

**INTERLOCAL AGREEMENT
FORMATION, AUTHORITY AND ADMINISTRATION OF
THE LEWIS AND CLARK COUNTY CITY-COUNTY BOARD OF HEALTH**

This Interlocal Agreement (Agreement) is made pursuant to Title 7, Chapter 11, Part 1, Montana Code Annotated and Section 50-2-106, Montana Code Annotated, on the 14 day of February, 20 22 (Effective Date) between Lewis and Clark County, Montana (County), the City of Helena, Montana (City of Helena), and the City of East Helena, Montana (City of East Helena); (collectively the "Parties").

ARTICLE I - PURPOSE

The purpose of this Agreement is to establish the necessary boards and departments to protect public health in Lewis and Clark County and the Cities of Helena and East Helena, and to enumerate the authorities and duties assigned to the County, the City of Helena, and the City of East Helena regarding these boards and departments. It is the intent of the parties that the present City-County Health Department and City-County Board of Health shall remain intact but shall function under this Agreement as of its effective date.

ARTICLE II - TERMINATION OF PRIOR AGREEMENT

The prior agreement establishing the Lewis and Clark County City-County Board of Health and Lewis and Clark City-County Health Department between the County and the City of Helena first entered into the 24th day of December, 1975, and amended the 14th day of March, 2000 is terminated on the Effective Date of this Agreement.

ARTICLE III - DURATION and TERMINATION

- (1) The terms and conditions of this agreement shall become effective on the Effective Date of this Agreement.
- (2) The term of this Agreement is ten years from the Effective Date. The parties agree that they shall negotiate in good faith renewal or amendment of this Agreement at that time. If the parties have not reached agreement on renewal or amendment upon expiration of the term of this Agreement this Agreement shall stay in force until the parties terminate, amend, or renew this Agreement.
- (3) During the term of this Agreement any party may request an amendment of the Agreement by serving a written copy of the proposed amendment on the other parties. An amendment shall become effective when ratified by all parties.
- (4) This Agreement may be mutually terminated at any time by written and signed consent of the parties. Termination of this agreement requires a vote to terminate by a quorum of each party in compliance with all public meeting laws. The termination shall be effective at the beginning of the next fiscal year. Upon termination, the parties agree to divide assets and liabilities equitably to reflect each party's contributions. The parties agree to mediate in good faith should they be unable to timely agree on equitable division of assets and liabilities.

ARTICLE IV - CREATION OF ENTITIES

A. CREATION OF LEWIS AND CLARK COUNTY CITY-COUNTY BOARD OF HEALTH AND LEWIS AND CLARK COUNTY HEALTH DEPARTMENT

- (1) By entering this Agreement, the Parties create the Lewis and Clark County City-County Board of Health (Board). The Board is appointed as the administrator and representative of the joint and cooperative undertaking of the Parties as a city-county board of health pursuant to Section 50-2-116, MCA and other applicable Montana law.
- (2) The Board shall have full supervision and control over all matters pertaining to the prevention of disease and promotion of the public health within the County and Cities and such other duties and obligations as are provided by law.
- (3) The Board shall consist of nine (9) members, all of whom shall be qualified electors of the State of Montana and of the County of Lewis and Clark. Membership of the Board shall consist of:
 - a. A Lewis and Clark County Commissioner or the designated representative of the Board of County Commissioners of Lewis and Clark County, who shall serve at the pleasure of the Board of County Commissioners;
 - b. A member of the City of Helena Commission or a designated representative thereof, who shall serve at the pleasure of the City of Helena Commission;
 - c. The Mayor of the City of East Helena;
 - d. Six additional members to be appointed by the Board of County Commissioners of Lewis and Clark County as follows:
 - i. The Superintendent of School District No. 1, or a representative designated by School District No. 1;
 - ii. A licensed doctor of medicine practicing in Lewis and Clark County;
 - iii. A professional person with experience in the field of environmental, biological, chemical, or engineering sciences;
 - iv. A consumer of health services provided by the Board, preferably with experience in or knowledge of health care, environmental, or human services programs;
 - v. A member at large chosen from the population of the County residing outside the city limits of either the City of Helena or the City of East Helena;
 - vi. A member at large chosen from and residing in the City of Helena.
- (4) The by-laws adopted by the Board of Health may provide for non-voting advisory members who may serve on the Board of Health at the Board's pleasure. All the members designated in subparagraphs 3 (d) (i) through (vi) shall serve three (3) year terms which are staggered as provided in Section 50-2-106, MCA (2020). Vacancies which occur on the Board by reason of death or resignation, or for other reasons, shall be filled for the unexpired term of the vacated member and appointments to fill a vacancy shall be made by a vote of the majority of the remaining Board members at a regularly scheduled meeting.
- (5) As the proper functioning of the Board is seriously impaired by the absence of its members, the following rules regarding absenteeism shall apply:
 - a. Absenteeism is the responsibility of the governing body who appointed that particular member.

