

COMMITTEE OF THE WHOLE

JUNE 20, 2022

6:00 PM

1. Demonstration by the Police Department showing the difference between current radio and new radio technology

Meet at the Fergus High School at the gym doors in the back

NOTICE FOR, AND AGENDA FOR, A REGULAR MEETING OF THE CITY COMMISSION, CITY OF LEWISTOWN, JUNE 20, 2022 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 – June 6, 2022

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, 2022 to June 16, 2022 for a total of \$272,051.04

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

1. Discussion and action on authorizing the City Manager to sign and enter into the service agreement and memorandum of understanding between the City of Lewistown and the Lewistown Library Board of Trustees (**Action: approve, disapprove or amend authorizing the City Manager to sign and enter into the agreement**) City Manager Holly Phelps
2. Discussion and action on approving a business license for Milk River Plumbing (**Action: approve, disapprove or amend on approving a business license for Milk River Plumbing**) City Manager Holly Phelps
3. 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
4. Discussion and action on authorizing the City Manager to sign and enter into a FAA Airport Improvement Program grant agreement (**Action: approve, disapprove or amend authorizing the City Manager to sign and enter into a grant agreement**) City Manager Holly Phelps
5. Discussion and action on upcoming training options for the City Commission and the budget to pay for them (**Action: approve, disapprove or amend upcoming training option for the City Commission**) 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

**SERVICE AGREEMENT AND
MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF LEWISTOWN AND THE LEWISTOWN LIBRARY BOARD OF
TRUSTEES**

This Service Agreement and Memorandum of Understanding ("Agreement") is entered into this ____ day of _____ 2022 between the City of Lewistown, Montana, a municipal corporation of the State of Montana (hereafter, "City"), through its City Manager, and the Lewistown Library Board of Trustees (hereafter, "Library Board"), together referred to hereafter as "the parties".

RECITALS

WHEREAS, the City has established a free public library, the Lewistown Public Library ("Library") for the use of the citizens under regulations as prescribed by the Library Board, subject to approval of the City Commission (Lewistown City Code 2-6-2; § 22-1-309, MCA);

WHEREAS, the Library Board has exclusive control of the expenditure of the public library funds subject to a budget approved by the City Commission as well as other duties and authority set for and governed by § 22-1-309, MCA and § 22-1-310, MCA;

WHEREAS, on July 19, 2021, the City and the Montana Federation of Public Employees ("Association") entered a Collective Bargaining Agreement ("CBA"), in which Library employees are considered member employees. The CBA is effective July 1, 2021 through June 30, 2024;

WHEREAS, said CBA was established through collective bargaining procedures as provided for under Montana law for "the promotion of harmonious relations" between the City and Association and "the establishment of an equitable and peaceful procedure for the resolution of differences; and the establishment of rates of pay, hours of work, and fringe benefits, employee safety, and other conditions of employment";

WHEREAS, pursuant to 22-1-309(3) MCA, the Library Board is empowered to enter into this agreement;

WHEREAS, to simplify annual budget appropriations to the Library, the parties desire to implement a procedure whereby the City funds all Library personnel costs, and the Library Board funds, or is responsible for funding, all other Library operations; and

WHEREAS, to address the ability of the City to provide liability, employment practices liability, workers' compensation, health, and property and contents coverage for the Library, and to make clear the rights and obligations by and between the City and the Library Board, the parties desire to create this Memorandum of Understanding regarding the City and the Library's respective rights and obligations, specifically as they relate to personnel management, such as to ensure that they are clearly-defined and understood.

UNDERSTANDING OF THE PARTIES

NOW, THEREFORE, in consideration of the mutual agreements and covenants herein contained, the parties agree as follows:

1. PURPOSE: The purpose of this Agreement is to provide stability and a framework of the roles, responsibilities and relationships of the City and Library Board as it relates to the efficient operation and management of the Library for the benefit of the community.

2. TERM: This Agreement shall commence for the fiscal year beginning July 1, 2022 and shall continue through and include June 30, 2025. The Agreement will automatically renew for each subsequent fiscal year unless one party provides written notice to the other at least ninety (90) days prior to the end of the term of its intention to not renew the same.

