser immediately upon receipt of KONE's invoice. Purchaser will reimburse KONE for all costs of collection, including without limitation court costs and reasonable attorneys' fees.

3. **ASSIGNMENT**

   Either party may assign the Agreement to a third party upon thirty (30) days prior written notice to the other party subject to the terms of this provision. If Purchaser transfers ownership of the premises on which such equipment is located to a new owner, Purchaser will promptly provide KONE with new owner's contact information and take all such actions as are necessary to assign the Agreement to the new owner. Purchaser will promptly provide KONE with a copy of such assignment. Should the new owner fail to assume this Agreement, Purchaser shall remain liable for all unpaid amounts, including those owed for the balance of the current unexpired term of this Agreement.

4. **PRICE ADJUSTMENTS**

   If the term of the Agreement exceeds one (1) year, KONE may automatically adjust the price annually effective on the first maintenance invoice in each new calendar year. This adjustment will be equal to the percentage increase or decrease in KONE's straight time hourly labor cost. KONE's straight time hourly labor cost equals the sum of the straight time hourly rate plus the cost of fringe benefits and applicable taxes, including without limitation welfare, pension, vacation, paid holidays, insurance and other union contributions, paid to personnel where the Equipment is located. KONE reserves the right to add annual surcharges to the price of the Agreement, including without limitation, adjustments for the then current price of fuel and charges for disposal or other environmental requirements, such surcharges to be specified by KONE in its sole discretion and invoiced by KONE and paid annually by Purchaser.

5. **PAYMENT TERMS**

   Payment is due net ten (10) days from the date of the invoice. A charge of the greater of: (i) one and one half percent (1½%); or (ii) the maximum rate permitted by applicable law, will be applied to the unpaid balance. Purchaser will reimburse KONE for all costs of collection, including without limitation court costs and reasonable attorneys' fees.

   KONE imposes a surcharge for payment made via credit card that is not greater than our cost of acceptance. The surcharge that we impose for this type of transaction is a percentage of the amount paid via credit card, which will be notified to the customer at the payment portal.

6. **SUSPENSION OF SERVICE**

   If Purchaser fails to pay any invoice within the specified payment terms or if Purchaser breaches any material provision of the Agreement, KONE may stop work or suspend its services under this Agreement and/or other contracts with the Purchaser until all invoices are current or Purchaser cures the breach. Any requests for service during the period of suspension of service or repairs necessitated by the lack of maintenance service will be invoiced by KONE and paid separately by Purchaser. If Purchaser fails to make timely payment, any indemnity provided by KONE under the Agreement is null and void as to any damages that arise during the suspension period for non-payment. Purchaser waives all claims against KONE arising from or related to suspension of service pursuant to this provision.

7. **TAXES**

   Purchaser is responsible for the payment of all federal, state, or local taxes applicable to the services or materials provided under the Agreement.

8. **INSURANCE AND INDEMNIFICATION**

Purchaser will name KONE as an additional insured on its insurance policy.

To the extent permitted by law, Purchaser will indemnify, defend, and hold KONE harmless from and against any and all claims, demands, actions, suits, proceedings, judgments, damages, loss, liabilities, costs, or expenses, including without limitation court costs and reasonable attorney's fees, whether arising from or related to Purchaser's, KONE's, or any third party's negligence, willful misconduct, or acts or omissions in performance of the Agreement.

9. **LIMITATION OF LIABILITY**

A. Notwithstanding anything to the contrary in this Agreement, KONE's total liability to Purchaser under the Agreement is limited to the total amount paid by Purchaser to KONE during the calendar year in which the liability occurred.
B. In no event will either party be liable to the other party for indirect, incidental, consequential, special, exemplary, or punitive damages of any kind or nature arising from or related to performance of the Agreement, including without limitation loss of profits, loss or inaccuracy of data, or loss of use damages, even if the party has been advised of the possibility of such damages and even if under applicable law such damages would not be considered for indirect, incidental, punitive, special, or consequential damages. Each party hereby waives its rights to such damages to the fullest extent permitted by applicable law.
C. If there is any litigation between the parties with respect to this Agreement or the subject matter hereof, the prevailing party in such litigation shall be entitled to collect all of its costs and expenses in such litigation, including reasonable attorney's fees and court costs, from the other party.

