

COUNTY COMMISSION OF LEWIS COUNTY

110 Center Avenue
Weston WV 26452
Phone:(304)269-8200
FAX: (304)269-2416
Email:lewiscountycommission@lewiscountywv.org
Website: lewiscountywv.org



COMMISSIONERS:
Bobby Stewart, President
Agnes Queen, Commissioner
Rod Wyman, Commissioner

**LEWIS COUNTY COMMISSION
110 CENTER AVENUE, 2ND FLOOR
WESTON, WV 26452
MEETING AGENDA
TUESDAY, April 9, 2024**

SILENT MEDITATION AND PLEDGE OF ALLEGIANCE

- 1. 10:00 AM** **Call Meeting to Order** (*action required*)
- 2. 10:00 AM** **John Breen, Lewis County Assessor**
RE: Exonerations, Consolidations, Apportionments
Draft copies will be available for review two business days prior to the meeting date. (*action required*)

APPOINTMENTS

- 3. 10:05 AM** **Louise Bennett Library:** The Lewis County Commission will be asked to execute a proclamation in support of National Library Week. (*action required*)

CORRESPONDENCE

- 4. Upshur County Commission Meeting Agenda:** The April 4, 2024 Upshur County Commission meeting agenda is presented for review. (*information only*)
- 5. Records Management and Preservation Board:** The WV Department of Arts, Culture and History grant award of \$30,000 has been approved. This grant will provide improvements for the offices of the Lewis County Circuit Clerk, County Clerk and Sheriff. (*information only*)
- 6. Lewis-Gilmer E-911 Monthly Report:** The March 2024 Lewis-Gilmer E-911 report is presented for review. (*information only*)
- 7. Lewis County Sheriff's Mileage Report:** The March 2024 Sheriff's Mileage Report is presented for review. (*information only*)
- 8. West Virginia Prevention Solutions:** A letter from West Virginia Prevention Solutions is presented for review. (*information only*)
- 9. Board(s) and Committee(s) Reports:** Commissioners will give reports on any board(s) or committee(s) meeting attended including: Lewis County Convention and Visitors Bureau, Weston Neighborhood Watch, Lewis County Community Foundation Fund Advisory Board, Jane Lew Lions Club, County Commissioners of WV Spring Board Meeting, 911 Advisory Board, Alum Bridge Neighborhood Watch, etc.

BUSINESS

10. **Brownfields Grant Right of Entry Agreement:** The Right of Entry Agreement for the property located at 125 Montgomery Road, Weston, West Virginia is presented for approval. *(action required)*
11. **Brownfields Grant Right of Entry Agreement:** The Right of Entry Agreement for the property located at 122 Montgomery Road, Weston, West Virginia is presented for approval. *(action required)*
12. **Brownfields Grant Right of Entry Agreement:** The Right of Entry Agreement for the property located at 145 Montgomery Road, Weston, West Virginia is presented for approval. *(action required)*
13. **Lewis County Economic Development Authority:** Executive Director, Ray Smith, submits a proposal from The Thrasher Group to evaluate the existing broadband infrastructure in Lewis County at a cost of \$7,500.00 for Phase I and \$11,500.00 for Phase II. *(action required)*
14. **Region VII Planning and Development Council Multi-Jurisdictional Hazard Mitigation Plan and Resolution:** This plan and resolution is adopted annually in compliance with the Federal Emergency Management Agency (FEMA). *(action required)*
15. **Tina Helmick, Lewis County Administrator Request to Advertise:** Ms. Helmick submits a request to advertise for the position of Animal Control Officer. *(action required)*
16. **Brownfields Grant, United States Environmental Protection Agency Region III Memorandum:** A memorandum of Agreement between the State Voluntary Cleanup Programs and 104(k) Grant Fund Recipients for Adoption of Quality Assurance Program Plans is presented for review and approval. This agreement will reduce the review times for field sampling plans. *(action required)*
17. **Safe Sites and Structures Committee:** The Facts, Findings and Conclusions of the hearing dated Tuesday, March 26, 2024 for the property located at 497 Homewood Road, Weston, West Virginia is presented for review and approval. *(action required)*
18. **Ohio Farmers Insurance Agency Contract and Status Inquiry:** The Commission is requested to review and approve a status inquiry for the new Lewis-Gilmer E-911 Building with Dan Hill Construction Company. *(action required)*
19. **Request for Proposals of Recirculating Splash Pad:** Commission will consider obtaining proposals for a splash pad for the Lewis County Park. *(action required)*
20. **Time Sheets, Leave Requests:** Tina Helmick Time Sheet, Sherry Rogers Annual Leave *(action required)*

ACTIONS, ESTATE SETTLEMENTS, ORDERS AND PAYMENT OF EXPENDITURES:

21. **Actions of the Clerk:** County Clerk Cynthia S. Rowan presents actions of the clerk in recess of the county commission for approval. Draft copies will be available for review upon request two business days prior to the meeting date. *(action required)*
22. **Approval of Estates:** County Clerk Cynthia S. Rowan presents the estates ready for settlement to the Lewis County Commission for approval. Draft copies will be available for review upon request two business days prior to the meeting date. *(action required)*
23. **Presentation by the County Clerk of the Orders of Prior Meeting(s):** The Lewis County Clerk presents the Orders (minutes) of previous Lewis County Commission meeting(s) for approval. Draft

copies will be available for review upon request two business days prior to the meeting date. *(action required)*

24. Expenses for the Current Period Presented for Consideration of Payment: Draft copies will be available for review upon request two business days prior to the meeting date. *(action required)*

ADJOURNMENT:

25. With no further action being required by the Lewis County Commission the meeting will be adjourned. *(action required)*

LEWIS COUNTY COMMISSION MEETING MANAGEMENT

- Regular meeting agendas will be posted and available to the public before closure two (2) business days prior to the meeting date.
- Agenda matters to be reviewed and/or considered during the meeting are at the discretion of the Lewis County Commission.
- Appointments to speak with the county commission must be scheduled before 10 AM three (3) business days prior to the meeting. Appointments will be given a ten (10) minute time allowance.
- Agenda Items may require an executive session.
- Open discussion by Commission unless executive session is motioned per WV Code §6-9A-4.
- Input or recommendation from constitutional officers, staff or public that is not listed by name on the agenda will only be allowed if requested by the commission or required by statute.
- Those not scheduled on the agenda may sign up for public comment at a minimum fifteen (15) minutes prior to the start of the meeting. Public comment is limited to five (5) minutes per speaker.
- Motion required for consideration of vote.
- All votes unanimous unless otherwise stated.
- Roberts Rules of Order is utilized as a guide only. The Commission controls meeting management, discussion and input.
- Commissioners may participate and vote via conference call if two (2) commissioners are in attendance.

Additional Notices

No Additional Notices Scheduled

National Library Week 2024 Proclamation

WHEREAS, libraries offer the opportunity for everyone to connect with others, learn new skills, and pursue their passions, no matter where they are on life's journey;

WHEREAS, libraries have long served as trusted institutions, striving to ensure equitable access to information and services for all members of the community regardless of race, ethnicity, creed, ability, sexual orientation, gender identity, or socio-economic status;

WHEREAS, libraries adapt to the ever-changing needs of their communities, developing and expanding collections, programs, and services that are as diverse as the populations they serve;

WHEREAS, libraries are accessible and inclusive places that promote a sense of local connection, advancing understanding, civic engagement, and shared community goals;

WHEREAS, libraries play a pivotal role in economic development by providing resources and support for job seekers, entrepreneurs, and small businesses, thus contributing to local prosperity and growth;

WHEREAS, libraries make choices that are good for the environment and make sense economically, creating thriving communities for a better tomorrow;

WHEREAS, libraries are treasured institutions that preserve our collective heritage and knowledge, safeguarding both physical and digital resources for present and future generations;

WHEREAS, libraries are an essential public good and fundamental institutions in democratic societies, working to improve society, protect the right to education and literacy, and promote the free exchange of information and ideas for all;

WHEREAS, libraries, librarians, and library workers are joining library supporters and advocates across the nation to celebrate National Library Week;

NOW, THEREFORE, be it resolved that Louis Bennett Public Library proclaims National Library Week, April 7-13, 2024. During this week, we encourage all residents to visit their libraries and celebrate the adventures and opportunities they unlock for us daily. Ready, Set, Library!

