

Upshur County Commission Meeting Agenda

Agenda packets are available electronically at http://www.upshurcounty.org/agenda_and_minutes/index.php or by request to the Upshur County Commission Office at 304-472-0535.

- Location: Upshur County Courthouse Annex
If you prefer to participate by telephone, please dial 1-408-650-3123 Access Code: 272 564 045 to enter the conference call.
- Date of Meeting: June 1, 2023
- 9:00 a.m. Moment of Silent Meditation --- Pledge of Allegiance
Approval of Minutes:
• May 18, 2023
- 9:15 a.m. Beth Post, President of Fred Brooks Garden Club and Carolyn Patterson representing Star Gazers Garden Club – Presentation of National Garden Week (June 4th – June 10th) Proclamation.
- 9:45 a.m. Senators Bill Hamilton & Robert Karnes - Presentation of check in the amount of \$10,000.00 for the Upshur County Youth Camp Bridge project.
- 10:00 a.m. Presentation of award to James “Brody” McDaniels, student at Buckhannon-Upshur Middle School, for a Third Place Win in the 2023 County Commissioners’ Association of West Virginia’s Essay Contest for his submission of a 500-word essay on the topic “How My County Commission Makes My Life Better”.
- 1:00 p.m. Court Security Advisory Board Meeting

Items for Discussion / Action / Approval:

1. Approval and signature of Oath and Certificates for the personal property books and real land books. *
[Under separate cover](#)
2. Approval and signature of the FY 24 Victim of Crime Act (VOCA) Victim Assistance Grant Application, Standard Conditions and Assurances, and supporting documents for victim advocate services. *
[Pages 8-27](#)
3. Approval and signature of a Proposal for Financing provided by Country Roads Leasing, LLC and Resolution Authorizing the Execution and Delivery of a Master Lease Equipment Lease-Purchase Agreement, and Related Instruments, and Determining Other Matters in Connection Therewith. The tax-exempt lease-purchase financing for the acquisition of a 2023 Grand Cherokee Laredo and ancillary equipment will cost \$13,444.66 annually over a period of four years. *
[Pages 28-45](#)
4. Review and Signature of correspondence from Jonathan Vickers, Assistant Director, Chief Inspector’s Division of the WV State Auditor’s Office, confirming services to be provided to the Upshur County Commission for the fiscal year ended June 30, 2022. This is a revision to the previous agreement; however, the fee for the audit services remain \$38,100. *
[Pages 46-51](#)

5. Approval and signature of the Section 125 Flexible Benefit Plan Adoption Agreement by and between American Fidelity Assurance Company. * [Pages 52-85](#)
6. Consideration and signature of the Election and Release Form for West Virginia Participating Local Governments resolving opioid-related claims against Mylan Pharmaceuticals Inc., found within the Mylan Pharmaceuticals Inc. West Virginia State-Wide Opioid Settlement Agreement executed on May 22, 2023. * [Under separate cover](#)
Item may lead to Executive Session per WV Code §6-9A-4
7. Consideration and signature of the Election and Release Form for West Virginia Participating Local Governments resolving opioid-related claims against Amneal found within the Settlement Agreement executed on May 25, 2023. * [Under separate cover](#)
Item may lead to Executive Session per WV Code §6-9A-4
8. Approval of an Order to Appoint Shari Zalaznik as Trustee De Bonis Non for the John Porter Siron Jr. Trust for Shirley Lea Casto. * [Page 86](#)
9. Approval of an Order to Appoint Shari Zalaznik as Trustee De Bonis Non for the John Porter Siron Jr. Trust for Judy Marie Strader. * [Page 87](#)
10. Consider reappointment of Kessa Thorpe, as District 2 Republican Representative to the Upshur-Buckhannon Board of Health. Upon approval the term will be effective July 1, 2023 to June 30, 2028. * [Under separate cover](#)
11. Consider reappointment of Virgil D. LaRosa, as County Representative to the Buckhannon-Upshur Airport Authority. Upon approval the term will be effective July 1, 2023 to June 30, 2026. * [Under separate cover](#)
12. Consider reappointment of Todd Payne, as Farmer Representative, to the Upshur County Farmland Protection Board. The term will be effective July 1, 2023 to June 30, 2026. * [Under separate cover](#)
13. Consider Resignation of Employee. * [Under separate cover](#)
Item may lead to Executive Session per WV Code §6-9A-4 A
14. Consider an employment status change from full-time to part-time, for temporary training purposes. * [Under separate cover](#)
Item may lead to Executive Session per WV Code §6-9A-4 A
15. Correspondence from Kimbra Wachob, Assistant Director for the Upshur County Emergency Communications Center, requesting the employment of Beatrice Simmons as a full-time Emergency Telecommunicator for the Upshur County Emergency Communications Center, effective June 5, 2023. * [Under separate cover](#)
Item may lead to Executive Session per WV Code §6-9A-4 A
16. Correspondence from Sheriff J. Michael Coffman requesting the employment of Tyler A. Gordon as a full-time Deputy in the Upshur County Sheriff's Department, effective June 11, 2023. * [Under separate cover](#)
Item may lead to Executive Session per WV Code §6-9A-4 A
17. Correspondence from Sheriff J. Michael Coffman requesting the employment of Riley T. Lamb as a full-time Deputy in the Upshur County Sheriff's Department, effective June 12, 2023. *

18. Approval of Lewis-Upshur Animal Control Facility Volunteer, Trudy Crawford.* [Under separate cover](#)
19. Approve employment of additional Buckhannon-Upshur Recreational Park Staff, effective June 1, 2023. *
Item may lead to Executive Session per WV Code §6-9A-4 A [Under separate cover](#)
20. Approve Invoices for Payment, Purchase Card Invoices for Payment, Budget Revisions / Financial Reports or Information, Correction of Erroneous Assessments, Exonerations/Refunds, Grant Updates / Requests for Reimbursements, Final Settlements, Vacation Orders, Consolidation of Land Tracts, Facility Maintenance Concerns or Updates, Road Name Requests, Project Reports / Updates, Request to Attend Meetings, Request for Day(s) Off.

For Your Information:

(Certain Items May Require Discussion, Action and/or Approval by the Commission)

1. Proclamation made by Governor Jim Justice on May 17, 2023 permitting public employees of this State to generally cease business the entire workday of Monday, June 19, 2023, in acknowledgement of the historical significance of Juneteenth, and the fact it is to be recognized as an official federal holiday. This proclamation further reads that public employees of this State may be excused from their work duties the entirety of the day without charge against accrued annual leave. In accordance with subsection (c), section one, article two, chapter two of the WV Code, County Commissions may treat the day as if it were a legal holiday, and the Courts may do the same. The Courthouse and Annex will be closed per the 2023 Calendar Year Legal Holiday Schedule. * [Pages 88-90](#)
2. Correspondence from Karen Buckley, Executive Secretary for the Public Service Commission of West Virginia, providing a copy of a Commission General Order No. 187.63 increasing the wireless enhanced 911 fee from \$3.51 to \$3.64 per month, per subscriber, effective July 1, 2023. [Pages 91-98](#)
3. Lewis-Upshur Animal Control Facility Reports for the month of April, 2023
 - Revenue Report [Page 99](#)
 - Account of Animals Report [Page 100](#)
 - Animal Control/Humane Officer Animal Report [Page 101](#)
4. Upshur County Sheriff's Financial Statement for period ending April 2023. [Pages 102-103](#)
5. Upshur County Mileage Reports – April, 2023
 - Addressing and Mapping [Page 104](#)
 - Community Corrections [Pages 105-106](#)
 - Dog Pound [Page 107](#)
 - Emergency Management [Page 108](#)
 - Maintenance [Pages 109-111](#)
 - Parks & Recreation [Page 112](#)
 - Sheriff [Page 113](#)
 - Upshur 911 [Page 114](#)
6. Public Notices:
 - a) Newsletters and/or Event Notifications:

b) Agendas and/or Notice of Meetings:

- None

Meeting Minutes:

- | | | |
|---|----------------|---------------|
| • James W. Curry Library Advisory Board | March 24, 2023 | Pages 117-119 |
| • Upshur County Solid Waste Authority | April 10, 2023 | Page 120 |
| • Upshur County Fire Board | April 18, 2023 | Page 121 |

Meetings: ***Dates and times of monthly board meetings are viewable at:**

<http://cms4.revize.com/revize/upshurwv/calendar.php>

or go to www.upshurcounty.org and click on the board meetings calendar box on the main page.

7. Appointments Needed or Upcoming:

- Tennerton Public Service District - unexpired term July 31, 2023.

****If you are interested in serving on an Upshur County board, please submit your letter of interest to the Commission Office at 91 W. Main St., Suite 101, Buckhannon, WV 26201 or chughes@upshurcounty.org. Upcoming term expirations are listed in this section of the agenda; however, letters of interest can be submitted at any time. Letters of interest for boards that do not currently have a vacancy will be held until a vacancy occurs. Please note that submitting a letter of interest does not guarantee appointment. ****

Newsletters and/or Event Notifications, Agendas and/or Notices of Meetings, Meeting Minutes and Scheduled Meetings can all be found by visiting: http://www.upshurcounty.org/agenda_and_minutes/index.php

Tabled Items

(Certain Items May Require Discussion, Action and/or Approval by the Commission)

Next Regular Meeting of the Upshur County Commission

June 15, 2023 --- 9:00 a.m.

Upshur County Courthouse Annex

****The Commission Meeting scheduled for June 8, 2023 has been CANCELLED****



Proclamation

Whereas, Gardeners have a passion for nurturing the beauty and resources of the earth through the planting of seeds, the care of all plants and the riches of their efforts; and

Whereas, Gardeners seek to add beauty, splendor, fragrance and nutrition to our lives through the growing of herbs, vegetables, foliage and flowers; and

Whereas, Gardeners work to preserve our country's traditional spirit of independence and initiative through innovation and hard work; and

Whereas, Gardeners advocate the importance of all creatures, large and small, that share our world and their roles in a balanced and productive ecology; and

Whereas, Gardening furnishes a challenging and productive activity for our citizens, for those just learning as well as those having years of experience; and

Whereas, Gardening promotes a healthy lifestyle that lasts a lifetime, helps reduce stress from other areas of our life, teaches that rewards can come from diligent efforts; and

Whereas, Gardening enables members of Garden Clubs across the nation and the world to make a world of difference in the communities where they reside and work;

Now therefore be it Resolved, that in an effort to acknowledge the importance of Gardening and the numerous contributions of all Gardeners, the Upshur County Commission declares the week of June 4 through 10, 2023 to be National Garden Week in Upshur County,

Signed this 1st Day June, 2023

Kristie G. Tenney, President
Upshur County Commission

Samuel R. Nolte, Commissioner

Douglas K. Bush, Commissioner



May 12, 2023

Upshur County Commission
Attn: Tabatha Perry, County Administrator
91 West Main Street, Suite 101
Buckhannon, WV 26201

Dear Tabatha Perry:

Congratulations! Upshur County had a Third-Place winner in the CCAWV's annual essay contest. The winning essay was written by James "Brody" McDaniels from Buckhannon Upshur Middle School. Kayce Wooten is his teacher, and James will receive \$200.

Enclosed you will find the certificate for James as well as a check, in the amount of \$200. I am also enclosing a copy of the winning essay and the cover sheet which includes the contact information for the teacher. Please reach out to the teacher and winning student and invite them to a County Commission meeting of your choice and have your County Commissioners present him with the certificate and check.

When you take pictures of James receiving the awards, would you please send me a copy to the email address listed below. If you have any questions or need any additional information, please don't hesitate to contact me at meagan@ccawv.org or by telephone at (304) 345-4639.

Thank you,

Meagan James
Program Coordinator

THIRD PLACE WINNER

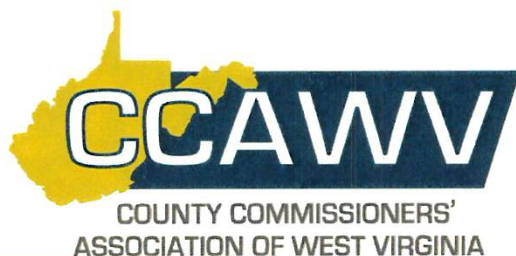
Awarded to

JAMES "BRODY" MCDANIELS

BUCKHANNON UPSHUR MIDDLE SCHOOL

**County Commissioners' Association of West Virginia's
2023 Essay Contest**

"How My County Commission Makes My Life Better"



Melanie A. Pagliaro

Melanie Pagliaro, CCAWV Executive Director

May 12, 2023

Meagan L. James


Meagan James, Program Coordinator

May 12, 2023

Victim of Crime Act (VOCA) Victim Assistance Grant Program Application	General Administrative Information Page 1
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Applicant Agency:	Upshur County Commission	Type of Agency
Address:	91 W. Main St. Suite 101 Buckhannon, WV 26201	<input type="checkbox"/> State
Phone:	304-472-0535	<input checked="" type="checkbox"/> County
Fax Number:	304-473-2399	<input type="checkbox"/> Municipal
		<input type="checkbox"/> Non-Profit

<u>Project Director:</u>	Bryan S. Hinkle	<u>Fiscal Officer:</u>	Tabatha Perry
Address:	38 W. Main St., Room 202 Buckhannon, WV 26201	Address:	91 W. Main St. Suite 101 Buckhannon, WV 26201
Phone:	304-472-9699	Phone:	304-472-0535
Fax:	304-472-1452	Fax:	304-473-2399
Email:	bshinkle@upshurcounty.org	Email:	tperry@upshurcounty.org

Amount Requested: **\$24,315.00** Amount Awarded: 
 Project Period: **October 1, 2023 – September 30, 2024**

Percent Breakdown by Crime Category:	Number of years previously funded: <u>25</u>	Geographic Area Served:
42% Domestic Violence		County(ies): Upshur
5% Sexual Assault	Estimated number of victims to be served by grant: 245	Population: 23,712
23% Child Abuse		Rural/Urban: Rural
30% Underserved Pop.		

Project Title: **Victim Services Division, Upshur County Prosecuting Attorney's Office**

Project Description: The program will serve crime victims in Upshur County by utilizing any resources needed to keep victims best informed of options and programs available to them throughout their case. Services provided will include but are not limited to: notification of criminal charges, personal safety planning, court accompaniment, assistance in applying for Crime Victims Compensation Fund, court notifications, notification of change in case status, assistance obtaining restitution, and referrals to other victim centered agencies if needed.

Certification: To the best of my knowledge, the information contained in this application is true and correct. The submission thereof has been duly authorized by the governing body and the applicant will comply with the attached special conditions and assurances if funding is provided.

Authorized Official: Kristie G. Tenney	Title: President
Address: 91 W. Main St. Suite 101 Buckhannon, WV 26201	Phone: 304-472-0535 Fax: 304-473-2399 E-Mail: kgtenney@upshurcounty.org
Signature:	Date:

WV Supplemental Funds for Victim Assistance Grant Program Application	General Administrative Information Page 1
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Applicant Agency:	Upshur County Commission	Type of Agency
Address:	91 W. Main St. Suite 101 Buckhannon, WV 26201	<input type="checkbox"/> State
Phone:	304-472-0535	<input checked="" type="checkbox"/> County
Fax Number:	304-473-2399	<input type="checkbox"/> Municipal
		<input type="checkbox"/> Non-Profit

<u>Project Director:</u>	Bryan S. Hinkle	<u>Fiscal Officer:</u>	Tabatha Perry
Address:	38 W. Main St., Room 202 Buckhannon, WV 26201	Address:	91 W. Main St. Suite 101 Buckhannon, WV 26201
Phone:	304-472-9699	Phone:	304-472-0535
Fax:	304-472-1452	Fax:	304-473-2399
Email:	bshinkle@upshurcounty.org	Email:	tperry@upshurcounty.org

Amount Requested: **\$14,280.00** Amount Awarded: **\$14,280.00**
 Project Period: **July 1, 2023 – June 30, 2024**

Percent Breakdown by Crime Category:	Number of years previously funded: <u>1</u>	Geographic Area Served:
42% Domestic Violence		County(ies): Upshur
5% Sexual Assault	Estimated number of victims to be served by grant: 245	Population: 23,712
23% Child Abuse		Rural/Urban: Rural
30% Underserved Pop.		

Project Title: **Victim Services Division, Upshur County Prosecuting Attorney's Office**

Project Description: The program will serve crime victims in Upshur County by utilizing any resources needed to keep victims best informed of options and programs available to them throughout their case. Services provided will include but are not limited to: notification of criminal charges, personal safety planning, court accompaniment, assistance in applying for Crime Victims Compensation Fund, court notifications, notification of change in case status, assistance obtaining restitution, and referrals to other victim centered agencies if needed.

Certification: To the best of my knowledge, the information contained in this application is true and correct. The submission thereof has been duly authorized by the governing body and the applicant will comply with the attached special conditions and assurances if funding is provided.

Authorized Official: Kristie G. Tenney	Title: President
Address: 91 W. Main St. Suite 101 Buckhannon, WV 26201	Phone: 304-472-0535 Fax: 304-473-2399 E-Mail: kgtenney@upshurcounty.org
Signature:	Date:

CERTIFICATION FORM**Compliance with the Equal Employment Opportunity Plan (EEOP) Requirements**

Please read carefully the Instructions (see below) and then complete Section A or Section B or Section C, not all three. If recipient completes Section A or C and sub-grants a single award over \$500,000, in addition, please complete Section D.

Recipient's Name: Upshur County Commission		
Address: 91 West Main Street, Suite 101, Buckhannon, WV 26201		
Is agency a: <input type="checkbox"/> Direct or <input type="checkbox"/> Sub recipient of OJP, OVW or COPS funding?		Law Enforcement Agency? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
DUNS Number: 028608099	Vendor Number (only if direct recipient)	
Name and Title of Contact Person: Krista Pyles, Victim Advocate		
Telephone Number: (304) 472-9699	E-Mail Address: kdpyles@upshurcounty.org	

Section A—Declaration Claiming Complete Exemption from the EEOP Requirement

Please check all the following boxes that apply.

<input type="checkbox"/> Less than fifty employees.	<input type="checkbox"/> Indian Tribe	<input type="checkbox"/> Medical Institution.
<input type="checkbox"/> Nonprofit Organization	<input type="checkbox"/> Educational Institution	<input type="checkbox"/> Receiving a single award(s) less than \$25,000.

I, _____ [responsible official], certify that _____ [recipient] is not required to prepare an EEOP for the reason(s) checked above, pursuant to 28 C.F.R. § 42.302. I further certify that _____ [recipient] will comply with applicable federal civil rights laws that prohibit discrimination in employment and in the delivery of services.

If recipient sub-grants a single award over \$500,000, in addition, please complete Section D

Print or Type Name and Title	Signature	Date
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Section B—Declaration Claiming Exemption from the EEOP Submission Requirement and Certifying That an EEOP Is on File for Review

If a recipient agency has fifty or more employees and is receiving a single award or, subaward, of \$25,000 or more, but less than \$500,000, then the recipient agency does not have to submit an EEOP to the OCR for review as long as it certifies the following (42 C.F.R. § 42.305):

I, Kristie G. Tenney, Commission President [responsible official], certify that Upshur County Commission [recipient], which has fifty or more employees and is receiving a single award or subaward for \$25,000 or more, but less than \$500,000, has formulated an EEOP in accordance with 28 CFR pt. 42, subpt. E. I further certify that within the last twenty-four months, the proper authority has formulated and signed into effect the EEOP and, as required by applicable federal law, it is available for review by the public, employees, the appropriate state planning agency, and the Office for Civil Rights, Office of Justice Programs, U.S. Department of Justice. The EEOP is on file at the following office:

Upshur County Commission

[organization],
91 West Main Street, Suite 101, Buckhannon, WV 26201
 [address].

Kristie G. Tenney, Commission President		06/01/2023
Print or Type Name and Title	Signature	Date

Section C—Declaration Stating that an EEOP Short Form Has Been Submitted to the Office for Civil Rights for Review

If a recipient agency has fifty or more employees and is receiving a single award, or subaward, of \$500,000 or more, then the recipient agency must send an EEOP Short Form to the OCR for review.

I, _____ [responsible official], certify that _____ [recipient], which has fifty or more employees and is receiving a single award of \$500,000 or more, has formulated an EEOP in accordance with 28 CFR pt. 42, subpt. E, and sent it for review on _____ [date] to the Office for Civil Rights, Office of Justice Programs, U.S. Department of Justice.

If recipient sub-grants a single award over \$500,000, in addition, please complete Section D

Print or Type Name and Title	Signature	Date
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U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS
OFFICE OF THE COMPTROLLER

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 28 CFR Part 69, "New Restrictions on Lobbying" and 28 CFR Part 67, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Justice determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 28 CFR Part 69, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 28 CFR Part 69, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS (DIRECT RECIPIENT)

As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 CFR Part 67, for prospective participants in primary covered transactions, as defined at 28 CFR Part 67, Section 67.510—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a

public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67 Sections 67.615 and 67.620—

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 633 Indiana Avenue, N.W., Washington, D.C. 20531. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check ☐ if there are workplaces on file that are not identified here.

Section 67, 630 of the regulations provides that a grantee that is a State may elect to make one certification in each Federal fiscal year. A copy of which should be included with each application for Department of Justice funding. States and State agencies may elect to use OJP Form 4061/7.

Check ☐ if the State has elected to complete OJP Form 4061/7.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67, Sections 67.615 and 67.620—

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 810 Seventh Street NW., Washington, DC 20531.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

1. Grantee Name and Address: Upshur County Commission
91 W. Main St. Suite 101
Buckhannon, WV 26201

Victim Services Division, Upshur County Prosecuting Attorney's Office

55-6000406

2. Application Number and/or Project Name

3. Grantee IRS/Vendor Number

Kristle G. Tenney, President

4. Typed Name and Title of Authorized Representative

5. Signature

6. Date



**WEST VIRGINIA DIVISION OF ADMINISTRATIVE SERVICES
JUSTICE & COMMUNITY SERVICES SECTION
FEDERAL STANDARD CONDITIONS & ASSURANCES**

Effective: July 23, 2019

Revision History: Condition #13 added on October 23, 2022

Revision History: Method of correspondence changed to electronic on March 15, 2023.

All correspondence to JCS, which is required and/or occurs as a result or action of any of the following Assurances, or as a result of the administration of any JCS grant program, should be emailed to the designated JCS Program Specialist.

1. **CONSULTANT RATES:** Consultant rates in excess of \$650 per day, or \$81.25 per hour, require prior approval by JCS and DOJ is applicable prior to obligation or expenditure of such funds. All contracts must be submitted 90 days prior to training for approval.
2. **FRAUD, WASTE & ABUSE:** Reporting potential fraud, waste, and abuse, and similar misconduct. The recipient, and any subrecipients ("subgrantees") at any tier, must promptly refer to the Department of Justice (DOJ) Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award— (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct. Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by— (1) mail directed to: Office of the Inspector General, U.S. Department of Justice, Investigations Division, 950 Pennsylvania Avenue, N.W. Room 4706, Washington, DC 20530; (2) e-mail to: oig.hotline@usdoj.gov; and/or (3) the DOJ OIG hotline: (contact information in English and Spanish) at (800) 869-4499 (phone) or (202) 616-9881 (fax). Additional information is available from the DOJ OIG website at <https://www.usdoj.gov/oig>.
3. **USE OF GRANT FUNDS TO ENACT LAWS, POLICIES, ETC.:** Grantee understands and agrees that it cannot use any grant funds, either directly or indirectly in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government.
4. **LIMITED ENGLISH PROFICIENCY:** Title VI's prohibition of national origin discrimination includes discrimination against individual who are limited in their English proficiency (LEP) because of their national origin. Under Title VI (and the Safe Streets Act), recipients are required to take reasonable steps to ensure that LEP individuals have meaningful access to the recipient's programs and services. Providing "meaningful access" will generally involve some combination of oral interpretation services and written translation of vital documents. More information can be found at <http://www.lep.gov>.

5. **PUBLIC SAFETY AND JUSTICE INFORMATION SHARING:** Grantee must support public safety and justice information sharing. This grantee is required to use the Global Justice Data Model specifications and guidelines of this grant. Grantee shall publish and make available without restriction all schemas (extensions, constraint, proxy) generated as a result of this grant to the component registry as specified in the guidelines. This information is available at www.it.ojp.gov/gjxdm.
6. **PROGRAM ACCOUNTABILITY – FEDERAL AUDIT REQUIREMENTS:** Federal Office of Management and Budget (OMB) sets forth standards for obtaining consistency and uniformity for the audit of states, local government, and non-profit organizations expending Federal awards. If applicable, this grant shall adhere to the audit requirements set forth at the time of award. (2CFR Part 200 or OMB Circular A-133 – for further information go to OMB Uniform Guidelines at:

https://search.whitehouse.gov/search?affiliate=wh&form_id=usasearch_box&query=Indirect+Costs

§200.501(a) Audit required. A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of this part.

Single audit. A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single audit conducted in accordance with §200.514 Scope of audit except when it elects to have a program-specific audit conducted in accordance with paragraph (c) of this section.

Program-specific audit election. When an auditee expends Federal awards under only one Federal program (excluding R&D) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of the auditee, the auditee may elect to have a program-specific audit conducted in accordance with §200.507 Program-specific audits. A program-specific audit may not be elected for R&D unless all of the Federal awards expended were received from the same Federal agency, or the same Federal agency and the same pass-through entity, and that Federal agency, or pass-through entity in the case of a sub-recipient, approves in advance a program-specific audit.

Exemption when Federal awards expended are less than \$750,000. A non-Federal entity that expends less than \$750,000 during the non-Federal entity's fiscal year in Federal awards is exempt from Federal audit requirements for that year, except as noted in §200.503 Relation to other audit requirements, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and Government Accountability Office (GAO).

If an audit must be conducted pursuant to the Uniform Guidelines, a copy of the audit shall be submitted to JCS as well as to the Federal clearinghouse.

The Federal clearing house is as follows:

Federal Audit Clearinghouse
Bureau of the Census
1201 E. 10th Street
Jeffersonville, IN 47132

7. **CONFIDENTIALITY OF RESEARCH INFORMATION:** Research information identifiable to an individual, which was obtained through a project funded wholly or in part with United States Department of Justice program funds, shall remain confidential and copies of such information shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding (28 CFR Part 22).
8. **OFFICE OF JUSTICE PROGRAMS (OJP) FINANCIAL GUIDE:** Grantee agrees to comply with the financial and administrative requirements as set forth in the current edition of the DOJ/OJP Financial Guide.
9. **CENTRAL CONTRACTOR REGISTRATION:** Grantee agrees to register with the System for Grants Management (SAM) at www.sam.gov and provide documentation to JCS with application for funding.
10. **DATA UNIVERSAL NUMBERING SYSTEM:** Grantee agrees to acquire a Data Universal Numbering System (DUNS) number, www.dnb.com and provide documentation to JCS with application for funding.
11. **BIDDING PROCEDURES:** Funds for renovation, expansion or construction awarded to grantees or subgrantees, which require the letting of any single contract amounting to \$100,000 or more to a private company or individual shall require: a bid guarantee equivalent to 5% (five percent) of the bid price; the bid guarantee must consist of a firm commitment such as a bid bond, certified check, or negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified after forms are presented to the successful bidder; a performance bond on the part of the 100% (one hundred percent) of the contract price ("Performance bond" means a bond executed in connection with a contract to ensure payments required by all persons supplying labor and materials in the execution of the work provided for in the contract.); a payment bond on the part of the contractor for 100% (one hundred percent) of the contract price. ("Payment bond" is one executed in connection with a contract to ensure payment as required by law, of all persons supplying labor or materials in the execution of the work provided for in the contract.) Recipient/subgrantee is expected to follow the competitive bid process in the award of contracts involving Federal grant funds.
12. **COMPLIANCE WITH FEDERAL PROCEDURES:** Grantee assures compliance with the following where applicable:
 - Part 11, Applicability of Office of Management and Budget Circulars.
 - Part 18, Administrative Review Procedures.
 - Part 20, Criminal Justice Information Systems.
 - Part 22, Confidentiality of Identifiable Research and Statistical Information.
 - Part 23, Criminal Intelligence Systems Operating Policies.
 - Part 30, Intergovernmental Review of Department of Justice Programs and Activities
 - Part 42, Nondiscrimination Equal Employment Opportunity Policies and Procedures
13. **PROHIBITED CONDUCT BY RECIPIENTS AND SUBRECIPIENTS RELATED TO TRAFFICKING IN PERSONS:**
 - Section A. Provisions applicable to a recipient that is a private entity*
 - I. During the period of time that this award is in effect, the recipient, the recipient's employees, any subrecipient, and the employees of any subrecipient may not engage in:

- (a) Severe forms of trafficking in persons;
- (b) Procurement of a commercial sex act;
- (c) Use of forced labor in the performance of the award or any subaward ("subgrant") under the award;
- (d) Acts that directly support or advance trafficking in persons, including acts such as:
 - Denying an employee access to the employee's own identity or immigration documents (including by destroying or confiscating such documents);
 - Without legally sufficient justification as determined by the Office on Violence Against Women (OVW), failing to provide (or pay for) return transportation to an employee to the country from which the employee was recruited (if other than the United States), if the employee requests such return transportation upon the end of employment;
 - Using materially false or fraudulent pretenses, representations, or promises regarding the employment to soliciting a person for employment, or in an offer of employment;
 - Charging recruited employees unreasonable placement or recruitment fees, such as fees equal to or greater than the employee's monthly salary, or recruitment fees that violate the laws of the country from which an employee is recruited; or
 - Providing or arranging housing that fails to meet the host country (e.g., the United States) housing and safety standards.

