

Upshur County Commission Meeting Agenda

- 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: December 9, 2021
- 9:00 a.m. Moment of Silent Meditation --- Pledge of Allegiance
Approval of Minutes:
• December 2, 2021
- 9:15 a.m. Public comment period regarding boundary changes in the county's three Magisterial Districts; Boundary changes of thirteen county Precincts; and Consolidation with Closure of Precinct 33
[Page 4](#)
- 9:30 a.m. Sheriff Virgil D. Miller -- Discuss the transfer of the 2019 Dodge Ram from Community Corrections to the Sheriff's Department and approval of payment to the Community Corrections Fund in the amount of \$15,000.

Items for Discussion / Action / Approval:

1. Correspondence from Justin R. Bowers, Appalachian Impact Director, requesting the use and lease of the Hampton Community Building located at 156 Hampton Road. Upon approval, Appalachian Impact will lease the property for \$1 per year and be responsible for any and all property taxes, liability and fire insurance, fire fees, repair and maintenance, and utilities to the property. The term of the lease shall be for a period of one year, commencing January 1, 2022 and terminating on the 31st day of December, 2022 unless renewed. *
[Pages 5-11](#)
2. Approval and signature of the WV CDBG Small Cities Block Grant Program Grant Amendment No. 4 for the Elkins Road PSD Phase III Water System Improvement Project. This amendment will reallocate funding to a different line item in order to pay the remaining permit fees related to the project. * [Page 12](#)
3. Review and signature of a Community Development Block Grant – Small Cities Block Grant Request for Payment for the Elkins Road PSD Phase III Water System Improvements in the amount of \$14,620.00. This is for Request for Funds #26. *
[Pages 13-26](#)
4. Review and signature of correspondence to Melissa Garretson Smith, WV Courthouse Facilities Improvement Authority Executive Director, requesting to extend the deadline for the completion of the former jail facility roof project. *
[Page 27](#)
5. Approval and signature of the updated Section 125 Flexible Benefit Plan Adoption Agreement by and between American Fidelity Assurance Company. This document has been updated to reflect changes affiliated with the Coronavirus Aid, Relief, and Economic Security Act, the Consolidated Appropriations Act and the American Rescue Plan Act. *
[Pages 28-62](#)
6. Correspondence from Derek V. Long announcing his resignation from the Upshur County Fire Board, effective December 31, 2021. *
[Page 63](#)

7. 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, Remote Work Request(s).

For Your Information:

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

1. Proclamations made by Governor Jim Justice on December 7, 2021 permitting public employees of this State to generally cease business the last half of the workday of Thursday, December 23, 2021 and Thursday, December 30, 2021, in acknowledgement of the holiday season. These proclamations further read those public employees of this State may be excused from their work duties the last half of the workday both days 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 half-days as if they were legal holidays, and the Courts may do the same. The Courthouse and Annex will be closed per the 2021 Calendar Year Legal Holiday Schedule. [Pages 64-67](#)

2. Upshur County Mileage Reports – October, 2021 [Pages 68-77](#)

- Upshur 911
- Maintenance
- Emergency Management
- Sheriff
- Addressing and Mapping
- Community Corrections
- Dog Pound

3. Lewis-Upshur Animal Control Facility Reports for the month of October, 2021 [Pages 78-82](#)

- Adoption Financial Transactions
- Cat Report
- Animal Report
- Animal Control/Humane Officer Animal Report

4. Public Notices:

- a) Newsletters and/or Event Notifications:

- b) Agendas and/or Notice of Meetings:

- Adrian PSD

November 4, 2021

[Pages 83-84](#)

Meeting Minutes:

- c) Meetings:

- 12/07/21 5:00 p.m. Elkins Road PSD
- 12/07/21 4:00 p.m. Hodgesville PSD
- 12/02/21 7:00 p.m. Banks District VFD
- 12/16/21 7:00 p.m. City Council of Buckhannon
- 12/02/21 7:00 p.m. Selbyville VFD

- 12/13/21 12:00 p.m. Upshur County Family Resource Network
- 12/13/21 4:30 p.m. Upshur County Solid Waste Authority
- 12/13/21 5:30 p.m. Buckhannon-Upshur Recreational Park Advisory Board - Cancelled
- 02/07/22 6:00 p.m. Lewis-Upshur Community Corrections Board – Upshur Co
- 12/14/21 7:30 p.m. Adrian VFD
- 12/02/21 6:00 p.m. Buckhannon-Upshur Board of Health
- 12/14/21 7:00 a.m. Upshur County Development Authority –CANCELLED
- 12/08/21 12:00 p.m. Upshur County Senior Center Board
- 12/08/21 3:00 p.m. Upshur County Conventions & Visitors Bureau
- 12/14/21 7:00 p.m. Warren District VFD
- 12/02/21 3:00 p.m. Adrian PSD
- 12/08/21 3:00 p.m. Tennerton PSD
- 12/09/21 3:00 p.m. Upshur County Safe Sites & Structures Enforcement Board
- 12/09/21 7:30 p.m. Buckhannon VFD
- 12/13/21 4:00 p.m. Buckhannon Upshur Airport Authority
- 12/16/21 6:30 p.m. Upshur County Youth Camp Board
- 12/12/21 6:00 p.m. Washington District VFD
- 12/20/21 12:00 p.m. Buckhannon-Upshur Chamber of Commerce
- 12/15/21 4:00 p.m. Upshur County Public Library Board
- 12/17/21 10:00 a.m. Wes-Mon-Ty Resource Conservation & Development Council
- 12/21/21 6:30 p.m. Upshur County Fire Board, Inc.
- 12/28/21 3:00 p.m. UC Enhanced Emergency Telephone Advisory Board
- 12/08/21 7:00 p.m. Ellamore VFD
- 12/15/21 12:00 p.m. Lewis Upshur LEPC – Upshur Co.
- 12/16/21 6:00 p.m. Upshur County Farmland Protection Board
- 12/27/21 7:00 p.m. Upshur County Fire Fighters Association
- 12/08/21 6:00 p.m. Buckhannon River Watershed Association - Farm Bureau
- 12/06/21 10:00 a.m. Mountain CAP of WV, Inc., a CDC
- 12/10/21 11:00 a.m. Region VI Workforce Development Board – Marion Co.

5. Appointments Needed or Upcoming:

- Upshur County Fire Board (unexpired term 6/30/22) – Community Representative – 1st Mag. District

****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 trperry@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. ****

Tabled Items

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

Next Regular Meeting of the Upshur County Commission
December 16, 2021 --- 9:00 a.m.
Upshur County Courthouse Annex

****There will be a Special Meeting December 22, 2021 at 9:15 a.m. in the Commission Meeting Room****

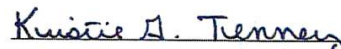
****The Commission Meeting on December 23, 2021 is CANCELLED ****

Notice of Public Hearing
County Commission of Upshur County, West Virginia

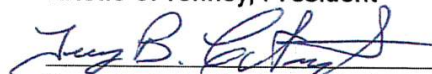
The County Commission of Upshur County, West Virginia (Commission) will hold a public meeting at 9:15 a.m. on Wednesday, December 22, 2021 in the Commission Meeting Chambers (Room 301) of the Upshur County Courthouse Annex located at 38 West Main Street, Buckhannon, West Virginia to consider final adoption and approval of an Order regarding the following: Boundary changes in the county's three Magisterial Districts; Boundary changes of thirteen county Precincts; and Consolidation with Closure of Precinct 33 (Excelsior Community Building). These changes are being made to align with the most recent Census data, Census blocks and Legislative boundary changes in Congressional, Senatorial and House of Delegate Districts. This change will be effective with the May 10, 2022 Primary Election and every Election thereafter, until changed by Order of the Upshur County Commission. Any individual may appear before the Upshur County Commission during regularly scheduled meetings on December 9, 2021, at 9:15 a.m. and December 16, 2021, at 9:15 a.m. or submit written comments on or before December 22, 2021 to the following address:

Carrie L. Wallace, County Administrator
Office of the Upshur County Commission
91 West Main Street, Suite 101
Buckhannon, WV 26201

ENTER this 2nd day of December 2021



Kristie G. Tenney, President



Terry B. Cutright, Commissioner



Sam Nolte, Commissioner

November 19, 2021

To the Members of the Upshur County Commission:

I am writing to express the formal request of Appalachian Impact regarding the use and lease of the Hampton Community Building. Based upon previous conversations with the County Commissioners and the approval of our Appalachian Impact board members, we would like to move forward with utilizing this building for the programs and work of Appalachian Impact. As discussed, we would pay \$1/year for the lease as well as utilities. We would also include the regular upkeep of the property.