Bobby Stewart

Rod Wyman

Agnes Queen

Attest: _____ Date: _____

Cynthia Rowan, Lewis County Clerk

Upshur County Commission Meeting Agenda

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

- Location: Upshur County Courthouse Annex
If you prefer to participate by telephone, please dial 1-408-650-3123 Access Code: 272 564 045 to enter the conference call.
- Date of Meeting: April 4, 2024
- 9:00 a.m. Moment of Silent Meditation --- Pledge of Allegiance
Approval of Minutes:
• March 28, 2024
- 9:15 a.m. Addie Helmick on behalf of Women’s Aid in Crisis – Presentation of Sexual Assault Awareness Month Proclamation. *
- 9:20 a.m. Lori Ulderich Harvey, Upshur County Family Resource Network Director – Presentation of Child Abuse Prevention and Awareness Month Proclamation. *
- 9:30 a.m. Samantha Ribeiro Matos -- Presentation of Autism Awareness Proclamation celebrating April as Autism Awareness Month. *
- 1:00 p.m. Court Security Advisory Board meeting

Items for Discussion / Action / Approval:

1. Approval and signature of World Vision Product Resources Cooperative Agreement on behalf of the James W. Curry Library. *
2. Review and signature of an Agreement between the Upshur County Commission and WVU Medicine – St. Joseph’s Hospital. This agreement jointly engages Out On a Limb to remove trees, brush, and debris located on property situated between 02-5G-11.1 and 02-5G-12 which is negatively impacting communications at 181 Pallottine Drive. This Agreement further creates between them a mutual hold harmless and cross-indemnity arrangement. *
3. Correspondence from Steve Wykoff, Director of Upshur County Division of Homeland Security and Emergency Management, requesting an unused radio tower currently located outside the old jail building be moved to the Emergency Operations Center for use by DHSEM and CERT. The tower would be used for training for the amateur radio and emergency communications program. *
4. Approve resignation of an employee. *
Item may lead to Executive Session per WV Code §6-9A-4 (A)
[Under separate cover](#)
5. Approval of employment of Upshur County Youth Camp Staff, effective April 29, 2024. *
Item may lead to Executive Session per WV Code §6-9A-4 (A)
[Under separate cover](#)

6. Approve Invoices for Payment, Purchase Card Invoices for Payment, Budget Revisions / Financial Reports or Information, Correction of Erroneous Assessments, Exonerations/Refunds, Grant Updates / Requests for Reimbursements, Final Settlements, Vacation Orders, Consolidation of Land Tracts, Facility Maintenance Concerns or Updates, Road Name Requests, Project Reports / Updates, Request to Attend Meetings, Request for Day(s) Off.

For Your Information:

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

1. Freedom of Information Act (FOIA) request and fulfillment from Tourism Economics requesting statistics regarding bed tax receipts and rates for Upshur County during 2021, 2022, and 2023.
2. Correspondence from Meagan James, Program Coordinator for the County Commissioners' Association of West Virginia, announcing National County Government Month and inviting 8th Grade Students to participate in an Essay Contest on the topic "How does my County Commission make life better for me?". The deadline for submissions is 5:00 p.m. on April 19th, 2024.
3. Notification from FirstEnergy Corp. announcing that tree-trimming work is underway to help prevent or minimize power outages in West Virginia.
4. Upshur County Fire Board, Inc. Financial Report for the period of January – March, 2024.
5. Upshur County Building & Floodplain Permits for the month of March, 2024.
6. Public Notices:
 - a) Newsletters and/or Event Notifications:
 - Upshur County Solid Waste Authority Flyer
 - b) Agendas and/or Notice of Meetings:
 - Elkins Road Public Service District April 2, 2024
 - City Council of Buckhannon April 4, 2024
 - City Council of Buckhannon – Special Meeting April 16, 2024
 - c) Meeting Minutes:
 - None

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

www.upshurcounty.org -- Upcoming events are listed on the main page.

7. Appointments Needed or Upcoming:
 - None

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

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

Tabled Items

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

None

Next Regular Meeting of the Upshur County Commission

April 11, 2024 --- 9:00 a.m.

Upshur County Courthouse Annex

There will be a Special Meeting held on April 16, 2024 at 9:00 a.m.

The meeting scheduled for April 18, 2024 has been cancelled.



Jim Justice
Governor of West Virginia

March 28, 2024

The Honorable Agnes Queen, President
Lewis County Commission
110 Center Avenue
Weston, West Virginia 26452

Dear President Queen:

It is my pleasure to announce a Records Management and Preservation Board grant award of \$30,000 to provide improvements for the offices of the Lewis County Circuit Clerk, County Clerk and Sheriff.. Archives and History Director Aaron Parsons of the West Virginia Department of Arts, Culture and History will be in contact with you soon regarding this project, which may commence on July 1, 2024.

I am confident the funds will be put to good use to improve the management and preservation of the county's records for the benefit of its citizens. Thank you for your efforts to enhance access to the public records of Lewis County.

Sincerely,

A handwritten signature in blue ink that reads "Jim Justice".

Jim Justice
Governor

cc: Kyle M. Campbell

ZACH'S COUNTY	7	5	4	16
ZACH'S OWNER	4	1	3	8
ZACH'S SERVICE	1	1	1	3
ZACH'S TOTAL	12	7	8	27
A & S COUNTY	6	5	5	16
A & S OWNER	0	3	1	4
A & S SERVICE	1	1	1	3
A & S LARGE	1	0	1	2
A & S TOTAL	8	9	8	25
HITT'S COUNTY	7	4	5	16
HITT'S OWNER	2	1	1	4
HITT'S SERVICE	1	0	2	3
HITT'S TOTAL	10	5	8	23
LIPP'S COUNTY	7	4	5	16
LIPP'S OWNER	2	1	0	3
LIPP'S SERVICE	0	1	1	2
LIPP'S LARGE	1	1	1	3
LIPP'S TOTAL	10	7	7	24
TOLANDS COUNTY	7	4	5	16
TOLANDS OWNER	0	2	1	3
TOLANDS SERVICE	0	1	2	3
TOLANDS TOTAL	7	7	8	22
VALLEYCHAPEL COUNTY	7	4	5	16
VALLEY CHAPEL OWNER	1	0	2	3
VALLEY CHAPEL SERVICE	0	1	2	3
VALLEY CHAPEL LARGE	1	1	0	3
VALLEY CHAPEL TOTAL	9	6	9	24
GILMER COUNTY				
GLEN- AUTO COUNTY	4	3	2	9
GLEN- AUTO OWNERS	5	1	0	6
GLEN- AUTO SERVICE	0	1	1	2
GLEN- AUTO TOTALS	9	5	3	17
A and S COUNTY	4	4	2	10
A and S OWNERS	0	2	0	2
A and S SERVICE	0	0	1	1
A and S LARGE	0	0	0	0
A and S TOTAL	4	6	3	13

2024 LEWIS-GILMER E-911 TELETYPE REPORT

		JAN.	FEB.	MAR.	APR.	MAY.	JUN.	JULY.	AUG.	SEP.	OCT.	NOV.	DEC.	TOTAL
LEWIS														
LC SHERIFF	10-27	83	72	70										225
	10-28	72	70	60										202
	III & CIB	66	57	59										182
	OTHER	14	17	45										76
	DVP	17	15	27										59
WESTON PD	10-27	66	54	44										164
	10-28	43	40	40										123
	III & CIB	12	15	13										40
	OTHER	2	27	19										48
	DVP	12	13	7										32
WVSP	10-27	19	11	11										41
	10-28	11	11	9										31
	III & CIB	8	2	13										23
	OTHER	0	7	19										26
	DVP	7	17	7										31
NRP	10-27	2	6	0										8
	10-28	0	5	1										6
	III & CIB	0	2	0										2
	OTHER	0	1	0										1
	DVP	6	21	4										31
PROSECUTOR	10-27	28	12	0										40
	10-28	0	0	0										0
	III & CIB	16	14	14										44
	OTHER	1	2	0										3
	DVP	0	0	0										0
PROBATION	10-27	8	0	0										8
	10-28	0	0	1										1
	III & CIB	36	0	0										36
	OTHER	6	0	0										6
	DVP	2	0	0										2
SWJS PARK	10-27	0	0	0										0
	10-28	0	0	0										0
	III & CIB	0	0	0										0
	OTHER	0	0	0										0
	DVP	0	0	0										0
FAMILY COURT	III & CIB	0	0	0										0
DAY REPORT	10-27	0	0	0										0
	10-28	0	0	0										0
	III & CIB	0	0	0										0
	OTHER	0	0	0										0
	DVP	0	0	0										0
													TOTAL TRANSACTIONS	1491

March 2024 MILEAGE REQUEST

UNIT LIC.