II. OVW as the federal awarding agency may unilaterally terminate this award, without penalty, if the agency official authorized to terminate the award determines that the recipient or a subrecipient ("subgrantee") that is a private entity:

- (a) Violated a prohibition in section A.1 of this award condition; or
- (b) Has an employee who violated a prohibition in section A.1 of this award condition through conduct that is either:
 - Associated with performance under this award; or
 - Imputed to the recipient or the subrecipient ("subgrantee") using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. Part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by DOJ at 2 C.F.R. Part 2867.

Section B. Provisions applicable to a recipient other than a private entity

I. During the period of time that the award is in effect, any subrecipient ("subgrantee") that is a private entity, and the employees of any subrecipient that is a private entity, may not engage in:

- (a) Severe forms of trafficking in persons;
- (b) Procurement of a commercial sex act;
- (c) Use of forced labor in the performance of the award or any subaward ("subgrant") under the award;
- (d) Acts that directly support or advance trafficking in persons, including acts such as:
 - Denying an employee access to the employee's own identity or immigration documents (including by destroying or confiscating such documents);
 - Without legally sufficient justification as determined by OVW, failing to provide (or pay for) return transportation to an employee to the country from

which the employee was recruited (if other than the United States), if the employee requests such return transportation upon the end of employment;

- Using materially false or fraudulent pretenses, representations, or promises regarding the employment to solicit a person for employment, or in an offer of employment;
- Charging recruited employees unreasonable placement or recruitment fees, such as fees equal to or greater than the employee's monthly salary, or recruitment fees that violate the laws of the country from which an employee is recruited; or
- Providing or arranging housing that fails to meet the host country (e.g., the United States) housing and safety standards.

- II. OVW as the federal awarding agency may unilaterally terminate this award, without penalty, if the agency official authorized to terminate the award determines that a subrecipient ("subgrantee") under this award that is a private entity:

- (a) Violated a prohibition in section B.1 of this award condition; or
- (b) Has an employee who violated a prohibition in section B.1 of this award condition through conduct that is either:
 - Associated with performance under this award; or
 - Imputed to the subrecipient ("subgrantee") using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. Part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by DOJ at 2 C.F.R. Part 2867.

Section C. Provisions applicable to any recipient

- I. The recipient must inform OVW promptly, and without delay, of any information the recipient receives from any source alleging a violation of a prohibition in section A.1 or B.1 of this award condition.
- II. OVW's authority to terminate this award unilaterally (without penalty), described in section A.2 and B.2 of this award condition:
- (a) Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), (22 U.S.C. 7104(g)), and
 - (b) Is in addition to any and all other remedies for noncompliance that are available to OVW with respect to this award, whether under the TVPA (see, e.g., 22 U.S.C. 7104b) or other applicable law.
- III. The recipient must include and incorporate all applicable provisions of this award condition in any subaward ("subgrant") the recipient makes to a private entity.

Section D. Definitions.

For the purposes of this award condition:

- I. "Employee" means either:
- (a) An individual employed by the recipient or by a subrecipient ("subgrantee") who is engaged in the performance of the project or program under this award; or
 - (b) Another person engaged in the performance of the project or program under this award, whether or not compensated with award funds, including, but not

limited to, a volunteer, an individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements, or an agent (including a labor recruiter or broker).

II. "*Forced labor*" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

III. "*Private entity*":

(a) Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 C.F.R. 175.25.

(b) Includes:

- A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 C.F.R. 175.25(b).
- A for-profit organization.

IV. "*Severe forms of trafficking in persons*," "*commercial sex act*," and "*coercion*" have the meanings given at section 103 of the TVPA (22 U.S.C. 7102).

14. **ADDITIONAL REGULATIONS AND PROCEDURES:** In addition, all grantees must comply with the following applicable federal regulations and/or the United States Department of Justice, Office of Justice Programs - M 7100.1D manual, OMB Circulars No. A-21, A-110, A-122, A-128, A-87, E.O. 12372, Uniform Administrative Requirements for Grants and Cooperative Agreements 28 CFR, Part 66, Common Rule, and all other applicable Federal regulations, policies, acts and guidelines:

National Environmental Policy Act of 1969 (NEPA).

National Historic Preservation Act of 1966.

Flood Disaster Protection Act of 1973.

Clean Air Act and Federal Water Pollution Control Act Amendments of 1972.

Control Act Amendments of 1972.

Safe Drinking Water Act.

Endangered Species Act of 1973.

Wild and Scenic Rivers Act.

Fish and Wildlife Coordination Act.

Historical and Archaeological Data Preservation.

Coastal Zone Management Act of 1979.

Animal Welfare Act of 1970.

Impoundment Control Act of 1974.

Uniform Relation Assistance and Real Property Acquisitions Policies Act of 1970.

Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended

Death in Custody Act of 2000.

To the best of my knowledge the applicant has and will comply with all the attached Conditions and Assurances.

Authorized Official [please print]: _____

Authorized Official Signature: _____

Date: _____



**WEST VIRGINIA DIVISION OF ADMINISTRATIVE SERVICES
JUSTICE & COMMUNITY SERVICES SECTION
STANDARD CONDITIONS & ASSURANCES**

Effective: July 23, 2019

Revision History: Method of correspondence changed to electronic on March 15, 2023.

The following Standard Conditions and Assurances apply to all grant programs that the Division of Administrative Services, Justice and Community Services (JCS) Section administers. The application of these Assurances is applicable regardless of the source of funding and/or whether the recipient receives an upfront allocation of funds or is operating under a request for reimbursement process.

All correspondence to JCS, which is required and/or occurs as a result or action of any of the following Assurances, or as a result of the administration of any JCS grant program, should be emailed to the designated JCS Program Specialist.

1. **LAWS OF WEST VIRGINIA:** This grant application/contract shall be governed in all respects by the laws of the State of West Virginia. State procedures and practices will apply to all funds disbursed by JCS, regardless of the original funding source. At the sole discretion of JCS, this grant can be based on a "reimbursement bases" mechanism, or a mechanism which awards an "upfront allocation" of funds on a quarterly or semi-annual basis. Upon timely notification to the grantee, JCS reserves the express right to commute an upfront allocation mechanism to a request for reimbursement mechanism for a recipient of funds, at any time during a grant period.
2. **LEGAL AUTHORITY:** The applicant hereby certifies it has the legal authority to apply for the grant; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directly authorizes the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required if applicable.
3. **RELATIONSHIP:** The relationship of the grantee to JCS shall be that of an independent contractor, not that of a joint enterprise. The grantee shall have no authority to bind JCS for any obligation or expense without the express prior written approval from JCS.
4. **COMMENCEMENT WITHIN 60 DAYS:** This project must be operational within 60 days of the project starting date, as specified in the grant contract agreement. If the project is not operational within 60 days of the specified project starting date, the grantee must report by letter to JCS, the steps taken to initiate the project, the reasons for delay, and the expected starting date.

5. **OPERATIONAL WITHIN 90 DAYS:** If the project is not operational within 90 days of the specified project starting date, the grantee must submit a second statement to JCS explaining the delay in implementation.
6. **SUSPENSION OF FUNDING:** The grantee acknowledges that acceptance of an award is not a guarantee of funds. Further, by accepting this award, the grantee acknowledges and agrees that JCS may suspend in whole or in part, terminate, or impose other sanctions on any grantee funds for the following reasons:
- Failure to adhere to the requirements, standard conditions, or special conditions and assurances of this program;
 - 60 or more days late in submitting reports;
 - Failure to submit reports;
 - High Risk Grantee as determined by the JCS High Risk Assessment; or
 - Any other cause shown.
7. **SANCTIONS FOR NONCOMPLIANCE:** In the event of the grantee's noncompliance with the terms, conditions, covenants, rules, or regulations of this grant, JCS shall impose such contract sanctions, as it may deem appropriate, including but not limited to:
- Withholding of payments to the grantee until the grantee complies or, if reports are more than 60 days late, the funding for that month is forfeited and may not be recouped or remedied;
 - Cancellation, termination or suspension of the contract, in whole or in part;
 - Refraining from extending any further assistance to the grantee until satisfactory assurance of future compliance has been received;
 - If the grantee is receiving funds on an upfront basis, JCS can commute the transfer of funds mechanism to a reimbursement only process for the remainder of the grant period;
 - If the grantee is receiving funds on an upfront basis and a determination is made by JCS that funds were intentionally or unintentionally misused, misappropriated, misspent or otherwise not consistent with the intents and purpose of the grant, the grantee automatically forfeits any remaining funds from the grant program, and any other awarded funds from any other program, until a satisfactory resolution has been achieved;
 - If a grantee is indebted to JCS for any amount of funds at the close of an applicable quarter, semi-annual or end of a grant period, and the debt is not resolved within 30 days following the close of those periods, the grantee acknowledges and agrees that it is automatically ineligible to receive or apply for funds from JCS for any grant program; and
 - Grantee agrees and acknowledges that under no circumstances may it commute a debt to be applied as matching funds; or, will JCS reduce a future quarterly or semi-annual allotment or future award as repayment of the debt. Repayment must be from a general account or an account unrelated to the grant award.
8. **ACCOUNTING REQUIREMENTS:** Grantee agrees to record all project funds and costs following generally accepted accounting principles. A unique account number or cost recording must separate all project costs from the grantee's other or general expenditures. Adequate documentation for all project costs and income must be maintained. Adequate documentation

of financial and supporting material must be retained and be available for audit purposes. Federal regulations prohibit the commingling of Federal grant funds with funds from other sources; further, funds received on an upfront basis from JCS for one program may not be comingled with funds received on an upfront basis for another JCS program.

9. **REPORTS:** Regardless of an award being on an upfront or reimbursement basis, each grantee shall submit all reports as JCS requires necessary to the execution of monitoring, stewardship, and evaluation of programmatic and fiscal responsibilities.
10. **WRITTEN APPROVAL OF CHANGES:** The grantee must obtain prior written approval from JCS for all project changes (programmatic, fiscal or otherwise) before those changes are executed.
11. **OBLIGATION OF PROJECT FUNDS:** Funds may not, without prior written approval from JCS, be obligated prior to the effective start date or subsequent to the termination date of the project period. Obligations outstanding as of the project termination date shall be liquidated within thirty (30) days.
12. **USE OF FUNDS:** Funds awarded through JCS may be expended only for the purposes and activities specifically covered by the grantee's approved project scope and budget. By attaching their signature, the grantee recognizes that any deviations from the original grant budget are unallowable.
13. **ALLOWABLE AND UNALLOWABLE COSTS:** Allowable and unallowable costs incurred under this grant shall be determined in accordance with General Accounting Office principles and standards, state guidelines, and federal guidelines pursuant to the specific grant program.
14. **PURCHASING:** When making purchases relevant to the grant, the grantee will abide by applicable State and local laws, which address purchasing procedures by a state or local unit of government or another agency. See 148CSR1 of the West Virginia State Code.
15. **PROJECT INCOME:** All income earned by the grantee as a result of the conduct of this project must be accounted for and included in the total budget. Project income is subject to the same expenditure guidelines established for grant funds by JCS. All grantees must maintain records that clearly show the source, the amount, and the timing of all project income. There is no waiver provision for the project income requirement.
16. **MATCHING CONTRIBUTION:** The grantee will have available, and will expend as required, adequate resources to defray that portion of the total costs as set forth in this application as "match" and as approved by JCS. The applicant assures that the matching funds required to pay the grant portion of the cost of each program and project, for which funds are made available, shall be in addition to funds that would otherwise be made available for the proposed project by the recipients of grant funds and shall be provided on a project-by-project basis. Matching contributions are subject to the same expenditure guidelines as grant funds for this program. All grantees must maintain records that clearly show the source, the amount, and the timing of all matching contributions. In addition, Federal grant dollars from any source may not be utilized as matching funds.
17. **TIME EXTENSIONS:** In general, time extensions will not be granted. Unexpended grant funds remaining at the close of the grant period shall be deobligated. Funds remaining at the end of a project where an upfront allocation will, by the deadline of the final financial and progress report, be remitted back to JCS.

18. **NON-SUPPLANTING:** Grant funds must be used to supplement existing funds for program activities and may not replace (supplant) funds that have been appropriated for the same purpose. Potential supplanting will be the subject of monitoring and audit. Violations can result in a range of penalties, including suspension of future funds under this program, suspension or debarment from state grants, recoupment of monies provided under this grant, and civil and/or criminal penalties. The grantee hereby certifies that funds made available under this grant will not be used to supplant other funding sources.
19. **TRANSFER OF FUNDS PROHIBITION:** The grantee is expressly prohibited from transferring funds between any JCS programs. Federal regulations prohibit the commingling of Federal grant funds with funds from other sources.
20. **TRAINING:** For projects involving payment of personnel, JCS reserves the right to require training as a condition of the grant before or at any time during the project period.
21. **PURCHASE OF AMERICAN-MADE EQUIPMENT/PRODUCTS:** To the extent practicable, all equipment and products purchased with state funds made available under this grant should be American-made.
22. **MARKING OF EQUIPMENT:** Grantee will ensure that all equipment purchased with grant funding shall be prominently marked as follows: "Purchased with funds provided by Justice and Community Services."
23. **PROPERTY ACCOUNTABILITY:** The grantee shall establish and administer a system to control, protect, preserve, use, maintain, and properly dispose of any property or equipment furnished it, or made available through a grant by JCS. This obligation continues as long as the property is retained by the grantee, notwithstanding the expiration of this agreement. Prior to sale, trade in or disposal of property, disposition instructions will be obtained from JCS. Grantee assures inventory checks will be performed annually or pursuant to guidance promulgated in the Administrative Manual for this program (if applicable), with copies provided to JCS. Property must be used for the intended grant purposes. If the property is not being used in accordance with terms of the grant, said property will revert to JCS.
24. **COMPUTER EQUIPMENT:** Grantees purchasing computer equipment (hardware, software, or peripherals) with grant funds are required to adhere to the established bidding procedures for their respective units of government or agency. To ensure reputable vendors are obtained, grantees may consider utilizing the current applicable State computer contract. Computer equipment must adhere to minimum requirements established by the West Virginia Office of Technology.
25. **LEASE AGREEMENTS:** Grantee agrees to provide JCS with a copy of the lease arrangement if funds are being requested for reimbursement or utilized as match.
26. **PATENTS AND/OR COPYRIGHTS AND RIGHTS IN DATA:** Grantee acknowledges that JCS, or any applicable parent federal agency, reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, for State or Federal government purposes: (1) the copyright in any work developed under an award or sub award; and, (2) any rights of copyright to which a recipient or sub recipient purchases ownership, in whole or in part, with State or Federal support. Grantee agrees to consult with JCS regarding the allocation of any patent rights that arise from, or are purchased with, this funding.

- 27. ACCESS TO RECORDS:** JCS, through any authorized representative, shall have access to and the right to examine all records, books, papers, or documents related to the grant and to relevant books and records of contractors.
- 28. CIVIL RIGHTS COMPLIANCE:** Grantee will comply with any applicable federal nondiscrimination requirements, which may include the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. §§ 10228(c) and 10221(a)); the Victims of Crime Act (34 U.S.C. § 20110(e)); the Juvenile Justice and Delinquency Prevention Act of 2002 (34 U.S.C. § 11182(b)); the Violence Against Women Act (34 U.S.C. § 12291(b)(13)); the Civil Rights Act of 1964 (42 U.S.C. § 2000d); the Indian Civil Rights Act (25 U.S.C. §§ 1301-1303); the Rehabilitation Act of 1973 (29 U.S.C. § 794); the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12131-34); the Education Amendments of 1972 (20 U.S.C. §§ 1681, 1683, 1685-86); the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07); Executive Order 13279, Equal Protection of the Laws for Faith-Based and Community Organizations; Executive Order 13559, Fundamental Principles and Policymaking Criteria for Partnerships With Faith-Based and Other Neighborhood Organizations; and the DOJ implementing regulations at 28 C.F.R. Part 38. Subrecipients of grants under the Violence Against Women Act (VAWA) of 1994, as amended, are prohibited from discriminating on the basis of sexual orientation or gender identity. These laws collectively prohibit grantees from discriminating on the basis of race, color, national origin, sex, disability, age, religion, sexual orientation and gender identity. In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of age, disability, race, color, religion, national origin, or sex against a recipient of funds, the grantee will forward a copy of the finding to the Office for Civil Rights, Office of Justice Programs and Justice and Community Services Section.
- 29. RELIGIOUS ACTIVITIES:** Grantees must ensure that services are offered without regard to religious affiliation and that receipt of services is not contingent upon participation in a religious activity or event. Furthermore, all religious activities must be separate in time or place from the funded project. Participation in such activities by individuals receiving services must be voluntary.
- 30. LOBBYING:** Grantee will comply with any and all lobbying provisions and/or restrictions as outlined in the Uniformed Guidelines, Department of Justice Guidelines, and as outlined in §6B-2-5 of the West Virginia State code.
- 31. CONFLICT OF INTEREST:** No public official or employee of the grantee agency, who performs any duties under the project, may participate in an administrative decision with respect to the project if such a decision can reasonably be expected to result in any benefit or remuneration to that individual or that individual's immediate family as discussed in the W. Va. Code §§ 6B-1-1 through 6B-3-11).
- 32. FREEDOM OF INFORMATION ACT:** All records, papers, and other documents kept by recipients of grant funds are required to be made available to JCS. These records and other documents submitted to JCS and its grantees, including plans and application for funds, reports, etc., may be subsequently required to be made available to entities under Federal Freedom of Information Act, 5. U.S.C. §552, or Chapter 29B, Article 1 (West Virginia Freedom of Information) of the West Virginia Code. JCS recognizes that some information submitted in the course of applying for funding under this program or provided in the course of its grant management activities, may be considered law enforcement, personnel, juvenile sensitive, or personal or otherwise important to national or state security interests. This may include threat,

risk and needs assessment information, and discussions of demographics, transportation, public works, and industrial and public health infrastructures.

While this information under state control is subject to requests made pursuant to the Chapter 29B, Article 1 of the West Virginia Code, all determinations concerning the release of information of this nature are made on a case-by-case basis by JCS and may fall within one or more of the available exemptions under the Act.

Grantees must consult applicable federal, state, and local laws and regulations regarding the release or transmittal of information to any entity which may be considered sensitive or protected. Applicants may also consult JCS regarding concerns or questions about the release of potentially sensitive, protected or exempt information applicable to federal, state, and local laws and regulations.

JCS has the authority to release all information which does not meet an exemption to the public without a FOIA.

33. **NATIONAL AND STATE EVALUATION EFFORTS:** The grantee agrees to cooperate with any national and/or state evaluation efforts directly or indirectly related to this program as requested.
34. **SUBMISSION/RELEASE OF PUBLICATIONS/PRESS RELEASES:** The grantee must submit one copy of all reports and proposed publications resulting from this agreement to JCS twenty (20) days prior to public release. Any publications (written, visual, sound, or otherwise), whether published at the grantee's or government's expense, shall contain the following statements: "This document [product] was prepared under a grant from the West Virginia Division of Administrative Services, Justice & Community Services Section (or simply "JCS"). Points of view or opinions expressed in this document [product] are those of the authors and do not necessarily represent the official position or policies of the State of West Virginia Division of Administrative Services, Justice & Community Services Section or any entity of the Department of Justice." In addition, the grantee agrees not to utilize the JCS logo without written permission.
35. **JUVENILE JUSTICE & DELINQUENCY PREVENTION ACT:** Grantee agrees to comply with the four core protections under the Juvenile Justice & Delinquency Prevention (JJDP) Act of 1974, reauthorized 2002.
 - Deinstitutionalization of status offenders (DSO).
 - Separation of juveniles from adults in institutions (separation).
 - Removal of juveniles from adult jails and lockups (jail removal).
 - Reduction of disproportionate minority contact (DMC), where it exists.

As well as, 101CSR1 of the West Virginia code. This includes, but is not limited to, completing the annual WV Certification of Non-Secure Facilities and submitting to JCS, if applicable, and submitting a monthly Secure Holding Log, if applicable.
36. **COLLABORATION W/OTHER FEDERAL AND STATE GRANTS:** Where warranted, this initiative/grantee shall make every effort to support or assist other federally funded or State grant programs in any manner, including but not limited to, providing personnel, supplies, equipment, and any other resources deemed necessary by JCS.
37. **USE OF DATA/EXCHANGE OF INFORMATION:** With respect to programs related to criminal justice information systems, the grantee agrees to comply with the provisions of 28

CFR, Part 20 governing the protection of the individual privacy and the insurance of integrity and accuracy of data collection. The grantee further agrees:

- a. That all computer programs (software produced under this grant) will be made available to JCS for transfer to authorized users in the criminal justice community without cost other than that directly associated with the transfer. The software will be documented in sufficient detail to enable potential users to adapt the system, or portions thereof, to usage on a computer of similar size and configuration.
- b. To provide a complete copy of the computer programs and documentation, upon requests, to JCS. The documentation will include, but not be limited to, system description, operating instruction, program maintenance instructions, input forms, file descriptions, report formats, program listings, and flow charts for the system and programs.
- c. That whenever possible all application programs will be written in standardized programming languages or will adhere to Open Database Connectivity format for use on general operating systems that can be utilized on at least three different manufacturers of computer hardware with similar size and configuration capabilities.
- d. To avail itself, to the maximum extent possible, of computer software already produced and available without charge. The Criminal Justice Systems Clearinghouse (916-392-2550) should be contacted to determine availability of software prior to any development effort.

38. **NATIONAL AND STATE EVALUATION EFFORTS:** The grantee agrees to cooperate with any national and/or state evaluation efforts directly or indirectly related to this program as requested.
39. **EQUAL EMPLOYMENT OPPORTUNITY PLAN:** The grantee will provide an Equal Employment Opportunity Plan (EEOP) to the Office for Civil Rights, Office of Justice Programs (OCR) and JCS. Each grantee certifies that it has executed and has on file an Equal Employment Opportunity Plan which conforms with the provisions of 28 CFR Section 42.301, et. seq., Subpart E; or that in conformity with the foregoing regulations, no Equal Employment Opportunity Plan is required. The grantee further certifies that it has filed an EEOP Certification form and, if required, an EEOP Utilization Report, through the EEO Reporting Tool at <https://ojp.gov/about/ocr/eeop.htm>.
40. **VETERANS PREFERENCE:** This program includes a provision that grantees utilizing funds to hire additional personnel, to the extent possible, give suitable preference in employment to military veterans. JCS defines "suitable preference" as the requirement that a grantee agency have in place a mechanism ensuring that veterans are given consideration in the hiring process.
41. **IMMIGRATION AND NATURALIZATION VERIFICATION:** The grantee agrees to complete and keep on file, as appropriate, applicable Immigration and Naturalization Service Employment Eligibility Verification Forms. These forms are to be used by recipients of state funds to verify that employees are eligible to work in the United States.
42. **POLITICAL ACTIVITY:** The Hatch Act restricts the political activity of executive branch employees of the federal government, District of Columbia government, and some state and local employees who work in connection with federally funded programs. In 1993, Congress passed legislation that significantly amended the Hatch Act as it applies to federal and D.C. employees (5 U.S.C. §§ 7321-7326). (These amendments did not change the provisions that

apply to state and local employees. 5 U.S.C. §§ 1501- 1508.). Please reference West Virginia Code § 29-6-20 for state restricted activities.

- 43. PUBLIC SAFETY AND JUSTICE INFORMATION SHARING:** Grantees must support public safety and justice information sharing. The grantee is required to use the Global Justice Data Model specifications and guidelines for this grant. Grantee shall publish and make available without restriction all schemas (extensions, constraint, proxy) generated as a result of this grant to the component registry as specified in the guidelines. This information is available at www.it.ojp.gov/gjxdm.

To the best of my knowledge the applicant has and will comply with all of the attached Standard Conditions and Assurances.

Authorized Official [please print]: _____

Authorized Official Signature: _____

Date: _____

Attachments To The
 Master Lease - Purchase Agreement
 Between
 COUNTRY ROADS LEASING, LLC
 AND
 UPSHUR COUNTY COMMISSION
 DATED 03/18/2021
 EQUIPMENT SCHEDULE NUMBER 5

Equipment List	Attachment 1
Schedule of Payments	Attachment 2
Acceptance Certificate	Attachment 3
Form of Lessee's Counsel Opinion	Attachment 4
Resolutions of Governing Body	Attachment 5
Incumbency Certificate	Attachment 6
Essential Use Letter	Attachment 7
Insurance Coverage Agreement	Attachment 8
Small Issuer Certificate	Attachment 9
Payment Request Form	Attachment 10
IRS Form 8038, Form 8038G or Form 8038GC (As Applicable)	Attachment 11
Uniform Commercial Code Financing Statement(s)	Attachment 12
Municipal Addendum (If Applicable)	Attachment 13

Attachment 1

EQUIPMENT LIST
(Acceptance Certificate No.5)

The Equipment which is the subject of that certain Master Equipment Lease-Purchase Agreement dated March 18, 2021, (the "Agreement") between Country Roads Leasing, LLC and Lessee is as follows:

One (1) New 2023 Jeep Grand Cherokee (VIN#1C4RJHAG0PC586223) and Ancillary Equipment

The above described
Equipment shall be
located at:

Upshur County Sheriff's Office
38 West Main Street
Buckhannon, West Virginia 26201

LESSEE:

Upshur County Commission 91 West Main Street Buckhannon, West Virginia 26201

By: _____

Name: Kristie G. Tenney

Title: President

Attachment 2

SCHEDULE OF PAYMENTS
(Acceptance Certificate No.5)

Pertaining to that certain Acceptance Certificate No.5 entered pursuant to that certain Master Equipment Lease-Purchase Agreement, dated March 18, 2021 (the "Agreement") between Country Roads Leasing, LLC ("Lessor") and Upshur County Commission ("Lessee").

All terms not defined herein have their meanings described in the Agreement.

A. RENTAL PAYMENTS, TERM, TRANSPORTATION AND DELIVERY COSTS.

The Rental Payments required under the Agreement for the Equipment described in the attached Description of Equipment will be:

\$13,444.66 per year made for a term of 4 payments, with the first payment due on June 2, 2023, and each subsequent payment due on the like day of each year thereafter.

A portion of each Rental Payment is paid as and represents payment of interest as set forth on Amortization Schedule attached hereto. Lessee agrees to and shall pay all transportation and/or delivery costs if any.

B. LATE PAYMENTS.

PURSUANT TO SECTION 12.5 OF THE AGREEMENT, THERE WILL BE A LATE PAYMENT CHARGE FOR EACH THIRTY (30) DAY PERIOD, OR PART THEREOF, DURING WHICH SUCH EVENT OF DEFAULT OCCURS, EQUAL TO ONE AND ONE-HALF (1.5%) PERCENT, OR THE HIGHEST LEGAL RATE ALLOWED BY LAW, WHICHEVER IS LESS, OF THE DELINQUENT AMOUNT OF PRINCIPAL AND ACCRUED INTEREST OWED.

C. BUDGETARY PERIOD.

Lessee's budgetary period is from July 1 to June 30.

THE TERMS GOVERNING THIS SCHEDULE OF PAYMENTS ARE CONTAINED IN THE AGREEMENT REFERENCED ABOVE AND APPLY WITH THE SAME FORCE AND EFFECT AS IF SET FORTH FULLY HEREIN.

LESSOR:

Country Roads Leasing, LLC
Post Office Box 217
Bridgeport, West Virginia 26330

LESSEE:

Upshur County Commission
91 West Main Street
Buckhannon, West Virginia 26201

By: _____
Name: Jeffrey W Smell
Title: Sole Member

By: _____
Name: Kristie G. Tenney
Title: President

Upshur County Sheriff's Department Grand Cherokee 2023

Compound Period: Annual

Nominal Annual Rate: 6.100 %

CASH FLOW DATA

Event	Date	Amount	Number	Period	End Date
Payment	06/02/2023	13,444.66	4	Annual	06/02/2026

AMORTIZATION SCHEDULE - Normal Amortization

	Date	Payment	Interest	Principal	Balance
Loan	06/02/2023				49,316.00
1	06/02/2023	13,444.66	0.00	13,444.66	35,871.34
2023 Totals		13,444.66	0.00	13,444.66	
2	06/02/2024	13,444.66	2,188.15	11,256.51	24,614.83
2024 Totals		13,444.66	2,188.15	11,256.51	
3	06/02/2025	13,444.66	1,501.50	11,943.16	12,671.67
2025 Totals		13,444.66	1,501.50	11,943.16	
4	06/02/2026	13,444.66	772.99	12,671.67	0.00
2026 Totals		13,444.66	772.99	12,671.67	
Grand Totals		53,778.64	4,462.64	49,316.00	

Last interest amount increased by 0.02 due to rounding.