If you have any questions at all, please feel free to contact me with questions at 304.439.8503.

Thank you so much.

Sincerely,

Justin R. Bowers
Director, Appalachian Impact

LEASE AGREEMENT

THIS LEASE Agreement, made and entered into this 9th day of December, 2021, by and between the COUNTY COMMISSION OF UPSHUR COUNTY, WEST VIRGINIA, a statutory corporation, hereinafter referred to as “Lessor,” and APPALACHIAN IMPACT, hereinafter referred to as “Lessee.”

WHEREAS, Lessor, a political subdivision of the State of West Virginia, is the owner of certain real property known as the Old Hampton School property situate at 156 Hampton Road, Buckhannon District, Upshur County, West Virginia 26201, said real property being the location of the Hampton Community Building; and,

WHEREAS, Lessee, a non-profit organization recognized as tax-exempt under Section 501(c)(3) of the Internal Revenue Code, is engaged in providing programs and services for at-risk youth.

WHEREAS, Lessee desires to lease said building from the Lessor to assist in providing programs and services for at-risk youth of Upshur County, West Virginia.

NOW, THEREFORE, THIS LEASE AGREEMENT WITNESSETH:

That for and in consideration of the sum of One Dollar (\$1.00), and other good and valuable consideration, the receipt of which is hereby acknowledged, and in further consideration of this agreement, the terms and conditions of which are to be performed by the parties hereto, the Lessor does hereby lease to Lessee, and the Lessee does hereby lease from the Lessor, those certain premises, hereinafter described as Leased premises, under the following terms, covenants and conditions:

1. **LEASED PREMISES:** The Leased premises comprises the Hampton Community Building, being located at 156 Hampton Road, Buckhannon District, Upshur County, West Virginia 26201, on approximately 0.492 acres, along with the right of access to said building.
2. **TERM:** The term of this lease shall be for a period of one (1) year, commencing on the 1st day of January, 2022, and terminating at midnight on the 31st day of December, 2022. Provided the Lessee is not in default in the performance of this lease, Lessee will have the option to renew this Agreement at the expiration of the initial lease term. Prior to the end of the one (1) year term, this Agreement can be terminated only under the following conditions:
 - a. Lessee can terminate its rights under this Agreement upon providing the Lessor with thirty (30) days prior written notice. If this Agreement is terminated under this provision,

Lessee may remove any of its property that is not permanently affixed to the property by the end of the said thirty (30) day period, unless the period for removal of said property is extended by the Lessor, in writing.

b. The Lessor may only terminate this Agreement if:

- i. The Lessor has a need for the property, unforeseen at the time this Agreement is entered into, to meet a public purpose which is of high priority and cannot be met by other assets of the Lessor. In the event this Agreement is terminated under this provision, the Lessor will reimburse the Lessee for the costs of improvements discounted by the period of time the Lessor had the benefit of the use of the improvements, or
- ii. The Lessee fails to maintain any insurance required by this Agreement, or
- iii. The Lessee permits unlawful or unreasonably dangerous conduct on the leased property, or
- iv. The Lessee is delinquent, by more than sixty (60) days, in paying its obligations related to the leased property, including, but not limited to, payment of property taxes, liability and fire insurance, fire fees, repairs and maintenance, and utilities to the leased premises, or
- v. The Lessee fails to properly maintain the leased property, including, but not limited to, mowing and trimming the entire leased property on a regular basis, or
- vi. The Lessee permits such conditions upon the property as to constitute a danger to the health, safety, or welfare of the public.

3. RENT: The Lessee shall pay the Lessor as rent for said Leased premises, the sum of One Dollar (\$1.00) per year.

4. RENTAL INCREASE: There shall be no rental increases unless otherwise agreed between the Lessor and Lessee.

5. REPAIRS: The Lessee will be solely responsible for prompt and timely payment of any and all property taxes, liability and fire insurance, fire fees, repairs and maintenance, and utilities to the Leased premises.

6. GENERAL MAINTENANCE: Lessee agrees to be responsible for the general maintenance of the Leased premises which shall include, but not limited to, general janitorial services, including cleaning and maintaining the work area and bathrooms. The Lessee shall also

be responsible for the maintenance of the water and sewage lines to the Leased premises and for maintaining them in good working order. In addition, the Lessee shall be responsible for snow removal on the leased premises, including the access to the leased premises.

If the Lessee fails to properly maintain the leased property, the Lessor reserves the right to arrange for maintenance of the leased property and to then be reimbursed by Lessee for charges incurred to maintain the leased property.

7. UTILITIES: Lessee shall be responsible for paying, when due, all costs of all utility services at the leased premises. The Lessee shall be responsible for maintaining any telephone and internet lines to the Leased premises. The Lessee shall be responsible for maintenance and repair of heating and cooling systems.

8. WATER and SEWAGE: Lessee shall maintain and pay all water and sewage charges at the leased premises.

9. REMODELING OR CONSTRUCTION: The Lessor or Lessee will not engage in any remodeling or construction at the Leased premises, with the exception of any necessary minor cosmetic repairs, unless agreed upon, in writing, by the Lessor and Lessee.

10. ASSIGNMENT AND SUBLETTING: The Lessee shall not have the right to assign this lease or sublet the Leased premises, in whole or in part, without first obtaining the written consent of the Lessor.

11. NOTICE OF TERMINATION: If either party, the Lessor or the Lessee, does not desire to renew this Lease Agreement at the expiration of the term of the Lease Agreement, said party shall notify the other party of said intention in writing, thirty (30) days prior to the end of this Lease Agreement.

12. WASTE AND NUISANCE: Lessee shall not commit or suffer to be committed, any waste on the Leased premises or on the premises owned by Lessor, nor shall the Lessee maintain, commit, or permit the maintenance or commission of any nuisance on the Leased premises or the premises owned by the Lessor, or use the Leased premises owned by the Lessor for any unlawful purpose.

13. REQUIREMENTS OR PUBLIC AUTHORITIES: Lessee agrees to comply with any requirement of any of the constituted public authorities, and with the terms of any state or federal statute or local ordinance or regulation applicable to Lessee or its use of the Leased premises, and

indemnify Lessor from penalties, fines, cost or damages resulting from failure so to do.

14. SURRENDER OF POSSESSION: Lessee agrees to peaceably deliver up and surrender possession of the Leased premises to the Lessor at the expiration of this Lease.

15. TAXES: The Lessee agrees to be responsible for payment of any and all real estate taxes annually assessed upon the Leased premises, which responsibility shall be prorated to begin on January 1, 2022.

16. USE: The Lessee agrees to use the Leased Premises for operating a community building for programs and services for at-risk youth and related purposes.

17. FIRE INSURANCE: Lessee at its own expense shall maintain fire and hazard insurance on any and all of its contents on the Leased premises. Lessor will be responsible for county fire fees and for maintaining fire and hazard insurance on the structures or buildings on the Leased premises.

18. DESTRUCTION OF PREMISES: In the event that the Leased premises are destroyed or so damaged by fire or other casualty that the same cannot be repaired or restored within a reasonable time, this Lease shall absolutely terminate and the rent shall abate for the balance of the term.

19. DEFAULT: In the event that the Lessee (1) should default in making of the payment of rent, or (2) should default by failing to perform any other provision required of the Lessee to be performed as is hereinafter provided within this Lease Agreement, and the Lessee remains in default in the performance thereof for a period of thirty (30) days or more after written notice has been received by the Lessee as sent for the Lessor, specifically notifying the Lessee of such default, the Lessor may then declare this Lease Agreement as being then immediately terminated and cancelled, and the Lessor further may then immediately retake the exclusive possession of the Leased premises, together with any and all buildings and improvements then situated thereon, without prejudice to any other legal right or remedy that the Lessor may have due to any such default by the Lessee. Any such written notice as is required or as is permitted to be given herein by one party to the other party hereto shall be deemed as having been fully and properly given by the parties hereto unless otherwise expressly provided herein, when said notice is sent by certified mail, return receipt requested, postage prepaid, to the Lessee at 156 Hampton Road, Buckhannon, Upshur County, West Virginia 26201, or to the Lessor at 91 West Main Street, Suite 101,

Buckhannon, West Virginia 26201, or at such other address as either party may, from time to time, during the lease term, notify the other party in writing.