150 D. Gosa / Vin. A42305 / 1236 – 21 SUV 52000

151 M. Cayton / Vin. A42304 / 1235 – 21 SUV 48439

152 Z. Lopez / Vin. A18031 / 4105 – 20 SUV 37,178

153 B. Hendershot / Vin. A42303 / 1696 – 20 SUV 23184

153 B. Hendershot / Vin. C19510 / 4913 – 23 SUV 301

154 B. Newbrough / Vin. C20138 / 4912 – 23 SUV 2622

155 M. Ayoob / Vin. A40308 / 2966 – 22 SUV 33491

156 J. Johnmeyer / Vin. B04451 / 4220 – 21 SUV 51836

157 D. Cooley / Vin. A48451 / 1241 – 22 SUV 29240

158

159

160

161

170 C. Kirkpatrick / Vin. C62863 / 1234 – 20 SUV 36212

171 C. Matheny / Vin. B29979 / 3841 – 22 SUV 28405

172 T. Lafever / Vin. A18030 / 1232 - 20 SUV 46730

172 T. Lafever / Vin. A42303 / 1696 – 20 SUV 23184

173 J. Jenkins / Vin. 572421 / 5YJ-355 - 17 JEEP 31451

174 R. Bush / Vin. 179324 / 4287 – 17 JEEP 35584

175 D. Cayton / Vin. 568479 / 6LB-698 – 17 JEEP 62718

1500 Dep. Reserves / Vin. 116126 / 1910 -13 INTERCEPTOR 117308

1500 Dep. Reserves / Vin. 553134 / 1233 – 10 NITRO 78502

1500 Dep. Reserves / Vin. 553135 / 2726 – 11 NITRO 64421

Spare / Vin. 106494 / 3930 - 18 INTERCEPTOR 74516

Spare / Vin. 106495 / 3929 – 18 INTERCEPTOR 68392

Spare / Vin. A78623 / 3370 – 15 EXPLORER 115358

Spare / Vin. 319897 / 3258 – 14 CHARGER 53105



118 N 6th Street
Clarksburg, WV 26301
O: (304) 423-5049
F: (304) 423-5843
www.WVPreventionSolutions.org

March 26, 2024

Dear County Commissioner,

Research over the last two decades has shown that substance misuse and substance use disorder are both preventable and treatable. It is vital that evidence-based prevention be a critical component of state and local strategies.

Substance misuse exacts an enormous financial toll on the United States: Annually, the U.S. spends \$740 billion on costs related to crime, lost productivity, and health care.

Prevention can offset this cost: Every \$1 invested in proven, effective substance use prevention programs will result in savings of between \$2 and \$20.

Evidence-based prevention services are the only behavioral health approach that can decrease the incidence of new opioid use disorders. It makes sense to invest in drug prevention and stop use before it starts, saving our communities billions of dollars related to treatment and recovery services.

Here's how:

1. Devote at least 30% of opioid settlement funds to evidence-based prevention. That leaves 70% of funds for other important abatement strategies as outlined in West Virginia's memorandum of understanding. If you have already decided to devote less than 30% of settlement funds during the current cycle, consider devoting 30% of funds to prevention in future funding cycles.
2. Select research-proven programs for implementation. Communities often choose unproven prevention programs, increasing the risk for wasting precious resources on prevention efforts that either do not work or are harmful. Use high-quality, evidence-based registries to select these programs. The WV DHHR Bureau for Behavioral Health's Clearinghouse can assist with program selection.
3. Partner with West Virginia Prevention Solutions (Region 4's Prevention Lead Organization) to help implement, evaluate, and sustain prevention efforts for long-term success. WVPS delivers evidence-based prevention programs to youth across the region, delivers evidence-based parent and adult education, provides resources for prescription and OTC medication disposal, provides naloxone to the community, schools, and first responders, implements best-practice training for crisis intervention teams, and utilizes evidence-based, targeted media campaigns to ensure reliability of public education.

Thank you for all that you do for our Region 4 communities!

Sincerely,

Elizabeth M. Shahan, MSW, LGSW, ICPS, PSII
Executive Director, WV Prevention Solutions, Inc.

Right of Entry Agreement

This is an AGREEMENT made effective as of March 27th, 2024 by and between:

Lewis County Commission
110 Center Avenue, 2nd Floor
Weston, West Virginia 26452

hereinafter referred to as "LCC" and:

Adam Burkhammer

hereinafter called "OWNER" for permission to access OWNER's property located at:

**125 Montgomery Road
Weston, West Virginia
Parcel ID: 21-08-0004-0049-0000**

hereinafter called "SITE" to complete an investigation on behalf of the LCC.

The LCC has engaged the services of Civil and Environmental Consultants to conduct Phase I and Phase II Environmental Site Assessments of properties that have the potential to contribute to the economic revitalization of the county. The OWNER hereby grants the LCC, its agents, assigns, employees, and/or contractors the right and permission to enter upon the hereinbefore described real estate for the purpose of conducting site assessment activities described hereinafter in Paragraph 2.


The OWNER grants the aforesaid rights and permission unto the LCC to the following terms and conditions:

1. Site assessment activities to be performed on the aforesaid real estate may consist of the following:
 - a. Phase I Environmental Site Assessment activities, including, walking the property; touring structures on the property, if safe to do so; taking photographs of the property and structures, records review, if available; and interviewing past and present owners, operators, and occupants of the property.
 - b. Phase II Environmental Site Assessment activities, including, disturbance to the ground surface, vegetation, or other features of the SITE for purposes of collecting surface water, groundwater, surface soil, subsurface soil, air, and other samples. The LCC will take reasonable precautions to limit disturbance to the SITE, but it is understood by the OWNER that repairs to the SITE from disturbance will be limited to those specified. State Utility Notification Services will be utilized to determine the location and schedule of the proposed intrusive investigation activities. However, the OWNER is responsible for accurately identifying all of the SITE's subterranean structures and utility locations in the area of the intrusive investigation activities and approving the proposed locations of borings and other excavations to be completed during the investigation. Use of the SITE shall include the parking of vehicles and equipment; excavation of test pits; installation of groundwater monitoring wells; extraction of samples from surface and subsurface soils, surface water, groundwater, air, and elsewhere; storage of samples; and other activities necessary to complete the site assessment.
2. The consent and permission to enter and perform said site assessment activities upon aforesaid real estate is herein voluntarily granted by the party of the first part.

3. The term of this agreement shall be for the length of time necessary for the LCC to complete the proposed site assessment and monitoring activities.
4. The undersigned represents that he/she is authorized to sign this document on behalf of all owners of the Property and to consent to the entry provided herein.
5. The undersigned agrees that he/she will notify EPA, by contacting the individual identified below, if during the term of consent for entry the Property is sold or otherwise transferred.
6. As a property owner, you may be able to avail yourself of certain liability protections under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Please consult a lawyer if you feel this may be applicable.

IN WITNESS WHEREOF, the parties have executed this agreement on the dates indicated.

OWNER


03/27/2024

 Signature Date
 Adam Burkhammer

 Printed Name
 Owner

 Title
 167 Gentry Lane

 Address
 Horner, WV 26372

 304-266-2479

 Phone
 aburkhammer@ajburk.com

 Email

Lewis County Commission

 Signature Date

 Printed Name

 Title

 Address

 Phone

 Email

Right of Entry Agreement

This is an AGREEMENT made effective as of March 26th, 2024 by and between:

Lewis County Commission
110 Center Avenue, 2nd Floor
Weston, West Virginia 26452

hereinafter referred to as “LCC” and:

Adam Burkhammer

hereinafter called “OWNER” for permission to access OWNER’s property located at:

**122 Montgomery Road
Weston, West Virginia
Parcel ID: 21-08-0004-0051-0000**

hereinafter called “SITE” to complete an investigation on behalf of the LCC.

The LCC has engaged the services of Civil and Environmental Consultants to conduct Phase I and Phase II Environmental Site Assessments of properties that have the potential to contribute to the economic revitalization of the county. The OWNER hereby grants the LCC, its agents, assigns, employees, and/or contractors the right and permission to enter upon the hereinbefore described real estate for the purpose of conducting site assessment activities described hereinafter in Paragraph 2.