3. OBLIGATIONS OF THE CITY:

3.A. Personnel Costs: As the City's contribution to support the Library, the City agrees to budget for all Library personnel costs for up to 5.5 FTEs for position as described in the CBA.

3.A.1. "Personnel costs" include:

- Wages as provided by the current CBA and, in the case of the Library Director, the annual salary approved by the Library Board
- State and Federal withholding taxes;
- Workers' compensation contributions for employees, Board members, and volunteers;
- Overtime;
- Health insurance contributions;
- PERS contributions;
- Unemployment contributions;
- Retirement/termination buyout of accrued sick/vacation leave.

3.A.2. FTE Positions: The 5.5 FTE positions shall include the Library Director and those positions identified in the CBA. Any increase or decrease in working hours or changes in staffing levels for permanent employees must be mutually agreed upon.

3.A.3. Hiring freeze. In the event a Library employee retires, resigns, or is terminated, triggering a buyout of that employee's vacation and/ or sick leave, a hiring freeze for that position may be implemented for a period equivalent to offset the cost of such buyout, but not to exceed 6 months.

3.A.4. Vacancy Savings: To the extent the Library Board does not employ 5.5 FTEs, the personnel cost savings (see 3.A.1. above) to the City for each unfilled position will be set aside for use by the Library, subject to the approval of the Library Board. The City will keep record of these savings and provide reports on an annual basis to the Board and/or Director.

3.B. Insurance Coverage: The City agrees to provide property insurance coverage for the Carnegie Library and Book Station buildings and contents as well as liability and Employment Practices Liability Insurance coverage under the City's insurance policies with the Montana Municipal Interlocal Authority.

3.C. Payroll and Accounting: The City agrees to handle the payroll and accounting for the Library.

4. OBLIGATIONS OF THE LIBRARY BOARD:

4.A. Funding Library Operations: The Library Board agrees it will be responsible for providing funding for all Library operations and building maintenance through diversified funding, except for the personnel costs paid by the City.

4.B. Annual Budget: The Library Board will prepare an annual budget for approval by the City in accordance with state law (§ 22-1-309(6), MCA).

4.C. Open Meeting Laws: The Library Board agrees to comply with all opening meeting laws when meeting. This obligation shall include, but is not limited to, making certain that proper meeting notice occurs and that minutes from such meetings are taken and properly maintained.

4.D. Laws and Regulations: As a tax-supported public library, the City and the Library Board must be aware of and ensure that all laws and regulations which relate to public libraries are properly followed.

5. OPERATION OF THE LIBRARY:

5.A. Library Board Authority: The Library Board shall have the authority to determine the policy for the operation and care of the Library; prepare budgets; authorize expenditures, including funding for employees above the 5.5 FTEs funded by the City; set the mission statement; determine the selection of materials; and negotiate contracts and agreements as set forth in § 22-1-309, MCA. The Library Board and the City agree to work cooperatively to discuss modifications or changes that will facilitate the efficient operation of the Library for the benefit of the public. The Library Board and City further agree to provide each other with timely notice of all policy modifications or changes, including providing any written documentation which accompanies and/or supports such modifications or changes.

5.B. Execution of Contracts/Agreements: Per MCA 22-1-309 (3) the Library Board may contract for library services. The City Manager has the right to consult with the Library Board about any contracts and agreements for the Library.

5.C. Personnel Management: Pursuant to § 22-1-310, MCA, the Library Board oversees employees at the Library. In recognition of Library employees also being City employees, the Library Board agrees to the following:

5.C.1. Employee Status and Policy: Library employees are employees of the City. The parties acknowledge and understand that as employees of the City, all applicable City policies shall apply including but not limited to the City personnel policies.

The Library must notify the City of any change in status of any/all Library employees. This notification must be completed in a timely manner so that required timelines/deadlines can be met for completion of forms and notification of appropriate agencies.