20. WAIVER OF BREECH: It is covenanted and agreed by the parties hereto that the failure of either party to insist in any instance on strict performance of any covenant hereof, or to exercise any option or election herein contained, shall not be construed as a waiver of such covenant, option or election in any other instance. No modification of any provision hereof, and no cancellation or surrender hereof, except as herein provided, shall be valid unless in writing and signed by the parties hereto.

21. NOTICES: All notices hereunder shall be in writing and shall be sufficiently given or served when delivered personally or sent by certified or registered mail to the party at their respective following address, which shall prevail until notice of change is given:

LESSEE: Appalachian Impact
 156 Hampton Road
 Buckhannon, West Virginia 26201

LESSOR: Upshur County Commission
 Upshur County Administrative Annex
 91 W. Main St., Suite 101
 Buckhannon WV 26201

22. PARTIES: It is further understood and agreed by the parties hereto that the covenants and agreements contained herein are binding upon the parties hereto and upon their respective heirs, administrators, successors, legal representatives and assigns.

23. PAYMENT OF RENTAL: All payments of rent shall be made to the Upshur County Commission.

24. EVENT OF EMINENT DOMAIN: Should the demised premises or any part thereof, be taken under the power of eminent domain, or sold by Lessor under the threat or exercise of said power, this lease shall terminate as of the date the condemning authority takes title or possession, whichever shall first occur. Any award for the taking of all or any part of the said premises under the power of eminent domain or any payment(s) made to Lessor under threat of the exercise of such power, shall be deemed the entire property of the Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, or for the taking of the fee, or as severance damages, or in any other form or compensation.

25. LEASE IN DUPLICATE: This lease is executed in duplicate, the original copy thereof to be retained by the Lessor and the duplicate original to be retained by the Lessee, each of which shall be deemed for all purposes the original thereof.

WITNESS the following signatures and seals:

LESSOR:	LESSEE:
County Commission of Upshur County, West Virginia	Appalachian Impact
By: _____	By: _____
Its _____	Its _____

STATE OF WEST VIRGINIA
COUNTY OF UPSHUR, to-wit:

I, _____, a Notary Public in and for the County and State aforesaid, do hereby certify that _____, whose name is signed to the foregoing writing annexed hereto and consisting of five (5) pages and bearing the date of the ____ day of _____, 20____, as _____ of the County Commission of Upshur County, West Virginia, has this day acknowledged the same before me in my said County and State.

Given under my hand this ____ day of _____, 20____
My commission expires: _____.

Notary Public

STATE OF WEST VIRGINIA,
COUNTY OF UPSHUR, to-wit:

I, _____, a Notary Public in and for the County and State aforesaid, do hereby certify that _____, whose name is signed to the foregoing writing annexed hereto and consisting of five (5) pages and bearing the date of the ____ day of _____, 20____, as _____ of Appalachian Impact, has this day acknowledged the same before me in my said County and State.

Given under my hand this ____ day of _____, 20____.
My commission expires: _____.

Notary Public

*This instrument was prepared by Bryan S. Hinkle, Prosecuting Attorney for Upshur County, West Virginia.



Form Number: 6

West Virginia Department of Economic Development

Community Development Block Grant (CDBG)
Budget Amendment Form- Water/Sewer/Storm Sewer/Parks and Rec/Broadband

Subrecipient:	Upshur County Commission
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Project Name:	Elkins Road PSD, Phase III Water System Improvement Project
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Project Number:	16SCBG0008	Amendment Number:	4
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Activity Category*	Current CDBG Budget	Increase	Decrease	Amended CDBG Budget
Administration	\$ 77,462.84			\$ 77,462.84
Accounting				\$ -
Arch/Engineering	\$ 341,172.00			\$ 341,172.00
Land Acquisition				\$ -
Construction	\$ 1,057,423.17		\$ 1,445.81	\$ 1,055,977.36
Permits/Fees	\$ 23,941.99	\$ 1,445.81		\$ 25,387.80
Legal				\$ -
Planning				
Demolition				
TOTAL	\$ 1,500,000.00	\$ 1,445.81	\$ 1,445.81	\$ 1,500,000.00

*Activity Categories cannot change from original budget.

Reason for Amendment:	Adjustment to budget to pay the remaining permit fees related to the project.
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Subrecipient Signature:	
Printed Name and Title:	Upshur County Commission, President
Date:	12/9/2021

WVDED Project Manager:	Ryan Halsey		
Signature:		Date:	
WVDED Program Manager:	Sherry Risk		
Signature:		Date:	

**Community Development Block Grant Program
REQUEST FOR PAYMENT**

TO: West Virginia Development Office
Building 3, Room 700
1900 Kanawha Boulevard, East
Charleston, WV 25305-0311
304.558.2234

FROM: Upshur County Commission
91 West Main Street, Suite 101
Buckhannon, WV 26201
ph. 304.472.0535

Project Name	Elkins Road PSD Phase III Water System Improvements			Project #	16SCBG0008	
Invoice #	173858-26			% of CDBG Funds Expensed	89%	
Time Period Covered by this Request:				06/22/2021	To:	12/09/2021
Amount of CDBG Funds on hand at the time of this Request					\$	-
COST CATEGORIES	APPROVED BUDGET AMOUNT	AMOUNT REQUESTED TO DATE	AMOUNT REQUESTED THIS DRAW	TOTAL AMOUNT REQUESTED	AMOUNT DISBURSED TO DATE	BALANCE
Administration	\$ 77,462.84	\$ 64,215.58	\$ -	\$ 64,215.58	\$ 64,215.58	\$ 13,247.26
Admin Direct Costs		\$ 42,033.42	\$ -	\$ 42,033.42	\$ 42,033.42	
Admin Indirect Costs		\$ 22,182.16	\$ -	\$ 22,182.16	\$ 22,182.16	
Accounting	\$ -	\$ -	\$ -		\$ -	
Arch/Engineering	\$ 341,172.00	\$ 278,853.03	\$ 6,007.65	\$ 284,860.68	\$ 278,853.03	\$ 56,311.32
Land Acquisition	\$ -	\$ -	\$ -		\$ -	
Construction	\$ 1,057,423.17	\$ 964,080.90	\$ -	\$ 964,080.90	\$ 964,080.90	\$ 93,342.27
Permits/Fees	\$ 23,941.99	\$ 16,775.45	\$ 8,612.35	\$ 25,387.80	\$ 16,775.45	\$ (1,445.81)
Legal	\$ -	\$ -	\$ -		\$ -	
Planning		\$ -	\$ -		\$ -	
SUB-TOTAL:	\$ 1,500,000.00	\$ 1,323,924.96	\$ 14,620.00	\$ 1,338,544.96	\$ 1,323,924.96	\$ 161,455.04
Less Income				\$ -		
TOTAL:	\$ 1,500,000.00	\$ 1,323,924.96	\$ 14,620.00	\$ 1,338,544.96	\$ 1,323,924.96	\$ 161,455.04

I certify costs claimed by this report are correct and just and based upon actual requirements; that work and services are in accordance with the approved project agreement; and that work and services are satisfactory and consistent with the amount claimed. Supporting documents are attached to verify costs claimed and are available locally for audit and inspection. City, county, or other direct recipients of funds are not involved in any court litigation or lawsuit involving any applicable laws contained in the grant contract

Chief Elected Official Signature

Kristie G. Tenney, Upshur County Commission

Printed Name of Chief Elected Official

December 9, 2021

Date

Copies of Invoices Required
Invoice Summary Forms Required

v1.12.2021

CDBG Invoice Summary-Engineering

Period Covered by Request

06/22/21-12/09/21

	Vendor	Invoice #	Description	Inv Date	\$
1.	Chapman Technical Group LTD	0019460	Professional Services from September 19, 2021 to October 30, 2021	October 31, 2021	\$ 6,007.65
2.					\$ -
3.					\$ -
4.					\$ -
5.					\$ -
6.					\$ -
7.					\$ -
8.					\$ -
9.					\$ -
10.					\$ -
11.					\$ -
12.					\$ -
13.					\$ -
14.					\$ -
15.					\$ -
16.					\$ -
17.					\$ -
18.					\$ -
19.					\$ -
20.					\$ -
ENGINEERING TOTAL					\$ 6,007.65