The OWNER grants the aforesaid rights and permission unto the LCC to the following terms and conditions:

1. Site assessment activities to be performed on the aforesaid real estate may consist of the following:
 - a. Phase I Environmental Site Assessment activities, including, walking the property; touring structures on the property, if safe to do so; taking photographs of the property and structures, records review, if available; and interviewing past and present owners, operators, and occupants of the property.
 - b. Phase II Environmental Site Assessment activities, including, disturbance to the ground surface, vegetation, or other features of the SITE for purposes of collecting surface water, groundwater, surface soil, subsurface soil, air, and other samples. The LCC will take reasonable precautions to limit disturbance to the SITE, but it is understood by the OWNER that repairs to the SITE from disturbance will be limited to those specified. State Utility Notification Services will be utilized to determine the location and schedule of the proposed intrusive investigation activities. However, the OWNER is responsible for accurately identifying all of the SITE’s subterranean structures and utility locations in the area of the intrusive investigation activities and approving the proposed locations of borings and other excavations to be completed during the investigation. Use of the SITE shall include the parking of vehicles and equipment; excavation of test pits; installation of groundwater monitoring wells; extraction of samples from surface and subsurface soils, surface water, groundwater, air, and elsewhere; storage of samples; and other activities necessary to complete the site assessment.
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5. The undersigned agrees that he/she will notify EPA, by contacting the individual identified below, if during the term of consent for entry the Property is sold or otherwise transferred.
6. As a property owner, you may be able to avail yourself of certain liability protections under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Please consult a lawyer if you feel this may be applicable.

IN WITNESS WHEREOF, the parties have executed this agreement on the dates indicated.

OWNER


 Signature _____ Date 03/26/2024
 Adam Burkhammer
 Printed Name _____
 Owner
 Title _____
 167 Gentry Lane
 Address _____
 Horner, WV 26372

 304-266-2479
 Phone _____
 aburkhammer@ajburk.com
 Email _____

Lewis County Commission

 Signature _____ Date _____

 Printed Name _____

 Title _____

 Address _____

 Phone _____

 Email _____

Right of Entry Agreement

This is an AGREEMENT made effective as of March 26th, 2024 by and between:

Lewis County Commission
110 Center Avenue, 2nd Floor
Weston, West Virginia 26452

hereinafter referred to as “LCC” and:

Adam Burkhammer

hereinafter called “OWNER” for permission to access OWNER’s property located at:

**145 Montgomery Road
Weston, West Virginia
Parcel ID: 21-08-0004-0048-0000**

hereinafter called “SITE” to complete an investigation on behalf of the LCC.

The LCC has engaged the services of Civil and Environmental Consultants to conduct Phase I and Phase II Environmental Site Assessments of properties that have the potential to contribute to the economic revitalization of the county. The OWNER hereby grants the LCC, its agents, assigns, employees, and/or contractors the right and permission to enter upon the hereinbefore described real estate for the purpose of conducting site assessment activities described hereinafter in Paragraph 2.


The OWNER grants the aforesaid rights and permission unto the LCC to the following terms and conditions:

1. Site assessment activities to be performed on the aforesaid real estate may consist of the following:
 - a. Phase I Environmental Site Assessment activities, including, walking the property; touring structures on the property, if safe to do so; taking photographs of the property and structures, records review, if available; and interviewing past and present owners, operators, and occupants of the property.
 - b. Phase II Environmental Site Assessment activities, including, disturbance to the ground surface, vegetation, or other features of the SITE for purposes of collecting surface water, groundwater, surface soil, subsurface soil, air, and other samples. The LCC will take reasonable precautions to limit disturbance to the SITE, but it is understood by the OWNER that repairs to the SITE from disturbance will be limited to those specified. State Utility Notification Services will be utilized to determine the location and schedule of the proposed intrusive investigation activities. However, the OWNER is responsible for accurately identifying all of the SITE’s subterranean structures and utility locations in the area of the intrusive investigation activities and approving the proposed locations of borings and other excavations to be completed during the investigation. Use of the SITE shall include the parking of vehicles and equipment; excavation of test pits; installation of groundwater monitoring wells; extraction of samples from surface and subsurface soils, surface water, groundwater, air, and elsewhere; storage of samples; and other activities necessary to complete the site assessment.
2. The consent and permission to enter and perform said site assessment activities upon aforesaid real estate is herein voluntarily granted by the party of the first part.

3. The term of this agreement shall be for the length of time necessary for the LCC to complete the proposed site assessment and monitoring activities.
4. The undersigned represents that he/she is authorized to sign this document on behalf of all owners of the Property and to consent to the entry provided herein.
5. The undersigned agrees that he/she will notify EPA, by contacting the individual identified below, if during the term of consent for entry the Property is sold or otherwise transferred.
6. As a property owner, you may be able to avail yourself of certain liability protections under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Please consult a lawyer if you feel this may be applicable.

IN WITNESS WHEREOF, the parties have executed this agreement on the dates indicated.

OWNER


 Signature _____ Date 03/26/2024
 Adam Burkhammer
 Printed Name _____
 Owner
 Title _____
 167 Gentry Lane
 Address _____
 Horner, WV 26372

 304-266-2479
 Phone _____
 a.burkhammer@ajburk.com
 Email _____

Lewis County Commission

 Signature _____ Date _____

 Printed Name _____

 Title _____

 Address _____

 Phone _____

 Email _____

March 25, 2024

Lewis County Economic Development Authority
Ray Smith, Executive Director
via email: rsmith@lewiscountywv.org
110 Center Avenue, 2nd Floor
Weston, WV 26452

RE: Engineering Services – Lewis County Broadband Expansion

Mr. Smith

The Thrasher Group, Inc. (Thrasher) is pleased to provide Lewis County Economic Development Authority (Lewis Co EDA) a proposal for engineering services related to the above-mentioned project (“Proposal”) in Lewis County, West Virginia (WV). The following description details our Proposal for the Project Understanding, Scope of Services, Deliverable, Schedule, and Fees & Payment Terms

A. PROJECT UNDERSTANDING

Thrasher understands that this project will evaluate the existing broadband infrastructure in the county along with all addresses that are considered unserved per the FCC. Unserved locations are ones that have Broadband Speeds that are less than 25/3 Mbps. Information from this study will be used in funding applications and for marketing with Internet Service Providers and outreach for future projects. Thrasher understands that the Counties overall goal is to ensure that all county residents who desire broadband connectivity will have it available to them.

B. SCOPE OF SERVICES

Task 1: Web Based Broadband Map

Thrasher will create an interactive broadband GIS Web map of the county to help identify the target areas in need of broadband. The GIS map will include all county 911 Address, all county-owned Cell Towers, Water towers, targeted addresses (unserved addresses) per WV office of broadband, Proposed and Existing Routing from the ROC Study, aerial imagery, and any awarded Rural Digital Opportunity Fund (RDOF) areas.

Task 2: Project Area Prioritization and Progress Meetings

Thrasher will work with Lewis Co EDA to develop a phased approach for project deployment based on the county’s priority areas of expansion. Thrasher will then attend meetings with the county to market said projects to Internet Service Providers and gauge interest. Thrasher will also attend Lewis Co EDA meetings to update on progress (assumed 10 meetings max).

Exclusions:

- a. Field Route Verifications.
- b. Development of funding applications for projects
- c. Environmental delineations
- d. Geotechnical studies
- e. Any services not specifically identified above.

Thrasher can provide the services identified as “Exclusions” and will provide separate scope and fee proposals for these services if desired.

C. DELIVERABLES:

The outcome of this project will be in the form of a Web based GIS Map. The map will outline the current broadband landscape in the county, provide Unserved Address Data, and Proposed Routes that can be pursued for Grant Funding.

D. SCHEDULE

Thrasher is prepared to begin work on this project within one week once Notice to Proceed is given by the Lewis Co EDA. At the time of this proposal, Thrasher estimates that development of the Web Map will take approximately 15 days from the date of notice to proceed. Once comments are received, it is estimated that the Map can be finalized in 5 days. This schedule is based on any information needed being readily available. The actual number of days may vary depending on the timeline for meetings needed to gather data or input as well as factors unknown at this time.

E. FEES & PAYMENT TERMS

Task 1 lump sum fee is based on Work described above beginning once the authorization to proceed is received. The fee includes standard expenses for the Work described herein and will be invoiced monthly based on Thrasher’s estimated percentage of completion by task or subtask (Thrasher estimate of completion shall be the sole controlling factor in the amount invoiced).

