



# ROANE COUNTY SCHOOLS

813 CAPITOL STREET  
SPENCER, WEST VIRGINIA 25276  
(304) 927-6400  
<http://roanecountyschools.com>

RICHARD D. DUNCAN, Ph.D.  
SUPERINTENDENT

JEFFREY MACE  
PRESIDENT, ROANE COUNTY  
BOARD OF EDUCATION

## ADVERTISING AGREEMENT

This Advertising Agreement is made and entered into this 15 day of December, 2018 between the Roane County Board of Education ("Board"), located at 813 Capitol Street, Spencer, WV 25276, and Barsh Opticians & Hearing Aid Center ("Advertiser") located at 151 MAIN ST SPENCER, WV.

WHEREAS, Advertiser desires to purchase advertising space on Board property to provide financial support to be used for long-term maintenance and upgrades or improvements to the athletic field bordered by Capitol Street, Virginia Street, and Madison Avenue in Spencer, WV ("Field");

NOW, THEREFORE, for good and valuable consideration, the parties agree as follows:

1. Content The standard size of advertising signs shall be 3-foot high by 5-foot long (3' x 5') metal signs. The size and design of any signage shall be approved by the Board before begin affixed to any part of the Field. The Board reserves the right to reject, alter, or refuse any material in its sole discretion in accordance with laws and Board policies as currently in effect and as they may be amended from time to time. Advertiser understands and agrees that the Board is not in any way restricted from granting advertising rights to others, including competitors of Advertiser.
2. Location Signage may be placed on the fence surrounding Field either facing to the field or outward from the field as allowed by state and local laws. The location of any advertising signs shall be approved by the Board.
3. Payment for Advertising Advertiser agrees to remit Advertising fees to the Board in the amounts of Two Hundred Fifty Dollars (\$250.00) for the initial year and Two Hundred Dollars (\$200.00) annually thereafter. Such payment shall cover the costs of the sign materials and installation of the sign. The initial payment of Two Hundred Fifty Dollars (\$250.00) shall be remitted to the Board prior to any advertising material being produced. An invoice will be provided to Advertiser during the month of July each year for the renewal fees and such fee shall be submitted to the Board by the last day of August of each year to maintain renewal of this Agreement.
4. Limitation of Liability
  - a. In the event the Board terminates the agreement due to breach of agreement, the Board shall not be required to refund any funds to Advertiser.
  - b. Advertiser assumes full responsibility and liability for all materials submitted, printed, and published pursuant to this agreement and shall indemnify Board and hold Board harmless against all demands, claims, or liability related to or arising from such materials or related to any allegation that content infringes on the intellectual property rights of a third party.

- c. Advertiser recognizes and acknowledges that the advertising material will be located in a public place and that the Board cannot and will not be responsible for any damage suffered to the advertisement or any of Advertiser's property and/or equipment.
5. Termination Board may terminate this agreement immediately without prior notice in the event Advertiser breaches any term or condition thereof, and Advertiser shall forfeit any unused portion of the fee. Upon the termination of this agreement, all advertising material of Advertiser will be removed from the Field.

The signatures below indicate approval of this Agreement:

\_\_\_\_\_  
Superintendent, Roane County Board of Education

Larry E. Barsch  
For Advertiser

Larry E. Barsch  
(Print name signed above)

## Agreement Addendum

In the event of conflict between this addendum and the agreement, this addendum shall control:

1. **DISPUTES** - Any references in the agreement to arbitration or to jurisdiction of any court other than the Circuit Court of the county in which the Agency is located are hereby deleted. The parties may agree to nonbinding mediation prior to litigation.
2. **HOLD HARMLESS** - Any clause requiring the Agency to indemnify or hold harmless any party is hereby deleted in its entirety.
3. **GOVERNING LAW** - The agreement shall be governed by the laws of the State of West Virginia. This provision replaces any references to any other State's governing law.
4. **TAXES** - Provisions in the agreement requiring the Agency to pay taxes are deleted. As a political subdivision of the State of West Virginia, the Agency is generally exempt from Federal, State, and local taxes and will not pay taxes for any Vendor including individuals, nor will the Agency file any tax returns or reports on behalf of Vendor or any other party.
5. **PAYMENT** - Any references to prepayment are deleted. Fees for software licenses, subscriptions, or maintenance are payable annually in advance. Payment for services will be in arrears.
6. **INTEREST** - Any provision for interest or charges on late payments is deleted. The Agency has no statutory authority to pay interest or late fees.
7. **NO WAIVER** - Any language in the agreement requiring the Agency to waive any rights, claims or defenses is hereby deleted.
8. **FISCAL YEAR FUNDING** - Service performed under the agreement may be continued in succeeding fiscal years for the term of the agreement, contingent upon funds being appropriated by the Legislature or otherwise being available for this service. In the event funds are not appropriated or otherwise available for this service, the agreement shall terminate without penalty on June 30. After that date, the agreement becomes of no effect and is null and void. However, the Agency agrees to use its best efforts to have the amounts contemplated under the agreement included in its budget. Non-appropriation or non-funding shall not be considered an event of default.
9. **STATUTE OF LIMITATION** - Any clauses limiting the time in which the Agency may bring suit against the Vendor, lessor, individual, or any other party are deleted.
10. **SIMILAR SERVICES** - Any provisions limiting the Agency's right to obtain similar services or equipment in the event of default or non-funding during the term of the agreement are hereby deleted.
11. **ATTORNEY FEES** - The Agency recognizes an obligation to pay attorney's fees or costs only when assessed by a court of competent jurisdiction. Any other provision is invalid and considered null and void.
12. **ASSIGNMENT** - Notwithstanding any clause to the contrary, the Agency reserves the right to assign the agreement to a State agency or another local governmental agency, board or commission of the State of West Virginia upon thirty (30) days written notice to the Vendor and Vendor shall obtain the written consent of Agency prior to assigning the agreement.
13. **LIMITATION OF LIABILITY** - The Agency, as a political subdivision of the State, cannot agree to assume the potential liability of a Vendor. Accordingly, any provision limiting the Vendor's liability for direct damages to a certain dollar amount or to the amount of the agreement is hereby deleted. Limitations on special, incidental or consequential damages are acceptable. In addition, any limitation is null and void to the extent that it precludes any action for injury to persons or for damages to personal property.
14. **RIGHT TO TERMINATE** - Agency shall have the right to terminate the agreement upon thirty (30) days written notice to Vendor. Agency agrees to pay Vendor for services rendered or goods received prior to the effective date of termination. In such event, the Agency will not be entitled to a refund of any software license, subscription or maintenance fees paid.
15. **TERMINATION CHARGES** - Any provision requiring the Agency to pay a fixed amount or liquidated damages upon termination of the agreement is hereby deleted. The Agency may only agree to reimburse a Vendor for actual costs incurred or losses sustained during the current fiscal year due to wrongful termination by the Agency prior to the end of any current agreement term.
16. **RENEWAL** - Any reference to automatic renewal is hereby deleted. The agreement may be renewed only upon mutual written agreement of the parties.
17. **INSURANCE** - Any provision requiring the Agency to purchase insurance for Vendor's property is deleted. The Agency is insured through the Board of Risk and Insurance Management, and will provide a certificate of property insurance upon request.
18. **RIGHT TO NOTICE** - Any provision for repossession of equipment without notice is hereby deleted. However, the Agency does recognize a right of repossession with notice.
19. **ACCELERATION** - Any reference to acceleration of payments in the event of default or non-funding is hereby deleted.
20. **CONFIDENTIALITY** - Any provision regarding confidentiality of the terms and conditions of the agreement is hereby deleted. Governmental contracts are public records under the West Virginia Freedom of Information Act.
21. **AMENDMENTS** - All amendments, modifications, alterations or changes to the agreement shall be in writing and signed by both parties. No amendment, modification, alteration or change may be made to this addendum without the express written approval of the Agency.

### ACCEPTED BY:

Local Education Agency: \_\_\_\_\_

Signed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Revised 07-12

### VENDOR:

Company Name: Barsh Opticians & Hearing Aid Ctr

Signed: Larry Z. Barsh

Title: President

Date: 12/15/18