NOV-22-2021 01:57 PM ELKINSROADPSD

3044722028

P. 02/04

INVOICE

Elkins Road PSD

NOV 22 2021

RECEIVED

Elkins Road Public Service District
Attn: Carey Wagner, Chairperson
4536 Old Elkins Rd
Buckhannon, WV 26201

October 31, 2021

Project No: 0000007006.00

Invoice No: 0019460

Project 0000007006.00 Elkins Road PSD-Phase III WSI
Re: Elkins Road PSD Phase III WSI
Professional Services from September 19, 2021 to October 30, 2021
Fee

\$ 6,007.65 - CDBG
\$ 6,434.85 - IJDC
\$12,442.50 - Total

Billing Phase	Fee	Percent Complete	Earned
Study & Report Phase	65,000.00	100.00	65,000.00
Preliminary Design	154,400.00	100.00	154,400.00
Final Design	205,600.00	100.00	205,600.00
Bidding & Contracting	25,700.00	100.00	25,700.00
Bidding & Contracting- Amendment No. 3	15,000.00	100.00	15,000.00
Construction Phase	128,300.00	99.00	127,017.00
Construction Phase - Amendment No. 4	3,500.00	100.00	3,500.00
Surveying Services	7,500.00	100.00	7,500.00
Surveying-Amendment No. 2	7,500.00	75.2805	5,646.04
Financing Services	3,500.00	100.00	3,500.00
Financing Services- Amendment No. 2	1,675.00	100.00	1,675.00
Record Drawings	15,000.00	56.1333	8,420.00
PSC Services	2,325.00	100.00	2,325.00
Geotechnical Engineering Services	5,000.00	100.00	5,000.00
Geotechnical-Amendment No. 2	3,740.00	100.00	3,740.00
Resident Construction Observation	537,000.00	64.7913	347,929.47
** Tank Inspection	4,700.00	100.00	4,700.00
Total Fee	1,185,440.00		986,652.51

PLEASE REMIT TO:
Chapman Technical Group LTD
c/o GRW Engineers
801 Corporate Dr.
Lexington, KY 40503
304.727.5501
www.chaptech.com

NOV-22-2021 01:57 PM ELKINSROADPSD

3044722028

P. 03/04

INVOICE

Project	0000007006.00	Elkins Road PSD-Phase III WSI	Invoice	0019460
		Previous Fee	974,210.01	
		Billing		
		Current Fee	12,442.50	
		Billing		
		Total Fee		12,442.50
		Total this Invoice		<u>\$12,442.50</u>

Outstanding Invoices

Number	Date	Balance
0019340	8/31/2021	9,034.58
0019398	9/30/2021	4,478.29
Total		13,512.88

Billing Note:
SCBG Eligible (30%) \$3,732.75

** Denotes Amendment No. 1 (Not SCBG Eligible)

PLEASE REMIT TO:
Chapman Technical Group LTD
c/o GRW Engineers
801 Corporate Dr.
Lexington, KY 40503
304.727.5501
www.chapttech.com

NOV-22-2021 01:58 PM ELKINSROADPSD

3044722028

P. 04/04

Chapman Technical Group
Invoice Detail

INVOICE

INVOICE NO. 19460**INVOICE DETAIL -September 19, 2021 through October 30, 2021.****RECORD DRAWINGS**

Basic Fee:	\$15,000.00			
Fred Brown	10.0 x	\$100.00	=	\$ 1,000.00
Lisa Acord	13.0 x	\$80.00	=	\$ 1,040.00
Charles Cash	13.0 x	\$80.00	=	\$ 1,040.00
Greg Belcher	9.5 x	\$175.00	=	\$ 1,662.50
Reimbursable Expenses			=	-
				<u>\$ 4,742.50</u>

Amount Earned Record Drawings
Amount Previously Invoiced
Amount Due this Invoice Record Drawings

\$ 8,420.00
3,677.50
\$ 4,742.50

CONSTRUCTION OBSERVATION

Basic Fee:	\$537,000.00			
Charles Cash	44.5 x	\$80.00	=	\$ 3,560.00
Michael Shaffer	8.0 x	\$80.00	=	\$ 640.00
Reimbursable Expenses			=	-
				<u>\$ 4,200.00</u>

Amount Earned Construction Observation
Amount Previously Invoiced
Amount Due this Invoice Construction Observation

\$ 347,929.47
343,729.47
\$ 4,200.00

PLEASE REMIT TO:
Chapman Technical Group LTD
c/o GRW Engineers
801 Corporate Dr.
Lexington, KY 40503
304.727.8901
www.chapttech.com

CDBG Invoice Summary-Permits & Fees

Period Covered by Request

06/22/21-12/09/21

Vendor		Invoice #	Description	Inv Date	\$
1.	WV Division of Highways	WS 4320	Inspection Fees	Update of Payment Adjustment Received by ERPSD on 06/22/21	\$ 8,612.35
2.					\$ -
3.					\$ -
4.					\$ -
5.					\$ -
6.					\$ -
7.					\$ -
8.					\$ -
9.					\$ -
10.					\$ -
11.					\$ -
12.					\$ -
13.					\$ -
14.					\$ -
15.					\$ -
16.					\$ -
17.					\$ -
18.					\$ -
19.					\$ -
20.					\$ -
PERMITS/FEEES TOTAL					\$ 8,612.35

Elkins Road PSD

JUN 22 2021

RECEIVED



W. VA. DEPT. OF TRANSPORTATION
HIGHWAYS DIVISION, FINANCE SECTION
BUILDING-5 ROOM A-220
CHARLESTON, WV 25305-0430

BALANCE DUE

JUN 17 2021

Past Due Please Remit

ELKINS ROAD PSD
4536 OLD ELKINS ROAD

BUCKHANNON, WV 26201-0105

ACCT NUMBER INVOICE NUM
ELKROA01 WS 4320
INVOICE D.
07/10/20

* PLEASE RETURN PAYMENT STUB WITH CHECK MADE PAYABLE TO WV DIVISION OF HIGHWAYS *
* >>>>>>>> THERE WILL BE A \$15.00 FEE FOR ALL RETURNED CHECKS <<<<<<<<< *

DESCRIPTION	QUANTITY	AMOUNT
0758 4084 PW0841R 099 999 N		
INSPECTION FEES FOR INSTALLED WATER LINES	CK # 1030	\$28,212.35 <i>yes</i>
LINES INSTALLED ALONG SLS 36, 10, 3, 28 AND		<i>13,050.00 10/2/20</i>
OTHERS IN UPSHUR COUNTY, WEST VIRGINIA.		<i>15,162.35 yes</i>
33,191 LF @ \$0.85/LF	CK # 1041	<i>-9,500.00 11/23/21</i>
PERMIT NUMBER: 07-2020-0242		<i>5,662.35</i>
BILLED PER ATTACHMENT	<i>JV01/004</i>	<i>+ 2,950.00</i>
	<i>payment Adjustment to</i>	<i>8,612.35</i>
	<i>Invoice WS 4321</i>	
IF YOU HAE ANY QUESTIONS REGARDING THIS INVOICE		
CONTACT DISTRICT SEVEN AT 304.269.2238		
	TOTAL	<i>\$28,212.35</i>
		<i>15,162.35</i>
		<i>-5,662.35</i>
		<i>8,612.35</i>

**** DETACH AND RETURN THIS PAYMENT STUB ****
MAKE CHECK PAYABLE TO WV DIVISION OF HIGHWAYS

ELKINS ROAD PSD
4536 OLD ELKINS ROAD

BUCKHANNON, WV 26201-0105

AMOUNT DUE UPON RECEIPT \$28,212.35

*** MAIL THIS STUB WITH PAYMENT TO ***

DIVISION OF HIGHWAYS (TREAS./RPD)
P.O. BOX 11013
CHARLESTON, WV 25339

***** FILE COPY *****

901720210803277003ELKROA0100WS04320075800PW0841R002821235

Copy

WEST VIRGINIA DIVISION OF HIGHWAYS

INVOICE REQUEST

Inspection fees associated with the permit number listed below.