Task 1\$7,500.00

Lump Sum Fee\$7,500.00

Task 2 will be performed on a time and materials (T&M) basis based upon the current Thrasher 2024 standard rates. For budgeting purposes, below is the estimated fee to complete Task 2 based upon the information above. If Thrasher feels that the estimated fee will be exceeded, Thrasher will advise Lewis Co EDA and negotiate in good faith at that time. Thrasher will invoice monthly for Work performed.

Task 2\$11,500.00

T&M Estimated Fee.....\$11,500.00

Thrasher will not work outside the Work identified in this Proposal without first providing a written proposal to provide additional services and obtaining a written authorization to proceed with additional services from Lewis Co EDA. Thrasher will not proceed with the Work identified herein without first receiving a signed authorization to proceed from Lewis Co EDA.

Thrasher appreciates and is excited about the opportunity to work on this Project. If you have any questions or need additional information, please contact me at jhartley@thethrashergroup.com or at 304.848.7030. If this proposal is acceptable, please sign below and return a copy to my attention.

Sincerely,
THE THRASHER GROUP, INC.



Jeffrey Hartley
Project Manager

Enclosure

ACCEPTANCE:

On this _____ day of _____, 2024, the below signed and thereby accepts and agrees to this Proposal, and the Terms and Conditions attached hereto are incorporated herein by reference as if fully set forth herein, from The Thrasher Group, Inc. **By signing below, you are creating a valid and binding contract between The Thrasher Group, Inc. and Lewis County Economic Development Authority upon the terms and conditions of this Proposal and the Terms and Conditions attached hereto and made a part hereof.**

Ray Smith

By:

Signature

Name and Title

TERMS AND CONDITIONS

The terms and conditions set forth below "Terms and Conditions" are part of the Proposal which these are attached thereto and are included in said Proposal as if fully restated therein. The services set forth in the Proposal ("Services") shall be performed pursuant to the Offer to Perform Services, as defined herein.

Parties: "Thrasher" means The Thrasher Group, Inc. "Client" means Lewis County Economic Development Authority and your successions or assigns.

Generally: These Terms and Conditions govern the parties' duties, obligations, and relationship with respect to the Proposal submitted by Thrasher to Client for the Services described in the Proposal. These Terms and Conditions apply in addition to any and all descriptions, specifications, prices, terms, covenants, conditions, or other items set forth in the Proposal itself (as used herein, the term "Offer to Perform Services" shall refer to, collectively, these Terms and Conditions and the Proposal).

This Offer to Perform Services constitutes an offer by Thrasher to provide the Services set forth in the Proposal to Client upon the terms and conditions contained in the Proposal and these Terms and Conditions. Client's acceptance of this offer is limited to this Offer to Perform Services. Thrasher expressly rejects any additional, different, or varying terms proposed by Client.

This Offer to Perform Services constitutes the final written expression of the terms between Thrasher and Client regarding the Services and is the complete and exclusive statement of those terms. Any terms, conditions, negotiations, or understandings between the parties

that are not contained herein shall have no force or effect unless in writing and signed by Thrasher, expressly stating in writing Thrasher's intent to modify this Offer to Perform Services. Said writing modifying the Offer to Perform Services must be signed by Thrasher to be effective.

Modification: Any modification, alteration or deviation from the terms and conditions set forth in the Offer to Perform Services may involve extra costs, and such costs will become a charge over and above the amount set forth in the Offer to Perform Services. A written change order is the proper manner in which to alter the terms of this Offer to Perform Services between the parties. However, it is understood that written change orders are not always completed. Client shall be responsible for paying the additional cost of such change orders regardless of whether they are made in writing.

Period of Performance: Services provided under this Offer to Perform Services are proposed to be completed within a reasonable amount of time from execution of this Offer to Perform Services by Client unless a separate schedule is attached. Thrasher shall be the sole determiner of what is a reasonable amount of time to perform the Services.

Payment: Client will be billed no less frequently than monthly, but may be billed bi-weekly, for Services provided under Offer to Perform Services. Invoices shall be paid within thirty (30) days of the date of the invoice. Client agrees to pay a 1.5% per month interest after thirty (30) days from the date of the invoice. Client agrees to review invoices promptly and raise any questions regarding the invoiced items or amounts within seven (7) days of the date of the invoice. If Client fails to raise any questions or issues regarding any invoiced items within fourteen (14) days of the date of the invoice, the invoice is deemed approved by the Client in all respects and Client forfeits any right to dispute the invoice or any charge thereon.

In the event of nonpayment of the account within thirty (30) days after the invoice date, Thrasher shall have the right, but not the obligation, to suspend all Services immediately until the account is paid in full. Thrasher may, after giving one days written notice to Client, suspend services under the terms of the Offer to Perform Services until Client has paid in full all amounts due for services, expenses, and other related charges. Client waives any and all claims against Thrasher for any such suspension taken in accordance with this paragraph. A notice of suspension, pursuant to this provision, shall be sufficient if sent via email.

In the event an account is greater than sixty (60) days past due, then Thrasher has the right, but not the obligation, to terminate all Services set forth in the Offer to Perform Services and pursue any and all legal methods of collection. Nothing in this provision shall be deemed to limit or exclude any right that Thrasher has, or may have, against Client.

Existing Information and Subsurface Conditions: Client will provide Thrasher with all information Client has, or can reasonably obtain, concerning the Project, including subsurface conditions and the location of subsurface or hidden pipes, utilities, or structures, all upon which Thrasher can rely. If the subsurface conditions are different than Thrasher expects the subsurface conditions to be, Thrasher may charge additional costs, fees, expenses, and other amounts incurred by Thrasher to be able to perform the Services.

Limitations on Liability: Thrasher's liability, and the liability of Thrasher's employees, shareholders, directors, officers, board members, subcontractors, and sub-subcontractors to the Client for damages arising from Services provided or from the Offer to Perform Services shall be limited for any and all claims, losses, costs, damages, and expenses including attorney's fees and cost for expert witness fees to the Thrasher's total fee for Services received under this Offer to Perform Services.

Insurance: Thrasher shall maintain claims made professional liability insurance, general liability, automobile liability, and workers compensation insurance. Client has, or will purchase, property insurance sufficient to protect any property in which Client has an insurable interest. Client and Thrasher waive any claims against each other for damage to property covered, or that should have been covered by property insurance required by this paragraph, including subrogated claims.

Unless otherwise set forth specifically in the Offer to Perform Services, Thrasher shall maintain the following types and amounts of insurance, at a minimum, during the performance of the Services and shall provide certificates of insurance evidencing its coverage, prior to starting the performance of Services, if requested in writing from Client.

- a) Worker's Compensation Insurance with statutory coverage and \$1,000,000 employer's liability coverage;
- b) Comprehensive General Liability Insurance with annual aggregate limits of \$1,000,000;
- c) Automobile Liability Insurance with annual aggregate limits of \$1,000,000; and
- d) Professional Liability Insurance with limits of \$1,000,000 per claim and in the aggregate on a claims-made basis.

Mediation: Prior to any litigation, arbitration, or other proceeding, Client and Thrasher shall attempt to mediate any dispute arising from services provided under this Offer to Perform Services. The American Arbitration Association will conduct the mediation, unless otherwise

agreed. Client and Thrasher will equally share all fees and costs of mediation.

Suspension: Thrasher may suspend performing Services under this Offer to Perform Services for any reason or no reason upon seven (7) days written notice, or may suspend performing Services under this Offer to Perform Services for cause (including but not limited to any breach or violation of the Offer to Perform Services by Client) with no notice. Client shall remain responsible and be required to pay all fees earned by Thrasher up to the suspension of Services by Thrasher, plus any amount incurred by Thrasher in performing Services, in preparing to perform Services, and in orderly suspending of Services.

Termination: Client or Thrasher may terminate this Offer to Perform Services for convenience by giving fourteen (14) days written notice, or may terminate this Offer to Perform Services for cause by giving seven (7) days written notice. If this Offer to Perform Services is terminated by Client, Client shall pay Thrasher, in addition to any and all compensation due under this Offer to Perform Services, any amount incurred by Thrasher in performing Services, in preparing to perform Services, and in orderly terminating Services.

Full and Final Agreement: This Offer to Perform Services is the full and final agreement between Client and Thrasher, supersedes any prior agreements, and may not be modified except by in writing executed by both Client and Thrasher, except to the extent the Modification section of these Terms and Conditions is applicable. Should no action be taken by Client within ninety (90) days of the date of submission, this Offer to Perform Services shall be considered null and void.