5.C.2. Appointment and hiring. The Library Board shall have the authority and responsibility for hiring, appointment, promotions, termination, and disciplinary proceedings of the Library Director and, in coordination with the Library Director, Library employees. The Library Board and Library Director shall follow City personnel policies and procedures for hiring and appointment and shall seek the guidance of City human resources (HR) in ensuring that the hiring process is legal and follows City protocol.

The Library Board and/or Director shall develop job descriptions for all Library positions to best meet the needs of the Library. All positions will be submitted for review to the Union and City HR.

5.C.2.a. Administrative status and supervision of Library Director and employees. The Library Director shall have the administrative status of a City department head and shall report to and be supervised by the Library Board. The Library Director will attend department head meetings and will communicate regularly with the City Manager.

The Library Board has the authority and responsibility for evaluating the performance of the Library Director. The Library Director will supervise any Library employees and is responsible for Library employees' performance evaluations.

The Library Board and Library Director shall follow City policy and procedures and the most current CBA for supervision, handling grievances, discipline and/or termination. The Library Director and/or Library Board agrees to confer with City HR and/or the City Manager during a grievance or termination process. The City may contact the City's coverage provider and/or legal counsel for guidance and will report back to the Library Director and/or Library Board on appropriate action. The Library Director and Library Board agree to follow the recommendations of the coverage provider and/or legal counsel.

If there is a disagreement about the handling of a personnel management issue, the City, Library Board, and Library Director agree to follow the recommendations of the City attorney and/or HR professional. All parties agree to act in good faith and in the best interests of the Library and citizens of the City in resolving any disagreements.

5.C.2.b. Execution of Library operation and policies. The Library Director shall manage the operations of the Library and be responsible to the Library Board for the execution of the Library Board's policies. The Library Director and employees agree to follow the payroll and accounting procedures of the City.

5.C.2.c. Salary. Library staff salaries will be fixed in negotiations between the City and Union. The Director's salary and any annual adjustments will be set by the Board in consultation with the City Manager. Yearly longevity increases will be calculated on the basis of one-half (1/2) of one (1) percent of the Library Director's current salary.

5.C.2.d. Volunteers. Library volunteers will be approved at the discretion of the Director and will be provided worker's compensation coverage through the City's insurance with the MMIA. The Library Director and/or Library Board will consult with the City Attorney when developing requirements and applications for volunteers. Volunteers will be subject to the same background and reference checks as regular employees.

5.D. Library Building. The Library building is owned by the City of Lewistown as per Warranty Deed 561. The Library Board sets policy and works with the Library Director and staff on the use of the space. The Library Board agrees to confer with the City Manager when any major changes or building fixes are planned.

5.E. Depreciation Fund. The City agrees to match contributions made by the Library Board up to \$5,000 to be placed in a Library building depreciation account to offset maintenance, expansion, remodeling or other approved building costs.

6. ADDITIONAL OBLIGATIONS:

6.A. Consistency in Operation: The City and Board agree that City Policies & Procedures, as well as the CBA negotiated between the City and City Union, will reflect the Board responsibilities and authorities outlined in this agreement, including those listed in § 22-1-309, MCA and § 22-1-310, MCA.

7. INDEMNIFICATION/HOLD HARMLESS: The City and Library Board agree to a mutual indemnification in which each party will indemnify the other for the negligent acts of its employees, board members, agents and/or subcontractors. Each party shall indemnify, hold harmless and defend the other party, at that party's own expense, against any and all claims made for any accident, injury, or damage that occurs in, on, or about the Library that is caused by an act or omission of that party's employee, board member, agent and/or subcontractors.

8. MODIFICATIONS: Any modifications sought to be made to this Agreement shall be agreed to by both parties and will be memorialized in writing, signed by both parties.

9. NOTICE: Any notice required or permitted under this Agreement shall be deemed sufficiently given or serviced if sent by mail or hand delivered to:

City of Lewistown
City Manager
305 West Watson
Lewistown, MT 59457

Lewistown Public Library
Library Board of Trustees
701 West Main Street
Lewistown, MT 59457

Either party may, by written notice at any time during the term of this Agreement,

designate a different address to which notices hereunder shall subsequently be sent. Written notice hereunder shall be deemed to have been given as of the time the same is deposited in the United States mail.