Date: 7/13/2020

CUSTOMER NAME:
CUSTOMER ADDRESS:Elkins Road PSD
4536 Old Elkins Road
Buckhannon, WV 26201

A/R CUSTOMER NUMBER:

ELKROA01

ORG	ACCOUNT #	AUTHORIZATION	PERMIT #	AUTHORIZATION DATE
0758	4084	PW0841R	07-2020-0242	7/8/2020

AMOUNT:	\$28,212.35
FOOTAGE:	33,191 LF

SEWER \$3.37 PER FOOT (JULY 1, 2015)

WATER \$0.85 PER FOOT (JULY 1, 2015)

ACCOUNTING INFORMATION - DOH

ORG	AUTH	ACT	OBJECT
0758	PW0841R	099	999

ACCOUNTING INFORMATION - WVOASIS

FUND	FY	APPR UNIT	OBJECT	SUB OBJ
9017	2021	27700	1202	1309

Current Division of Highways policy for Encroachment Permits for Public Water and Sewage projects state "If the project is estimated to take less than three (3) months to complete, full payment of the established cost per linear foot is to be made no later than thirty (30) days after the issuance of the approved permit. If the project is estimated to take three (3) months or longer, the applicant has ninety (90) days in which to make full payment of the established cost per linear foot."

Form MM-109 Rev. 12-9-2019

PERMIT NO. 07-2020-0242

**West Virginia Department of Transportation
Division of Highways
Right-of-way Encroachment Permit Application**

PERMIT TO ENTER UPON, UNDER, OVER OR ACROSS THE STATE ROADS OF THE STATE OF WEST VIRGINIA.

THIS PERMIT, Made this 26th day of June 2020, between the

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAYS, a statutory corporation hereinafter called DIVISION and

Name: ELKINS ROAD PSD

Address: 4536 OLD ELKINS ROAD

Address: BUCKHANNON, WV 26201

Phone No: (304) 472-3008

E-Mail: _____ hereinafter called APPLICANT.

WITNESSETH

In consideration of the hereinafter set out covenants and in accordance with W. Va. Code §17-2E-1 *et seq.*, §17-4-8, §17-16-6, §17-16-9, §31H-1-1 *et seq.*, federal law, and the rules, policies, guidelines, manuals, and federal regulations promulgated thereunder, APPLICANT does hereby apply to enter:

Route Type & No.: SLS 36,10,3 DOH Project No.: _____ (if applicable);
at 36,10,3,28 & others Mile Post: _____

in 49 - Upshur County, for the purposes hereinafter set forth and in accordance with the plans and specifications which are attached hereto and made a part hereof:

The project will extend Elkins Road PSD water service to approximately 82 customers along County Routes 36,10,3,151,28 and others within their service boundary. Work requires water lines and appurtenances to be installed in WVDOH Right-of-Way.

APPLICANT further agrees to accept the conditions hereinafter set forth:

1. APPLICANT shall deposit with DIVISION the sum of \$ 100000.00 in the form of an official, certified or cashier's check, or executed bond with surety satisfactory to DIVISION to cover any damage and inspection costs DIVISION may sustain by reason of the granting of this permit, including any expense incurred in restoring said highway to its original condition or the proper repair of any and all damages that may result within one (1) year from the date of the completion of said work.

2. APPLICANT agrees to reimburse DIVISION for inspection costs as follows:

- ☐ A. For any inspection costs incurred under this permit.
- ☒ B. At \$ 0.85 per linear foot for 33191 feet of water line installed under this permit.
- ☐ C. At \$ _____ per linear foot for _____ feet of sewer line installed under this permit.

3. APPLICANT shall notify DIVISION at least 48 hours in advance of the date the work will begin. Failure to comply will be cause for cancellation of this permit.

4. APPLICANT agrees to protect its employees, equipment and users of the highway at all times in accordance with the current Division of Highways manual "Traffic Control For Street and Highway Construction and Maintenance Operations".

5. APPLICANT agrees to comply with all applicable state and federal laws in the performance of work under this permit.

6. Supplementary conditions cited on the reverse side of this permit are understood and agreed to be part hereof.

7. The work authorized under this permit shall be completed on or before (Date); June 25, 2021.

I attest that I have not modified the terms of this document. All attachments are inclusive to this permit.

Recommended by DOH Reviewer:

Applicant:

Signature: _____

Title: _____

Title: _____

BOND REQUIREMENT:

APPROVED: _____

BOND NO: 65079845 DATE: 6/26/2020

Title: _____

INSPECTION: FullTime - Reimbursable

West Virginia Division of Highways

AUTHORIZATION NO. PW0841R

PERMIT NO. 07-2020-0242

SUPPLEMENTARY CONDITIONS

1. The person, firm or corporation to whom a permit is issued agrees to hold the State of West Virginia and DIVISION harmless on account of any damages to persons or property which may arise during the process of the work authorized by this permit or by reason thereof.
2. Applications for permission to perform work within highway rights of way shall be made on DIVISION'S standard permit form and shall be signed by the authorized representative of the person, firm or corporation applying.
3. The APPLICANT shall give detailed information concerning the work to be performed and the application must include a sketch sufficient to show the nature of the work performed.
4. APPLICANT, his agents, successor, heirs or assigns, contractors or any other person, firm or corporation working under APPLICANT'S real or apparent authority, shall perform the work in a manner satisfactory to DIVISION. Damage to the road resulting at any time from work authorized under this permit shall be repaired by APPLICANT. Unsatisfactory repairs may be corrected by DIVISION or its authorized agent and the cost thereof paid by APPLICANT.
5. DIVISION assumes no liability for damage to the proposed work by reason of construction or maintenance work on the road.
6. This permit is granted subject to removal of the authorized installation by APPLICANT at no cost to DIVISION when required for improvement of the road, and subject to all regulations now or hereafter adopted by DIVISION.
7. Utility installation shall be in accordance with the current manual, "Accommodation of Utilities on Highway Right of Way".
8. Driveways shall be in accordance with the current manual, "Rules and Regulations for Constructing Driveways on State Highway Rights-of-Way."
9. DIVISION reserves the right to cancel this permit at any time, should APPLICANT fail to comply with the terms and conditions under which it is granted.
10. This permit is granted only insofar as the DIVISION has a right to do so.

ELKINS ROAD PUBLIC SERVICE DISTRICT**2016W-1632****16SCBG0008****Request #18****RESOLUTION OF THE ELKINS ROAD PUBLIC SERVICE DISTRICT APPROVING INVOICES RELATING TO THE WATER PROJECT AND AUTHORIZING PAYMENT THEREOF,**

WHEREAS, the Elkins Road Public Service District, has reviewed the invoices attached hereto for its water project funded by the West Virginia Infrastructure & Jobs Development Council ("IJDC") and Small Cities Block Grant ("SCBG"), and find as follows:

- a.) That none of the items for which payment is proposed to be made has been requested from another funding source.
- b.) That each item for which the payment is proposed to be paid is or was necessary in connection with the Project and constitutes a cost of the project.
- c.) That each of such costs has been otherwise properly incurred.
- d.) That the payment for each of the items proposed is due and owing as the date hereof.

NOW, THEREFORE BE IT RESOLVED by the Elkins Road Public Service District as follows: There is hereby authorized and directed the payment of the attached invoices as follows:

VENDOR	CDBG	IJDC Loan	TOTAL
Chapman Technical Group LTD	\$ 6,007.65	\$ 6,434.85	\$ 12,442.50
Griffith & Associates, PLLC	\$ -	\$ 9,694.00	\$ 9,694.00
WV Division of Highways	\$ 8,612.35	\$ -	\$ 8,612.35
	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -
TOTAL	\$ 14,620.00	\$ 16,128.85	\$ 30,748.85

ADOPTED BY the Elkins Road Public Service District, at a meeting held on the 7th day of December, 2021.