Attachment 3

ACCEPTANCE CERTIFICATE No. 5

THIS ACCEPTANCE CERTIFICATE is issued pursuant to that certain Master Equipment Lease-Purchase Agreement dated March 18, 2021 (the "Agreement") between Country Roads Leasing, LLC ("Lessor") and Upshur County Commission, ("Lessee"). All terms not defined herein shall have their meanings described in the Agreement.

1. The undersigned, as Lessee under the Agreement, acknowledges delivery, installation and receipt in good condition, and hereby accepts, all of the Equipment described on the attached Equipment List this 2nd day of June 2023.

2. A present need exists for the Equipment which need is not temporary or expected to diminish in the near future. The Equipment is essential to and will be used by Lessee only for the purpose of performing one or more governmental functions of Lessee consistent with the permissible scope of Lessee's authority.

3. Lessee confirms that it will make all Rental Payments set forth on the Schedule of Payments attached hereto as required by and in accordance with Article V of the Agreement.

4. Lessee confirms that sufficient funds have been appropriated to make all Rental Payments due during its current fiscal year and expects and anticipates that sufficient funds will be available to make all Rental Payments due in subsequent years.

5. The Equipment is covered by insurance in the types and amounts required by the Agreement and is located at the location set forth in the attached Equipment List.

6. Lessee is exempt from all personal property taxes and is exempt from sales and/or use taxes with respect to the Equipment and the Rental Payments.

7. There is no litigation, action, suit or proceeding pending or before any court, administrative agency, arbitrator or governmental body, that challenges: the organization or existence of Lessee; the authority of Lessee or its officers to enter into the Agreement; the proper authorization, approval and execution of the Agreement and other documents contemplated thereby; the appropriation of moneys, or any other action taken by Lessee to provide moneys, sufficient to make Rental Payments coming due under the Agreement in Lessee's current fiscal year; or the ability of Lessee otherwise to perform its obligation under the Agreement and the transactions contemplated thereby.

8. No event of default, as such term is defined in the Agreement, and no event which with the giving of notice of lapse of time, or both, would become an event of default, has occurred and is continuing on the date hereof.

9. Lessee hereby authorizes and directs Lessor to fund the acquisition cost of the Equipment by paying the Vendor(s) the invoice price(s) as set forth on the attached Description of Equipment, and certifies that upon such payment, Lessor will have fully and satisfactorily performed all of its covenants and obligations under the Agreement with respect to the Equipment.

ATTEST:**LESSEE:**

By: _____
Name: Carol J. Smith
Title: County Clerk

By: _____
Name: Kristie G. Tenney
Title: President

Resolutions of Governing Body**LESSEE: Upshur County Commission**

Master Equipment Lease-Purchase Agreement dated: March 18, 2021

At a duly called meeting of the governing body of Lessee held in accordance with all applicable legal requirements, including open meeting laws, on the 20th day of April 2023, the following resolution was introduced and adopted.

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A MASTER EQUIPMENT LEASE-PURCHASE AGREEMENT, AND RELATED INSTRUMENTS, AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH.

WHEREAS, the members of the Upshur County Commission ("Lessee") have determined that a true and very real need exists for the equipment (the "Equipment") described in the Master Equipment Lease-Purchase Agreement (the "Agreement") presented to this meeting; and

WHEREAS, Lessee has taken the necessary steps, including those relating to any applicable legal bidding requirements, to arrange for the acquisition of the Equipment, and

WHEREAS, Lessee proposes to enter into the Agreement substantially in the form presented in this meeting:

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF LESSEE AS FOLLOWS:

Section 1. **BEST INTERESTS OF LESSEE.** It is hereby found and determined that the terms of the Agreement in the form presented to this meeting and incorporated in this resolution are in the best interests of Lessee for the acquisition of the Equipment.

Section 2. **AUTHORIZATION.** The Agreement is hereby approved. The President of Lessee and other officers of Lessee who shall have power to execute contracts on behalf of Lessee be, and each of them hereby is, authorized to execute, acknowledge and deliver the Agreement with any changes, insertions and omissions therein as may be approved by the officer(s) who execute the Agreement, such approval to be conclusively evidenced by such execution and delivery of the Agreement. The President or County Clerk of the Lessee and any other officers of Lessee who shall have power to do so be, and each of them hereby is, authorized to affix the official seal of Lessee to the Agreement and attest the same.

Section 3. **EXECUTION OF DOCUMENTS.** The proper officer(s) of Lessee be, and each of them hereby is, authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do or cause to be done any and all other acts and things necessary or proper for carrying out this resolution and the Agreement.

Section 4. **DESIGNATION AS QUALIFIED TAX-EXEMPT OBLIGATION.** Lessee hereby designates the Agreement as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986 as amended.

Section 5. **EFFECTIVE DATE.** This Resolution shall take effect immediately.

The undersigned certifies that the above resolution has not been repealed or amended and remains in full force and effect, and further certifies that the above and foregoing Agreement is the same as presented at said meeting of the governing body of Lessee.

Seal:

County Clerk

I hereby certify that I am the President of said governing body and that the foregoing is a correct copy of the resolution passed as therein set forth, and that the same is now in full force.

LESSEE:

Upshur County Commission 91 West Main Street Buckhannon, West Virginia 26201

By: _____

Name: Kristie G. Tenney

Title: President

Attachment 6

INCUMBENCY CERTIFICATE

I do hereby certify that I am the duly elected or appointed and acting President of the Upshur County Commission, a political subdivision duly organized and existing under the laws of the State of West Virginia, that I have custody of the records of such entity, and that, as of the date hereof, the individuals named below are duly elected or appointed officers of such entity holding the offices set forth opposite their respective names. I further certify that (i) the signatures set opposite their respective name and titles are their true and authentic signatures and (ii) such officer(s) have the authority on behalf of such entity to enter into that certain Master Equipment Lease-Purchase Agreement dated March 18, 2021 between such entity and Country Roads Leasing, LLC.

NAME	TITLE	SIGNATURE
Kristie G. Tenney	President	_____
Carol J. Smith	County Clerk	_____

IN WITNESS WHEREOF, I have duly executed this certificate and affixed and seal of such entity hereto this 2nd day of June 2023.

By: _____

Name: Kristie G. Tenney
Title: President

Seal

Attachment 7

ESSENTIAL USE LETTER

Reference is made to that certain Master Equipment Lease-Purchase Agreement, dated as of March 18, 2021, (the "Agreement"), between Country Roads Leasing, LLC, as Lessor and the undersigned, as Lessee. The Equipment, as such term is defined in the Agreement can generally be described as follows:

One (1) New 2023 Jeep Grand Cherokee (VIN#1C4RJHAG0PC586223) and Ancillary Equipment

This confirms and affirms that the Equipment is essential to the governmental functions of Lessee. Further, Lessee has an immediate need for, and expects to make immediate use of, substantially all the Equipment, which need is not temporary or expected to diminish in the foreseeable future. The Equipment will be used by Lessee for the purpose of performing one or more of Lessee's governmental functions consistent with the permissible scope of Lessee's authority and not in any trade or business carried on by any person other than Lessee.

LESSEE:

Upshur County Commission 91 West Main Street Buckhannon, West Virginia 26201

By: _____

Name: Kristie G. Tenney

Title: President

Date: June 2, 2023

Attachment 8

INSURANCE COVERAGE AGREEMENT**LESSEE:**

**Upshur County Commission
91 West Main Street
Buckhannon, West Virginia 26201**

LESSOR:

Country Roads Leasing, LLC
Post Office Box 217
Bridgeport, West Virginia 26330

Description of Equipment: One (1) New 2023 Jeep Grand Cherokee (VIN#1C4RJHAG0PC586223)
and Ancillary Equipment

I understand that to provide protection from serious financial loss, should an accident or loss occur, my lease contract requires the equipment to be continuously covered with insurance against the risks of fire and theft, and that failure to provide such insurance gives the Lessor the right to declare the entire unpaid balance immediately due and payable.

I further understand that all insurance policies required pursuant hereto shall be so written or endorsed as to make losses, if any, payable to Lessee and Lessor, or its assignees, as their respective interests may appear, shall name Lessor and its assignees as additional insured, and shall be in form and amount and with insurance companies reasonably satisfactory to Lessor; that each insurer shall agree, by endorsement upon the policy or policies issued by it or by independent instrument furnished to Lessor, that (a) it will give Lessor thirty (30) days prior written notice of the effective date of any material alteration or cancellation of such policy; and (b) insurance as to the interest of any named additional insured or loss payee other than Lessee shall not be invalidated by any actions, inactions, breach of warranty or conditions or negligence of Lessee with respect to such policy or policies; and that the Net Proceeds (as defined in Section 8.01) of the insurance required in Article VII of the Agreement shall be applied as provided in Section 8.4 and 8.5 hereof.

Accordingly, I have arranged for the required insurance through the insurance company shown below and have requested my agent to note Lessor's interest in the equipment and name Lessor as additional insured.

INSURANCE AGENT

Name Jared Mullen
Address: 1819 Electric Road, Ste. C
Roanoke, VA 24018
Phone 540-904-1837

INSURANCE COMPANY

WV Corp.
Policy: WV-UP-049-23
Email jmullen@riskprograms.com

By: _____
Name: Kristie G. Tenney
Title: President
Date: June 2, 2023

Attachment 9

SMALL ISSUER CERTIFICATE

Reference is made to, and this certificate is attached to and made a part of, that certain Master Equipment Lease-Purchase Agreement (the "Agreement") dated as of March 18, 2021 by and between Country Roads Leasing, LLC, as Lessor, and Upshur County Commission, as Lessee.

1. Lessee has not issued, and reasonably anticipates that it and its subordinate entities will not issue, tax-exempt obligations (including the Agreement) in the amount of more than \$10,000,000 as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended ("Code"); and agrees that it and its subordinate entities will not designate more than \$10,000,000 of their obligations as "qualified tax-exempt obligations" during the current calendar year.

2. The parties assume and intend that the Agreement will qualify as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3)(B) of the Code. In the event that Lessor either (i) receives notice from the Internal Revenue Service; or (ii) reasonably determines, based on an opinion of independent tax counsel selected by Lessor and approved by Lessee, which approval Lessee shall not reasonably withhold, that the otherwise applicable exception set forth in Section 265(b)(3) of the Code is not available, then Lessee shall pay to Lessor within thirty (30) days after receiving notice from lessor of such event, the amount which with respect to rental payments previously paid, will restore the after-tax yield on the transaction evidenced by the Agreement to that which it would have been had such exception been available, and pay as an additional rent on succeeding rent payment due dates such amount as will maintain such after-tax yield.

3. The obligations of Lessee hereinunder which accrue during the term of the Agreement shall survive termination of the Agreement.

4. The parties agree that this attachment is an integral part of the Agreement.

DATE: June 2, 2023

LESSOR:

Country Roads Leasing, LLC Post
Office Box 217
Bridgeport, West Virginia 26330

LESSEE:

Upshur County Commission
91 West Main Street
Buckhannon, West Virginia 26201

By _____
Name: Jeffrey W Smell
Title: Sole Member

By: _____
Name: Kristie G. Tenney
Title: President

Attachment 10

PAYMENT REQUEST FORM

Country Roads Leasing, LLC is hereby requested to facilitate payment to the person or corporation designated below as Payee, the sum set forth below such designation, in payment (of all/a portion) of the acquisition costs described below. The amount shown below is due and payable under a purchase order or contract with respect to the equipment item cost described below and has not formed the basis of any prior request for payment.

PAYEE: Elkins Chrysler Dodge Jeep Ram

AMOUNT: \$43,157.00

DESCRIPTION OF EQUIPMENT: One (1) New 2023 Jeep Grand Cherokee (VIN#1C4RJHAG0PC586223) and Ancillary Equipment

LESSOR:

Country Roads Leasing, LLC Post
Office Box 217
Bridgeport, West Virginia 26330

LESSEE:

Upshur County Commission
91 West Main Street
Buckhannon, West Virginia 26201

By _____
Name: Jeffrey W Smell
Title: Sole Member

By: _____
Name: Kristie G. Tenney
Title: President
Date: June 2, 2023

Attachment 10

PAYMENT REQUEST FORM

Country Roads Leasing, LLC is hereby requested to facilitate payment to the person or corporation designated below as Payee, the sum set forth below such designation, in payment (of all/a portion) of the acquisition costs described below. The amount shown below is due and payable under a purchase order or contract with respect to the equipment item cost described below and has not formed the basis of any prior request for payment.

PAYEE: _____

AMOUNT: \$4,490.21

DESCRIPTION OF EQUIPMENT: Ancillary Equipment for One (1) New 2023 Jeep Grand Cherokee
(VIN#1C4RJHAG0PC586223)

LESSOR:

Country Roads Leasing, LLC Post
Office Box 217
Bridgeport, West Virginia 26330

LESSEE:

Upshur County Commission
91 West Main Street
Buckhannon, West Virginia 26201

By _____
Name: Jeffrey W Smell
Title: Sole Member

By: _____
Name: Kristie G. Tenney
Title: President
Date: June 2, 2023

ADDENDUM NO. 1
To
Master Lease-Purchase Agreement (the "Lease")
Dated March 18, 2021
By and Between Country Roads Leasing, LLC (the "Lessor") and
The Upshur County Commission (the "Lessee")

1. Pursuant to Section 7-1-3GG (3) of the West Virginia Code, as amended, the Lessee shall have the following options during each fiscal year of the Lease:

(a) The option to terminate the Lease and return the equipment without any further obligation on the part of Lessee;

(b) The option to continue the Lease for an additional rental period not to exceed one (1) year in length; and,

(c) The option to pay in advance at any time during any fiscal year the balance due under the Lease, with an appropriate rebate of the unearned interest or time-price differential, if any.

2. Lessee represents and certifies that the funds for the initial rental payment under this agreement are legally at the disposal of the Lessee for expenditure in the current fiscal year.

3. Any conflict between the terms and conditions of this Addendum and of the Lease shall be governed by the terms of this Addendum.

Dated: June 2, 2023

Country Roads Leasing, LLC Post
Office Box 217
Bridgeport, West Virginia 26330

By: _____
Its: Sole Member

Upshur County Commission
91 West Main Street
Buckhannon, West Virginia 26201

By: _____
Title: President

NOTICE AND ACKNOWLEDGMENT OF ASSIGNMENT

Pursuant to the Master Equipment Lease-Purchase Agreement ("Agreement") dated March 18, 2021, schedule #5 dated as of June 2, 2023, Country Roads Leasing, LLC ("Lessor"), hereby gives notice to the Upshur County Commission, whose address is, 91 West Main Street, Buckhannon, West Virginia 26201, ("Lessee") of an Assignment between Country Roads Leasing, LLC and Freedom Bank, ("Assignee") whose address is 625 West Main Street, Bridgeport, West Virginia 26330, by which Lessor assigned to Assignee all of its rights, title and interest in and to the Agreement and the Exhibits incorporated therein (collective, the "Assigned Lease"), the Equipment, and to the Lease Payment ("Lease Payment") and other amounts due under the Assigned Lease.

Lessee hereby agrees to (1) reflect this transfer through the book entry system maintained by Lessee pursuant to the Agreement, and (2) commencing on June 2, 2023 with 4 annual payments in the amount of \$13,444.66 and other amounts due pursuant to the Assigned Lease are payable to and should be remitted to the Assignee at the following or such other address as may be designated by Assignee:

**FREEDOM BANK
625 West Main Street
Bridgeport, West Virginia 26330**

For purposes of the Assignment, by receipt hereof, Lessee acknowledges that Lessor has assigned its right, title and interest under the Assigned Lease as such right, title and interest pertain to the Agreement.

Please acknowledge below and return the original of this Notice and Acknowledgment of Assignment to Country Roads Leasing, LLC.

LESSOR: COUNTRY ROADS LEASING, LLC

By: _____
SOLE MEMBER

ACKNOWLEDGED: LESSEE

By: _____
Its: **President**
Date: **June 2, 2023**

Form **8038-GC**
(Rev. January 2012)
Department of the Treasury
Internal Revenue Service

**Information Return for Small Tax-Exempt
Governmental Bond Issues, Leases, and Installment Sales**
► Under Internal Revenue Code section 149(e)

OMB No. 1545-0720

Caution: If the issue price of the issue is \$100,000 or more, use Form 8038-G.

Part I Reporting Authority		Check box if Amended Return <input type="checkbox"/>	
1 Issuer's name Upshur County Commission		2 Issuer's employer identification number (EIN) 5 5 6 0 0 4 0 6	
3 Number and street (or P.O. box if mail is not delivered to street address) 91 West Main Street, Suite 101		Room/suite	
4 City, town, or post office, state, and ZIP code Buckhannon, West Virginia 26201		5 Report number (For IRS Use Only) <div style="border: 1px solid black; width: 100px; height: 20px;"></div>	
6 Name and title of officer or other employee of issuer or designated contact person whom the IRS may call for more information Kristie G. Tenney, President		7 Telephone number of officer or legal representative 304-472-0535	
Part II Description of Obligations Check one: a single issue <input checked="" type="checkbox"/> or a consolidated return <input type="checkbox"/>			
8a Issue price of obligation(s) (see instructions)		8a	49,316 00
b Issue date (single issue) or calendar date (consolidated). Enter date in mm/dd/yyyy format (for example, 01/01/2009) (see instructions) ► 06/02/2023			
9 Amount of the reported obligation(s) on line 8a that is:			
a For leases for vehicles	9a	49,316 00	
b For leases for office equipment	9b		
c For leases for real property	9c		
d For leases for other (see instructions)	9d		
e For bank loans for vehicles	9e		
f For bank loans for office equipment	9f		
g For bank loans for real property	9g		
h For bank loans for other (see instructions)	9h		
i Used to refund prior issue(s)	9i		
j Representing a loan from the proceeds of another tax-exempt obligation (for example, bond bank)	9j		
k Other	9k		
10 If the issuer has designated any issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check this box <input checked="" type="checkbox"/>			
11 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check this box (see instructions) <input type="checkbox"/>			
12 Vendor's or bank's name: Freedom Bank			
13 Vendor's or bank's employer identification number: 5 5 0 1 2 2 1 8 5			
Signature and Consent Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person(s) that I have authorized above.			
Signature of issuer's authorized representative <div style="border-top: 1px solid black; width: 100%;"></div>		Date 06/02/2023 Type or print name and title Kristie G. Tenney, President	
Print/Type preparer's name		Preparer's signature	
Firm's name ►		Check <input type="checkbox"/> if self-employed	
Firm's address ►		PTIN	
		Firm's EIN ►	
		Phone no.	

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

What's New

The IRS has created a page on IRS.gov for information about the Form 8038 series and its instructions, at www.irs.gov/form8038. Information about any future developments affecting the Form 8038 series (such as legislation enacted after we release it) will be posted on that page.

Purpose of Form

Form 8038-GC is used by the issuers of tax-exempt governmental obligations to provide the IRS with the information required by section 149(e) and to monitor the requirements of sections 141 through 150.

Who Must File

Issuers of tax-exempt governmental obligations with issue prices of less than \$100,000 must file Form 8038-GC.

Issuers of a tax-exempt governmental obligation with an issue price of \$100,000 or more must file Form 8038-G, Information Return for Tax-Exempt Governmental Obligations.

Filing a separate return for a single issue. Issuers have the option to file a separate Form 8038-GC for any tax-exempt governmental obligation with an issue price of less than \$100,000.

An issuer of a tax-exempt bond used to finance construction expenditures must file a separate Form 8038-GC for each issue to give notice to the IRS that an election was made to

pay a penalty in lieu of arbitrage rebate (see the line 11 instructions).

Filing a consolidated return for multiple issues. For all tax-exempt governmental obligations with issue prices of less than \$100,000 that are not reported on a separate Form 8038-GC, an issuer must file a consolidated information return including all such issues issued within the calendar year.

Thus, an issuer may file a separate Form 8038-GC for each of a number of small issues and report the remainder of small issues issued during the calendar year on one consolidated Form 8038-GC. However, if the issue is a construction issue, a separate Form 8038-GC must be filed to give the IRS notice of the election to pay a penalty in lieu of arbitrage rebate.

When To File

To file a separate return for a single issue, file Form 8038-GC on or before the 15th day of the second calendar month after the close of the calendar quarter in which the issue is issued.

To file a consolidated return for multiple issues, file Form 8038-GC on or before February 15th of the calendar year following the year in which the issue is issued.

Late filing. An issuer may be granted an extension of time to file Form 8038-GC under section 3 of Rev. Proc. 2002-48, 2002-37 I.R.B. 531, if it is determined that the failure to file on time is not due to willful neglect. Type or print at the top of the form, "Request for Relief under section 3 of Rev. Proc. 2002-48." Attach to the Form 8038-GC a letter briefly stating why the form was not submitted to the IRS on time. Also indicate whether the obligation in question is under examination by the IRS. Do not submit copies of any bond documents, leases, or installment sale documents. See *Where To File* next.

Where To File

File Form 8038-GC, and any attachments, with the Department of the Treasury, Internal Revenue Service Center, Ogden, UT 84201.

Private delivery services. You can use certain private delivery services designated by the IRS to meet the "timely mailing as timely filing/paying" rule for tax returns and payments. These private delivery services include only the following:

- DHL Express (DHL): DHL Same Day Service.
- Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2Day, FedEx International Priority, and FedEx International First.
- United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M., UPS Worldwide Express Plus, and UPS Worldwide Express.

The private delivery service can tell you how to get written proof of the mailing date.

Other Forms That May Be Required

For rebating arbitrage (or paying a penalty in lieu of arbitrage rebate) to the Federal Government, use Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate. For private activity bonds, use Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues.

For a tax-exempt governmental obligation with an issue price of \$100,000 or more, use Form 8038-G.

Rounding to Whole Dollars

You may show the money items on this return as whole-dollar amounts. To do so, drop any amount less than 50 cents and increase any amount from 50 to 99 cents to the next higher dollar.

Definitions

Obligations. This refers to a single tax-exempt governmental obligation if Form 8038-GC is used for separate reporting or to

multiple tax-exempt governmental obligations if the form is used for consolidated reporting.

Tax-exempt obligation. This is any obligation including a bond, installment purchase agreement, or financial lease, on which the interest is excluded from income under section 103.

Tax-exempt governmental obligation. A tax-exempt obligation that is not a private activity bond (see below) is a tax-exempt governmental obligation. This includes a bond issued by a qualified volunteer fire department under section 150(e).

Private activity bond. This includes an obligation issued as part of an issue in which:

- More than 10% of the proceeds are to be used for any private activity business use, and
- More than 10% of the payment of principal or interest of the issue is either (a) secured by an interest in property to be used for a private business use (or payments for such property) or (b) to be derived from payments for property (or borrowed money) used for a private business use.

It also includes a bond, the proceeds of which (a) are to be used to make or finance loans (other than loans described in section 141(c)(2)) to persons other than governmental units and (b) exceeds the lesser of 5% of the proceeds or \$5 million.

Issue. Generally, obligations are treated as part of the same issue only if they are issued by the same issuer, on the same date, and as part of a single transaction, or a series of related transactions. However, obligations issued during the same calendar year (a) under a loan agreement under which amounts are to be advanced periodically (a "draw-down loan") or (b) with a term not exceeding 270 days, may be treated as part of the same issue if the obligations are equally and ratably secured under a single indenture or loan agreement and are issued under a common financing arrangement (for example, under the same official statement periodically updated to reflect changing factual circumstances). Also, for obligations issued under a draw-down loan that meets the requirements of the preceding sentence, obligations issued during different calendar years may be treated as part of the same issue if all of the amounts to be advanced under the draw-down loan are reasonably expected to be advanced within 3 years of the date of issue of the first obligation. Likewise, obligations (other than private activity bonds) issued under a single agreement that is in the form of a lease or installment sale may be treated as part of the same issue if all of the property covered by that agreement is reasonably expected to be delivered within 3 years of the date of issue of the first obligation.

Arbitrage rebate. Generally, interest on a state or local bond is not tax-exempt unless the issuer of the bond rebates to the United States arbitrage profits earned from investing proceeds of the bond in higher yielding nonpurpose investments. See section 148(f).

Construction issue. This is an issue of tax-exempt bonds that meets both of the following conditions:

1. At least 75% of the available construction proceeds of the issue are to be used for construction expenditures with respect to property to be owned by a governmental unit or a 501(c)(3) organization, and

2. All of the bonds that are part of the issue are qualified 501(c)(3) bonds, bonds that are not private activity bonds, or private activity bonds issued to finance property to be owned by a governmental unit or a 501(c)(3) organization.

In lieu of rebating any arbitrage that may be owed to the United States, the issuer of a construction issue may make an irrevocable election to pay a penalty. The penalty is equal to 1-1/2% of the amount of construction proceeds that do not meet certain spending requirements. See section 148(f)(4)(C) and the Instructions for Form 8038-T.

Specific Instructions

In general, a Form 8038-GC must be completed on the basis of available information and reasonable expectations as of the date of issue. However, forms that are filed on a consolidated basis may be completed on the basis of information readily available to the issuer at the close of the calendar year to which the form relates, supplemented by estimates made in good faith.

Part I—Reporting Authority

Amended return. An issuer may file an amended return to change or add to the information reported on a previously filed return for the same date of issue. If you are filing to correct errors or change a previously filed return, check the "Amended Return" box in the heading of the form.

The amended return must provide all the information reported on the original return, in addition to the new corrected information. Attach an explanation of the reason for the amended return and write across the top "Amended Return Explanation."

Line 1. The issuer's name is the name of the entity issuing the obligations, not the name of the entity receiving the benefit of the financing. In the case of a lease or installment sale, the issuer is the lessee or purchaser.

Line 2. An issuer that does not have an employer identification number (EIN) should apply for one on Form SS-4, Application for Employer Identification Number. You can get this form on the IRS website at IRS.gov or by calling 1-800-TAX-FORM (1-800-829-3676). You may receive an EIN by telephone by following the instructions for Form SS-4.

Lines 3 and 4. Enter the issuer's address or the address of the designated contact person listed on line 6. If the issuer wishes to use its own address and the issuer receives its mail in care of a third party authorized representative (such as an accountant or attorney), enter on the street address line "C/O" followed by the third party's name and street address or P.O. box. Include the suite, room, or other unit number after the street address. If the post office does not deliver mail to the street address and the issuer has a P.O. box, show the box number instead of the

street address. If a change in address occurs after the return is filed, use Form 8822, Change of Address, to notify the IRS of the new address.

Note. The address entered on lines 3 and 4 is the address the IRS will use for all written communications regarding the processing of this return, including any notices. By authorizing a person other than an authorized officer or other employee of the issuer to communicate with the IRS and whom the IRS may contact about this return, the issuer authorizes the IRS to communicate directly with the individual listed on line 6, whose address is entered on lines 3 and 4 and consents to disclose the issuer's return information to that individual, as necessary, to process this return.

Line 5. This line is for IRS use only. Do not make any entries in this box.

Part II—Description of Obligations

Check the appropriate box designating this as a return on a single issue basis or a consolidated return basis.

Line 8a. The issue price of obligations is generally determined under Regulations section 1.148-1(b). Thus, when issued for cash, the issue price is the price at which a substantial amount of the obligations are sold to the public. To determine the issue price of an obligation issued for property, see sections 1273 and 1274 and the related regulations.

Line 8b. For a single issue, enter the date of issue (for example, 03/15/2010 for a single issue issued on March 15, 2010), generally the date on which the issuer physically exchanges the bonds that are part of the issue for the underwriter's (or other purchaser's) funds; for a lease or installment sale, enter the date interest starts to accrue. For issues reported on a consolidated basis, enter the first day of the calendar year during which the obligations were issued (for example, for calendar year 2010, enter 01/01/2010).

Lines 9a through 9h. Complete this section if property other than cash is exchanged for the obligation, for example, acquiring a police car, a fire truck, or telephone equipment through a series of monthly payments. (This type of obligation is sometimes referred to as a "municipal lease.") Also complete this section if real property is directly acquired in exchange for an obligation to make periodic payments of interest and principal.

Do not complete lines 9a through 9d if the proceeds of an obligation are received in the form of cash even if the term "lease" is used in the title of the issue. For lines 9a through 9d, enter the amount on the appropriate line that represents a lease or installment purchase. For line 9d, enter the type of item that is leased. For lines 9e through 9h, enter the amount on the appropriate line that represents a bank loan. For line 9h, enter the type of bank loan.

Lines 9i and 9j. For line 9i, enter the amount of the proceeds that will be used to pay principal, interest, or call premium on any other issue of bonds, including proceeds that will be used to fund an escrow account for this purpose. Several lines may apply to a particular obligation. For example, report on lines 9i and 9j obligations used to refund prior issues which represent loans from the proceeds of another tax-exempt obligation.