10. **U.S. GOVERNMENT SALES**

If the product(s) or service(s) provided under this Agreement are for end use by a federal, state or local government customer, KONE makes no representations, certifications or warranties whatsoever with respect to the ability of its product(s), service(s) or price(s) to satisfy any applicable federal, state or local statutes or regulations, including without limitation the Federal Acquisition Regulation ("FAR").

11. **FORCE MAJEURE**

A party is not liable for failure to perform its obligations under the Agreement if such failure results from Acts of God, fire, flood, unusual delay in deliveries, unavoidable casualties, terrorist activities, government sanction, blockage, embargo, labor dispute, strike, or lockout, concealed conditions, shortage or unavailability of materials, supplies, labor, equipment or systems, interruption or failure of electricity or telephone service or any other causes beyond the party's control. The non-performing party must promptly notify the other party in writing of the force majeure event and resume performance immediately upon cessation of the event.

12. **VENUE**

The exclusive venue for any dispute between the parties shall be in the County of Rock Island, State of Illinois.

13. **PROPERTY RIGHTS**

A. KONE will provide Purchaser with any information or materials that it provides generally to all its customers in the ordinary course of its business. Any tools, devices, or other equipment that KONE uses to perform its services or monitor the Equipment remains the sole property of KONE. If this Agreement terminates or expires for any reason, Purchaser will give KONE access to the premises to remove such equipment at KONE's expense.
B. KONE retains all rights, title, and interest, including all intellectual property rights, in and to the written materials it provides to Purchaser or uses to perform its services, including without limitation shop drawings, technical documentation, and user manuals, and to any software provided with the equipment. Purchaser will not use such software except in connection with the use and operation of the Equipment. Purchaser will not reverse engineer or otherwise attempt to obtain the source code of any software in object code form.

14. **MISCELLANEOUS**

The Agreement, including any attachments, supersedes all prior written or oral negotiations, commitments, agreements, and understandings between the parties relating to the subject thereof, and constitutes the entire agreement between the parties with respect to the subject matter hereof. The Agreement is not effective until signed by KONE's authorized representative or until KONE commences work under the Agreement. The Terms and Conditions set forth herein shall prevail over and supersede any terms and conditions contained in any documents provided by Purchaser. Notwithstanding anything to the contrary in this Agreement, if Purchaser causes or permits KONE to commence performance of services, Purchaser accepts the terms and conditions of this Agreement. The Agreement may not be modified, amended, canceled, or altered by custom and usage of trade or course of dealing. Any section headings are for convenience only and will not in any way limit the scope or affect the interpretation of any provision of the Agreement. In the event any part of the Agreement is determined to be invalid or non-enforceable, the remaining part or provisions will continue in full force and effect. Failure or delay by a party to exercise any right, remedy, power, or privilege accorded by the Agreement does not constitute a waiver of such right, remedy, power, or privilege. A waiver is effective only if in writing and signed by the waiving party. A written waiver of default will not operate as a waiver of any other default or of the same default in the future. The terms and conditions of the Agreement that by their sense and context are intended to survive expiration or termination of the Agreement will so survive, including without limitation the making of all payments hereunder.

PRICE

$64.89 per month payable by Purchaser annually in advance ($778.68 per annual installment). If Purchaser does not sign this Agreement within 90 days after the tender date above, KONE reserves the right to submit a revised price.

The price is based upon annual in advance payment. In the event Purchaser chooses one of the following payment options by initialing the selection below, a surcharge will apply as outlined:

Payment Option	Surcharge	Revised Monthly Price	Acceptance
Annual in advance payment	0% Increase	$64.89 per month	
Semi-Annual in advance payment	3% Increase	$66.84 per month	
Quarterly in advance payment	6% Increase	$68.78 per month	
Monthly in advance payment	8% Increase	$70.08 per month	

LEWISTOWN PUBLIC LIBRARY

(Signature of Authorized Representative)

(Print Name)

Title

Date

Respectfully submitted,

Blain Bermingham

KONE Inc.