- b. More than two absences from regularly scheduled meeting in a 12-month period may cause the appropriate governing body to review the appointment of that member and replace that member when considered appropriate.
- (6) The Board shall possess and have all the powers given to Boards of Health under the laws of the state of Montana and such powers as may be conferred upon it by any United States Health Service or other agency of the United States Government pertaining to Boards of Health.
- (7) The Board shall not own or possess real or personal property.
- (8) The Board shall recommend to the Local Governing Body established in the agreement, pursuant to 50-2-116, MCA, the appointment of a Health Officer and the adoption of regulations.
- (9) By entering this Agreement, the Parties create the Lewis and Clark County Health Department (Health Department).
 - a. The Board shall supervise and control the Health Department.
 - b. The Health Officer shall, subject to applicable collective bargaining agreements and personnel policies, have full responsibility for the hiring, terminating, and supervision of health department employees.
 - c. The Health Officer shall be a member of Lewis and Clark County Senior Leadership/Management teams.
 - d. Health Department employees, including the Health Officer, shall be County employees for administrative purposes.
 - i. Employee grievances shall be processed in accordance with the provisions of applicable collective bargaining agreements. Grievances by non-union employees shall be processed in accordance with the Lewis and Clark County Human Resources Policies.
 - ii. Employee compensation shall be pursuant to the Lewis and Clark County Human Resources Policies, including retirement benefits.
- (10) The Board shall be the policy making body for determining goals, objectives and programs for the delivery of public health services to Lewis and Clark County residents, both City and County.
- (11) The Board shall be the final decision-making body relating to requests for variances from the Lewis and Clark County City-County Health Rules and Regulation.
- (12) In determining the goals, objectives and programs of the Health Department, it shall be presumed that programs of the Health Department will be of equal benefit to all members of the community.
- (13) The Health Board shall hold meetings as required under Montana Code Ann. 50-2-116; and such meetings shall be public.
- (14) The Health Officer and the Health Department staff are subject to all Lewis and Clark County policies and procedures, including but not limited to human resources, risk, legal, procurement and contracting. The County Commissioners are the contracting entity for Contracts between the Health Department and/or Health Officer and any other contracting entity or agency subject to Lewis and Clark County policies.
- (15) The Health Board shall amend its by-laws to reflect the changes set forth herein.
- (16) The manner of financing this joint undertaking and establishing and maintaining a budget shall be in accordance with § 50-2-111(1), M.C.A., as follows: the Parties mutually agree that County shall be responsible for 100% of the total expenses of the

Department and Board. The total expenses will be financed by an appropriation from the general fund of the County after approval of a budget in the way provided for other county offices and departments under Title 7, chapter 6, part 40. This appropriation will be funded by a County-wide mill levy (including the properties inside the municipal boundaries'), subject to Section 15-10-420, M.C.A. The Parties agree that this funding arrangement will continue so long as this Agreement is in effect.

B. CREATION OF LOCAL GOVERNING BODY PURSUANT TO SECTION 50-2-101(8)(C), MCA.

- (1) The County and Cities create the Joint Governing Body which is the "Local governing body" or "governing body" as defined in Section 50-1-101(8)(c), MCA who shall only:
 - a) Approve or reject a recommendation made by the Board for the appointment of a local Health Officer pursuant to Section 50-2-116(1)(a), Montana Code Annotated. The decision of the Joint Governing Body to accept or reject the recommendation of the Board on the appointment shall be made no later than thirty days from the recommendation of the Board.
 - b) To approve or reject a recommendation by the Board for the adoption of Board of Health regulations as set forth in this Agreement and pursuant to Montana law. The decision of the Joint Governing Body to accept or reject the proposed recommendation of the Board on the adoption of Board of Health regulations shall be made no later than 45 days from the proposal of the Board.
 - c) Hold a public meeting for consideration to amend, rescind, or otherwise change a directive, mandate, or order issued by the Board or the local health officer in response to a declaration of emergency or disaster by the governor or principal executive officer of a political subdivision as allowed in Sections 10-3-302, 303, 402, 403, MCA.