Line 9k. Enter on line 9k the amount on line 8a that does not represent an obligation described on lines 9a through 9j.

Line 10. Check this box if the issuer has designated any issue as a "small issuer exception" under section 265(b)(3)(B)(i)(III).

Line 11. Check this box if the issue is a construction issue and an irrevocable election to pay a penalty in lieu of arbitrage rebate has been made on or before the date the bonds were issued. The penalty is payable with a Form 8038-T for each 6-month period after the date the bonds are issued. Do not make any payment of penalty in lieu of rebate with Form 8038-GC. See Rev. Proc. 92-22, 1992-1 C.B. 736, for rules regarding the "election document."

Line 12. Enter the name of the vendor or bank who is a party to the installment purchase agreement, loan, or financial lease. If there are multiple vendors or banks, the issuer should attach a schedule.

Line 13. Enter the employer identification number of the vendor or bank who is a party to the installment purchase agreement, loan, or financial lease. If there are multiple vendors or banks, the issuer should attach a schedule.

Signature and Consent

An authorized representative of the issuer must sign Form 8038-GC and any applicable certification. Also print the name and title of the person signing Form 8038-GC. The authorized representative of the issuer signing this form must have the authority to consent to the disclosure of the issuer's return information, as necessary to process this return, to the person(s) that has been designated in this form.

Note. If the issuer authorizes in line 6 the IRS to communicate with a person other than an officer or other employee of the issuer, (such authorization shall include contact both in writing regardless of the address entered in lines 3 and 4, and by telephone) by signing this form, the issuer's authorized representative consents to the disclosure of the issuer's return information, as necessary to process this return, to such person.

Paid Preparer

If an authorized representative of the issuer filled in its return, the paid preparer's space should remain blank. Anyone who prepares the return but does not charge the organization should not sign the return. Certain others who prepare the return should not sign. For example, a regular, full-time employee of the issuer, such as a clerk, secretary, etc., should not sign.

Generally, anyone who is paid to prepare a return must sign it and fill in the other blanks in the *Paid Preparer Use Only* area of the return. A paid preparer cannot use a social security number in the *Paid Preparer Use Only* box. The paid preparer must use a preparer tax identification number (PTIN). If the paid preparer is self-employed, the preparer should enter his or her address in the box.

The paid preparer must:

- Sign the return in the space provided for the preparer's signature, and
- Give a copy of the return to the issuer.

Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Learning about the law or the form 4 hr., 46 min.

Preparing the form 2 hr., 22 min.

Copying, assembling, and sending the form to the IRS 2 hr., 34 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:M:S, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send the form to this address. Instead, see *Where To File*.



Office of the State Auditor
 Chief Inspector Division
 State Capitol, Building 1, Suite W-100
 1900 Kanawha Boulevard, East
 Charleston, West Virginia 25305

State of West Virginia
John B. McCuskey
 State Auditor and
 Chief Inspector

Toll Free: (877) 982-9148
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REVISED April 11, 2023

Ms. Kristie G. Tenney, President
 Upshur County Commission
 38 W. Main Street
 Buckhannon, WV 26201

We are pleased to confirm our understanding of the services we are to provide the Upshur County Commission for the fiscal year ended June 30, 2022.

Audit Scope and Objectives

We will audit the financial statements of the governmental activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information, including the related notes to the financial statements, which collectively comprise the Upshur County Commission's basic financial statements as of and for the fiscal year ended June 30, 2022. Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement Upshur County Commission's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to Upshur County Commission's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

1. Management's discussion and analysis (if applicable).
2. GASB required supplementary pension information (if applicable).
3. GASB required supplementary OPEB information (if applicable).
4. Budgetary comparison schedules (if applicable).

We have also been engaged to report on supplementary information other than RSI that accompanies Upshur County Commission's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in

Upshur County Commission
 April 11, 2023
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the United States of America and will provide an opinion on it in relation to the financial statements as a whole, in a report combined with our auditor's report on the financial statements:

1. Rate covenant compliance (if applicable).
2. Combining statements and supplementary schedules (if applicable).

The objectives of our audit are to obtain reasonable assurance as to whether the financial statements as a whole are free from material misstatement, whether due to fraud or error; issue an auditor's report that includes our opinion about whether your financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles; and report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with generally accepted auditing standards and *Government Auditing Standards* will always detect a material misstatement when it exists. Misstatements, including omissions, can arise from fraud or error and are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment of a reasonable user made based on the financial statements.

The objectives also include reporting on internal control over financial reporting and compliance with provisions of laws, regulations, contracts, and award agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.

Auditor's Responsibilities for the Audit of the Financial Statements

Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America and the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and will include tests of accounting records of the Upshur County Commission and other procedures we consider necessary to enable us to express such opinions. As part of an audit in accordance with generally accepted auditing standards and *Government Auditing Standards*, we exercise professional judgment and maintain professional skepticism throughout the audit.

We will evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management. We will also evaluate the overall presentation of the financial statements, including the disclosures, and determine whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government. Because the determination of waste and abuse is subjective, *Government Auditing Standards* do not expect auditors to perform specific procedures to detect waste or abuse in financial audits nor do they expect auditors to provide reasonable assurance of detecting waste or abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is an unavoidable risk that some material misstatements or noncompliance may not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting or misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. Our responsibility as auditors is limited to the period covered by our audit and does not extend to later periods for which we are not engaged as auditors.

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We will also conclude, based on the audit evidence obtained, whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the government's ability to continue as a going concern for a reasonable period of time.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, tests of the physical existence of inventories, if significant, and direct confirmation of receivables and certain assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will also request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry.

Audit Procedures – Internal Control

We will obtain an understanding of the government and its environment, including internal control relevant to the audit, sufficient to identify and assess the risks of material misstatement of the financial statements, whether due to error or fraud, and to design and perform audit procedures responsive to those risks and obtain evidence that is sufficient and appropriate to provide a basis for our opinions. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentation, or the override of internal control.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards and *Government Auditing Standards*.

Audit Procedures – Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the Upshur County Commission's compliance with the provisions of applicable laws, regulations, contracts, agreements, and grants. However, the objective of our audit will not be to provide an opinion on overall compliance, and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

Other Services

If necessary, we may also assist in preparing the financial statements and related notes of the Upshur County Commission in conformity with U.S. generally accepted accounting principles based on information provided by you. If performed, these non-audit services would not constitute an audit under *Government Auditing Standards* and such services would not be conducted in accordance with *Government Auditing Standards*. We would perform the services in accordance with applicable professional standards. The other services would be limited to the financial statements previously defined. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

You agree to assume all management responsibilities relating to the financial statements and related notes and any other nonaudit services we may provide. If nonaudit services are provided, you will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements and related notes and that you have reviewed and approved the financial statements and related notes prior to their issuance and have accepted responsibility for them. Further, you agree to oversee any nonaudit services that may be provided by

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- designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of those services; and accept responsibility for them.

Responsibilities of Management for the Financial Statements

Our audit will be conducted on the basis that you acknowledge and understand your responsibility for designing, implementing, establishing, and maintaining effective internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, and for evaluating and monitoring ongoing activities to help ensure that appropriate goals and objectives are met; following laws and regulations; and ensuring that management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles, for the preparation and fair presentation of the financial statements and all accompanying information in conformity with U.S. generally accepted accounting principles, and for compliance with applicable laws and regulations and the provisions of contracts and grant agreements.

Management is responsible for making drafts of financial statements, all financial records, and related information available to us and for the accuracy and completeness of that information (including information from outside of the general and subsidiary ledgers). You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, such as records, documentation, identification of all related parties and all related-party relationships and transactions, and other matters; (2) additional information that we may request for the purpose of the audit; and (3) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence. At the conclusion of our audit, we will require certain written representations from you about your responsibilities for the financial statements; compliance with laws, regulations, contracts, and grant agreements; and other responsibilities required by generally accepted auditing standards and *Government Auditing Standards*.

Your responsibilities include adjusting the financial statements to correct material misstatements and for confirming to us in the written representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements of each opinion unit taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws, regulations, contracts, agreements, and grants and for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of laws, regulations, contracts, or grant agreements that we report.

You are responsible for the preparation of the supplementary information, which we have been engaged to report on, in conformity with U.S. generally accepted accounting principles (GAAP). You agree to include our report on the supplementary information in any document that contains and indicates that we have reported on the supplementary information. You also agree to make the audited financial statements readily available to users of the supplementary information no later than the date the supplementary information is issued with our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the

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reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits or other studies related to the objectives discussed in the Audit Scope and Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or other studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

Engagement Administration, Fees, and Other

We understand that your employees will prepare all cash, accounts receivable, or other confirmations we request and will locate any documents selected by us for testing.

We will provide copies of our reports to the Upshur County Commission; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

The audit documentation for this engagement is the property of the West Virginia State Auditor's Office and constitutes confidential information. However, subject to applicable laws or regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to a federal oversight agency or its designee, a federal agency providing direct or indirect funding, or the U.S. Governmental Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of the West Virginia State Auditor's Office personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies. *Government Auditing Standards* require we provide our most recent external peer review report and any subsequent peer review reports to the party contracting for the audit. A copy of our most recent external peer review report is available at our website (<http://www.wvsao.gov/ChiefInspector/AdvisoryMemos.aspx>) or can be obtained by contacting our office.

The audit documentation for this engagement will be retained for a minimum of five years after the report release date. If we are aware that a federal awarding agency or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

Our auditor, Brianna Phillips, has been assigned to conduct your audit and expects to begin the engagement on approximately January 9, 2023. To enable the auditor to work more efficiently, we would appreciate it if you would provide her with suitable office space that is quiet and has access to a telephone and the internet. Our fee for these services will be \$38,100 for the audit. Our invoices for these fees will be rendered periodically as work progresses and are payable on presentation. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new contract price before we incur the additional costs.

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 April 11, 2023
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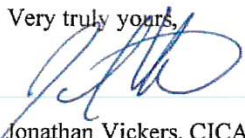
Reporting

We will issue a written report upon completion of our audit of Upshur County Commission's financial statements. Our report will be addressed to the governing board of the Upshur County Commission. We will make reference to Ferrari and Associates, PLLC's audit of the Upshur County Development Authority and Upshur County Fire Board and BHM CPA Group, Inc's audit of the Buckhannon-Upshur County Airport Authority in our report on your financial statements. Our audit will also include performing procedures, or requesting other auditors to perform procedures, on the financial information of the Upshur County Farmland Protection Board, the Upshur County Youth Camp, and the Upshur County Building Commission to enable us to express such an opinion. Circumstances may arise in which our report may differ from its expected form and content based on the results of our audit. Depending on the nature of these circumstances, it may be necessary for us to modify our opinions, add a separate section, or add an emphasis-of-matter or other-matter paragraph to our auditor's report. If our opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or issue reports.

We will also provide a report (that does not include an opinion) on internal control related to the financial statements and compliance with the provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a material effect on the financial statements as required by *Government Auditing Standards*. The report on internal control and on compliance and other matters will state: (1) that the purpose of the report is solely to describe the scope of testing of internal control and compliance, and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control on compliance, and (2) that the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. The report will also state that the report is not suitable for any other purpose. If during our audit we become aware that Upshur County Commission is subject to an audit requirement that is not encompassed in the terms of this engagement, we will communicate to management and those charged with governance that an audit in accordance with U.S. generally accepted auditing standards and the standards for financial audits contained in *Government Auditing Standards* may not satisfy the relevant legal, regulatory, or contractual requirements.

We appreciate the opportunity to be of service to the Upshur County Commission and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy, and provide it to the auditor. If the auditor is not available, please return it to us to the attention of Jackie Austin.

Very truly yours,


 Jonathan Vickers, CICA
 Assistant Director
 Chief Inspector Division
 Office of the State Auditor

RESPONSE:

This letter correctly sets forth the understanding of the Upshur County Commission.

By: _____

Title: Commission President

Date: June 1, 2023

No.102

**SAMPLE PLAN DOCUMENT
SECTION 125
FLEXIBLE BENEFIT PLAN**

The attached plan document and adoption agreement are being provided for illustrative purposes only. Because of differences in facts, circumstances, and the laws of the various states, interested parties should consult their own attorneys. This document is intended as a guide only, for use by local counsel.

**SECTION 125 FLEXIBLE BENEFIT PLAN
ADOPTION AGREEMENT**

The undersigned Employer hereby adopts the Section 125 Flexible Benefit Plan for those Employees who shall qualify as Participants hereunder. The Employer hereby selects the following Plan specifications:

A. EMPLOYER INFORMATION

Name of Employer:	UPSHUR COUNTY COMMISSION
Address:	40 W MAIN ST RM 101 BUCKHANNON, WV 26201
Employer Identification Number:	55-6000406
Nature of Business:	LOCAL GOVERNMENT
Name of Plan:	UPSHUR COUNTY COMMISSION
Plan Number:	Flexible Benefit Plan 501 125/Flex

B. EFFECTIVE DATE

Original effective date of the Plan:	January 1, 2012
If Amendment to existing plan, effective date of amendment:	July 1, 2023

C. ELIGIBILITY REQUIREMENTS FOR PARTICIPATION

Eligibility requirements for each component plan under this Section 125 document will be applicable and, if different, will be listed in Item F.

Length of Service:	The first day of the month following date of hire
Retiree Wording:	N/A
Minimum Hours:	All employees with 20 hours of service or more each week. An hour of service is each hour for which an employee receives, or is entitled to receive, payment for performance of duties for the Employer.
Age:	Minimum age of 0.0 years.

D. PLAN YEAR

The current plan year will begin on July 1, 2023 and end on June 30, 2024.
Each subsequent plan year will begin on July 1 and end on June 30.

E. EMPLOYER CONTRIBUTIONS**Non-Elective Contributions:**

The Employer may at its sole discretion provide a non-elective contribution to provide benefits for each Participant under the Plan. This amount will be set by the Employer each Plan Year in a uniform and non-discriminatory manner. If this non-elective contribution amount exceeds the cost of benefits elected by the Participant, excess amounts will not be paid to the Participant as taxable cash.

**Elective Contributions
(Salary Reduction):**

The maximum amount available to each Participant for the purchase of elected benefits through salary reduction will be:

\$10000.00 per plan year.

Each Participant may authorize the Employer to reduce his or her compensation by the amount needed for the purchase of benefits elected, less the amount of non-elective contributions. An election for salary reduction will be made on the benefit election form.

F. **AVAILABLE BENEFITS:** Each of the following components should be considered a plan that comprises this Plan.

1. **Group Medical Insurance** -- The terms, conditions, and limitations for the Group Medical Insurance will be as set forth in the insurance policy or policies described below: (See Section V of the Plan Document)
American Fidelity Assurance Company Accident Only Plan and Group Hospital Indemnity |
Eligibility Requirements for Participation, if different than Item C.
2. **Disability Income Insurance** -- The terms, conditions, and limitations for the Disability Income Insurance will be as set forth in the insurance policy or policies described below: (See Section VI of the Plan Document)

N/A
Eligibility Requirements for Participation, if different than Item C.
3. **Cancer Coverage** -- The terms, conditions, and limitations for the Cancer Coverage will be as set forth in the insurance policy or policies described below: (See Section V of the Plan Document)

American Fidelity Assurance Company C-11, C-12 monthly and subsequent policies |
Eligibility Requirements for Participation, if different than Item C.
4. **Dental/Vision Insurance** -- The terms, conditions, and limitations for the Dental/Vision Insurance will be as set forth in the insurance policy or policies described below: (See Section V of the Plan Document)

Lincoln Financial Group and Mountaineer Flexible Benefits |
Eligibility Requirements for Participation, if different than Item C.
5. **Group Life Insurance** which will be comprised of Group term life insurance and Individual term life insurance under Section 79 of the Code.

The terms, conditions, and limitations for the Group Life Insurance will be as set forth in the insurance policy or policies described below: (See Section VII of the Plan Document)

N/A

Individual life coverage under Section 79 is available as a benefit, and the face amount when combined with the group-term life, if any, N/A exceed \$50,000.
Eligibility Requirements for Participation, if different than Item C.
6. **Dependent Care Assistance Plan** -- The terms, conditions, and limitations for the Dependent Care Assistance Plan will be as set forth in Section IX of the Plan Document and described below:

Minimum Contribution - **\$300.00** per Plan Year

Maximum Contribution - **\$5000.00** per Plan Year

Recordkeeper: American Fidelity Assurance Company

Eligibility Requirements for Participation, if different than Item C.

N/A

7. **Medical Expense Reimbursement Plan** (a.k.a. Healthcare Flexible Spending Account) -- The terms, conditions, and limitations for the Medical Expense Reimbursement Plan will be as set forth in Section VIII of the Plan Document and described below:

Minimum Coverage - **\$300.00** per Plan Year or a Prorated Amount for a Short Plan Year.

Maximum Coverage - **\$3050.00** per Plan Year or a Prorated Amount for a Short Plan Year. In no event can the maximum exceed the limit as indicated by the IRS in accordance with the law.

Recordkeeper: American Fidelity Assurance Company

Restrictions: N/A

Grace Period: The Provisions in Section 8.06 of the Plan to permit a Grace Period with respect to the Medical Expense Reimbursement Plan **are not** elected.

Carryover: The Provisions in Section 8.07 of the Plan to permit a Carryover with respect to the Medical Expense Reimbursement Plan **are** elected.

Carryover Maximum: **\$550** per Plan Year.

HEART Act: The provisions in Section 8.08 of the Plan to permit the Qualified Reservist Distribution of the Heroes Earnings Assistance and Relief Tax Act (HEART) **are not** elected.

Eligibility Requirements for Participation, if different than Item C.

8. **Health Savings Accounts** -- The Plan permits contributions to be made to a Health Savings Account on a pretax basis in accordance with Section X of the Plan and the following provisions:

HSA Trustee -- N/A

Maximum Contribution -- N/A

Limitation on Eligible Medical Expenses – For purposes of the Medical Reimbursement Plan, Eligible Medical Expenses of a Participant that is eligible for and elects to participate in a Health Savings Account shall be limited to expenses for:

N/A

Eligibility Requirements for Participation, if different than Item C.

- a. An Employee must complete a Certification of Health Savings Account Eligibility which confirms that the Participant is an eligible individual who is entitled to establish a Health Savings Account in accordance with Code Section 223(c)(1).
- b. Eligibility for the Health Savings Account shall begin on the later of (i) first day of the month coinciding with or next following the Employee's commencement of coverage under the High Deductible Health Plan, or (ii) the first day following the end of a Grace Period available to the Employee with respect to the Medical Reimbursement Accounts that are not limited to vision and dental expenses (unless the participant has a \$0.00 balance on the last day of the plan year).
- c. An Employee's eligibility for the Health Savings Account shall be determined monthly.

9. **Temporary COVID Relief Amendment**—The Plan permits the following Changes in accordance with Section XIV of the Plan, and as selected by the Employer.

CARES Act Carryover Increase

The Plan shall be construed, enforced, administered, and the validity determined in accordance with the applicable provisions of the Employee Retirement Income Security Act of 1974, (as amended) if applicable, the Internal Revenue Code of 1986 (as amended), and the laws of the State of West Virginia. Should any provision be determined to be void, invalid, or unenforceable by any court of competent jurisdiction, the Plan will continue to operate, and for purposes of the jurisdiction of the court only, will be deemed not to include the provision determined to be void.

This Plan is hereby adopted _____.

UPSHUR COUNTY COMMISSION -
(Name of Employer)

Signed By: _____

Title: _____

APPENDIX A

Related Employers that have adopted this Plan

Name(s):
N/A

THIS DOCUMENT IS NOT COMPLETE WITHOUT SECTIONS I THROUGH XIII
PD – 1122 SW Document ID # 158002MCP #68196 Effective Date:07/01/2023 5/30/23 8:45 AM

SECTION 125 FLEXIBLE BENEFIT PLAN

SECTION I

PURPOSE

The Employer is establishing this Flexible Benefit Plan in order to make a broader range of benefits available to its Employees and their Beneficiaries. This Plan allows Employees to choose among different types of benefits and select the combination best suited to their individual goals, desires, and needs. These choices include an option to receive certain benefits in lieu of taxable compensation.

In establishing this Plan, the Employer desires to attract, reward, and retain highly qualified, competent Employees, and believes this Plan will help achieve that goal.

It is the intent of the Employer to establish this Plan in conformity with Section 125 of the Internal Revenue Code of 1986, as amended, and in compliance with applicable rules and regulations issued by the Internal Revenue Service. This Plan will grant to eligible Employees an opportunity to purchase qualified benefits which, when purchased alone by the Employer, would not be taxable.

SECTION II

DEFINITIONS

The following words and phrases appear in this Plan and will have the meaning indicated below unless a different meaning is plainly required by the context:

- 2.01 **Administrator** The Employer unless another has been designated in writing by the Employer as Administrator within the meaning of Section 3(16) of ERISA (if applicable).
- 2.02 **Beneficiary** Any person or persons designated by a participating Employee to receive any benefit payable under the Plan on account of the Employee's death.
- 2.02a **Carryover** The amount equal to the lesser of (a) any unused amounts from the immediately preceding Plan Year or (b) an amount up to \$610, as indexed for inflation, paralleling the indexing applicable to the limit on salary reduction contributions under Code Section 125(i) of the Code, except that in no event may the Carryover be less than five dollars (\$5).
- 2.03 **Code** Internal Revenue Code of 1986, as amended.
- 2.04 **Dependent** Any of the following:
 - (a) **Tax Dependent:** A Dependent includes a Participant's spouse and any other person who is a Participant's dependent within the meaning of Code Section 152, provided that, with respect to any plan that provides benefits that are excluded from an Employee's income under Code Section 105, a Participant's dependent (i) is any person within the meaning of Code Section 152, determined without regard to Subsections (b)(1), (b)(2),

and (d)(1)(B) thereof, and (ii) includes any child of the Participant to whom Code Section 152(e) applies (such child will be treated as a dependent of both divorced parents).

(b) Student on a Medically Necessary Leave of Absence: With respect to any plan that is considered a group health plan under Michelle's Law (and not a HIPAA excepted benefit under Code Sections 9831(b), (c) and 9832(c)) and to the extent the Employer is required by Michelle's Law to provide continuation coverage, a Dependent includes a child who qualifies as a Tax Dependent (defined in Section 2.04(a)) because of his or her full-time student status, is enrolled in a group health plan, and is on a medically necessary leave of absence from school. The child will continue to be a Dependent if the medically necessary leave of absence commences while the child is suffering from a serious illness or injury, is medically necessary, and causes the child to lose student status for purposes of the group health plan's benefits coverage. Written physician certification that the child is suffering from a serious illness or injury and that the leave of absence is medically necessary is required at the Administrator's request. The child will no longer be considered a Dependent as of the earliest date that the child is no longer on a medically necessary leave of absence, the date that is one year after the first day of the medically necessary leave of absence, or the date benefits would otherwise terminate under either the group health plan or this Plan. Terms related to Michelle's Law, and not otherwise defined, will have the meaning provided under the Michelle's Law provisions of Code Section 9813.

(c) Adult Children: With respect to any plan that provides benefits that are excluded from an Employee's income under Code Section 105, a Dependent includes a child of a Participant who as of the end of the calendar year has not attained age 27. A 'child' for purpose of this Section 2.04(c) means an individual who is a son, daughter, stepson, or stepdaughter of the Participant, a legally adopted individual of the Participant, an individual who is lawfully placed with the Participant for legal adoption by the Participant, or an eligible foster child who is placed with the Participant by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction. An adult child described in this Section 2.04(c) is only a Dependent with respect to benefits provided after March 30, 2010 (subject to any other limitations of the Plan).

Dependent for purposes of the Dependent Care Reimbursement Plan is defined in Section 9.04(a).

2.05

Effective Date The effective date of this Plan as shown in Item B of the Adoption Agreement.

2.06

Elective Contribution The amount the Participant authorizes the Employer to reduce compensation for the purchase of benefits elected.

- 2.07 **Eligible Employee** Employee meeting the eligibility requirements for participation as shown in Item C of the Adoption Agreement.
- 2.08 **Employee** Any person employed by the Employer on or after the Effective Date.
- 2.09 **Employer** The entity shown in Item A of the Adoption Agreement, and any Related Employers authorized to participate in the Plan with the approval of the Employer. Related Employers who participate in this Plan are listed in Appendix A to the Adoption Agreement. For the purposes of Section 11.01 and 11.02, only the Employer as shown in Item A of the Adoption Agreement may amend or terminate the Plan.
- 2.10 **Employer Contributions** Amounts that have not been actually received by the Participant and are available to the Participant for the purpose of selecting benefits under the Plan. This term includes Non-Elective Contributions and Elective Contributions through salary reduction.
- 2.11 **Entry Date** The date that an Employee is eligible to participate in the Plan.
- 2.12 **ERISA** The Employee Retirement Income Security Act of 1974, Public Law 93-406 and all regulations and rulings issued thereunder, as amended (if applicable).
- 2.13 **Fiduciary** The named fiduciary shall mean the Employer, the Administrator and other parties designated as such, but only with respect to any specific duties of each for the Plan as may be set forth in a written agreement.
- 2.14 **Health Savings Account** A "health savings account" as defined in Section 223(d) of the Internal Revenue Code of 1986, as amended established by the Participant with the HSA Trustee.
- 2.15 **HSA Trustee** The Trustee of the Health Savings Account which is designated in Section F.8 of the Adoption Agreement.
- 2.16 **Highly Compensated** Any Employee who at any time during the Plan Year is a "highly compensated employee" as defined in Section 414(q) of the Code.
- 2.17 **High Deductible Health Plan** A health plan that meets the statutory requirements for annual deductibles and out-of-pocket expenses set forth in Code section 223(c)(2).
- 2.18 **HIPAA** The Health Insurance Portability and Accountability Act of 1996, as amended.

- 2.19 **Insurer** Any insurance company that has issued a policy pursuant to the terms of this Plan.
- 2.20 **Key Employee** Any Participant who is a "key employee" as defined in Section 416(i) of the Code.
- 2.21 **Non-Elective Contribution** A contribution amount made available by the Employer for the purchase of benefits elected by the Participant.
- 2.22 **Participant** An Employee who has qualified for Plan participation as provided in Item C of the Adoption Agreement.
- 2.23 **Plan** The Plan referred to in Item A of the Adoption Agreement as may be amended from time to time.
- 2.24 **Plan Year** The Plan Year as specified in Item D of the Adoption Agreement.
- 2.25 **Policy** An insurance policy issued as a part of this Plan.
- 2.26 **Preventative Care** Medical expenses which meet the safe harbor definition of "preventative care" set forth in IRS Notice 2004-23, which includes, but is not limited to, the following: (i) periodic health evaluations, such as annual physicals (and the tests and diagnostic procedures ordered in conjunction with such evaluations); (ii) well-baby and/or well-child care; (iii) immunizations for adults and children; (iv) tobacco cessation and obesity weight-loss programs; and (v) screening devices. However, preventative care does not generally include any service or benefit intended to treat an existing illness, injury or condition.
- 2.27 **Recordkeeper** The person designated by the Employer to perform recordkeeping and other ministerial duties with respect to the Medical Expense Reimbursement Plan and/or the Dependent Care Reimbursement Plan.
- 2.28 **Related Employer** Any employer that is a member of a related group of organizations with the Employer shown in Item A of the Adoption Agreement, and as specified under Code Section 414(b), (c) or (m).

SECTION III

ELIGIBILITY, ENROLLMENT, AND PARTICIPATION

- 3.01 **ELIGIBILITY:** Each Employee of the Employer who has met the eligibility requirements of Item C of the Adoption Agreement will be eligible to participate in the Plan on the Entry Date specified or the Effective Date of the Plan, whichever is later. Dependent eligibility to receive benefits under any of the plans listed in Item F of the Adoption Agreement will be described in the documents governing

those benefit plans. To the extent a Dependent is eligible to receive benefits under a plan listed in Item F, an Eligible Employee may elect coverage under this Plan with respect to such Dependent. Notwithstanding the foregoing, life insurance coverage on the life of a Dependent may not be elected under this Plan.

- 3.02 ENROLLMENT: An eligible Employee may enroll (or re-enroll) in the Plan by submitting to the Employer, during an enrollment period, an Election Form which specifies his or her benefit elections for the Plan Year and which meets such standards for completeness and accuracy as the Employer may establish. A Participant's Election Form shall be completed prior to the beginning of the Plan Year, and shall not be effective prior to the date such form is submitted to the Employer. Any Election Form submitted by a Participant in accordance with this Section shall remain in effect until the earlier of the following dates: the date the Participant terminates participation in the Plan; or, the effective date of a subsequently filed Election Form.

A Participant's right to elect certain benefit coverage shall be limited hereunder to the extent such rights are limited in the Policy. Furthermore, a Participant will not be entitled to revoke an election after a period of coverage has commenced and to make a new election with respect to the remainder of the period of coverage unless both the revocation and the new election are on account of and consistent with a change in status, or other allowable events, as determined by Section 125 of the Internal Revenue Code and the regulations thereunder.