(Approved by) Authorized Representative

Title

Date

Attachment "A"
Amendments to Service Agreement

The parties hereby agree to be bound to the terms contained in the Agreement, together with those terms contained in this Attachment A. In the event of conflict between terms contained in the Agreement and terms contained in this Attachment A, the terms in this Attachment A shall supersede and prevail.

Escalation Cap

5% yearly escalation cap

Special Billing Rates

A 20% discount will apply to KONE's current hourly billing rate for any billable items.

KONE General or Sales Manager Authorization

Signature

CUSTOMER INFORMATION

Who is the agreement with?		
Legal Name of the Company:		
Address:		
City:	State:	Zip:
Contact Name:	Title:	
Phone:	Fax:	
Is the Owner tax exempt? Yes (If Yes, provide the Tax Exemption Certificate.)		
Federal tax ID #:		

Where should the invoice be sent?		
Legal Name of the Company:		
Attention:		
Address:		
City:	State:	Zip:
Contact Name:	Title:	
Phone:	Fax:	
Federal tax ID #:	Email:	

Who will be responsible for paying the invoices?		
Legal Name of the Company:		
Attention:		
Address:		
City:	State:	Zip:
Contact Name:	Title:	
Phone:	Fax:	
Federal tax ID #:	Email:	

MEMORANDUM OF UNDERSTANDING BETWEEN THE MONTANA DEPARTMENT OF TRANSPORTATION AND THE CITY OF LEWISTOWN FOR THE STATE-FUNDED CITY PARK REST AREA PROGRAM for SFY 2022

This Memorandum of Understanding (MOU) is entered into by and between the Montana Department of Transportation (MDT), whose address is 2701 Prospect Avenue, Helena, MT 59620 and the City of Lewistown (CITY), whose address is 305 W. Watson Street, Lewistown, MT 59457. This memorandum establishes the roles and responsibilities relative to the city park rest areas.

WHEREAS, MDT recognizes the need to maintain rest area facilities for the traveling public along Montana's Primary and Non-Interstate National Highways; and

WHEREAS, MDT amended the Montana Rest Area Plan in 2004 to provide state funds, subject to the necessary approvals by the Legislature for the maintenance of the facility; and

WHEREAS, the CITY desires to repair and maintain public rest areas within its city parks; to continue providing an important service to highway users; and

WHEREAS, it is to the advantage of both the MDT and the CITY to coordinate their efforts in accomplishing this interagency agreement without duplication of efforts.

NOW, THEREFORE, in consideration of the following mutual promises,

ARTICLE I – GENERAL OBLIGATIONS OF THE CITY

A. The CITY **will:**

1) Maintain and repair public rest areas within its city parks, including all eligible activities approved by MDT's Facilities Bureau associated with facility maintenance, utilities, cleaning supplies and janitorial services necessary to provide a clean and safe rest area facility.

2) Submit claims/bills for all eligible costs for the time period of July 1, 2021 to June 30, 2022 directly related to the maintenance of rest areas and agreed upon between the MDT and the CITY by **June 30, 2022**. All costs billed will be for the actual amount and supported by an acceptable accounting system. Efforts may be performed by other entities through local agreements; however, MDT will only reimburse the CITY.

asserted by the MDT's employees or third parties on account of personal or bodily injury, death or damage to property, arising out of the acts or omissions of MDT, its agents, or sub-contractors, under this Agreement, except the negligence of the CITY.

4.) Insurance

General Requirements: Each party shall maintain for the duration of this Agreement, at its own cost and expense, insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the duties and obligations in this Agreement by each party, its agents, employees, representatives, assigns, or sub-contractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

General Liability Insurance: Each party shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of $1 million per occurrence and $2 million aggregate per year to cover such claims as may be caused by or arising out of any negligent acts or omissions in work or services performed under this Agreement, or as established by statutory tort limits as provided by a public entity self-insurance program either individually or on a pool basis as provided by Mont. Code Ann. Title 2, Chapter 9.

General Provisions: All insurance coverage must be with a carrier licensed to do business in the State of Montana or by a public entity self-insured program either individually or on a pool basis. Each party must notify the other immediately of any material change in insurance coverage, such as changes in limits, coverage, change in status of policy, etc. Each party reserves the right to request complete copies of the other party's insurance policy or self-insured memorandum of coverage at any time.