Attorney's Fees and Costs: In the event Thrasher is required to hire legal counsel to enforce any of the terms or conditions of this Offer to Perform Services, it shall be entitled to recover reasonable and necessary attorney's fees and litigation expenses (whether or not litigation is actually commenced) associated with the enforcement of this Offer to Perform Services.

Indemnification: Subject to limitations of liability set forth in the Limitations on Liability section, Thrasher agrees, to the fullest extent permitted by law, to indemnify and hold the Client harmless from damage or liability to the extent caused by Thrasher's negligent acts, errors, or omissions in the performance of professional services under this Offer to Perform Services.

The Client agrees, to the fullest extent permitted by law, to indemnify and hold Thrasher harmless from damage or liability to the extent caused by the Client's negligent acts, errors, or omissions and those of his or her contractors, subcontractors, or consultants or anyone for whom the Client is legally liable and arising from the Project that is the subject of this Offer to Perform Services.

Neither Party is obligated to indemnify the other in any manner whatsoever for the other's own negligence.

The limitation, indemnification and waiver obligations under this Indemnification section shall survive termination or expiration of this Offer to Perform Services.

Standard of Care: Thrasher shall provide its' Services pursuant to the Offer to Perform Services in accordance with current, accepted professional standards, appropriate for the size, complexity, schedule, and other characteristics of the Project in the jurisdiction where the Project is located ("Standard of Care"). Regardless of any other term or condition of this Offer to Perform Services, Thrasher makes no express or implied warranty of any type, kind, or nature. All warranties including warranty or merchantability or warranty of fitness for a particular purpose, are expressly disclaimed.

Acceptance: Upon reviewing this Offer to Perform Services, should Client find all matters satisfactory, this Offer to Perform Services shall be considered a binding contract which shall be signed by authorized representatives of Client and Thrasher. Signing and returning this Offer to Perform Services creates a valid and binding contract and shall be considered as an authorization to proceed for Thrasher to commence work on the Project and constitutes acceptance of all terms, covenants, conditions, obligations, and requirements contained in the Offer to Perform Services without modification, addition, or deletion. Further, Client shall be deemed to have made an unqualified acceptance of this Offer to Perform Services upon their earliest of:

- a) Thrasher's receipt of this Offer to Perform Services, signed by Client; or
- b) any other event constituting acceptance under applicable law.

Independent Contractor: Thrasher is and shall remain an independent contractor and neither Thrasher nor any of its employees or agents shall be considered an employee of Client and vice versa.

Force Majeure: Thrasher shall not be responsible for default hereunder where such has been caused by an act of God, war, major disaster, terrorism, third-party criminal acts, pandemics, insurrection, riot, flood, earthquake, fire, labor disturbance, operation of statutes, laws, rules or rulings of any court or government, or any other cause beyond Thrasher's control.

Notice: Each notice, request, demand, or other communication ("Notice") by either party to the other pursuant to the Offer to Perform

Services shall be in writing, and, except for routine documentation and correspondence, shall be (a) personally delivered; (b) sent by an overnight commercial courier, charges prepaid; or (c) sent by email (but such electronic communication must be either (i) acknowledged by the recipient (a read receipt received by the sender is sufficient acknowledgment); or (ii) confirmed by sending a copy thereof to the other party by overnight commercial courier no later than the following business day), addressed to the principal office of the receiving party (attention: President or the Project Manager of the Project) set forth on the Offer to Perform Services or to such other address as such party shall have communicated to the other party in accordance with this section. Any Notice shall be deemed to have been given when personally delivered, on the first business day after sending when sent by facsimile or email (or when acknowledged by the recipient if sooner), or on the first business day following the date of sending by overnight commercial courier.

Survival: All obligations prior to the termination of the Offer to Perform Services and all provisions of the Offer to Perform Services allocating responsibility or liability between Thrasher and Client shall survive termination of the Offer to Perform Services.

Remedies Cumulative: Thrasher's remedies specified herein are cumulative and not exclusive of any other remedies available to Thrasher at law or equity. The unenforceability or invalidity of any provision of this Offer to Perform Services shall not affect the validity and enforceability of the remainder of this Offer to Perform Services. The failure of any Party to insist at any time upon the strict observance or performance of any of the provisions of this Offer to Perform Services or to exercise any right or remedy as provided in this Offer to Perform Services shall not impair any such right or remedy or be construed as a waiver or relinquishment thereof.

Valid Contract Upon Signing: The terms and conditions in this Offer to Perform Services are the complete agreement between Thrasher and the Client and upon the signing of the Proposal portion of this Offer to Perform Services by Thrasher and Client, the parties have entered into a valid and binding contract which shall be controlled by this Offer to Perform Services.

Hazardous Materials:

- a) If Thrasher encounters hazardous materials, or pollutants in the performance of the Services that pose unanticipated risks, the Proposal and Thrasher's compensation and time of performance will be reconsidered and this Offer to Perform Services shall immediately become subject to renegotiation or termination, at Thrasher's option. If this Offer to Perform Services is so terminated, Client shall pay Thrasher for its fees and charges incurred to the date of such termination, including, if applicable, any additional costs, fees, expenses, or charges incurred in demobilizing.
- b) Unless specifically listed in the Proposal, the Services exclude testing for the presence of asbestos, polychlorinated biphenyls (PCB'S), radon gas, or any airborne pollutants and all other hazardous materials.
- c) If samples and/or materials contain or are suspected to contain substances or constituents hazardous or detrimental to health, safety, or the environment as defined by federal, state, or local statutes, regulations, or ordinances, Thrasher shall, after completion of testing, return such samples or materials to Client, who shall be responsible for properly disposing of such samples and materials in accordance with applicable laws, at its own cost. Client recognizes and agrees that Thrasher will at no time assume the ownership or control of such substances, waste, materials, or constituents.
- d) Client acknowledges that, prior to commencing the Services, Thrasher has had no role in generating, treating, storing, transporting, or disposing of waste materials which may be present at the site and Thrasher has not benefited from the processes that produced any such waste materials. It is understood and agreed that Thrasher is not and has no responsibility as a generator or operator, or as a storage, treatment, transport, or disposal facility (as those terms are defined by the Resource Conservation and Recovery Act, as amended, or any state statute or regulation) for substances or wastes found or identified at the site. The Services shall not include directly or indirectly arranging for the treatment, storage, transport, or disposal of waste materials or pollutants, on or offsite.
- e) Thrasher shall not directly or indirectly assume title to, ownership of, or responsibility for such substances or wastes. Client shall indemnify, defend, and hold harmless Thrasher for and against all claims and liabilities arising or resulting from or in connection with substances or wastes found or identified at work sites (including, without limitation claims and liabilities arising from statutes such as RCRA, CERCLA, SARA, or any other federal or state statutes).

Client Responsibilities: Client, at its own expense, shall:

- a) Provide Thrasher with all criteria and information necessary for Thrasher to comply with the Services and Offer to Perform Services, as the same may be amended or modified from time to time, and any requirements of the Project;
- b) Provide Thrasher all information, documents, and assistance necessary or reasonably requested by Thrasher to enable performance of the Services in a timely manner, all which Thrasher shall be entitled to rely upon without independent verification;

- c) Make decisions, provide approvals, and obtain all necessary authorizations, licenses, and permits required to permit the timely performance of the Services;
- d) Notify Thrasher if Client becomes aware of any matter that may change the scope, timing, order, or complexity of the Services;
- e) Act reasonably, professionally, and in good faith in all respects in connection with this Agreement;
- f) Furnish Thrasher with copies of all existing data, reports, surveys, plans, and other materials and information, within Client's possession required for the Project or the performance of the Services, all which Thrasher may use and rely upon in performing the Services;
- g) Arrange for access to and make all provisions for Thrasher to enter upon public and private property as required for Thrasher to perform the Services;
- h) Describe the activities which were conducted at the site by Client or by any person or entity which would relate to the Project and identify by name, quantity, location, and date any releases of hazardous substances or pollutants, if any;
- i) Provide prompt notice to Thrasher whenever Client observes or otherwise becomes aware of any development that affects the scope or timing of the Services or any alleged defect in the Services;
- j) Designate an individual or individuals to act as Client's representative(s) with respect to the Services who shall each have complete authority to transmit instructions, receive information, and interpret and define Client's requirements, decisions, policies, drawings, plans, surveys, data, and reports;
- k) Assume responsibility for personal injuries and property damage caused by Thrasher's interference with subterranean structures such as pipes, tanks, and utility lines that are not disclosed to or are not accurately disclosed to Thrasher by Client in advance of commencement of the Services; and
- l) To the extent required by law, report promptly all regulated conditions, including, without limitation, the discovery of releases of hazardous substances at the site to the appropriate authorities in accordance with applicable law.