10. TIME OF ESSENCE: Time shall be of the essence of this Agreement and all the terms, covenants and conditions hereof shall be performed at or before the times herein set forth. Any forbearance on the part of either party in the enforcement of the terms and conditions of this Agreement shall in no way be construed as a waiver of default thereof or waiver of the obligatory effect of such provision.

11. CONSTRUCTION AND BINDING EFFECT: This Agreement shall be construed under the laws of the State of Montana and shall be binding upon and inure to the benefit of the respective parties, their heirs, executors, successors and assigns.

12. SEVERABILITY: If any term of this Agreement should hereafter be declared or becomes void or unenforceable by judicial decree or operation of law, all other terms of this Agreement shall continue to be effective unless the void or unenforceable terms materially defeats the manifest intent and purpose of this agreement.

13. BINDING: This Agreement shall be binding upon the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this Agreement, and the parties hereto approve and execute this Agreement.

CITY OF LEWISTOWN

Holly Phelps, City Manager

* APPROVED AS TO FORM:

City Attorney

* The City Attorney has provided advice and approval of the foregoing document language on behalf of the City of Lewistown, and not on behalf of other parties or entities. Review and approval of this document by the City Attorney was conducted solely from a legal perspective and for the exclusive benefit of the City of Lewistown. Other parties should not rely on this approval and should seek review and approval by their own respective counsel.

LEWISTOWN LIBRARY BOARD OF TRUSTEES

Jean Collins, Chairperson

Cathy Moser, Trustee

Jean Collins, Trustee

Mariah Shammel, Trustee

Gayle Doney, Trustee

MEMORANDUM OF UNDERSTANDING BETWEEN
THE MONTANA DEPARTMENT OF TRANSPORTATION
AND
THE CITY OF LEWISTOWN
FOR THE
STATE-FUNDED CITY PARK REST AREA MAINTENANCE PROGRAM
SFY 2023

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 maintenance of 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's Montana Rest Area Plan provides 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 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, 2022 to June 30, 2023 directly related to the maintenance of rest areas and agreed upon between the MDT and the CITY by **June 30, 2023**. 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.
- 3) Agree eligible costs include janitorial supplies, labor, garbage disposal, grounds maintenance, and utilities necessary to provide a safe and clean rest area. Other items will be considered on a case-by-case basis with MDT's prior approval. Reimbursements are limited to costs directly benefiting the traveling public.

ARTICLE II – GENERAL OBLIGATIONS OF MDT

A. MDT will :

- 1.) Reimburse the CITY costs not to exceed \$6,575.00 for eligible activities approved by MDT's Facilities Bureau associated with facility maintenance, utilities, cleaning supplies, and janitorial services necessary to provide a safe and clean rest area facility.
- 2.) Make payment within 30 days of the submittal of a properly executed invoice/request for reimbursement.
- 3.) Periodically inspect each facility to ensure the facility has been maintained to a satisfactory manner.

ARTICLE III – GENERAL TERMS AND CONDITIONS

A. Both parties agree as follows:

- 1.) Term - The term of this Agreement shall be for State Fiscal Year 2023 (July 1, 2022 through June 30, 2023).
- 2.) Termination -The parties may mutually terminate this Agreement in writing at any time. MDT, at its sole discretion, may terminate or reduce the scope of this Agreement if available funding is reduced for any reason. MDT may terminate this Agreement in whole or in part at any time CITY fails to perform the Agreement terms as set forth.
- 3.) Hold Harmless & Indemnification – The CITY agrees to protect, defend, indemnify, and hold MDT, its elected and appointed officials, agents, and employees, while acting within their duties as such, harmless from and against all claims, liabilities, demands, causes of action, and judgments (including the cost of defense and reasonable attorney fees) arising in favor of or asserted by the CITY'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 the CITY, its agents, or sub-contractors, under this Agreement, except the negligence of MDT.