Workers' Compensation Insurance: The CITY must maintain workers' compensation insurance and require its contractors and its contractor's sub-contractors to carry their own workers compensation coverage while performing work within MDT right-of-way in accordance with Mont. Code Ann. §§39-71-401 and 39-71-405. Neither the contractor nor its employees are employees of MDT. This insurance/exemption must be valid for the entire Agreement period.

5.) Amendment - This agreement can be modified only by a written amendment, signed and dated by both parties.

6.) Governing Law - This MOU shall be governed by the laws of the State of Montana. Venue for any litigation will only be in Lewis and Clark County, State of Montana.

7.) Binding Effect- The obligations set forth in this MOU shall be binding upon, and the benefit of this MOU shall inure to the benefit of, the party's respective successors and assigns.

8.) Relationship of the Parties - Nothing contained in this MOU shall be deemed or construed, either by the parties hereto or by any third party, to create the relationship of principal and agent or create any partnership, joint venture or other association between MDT and the CITY.

APPROVED FOR THE CITY OF LEWISTOWN:

By: ______________________________ Date: ____________________

APPROVED FOR THE STATE OF MONTANA DEPARTMENT OF TRANSPORTATION

By: ______________________________ Date: ____________________

Reviewed for:

Legal Content

DocuSigned by:

By: Carol Grell Morris 5/27/2021

C3685E7AFD144B6...

Civil Rights

DocuSigned by:

By: Patricia Schwinden 6/2/2021

CDE2B6A0A2C34EC...

MDT NONDISCRIMINATION
AND
DISABILITY ACCOMMODATION NOTICE

Montana Department of Transportation ("MDT") is committed to conducting all of its business in an environment free from discrimination, harassment, and retaliation. In accordance with State and Federal law MDT prohibits any and all discrimination and protections are all inclusive (hereafter "protected classes") by its employees or anyone with whom MDT does business:

Federal protected classes	State protected classes
Race, color, national origin, sex, sexual orientation, gender identity, age, disability, & Limited English Proficiency	Race, color, national origin, parental/marital status, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth, religion/ creed, social origin or condition, genetic information, sex, sexual orientation, gender identification or expression, national origin, ancestry, age, disability mental or physical, political or religious affiliations or ideas, military service or veteran status

For the duration of this contract/agreement, the PARTY agrees as follows:

(1) Compliance with Regulations: The PARTY (hereinafter includes consultant) will comply with all Acts and Regulations of the United States and the State of Montana relative to Non- Discrimination in Federally and State-assisted programs of the U.S. Department of Transportation and the State of Montana, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

(2) Non-discrimination:

a. The PARTY, with regard to the work performed by it during the contract, will not discriminate, directly or indirectly, on the grounds of any of the protected classes in the selection and retention of subcontractors, including procurements of materials and leases of equipment, employment, and all other activities being performed under this contract/agreement.
b. PARTY will provide notice to its employees and the members of the public that it serves that will include the following:
    i. Statement that PARTY does not discriminate on the grounds of any protected classes.

books, records, accounts, other sources of information and its facilities as may be determined by MDT or relevant US DOT Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the PARTY will so certify to MDT or relevant US DOT Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

(6) Sanctions for Noncompliance: In the event of a PARTY's noncompliance with the Non-discrimination provisions of this contract/agreement, MDT will impose such sanctions as it or the relevant US DOT Administration may determine to be appropriate, including, but not limited to:

a. Withholding payments to the PARTY under the contract/agreement until the PARTY complies; and/or
b. Cancelling, terminating, or suspending the contract/agreement, in whole or in part.

(7) Pertinent Non-Discrimination Authorities:

During the performance of this contract/agreement, the PARTY, for itself, its assignees, and successor in interest, agrees to comply with the following non-discrimination statues and authorities; including but not limited to:

Federal

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21;

- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);

- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;

- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);

- Airport and Airways Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);

- The Civil Rights Restoration Act of 1987, (PL 100-209), (broadened the scope, coverage, thereto. The PARTY will take action with respect to any subcontract or procurement as MDT or the relevant US DOT Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the PARTY becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the PARTY may request MDT to enter into any litigation to protect the interests of MDT. In addition, the PARTY may request the United States to enter into the litigation to protect the interests of the United States.