- 3.03 TERMINATION OF PARTICIPATION: A Participant shall continue to participate in the Plan until the earlier of the following dates:

- a. The date the Participant terminates employment by death, disability, retirement or other separation from service; or
- b. The date the Participant ceases to work for the Employer as an eligible Employee; or
- c. The date of termination of the Plan; or
- d. The first date a Participant fails to pay required contributions while on a leave of absence.

- 3.04 SEPARATION FROM SERVICE: The existing elections of an Employee who separates from the employment service of the Employer shall be deemed to be automatically terminated and the Employee will not receive benefits for the remaining portion of the Plan Year.

- 3.05 QUALIFYING LEAVE UNDER FAMILY LEAVE ACT: Notwithstanding any provision to the contrary in this Plan, if a Participant goes on a qualifying unpaid leave under the Family and Medical Leave Act of 1993 (FMLA), to the extent required by the FMLA, the Employer will continue to maintain the Participant's existing coverage under the Plan with respect to benefits under Section V and Section VIII of the Plan on the same terms and conditions as though he were still an active Employee. If the Employee opts to continue his coverage, the Employee may pay his Elective Contribution with after-tax dollars while on leave (or pre-tax dollars to the extent he receives compensation during the leave), or the Employee may be given the option to pre-pay all or a portion of his Elective Contribution for the expected duration of the leave on a pre-tax salary reduction basis out of his pre-leave compensation (including unused sick days or vacation) by making a special election to that effect prior to the date such compensation would normally be made available to him (provided, however, that pre-tax dollars may not be utilized to fund coverage during the next plan year), or via other arrangements agreed upon between the Employee and the Administrator (e.g., the Administrator may fund coverage during the leave and withhold amounts upon the Employee's return). Upon return from such leave, the Employee will be permitted to reenter the Plan on the same basis the Employee was participating in the Plan prior to his leave, or as otherwise required by the FMLA.

SECTION IV

CONTRIBUTIONS

- 4.01 EMPLOYER CONTRIBUTIONS: The Employer may pay the costs of the benefits elected under the Plan with funds from the sources indicated in Item E of the Adoption Agreement. The Employer Contribution may be made up of Non-Elective Contributions and/or Elective Contributions authorized by each Participant on a salary reduction basis.
- 4.02 IRREVOCABILITY OF ELECTIONS: A Participant may file a written election form with the Administrator before the end of the current Plan Year revising the rate of his contributions or discontinuing such contributions effective as of the first day of the next following Plan Year. The Participant's Elective Contributions will automatically terminate as of the date his employment terminates. Except as provided in this Section 4.02 and Section 4.03, a Participant's election under the Plan is irrevocable for the duration of the plan year to which it relates. The exceptions to the irrevocability requirement which would permit a mid-year election change in benefits and the salary reduction amount elected are set out in the Treasury regulations promulgated under Code Section 125, which include the following:
- (a) Change in Status. A Participant may change or revoke his election under the Plan upon the occurrence of a valid change in status, but only if such change or termination is made on account of, and is consistent with, the change in status in accordance with the Treasury regulations promulgated under Section 125. The Employer, in its sole discretion as Administrator, shall determine whether a requested change is on account of and consistent with a change in status, as follows:
- (1) Change in Employee's legal marital status, including marriage, divorce, death of spouse, legal separation, and annulment;
 - (2) Change in number of Dependents, including birth, adoption, placement for adoption, and death;
 - (3) Change in employment status, including any employment status change affecting benefit eligibility of the Employee, spouse or Dependent, such as termination or commencement of employment, change in hours, strike or lockout, a commencement or return from an unpaid leave of absence, and a change in work site. If the eligibility for either the cafeteria Plan or any underlying benefit plans of the Employer of the Employee, spouse or Dependent relies on the employment status of that individual, and there is a change in that individual's employment status resulting in gaining or losing eligibility under the Plan, this constitutes a valid change in status. This category only applies if benefit eligibility is lost or gained as a result of the event. If an Employee terminates and is rehired within 30 days, the Employee is required to step back into his previous election. If the Employee terminates and is rehired after 30 days, the Employee may either step back into the previous election or make a new election;
 - (4) Dependent satisfies, or ceases to satisfy, Dependent eligibility requirements due to attainment of age, gain or loss of student status, marriage or any similar circumstances; and
 - (5) Residence change of Employee, spouse or Dependent, affecting the Employee's eligibility for coverage.
- (b) Special Enrollment Rights. If a Participant or his or her spouse or Dependent is entitled to special enrollment rights under a group health plan (other than an excepted benefit), as required by HIPAA under Code Section 9801(f), then a Participant may revoke a prior election for group health plan coverage and make a new election, provided that the election change corresponds with such HIPAA special enrollment right. As required by HIPAA, a special enrollment right will arise in the following circumstances: (i) a Participant or his or her spouse or Dependent declined to enroll in

group health plan coverage because he or she had coverage, and eligibility for such coverage is subsequently lost because the coverage was provided under COBRA and the COBRA coverage was exhausted, or the coverage was non-COBRA coverage and the coverage terminated due to loss of eligibility for coverage or the employer contributions for the coverage were terminated; (ii) a new Dependent is acquired as a result of marriage, birth, adoption, or placement for adoption; (iii) the Participant's or his or her spouse's or Dependent's coverage under a Medicaid plan or under a children's health insurance program (CHIP) is terminated as a result of loss of eligibility for such coverage and the Participant requests coverage under the group health plan not later than 60 days after the date of termination of such coverage; or (iv) the Participant, his or her spouse or Dependent becomes eligible for a state premium assistance subsidy from a Medicaid plan or through a state children's insurance program with respect to coverage under the group health plan and the Participant requests coverage under the group health plan not later than 60 days after the date the Participant, his or her spouse or Dependent is determined to be eligible for such assistance. An election change under (iii) or (iv) of this provision must be requested within 60 days after the termination of Medicaid or state health plan coverage or the determination of eligibility for a state premium assistance subsidy, as applicable. Special enrollment rights under the health insurance plan will be determined by the terms of the health insurance plan.

- (c) Certain Judgments, Decrees or Orders. If a judgment, decree or order resulting from a divorce, legal separation, annulment or change in legal custody (including a qualified medical child support order [QMCSO]) requires accident or health coverage for a Participant's child or for a foster child who is a dependent of the Participant, the Participant may have a mid-year election change to add or drop coverage consistent with the Order.
- (d) Entitlement to Medicare or Medicaid. If a Participant, Participant's spouse or Participant's Dependent who is enrolled in an accident or health plan of the Employer becomes entitled to Medicare or Medicaid (other than coverage consisting solely of benefits under Section 1928 of the Social Security Act providing for pediatric vaccines), the Participant may cancel or reduce health coverage under the Employer's Plan. Loss of Medicare or Medicaid entitlement would allow the Participant to add health coverage under the Employer's Plan.
- (e) Family Medical Leave Act. If an Employee is taking leave under the rules of the Family Medical Leave Act, the Employee may revoke previous elections and re-elect benefits upon return to work.
- (f) COBRA Qualifying Event. If an Employee has a COBRA qualifying event (a reduction in hours of the Employee, or a Dependent ceases eligibility), the Employee may increase his pre-tax contributions for coverage under the Employer's Plan if a COBRA event occurs with respect to the Employee, the Employee's spouse or Dependent. The COBRA rule does not apply to COBRA coverage under another Employer's Plan.
- (g) Changes in Eligibility for Adult Children. To the extent the Employer amends a plan listed in Item F of the Adoption Agreement that provides benefits that are excluded from an Employee's income under Code Section 105 to provide that Adult Children (as defined in Section 2.04(c)) are eligible to receive benefits under the plan, an Eligible Employee may make or change an election under this Plan to add coverage for the Adult Child and to make any corresponding change to the Eligible Employee's coverage that is consistent with adding coverage for the Adult Child.
- (h) Cancellation due to reduction in hours of service. A Participant may cancel group health plan (as that term is defined in Code Section 9832(a)) coverage, except Health FSA coverage, under the Employer's Plan if both of the following conditions are met:

- (i) The Participant has been in an employment status under which the Participant was reasonably expected to average at least 30 hours of service per week and there is a change in that Participant's status so that the Participant will reasonably be expected to average less than 30 hours of service per week after the change, even if that reduction does not result in the Participant ceasing to be eligible under the group health plan; and
 - (ii) The cancellation of the election of coverage under the Employer's group health plan coverage corresponds to the intended enrollment of the Participant, and any related individuals who cease coverage due to the cancellation, in another plan that provides minimum essential coverage with the new coverage effective no later than the first day of the second month following the month that includes the date the original coverage is cancelled.
- (i) Cancellation due to enrollment in a Qualified Health Plan. A participant may cancel group health plan (as that term is defined in Code Section 9832(a)) coverage, except Health FSA coverage, under the Employer's Plan if both of the following conditions are met:
 - (i) The Participant is eligible for a Special Enrollment Period (as defined in Code Section 9801(f)) to enroll in a Qualified Health Plan (as described in section 1311 of the Patient Protection and Affordable Care Act (PPACA)) through a competitive marketplace established under section 1311(c) of PPACA (Marketplace), pursuant to guidance issued by the Department of Health and Human Services and any other applicable guidance, or the Participant seeks to enroll in a Qualified Health Plan through a Marketplace during the Marketplace's annual open enrollment period; and
 - (ii) The cancellation of the election of coverage under the Employer's group health plan coverage corresponds to the intended enrollment of the Participant and any related individuals who cease coverage due to the cancellation in a Qualified Health Plan through a Marketplace for new coverage that is effective beginning no later than the day immediately following the last day of the original coverage that is cancelled.
- (j) Cancellation due to related individuals' enrollment in a Qualified Health Plan. For elections effective on or after January 1, 2023, a participant may cancel an election of family coverage under a group health plan (as that term is defined in Code Section 9832(a)), except Health FSA coverage, under the Employer's Plan if both of the following conditions are met:
 - (i) One or more related individuals are eligible for a Special Enrollment Period (as defined in Code Section 9801(f)) to enroll in a Qualified Health Plan (as described in section 1311 of the Patient Protection and Affordable Care Act (PPACA)) through a competitive marketplace established under section 1311(c) of PPACA (Marketplace), pursuant to guidance issued by the Department of Health and Human Services and any other applicable guidance, or one or more already-covered related individuals seeks to enroll in a Qualified Health Plan through a Marketplace during the Marketplace's annual open enrollment period; and
 - (ii) The cancellation of the election of coverage under the Employer's group health plan coverage corresponds to the intended enrollment of the related individual or related

individuals who cease coverage due to the cancellation in a Qualified Health Plan through a Marketplace for new coverage that is effective beginning no later than the day immediately following the last day of the original coverage that is cancelled. If the employee does not enroll in a Qualified Health Plan through an Exchange as set forth in Notice 2014-55, the employee must elect self-only coverage (or family coverage including one or more already-covered related individuals) under the group health plan.

Notwithstanding anything to the contrary in this Section 4.02, the change in election rules in this Section 4.02 do not apply to the Medical Expense Reimbursement Plan, or may not be modified with respect to the Medical Expense Reimbursement Plan if the Plan is being administered by a Recordkeeper other than the Employer, unless the Employer and the Recordkeeper otherwise agree in writing.

4.03 OTHER EXCEPTIONS TO IRREVOCABILITY OF ELECTIONS. Other exceptions to the irrevocability of election requirement permit mid-year election changes and apply to all qualified benefits except for Medical Expense Reimbursement Plans, as follows:

- (a) Change in Cost. If the cost of a benefit package option under the Plan significantly increases during the plan year, Participants may (i) make a corresponding increase in their salary reduction amount, (ii) revoke their elections and make a prospective election under another benefit option offering similar coverage, or (iii) revoke election completely if no similar coverage is available, including in spouse or dependent's plan. If the cost significantly decreases, employees may elect coverage even if they had not previously participated and may drop their previous election for a similar coverage option in order to elect the benefit package option that has decreased in cost during the year. If the increased or decreased cost of a benefit package option under the Plan is insignificant, the participant's salary reduction amount shall be automatically adjusted.
- (b) Significant curtailment of coverage.
 - (i) With no loss of coverage. If the coverage under a benefit package option is significantly curtailed or ceases during the Plan Year, affected Participants may revoke their elections for the curtailed coverage and make a new prospective election for coverage under another benefit package option providing similar coverage.
 - (ii) With loss of coverage. If there is a significant curtailment of coverage with loss of coverage, affected Participants may revoke election for curtailed coverage and make a new prospective election for coverage under another benefit package option providing similar coverage, or drop coverage if no similar benefit package option is available.
- (c) Addition or Significant Improvement of Benefit Package Option. If during the Plan Year a new benefit package option is added or significantly improved, eligible employees, whether currently participating or not, may revoke their existing election and elect the newly added or newly improved option.
- (d) Change in Coverage of a Spouse or Dependent Under Another Employer's Plan. If there is a change in coverage of a spouse, former spouse, or Dependent under another employer's plan, a Participant may make a prospective election change that is on account of and corresponds with a change made under the plan of the spouse or Dependent. This rule applies if (1) mandatory changes in coverage are initiated by either the insurer of spouse's plan or by the spouse's employer,

or (2) optional changes are initiated by the spouse's employer or by the spouse through open enrollment.

- (e) Loss of coverage under other group health coverage. If during the Plan Year coverage is lost under any group health coverage sponsored by a governmental or educational institution, a Participant may prospectively change his or her election to add group health coverage for the affected Participant or his or her spouse or dependent.

- 4.04 CASH BENEFIT: Available amounts not used for the purchase of benefits under this Plan may be considered a cash benefit under the Plan payable to the Participant as taxable income to the extent indicated in Item E of the Adoption Agreement.
- 4.05 PAYMENT FROM EMPLOYER'S GENERAL ASSETS: Payment of benefits under this Plan shall be made by the Employer from Elective Contributions which shall be held as a part of its general assets.
- 4.06 EMPLOYER MAY HOLD ELECTIVE CONTRIBUTIONS: Pending payment of benefits in accordance with the terms of this Plan, Elective Contributions may be retained by the Employer in a separate account or, if elected by the Employer and as permitted or required by regulations of the Internal Revenue Service, Department of Labor or other governmental agency, such amounts of Elective Contributions may be held in a trust pending payment.
- 4.07 MAXIMUM EMPLOYER CONTRIBUTIONS: With respect to each Participant, the maximum amount made available to pay benefits for any Plan Year shall not exceed the Employer's Contribution specified in the Adoption Agreement and as provided in this Plan.

SECTION V

GROUP MEDICAL INSURANCE BENEFIT PLAN

- 5.01 PURPOSE: These benefits provide the group medical insurance benefits to Participants.
- 5.02 ELIGIBILITY: Eligibility will be as required in Items F(1), F(3), and F(4) of the Adoption Agreement.
- 5.03 DESCRIPTION OF BENEFITS: The benefits available under this Plan will be as defined in Items F(1), F(3), and F(4) of the Adoption Agreement.
- 5.04 TERMS, CONDITIONS AND LIMITATIONS: The terms, conditions and limitations of the benefits offered shall be as specifically described in the Policy identified in the Adoption Agreement.
- 5.05 COBRA: To the extent required by Section 4980B of the Code and Sections 601 through 607 of ERISA, Participants and Dependents shall be entitled to continued participation in this Group Medical Insurance Benefit Plan by contributing monthly (from their personal assets previously subject to taxation) 102% of the amount of the premium for the desired benefit during the period that such individual is entitled to elect continuation coverage, provided, however, in the event the continuation period is extended to 29 months due to disability, the premium to be paid for continuation coverage for the 11 month extension period shall be 150% of the applicable premium.
- 5.06 SECTION 105 AND 106 PLAN: It is the intention of the Employer that these benefits shall be eligible for exclusion from the gross income of the Participants covered by this benefit plan, as provided in Code Sections 105 and 106, and all provisions of this benefit plan shall be construed in a manner consistent with that intention. It is also the intention of the Employer to comply with the provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985 as outlined in the policies identified in the Adoption Agreement.
- 5.07 CONTRIBUTIONS: Contributions for these benefits will be provided by the Employer on behalf of a Participant as provided for in Item E of the Adoption Agreement.
- 5.08 UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT: Notwithstanding anything to the contrary herein, the Group Medical Insurance Benefit Plan shall comply with the applicable provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 (Public Law 103-353).

SECTION VI

DISABILITY INCOME BENEFIT PLAN

- 6.01 PURPOSE: This benefit provides disability insurance designated to provide income to Participants during periods of absence from employment because of disability.
- 6.02 ELIGIBILITY: Eligibility will be as required in Item F(2) of the Adoption Agreement.
- 6.03 DESCRIPTION OF BENEFITS: The benefits available under this Plan will be as defined in Item F(2) of the Adoption Agreement.

- 6.04 TERMS, CONDITIONS AND LIMITATIONS: The terms, conditions and limitations of the Disability Income Benefits offered shall be as specifically described in the Policy identified in the Adoption Agreement.
- 6.05 SECTION 104 AND 106 PLAN: It is the intention of the Employer that the premiums paid for these benefits shall be eligible for exclusion from the gross income of the Participants covered by this benefit plan, as provided in Code Sections 104 and 106, and all provisions of this benefit plan shall be construed in a manner consistent with that intention.
- 6.06 CONTRIBUTIONS: Contributions for this benefit will be provided by the Employer on behalf of a Participant as provided for in Item E of the Adoption Agreement.

SECTION VII

GROUP AND INDIVIDUAL LIFE INSURANCE PLAN

- 7.01 PURPOSE: This benefit provides group life insurance benefits to Participants and may provide certain individual policies as provided for in Item F(5) of the Adoption Agreement.
- 7.02 ELIGIBILITY: Eligibility will be as required in Item F(5) of the Adoption Agreement.
- 7.03 DESCRIPTION OF BENEFITS: The benefits available under this Plan will be as defined in Item F(5) of the Adoption Agreement.
- 7.04 TERMS, CONDITIONS, AND LIMITATIONS: The terms, conditions, and limitations of the group life insurance are specifically described in the Policy identified in the Adoption Agreement.
- 7.05 SECTION 79 PLAN: It is the intention of the Employer that the premiums paid for the benefits described in Item F(5) of the Adoption Agreement shall be eligible for exclusion from the gross income of the Participants covered by this benefit plan to the extent provided in Code Section 79, and all provisions of this benefit plan shall be construed in a manner consistent with that intention.
- 7.06 CONTRIBUTIONS: Contributions for this benefit will be provided by the Employer on behalf of a Participant as provided for in Item E of the Adoption Agreement. Any individual policies purchased by the Employer for the Participant will be owned by the Participant.

SECTION VIII

MEDICAL EXPENSE REIMBURSEMENT PLAN

- 8.01 PURPOSE: The Medical Expense Reimbursement Plan is designed to provide for reimbursement of Eligible Medical Expenses (as defined in Section 8.04) that are not reimbursed under an insurance plan, through damages, or from any other source. It is the intention of the Employer that amounts allocated for this benefit shall be eligible for exclusion from gross income, as provided in Code Sections 105 and 106, for Participants who elect this benefit and all provisions of this Section VIII shall be construed in a manner consistent with that intention.
- 8.02 ELIGIBILITY: The eligibility provisions are set forth in Item F(7) of the Adoption Agreement.

8.03 TERMS, CONDITIONS, AND LIMITATIONS:

- a. Accounts. The Reimbursement Recordkeeper shall establish a recordkeeping account for each Participant. The Reimbursement Recordkeeper shall maintain a record of each account on an on-going basis, increasing the balances as contributions are credited during the year and decreasing the balances as Eligible Medical Expenses are reimbursed. No interest shall be payable on amounts recorded in any Participant's account.
- b. Maximum benefit. The maximum amount of reimbursement for each Participant shall be limited to the amount of the Participant's Elective Contribution allocated to the program during the Plan Year, not to exceed the maximum amount set forth in Item F(7) of the Adoption Agreement.
- c. Claim Procedure. In order to be reimbursed for any medical expenses incurred during the Plan Year, the Participant shall complete the form(s) provided for such purpose by the Reimbursement Recordkeeper. The Participant shall submit the completed form to the Reimbursement Recordkeeper with an original bill or other proof of the expense acceptable to the Reimbursement Recordkeeper. No reimbursement shall be made on the basis of an incomplete form or inadequate evidence of expense as determined by the Reimbursement Recordkeeper. Forms for reimbursement of Eligible Medical Expenses must be submitted no later than the last day of the third month following the last day of the Plan Year during which the Eligible Medical Expenses were incurred. Reimbursement payments shall only be made to the Participant, or the Participant's legal representative in the event of incapacity or death of the Participant. Forms for reimbursement shall be reviewed in accordance with the claims procedure set forth in Section XII.
- d. Funding. The funding of the Medical Reimbursement Plan shall be through contributions by the Employer from its general assets to the extent of Elective Contributions directed by Participants. Such contributions shall be made by the Employer when benefit payments and account administrative expenses become due and payable under this Medical Expense Reimbursement Plan.
- e. Forfeiture. Subject to Section 8.06 and 8.07, any amounts remaining to the credit of the Participant at the end of the Plan Year and not used for Eligible Medical Expenses incurred during the Participant's participation during the Plan Year shall be forfeited and shall remain assets of the Plan. With respect to a Participant who terminates employment with the Employer and who has not elected to continue coverage under this Plan pursuant to COBRA rights referenced under Section 8.03(f) herein, such Participant shall not be entitled to reimbursement for Eligible Medical Expenses incurred after his termination date regardless if such Participant has any amounts of Employer Contributions remaining to his credit. Upon the death of any Participant who has any amounts of Employer Contributions remaining to his credit, a dependent of the Participant may elect to continue to claim reimbursement for Eligible Medical Expenses in the same manner as the Participant could have for the balance of the Plan Year.
- f. COBRA. To the extent required by Section 4980B of the Code and Sections 601 through 607 of ERISA ("COBRA"), a Participant and a Participant's Dependents shall be entitled to elect continued participation in this Medical Expense Reimbursement Plan only through the end of the plan year in which the qualifying event occurs, by contributing monthly (from their personal assets previously subject to taxation) to the Employer/Administrator, 102% of the amount of desired reimbursement through the end of the Plan Year in which the qualifying event occurs. Specifically, such individuals will be eligible for COBRA continuation coverage only if they

have a positive Medical Expense Reimbursement Account balance on the date of the qualifying event. Participants who have a deficit balance in their Medical Expense Reimbursement Account on the date of their qualifying event shall not be entitled to elect COBRA coverage. In lieu of COBRA, Participants may continue their coverage through the end of the current Plan Year by paying those premiums out of their last paycheck on a pre-tax basis.

- g. Nondiscrimination. Benefits provided under this Medical Expense Reimbursement Plan shall not be provided in a manner that discriminates in favor of Employees or Dependents who are highly compensated individuals, as provided under Section 105(h) of the Code and regulations promulgated thereunder.
- h. Uniform Coverage Rule. Notwithstanding that a Participant has not had withheld and credited to his account all of his contributions elected with respect to a particular Plan Year, the entire aggregate annual amount elected with respect to this Medical Expense Reimbursement Plan (increased by any Carryover to the Plan Year), shall be available at all times during such Plan Year to reimburse the participant for Eligible Medical Expenses with respect to this Medical Expense Reimbursement Plan. To the extent contributions with respect to this Medical Expense Reimbursement Plan are insufficient to pay such Eligible Medical Expenses, it shall be the Employer's obligation to provide adequate funds to cover any short fall for such Eligible Medical Expenses for a Participant; provided subsequent contributions with respect to this Medical Expense Reimbursement Plan by the Participant shall be available to reimburse the Employer for funds advanced to cover a previous short fall.
- i. Uniformed Services Employment and Reemployment Rights Act. Notwithstanding anything to the contrary herein, this Medical Expense Reimbursement Plan shall comply with the applicable provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 (Public Law 103-353).
- j. Proration of Limit. In the event that the Employer has purchased a uniform coverage risk policy from the Recordkeeper, then the Maximum Coverage amount specified in Section F.7 of the Adoption Agreement shall be pro rated with respect to (i) an Employee who becomes a Participant and enters the Plan during the Plan Year, and (ii) short plan years initiated by the Employer. Such Maximum Coverage amount will be pro rated by dividing the annual Maximum Coverage amount by 12, and multiplying the quotient by the number of remaining months in the Plan Year for the new Participant or the number of months in the short Plan Year, as applicable.
- k. Continuation Coverage for Certain Dependent Children. In the event that benefits under the Medical Expense Reimbursement Plan does not qualify for the exception from the portability rules of HIPAA, then, effective for Plan Years beginning on or after October 9, 2009, notwithstanding the foregoing provisions, coverage for a Dependent child who is enrolled in the Medical Expense Reimbursement Plan as a student at a post-secondary educational institution will not terminate due to a medically necessary leave of absence before a date that is the earlier of:
 - the date that is one year after the first day of the medically necessary leave of absence; or
 - the date on which such coverage would otherwise terminate under the terms of the Plan.

For purposes of this paragraph, "medically necessary leave of absence" means a leave of absence of the child from a post-secondary educational institution, or any other change in enrollment of the child at the institution, that: (i) commences while the child is suffering from a

serious illness or injury; (ii) is medically necessary; and (iii) causes the child to lose student status for purposes of coverage under the terms of the Plan. A written certification must be provided by a treating physician of the dependent child to the Plan in order for the continuation coverage requirement to apply. The physician's certification must state that the child is suffering from a serious illness or injury and that the leave of absence (or other change in enrollment) is medically necessary.

8.04 ELIGIBLE MEDICAL EXPENSES:

- a. Eligible Medical Expense in General. The phrase 'Eligible Medical Expense' means any expense incurred by a Participant or any of his Dependents (subject to the restrictions in Sections 8.04(b) and (c)) during a Plan Year that (i) qualifies as an expense incurred by the Participant or Dependents for medical care as defined in Code Section 213(d) and meets the requirements outlined in Code Section 125, (ii) is excluded from gross income of the Participant under Code Section 105(b), and (iii) has not been and will not be paid or reimbursed by any other insurance plan, through damages, or from any other source. Notwithstanding the above, capital expenditures are not Eligible Medical Expenses under this Plan.
- b. Expenses Incurred After Commencement of Participation. Only medical care expenses incurred by a Participant or the Participant's Dependent(s) on or after the date such Participant commenced participation in the Medical Expense Reimbursement Plan shall constitute an Eligible Medical Expense.
- c. Eligible Expenses Incurred by Dependents. For purposes of this Section, Eligible Medical Expenses incurred by Dependents defined in Section 2.04(c) are eligible for reimbursement if incurred after March 30, 2010; Eligible Medical Expenses incurred by Dependents defined in Sections 2.04(a) and (b) are eligible for reimbursement if incurred either before or after March 30, 2010 (subject to the restrictions of Section 8.04(b)).
- d. Health Savings Accounts. If the Employer has elected in Item F.8 of the Adoption Agreement to allow Eligible Employees to contribute to Health Savings Accounts under the Plan, then for a Participant who is eligible for and elects to contribute to a Health Savings Accounts, Eligible Medical Expenses shall be limited as set forth in Item F.8 of the Adoption Agreement.

8.05 USE OF DEBIT CARD: In the event that the Employer elects to allow the use of debit cards ("Debit Cards") for reimbursement of Eligible Medical Expenses under the Medical Expense Reimbursement Plan, the provisions described in this Section shall apply.

- a. Substantiation. The following procedures shall be applied for purposes of substantiating claimed Eligible Medical Expenses after the use of a Debit Card to pay the claimed Eligible Medical Expense:
 - (i) If the dollar amount of the transaction at a health care provider equals the dollar amount of the co-payment for that service under the Employer's major medical plan of the specific employee-cardholder, the charge is fully substantiated without the need for submission of a receipt or further review.
 - (ii) If the merchant, service provider, or other independent third-party (e.g., pharmacy benefit manager), at the time and point of sale, provides information to

verify to the Recordkeeper (including electronically by e-mail, the internet, intranet, or telephone) that the charge is for a medical expense, the charge is fully substantiated without the need for submission of a receipt or further review.