The State and Department of Transportation agrees to protect, defend, indemnify, and hold the CITY, its elected and appointed officials, agents, and employees, while acting within their duties as such, harmless from and against all claims, liabilities, demands, causes of action, and judgments (including the cost of defense and reasonable attorney fees) arising in favor of or 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 may be modified only by a written amendment, signed, and dated by both parties.
- 6.) Governing Law & Venue - This MOU shall be governed by the laws of the State of Montana. Venue for any litigation will only be in the First Judicial District Court, 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.
- 9.) Non-Discrimination- During the performance of any work arising out of this MOU the CITY, for itself, assignees and successors shall comply with all applicable non-discrimination regulations shown on MDT's Non-Discrimination and Disability Accommodation Notice, Attachment A, which is hereby incorporated by reference.

Additionally, MDT requires that any construction resulting from this MOU must include appropriate pedestrian facilities that meet or exceed current MDT standards for accessibility as set forth in the U.S. Architectural & Transportation Barriers Board, American with Disabilities Act Accessibility Guidelines (ADAAG) and MDT Detailed Drawings, 608 Series.

- 10.) Audit – The CITY agrees the Legislative Auditor and the Legislative Fiscal Analysts may audit all records, reports, and other documents, which the CITY maintains under or in the course of this agreement to ensure compliance with this agreement. Such records, reports and other documents may be audited at any reasonable time.

- 11.) Access and Retention of Records – The CITY agrees to provide the State, Legislative Auditor or their authorized agents access to any records necessary to determine compliance with this Agreement. The CITY agrees to create and retain records supporting this Agreement for a period of three years after the completion date of this Agreement or the conclusion of any claim, litigation or exception relating to this Agreement taken by the State of Montana or a third party.
- 12.) Compliance with Laws – The CITY, in the performance of this Agreement, fully comply with all applicable state or local laws, rules and regulations, including but not limited to the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973.
- 13.) Severability and Integration – If any single part or parts of this Agreement are determined to be void, the remaining parts will remain valid and operative. This Agreement, as written, expresses the total, final and only agreement of the parties relevant to its subject matter. No provision, expressed or implied, arising from any prior oral or written request, bid, inquiry, negotiation, contract, or any other form of communication shall be a provision of this Agreement unless specifically provided within the written terms herein.
- 14.) Counterpart Execution - This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement. The counterparts of this Agreement may be executed and delivered by facsimile or other electronic signature by any of the parties to any other party and the receiving party may rely on the receipt of such document so executed and delivered by facsimile or other electronic means as if the original had been received.

APPROVED FOR THE CITY OF LEWISTOWN:

By: _____ Date: _____

APPROVED FOR THE STATE OF MONTANA DEPARTMENT OF TRANSPORTATION

By: _____ Date: _____

Reviewed for:

Legal Content

By: Carol Grell Morris

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Civil Rights

DocuSigned by:

By: Megan Handl

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U.S. Department
of Transportation
Federal Aviation
Administration

Airports Division
Northwest Mountain Region
Montana

Helena Airports District
Office:
FAA Bldg, 2725 Skyway Dr,
Ste 2
Helena, MT 59602-1205

June 9, 2022

The Honorable Sandra Youngbauer, Presiding Officer
Fergus County Commission
712 W. Main Street
Lewistown, MT 59457

Ms. Holly Phelps, City Manager
City of Lewistown
305 West Watson
Lewistown, MT 59457

Dear Commissioner Youngbauer and Ms. Phelps:

The Grant Offer for Airport Improvement Program (AIP) Project No. 3-30-0048-029-2022 at Lewistown Municipal Airport is attached for execution. This letter outlines the steps you must take to properly enter into this agreement and provides other useful information. Please read the conditions, special conditions, and assurances that comprise the grant offer carefully.

You may not make any modification to the text, terms or conditions of the grant offer.

Steps You Must Take to Enter Into Agreement.