Waiver: Client waives any and all claims against Thrasher for incidental special, indirect, or consequential damages of any nature whatsoever, including but not limited to loss of use, lost profits, economic loss, delay, liquated damages, or business interruption type damages arising out of or in any way related to the services or work, from any cause or causes, including but not limited to joint and several liability or strict liability and whether arising in contract, warranty, tort, negligence (including strict liability), or otherwise and no matter how claimed, computed or characterized. Both Client and Thrasher waive the right to trial by jury in any legal proceedings relating to this Agreement.

Confidentiality: Each Party will keep confidential all confidential information disclosed to it by the other party; provided that either Party may disclose confidential information to those persons who need to know such information for purposes that relate to the performance of the Services. Except as specifically provided herein, neither Party will acquire any right, title, or interest in or to the confidential information of the other Party.

Exclusivity: Information, work product, reports, or deliverables provided by Thrasher to Client in any form in connection with the Services is provided solely for Client's own use and for the purpose for which the Services were engaged.

Governing Law, Jurisdiction, and Venue: This Offer to Perform Services will be interpreted and construed in accordance with the internal laws of the State of West Virginia without giving effect to its principles of conflicts of laws. Any suit or action regarding this Offer to Perform Services shall be heard in Harrison County, West Virginia, in either the State or Federal Court located therein. The Client hereby waives any claim to forum non conveniens, or any similar claim or assertion. Client agrees that the locations and courts set forth herein are not a forum non conveniens for the Client and this provision is reasonable in all respects.

Use of Documents:

- a) All documents are instruments of service, and Thrasher shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Thrasher) whether or not the Project is completed.
- b) If Thrasher is required to prepare or furnish drawings or specifications under this Offer to Perform Services, Thrasher shall deliver to Client at least one original printed record version of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations.
- c) Client may make and retain copies of documents for information and reference in connection with the use of the documents on the Project. Thrasher grants Client a limited license to use the documents on the Project, extensions of the Project, and for related uses of the Client, subject to receipt by Thrasher of full payment due and owing for all services relating to preparation of the documents, and subject to the following limitations: (1) Client acknowledges that such documents are not intended or represented to be suitable for use on the Project unless completed by Thrasher, or for use or reuse by Client or

others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Thrasher; (2) any such use or reuse, or any modification of the documents, without written verification, completion, or adaptation by Thrasher, as appropriate for the specific purpose intended, will be at Client's sole risk and without liability or legal exposure to Thrasher or to its officers, directors, members, partners, agents, employees, and consultants; (3) Client shall indemnify and hold harmless Thrasher and its officers, directors, members, partners, agents, employees, and consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the documents without written verification, completion, or adaptation by Thrasher; and (4) such limited license to Client shall not create any rights in third parties, provided, however, that in the event of any assignment for the benefit of Client's construction lender, such lender or successor shall be entitled to assume Client's license to such documents subject to the other terms and conditions contained in this Section.

- d) If Thrasher at Client's request verifies the suitability of the documents, completes them, or adapts them for extensions of the Project or for any other purpose, then Client shall compensate Thrasher at rates or in an amount to be agreed upon by Client and Thrasher.

Electronic Transmittals:

- a) Client and Thrasher may transmit, and shall accept, Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with a mutually agreed protocol.
- b) If this Offer to Perform Services does not establish protocols for electronic or digital transmittals, then Client and Thrasher shall jointly develop such protocols.
- c) When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

Sales or Use Taxes: If any governmental entity, has already done so or does so in the future, takes a legislative action that imposes sales tax, additional sales or use taxes on Thrasher's services or compensation under this Offer to Perform Services or any related, associated or other services of any type, then Thrasher may invoice such additional sales or uses taxes for reimbursement by Client. Client shall reimburse Thrasher for the cost of such invoiced additional sales or use taxes; such reimbursement shall be in addition to the compensation to which Thrasher is entitled under this Offer to Perform Services.



REGION VII

21 East Main Street, Suite 102 | PO Box 849
Buckhannon, WV 26201

April 1, 2024

Lewis County Commission
Robert S. Stewart III
110 Center Avenue
Weston, WV 26452

RE: Region VII Multi-Jurisdictional Hazard Mitigation Plan

Dear Mr. Stewart:

As you probably know, Region VII PDC has been updating its Multi-Jurisdictional Hazard Mitigation Plan over the last year. We recently completed the plan and provided a copy to FEMA for their review and approval. This week, we received approval from FEMA, pending adoption of the plan by each of our local governments.

In order to finalize the review and approval of the multi-jurisdictional hazard mitigation plan, we need the Lewis County Commission to formally adopt the plan at their next regularly scheduled meeting. To make it easier, we have attached a draft of a resolution for your use. Please approve and sign the resolution and provide us with an executed copy as soon as you possibly can.

If you should have any questions or comments regarding this matter, please feel free to contact us.

Thanks

Shane Whitehair
Executive Director

Enclosure

REGION VII PLANNING & DEVELOPMENT COUNCIL

www.regionvii.com | O: 304.472.6564 | F: 304.472.6590

Proudly Serving Barbour, Braxton, Gilmer, Lewis, Randolph, Tucker, and Upshur Counties

LEWIS COUNTY COMMISSION

A RESOLUTION OF LEWIS COUNTY COMMISSION ADOPTING THE REGION VII PLANNING AND DEVELOPMENT COUNCIL HAZARD MITIGATION PLAN, UPDATED 2023.

WHEREAS the Commission recognizes the threat that natural hazards pose to people and property within Lewis County; and

WHEREAS the county has prepared a multi-hazard mitigation plan, hereby known as the Region VII PDC Hazard Mitigation Plan, updated 2023, in accordance with federal laws, including the Robert T. Stafford Disaster Relief and Emergency Act, as amended; the National Flood Insurance Act of 1968, as amended; and the National Dam Safety Program Act, as amended; and

WHEREAS the mitigation plan identifies mitigation goals and actions to reduce or eliminate long-term risk to people and property in the county from the impacts of future hazards and disasters; and

WHEREAS adoption by the Commission demonstrates its commitment to hazard mitigation and achieving the goals outlined in the Region VII PDC Mitigation Plan, updated 2023.

NOW THEREFORE, BE IT RESOLVED THAT:

The Lewis County Commission, Weston, WV formally adopts the Region VII Planning and Development Council Hazard Mitigation Plan, updated 2023. While the content related to the county may require revisions to meet the plan approval requirements, changes occurring after adoption will not require the Commission to re-adopt any further iterations of the plan. Subsequent plan updates following the approval period for this plan will require separate adoption resolutions.

ADOPTED by a vote of _____ in favor and _____ against (with _____ abstaining), this _____ day of _____, 2024.

SIGNED: _____

Robert S. Stewart, III
President, Lewis County Commission

Tina Helmick
Witness

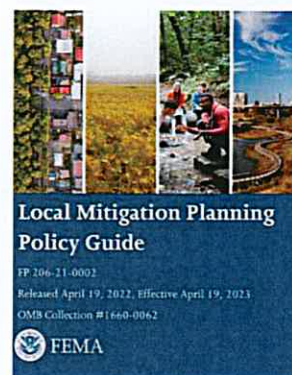
Why is it important to adopt your hazard mitigation plan?

You've done the hard work, now it's time to adopt! To be eligible for certain FEMA grant funding programs, all participating jurisdictions and special districts need to adopt the plan within one year of FEMA approval.

How do you adopt? It's easy! Documentation may be sent in the form of meeting minutes, resolutions, or signed letters. Documentation must show that the participant has officially adopted the plan. A sample adoption resolution is available in Appendix B of FEMA's [Local Mitigation Planning Policy Guide](#).

What if you do not adopt within one year? Participants that adopt the plan more than one year after Approval Pending Adoption status has been issued must either:

- Validate that their information in the plan remains current with respect to both the risk assessment (no recent hazard events; no changes in development) and their mitigation strategy (no changes needed), or
- Make the needed updates before submitting adoption documentation to FEMA.