By: _____

Its: Chairman

Elkins Rd PSD
 IUDC No. 2016W-1632
 Expenditure Report # 18 (With CDBG Budget Amendment #4)

12/7/2021

IUDC Loan	Per Schedule B	Adjustments	Revised Budget	Requested Prior to This Draw	Requested This Draw	Total Requested	Remaining
Construction							
Contract 1 - Ofc Bldg (Pro/w/ CO#1-#7)	460,350.00	8,530.63	468,880.63	468,880.63	0.00	468,880.63	0.00
Contract 2 Tank (M&A)	225,000.00	37,397.67	262,397.67	262,397.67	0.00	262,397.67	0.00
Contract 3 Line ext (AJ Burk)	1,117,740.00	132,362.64	1,250,102.64	1,230,426.79	0.00	1,230,426.79	19,675.85
Contract 4 Line Ext (Chojnacki)	1,384,581.65	14,920.35	1,399,502.00	988,373.89	0.00	988,373.89	411,128.11
Contingency	219,549.00	(50,874.11)	168,674.89	0.00	0.00	0.00	168,674.89
Kesling Ridge Booster Station	100,000.00	(80,750.00)	19,250.00	0.00	0.00	0.00	19,250.00
Contract 3, Change Order #4	0.00	80,750.00	80,750.00	0.00	0.00	0.00	80,750.00
Touch Read & Radio Read Meters	274,994.00	(173,000.00)	101,994.00	0.00	0.00	0.00	101,994.00
Contract 3, Change Order #2	0.00	37,000.00	37,000.00	37,000.00	0.00	37,000.00	0.00
Contract 3, Change Order #3	0.00	136,000.00	136,000.00	136,000.00	0.00	136,000.00	0.00
Technical Services (Chapman)							
Study & Report	53,000.00	0.00	53,000.00	53,000.00	0.00	53,000.00	0.00
Design	252,000.00	0.00	252,000.00	252,000.00	0.00	252,000.00	0.00
Bidding	32,990.00	0.00	32,990.00	32,990.00	0.00	32,990.00	0.00
Engineering During Construction	89,810.00	3,500.00	93,310.00	88,911.90	3,115.10	92,027.00	1,283.00
Post Construction Services	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Inspection Services	439,811.00	(63,866.00)	375,945.00	240,610.60	0.00	240,610.60	135,334.40
Special Services							
Surveying Services	10,500.00	0.00	10,500.00	9,202.23	0.00	9,202.23	1,297.77
Finaneing Services	3,622.50	0.00	3,622.50	3,622.50	0.00	3,622.50	0.00
Record Drawings	10,500.00	0.00	10,500.00	2,574.25	3,319.75	5,894.00	4,606.00
PSC Services	1,627.50	0.00	1,627.50	1,627.50	0.00	1,627.50	0.00
Geotech Engineering Services	6,118.00	0.00	6,118.00	6,118.00	0.00	6,118.00	0.00
Tank Inspection	4,700.00	0.00	4,700.00	4,700.00	0.00	4,700.00	0.00
Legal							
a. Legal - Project	25,000.00	0.00	25,000.00	25,000.00	0.00	25,000.00	0.00
b. Legal - PSC (S&J)	10,000.00	0.00	10,000.00	10,000.00	0.00	10,000.00	0.00
Accounting (Griffith)	40,000.00	0.00	40,000.00	28,061.89	9,694.00	37,755.89	2,244.11
Administrative (Region VII)	80,566.35	(58,029.19)	22,537.16	22,537.16	0.00	22,537.16	0.00
Sites and Other Lands	50,000.00	0.00	50,000.00	46,812.50	0.00	46,812.50	3,187.50
Permits / Miscellaneous	70,040.00	(23,941.99)	46,098.01	46,098.01	0.00	46,098.01	0.00
Bond Counsel (S&J)	37,000.00	0.00	37,000.00	37,000.00	0.00	37,000.00	0.00
Registrar Fee	500.00	0.00	500.00	500.00	0.00	500.00	0.00
Funded Reserve	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total	5,000,000.00	(0.00)	5,000,000.00	4,034,445.52	16,128.85	4,050,574.37	949,425.63

CDBG	Per Schedule B	Adjustments	Revised Budget	Requested Prior to This Draw	Requested This Draw	Total Requested	Remaining
Construction							
Contract 1 - Ofc Bldg (Pro)	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Contract 2 Tank (M&A)	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Contract 3 Line ext (AJ Burk)	520,517.00	(132,362.64)	388,154.36	304,001.00	0.00	304,001.00	84,153.36
Contract 4 Line Ext (Chopinacki)	682,788.35	(14,920.35)	667,868.00	660,079.90	0.00	660,079.90	7,788.10
Contingency	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Kesling Ridge Booster Station	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Contract 3, Change Order #4	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Touch Read & Radio Read Meters	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Contract 3, Change Order #2	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Contract 3, Change Order #3	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Technical Services (Chapman)							
Study & Report	12,000.00	0.00	12,000.00	12,000.00	0.00	12,000.00	0.00
Design	108,000.00	0.00	108,000.00	108,000.00	0.00	108,000.00	0.00
Bidding	7,710.00	0.00	7,710.00	7,710.00	0.00	7,710.00	0.00
Engineering During Construction	38,490.00	0.00	38,490.00	38,105.10	384.90	38,490.00	0.00
Post Construction Services	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Inspection Services	97,189.00	63,866.00	161,055.00	103,118.87	4,200.00	107,318.87	53,736.13
Special Services							
Surveying Services	4,500.00	0.00	4,500.00	3,943.81	0.00	3,943.81	556.19
Financing Services	1,552.50	0.00	1,552.50	1,552.50	0.00	1,552.50	0.00
Record Drawings	4,500.00	0.00	4,500.00	1,103.25	1,422.75	2,526.00	1,974.00
PSC Services	697.50	0.00	697.50	697.50	0.00	697.50	0.00
Geotech Engineering Services	2,622.00	0.00	2,622.00	2,622.00	0.00	2,622.00	0.00
Tank Inspection	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Legal							
a. Legal - Project	0.00	0.00	0.00	0.00	0.00	0.00	0.00
b. Legal - PSC (S&J)	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Accounting (Griffith)	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Administrative (Region VII)	19,433.65	58,029.19	77,462.84	64,215.58	0.00	64,215.58	13,247.26
Sites and Other Lands	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Permits / Miscellaneous	0.00	25,387.80	25,387.80	16,775.45	8,612.35	25,387.80	0.00
Bond Counsel (S&J)	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Registrar Fee	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Funded Reserve	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total	1,500,000.00	(0.00)	1,500,000.00	1,323,924.96	14,620.00	1,338,544.96	161,455.04

Total Project	Per Schedule B	Adjustments	Revised Budget	Requested Prior to This Draw	Requested This Draw	Total Requested	Remaining
Construction							
Contract 1 - Ofc Bldg (Pro)	460,350.00	8,530.63	468,880.63	468,880.63	0.00	468,880.63	0.00
Contract 2 Tank (M&A)	225,000.00	37,397.67	262,397.67	262,397.67	0.00	262,397.67	0.00
Contract 3 Line ext (AJ Burk)	1,638,257.00	0.00	1,638,257.00	1,534,427.79	0.00	1,534,427.79	103,829.21
Contract 4 Line Ext (Chojnacki)	2,067,370.00	0.00	2,067,370.00	1,648,453.79	0.00	1,648,453.79	418,916.21
Contingency	219,549.00	(50,874.11)	168,674.89	0.00	0.00	0.00	168,674.89
Kesling Ridge Booster Station	100,000.00	(80,750.00)	19,250.00	0.00	0.00	0.00	19,250.00
Contract 3, Change Order #4	0.00	80,750.00	80,750.00	0.00	0.00	0.00	80,750.00
Touch Read & Radio Read Meters	274,994.00	(173,000.00)	101,994.00	0.00	0.00	0.00	101,994.00
Contract 3, Change Order #2	0.00	37,000.00	37,000.00	37,000.00	0.00	37,000.00	0.00
Contract 3, Change Order #3	0.00	136,000.00	136,000.00	136,000.00	0.00	136,000.00	0.00
Technical Services (Chapman)							
Study & Report	65,000.00	0.00	65,000.00	65,000.00	0.00	65,000.00	0.00
Design	360,000.00	0.00	360,000.00	360,000.00	0.00	360,000.00	0.00
Bidding	40,700.00	0.00	40,700.00	40,700.00	0.00	40,700.00	0.00
Engineering During Construction	128,300.00	3,500.00	131,800.00	127,017.00	3,500.00	130,517.00	1,283.00
Post Construction Services	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Inspection Services	537,000.00	0.00	537,000.00	343,729.47	4,200.00	347,929.47	189,070.53
Special Services							
Surveying Services	15,000.00	0.00	15,000.00	13,146.04	0.00	13,146.04	1,853.96
Financing Services	5,175.00	0.00	5,175.00	5,175.00	0.00	5,175.00	0.00
Record Drawings	15,000.00	0.00	15,000.00	3,677.50	4,742.50	8,420.00	6,580.00
PSC Services	2,325.00	0.00	2,325.00	2,325.00	0.00	2,325.00	0.00
Geotech Engineering Services	8,740.00	0.00	8,740.00	8,740.00	0.00	8,740.00	0.00
Tank Inspection	4,700.00	0.00	4,700.00	4,700.00	0.00	4,700.00	0.00
Legal							
a. Legal - Project	25,000.00	0.00	25,000.00	25,000.00	0.00	25,000.00	0.00
b. Legal - PSC (S&J)	10,000.00	0.00	10,000.00	10,000.00	0.00	10,000.00	0.00
Accounting (Griffith)	40,000.00	0.00	40,000.00	28,061.89	9,694.00	37,755.89	2,244.11
Administrative (Region VII)	100,000.00	0.00	100,000.00	86,752.74	0.00	86,752.74	13,247.26
Sites and Other Lands	50,000.00	0.00	50,000.00	46,812.50	0.00	46,812.50	3,187.50
Permits / Miscellaneous	70,040.00	1,445.81	71,485.81	62,873.46	8,612.35	71,485.81	0.00
Bond Counsel (S&J)	37,000.00	0.00	37,000.00	37,000.00	0.00	37,000.00	0.00
Registrar Fee	500.00	0.00	500.00	500.00	0.00	500.00	0.00
Funded Reserve	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total	6,500,000.00	0.00	6,500,000.00	5,358,370.48	30,748.85	5,389,119.33	1,110,880.67