To properly enter into this agreement, you must do the following:

1. The governing body must give authority to execute the grant to the individual(s) signing the grant, i.e., the person signing the document must be the sponsor's authorized representative(s) (hereinafter "authorized representative").
2. The authorized representative must execute the grant by adding their electronic signature to the appropriate certificate at the end of the agreement.
3. Once the authorized representative has electronically signed the grant, the sponsor's attorney(s) will automatically receive an email notification.
4. On the **same day or after** the authorized representative has signed the grant, the sponsor's attorney(s) will add their electronic signature to the appropriate certificate at the end of the agreement.
5. If there are co-sponsors, the authorized representative(s) and sponsor's attorney(s) must follow the above procedures to fully execute the grant and finalize the process. Signatures must be obtained and finalized no later than **July 7, 2022**.
6. The fully executed grant will then be automatically sent to all parties as an email attachment.



U.S. Department
of Transportation
Federal Aviation
Administration

FAA Airport Improvement Program (AIP)

GRANT AGREEMENT

Part I - Offer

Federal Award Offer Date	June 9, 2022
Airport/Planning Area	Lewistown Municipal Airport
FY2022 AIP Grant Number	3-30-0048-029-2022 (DOT-FA22NM-2015)
Unique Entity Identifier	LLS4N4MJL366

TO: City of Lewistown and County of Fergus
(herein called the "Sponsor") (For Co-Sponsors, list all Co-Sponsor names. The word "Sponsor" in this Grant Agreement also applies to a Co-Sponsor.)

FROM: **The United States of America** (acting through the Federal Aviation Administration, herein called the "FAA")

WHEREAS, the Sponsor has submitted to the FAA a Project Application dated March 18, 2022, for a grant of Federal funds for a project at or associated with the Lewistown Municipal Airport, which is included as part of this Grant Agreement; and

WHEREAS, the FAA has approved a project for the Lewistown Municipal Airport (herein called the "Project") consisting of the following:

Rehabilitate Taxiways A and B (phase II-construction)

which is more fully described in the Project Application.

NOW THEREFORE, Pursuant to and for the purpose of carrying out the Title 49, United States Code (U.S.C.), Chapters 471 and 475; 49 U.S.C. §§ 40101 et seq., and 48103; FAA Reauthorization Act of 2018 (Public Law Number 115-254); the Department of Transportation Appropriations Act, 2021 (Public Law 116-260, Division L); the Consolidated Appropriations Act, 2022 (Public Law 117-103); and the representations contained in the Project Application; and in consideration of: (a) the Sponsor's adoption and ratification of the Grant Assurances attached hereto; (b) the Sponsor's acceptance of this Offer; and (c) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the Grant Assurance and conditions as herein provided;

2. The FAA may terminate this Grant, in whole or in part, in accordance with the conditions set forth in 2 CFR § 200.340, or other Federal regulatory or statutory authorities as applicable.
3. **Ineligible or Unallowable Costs.** The Sponsor must not include any costs in the project that the FAA has determined to be ineligible or unallowable.
4. **Determining the Final Federal Share of Costs.** The United States' share of allowable project costs will be made in accordance with 49 U.S.C. § 47109, the regulations, policies, and procedures of the Secretary of Transportation ("Secretary"), and any superseding legislation. Final determination of the United States' share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.
5. **Completing the Project Without Delay and in Conformance with Requirements.** The Sponsor must carry out and complete the project without undue delays and in accordance with this Agreement, 49 U.S.C. Chapters 471 and 475, and the regulations, and the Secretary's policies and procedures. Per 2 CFR § 200.308, the Sponsor agrees to report and request prior FAA approval for any disengagement from performing the project that exceeds three months or a 25 percent reduction in time devoted to the project. The report must include a reason for the project stoppage. The Sponsor also agrees to comply with the grant assurances, which are part of this Agreement.
6. **Amendments or Withdrawals before Grant Acceptance.** The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.
7. **Offer Expiration Date.** This offer will expire and the United States will not be obligated to pay any part of the costs of the project unless this offer has been accepted by the Sponsor on or before July 7, 2022, or such subsequent date as may be prescribed in writing by the FAA.
8. **Improper Use of Federal Funds.** The Sponsor must take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner for any project upon which Federal funds have been expended. For the purposes of this Grant Agreement, the term "Federal funds" means funds however used or dispersed by the Sponsor, that were originally paid pursuant to this or any other Federal grant agreement. The Sponsor must obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. The Sponsor must return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. The Sponsor must furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share require advance approval by the Secretary.
9. **United States Not Liable for Damage or Injury.** The United States is not responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this Grant Agreement.
10. **System for Award Management (SAM) Registration and Unique Entity Identifier (UEI).**
 - a. Requirement for System for Award Management (SAM): Unless the Sponsor is exempted from this requirement under 2 CFR § 25.110, the Sponsor must maintain the currency of its information in the SAM until the Sponsor submits the final financial report required under this Grant, or receives the final payment, whichever is later. This requires that the Sponsor review and update the information at least annually after the initial registration and more frequently if