- b. Status of Charges. All charges to a Debit Card, other than co-payments and real-time substantiation as described in Subsection (a) above, are treated as conditional pending confirmation of the charge, and additional third-party information, such as merchant or service provider receipts, describing the service or product, the date of the service or sale, and the amount, must be submitted for review and substantiation.
 - c. Correction Procedures for Improper Payments. In the event that a claim has been reimbursed and is subsequently identified as not qualifying for reimbursement, one or all of the following procedures shall apply:
 - (i) First, upon the Recordkeeper's identification of the improper payment, the Eligible Employee will be required to pay back to the Plan an amount equal to the improper payment.
 - (ii) Second, where the Eligible Employee does not pay back to the Plan the amount of the improper payment, the Employer will have the amount of the improper payment withheld from the Eligible Employee's wages or other compensation to the extent consistent with applicable law.
 - (iii) Third, if the improper payment still remains outstanding, the Plan may utilize a claim substitution or offset approach to resolve improper claims payments.
 - (iv) If the above correction efforts prove unsuccessful, or are otherwise unavailable, the Eligible Employee will remain indebted to the Employer for the amount of the improper payment. In that event and consistent with its business practices, the Employer may treat the payment as it would any other business indebtedness.
 - (v) In addition to the above, the Employer and the Plan may take other actions they may deem necessary, in their sole discretion, to ensure that further violations of the terms of the Debit Card do not occur, including, but not limited to, denial of access to the Debit Card until the indebtedness is repaid by the Eligible Employee.
 - d. Intent to Comply with Rev. Rul. 2003-43. It is the Employer's intent that any use of Debit Cards to pay Eligible Medical Expenses shall comply with the guidelines for use of such cards set forth in Rev. Rul. 2003-43, and this Section 8.05 shall be construed and interpreted in a manner necessary to comply with such guidelines.
- 8.06 GRACE PERIOD: If the Employer elects in Section F.7 of the Adoption Agreement to permit a Grace Period with respect to the Medical Reimbursement Plan, the provisions of this Section 8.06 shall apply. Notwithstanding anything to the contrary herein and in accordance with Internal Revenue Service Notice 2005-42, a Participant who has unused contributions relating to the Medical Reimbursement Plan from the immediately preceding Plan Year, and who incurs Eligible Medical Expenses for such qualified benefit during the Grace Period, may be paid or reimbursed for those Eligible Medical Expenses from the unused contributions as if the expenses had been incurred in the immediately preceding Plan Year. For purposes of this Section, 'Grace Period' shall mean the period extending to the 15th day of the third calendar month after the end of the immediately preceding Plan Year to which it relates. Eligible

Medical Expenses incurred during the Grace Period shall be reimbursed first from unused contributions allocated to the Medical Reimbursement Plan for the prior Plan Year, and then from unused contributions for the current Plan Year, if participant is enrolled in current Plan Year.

- 8.07 **CARRYOVER:** If the Employer elects in Section F.7 of the Adoption Agreement to permit a Carryover with respect to the Medical Reimbursement Plan, the provisions of this Section 8.07 shall apply. Notwithstanding anything to the contrary herein and in accordance with Internal Revenue Service Notice 2013-71, the Carryover for a Participant who has an amount remaining unused as of the end of the run-off period for the Plan Year, may be used to pay or reimburse Eligible Medical Expenses during the following entire Plan Year. The Carryover does not count against or otherwise affect the Maximum benefit set forth in Section 8.03 (b). Eligible Medical Expenses incurred during a Plan Year shall be reimbursed first from unused contributions for the current Plan Year, and then from any Carryover carried over from the preceding Plan Year. Any unused amounts from the prior Plan Year that are used to reimburse a current Plan Year expense (a) reduce the amounts available to pay prior Plan Year expenses during the run-off period, (b) must be counted against any Carryover amount from the prior Plan Year, and (c) cannot exceed the maximum Carryover from the prior Plan Year. If the Employer elects to apply Section 8.06 in Section F.7 of the Adoption Agreement, this Section 8.07 shall not apply.
- 8.08 **QUALIFIED RESERVIST DISTRIBUTIONS:** Notwithstanding anything in the Plan to the contrary, an individual who, by reason of being a member of a reserve component (as defined in 37 U.S.C. § 101), is ordered or called to active duty for a period in excess of 179 days or for an indefinite period may elect to receive a distribution of all or a portion of the unused Elective Contributions in his or her Account relating to the Medical Expense Reimbursement Plan if the distribution is made during the period beginning on the date of such order or call and ending on the last date that reimbursements could otherwise be made under the Plan for the Plan Year that includes the date of such order or call. If the distribution is for the entire amount of unused Elective Contributions available in the Medical Expense Reimbursement Plan, then no additional reimbursement requests will be processed for the remainder of the Plan Year.

SECTION IX

DEPENDENT CARE REIMBURSEMENT PLAN

- 9.01 **PURPOSE:** The Dependent Care Reimbursement Plan is designed to provide for reimbursement of certain employment-related dependent care expenses of the Participant. It is the intention of the Employer that amounts allocated for this benefit shall be eligible for exclusion from gross income, as provided in Code Section 129, for Participants who elect this benefit, and all provisions of this Section IX shall be construed in a manner consistent with that intention.
- 9.02 **ELIGIBILITY:** The eligibility provisions are set forth in Item F(6) of the Adoption Agreement.
- 9.03 **TERMS, CONDITIONS, AND LIMITATIONS:**
- a. **Accounts.** The Reimbursement Recordkeeper shall establish a recordkeeping account for each Participant. The Reimbursement Recordkeeper shall maintain a record of each account on an on-going basis, increasing the balances as contributions are credited during the year and decreasing the balances as Eligible Dependent Care Expenses are reimbursed. No interest shall be payable on amounts recorded in any Participant's account.

- b. Maximum Benefit. The maximum amount of reimbursement for each Participant shall be limited to the amount of the Participant's allocation to the program during the Plan Year not to exceed the maximum amount set forth in Item F(6) of the adoption agreement.

For purpose of this Section IX, the phrase "earned income" shall mean wages, salaries, tips and other employee compensation, but only if such amounts are includible in gross income for the taxable year. A Participant's spouse who is physically or mentally incapable of self-care as described in Section 9.04(a)(ii) or a spouse who is a full-time student within the meaning of Code Section 21(e)(7) shall be deemed to have earned income for each month in which such spouse is so disabled (or a full-time student). The amount of such deemed earned income shall be \$250 per month in the case of one Dependent and \$500 per month in the case of two or more Dependents.

- c. Claim Procedure. In order to be reimbursed for any dependent care expenses incurred during the Plan Year, the Participant shall complete the form(s) provided for such purpose by the Reimbursement Recordkeeper. The Participant shall submit the completed form to the Reimbursement Recordkeeper with an original bill or other proof of the expense from an independent third party acceptable to the Reimbursement Recordkeeper. No reimbursement shall be made on the basis of an incomplete form or inadequate evidence of the expense as determined by the Reimbursement Recordkeeper. Claims for reimbursement of Eligible Dependent Care Expenses must be submitted no later than the last day of the third month following the last day of the Plan Year during which the Eligible Dependent Care Expenses were incurred. Reimbursement payments shall only be made to the Participant, or the Participant's legal representative in the event of the incapacity or death of the Participant. Forms for reimbursement shall be reviewed in accordance with the claims procedure set forth in Section XII.
- d. Funding. The funding of the Dependent Care Reimbursement Plan shall be through contributions by the Employer from its general assets to the extent of Elective Contributions directed by Participants. Such contributions shall be made by the Employer when benefit payments and account administration expenses become due and payable under this Dependent Care Expense Reimbursement Plan.
- e. Forfeiture. Any amounts remaining to the credit of the Participant at the end of the Plan Year and not used for Eligible Dependent Care Expenses incurred during the Plan Year shall be forfeited and remain assets of the Plan.
- f. Nondiscrimination. Benefits provided under this Dependent Care Reimbursement Plan shall not be provided in a manner that discriminates in favor of Highly Compensated Employees (as defined in Code Section 414(q)) or their dependents, as provided in Code Section 129. In addition, no more than 25 percent of the aggregate Eligible Dependent Care Expenses shall be reimbursed during a Plan Year to five percent owners, as provided in Code Section 129.

9.04 DEFINITIONS:

- a. "Dependent" (for purposes of this Section IX) means any individual who is:
 - (i) a Participant's qualifying child (as defined in Code Section 152 (c)) who has not attained the age of 13; or

- (ii) a dependent (qualifying child or qualifying relative, as defined in Code Section 152 (c) and (d), respectively) or the spouse of a Participant who is physically or mentally incapable of self-care, and who has the same principal place of abode as the taxpayer for more than half of the taxable year. For purposes of this Dependent Care Reimbursement Plan, an individual shall be considered physically or mentally incapable of self-care if, as a result of a physical or mental defect, the individual is incapable of caring for his or her hygienic or nutritional needs, or requires full-time attention of another person for his or her own safety or the safety of others.
- b. "Dependent Care Center" (for purposes of this Section IX) shall be a facility which:
 - (i) provides care for more than six individuals (other than individuals who reside at the facility);
 - (ii) receives a fee, payment, or grant for providing services for any of the individuals (regardless of whether such facility is operated for profit); and
 - (iii) satisfies all applicable laws and regulations of a state or unit of local government.
- c. "Eligible Dependent Care Expenses" (for purposes of this Section IX) shall mean expenses incurred by a Participant which are:
 - (i) incurred for the care of a Dependent of the Participant or for related household services;
 - (ii) paid or payable to a Dependent Care Service Provider; and
 - (iii) incurred to enable the Participant to be gainfully employed for any period for which there are one or more Dependents with respect to the Participant.

"Eligible Dependent Care Expenses" shall not include expenses incurred for services outside the Participant's household for the care of a Dependent unless such Dependent is (i) a qualifying child (as defined in Code Section 152 (c)) under the age of 13, or (ii) a dependent (qualifying child or qualifying relative, as defined in Code Section 152 (c) and (d), respectively)), who is physically or mentally incapable of self-care, and who has the same principal place of abode as the Participant for more than half of the taxable year, or (iii) the spouse of a Participant who is physically or mentally incapable of self-care, and who has the same principal place of abode as the Participant for more than half of the taxable year. Eligible Dependent Care Expenses shall be deemed to be incurred at the time the services to which the expenses relate are rendered.
- d. "Dependent Care Service Provider" (for purposes of this Section IX) means:
 - (i) a Dependent Care Center, or
 - (ii) a person who provides care or other services described in Section 9.04(b) and who is not a related individual described in Section 129(c) of the Code.

SECTION X

HEALTH SAVINGS ACCOUNTS

- 10.01 **PURPOSE:** If elected by the Employer in Section F.8 of the Adoption Agreement, the Plan will permit pre-tax contributions to the Health Savings Account, and the provisions of this Article X shall apply.
- 10.02 **BENEFITS:** A Participant can elect benefits under the Health Savings Accounts portion of this Plan by electing to pay his or her Health Savings Account contributions on a pre-tax salary reduction basis. In

addition, the Employer may make contributions to the Health Savings Account for the benefit of the Participant.

10.03 TERMS, CONDITIONS AND LIMITATION:

- a. Maximum Benefit. The maximum annual contributions that may be made to a Participant's Health Savings Account under this Plan is set forth in Section F.8 of the Adoption Agreement.
- b. Mid-Year Election Changes. Notwithstanding any to the contrary herein, a Participant election with respect to contributions for the Health Savings Account shall be revocable during the duration of the Plan Year to which the election relates. Consequently, a Participant may change his or her election with respect to contributions for the Health Savings Account at any time.

10.04 RESTRICTIONS ON MEDICAL REIMBURSEMENT PLAN: If the Employer has elected in Section F.8 of the Adoption Agreement both Health Savings Accounts under this Plan and the Medical Expense Reimbursement Plan, then the Eligible Medical Expenses that may be reimbursed under the Medical Reimbursement Plan for Participants who are eligible for and elect to participate in Health Savings Accounts shall be limited as set forth in Section F.8 of the Adoption Agreement.

10.05 NO ESTABLISHMENT OF ERISA PLAN: It is the intent of the Employer that the establishment of Health Savings Accounts are completely voluntary on the part of Participants, and that, in accordance with Department of Labor Field Assistance Bulletin 2004-1, the Health Savings Accounts are not "employee welfare benefit plans" for purposes of Title I of ERISA.

SECTION XI

AMENDMENT AND TERMINATION

11.01 AMENDMENT: The Employer shall have the right at any time, and from time to time, to amend, in whole or in part, any or all of the provisions of this Plan, provided that no such amendment shall change the terms and conditions of payment of any benefits to which Participants and covered dependents otherwise have become entitled to under the provisions of the Plan, unless such amendment is made to comply with federal or local laws or regulations. The Employer also shall have the right to make any amendment retroactively which is necessary to bring the Plan into conformity with the Code. In addition, the Employer may amend any provisions or any supplements to the Plan and may merge or combine supplements or add additional supplements to the Plan, or separate existing supplements into an additional number of supplements.

11.02 TERMINATION: The Employer shall have the right at any time to terminate this Plan, provided that such termination shall not eliminate any obligations of the Employer which therefore have arisen under the Plan.

SECTION XII

ADMINISTRATION

12.01 NAMED FIDUCIARIES: The Administrator shall be the fiduciary of the Plan.

12.02 APPOINTMENT OF RECORDKEEPER: The Employer may appoint a Reimbursement Recordkeeper which shall have the power and responsibility of performing recordkeeping and other ministerial duties arising under the Medical Expense Reimbursement Plan and the Dependent Care Reimbursement Plan provisions of this Plan. The Reimbursement Recordkeeper shall serve at the pleasure of, and may be removed by, the Employer without cause. The Recordkeeper shall receive reasonable compensation for its services as shall be agreed upon from time to time between the Administrator and the Recordkeeper.

12.03 POWERS AND RESPONSIBILITIES OF ADMINISTRATOR:

- a. General. The Administrator shall be vested with all powers and authority necessary in order to amend and administer the Plan, and is authorized to make such rules and regulations as it may deem necessary to carry out the provisions of the Plan. The Administrator shall determine any questions arising in the administration (including all questions of eligibility and determination of amount, time and manner of payments of benefits), construction, interpretation and application of the Plan, and the decision of the Administrator shall be final and binding on all persons.
- b. Recordkeeping. The Administrator shall keep full and complete records of the administration of the Plan. The Administrator shall prepare such reports and such information concerning the Plan and the administration thereof by the Administrator as may be required under the Code or ERISA and the regulations promulgated thereunder.
- c. Inspection of Records. The Administrator shall, during normal business hours, make available to each Participant for examination by the Participant at the principal office of the Administrator a copy of the Plan and such records of the Administrator as may pertain to such Participant. No Participant shall have the right to inquire as to or inspect the accounts or records with respect to other Participants.

12.04 COMPENSATION AND EXPENSES OF ADMINISTRATOR: The Administrator shall serve without compensation for services as such. All expenses of the Administrator shall be paid by the Employer. Such expenses shall include any expense incident to the functioning of the Plan, including, but not limited to, attorneys' fees, accounting and clerical charges, actuary fees and other costs of administering the Plan.

12.05 LIABILITY OF ADMINISTRATOR: Except as prohibited by law, the Administrator shall not be liable personally for any loss or damage or depreciation which may result in connection with the exercise of duties or of discretion hereunder or upon any other act or omission hereunder except when due to willful misconduct. In the event the Administrator is not covered by fiduciary liability insurance or similar insurance arrangements, the Employer shall indemnify and hold harmless the Administrator from any and all claims, losses, damages, expenses (including reasonable counsel fees approved by the Administrator) and liability (including any reasonable amounts paid in settlement with the Employer's approval) arising from any act or omission of the Administrator, except when the same is determined to be due to the willful misconduct of the Administrator by a court of competent jurisdiction.

12.06 DELEGATIONS OF RESPONSIBILITY: The Administrator shall have the authority to delegate, from time to time, all or any part of its responsibilities under the Plan to such person or persons as it may deem advisable and in the same manner to revoke any such delegation of responsibilities which shall have the same force and effect for all purposes hereunder as if such action had been taken by the Administrator. The Administrator shall not be liable for any acts or omissions of any such delegate. The delegate shall report periodically to the Administrator concerning the discharge of the delegated responsibilities.

- 12.07 RIGHT TO RECEIVE AND RELEASE NECESSARY INFORMATION: The Administrator may release or obtain any information necessary for the application, implementation and determination of this Plan or other Plans without consent or notice to any person. This information may be released to or obtained from any insurance company, organization, or person subject to applicable law. Any individual claiming benefits under this Plan shall furnish to the Administrator such information as may be necessary to implement this provision.
- 12.08 CLAIM FOR BENEFITS: To obtain payment of any benefits under the Plan a Participant must comply with the rules and procedures of the particular benefit program elected pursuant to this Plan under which the Participant claims a benefit.
- 12.09 GENERAL CLAIMS REVIEW PROCEDURE: This provision shall apply only to the extent that a claim for benefits is not governed by a similar provision of a benefit program available under this Plan or is not governed by Section 12.10.

- a. Initial Claim for Benefits. Each Participant may submit a claim for benefits to the Administrator as provided in Section 12.08. A Participant shall have no right to seek review of a denial of benefits, or to bring any action in any court to enforce a claim for benefits prior to his filing a claim for benefits and exhausting his rights to review under this section.

When a claim for benefits has been filed properly, such claim for benefits shall be evaluated and the claimant shall be notified of the approval or the denial within (90) days after the receipt of such claim unless special circumstances require an extension of time for processing the claim. If such an extension of time for processing is required, written notice of the extension shall be furnished to the claimant prior to the termination of the initial ninety (90) day period which shall specify the special circumstances requiring an extension and the date by which a final decision will be reached (which date shall not be later than one hundred and eighty (180) days after the date on which the claim was filed.) A claimant shall be given a written notice in which the claimant shall be advised as to whether the claim is granted or denied, in whole or in part. If a claim is denied, in whole or in part, the claimant shall be given written notice which shall contain (a) the specific reasons for the denial, (b) references to pertinent plan provisions upon which the denial is based, (c) a description of any additional material or information necessary to perfect the claim and an explanation of why such material or information is necessary, and (d) the claimant's rights to seek review of the denial.

- b. Review of Claim Denial. If a claim is denied, in whole or in part, the claimant shall have the right to request that the Administrator review the denial, provided that the claimant files a written request for review with the Administrator within sixty (60) days after the date on which the claimant received written notification of the denial. A claimant (or his duly authorized representative) may review pertinent documents and submit issues and comments in writing to the Administrator. Within sixty (60) days after a request is received, the review shall be made and the claimant shall be advised in writing of the decision on review, unless special circumstances require an extension of time for processing the review, in which case the claimant shall be given a written notification within such initial sixty (60) day period specifying the reasons for the extension and when such review shall be completed (provided that such review shall be completed within one hundred and twenty (120) days after the date on which the request for review was filed.) The decision on review shall be forwarded to the claimant in writing and shall include specific reasons for the decision and references to plan provisions upon which the decision is based. A decision on review shall be final and binding on all persons.

- c. Exhaustion of Remedies. If a claimant fails to file a request for review in accordance with the procedures herein outlined, such claimant shall have no rights to review and shall have no right to bring action in any court and the denial of the claim shall become final and binding on all persons for all purposes.

12.10 SPECIAL CLAIMS REVIEW PROCEDURE: The provisions of this Section 12.10 shall be applicable to claims under the Medical Expense Reimbursement Plan and the Group Medical Insurance Plan, effective on the first day of the first Plan Year beginning on or after July 1, 2002, but in no event later than January 1, 2003, provided such plans are subject to ERISA.

- a. Benefit Denials: The Administrator is responsible for evaluating all claims for reimbursement under the Medical Expense Reimbursement Plan and the Group Medical Insurance Plan.

The Administrator will decide a Participant's claim within a reasonable time not longer than 30 days after it is received. This time period may be extended for an additional 15 days for matters beyond the control of the Administrator, including in cases where a claim is incomplete. The Participant will receive written notice of any extension, including the reasons for the extension and information on the date by which a decision by the Administrator is expected to be made. The Participant will be given 45 days in which to complete an incomplete claim. The Administrator may secure independent medical or other advice and require such other evidence as it deems necessary to decide the claim.

If the Administrator denies the claim, in whole or in part, the Participant will be furnished with a written notice of adverse benefit determination setting forth:

1. the specific reason or reasons for the denial;
2. reference to the specific Plan provision on which the denial is issued;
3. a description of any additional material or information necessary for the Participant to complete his claim and an explanation of why such material or information is necessary, and
4. appropriate information as to the steps to be taken if the Participant wishes to appeal the Administrator's determination, including the participant's right to submit written comments and have them considered, his right to review (on request and at no charge) relevant documents and other information, and his right to file suit under ERISA with respect to any adverse determination after appeal of his claim.

- b. Appealing Denied Claims: If the Participant's claim is denied in whole or in part, he may appeal to the Administrator for a review of the denied claim. The appeal must be made in writing within 180 days of the Administrator's initial notice of adverse benefit determination, or else the participant will lose the right to appeal the denial. If the Participant does not appeal on time, he will also lose his right to file suit in court, as he will have failed to exhaust his internal administrative appeal rights, which is generally a prerequisite to bringing suit.

A Participant's written appeal should state the reasons that he feels his claim should not have been denied. It should include any additional facts and/or documents that the Participant feels support his claim. The Participant may also ask additional questions and make written comments, and may review (on request and at no charge) documents and other information

relevant to his appeal. The Administrator will review all written comment the Participant submits with his appeal.

- c. Review of Appeal: The Administrator will review and decide the Participant's appeal within a reasonable time not longer than 60 days after it is submitted and will notify the Participant of its decision in writing. The individual who decides the appeal will not be the same individual who decided the initial claim denial and will not be that individual's subordinate. The Administrator may secure independent medical or other advice and require such other evidence as it deems necessary to decide the appeal, except that any medical expert consulted in connection with the appeal will be different from any expert consulted in connection with the initial claim. (The identity of a medical expert consulted in connection with the Participant's appeal will be provided.) If the decision on appeal affirms the initial denial of the Participant's claim, the Participant will be furnished with a notice of adverse benefit determination on review setting forth:

1. The specific reason(s) for the denial,
2. The specific Plan provision(s) on which the decision is based,
3. A statement of the Participant's right to review (on request and at no charge) relevant documents and other information,
4. If the Administrator relied on an "internal rule, guideline, protocol, or other similar criterion" in making the decision, a description of the specific rule, guideline, protocol, or other similar criterion or a statement that such a rule, guideline, protocol, or other similar criterion was relied on and that a copy of such rule, guideline, protocol, or other criterion will be provided free of charge to the Participant upon request," and
5. A statement of the Participant's right to bring suit under ERISA § 502(a).

12.11 PAYMENT TO REPRESENTATIVE: In the event that a guardian, conservator or other legal representative has been duly appointed for a Participant entitled to any payment under the Plan, any such payment due may be made to the legal representative making claim therefor, and such payment so made shall be in complete discharge of the liabilities of the Plan therefor and the obligations of the Administrator and the Employer.

12.12 PROTECTED HEALTH INFORMATION. The provisions of this Section will apply only to those portions of the Plan that are considered a group health plan for purposes of 45 CFR Parts 160 and 164. The Plan may disclose PHI to employees of the Employer, or to other persons, only to the extent such disclosure is required or permitted pursuant to 45 CFR Parts 160 and 164. The Plan has implemented administrative, physical, and technical safeguards to reasonably and appropriately protect, and restrict access to and use of, electronic PHI, in accordance with Subpart C of 45 CFR Part 164. The applicable claims procedures under the Plan shall be used to resolve any issues of non-compliance by such individuals. The Employer will:

- not use or disclose PHI other than as permitted or required by the plan documents and permitted or required by law;
- reasonably and appropriately safeguard electronic PHI created, received, maintained, or transmitted to or by the it on behalf of the Plan, in accordance with Subpart C of 45 CFR Part 164;

- implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of the Plan;
- ensure that any agents including a subcontractors to whom it provides PHI received from the Plan agree to the same restrictions and conditions that apply to the Employer with respect to such information;
- not use or disclose PHI for employment-related actions and decisions or in connection with any other employee benefit plan of the Employer;
- report to the Plan any use or disclosure of the information that is inconsistent with the permitted uses or disclosures provided for of which it becomes aware;
- make available PHI in accordance with 45 CFR Section 164.524;
- make available PHI for amendment and incorporate any amendments to PHI in accordance with 45 CFR Section 164.526;
- make available the information required to provide an accounting of disclosures in accordance with 45 CFR Section 164.528;
- make its internal practices, books, and records relating to the use and disclosure of PHI received from the Plan available to the Secretary of Health and Human Services or his designee upon request for purposes of determining compliance with 45 CFR Section 164.504(f);
- if feasible, return or destroy all PHI received from the Plan that the Employer still maintains in any form and retain no copies of such information when no longer needed for the purposes for which disclosure was made, except that, if such return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible; and,
- ensure that the adequate separation required in paragraph (f)(2)(iii) of 45 CFR Section 164.504 is established.

For purposes of this Section, "PHI" is "Protected Health Information" as defined in 45 CFR Section 160.103, which means individually identifiable health information, except as provided in paragraph (2) of the definition of "Protected Health Information" in 45 CFR Section 160.103, that is transmitted by electronic media; maintained in electronic media; or transmitted or maintained in any other form or medium by a covered entity, as defined in 45 CFR Section 164.104.

SECTION XIII

MISCELLANEOUS PROVISIONS

- 13.01 **INABILITY TO LOCATE PAYEE:** If the Plan Administrator is unable to make payment to any Participant or other person to whom a payment is due under the Plan because it cannot ascertain the identity or whereabouts of such Participant or other person after reasonable efforts have been made to identify or locate such person, then such payment and all subsequent payments otherwise due to such Participant or other person shall be forfeited following a reasonable time after the date any such payment first became due.
- 13.02 **FORMS AND PROOFS:** Each Participant or Participant's Beneficiary eligible to receive any benefit hereunder shall complete such forms and furnish such proofs, receipts, and releases as shall be required by the Administrator.
- 13.03 **NO GUARANTEE OF TAX CONSEQUENCES:** Neither the Administrator nor the Employer makes any commitment or guarantee that any amounts paid to or for the benefit of a Participant or a Dependent

under the Plan will be excludable from the Participant's or Dependent's gross income for federal or state income tax purposes, or that any other federal or state tax treatment will apply to or be available to any Participant or Dependent.

- 13.04 PLAN NOT CONTRACT OF EMPLOYMENT: The Plan will not be deemed to constitute a contract of employment between the Employer and any Participant nor will the Plan be considered an inducement for the employment of any Participant or employee. Nothing contained in the Plan will be deemed to give any Participant or employee the right to be retained in the service of the Employer nor to interfere with the right of the Employer to discharge any Participant or employee at any time regardless of the effect such discharge may have upon that individual as a Participant in the Plan.
- 13.05 NON-ASSIGNABILITY: No benefit under the Plan shall be liable for any debt, liability, contract, engagement or tort of any Participant or his Beneficiary, nor be subject to charge, anticipation, sale, assignment, transfer, encumbrance, pledge, attachment, garnishment, execution or other voluntary or involuntary alienation or other legal or equitable process, nor transferability by operation of law.
- 13.06 SEVERABILITY: If any provision of the Plan will be held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions hereof will continue to be fully effective.
- 13.07 CONSTRUCTION:
- a. Words used herein in the masculine or feminine gender shall be construed as the feminine or masculine gender, respectively where appropriate.
 - b. Words used herein in the singular or plural shall be construed as the plural or singular, respectively, where appropriate.
- 13.08 NONDISCRIMINATION: In accordance with Code Section 125(b)(1), (2), and (3), this Plan is intended not to discriminate in favor of Highly Compensated Participants (as defined in Code Section 125(e)(1)) as to contributions and benefits nor to provide more than 25% of all qualified benefits to Key Employees. If, in the judgment of the Administrator, more than 25% of the total nontaxable benefits are provided to Key Employees, or the Plan discriminates in any other manner (or is at risk of possible discrimination), then, notwithstanding any other provision contained herein to the contrary, and, in accordance with the applicable provisions of the Code, the Administrator shall, after written notification to affected Participants, reduce or adjust such contributions and benefits under the Plan as shall be necessary to insure that, in the judgment of the Administrator, the Plan shall not be discriminatory.
- 13.09 ERISA. The Plan shall be construed, enforced, and administered and the validity determined in accordance with the applicable provisions of the Employee Retirement Income Security Act of 1974 (as amended), the Internal Revenue Code of 1986 (as amended), and the laws of the State indicated in the Adoption Agreement. Notwithstanding anything to the contrary herein, the provisions of ERISA will not apply to this Plan if the Plan is exempt from coverage under ERISA. Should any provisions be determined to be void, invalid, or unenforceable by any court of competent jurisdiction, the Plan will continue to operate, and for purposes of the jurisdiction of the court only will be deemed not to include the provision determined to be void.

