

## Equipment/Utility Usage Agreement

This agreement entered into on April 10, 2014 by and between the Board of Parks and Recreation Commissioners (BOPARC), as property owner and Declaration Networks Group Inc. (DNG), as service provider and usage entity.

WITNESSETH: BOPARC hereby agrees to grant temporary usage of a designated electric pole structure located at the diving board end of the pool in Krepps Park (located at 1235 Parkview Drive in Morgantown, West Virginia) for purposes of establishing a Wi-Fi enabled area to include Krepps Park, the Nursery and related parking lots as part of the AIR.U white space broadband pilot program with WVU and feasibility study for the City of Morgantown being conducted by DNG. The study and operational period would begin May 25, 2014 through December 31<sup>st</sup>, 2014 and would be extended for operations unless cancelled in writing with City Manager and DNG.

Usage would include access to the utility and access to the pole for purposes of evaluation and monitoring of the equipment installed and determination of any equipment failure, needed repairs, etc. during the designated study and operational period. BOPARC or the City of Morgantown will be responsible for any additional incremental electric charges for the equipment and will maintain the power during the year for the equipment to provide service.

Usage entity is responsible for any and all repairs to BOPARC fixtures and/or structures that may sustain damage as a result of installed equipment. Usage entity agrees to not impede park usage, traffic, park events, maintenance or hinder the ability of patrons to enjoy the park and its amenities while maintaining equipment and/or conducting the study, making repairs, monitoring equipment, etc.

Usage entity agrees that when the study or operational period is complete all BOPARC property and components will be restored to the state of repair and maintenance prior to equipment installation with the exception of new electrical outlets that will be installed for the equipment.

Usage entity shall indemnify and hold harmless BOPARC and the City of Morgantown for and against any and all claims, losses, causes, damages and expenses arising from injury to person or damage to property that is caused by the sole negligence of usage entity, its agents, contractors or employees and in the case of any such action or proceeding being brought against either the City of Morgantown or BOPARC by reason of such claim, usage entity shall resist and defend such action.

Usage entity shall provide a certificate of insurance accompanying this signed agreement that indicates that it will maintain in full force and effect a comprehensive liability insurance policy with a minimum amount of \$1,000,000 combined single limits of bodily injury and property damage liability, with an aggregate limit of \$2,000,000 for more than one occurrence or accident, covering liability that may arise during the term of the agreement.

Both parties agree that this document constitutes the entire understanding and agreement between the parties and there are no other agreed upon or implied terms, conditions, covenants or duties. This agreement may only be modified by similar written agreement between the parties hereto.

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BOPARC  
Melissa Burch  
BOPARC Director

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City of Morgantown  
Jeff Mikorski  
Morgantown City Manager

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Declaration Networks Group Inc.  
Keith J Montgomery  
Chief Financial Officer