Don't delay, adopt today! Visit section F2.A of FEMA's [Local Mitigation Planning Policy Guide](#) to learn more.



FEMA



Subject	Memorandum of Agreement between the State VCPs and 104(k) Grant Fund Recipients for Adoption of Quality Assurance Program Plans	Internal Document Identification Number	A0003.0
From	EPA Region 3 Quality Assurance Manager, Applied Science & Quality Assurance Branch, Laboratory Services & Applied Science Division (3LS10)	KIA LONG	Digitally signed by KIA LONG Date: 2023.07.06 15:27:53 -04'00'

Memorandum of Agreement between the State VCPs and 104(k) Grant Fund Recipients for Adoption of Quality Assurance Program Plans

Pursuant to Chief Information Officer (CIO) directive *Environmental Information Quality Policy* pertaining to EPA’s Environmental Information Quality Policy, organizations performing work on behalf of or funded by the agency are required to develop, implement, and maintain a quality program. EPA’s programmatic requirements as they pertain to quality assurance documentation and reporting are detailed in *EPA Requirements for Quality Assurance Project Plans EPA QA/R-5*. Prior to the initiation of environmental operations that involve the collection or use of environmental information, a written quality assurance plan must be submitted to and approved by the EPA.

In certain circumstances, there may be a large degree of overlap between the policies and procedures of multiple organizations if said organizations are guided by the same set of regulations. Such circumstances may arise in projects performed under CERCLA 104(k) agreements. In order for a site whose contamination has been characterized to enroll in its respective state’s voluntary cleanup program (VCP), the site must meet criteria established by state law. Consequently, the guiding principles that are applied to the site, both prior to and following VCP enrollment, may align with state procedures.

EPA R3 Applied Science and Quality Assurance Branch (ASQAB) recognizes that in instances of considerable overlap between 104(k) grantee policy and state policy there is a level of expediency that can be achieved by adopting state level EPA approved quality assurance program plans (QAPrP). Through the process of adoption, redundancy can be reduced without compromising conformance with EPA’s quality system.

Since no two organizations will function exactly alike, each organization is required to submit their own form of QA documentation. Under this proposal, 104(k) grantees could adopt their state’s procedures, and only submit to EPA the procedures that do not fully align with the state. This agreement and the deviations from state policy

will be documented by completing and signing the memorandum below (Appendix A). Program specific information that should be included in the agreement, at minimum, includes:

- Organizational information and personnel responsibilities
- Organizational distribution list
- Communication pathways and lines of reporting
- Organization specific reporting requirements

This agreement does not remove the requirement for site-specific sampling information to be submitted to EPA R3 for review and approval. It is the responsibility of the grantee to submit site-specific documents that comply with the requirements set forth in *EPA Requirements for Quality Assurance Project Plans EPA QA/R-5* and any stipulated described in the QAPrP they are adopting.

EPA is not involved in the brokerage or maintenance of this agreement. The agreement is between states and 104(k) grantees within their jurisdiction. EPA will recognize and honor the agreement only to the extent that EPA quality requirements are met. Should it be discovered by any means that a 104(k) grantee is not conforming to the procedures that it adopted, EPA ASQAB will no longer acknowledge the agreement, and the 104(k) grantee will be required to draft and submit to EPA for approval their own QAPrP.

This plan does not have any legally binding effect, does not create legal rights or obligations, nor does it alter the requirements for organizations receiving grant funding from the US EPA as they pertain to EPA's quality system.

Appendix A

Memorandum of Agreement between the State VCPs and 104(k) Grant Fund Recipients for Adoption of Quality Assurance Program Plans

This agreement between a state-led voluntary clean-up program (VCP) and an organization that conducts operations involving the collection or use of environmental information which are facilitated by funds received under a 104(k)-grant agreement is intended to expedite the process through which EPA's information quality requirements are addressed by allowing 104(k) grantees to adopt their state's EPA approved quality assurance program plan (QAPrP).

Chief Information Officer (CIO) directive *Environmental Information Quality Policy* (or most recent version) dictates that in order to support EPA's mission to protect human health and the environment and to ensure environmental information operations, products, and services are of known and documented quality for their intended use that all organizations funded by or performing work on behalf of the agency create quality assurance project plans that reflect the output of the systematic planning process.

To remain in compliance with the *Environmental Information Quality Policy* directive (or most recent version), a quality assurance document that addresses all aspects of *EPA QA/R-5 EPA Requirements for Quality Assurance Project Plans* must be produced and approved by EPA R3 Applied Science and Quality Assurance Branch (ASQAB). This document must be specific to the organization and accurately reflect the policies and procedures of the organization as they relate to EPA's quality policies. However, EPA R3 ASQAB recognizes that 104(k) grantee practices often have a high degree of overlap with the policies put in place by their state's VCP.

To expedite the QA process, ASQAB will accept a 104(k) grantee's adoption of their state's QAPrP as a surrogate to the composition, submission, and approval of their own internal QAPrP. For this adoption to be valid, the state whose QAPrP is being adopted must consent to make available to the 104(k) recipient any QA resources (e.g. the QAPrP) that are applicable to the grantee's quality system and to keep the 104(k) grantee apprised of any changes to the state's quality system. The 104(k) grantee who is adopting the QAPrP must attest that they have read and understood what they are adopting, follow the practices of any documents that they are attesting to follow, document and report to EPA any state VCP practices that they don't intend to/fail to comply with, provide to EPA documentation explaining the procedures that are being followed in lieu of the state's procedures should such procedures exist, and that they will continue to prepare and submit site-specific field sampling plans which detail all information required by the EPA quality system that is not included in the adopted QAPrP.

No site-specific environmental information operations can be conducted, regardless of the adoption of a QAPrP, until approval of a site-specific plan is issued by EPA R3 ASQAB. EPA will only recognize this agreement in the circumstances that the aforementioned criteria are upheld. A signed copy of this agreement must be submitted to EPA along with the site-specific plan for it to be applicable. This agreement is only valid from the time that signatures are received from both parties until the expiration of the state's QAPrP or significant change in the state's QAPrP prompts them to resubmit to EPA R3 QA. Failure from either party to honor their respective responsibilities will invalidate this agreement. Should circumstances arise in which the agreement is invalidated, it will be the responsibility of the 104(k) grantee to develop, submit to, and have approved by ASQAB their own internal QAPrP before any further environmental information operations may proceed.

If there are any policies from the state's QAPrP that 104(k) recipient does not intend to comply with, they must be detailed in the space below.

By signing this document, the grantee/VCP is attesting that they have read, understood, and intend to comply with conditions set forth in this agreement.

State VCP Quality Assurance Manager/Date

104(k) Grantee Quality Assurance Manager/Date

CONTRACT STATUS INQUIRY

Ohio Farmers Insurance Company
Surety Department
One Park Circle
P.O. Box 5001
Westfield Center, Ohio 44251-5001

Date: **MARCH 24, 2024**

Surety Department Fax 330-887-4356
bonds@westfieldgrp.com

LEWIS CNTY COMMISSION
110 CENTER AVE
WESTON WV 26452

Our Bond No. **BND 277096C**

Contractor: **DANHILL CONSTRUCTION CO**

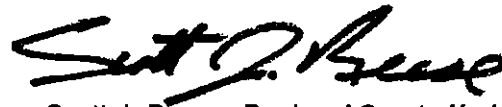
Address: **PO BOX 685** **GAULEY BRIDGE WV**
025085

Description of Contract: **LEWIS-GILMER 911 - 476 US ROUTE 19 N, WESTON, WV**

Approximate Contract Price \$ **6,039,000** Bond Amount \$ **6,038,942**
Effective Date **03/28/23**

Without prejudicing your right or affecting our liability under our bond described above, we would appreciate the following information.

Very truly yours,



Scott J. Reese *Regional Surety Underwriting Leader*

1. IF CONTRACT COMPLETED, PLEASE STATE:

Approximate acceptance date of work
Final Contract Price \$

2. IF CONTRACT UNCOMPLETED, PLEASE STATE:

Approximate percentage or dollar amount of contract completed or delivered
Anticipated Completion Date

3. Do you know of any unpaid bills owed by the contractor for labor or material
(Check) Yes..... No.....

4. Remarks: (if any)
.....
.....

LEWIS CNTY COMMISSION

BY _____

TITLE _____

DATE _____

(The language of this form is acceptable to the Surety And Fidelity Association of America)

We greatly appreciate your cooperation. Email, fax or mail (return envelope is enclosed).