RESOLUTION NO. 4052

A RESOLUTION APPROVING THE FISCAL YEAR 2022 WORK PLAN AND BUDGET FOR TOURISM BUSINESS IMPROVEMENT DISTRICT #1

WHEREAS, Resolution 3806 adopted by the Lewistown City Commission created Tourism Business District #1 (TBID #1) effective February 1, 2013, in order to increase tourist trips and promote and benefit the tourism and lodging industry in Lewistown; and

WHEREAS, TBID #1 provides funding that will promote the health, safety, prosperity, security, and general welfare and will convey a special benefit to the properties within the boundaries of the Tourism Business Improvement District;

WHEREAS, Section 7 of Resolution 3806 requires a work plan and budget be submitted and approved by the City Commission each year:

> <u>Powers and Duties of Trustees.</u> The appointed Trustees shall have the powers and duties set out in Sections 7-12-1121 through 7-12-1133, M.C.A. and any other applicable laws, ordinances or regulations. At a time determined by the City Commission, the Board of Trustees shall submit to the City Commission for approval a work plan and budget for the ensuing fiscal year. The City Commission may modify the work plan and budget as it considers necessary and appropriate.

WHEREAS, the duly appointed Trustees for TBID #1 have submitted a proposed work plan and budget for FY2022 which has been reviewed by the City Commission and the Commission finds the same to be appropriate and within the purposes as set forth by law for tourism business district uses;

WHEREAS, the work plan and budget submitted by the Board provides for liability insurance coverage insuring the District, the Board, and the City of Lewistown against legal liability for personal injury and property damage in an amount deemed appropriate by the City.

WHEREAS, as provided by MCA Section 7-12-1132(3), and after due notice being given, the City Commission held a public hearing on objections to the proposed work plan and budget and considered all comments made at such hearing;

NOW, THEREFORE, BE IT RESOLVED, that the attached FY2022 Work Plan and budget for TBID #1 is hereby approved.

APPROVED by the City Commission of the City of Lewistown, Montana this 21st day of June, 2021.

____
Patty Turk
Chairman of the Commission

ATTEST:

____
Nikki Brummond, City Clerk

In accordance with City of Lewistown Ordinance No. 3806 this is the Work Plan and Budget for FY 21-22 using a July 1, 2021 through June 30, 2022 fiscal year.

Revenue	BUDGET
Collected in 1st FY Quarter (July, August, Sept. 2020)	$10,000.00
Collected in 2nd FY Quarter (Oct., Nov, Dec. 2020)	$9,000.00
Collected in 3rd FY Quarter (Jan., Feb., March 2021)	$5,000.00
Collected in 4th FY Quarter (April, May, June 2021)	$5,000.00
Total Revenues	**$29,000.00**
Funds Carryover in Reserves (estimate FY19-20)	**$40,000.00**
Total Income Available	**$69,000.00**

Expenditures Budgeted
Based on the previous year, this work plan has been developed to be broad enough to address upcoming opportunities and yet focused enough to comply with the intent of the TBID's mission of generating room nights for lodging facilities in the City of Lewistown, Montana and Fergus County by effectively marketing our region as a preferred travel destination.

Funding is being allocated to five areas including a reserve fund, as follows:

Business Enhancement	$15,000.00
Marketing	$30,000.00
Opportunity	$3,000.00
Miscellaneous Operation Costs including insurance	$6,000.00
Total Expenditures Budgeted	**$54,000.00**
Reserves:	**$15,000.00**
Total	**$69,000.00**

Business Enhancement **$15,000.00**

Business Enhancement expenditures are defined as activities that enhance the hotelier business by generating room nights within the community. Activities may include sponsorship of school and non-school sporting tournaments, recruitment of recreational activities, events, conferences, conventions, community activities, and other sponsorships.