1. 15 percent; or
2. 25 percent of the total increase in allowable project costs attributable to acquiring an interest in the land.

If the sponsor requests an increase, any eligible increase in funding will be subject to the United States Government share as provided in 49 U.S.C. § 47110, or other superseding legislation if applicable, for the fiscal year appropriation with which the increase is funded. The FAA is not responsible for the same Federal share provided herein for any amount increased over the initial grant amount. The FAA may adjust the Federal share as applicable through an informal letter of amendment.

18. Audits for Sponsors.

PUBLIC SPONSORS. The Sponsor must provide for a Single Audit or program-specific audit in accordance with 2 CFR Part 200. The Sponsor must submit the audit reporting package to the Federal Audit Clearinghouse on the Federal Audit Clearinghouse's Internet Data Entry System at <http://harvester.census.gov/facweb/>. Upon request of the FAA, the Sponsor shall provide one copy of the completed audit to the FAA. Sponsors that expend less than \$750,000 in Federal awards and are exempt from Federal audit requirements must make records available for review or audit by the appropriate Federal agency officials, State, and Government Accountability Office. The FAA and other appropriate Federal agencies may request additional information to meet all Federal audit requirements.

19. Suspension or Debarment. When entering into a "covered transaction" as defined by 2 CFR § 180.200, the Sponsor must:

- a. Verify the non-Federal entity is eligible to participate in this Federal program by:
 1. Checking the excluded parties list system (EPLS) as maintained within the System for Award Management (SAM) to determine if the non-Federal entity is excluded or disqualified; or
 2. Collecting a certification statement from the non-Federal entity attesting they are not excluded or disqualified from participating; or
 3. Adding a clause or condition to covered transactions attesting the individual or firm are not excluded or disqualified from participating.
- b. Require prime contractors to comply with 2 CFR § 180.330 when entering into lower-tier transactions (e.g., Sub-contracts).
- c. Immediately disclose in writing to the FAA whenever (1) the Sponsor learns they have entered into a covered transaction with an ineligible entity or (2) the Public Sponsor suspends or debar a contractor, person, or entity.

20. Ban on Texting While Driving.

- a. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the Sponsor is encouraged to:
 1. Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving when performing any work for, or on behalf of, the Federal government, including work relating to a grant or subgrant.

23. **Employee Protection from Reprisal.**

a. Prohibition of Reprisals

1. In accordance with 41 U.S.C. § 4712, an employee of a Sponsor, grantee, subgrantee, contractor, or subcontractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in sub-paragraph (a)(2) below, information that the employee reasonably believes is evidence of:
 - i. Gross mismanagement of a Federal grant;
 - ii. Gross waste of Federal funds;
 - iii. An abuse of authority relating to implementation or use of Federal funds;
 - iv. A substantial and specific danger to public health or safety; or
 - v. A violation of law, rule, or regulation related to a Federal grant.
2. Persons and bodies covered. The persons and bodies to which a disclosure by an employee is covered are as follows:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Federal employee responsible for contract or grant oversight or management at the relevant agency;
 - v. A court or grand jury;
 - vi. A management official or other employee of the Sponsor, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct; or
 - vii. An authorized official of the Department of Justice or other law enforcement agency.
3. Submission of Complaint. A person who believes that they have been subjected to a reprisal prohibited by paragraph (a) of this Condition may submit a complaint regarding the reprisal to the Office of Inspector General (OIG) for the U.S. Department of Transportation.
4. Time Limitation for Submittal of a Complaint. A complaint may not be brought under this subsection more than three years after the date on which the alleged reprisal took place.
5. Required Actions of the Inspector General. Actions, limitations, and exceptions of the Inspector General's office are established under 41 U.S.C. § 4712(b).
6. Assumption of Rights to Civil Remedy. Upon receipt of an explanation of a decision not to conduct or continue an investigation by the OIG, the person submitting a complaint assumes the right to a civil remedy under 41 U.S.C. § 4712(c)(2).