The Joint Governing Body shall consist of 2 members of the Board of County Commissioners of Lewis and Clark County, 2 members of the City of Helena Commission, and the Mayor of the City of East Helena who shall meet in joint session and discuss, decide or deliberate the matters set forth in this agreement after proper notice and opportunity of the public to be heard. Every effort shall be made by the Joint Governing Body to attend Board of Health meetings where recommendations for regulations are heard by the Board. The Joint Governing Body shall create by-laws to govern the conduct of its business and procedures for operation.

**ARTICLE V
GENERAL PROVISIONS**

1. ASSIGNMENT and AUTHORITY

No party shall assign, transfer, or convey any right or obligation set forth in this Agreement without the prior written consent of the other party. The undersigned represent that they have authority to enter this Agreement.

2. COMPLETE AGREEMENT

This Agreement constitutes the sole and entire agreement between the Parties with regard to the subject matter hereof. No other terms or conditions shall be binding upon either party unless accepted in writing. This Agreement supersedes any previous oral or written agreements between the Parties with regard to the subject matter hereof.

3. APPLICABLE LAW, VENUE and ATTORNEYS FEES

This Agreement shall be governed by the laws of the State of Montana and any action to enforce any right or obligation shall be brought in the First Judicial District, Lewis and Clark County. The prevailing party in any action to enforce this Agreement shall be entitled to attorney's fees including those of in-house counsel, the city attorney's office or county attorney's office.

4. COMPLIANCE WITH LAW

The Parties shall comply with all applicable federal, state, and local law in performing under this Agreement.

5. SEVERABILITY

The provisions of this Agreement shall be deemed independent and severable, and the invalidity, partial invalidity, or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision of this Agreement.

6. RECORDING

The County will be responsible for filing an executed copy of this Agreement with the [County] County Clerk and Recorder and the Secretary of State pursuant to 7-11-107, MCA, and will provide a copy of the recorded document to the Cities City Clerk. Cost of filing will be shared equally.

7. INTERLOCAL AGREEMENT

This Agreement is an interlocal agreement under Section 7-11-104, M.C.A. To that end, this Agreement shall remain in effect at least through the date stated in Article II above, unless earlier terminated under the provisions hereof or by the agreement of the Parties. As an agreement amongst recognized government entities and political subdivisions no partnership or joint venture is intended nor exists nor shall be deemed to exist between the Parties.

8. SUPERSESSION AND RATIFICATION

This Agreement shall supersede and replace any previous agreement amongst the Parties and shall not affect any acts of the Parties, the Board or Health Officer prior to the Effective Date.

This Agreement entered on the Effective Date by:

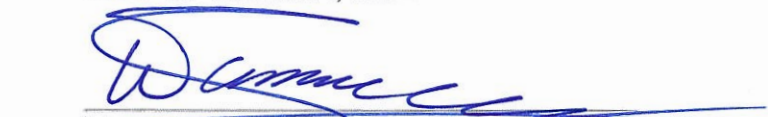
Amy Reeves

ATTEST:

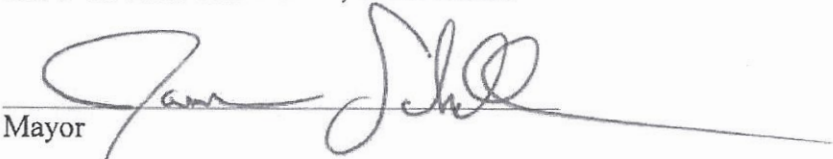
LEWIS AND CLARK COUNTY, MONTANA

CITY OF HELENA, MONTANA


Chairman, Board of County Commissioners


Mayor

CITY OF EAST HELENA, MONTANA


Mayor