Marketing **$30,000.00**

Marketing expenditures are defined as expenses related to promotion of the region as a preferred travel destination. Marketing may include advertising in brochures, catalogues, flyers, or other printed or methods of communicating the value of traveling to and staying in Lewistown and Fergus County. Marketing is the process of communicating the value of a product or service through positioning to customers. Marketing can be looked at as an organizational function and a set of processes for creating, delivering and communicating value to customers, and managing customer relationships in ways that benefit the organization.

Marketing is often thought as these four methods: relationship marketing, internal marketing, integrated marketing, and socially responsive marketing. The set of engagements necessary for successful marketing management includes, capturing marketing insights, connecting with customers, building strong brands, shaping the market offerings, delivering and communicating value, creating long-term growth, and developing marketing strategies and plans.

Opportunity **$3,000.00**

There may be times when a circumstance presents itself that the board has not considered, this category allows the board some discretionary funds to advance the mission of the TBID by utilizing this opportunity. Opportunities will most likely fall outside of the other funding categories.

Miscellaneous Operation Costs including insurance **$6,000.00**

State law (7-12-1143) requires the annual budget and work plan provide for liability insurance coverage insuring the District, the Board, and the City of Lewistown against legal liability for personal injury and property damage in an amount deemed appropriate by the City. Miscellaneous costs also include administrative services provided by Snowy Mountain Development Corporation staff.

Total Expenditures Budgeted **$54,000.00**

Reserves: **$15,000.00**

An amount will be held in reserves to aid in cash flow and insure funds are readily available when needed. This amount is 10-30% of the total available funds.

Total **$69,000.00**

RESOLUTION NO. 4053

A RESOLUTION APPROVING AN ASSESSMENT TO DEFRAY THE COST OF THE WORK PLAN AND BUDGET FOR TOURISM BUSINESS IMPROVEMENT DISTRICT #1 FOR FISCAL YEAR 2022

WHEREAS, Resolution 3806 adopted by the Lewistown City Commission created Tourism Business District #1 (TBID #1) effective February 1, 2013, in order to increase tourist trips and promote and benefit the tourism and lodging industry in Lewistown; and

WHEREAS, TBID #1 provides funding that will promote the health, safety, prosperity, security, and general welfare and will convey a special benefit to the properties within the boundaries of the Tourism Business Improvement District;

WHEREAS, MCA Section 7-12-1132(3) requires the governing body to levy an assessment upon all of the property in the district using as a basis one of the methods prescribed in MCA Section 7-12-1133 and the City has City has previously selected the method to be used in Resolution 3806:

> Assessments. All lodging facilities, as defined in Section 8, that are within the District will be assessed for their proportionate share of the costs of maintaining the activities of the Tourism Business Improvement District as prescribed in Section 7-12-1133(2)(c) M.C.A. The assessments to fund the work plan for the first fiscal year are to be collected from all lodging facilities with 6 or more rooms within the boundaries of the district and all such lodging facilities shall be subject to an assessment of one dollar ($1.00) per occupied room night. Stays by persons who are otherwise exempt from paying a transient occupancy tax (a.k.a. lodging facility use tax), as provided in Sections 15-65-101 through 15-65-136 MCA, shall be exempt from the assessment. The assessments may

be modified annually by adoption of a resolution or adoption of the City's budget.

WHEREAS, the City finds that the method and amount of assessment as described in Resolution 3806 is appropriate for FY 2022 and does not require modification.

NOW, THEREFORE, BE IT RESOLVED, that all lodging facilities that are within TBID #1 will be assessed for their proportionate share of the costs of maintaining the activities of the Tourism Business Improvement District as prescribed in Section 7-12-1133(2)(c) M.C.A. The assessments to fund the work plan for the fiscal year 2022 shall be collected from all lodging facilities with 6 or more rooms within the boundaries of the district and all such lodging facilities shall be subject to an assessment of one dollar ($1.00) per occupied room night. Stays by persons who are otherwise exempt from paying a transient occupancy tax (a.k.a. lodging facility use tax), as provided in Sections 15-65-101 through 15-65-136 MCA, shall be exempt from the assessment.

APPROVED by the City Commission of the City of Lewistown, Montana, this 21st day of June, 2021.

____
Patty Turk
Chairman of the Commission

ATTEST:

____
Nikki Brummond, City Clerk