SECTION XIV

TEMPORARY COVID RELIEF AMENDMENT

14.01 **PURPOSE:** In accordance with changes permitted under The Coronavirus Aid, Relief, and Economic Security Act, 2020, IRS Notice 2020-29, The Consolidated Appropriations Act, 2021, and IRS Notice 2021-15, Employer selected modifications to Plan language and procedures consistent with the following Plan options, as applicable. Notwithstanding any provision of the Plan to the contrary, as elected by the Employer in Item F of the Adoption Agreement, the Plan is hereby amended to adopt the following:

- a. Extended Claims Period: For unused amounts remaining in a Medical Expense Reimbursement Plan or a Dependent Care Reimbursement Plan under the Section 125 Plan as of the end of a grace period or plan year ending in 2020, the Participants may apply those unused amounts to pay or reimburse medical care expenses or dependent care expenses, respectively, incurred through December 31, 2020.
- b. Mid-Year Election Changes: Each Participant who is eligible to make salary reduction contributions under the Plan may make prospective election changes (including an initial election) during calendar year 2020 regarding Group Medical Insurance, a Medical Expense Reimbursement Plan, or a Dependent Care Reimbursement Plan, regardless of whether the basis for the election change satisfies the criteria set forth in regular election change rules.
- c. Mid-Year Election Changes for Medical Expense Reimbursement Plan: For plan years ending in 2021, Participants may modify their Medical Expense Reimbursement Plan elections on a prospective basis at any time during the year. No qualifying event is required.
- d. Mid-Year Election Changes for Dependent Care Reimbursement Plan: For plan years ending in 2021, Participants may modify their Dependent Care Reimbursement Plan elections on a prospective basis at any time during the year. No qualifying event is required.
- e. Extended Grace Period: For plan years ending in 2020 and/or 2021, the grace period for Medical Expense Reimbursement Plan and/or Dependent Care Reimbursement Plan is extended to 12 months.
- f. Unlimited Carryover for Medical Expense Reimbursement Plan: All unused funds in the Medical Expense Reimbursement Plan may be carried over to 2021 (from plan year 2020) and/or 2022 (from plan year 2021). There is no carryover maximum.
- g. Dependent Care Reimbursement Plan Age Increase: For Participants enrolled in the Dependent Care Reimbursement Plan for the 2020 Plan Year, the maximum age for children is extended from age 12 to age 13 when paying or reimbursing dependent care expenses incurred during the 2020 Plan Year. Additionally, amounts remaining at the end of the run-out period for the 2020 Plan Year shall be available to pay or reimburse otherwise-eligible dependent care expenses incurred during the 2021 Plan Year for a child who attained age 13 during the 2020 Plan Year (until the child turns age 14) or for another child who turns age 13 during the 2021 Plan Year.
- h. Reimbursement for Non-Active Participants: Participants who cease participation in a Medical Expense Reimbursement Plan during 2020 or 2021 (for example, due to termination of employment) may continue to receive reimbursements from unused balances through the end of the plan year in which such participation ceased (including any grace period).
- i. Dependent Care Reimbursement Plan Maximum Increase: For the 2021 calendar year only, Dependent Care Reimbursement Plan maximums may be increased to \$10,500 per family (\$5,250 for married individuals filing a joint return).

Order

At a regular session of the County Commission of Upshur County, West Virginia, conducted on June 1, 2023, the following Order is entered in the matter of the John Porter Siron Jr. Trust for Shirley Lea Casto.

On September 11, 2015, in compliance with the Last Will and Testament of John Porter Siron, Jr., deceased recorded in Will Book 58 Page 491, James Douglas qualified as Trustee for John Porter Siron Jr. Trust for Shirley Lea Casto, in accordance with the Will. It was also Ordered that the Trust be referred to Daya Masada Wright, Fiduciary Commissioner.

On February 25, 2023, James Douglas, Trustee, departed this life.

On May 19, 2023, the Successor Trustees, Brad and Jan Crites, declined to serve as Trustees.

On May 23, 2023, with there being no other Successor Trustee appointed within the Last Will and Testament, the beneficiary of the Trust, Shirley Lea Casto, requested the appointment of Shari Zalaznik as Trustee of the John Porter Siron Jr. Trust for Shirley Lea Casto.

Therefore, on this day, June 1, 2023, in compliance with §44D-7-704 (c)(2), the Clerk of the County Commission requests the Appointment of Shari Zalaznik as Trustee of the John Porter Siron Jr. Trust for Shirley Lea Casto; the Penalty of Bond be set at One Hundred Seventy-Five Thousand (\$175,000.00) Dollars; and that, Daya Masada Wright remain as Fiduciary Commissioner.

TESTE: Carrie Smith, CLERK

Order

At a regular session of the County Commission of Upshur County, West Virginia, conducted on June 1, 2023, the following Order is entered in the matter of the John Porter Siron Jr. Trust for Judy Marie Strader.

On September 11, 2015, in compliance with the Last Will and Testament of John Porter Siron, Jr., deceased recorded in Will Book 58 Page 491, James Douglas qualified as Trustee for John Porter Siron Jr. Trust for Judy Marie Strader, in accordance with the Will. It was also Ordered that the Trust be referred to Daya Masada Wright, Fiduciary Commissioner.

On February 25, 2023, James Douglas, Trustee, departed this life.

On May 19, 2023, the Successor Trustees, Brad and Jan Crites, declined to serve as Trustees.

On May 23, 2023, with there being no other Successor Trustee appointed within the Last Will and Testament, the beneficiary of the Trust, Judy Marie Strader, requested the appointment of Shari Zalaznik as Trustee of the John Porter Siron Jr. Trust for Judy Marie Strader.

Therefore, on this day, June 1, 2023, in compliance with §44D-7-704 (c)(2), the Clerk of the County Commission requests the Appointment of Shari Zalaznik as Trustee of the John Porter Siron Jr. Trust for Judy Marie Strader; the Penalty of Bond be set at Two Hundred Eight Thousand (\$208,000.00) Dollars; and that, Daya Masada Wright remain as Fiduciary Commissioner.

TESTE: Carue Smith, CLERK

STATE OF WEST VIRGINIA**EXECUTIVE DEPARTMENT****At Charleston****A PROCLAMATION****By the Governor**

WHEREAS, Juneteenth, also known as Freedom Day or Emancipation Day, is celebrated each year on June 19 in the United States to commemorate the end of slavery; and

WHEREAS, President Abraham Lincoln issued the Emancipation Proclamation on New Year's Day in 1863, which ordered the freeing of all slaves in states that were rebelling against Union forces; and

WHEREAS, the Emancipation Proclamation had little effect in Texas, where there were few Union troops to enforce the order; and

WHEREAS, the message of freedom finally reached African Americans in Texas on June 19, 1865, when Union General Gordon Granger, backed by nearly 2,000 troops, arrived in the city of Galveston, and made the announcement; and

WHEREAS, West Virginia recognizes Juneteenth as the oldest known celebration commemorating the end of slavery; and

WHEREAS, on June 17, 2021, President Biden signed the Juneteenth National Independence Day Act, which established Juneteenth as an official federal holiday; and

WHEREAS, West Virginia Code § 2-2-1 and West Virginia Code of State Regulations § 143-1-14 vests the Governor with the authority to proclaim and treat additional days as official holidays or days of special observance, or days for the general cessation of business; and

WHEREAS, in acknowledgement of the historical significance of Juneteenth, and the fact it is recognized as an official federal holiday, it is fitting and proper that the public employees of this State be permitted to generally cease business on Monday, June 19, 2023, to spend an extended and enjoyable holiday weekend with their loved ones.

NOW, THEREFORE, I, JIM JUSTICE, pursuant to the foregoing and by virtue of the authority vested in me as the Governor of the State of West Virginia, do hereby **PROCLAIM** and **ORDER** that Monday, June 19, 2023, shall be treated as if it were an official holiday, and the public employees of this State may be excused from their work duties on that day without charge against accrued annual leave; and do further

PROCLAIM that this **ORDER** shall not affect private businesses, local governments, and other entities and individuals not employed by the State of West Virginia; nor shall it affect the work requirements of those public employees who may be called upon to safeguard the health, safety, and welfare of West Virginia's citizenry and compensated in accordance with the legislative rules established by the West Virginia Division of Personnel; however, in accordance with West Virginia Code § 2-2-1(c), county commissions may treat Monday, June 19, 2023, as if it were a legal holiday, and the courts may do the same.

[Signature Page Follows]

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



By the Governor

DONE at the Capitol in the City of Charleston, State of West Virginia, this Seventeenth Day of May, in the Year of our Lord, Two Thousand Twenty-Three, and in the One Hundred Sixtieth Year of the State.


GOVERNOR


SECRETARY OF STATE

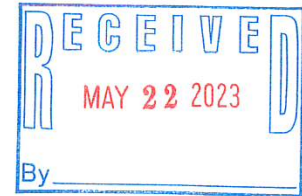
Public Service Commission of West Virginia

201 Brooks Street, P.O. Box 812
Charleston, West Virginia 25323



Phone: (304) 340-0300
Fax: (304) 340-0325

May 16, 2023



David Blair Couch, President
Wood County Commission
#1 Court Square
Parkersburg, WV 26101

Samuel R. Nolte, President
Upshur County Commission
91 West Main Street, Suite 101
Buckhannon, WV 26201

Shane Ashley, President
Monroe County Commission
PO Box 350
Union, WV 24983

Eldon A. Callen, President
Monongalia County Commission
243 High Street, Room 202
Morgantown, WV 26505

Ronald L. Facemire, President
Braxton County Commission
PO Box 486
Sutton, WV 26601

Anthony Petrucci, President
Berkeley County Commission
400 West Stephen Street, Suite 201
Martinsburg, WV 25401

Susie Cvechko, President
Barbour County Commission
26 North Main Street
Philippi, WV 26416

RE: GENERAL ORDER NO. 187.63
In the matter of wireless enhanced 911 fees

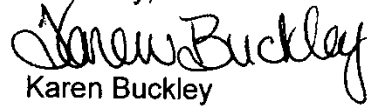
Ladies/Gentlemen:

Enclosed is a copy of a Commission order issued today in the above-styled proceeding. **Please note all other parties have agreed to receive this order via electronic notification.**

Documents submitted to the Public Service Commission of West Virginia may be 1) uploaded to its public website, 2) subject to public disclosure under the West Virginia Freedom of Information Act, and/or 3) subject to disclosure under the West Virginia Open Governmental Proceedings Act. Do not submit personal information with your filings. The Commission is not responsible for confidential or personal information included with your submission. A list of personal information is available here: http://www.psc.state.wv.us/Privacy_Policy/WhatisPII.htm

If you have provided an email address you will automatically receive notifications as documents are filed in this proceeding. The email notifications allow recipients to view a document within an hour from the time the filing is processed. If you have not provided your email address, please send an email to caseinfo@psc.state.wv.us and state the case number in the email subject field. **You are encouraged to file an Electronic Mail Agreement which allows the commission to serve all orders issued in this matter via electronic notification.**

Sincerely,

A handwritten signature in black ink, appearing to read "Karen Buckley". The signature is fluid and cursive, with the first name "Karen" and last name "Buckley" clearly distinguishable.

Karen Buckley
Executive Secretary

KB/al
Enc.

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**



At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 16th day of May 2023.

GENERAL ORDER NO. 187.63

In the matter of wireless enhanced 911 fees.

COMMISSION ORDER

As directed by statute, the Public Service Commission increases the wireless enhanced 911 fee (WE911 Fee) from \$3.51 to \$3.64 per month, per subscriber, to become effective July 1, 2023. For July 2023 and each month thereafter commercial mobile radio service (CMRS) providers will bill and collect a \$3.64 WE911 Fee, an \$0.08 wireless tower fee, which must be shown separately on the subscriber's bill, and a \$0.29 public safety wireless fee, which must be shown separately on the subscriber's bill. The total of the separately billed fees shall be \$4.01 per month from each service subscriber.

BACKGROUND and DISCUSSION

County Commissions derive revenues to operate enhanced emergency telephone systems from two different sources. First, is an enhanced 911 fee imposed by County Commissions on customers of local exchange service as well as voice over internet protocol (VoIP) service within their respective counties. W.Va. Code §7-1-3cc. Second, is a WE911 Fee established by statute at a minimum of \$3.47 per month imposed by retail CMRS providers on customers for each wireless service subscription. W.Va. Code §24-6-6b(b).

Upon billing and collecting the WE911 Fee, CMRS providers, in turn, remit the fees net of an administrative fee, to the Commission. The Commission retains none of the net fees and distributes the WE911 Fee revenue to the counties according to the formula set forth in W.Va. Code §24-6-6b(c). The fee is subject to increase or decrease every two years as provided by statute.

Specifically, the statute provides that:

Beginning in the year 2021, and every two years thereafter, the Public Service Commission shall conduct a survey of the enhanced 911 fees imposed by counties and shall recalculate the wireless enhanced 911 fee so that [it] increases or decreases by the same percentage as the

change in the weighted average rounded to the nearest penny, as of March 1 of the respecification year, of all the enhanced 911 fees imposed by the counties which have adopted an enhanced 911 ordinance: Provided, That the wireless enhanced 911 fee may never be increased by more than 25 percent of its value at the beginning of the respecification year: Provided, however, That the fee may never be less than the amount [of \$3.47 per month] set in subsection (b) [s/c] of this section.

W.Va. Code §24-6-6b(b). Thus, if the weighted average of the enhanced 911 fees change, the Commission must adjust the WE911 Fee by the increase or decrease in the weighted average of the enhanced 911 fees, but subject to the limitations of the statute. Rule 11.1 of the Commission's Rules Governing Emergency Telephone Service, 150 C.S.R. Series 25, (Emergency Telephone Rules) provides that if it is necessary for the Commission to recalculate the WE911 Fee, the new rate takes effect July 1 of the respecification year.

Accordingly, Commission Staff (Staff) periodically calculates the weighted average of the enhanced 911 fees imposed by the County Commissions as of March 31 of a specification year, which is every odd numbered year. The 2023 data submitted to Staff from the providers of landline service and VoIP service show the number of subscribers per county and the enhanced 911 fee imposed by each County Commission. As of March 1, 2023, Staff calculated a weighted average statewide enhanced 911 fee of \$4.13, an increase of 3.77% over the \$3.98 weighted average enhanced 911 fees in 2021. See Line Count Summary – March 1, 2023, Attachment A. Therefore, effective July 1, 2023, under the provisions of W.Va. Code §24-6-6b, the Commission is required to establish a WE911 Fee that is a 3.77% increase over the \$3.51 WE911 last approved. With the 3.77% increase the new WE911 Fee effective July 1, 2023 is \$3.64. The combination of the \$3.64 WE911 Fee, the \$0.08 wireless tower fee, which must be shown separately on the subscriber's bill, and the \$0.29 public safety wireless fee, which must be shown separately on the subscriber's bill, totals \$4.01 per month to be billed and collected by CMRS providers from each wireless subscriber account per month, effective July 1, 2023.

FINDINGS OF FACT

1. The enhanced 911 fees imposed by the County Commissions are authorized by W.Va. Code §7-1-3cc.
2. The WE911 Fee collected by CMRS providers is authorized by W.Va. Code §24-6-6b(a).

3. Pursuant to W.Va. Code §24-6-6b(b), Staff calculated the weighted average of enhanced 911 fees as of March, 2023 (the respecification year) and determined that the weighted average cost of the enhanced 911 fees as of March 1, 2023 had increased over the weighted average of those fees in 2021.

4. The recent data received by Staff from the providers of landline and VoIP service showing the number of subscribers per county and enhanced 911 fees result in a weighted average statewide enhanced 911 fee of \$4.13 as of March 1, 2023 which was an increase of 3.77% over the fees in 2021. See Attachment A.

CONCLUSIONS OF LAW

1. W.Va. Code §24-6-6b(b) provides that,

The wireless enhanced 911 fee is \$3.47 per month for each valid in-state two-way service subscriber . . . Beginning in the year 2021, and every two years thereafter, the Public Service Commission shall conduct a survey of the enhanced 911 fees imposed by counties and shall recalculate the wireless enhanced 911 fee so that [it] increases or decreases by the same percentage as the change in the weighted average rounded to the nearest penny, as of March 1 of the respecification year, of all the enhanced 911 fees imposed by the counties which have adopted an enhanced 911 ordinance: Provided, That the wireless enhanced 911 fee may never be increased by more than 25 percent of its value at the beginning of the respecification year: Provided, however, That the fee may never be less than the amount set in subsection (b) [sic] of this section.

2. Because the weighted average of the 2023 enhanced 911 fee has increased by 3.77% over the weighted average fee in 2021, the Commission must increase the WE911 Fee by 3.77%, or from \$3.51 to \$3.64 per subscriber, per month, effective July 1, 2023. W.Va. Code §24-6-6b(b).

3. When it is necessary for the Commission to respecify the WE911 Fee, that fee takes effect July 1 of the respecification year. Emergency Telephone Rule 11.1.

ORDER

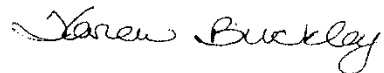
IT IS THEREFORE ORDERED that the Wireless Enhanced 911 Fee is \$3.64 per month, per subscriber, to become effective July 1, 2023. When the Wireless Enhanced 911 Fee is combined with the monthly wireless tower fee of

\$0.08, which must be shown separately on the subscriber's bill, and the monthly public wireless safety fee increment of \$0.29, which must be shown separately on the subscriber's bill, the Fees total \$4.01 per month per subscriber.

IT IS FURTHER ORDERED that on entry of this Order, this case shall be removed from the Commission docket of open cases.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this Order by electronic service on each County Commission and each provider of commercial mobile radio service or alternatively by United States First Class Mail on each County Commission and each provider of commercial mobile radio service as needed, and on Staff by hand delivery.

A True Copy, Teste,



Karen Buckley, Executive Secretary

NNT/pkb
GO187.63.sca

LINE COUNT SUMMARY - MARCH 1, 2023

W. Va. Code §24-6-6b(b) states: Beginning in the year 2021, and every two years thereafter, the Public Service Commission shall conduct a survey of the enhanced 911 fees imposed by counties and shall recalculate the wireless enhanced 911 fee so that increases or decreases by the same percentage as the change in the weighted average rounded to the nearest penny, as of March 1 of the respecification year, of all of the enhanced 911 fees imposed by the counties which have adopted an enhanced 911 ordinance: *Provided*, that the wireless enhanced 911 fee may never be increased by more than twenty-five percent of its value at the beginning of the respecification year.

By statute, 2023 is a survey year for purposes of recalculating the wireless enhanced 911 fee. Counties are allowed, by statute, to impose an enhanced 911 fee upon consumers of local exchange service as well as voice over internet protocol service within their respective counties. The calculation is performed by finding the weighted average of all reported wireline subscribers and the respective County imposed fees as of March 1, 2023.

This year's official survey produced a weighted average for the landline rates of \$4.13, which is an increase over the \$3.98 rate calculated and ordered by the Commission in 2021. The increase from the 2021 calculation is a result of both increases in the E911 fees approved by County Commissions and the continuing decline in the number of VoIP/landlines. (54,864 less than 2021) This calculation is based on the wireline count and County imposed landline E911 fees as of March 1, 2023. The calculation is shown on Attachment A.

There was a 3.77% increase over the 2021 Wireless 911 Fee $[(4.13 - 3.98)/3.98 = .0377 * 100 = 3.77\%]$. The 2023 Recalculated Wireless 911 Fee is \$3.64. This increase was found by applying the 3.77 percent increase to the 2021 Recalculated Wireless 911 Fee of \$3.51. That increase applied to the 2021 Wireless Fee is $(3.51 * 3.77\%) + 3.51 = 3.64$.

The breakdown for 2023 is as follows:

Recalculated Wireless 911 Fee	\$3.64
Tower Fund	.08
State Police	.10
Homeland Security	.19
	<hr/>
	\$4.01

Submitted on May 1, 2023.

Margie Robinson, Utilities Analyst
Steve Wilson, Utilities Analyst

Attachment A
Page 2 of 2

Attachment A

2023 CALCULATION OF WIRELINE E911 FEE STATE_WIDE WEIGHTED AVERAGE

COUNTY	NUMBER OF LAND LINES	WIRELINE E911 FEE	MONTHLY FEES
BARBOUR	3,252	\$ 3.00	\$ 9,756.00
BERKELEY	21,002	\$ 5.00	\$ 105,010.00
BOONE (bus)	1,434	\$ 8.50	\$ 12,189.00
BOONE (res)	6,223	\$ 6.50	\$ 40,449.50
BRAXTON	3,289	\$ 2.10	\$ 6,927.90
BROOKE	5,547	\$ 6.05	\$ 33,559.35
CABELL (bus)	7,312	\$ 9.50	\$ 69,464.00
CABELL (res)	11,327	\$ 7.00	\$ 79,289.00
CALHOUN	2,438	\$ 2.45	\$ 5,968.20
CLAY	2,396	\$ 4.00	\$ 9,584.00
DODDRIDGE	2,327	\$ 2.45	\$ 5,701.15
FAYETTE	11,081	\$ 4.50	\$ 49,864.50
GILMER	1,850	\$ 1.75	\$ 3,237.50
GRANT	3,282	\$ 3.75	\$ 12,307.50
GREENBRIER	10,011	\$ 2.00	\$ 20,022.00
HAMPSHIRE	5,938	\$ 2.00	\$ 11,876.00
HANCOCK	8,069	\$ 4.05	\$ 32,679.45
HARDY	7,237	\$ 3.75	\$ 27,138.75
HARRISON	17,264	\$ 3.50	\$ 60,389.00
JACKSON (bus)	1,516	\$ 5.00	\$ 7,580.00
JACKSON (res)	4,591	\$ 2.00	\$ 9,182.00
JEFFERSON	13,327	\$ 5.00	\$ 66,635.00
KANAWHA (bus)	30,462	\$ 8.95	\$ 272,839.52
KANAWHA (res)	30,853	\$ 5.60	\$ 172,776.80
LEWIS	4,130	\$ 3.25	\$ 13,422.50
LINCOLN	5,313	\$ 3.50	\$ 18,595.50
LOGAN	12,467	\$ 3.00	\$ 37,401.00
MARION	14,206	\$ 3.34	\$ 47,448.04
MARSHALL	9,135	\$ 1.20	\$ 10,962.00
MASON	6,242	\$ 2.00	\$ 12,484.00
MCDOWELL	5,429	\$ 2.90	\$ 15,744.10
MERCER	15,116	\$ 3.00	\$ 45,348.00
MINERAL	4,803	\$ 5.00	\$ 24,015.00
MINGO	8,261	\$ 2.00	\$ 16,522.00
MONONGALIA	21,439	\$ 3.00	\$ 64,317.00
MONROE	3,330	\$ 4.65	\$ 15,484.50
MORGAN	4,483	\$ 5.00	\$ 22,415.00
NICHOLAS	5,107	\$ 3.50	\$ 17,874.50
OHIO	16,627	\$ 3.58	\$ 59,192.12
PENDLETON	3,222	\$ 2.50	\$ 8,055.00
PLEASANTS	2,641	\$ 2.00	\$ 5,282.00
POCAHONTAS	8,825	\$ 1.25	\$ 8,531.25
PRESTON	5,558	\$ 3.00	\$ 16,674.00
PUTNAM	12,888	\$ 1.50	\$ 19,332.00
RALEIGH	20,636	\$ 5.00	\$ 103,180.00
RANDOLPH (bus)	2,635	\$ 6.50	\$ 17,127.50
RANDOLPH (res)	5,394	\$ 3.00	\$ 16,182.00
RITCHIE	3,934	\$ 2.00	\$ 7,868.00
ROANE	3,927	\$ 3.25	\$ 12,762.75
SUMMERS	2,738	\$ 3.85	\$ 10,541.30
TAYLOR	3,174	\$ 2.50	\$ 7,935.00
TUCKER	2,089	\$ 1.50	\$ 3,133.50
TYLER	2,954	\$ 2.85	\$ 8,418.90
UPSHUR (bus)	1,731	\$ 6.50	\$ 11,251.50
UPSHUR (res)	4,381	\$ 4.50	\$ 19,714.50
WAYNE	8,253	\$ 4.00	\$ 33,012.00
WEBSTER	2,366	\$ 2.80	\$ 6,624.80
WETZEL	4,960	\$ 2.95	\$ 14,632.00
WIRT	1,859	\$ 2.00	\$ 3,718.00
WOOD	21,803	\$ 3.25	\$ 70,859.75
WYOMING	5,063	\$ 3.65	\$ 18,479.95
TOTAL	476,945		\$ 1,969,709.88
WIRELINE E911 FEE WEIGHTED AVERAGE			\$ 4.13

318 Mud Lick Road
Buckhannon, WV
26201

LEWIS UPSHUR
Animal Control Facility

Phone: 304-472-3865
Fax: 304-472-9430

REVENUE REPORT
FOR MONTH ENDING: APRIL 2023

		UPSHUR	LEWIS
ADOPTIONS			
CASH		\$1,080.00	\$215.00
CHECK		\$190.00	\$15.00
E STORE CREDIT CARD		\$630.00	\$245.00
SUBTOTAL		\$1,900.00	\$475.00
SPAY/NEUTER DEPOSIT			
CASH		\$1,670.00	\$200.00
CHECK		\$450.00	\$0.00
E STORE CREDIT CARD		\$780.00	\$200.00
SUBTOTAL		\$2,900.00	\$400.00
BOARD RESCUE			
CASH		\$60.00	\$130.00
CHECK		\$0.00	\$0.00
E STORE CREDIT CARD		\$210.00	\$30.00
SUBTOTAL		\$270.00	\$160.00
MICRO-CHIPPING			
CASH		\$0.00	\$0.00
CHECK		\$0.00	\$0.00
E STORE CREDIT CARD		\$15.00	\$0.00
SUBTOTAL		\$15.00	\$0.00
DONATIONS			
CASH		\$195.00	\$0.00
CHECK		\$997.00	\$15.00
E STORE CREDIT CARD		\$120.00	\$0.00
SUBTOTAL		\$1,312.00	\$15.00
SURGICAL UNIT			
CASH		\$2,760.00	\$0.00
CHECK		\$1,172.00	\$0.00
E STORE CREDIT CARD		\$0.00	\$0.00
SUBTOTAL		\$3,932.00	\$0.00
SUMMARY			
	GRAND TOTALS	UPSHUR	LEWIS
CASH	\$6,310.00	\$5,765.00	\$545.00
CHECK	\$2,839.00	\$2,809.00	\$30.00
E STORE CREDIT CARD ✓	\$2,230.00	\$1,755.00	\$475.00
TOTAL	\$11,379.00	\$10,329.00	\$1,050.00

318 Mud Lick Road
Buckhannon, WV 26201

LEWIS UPSHUR

Animal Control Facility

Phone: 304-472-3865
Fax: 304-472-9430

ACCOUNT OF ANIMALS REPORT

ACCOUNT OF ANIMALS HOUSED AT THE LEWIS - UPSHUR ANIMAL CONTROL FCILITY
FOR THE MONTH OF: April-23

ANIMALS RECEIVED									
ACTIVITY	CANINES			FELINES			OTHER ANIMALS		
TYPE OF ADMISSION	UPSHUR	LEWIS	TOTAL	UPSHUR	LEWIS	TOTAL	UPSHUR	LEWIS	TOTAL
Brought in by Animal Control Officer	14	18	32	1	2	3	0	0	0
Brought in by City Trapper	0	0	0	0	0	0	0	0	0
Brought in by County Residents	21	10	31	16	10	26	0	0	0
Brought in by Law Enforcement	0	0	0	1	0	1	0	0	0
Drop Box	0	0	0	2	0	2	0	0	0
Other	0	0	0	0	0	0	0	0	0
TOTAL ADMISSION ACTIVITY	35	28	63	20	12	32	0	0	0
ANIMALS DISCHARGED									
TYPE OF DISCHARGE	CANINES			FELINES			OTHER ANIMALS		
ADOPTIONS	UPSHUR	LEWIS	TOTAL	UPSHUR	LEWIS	TOTAL	UPSHUR	LEWIS	TOTAL
With Charge	68	14	82	22	10	32	0	0	0
Without Charge	0	0	0			0	0	0	0
TOTAL ADOPTIONS	68	14	82	22	10	32	0	0	0
EUTHANASIA									
Owner Request	5	2	7	4	3	7	0	0	0
Other	0	0	0	0	1	1	0	0	0
TOTAL EUTHANIZED	5	2	7	4	4	8	0	0	0
RESCUES									
With Charge	24	9	33	0	0	0	0	0	0
Without Charge	14	1	15	19	1	20	0	0	0
TOTAL TO RESCUE	38	10	48	19	1	20	0	0	0
MISCELLANEOUS									
Escaped	0	0	0	0	0	0	0	0	0
Returned to Owner	0	0	0	1	0	1	0	0	0
Passed - Natural Causes	0	0	0	0	0	0	0	0	0
TOTAL MISCELLANEOUS ACTIVITY	0	0	0	1	0	1	0	0	0
TOTAL DISCHARGE ACTIVITY	111	26	137	46	15	61	0	0	0
INACTIVE STATUS									
Quarantined	2	1	3	0	0	0	0	0	0
TOTAL ANIMAL ACTIVITY FOR PERIOD	148	55	203	66	27	93	0	0	0