UPSHUR COUNTY COMMISSION

Upshur County Administrative Annex
91 West Main Street, Suite 101 • Buckhannon, West Virginia 26201

Telephone: (304) 472-0535
Telecopier: (304) 473-2802

TDD Numbers
Business: 472-9550
Emergency: 911

December 9, 2021

Melissa Garretson Smith
Executive Director
WV Courthouse Facilities Improvement Authority
2003 Quarrier Street
Charleston, WV 25311

Project Number: ***18cycUpshur18CY2021 49***
Grant Number: ***18cycUpshu2021***

Dear Ms. Smith,

Please accept this letter as an official request to extend the deadline for the completion of the above referenced project to February 28, 2021. Due to unforeseen difficulties in obtaining the needed materials, Shield Roofing has been unable to complete the project. The original deadline for completion given was November 1, 2021. The contractor requested an extension through November 30, 2021; however, they were unable to return to complete the final details. We anticipate for the physical work to be completed during the month of December; however, weather conditions and the availability of laborers are unknown. After the ridge caps and fascia are installed, a final walkthrough will be performed, final payment will be made and paperwork will be completed as expeditiously as possible. Your consideration of this request will be greatly appreciated.

Best regards,

Kristie G. Tenney
Upshur County Commission President

An Equal Opportunity Employer

**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 Flexible Benefit Plan
Plan Number:	501
Plan Description:	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, 2021

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:	First day of the month following date of hire.
Retiree Wording:	N/A
Minimum Hours:	All employees with 36 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, 2021 and end on June 30, 2022.
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.

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

Removed.

The maximum amount available to each Participant for the purchase of elected benefits with non-elective contributions will be:

Employer may furnish a non-elective contribution as shown in the enrollment materials

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 |
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 - **\$2700.00** 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: \$ 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 – 0820 Document ID # 144245MCP #68196 Effective Date:07/01/2021 11/19/21 11:52 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 \$550, 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: <ul style="list-style-type: none"> (a) <u>Tax Dependent</u>: 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.

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).

Derek V. Long
2245 Brushy Fork Rd.
Buckhannon, WV 26201

December 6, 2021

Upshur County Fire Board
Joe Gower, President
38 W. Main Street, Room 101
Buckhannon, WV 26201

President Gower,

Please accept this letter as my resignation from the Upshur County Fire Board effective December 31, 2021. I wish you and the other board members well in your mission going forward.

Sincerely,

A handwritten signature in black ink, appearing to read 'DVL', with a stylized flourish at the end.

Derek V. Long

CC: Carrie Wallace, County Administrator

STATE OF WEST VIRGINIA

EXECUTIVE DEPARTMENT

At Charleston

A PROCLAMATION

By the Governor

WHEREAS, Christmas Day occurs on a Saturday this year, and in recognition of the hard work accomplished by the public employees of this State throughout the year 2021, and in acknowledgement of the holiday season, it is fitting and proper that the public employees of this State be permitted to cease business for the last half of the workday of December 23, 2021, to spend an extended and enjoyable holiday 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 the public employees of this State may be excused from their work duties on the last half of Thursday, December 23, 2021, 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 who will be compensated in accordance with the legislative rules established by the West Virginia Division of Personnel; however, in accordance with subsection (c), section one, article two, chapter two of the Code of West Virginia, county commissions may designate the last half of Thursday, December 23, 2021, as a half-day of time off for county employees without charge against accrued annual leave, and the courts may treat the day as if it were a half -day legal holiday.

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 Seventh day of December, in the year of our Lord, Two Thousand Twenty-One, and in the One Hundred Fifty-Ninth year of the State.


GOVERNOR


SECRETARY OF STATE

STATE OF WEST VIRGINIA

EXECUTIVE DEPARTMENT

At Charleston

A PROCLAMATION

By the Governor

WHEREAS, New Year's Day occurs on a Saturday this year, and in recognition of the hard work accomplished by the public employees of this State throughout the year 2021, and in acknowledgement of the holiday season, it is fitting and proper that the public employees of this State be permitted to cease business for the last half of the workday of December 30, 2021, to spend an extended and enjoyable holiday with their loved ones.

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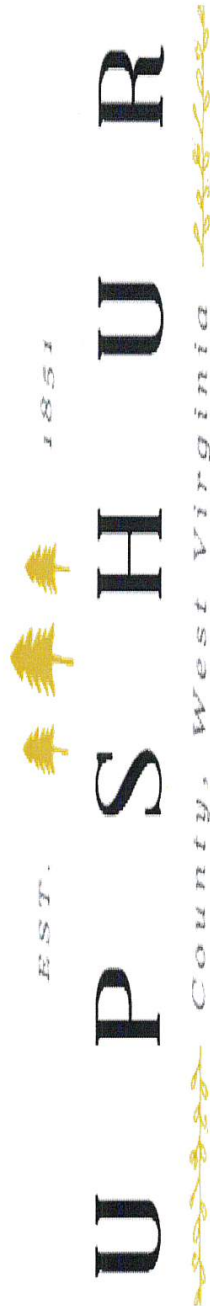
By the Governor

DONE at the Capitol in the City of Charleston, State of West Virginia, this Seventh day of December, in the year of our Lord, Two Thousand Twenty-One, and in the One Hundred Fifty-Ninth year of the State.


GOVERNOR



SECRETARY OF STATE



UPSHUR COUNTY COMMISSION

MONTHLY MILEAGE LOG

DEPARTMENT: Upshur 911

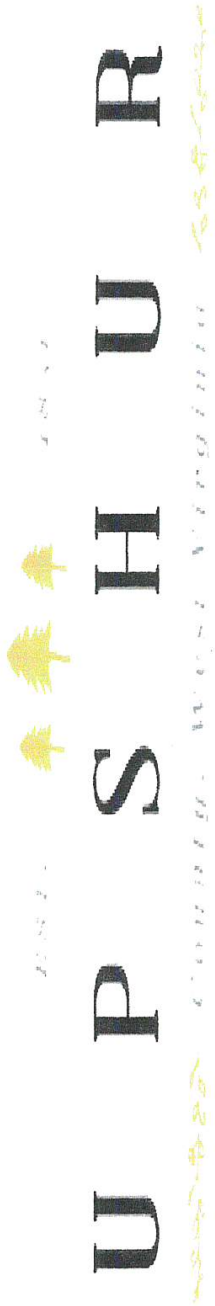
MONTH / YEAR: October 2021

Employee	Vehicle Description	VIN	Start Mileage	End Mileage	Total Mileage	Fuel (Gal.)
Doyle Cutright II	Ford Expedition	2CNDL73F556160712	127987	128199	212	0
					0	
					0	
					0	
					0	
					0	
					0	
					0	
					0	
					0	
					0	
					0	
					0	
					0	
					0	
					0	
					0	
					0	
					0	
			GRAND TOTALS		212	0

MONTHLY MILEAGE LOG

Oct. 2021

[illegible]



UPSHUR COUNTY COMMISSION

MONTHLY MILEAGE LOG

DEPARTMENT: Maintenance MONTH / YEAR: Oct. 2021

[illegible]