24. **Co-Sponsor.** The Co-Sponsors understand and agree that they jointly and severally adopt and ratify the representations and assurances contained therein and that the word "Sponsor" as used in the application and other assurances is deemed to include all Co-Sponsors.

SPECIAL CONDITIONS

25. **Lighting.** The Sponsor must operate and maintain the lighting system during the useful life of the system in accordance with applicable FAA standards.
26. **Pavement Maintenance Management Program.** The Sponsor agrees that it will implement an effective airport pavement maintenance management program as required by Airport Sponsor Grant Assurance 11, Pavement Preventive Maintenance-Management. The Sponsor agrees that it

provisions and tests required by the Federal specifications. The program must include as a minimum:

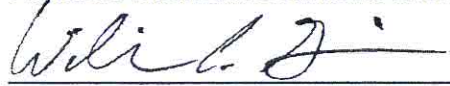
1. The name of the person representing the Sponsor who has overall responsibility for contract administration for the project and the authority to take necessary actions to comply with the contract;
 2. Names of testing laboratories and consulting engineer firms with quality control responsibilities on the project, together with a description of the services to be provided;
 3. Procedures for determining that the testing laboratories meet the requirements of the ASTM International standards on laboratory evaluation referenced in the contract specifications (i.e., ASTM D 3666, ASTM C 1077);
 4. Qualifications of engineering supervision and construction inspection personnel;
 5. A listing of all tests required by the contract specifications, including the type and frequency of tests to be taken, the method of sampling, the applicable test standard, and the acceptance criteria or tolerances permitted for each type of test; and
 6. Procedures for ensuring that the tests are taken in accordance with the program, that they are documented daily, and that the proper corrective actions, where necessary, are undertaken.
 7. Submit at completion of the project, a final test and quality assurance report documenting the summary results of all tests performed and highlighting those tests that indicated failure or that did not meet the applicable test standard. The report must include the pay reductions applied and the reasons for accepting any out-of-tolerance material. Submit interim test and quality assurance reports when requested by the FAA.
 - a. Failure to provide a complete report as described above, or failure to perform such tests, will, absent any compelling justification, result in a reduction in Federal participation for costs incurred in connection with construction of the applicable pavement. Such reduction will be at the discretion of the FAA and will be based on the type or types of required tests not performed or not documented and will be commensurate with the proportion of applicable pavement with respect to the total pavement constructed under the Grant Agreement.
 - b. The FAA, at its discretion, reserves the right to conduct independent tests and to reduce grant payments accordingly if such independent tests determine that sponsor test results are inaccurate.
28. **Plans and Specifications Approval Based Upon Certification.** The FAA and the Sponsor agree that the FAA's approval of the Sponsor's Plans and Specification is based primarily upon the Sponsor's certification to carry out the project in accordance with policies, standards, and specifications approved by the FAA. The Sponsor understands that:
- a. The Sponsor's certification does not relieve the Sponsor of the requirement to obtain prior FAA approval for modifications to any AIP standards or to notify the FAA of any limitations to competition within the project;
 - b. The FAA's acceptance of a Sponsor's certification does not limit the FAA from reviewing appropriate project documentation for the purpose of validating the certification statements; and

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the Grant Assurances, terms, and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.¹

UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION



(Signature)

William C. Garrison

(Typed Name)

Manager, Helena Airports District Office

(Title of FAA Official)

¹ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.