CENSUS			
	CANINES	FELINES	OTHER ANIMALS
CENSUS AT BEGINNING OF PERIOD:	88	46	0
CENSUS AT END OF PERIOD:	14	17	0

Vanilla L. Cochran
Signature

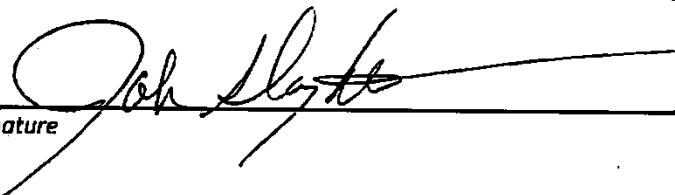
5-3-23
Date

John Slaughter, Animal Control/Humane Officer

Monthly Animal Report

APRIL 2020~~2~~3

TRANSACTION	Upshur	Lewis	TOTAL
Animals picked up by ACO:			
Dogs	12		
Other	8 cats		
Animals returned to Owner by ACO:			
Dogs	0		
Other	0		
Animals delivered to LUACF:			
Dogs	12		
Other	8		
Animals Quarantined by ACO:			
Dogs	0		
Other	0		
Animals Terminated:			
Dogs	0		
Other	0		
Total Number of Hours Involved			


 Signature _____ Date 4.23



Upshur County Sheriff's Financial Statement

For Period Ending : April 30, 2023

FUND NAME	BEGINNING BALANCE	CURRENT MONTH COLLECTIONS	ORDERS ISSUED	BALANCE PER BOOKS
FUND - 001 GENERAL COUNTY FUND	\$ 1,417,011.63	\$ 862,560.44	\$ (979,195.56)	\$ 1,300,376.51
FUND - 002 COAL SEVERANCE TAX FUND	\$ 93,238.20	\$ 19,436.59	\$ -	\$ 112,674.79
FUND - 003 DOG AND KENNEL FUND	\$ 81,809.58	\$ 28,131.34	\$ (9,133.36)	\$ 100,807.56
FUND - 004 GENERAL SCHOOL FUND	\$ 14,230.38	\$ 8,120.05	\$ -	\$ 22,350.43
FUND - 005 MAGISTRATE COURT FUND	\$ 12,613.39	\$ 2,002.90	\$ -	\$ 14,616.29
FUND - 006 WORTHLESS CHECK FUND	\$ 121,259.29	\$ 88.96	\$ -	\$ 121,348.25
FUND - 007 E-911 FUND	\$ 1,382,974.14	\$ 30,162.97	\$ (9,685.35)	\$ 1,403,451.76
FUND - 008 HOME CONFINEMENT FUND	\$ 27,232.74	\$ 9,359.11	\$ (3,177.08)	\$ 33,414.77
FUND - 013 CURRY PARK FUND	\$ 129,105.04	\$ 10,430.27	\$ (546.30)	\$ 138,989.01
FUND - 015 CURRY LIBRARY FUND	\$ 15,490.76	\$ 3,590.88	\$ (871.30)	\$ 18,210.34
FUND - 018 AIRPORT CONSTRUCTION FUND	\$ -	\$ -	\$ -	\$ -
FUND - 019 UPSHUR COUNTY FIRE FEE FUND	\$ 20,127.67	\$ 3,786.82	\$ (19,172.67)	\$ 4,741.82
FUND - 021 EE HEALTH CARE REIMBURSEMENT FUND	\$ 39,301.72	\$ 13,071.80	\$ (7,816.87)	\$ 44,556.65
FUND - 039 COAL REALLOCATION FUND	\$ -	\$ -	\$ -	\$ -
FUND - 052 EMPLOYEE BENEFITS FUND	\$ 1,255,453.83	\$ 144.43	\$ (1,975.00)	\$ 1,253,623.26
FUND - 056 ASSESSOR'S VALUATION FUND	\$ 332,424.51	\$ 13,924.48	\$ (8,244.32)	\$ 338,104.67
FUND - 058 UP.CO.FIN.STBL.FUND	\$ 1,634,666.40	\$ 1,003.19	\$ -	\$ 1,635,669.59
FUND - 059 CONCEALED WEAPONS FUND	\$ 31,843.52	\$ 819.02	\$ (30.00)	\$ 32,632.54
FUND - 063 VOTER'S REGISTRATION FUND	\$ 1,259.13	\$ 0.15	\$ -	\$ 1,259.28
FUND - 071 JURY FUND	\$ 15,080.36	\$ -	\$ (4,226.76)	\$ 10,853.60
FUND - 073 SPECIAL LAW ENFRMNT INVESTIGATION FUND	\$ 2,489.85	\$ 0.29	\$ -	\$ 2,490.14
FUND - 078 CHILD EXCHANGE & VISITATION FUND	\$ 53,314.67	\$ -	\$ -	\$ 53,314.67
FUND - 079 SPAYING & NEUTERING FUND	\$ 51,042.99	\$ 3,350.00	\$ (3,120.85)	\$ 51,272.14
FUND - 080 COMM. CORR. FUND	\$ 1,824,363.75	\$ 61,809.42	\$ (129,973.99)	\$ 1,756,199.18
FUND - 102 AIRPORT IMP. PROJECT FUND	\$ -	\$ -	\$ -	\$ -
FUND - 104 ELKINS ROAD PSD FUND	\$ -	\$ -	\$ -	\$ -
FUND - 105 ADRIAN PSD WATERLINE PHASE VI FUND	\$ -	\$ -	\$ -	\$ -
FUND - 245 UPSHUR COUNTY WELLNESS COMPLEX FUND	\$ 4,760.00	\$ -	\$ -	\$ 4,760.00
FUND - 248 IND. PARK SEWER FUND	\$ -	\$ -	\$ -	\$ -
FUND - 311 DMV LICENSE FUND	\$ 52,778.00	\$ 39,260.00	\$ (92,038.00)	\$ -
FUND - 312 CRIMINAL CHARGES FUND	\$ 45.00	\$ 2,586.95	\$ (2,586.95)	\$ 45.00
FUND - 313 COURT REPORTER FUND	\$ -	\$ 175.00	\$ (175.00)	\$ -
FUND - 314 STATE FINES FUND	\$ -	\$ 649.00	\$ (649.00)	\$ -
FUND - 315 STATE POLICE FUND	\$ 128.05	\$ 676.95	\$ (800.00)	\$ 5.00
FUND - 316 STATE CURRENT FUND	\$ -	\$ 4,250.47	\$ (4,250.47)	\$ -
FUND - 317 COURTHOUSE FACILITIES IMPROVEMENT FUND	\$ -	\$ -	\$ -	\$ -
FUND - 364 TAX LIEN FUND	\$ 154,097.63	\$ 857.29	\$ (1,078.16)	\$ 153,876.76
FUND - 365 DELQ & NONENT LAND	\$ 100.00	\$ -	\$ -	\$ 100.00
FUND - 366 BOARD OF HEALTH FUND	\$ 128,471.12	\$ 71,612.70	\$ (40,312.69)	\$ 159,771.13
FUND - 369 WV DEPUTY SHERIFF'S RETIREMENT FUND	\$ 681.00	\$ 762.50	\$ (681.00)	\$ 762.50
FUND - 373 SCHOOL CURRENT FUND	\$ -	\$ 607,277.13	\$ (607,277.13)	\$ -
FUND - 374 SCHOOL EXCESS LEVY FUND	\$ -	\$ 307,672.33	\$ (307,672.33)	\$ -
FUND - 375 SCHOOL BOND FUND	\$ -	\$ -	\$ -	\$ -
FUND - 378 CITY CURRENT FUND	\$ -	\$ 38,126.73	\$ (38,126.73)	\$ -
FUND - 379 CITY VOTED LIBRARY FUND	\$ -	\$ 4,575.16	\$ (4,575.16)	\$ -
FUND - 206 COVID 19 FUND	\$ -	\$ -	\$ -	\$ -
FUND - 207 AMERICAN RECOVERY FUND	\$ 3,247,132.04	\$ 358.93	\$ (298,354.00)	\$ 2,949,136.97
FUND - 361 CERTIFIED TO THE STATE OF WV	\$ -	\$ 423,816.04	\$ -	\$ 423,816.04
FINAL TOTALS	\$ 12,144,526.39	\$ 2,574,450.29	\$ (2,575,746.03)	\$ 12,143,230.65
BALANCE IN COUNTY DEPOSITORIES AT END OF MONTH:	\$ 13,113,758.04	\$ -	\$ -	\$ -
ORDERS/DEBITS OUTSTANDING:	\$ (2,169,604.72)			
DEPOSITS/CREDITS OUTSTANDING:	\$ 1,197,327.33			
NET BANK BALANCE	\$ 12,141,480.65			
PETTY CASH / CASH DRAWERS	\$ 1,750.00			
CASH SPECIAL INVESTIGATION FUND	\$ -			
ADJUSTMENT	\$ -			
TOTAL IN COUNTY DEPOSITORIES AND OFFICE:	\$ 12,143,230.65			

I, J. Michael Coffman, Sheriff of Upshur County do solemnly swear that the foregoing is a true and correct statement to the best of my knowledge.

J. Michael Coffman
J. Michael Coffman
Sheriff & Treasurer, Upshur County

5/22/2023



Upshur County Sheriff's Financial Statement

For Period Ending: **April 30, 2023**

Bank Balance Listing

BANK NAME	ACCOUNT NAME	BANK BALANCE	OUTSTANDING CHECKS/DEBITS	OUTSTANDING DEPOSITS/CREDITS	BOOK BALANCE
CITIZENS BANK OF WEST VIRGINIA					
	GENERAL COUNTY FUND - IBCK	\$ 787,868.28	\$ -	\$ 460,758.23	\$ 1,248,626.51
	COAL SEVERANCE - IBCK	\$ 112,674.79	\$ -	\$ -	\$ 112,674.79
	E-911 - IBCK	\$ 1,403,501.76	\$ (50.00)	\$ -	\$ 1,403,451.76
	CURRY PARK - IBCK	\$ 138,989.01	\$ -	\$ -	\$ 138,989.01
	CURRY LIBRARY - IBCK	\$ 18,210.34	\$ -	\$ -	\$ 18,210.34
	ASSESSOR'S VALUATION - IBCK	\$ 330,422.50	\$ (5,600.00)	\$ 13,282.17	\$ 338,104.67
	UP. CO. FIN. STAB. FUND - IBCK	\$ 1,635,669.59	\$ -	\$ -	\$ 1,635,669.59
	CONCEALED WEAPONS - IBCK	\$ 32,402.54	\$ (30.00)	\$ 260.00	\$ 32,632.54
	GENERAL TAX - IBCK	\$ 1,608,050.37	\$ (1,862,027.89)	\$ 253,977.52	\$ -
	BOARD OF HEALTH FUND - IBCK	\$ 152,893.36	\$ (398.23)	\$ -	\$ 152,495.13
	OASIS CLEARING - CKNG	\$ -	\$ -	\$ -	\$ -
	UPSHUR CO. FIRE FEE - IBCK	\$ 3,894.54	\$ (55.00)	\$ 902.28	\$ 4,741.82
	UP CO COAL REALLOCATION - IBCK	\$ -	\$ -	\$ -	\$ -
	EMPLOYEE BENEFITS - IBCK	\$ 1,253,623.26	\$ -	\$ -	\$ 1,253,623.26
	SP LAW ENF INVESTIGATION - IBCK	\$ 2,490.14	\$ -	\$ -	\$ 2,490.14
	COMMUNITY CORRECTIONS - IBCK	\$ 1,775,206.73	\$ (19,007.55)	\$ -	\$ 1,756,199.18
	PARKS/REC CLEARING - CKNG	\$ 2,165.89	\$ (2,165.89)	\$ -	\$ -
	ADDRESSING/MAPPING CLEARING	\$ 75.00	\$ (75.00)	\$ -	\$ -
	TAX CLEARING - CKNG	\$ 136,886.09	\$ (174,801.68)	\$ 37,915.59	\$ -
	BOARD OF HEALTH PAYROLL - CKNG	\$ 7,812.47	\$ (2,812.47)	\$ -	\$ 5,000.00
	GENERAL COUNTY OPERATING - CKNG	\$ 95,555.93	\$ (45,555.93)	\$ -	\$ 50,000.00
	DOG & KENNEL - CKNG	\$ 102,457.79	\$ (1,650.23)	\$ -	\$ 100,807.56
	GENERAL COUNTY MISC -CKNG	\$ 36,988.34	\$ (21.62)	\$ -	\$ 36,966.72
	WORTHLESS CHECK - IBCK	\$ 121,348.25	\$ -	\$ -	\$ 121,348.25
	HOME CONFINEMENT - IBCK	\$ 36,464.81	\$ (3,050.04)	\$ -	\$ 33,414.77
	EE HEALTH CARE REIMB - IBCK	\$ 44,868.56	\$ (311.91)	\$ -	\$ 44,556.65
	VOTER'S REGISTRATION - IBCK	\$ 1,259.28	\$ -	\$ -	\$ 1,259.28
	JURY - CKNG	\$ 14,998.04	\$ (4,144.44)	\$ -	\$ 10,853.60
	CHILD EXCHG & VISITATION - CKNG	\$ 53,314.67	\$ -	\$ -	\$ 53,314.67
	SPAY & NEUTER - CKNG	\$ 51,236.14	\$ (210.00)	\$ 246.00	\$ 51,272.14
	ELKINS ROAD PSD - CKNG	\$ -	\$ -	\$ -	\$ -
	AMERICAN RECOVERY FUND - IBCK	\$ 2,949,136.97	\$ -	\$ -	\$ 2,949,136.97
	WELLNESS COMPLEX - CKNG	\$ 4,760.00	\$ -	\$ -	\$ 4,760.00
	DMV LICENSE - CKNG	\$ 35,967.50	\$ (41,943.00)	\$ 5,975.50	\$ -
	STATE CLEARING - CKNG	\$ 45.00	\$ -	\$ -	\$ 45.00
	STATE POLICE - CKNG	\$ 850.00	\$ (845.00)	\$ -	\$ 5.00
	TAX LEIN - CKNG	\$ 154,954.92	\$ (1,078.16)	\$ -	\$ 153,876.76
	DELQ & NON-ENTERED LAND - CKNG	\$ 100.00	\$ -	\$ -	\$ 100.00
	BOARD OF HEALTH OPERATING - CKNG	\$ 6,046.68	\$ (3,770.68)	\$ -	\$ 2,276.00
	WVDSRF - CKNG	\$ 568.50	\$ -	\$ 194.00	\$ 762.50
	CERTIFIED TO THE STATE OF WV	\$ -	\$ -	\$ 423,816.04	\$ 423,816.04
	BANK TOTAL	\$ 13,113,758.04	\$ (2,169,604.72)	\$ 1,197,327.33	\$ 12,141,480.65
SUMMARY:					
	TOTAL ALL BANKS	\$ 13,113,758.04	\$ (2,169,604.72)	\$ 1,197,327.33	\$ 12,141,480.65
	PETTY CASH / CASH DRAWERS				\$ 1,750.00
	CASH SPECIAL INVESTIGATION FUND				\$ -
	GRAND TOTAL				\$ 12,143,230.65

EST. 1851

UPSHUR

County, West Virginia

UPSHUR COUNTY COMMISSION

MONTHLY MILEAGE LOG

DEPARTMENT: Addressing and Mapping

MONTH / YEAR: April 2023

Employee	Vehicle Description	VIN	Start Mileage	End Mileage	Total Mileage	Fuel (Gal.)
Terri Jo Bennett	2021 Ford Explorer	1FMSK8BH7MGC39445	8973	9753	0	14.83 4 1/2
					0	14.03 4 1/2
					0	
					0	
					0	
					0	
					0	
					0	
					0	
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					0	
					0	
					0	
					0	
					0	
					0	
					0	
					0	
					0	
					0	
GRAND TOTALS					780	20.26

UPSHUR COUNTY COMMISSION

MONTHLY
Comm Correction

MONTH / YEAR: April 2023

106 of 121



MONTH / Year Apr-23

Employee	Vehicle Description	VIN	Start Mileage	End Mileage	Total Mileage	Fuel (Gal.)
Steve Wykoff	2019 Chevy 2500	2GC2KREG1121064	11584	11603	19	
				GRAND TOTALS	19	0

UPSHUR

County, West Virginia

UPSHUR COUNTY COMMISSION MONTHLY MILEAGE LOG

DEPARTMENT: Maintenance

MONTH / YEAR: April 2023

Employee	Vehicle Description	VIN	Start Mileage	End Mileage	Total Mileage	Fuel (Gal.)
Greg Harris	2019 Ford F-250	1FDBF2B69KEC81	15389	15643	254	0 18.9
Chris Alkins		902			0	0
Eric Poling					0	0
Hayden Smith					0	0
					0	0
					0	0
					0	0
					0	0
					0	0
					0	0
					0	0
					0	0
					0	0
					0	0
					0	0
					0	0
					0	0
					0	0
					0	0
GRAND TOTALS					0	18.9 0



MONTH / YEAR: April 2023

[illegible]



MONTH / YEAR: April 2023

Employee	Vehicle Description	VIN	Start Mileage	End Mileage	Total Mileage	Fuel (Gal.)
Jeremiah McCourt						
1-Apr	2010 Expedition		129402			
3-Apr						13
11-Apr						10
14-Apr						12
21-Apr						13
24-Apr						11.5
28-Apr						10
30-Apr				130192		
			GRAND TOTALS		790	69.5

Apr-23

UPSHUR COUNTY SHERIFF - MILEAGE AND FUEL

[illegible]

2023 Bluegrass Festival

Summary of Events

The 2023 Bluegrass Festival is a fundraiser for hungry Veterans. Admission will be \$10.00 and 6 or more non-perishable food items per person. Kids under 10 will be free.

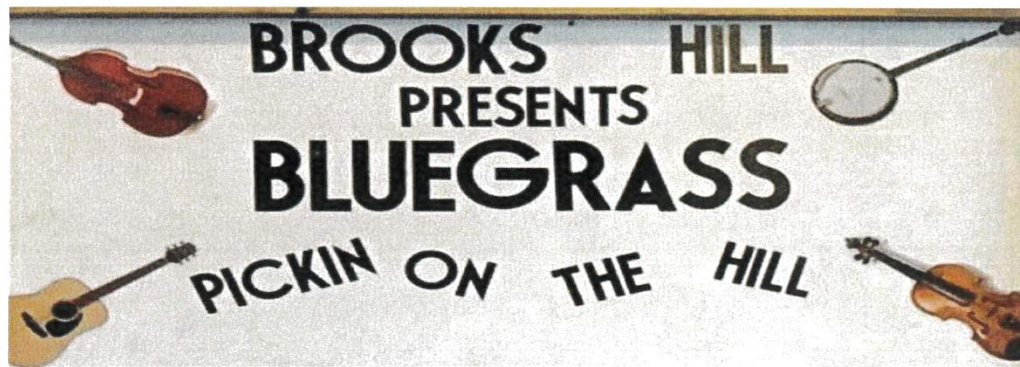
The food will be collected and transported by the local National Guard of Buckhannon. Food will be distributed by the American Legion Post 7 of Buckhannon, WV.

All food donated will be available for Veterans and/or surviving spouses and family. Distribution will be at the Upshur County Senior Center at a date to be posted later.

The 2023 Bluegrass Festival will be June 3, 2023 and gates open at 9:00 am. Our local DAV will be presenting colors at 9:45. Music starts at 10:00 am and goes on till 10:00 pm.

We are seeking sponsors to help with the cost of this event by donation of food or money to purchase food for Veterans.

We welcome any Veteran organization to come and participate the day of the festival and welcome any volunteer help as well. We are a small Country Community Building located at Brooks Hill and will be selling food and drinks the day of festivities. Please help us make this an annual event and acquire lots of food for our well deserving Veterans.



1760 Brooks Hill Rd French Creek WV 26218

A fundraiser to feed hungry Veterans

June 3, 2023

Gates open 9am

Music 10am-10pm

Addmission:

6 or more non-perishable food items collected at the gate



Food for sale all day

Headliner Bands:

7 Mile Bluegrass and Marteka & William

Special guests including:

The Lilly Mountianeers

Phrawg Gigger

Crandall Creek

The Smarr Family

Silas Powell & The Powell Family

Soldiers of the Cross

Camping available

For Bluegrass info:

304-924-9075

For camping info:

304-924-6724

Facebook: Brooks Hill Fair & Bluegrass

James W. Curry Library
Advisory Board Meeting
MINUTES
March 24, 2023 at 10:00 am
At the James W. Curry Public Library

The March 24, 2023 meeting of the Advisory Board was called to order at 10:00 by Lori Ulderich Harvey, the Board President

Roll Call: Present: Lori Ulderich Harvey, Patricia Tolliver, Tabitha Perry, James Crouse, Lewis "Tink" Simmons, Shanna Collins, Carrie Wallace present by conference call. Jim Crouse, new members were introduced. Carrie is actually a returning member.

Absent:

Guests: Nate Kennedy

Staff: Judith William, Jonathan Freeman

Public Comment Period: None

The October 21, 2022 meeting minutes were approved on a motion made by Tink Simmons and seconded by Shanna Collins. Motion carried.

Staff Reports

Park: Jonathan Freeman reported trees were down, the soda/pop machine had been broken into, and with his hours cut, he would be challenged to keep up. He'd like to go from his present part time, back to full time, a County Commission decision. Tabitha was having a personnel meeting with Judith and Jonathan right after this meeting.

Library: Judith Williams presented the Library stats, noting that in house usage was down. The local children are aging and having other interests; however, library use increases when school is out and programs/events are offered. Wireless use remains consistent and is the libraries biggest draw. The library events, such as the Festival of Lights are competing with other area events, now that Covid has diminished. How to continue to provide adequate, reliable internet access was discussed. At this time internet access is barely adequate and is expensive with Frontier. Micrologic is required to provide free internet to the library, but the bandwidth may not be adequate. Nate Kennedy discussed 3 high points on the property as requested by Carrie Wallace in regard to the possibility of another Micrologic tower site to meet library needs. A Digital Equality for Region VII discussion will be coming to the library soon. It is important that especially community people attend and get involved. Judith said in regards to the financial report, that the Festival of Lights brought in new participants; therefore, ignore that less money was made in December 2022. More help will be needed in order for the Festival to be sustained and grown in the future.

Timber: Nate Kennedy reported that the timber market is coming back and slowly improving. The next proposed sale looks good. James Crouse asked Nate what property is available for

timbering. Nate replied approximately 38 accessible acres are available. For the harder to reach areas, the profitability is questionable.

Review/Report

Old Business:

The discussion of nuisance bears was continued from the last meeting. Tabitha contacted the DNR as promised. The DNR is aware of the problem, but are not able to do anything. Jonathan guessed there are no longer 3 but now 8 bears. He mentioned contacting the Wounded Warrior group to hunt. Bear hunters must be selected for control. Tabitha Perry thinks Greg Harris, Upshur County Facility Director, might be interested in bringing in a group of hunters. The Upshur County Commission has to make the final decision. The topic has been presented. It is felt that the County Commission would work with this advisory board to select reputable hunters.

Shanna Collins made a motion to revise the hunting permit to allow a select number of bear hunters. James Crouse, seconded. The motion passed.

New Business:

New board members - James Crouse and Carrie Wallace had been introduced earlier in the meeting.

Pavilion repairs/Insurance claim - waiting for insurance company. Adjustments were made to the bid by the contractor. James Crouse assisted Terry Cutright (County Commissioner) and Kenny Bonner (Contractor) with the bid.

Review and approval of the Land-Property use lease agreement by and between the UCC (Upshur County Commission), JWCAB (James W Curry Advisory Board) and the Trustees for the Brooks Hill Community Building -

Carrie Wallace made a motion to accept the lease provisions for one year of free use provisions. Patricia Tolliver seconded. Motion passed.

Review draft Request for Proposals for capital improvement project -

The first draft of the RFP will be reviewed by Greg Harris, county facility director and Jay Hollen, Buckhannon city engineer. James Crouse had some suggestions. Tabitha Perry will contact the men for clarifications and present their input at the next meeting.

Fund Raising -

Financial Review, spread sheet presented

Pumpkin Quilt, drawing at the end of summer reading

Glow Stick Party, tabled discussion. Might partner with Jeremiah McCourt, Upshur Parks and recreation director, and hold at the Family Park.

Other community function dates 2023 -


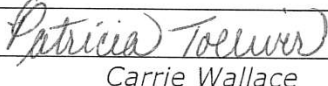

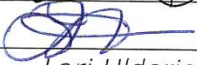
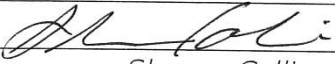
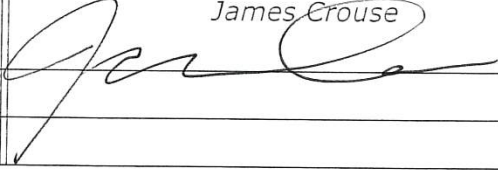
Blue Grass Festival - June 3

Brooks Hill Fair - July 29, only Saturday

Tractor discussion - Jonathan reported that the tractor needs \$2,000 in repairs. Weyerhaeuser grant funds will be used for parts and labor to repair.

There being no further business Shanna Collins motioned to adjourn and Tink Simmons seconded at 11:50am.

The next meeting will be held at the library on May 26 at 10am.

Tabatha Perry	Patricia Tolliver
	
Lewis Simmons	Carrie Wallace
	
	
Lori Ulderich Harvey	James Crouse
	
Shanna Collins	

Upshur County Solid Waste Authority
Board Meeting Minutes—April 10, 2023

Chair Joyce Harris-Thacker called the regularly scheduled meeting of the Upshur County Solid Waste Authority to order in the Conference Room of the UCSWA Building (located at 380 Mudlick Rd. Suite 102 Buckhannon, WV 26201) at 4:30 p.m. on April 10, 2023.

Present at the meeting were: Joyce Harris-Thacker, Jackie McDaniels, Paula Stone, Scott Randall, Mary Gower and Director Belinda Lewis. A quorum was present. There were no guests.

The minutes of the March 13th meeting had previously been sent to the members and were part of the agenda packet. A motion to accept the minutes was made by Jackie. Seconded by Mary. Motion carried.

The Financial Report for March was presented by the Treasurer, Scott. Register Reports for the four bank accounts with First Community Bank covering March 2023 were presented. The ending balances for the accounts are as follows:

	<u>February</u>	<u>March</u>
• REAP	\$100.00	\$100.00
• SWMB	\$10,135.64	\$5,235.64
• Money Market	\$19,583.21	\$19,595.68
• Operating	\$39,690.50	\$38,354.50

A motion to accept was made by Mary and seconded by Paula. Motion carried.

Director Belinda Lewis reported to the Board about receiving the approval letter for the REAP final report, receiving the stress balls, continuing to contact schools about the grade field trips, the EDDM brochures and her continued efforts to secure an auditor.

The director will continue her efforts to secure an auditor.

The Board Members were presented with a sample of the stress balls that had been ordered.

The director reported on her efforts to schedule fourth grade field trips.

The draft budget was presented for the Board's review. The final budget will be on the agenda at the May meeting for approval.

Scott will check on a rusted recycling bin at the Middle School.

With no further business, the meeting was adjourned at 4:55 p.m.

Respectfully Submitted, (April 10, 2023)


 Belinda Lewis, Director


 Joyce Harris-Thacker, Chair

(Signature copy to be maintained in the UCSWA Office)

Upshur County Fire Board Meeting APRIL 18, 2023

Members Present: Joseph Gower, Larry Alkire, Sidney Huffman, Steven Linger, and Kristie Tenney

Members Absent: Donna Matthews and Rick Harlow

Others Present: Les Schoonover and Travis Dean, Guests; and Toni Newman-Fire Fee Clerk

The meeting was called to order by Chairman Joe Gower at 6:30 pm. All motions passed unanimously unless otherwise stated.

The meeting minutes from March 21, 2023, were approved on motion by Larry Alkire and second by Steve Linger.

The Fire Fee Clerk reported the 2022 Fire Fees are at 91 percent collected. The new owner of Ralston Press advised they could no longer print our Fire Fees. Software Systems can print and mail as they have in the past. The cost for printing and mailing will be around \$1.00 per invoice. Software systems also sent a new quote for online payments for the Board to consider. Our current online provider is no cost to the Board.

The checking account balance as of 3/31/2023 was \$111,079.91. The disbursement from the Chief Tax Deputy was \$11,021.59, for the month of March.

The following invoices were reviewed and approved upon motion by Steve Linger and second by Larry Alkire:

*Software Systems---monthly maintenance---Invoice # 37237---\$237.00

*Upshur County Commission---reimbursement---postage---January-March---\$633.27

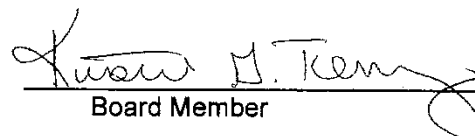
The second disbursement of the 2022 Fire Fee funds was distributed to the VFDs represented (Banks, Buckhannon, Ellamore and Selbyville) in the amount of \$8,000.00 each with the exception of Ellamore (\$6,000.00 with the remaining \$2,000.00 applied as the initial payment on Emergency Fund loan).

The Board approved the Insurance quote from WVCoRP in the Amount of \$1,462.00.

The Board approved one exoneration ticket. There were no Corrective Tickets this month.

There being no further business, the meeting adjourned. The next meeting of the Board will be Tuesday, May 16, 2023, at the Upshur County Administrative Annex.


Joseph Gower, Chairman, Upshur County Fire Board


Board Member