MONTHLY MILEAGE LOG

DEPARTMENT: Maintenance

[illegible]

UPSHUR COUNTY COMMISSION

MONTHLY MILEAGE LOG

MONTH / Year October 2021

Employee	Vehicle Description	VIN	Start Mileage	End Mileage	Total Mileage	Fuel (Gal.)
C Wallace / T Perry	2019 Chevy 2500	2GC2KREG1121064	8780	9024	244	30.73
			GRAND TOTALS		244	30.73

Oct 21

[illegible]

UPSHUR COUNTY COMMISSION

MONTHLY MILEAGE LOG

Month/Year: October 2021

Employee	Vehicle Description	VIN	Start Mileage	End Mileage	Total Mileage	Fuel (Gal.)
Mike Francis	F250 Ford Truck	1FTSX21598EB86131	103,465	103,470	5	
					0	
					0	
					0	
					0	
					0	
					0	
					0	
					0	
					0	
					0	
					0	
					0	
					0	
					0	
					0	
					0	
					0	
				Total Miles	5	

LEWIS-UPSHUR ANIMAL CONTROL FACILITY		
MONTH OF <u>October 2021</u>		
	UPSHUR	LEWIS
ADOPTIONS		
CASH	\$390	\$245
CHECK	\$0	\$0
E STORE CREDIT CARD	\$230	\$150
SUBTOTAL	\$620	\$395
SPAY/NEUTER DEPOSIT		
CASH	\$600	\$550
CHECK	\$0	\$0
E STORE CREDIT CARD	\$500	\$300
SUBTOTAL	\$1,100	\$850
BOARD RESCUE		
CASH	\$90	\$30
CHECK	\$0	\$0
E STORE CREDIT CARD	\$40	\$0
SUBTOTAL	\$130	\$30
MICRO-CHIPPING		
CASH	\$91	\$0
CHECK	\$13	\$0
E STORE CREDIT CARD	\$26	\$0
SUBTOTAL	\$130	\$0
DONATIONS		
CASH	\$0	\$0
CHECK	\$152	\$0
E STORE CREDIT CARD	\$0	\$0
SUBTOTAL	\$152	\$0

OTHER		
TOTAL	\$2,132	\$1,275

EXPLANATION:

LEWIS-UPSHUR ANIMAL CONTROL FACILITY REPORT
ACCOUNT OF CATS
JANELLA COCHRAN, SUPERVISOR OF ANIMAL SERVICES
(October 2021)

TRANSACTION	UPSHUR	LEWIS	TOTAL
Cats brought in by City Trapper	5	0	5
Cats brought in by Animal Control Officer	0	1	1
Cats brought in by County Residents	59	32	91
Cats brought in by Law Enforcement	0	0	0
Cats in Drop Box	0	0	0
Cats Quarantined	0	0	0
Cat returned to owner	0	1	1
Cats Escaped	0	0	0
Adoptions:			
With Charge	11	12	23
Without Charge	0	0	0
Rescues:			
With Charge	0	0	0
Without Charge	45	19	64
Euthanasia:			
Owner Request	0	0	0
Other	7	2	9

Janelle L Cochran 11-8-2021
 Signature Date

LEWIS - UPSHUR ANIMAL CONTROL FACILITY
ANIMAL REPORT (November 8, 2021)
ACCOUNT OF ANIMALS HOUSED AT THE LEWIS - UPSHUR ANIMAL CONTROL FACILITY
FOR THE MONTH OF (October 2021)

TRANSACTION	UPSHUR	LEWIS	TOTAL
Dogs brought in by Animal Control Officer	20	20	40
Other Animals brought in by Animal Control Officer	1	0	1
Dogs brought in by County Residents	19	6	25
Dogs brought in by Law Enforcement	0	0	0
Dogs in Drop Box	0	0	0
Dogs Quarantined	0	0	0
Dogs Returned to Owner	4	1	5
Dogs Escaped	0	0	0
Adoptions:			
With Charge	18	11	29
Without Charge	0	0	0
Rescues:			
With Charge	6	3	9
Without Charge	6	4	10
Euthanasia:			
Owner Request	3	0	3
Other	2	0	2
Total	79	45	124

Jennifer L. Cochran

Signature

11-8-2021

Date

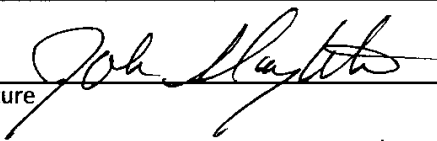
John Slaughter, Animal Control/Humane Officer

Monthly Animal Report

Oct 2021

TRANSACTION	Upshur	Lewis	TOTAL
Animals picked up by ACO:	22		
Dogs	20		
Other	2		
Animals returned to Owner by ACO:	0		
Dogs			
Other			
Animals delivered to LUACF:	22		
Dogs	20		
Other	0		
Animals Quarantined by ACO:	0		
Dogs			
Other			
Animals Terminated:			
Dogs			
Other			
Total Number of Hours Involved	160		

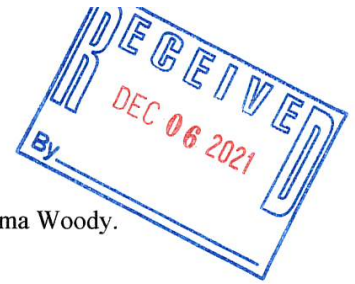
Signature



Date

11/9/21

Adrian Public Service District
November 4, 2021
Monthly Board Meeting



Present from Adrian PSD: Paul Spencer, Kelly Arnold, Carolyn Douglas, Eric Brunn, and Norma Woody.

Visitors in attendance: Morgan Haymond

All motions were unanimous unless otherwise noted.

The meeting was called to order at 3:00 pm by Chairman Spencer.

Visitor Morgan Haymond, Land Consultant updated board on progression of Phase VIII project. Appraisal for Ricottelli Tank Site completed by Dean Everett, Griffin Real Estate. Once received and approved by Trey Hornor, Hornor Brothers Engineering, process for obtaining property will move forward. Chandler Tank Site offer has been accepted by owners. Morgan awaiting agreements from attorney for signatures.

Minutes of the October 7th meeting were read. Kelly made the motion to approve the minutes and Paul second.

Invoices were presented. Motion to pay by Carolyn, second by Kelly.

Old Business

- Phase VIII/Pickens updates provided by Norma Woody.

New Business

- None

Items for Discussion/Action/Approval

- Norma Woody provided an update on WVCorp filing. Jared Mullin, Claims Specialist with Risk Pool recommending denial to management on claim filing.
- Received correspondence on 30B Pass Through Rate Increase from Public Service Commission recommending an order be entered, making the current interim rates the final rates for the District.
- Kelly Arnold approved for a six year term as Board Member by County Commission.
- Norma Woody and Eric Brunn presented board with request to purchase a new fleet truck from Renewal and Replacement account. Norma spoke with Phil Nuce, CPA, CFE with Bennett & Dobbins, PLLC, accounting firm for the district. Phil advised the Renewal and Replacement account could be used for such a purchase, and recommended State Bid purchasing for the district. All other purchase considerations (outside State Bid) must be advertised. Eric also requested the purchase of a snow plow for one of the fleet trucks as Phase VIII/Pickens is gearing up. This equipment is necessary for clearing tank site locations, along with office in winter months. The board approved the request to purchase snow plow and fleet truck for the district. Eric obtaining information from State Bid list for pricing to present to board next meeting.

Maintenance Report

- Installed three new services, awaiting fourth to be installed.
- Repaired main valve leak at Trexel McCartney/Gould Road.
- Repaired leak at Waterloo Road.
- Obtained pricing on new truck.
- Obtained pricing on plow for truck.
- New heating unit for garage (hanging). Old unit unrepairable.
- Replaced two nonworking valves Granville, Hampton Heights.
- All sampling finished for the month, TTHM & HAA5s, Bacteria.

Office Report

- Bennett & Dobbins Fiscal Year Audit completed for fiscal year 2020-2021.

Adrian Public Service District
November 4, 2021
Monthly Board Meeting

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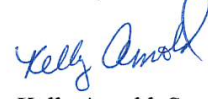
Adjournment

The meeting adjourned at 4:00 pm. Next regular meeting will be December 2, 2021 at 3:00 pm

Board of Directors


Paul Spencer, Chairman


Carolyn Douglas, Vice Chairman


Kelly Arnold, Sec., Treas.