

**AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN THE CITY AND THE STATE OF WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP) WHEREBY DEP MAY ENTER UPON MUNICIPAL AIRPORT REALTY TO DETERMINE THE POSSIBLE EXISTENCE OF ADVERSE COAL MINING PRACTICES, AND TO ALSO DETERMINE THE FEASIBILITY OF CONTROL OF ANY SUCH ADVERSE COAL MINING PRACTICES.**

The City of Morgantown hereby ordains that its City Manager is authorized to execute the Agreement hereto attached, by and on behalf of the City of Morgantown.

This Ordinance shall be effective upon date of adoption.

FIRST READING:

\_\_\_\_\_  
MAYOR

ADOPTED:

FILED:

\_\_\_\_\_  
CITY CLERK

RECORDED:

## RIGHT OF ENTRY AGREEMENT

THIS AGREEMENT, made and entered into this 20<sup>TH</sup> day of AUGUST,2013, by and between CITY OF MORGANTOWN

hereinafter referred to as the part(ies) of the first part, and the STATE OF WEST VIRGINIA, DEPARTMENT OF ENVIRONMENTAL PROTECTION, hereinafter referred to as the party of the second part:

W I T N E S S E T H:

WHEREAS, the party(ies) of the first part is(are) the owner(s) of record of the following described property:

<u>MORGANTOWN CORPORATION</u> (District)	<u>MONONGALIA</u> (County)	<u>WEST VIRGINIA</u> (State)
<u>MULTIPLE TRACTS</u> (Property Description)	<u>32A/12-13-10-3-2</u> (Tax Map/Parcel#)	<u>601/174 290/293</u> <u>599/4 599/271 1323/240</u> (Deed Book/Page#)

NOW THEREFORE, and in consideration of the benefits to be derived herefrom, the sufficiency of which is hereby acknowledged, the party(ies) of the first part hereby grant(s) unto the party of the second part, its agents, assigns, employees, and/or contractors the right and permission to enter upon the hereinabove described real estate for the purpose of determining the possible existence of adverse effects of past coal mining practices, and to determine the feasibility of restoration, reclamation, abatement, control or prevention of such adverse effects. Said party(ies) of the first part also grant(s) unto the party of the second part the right and permission to enter upon the aforesaid real estate for the purpose of obtaining access to and from adjacent properties which may have been affected by past coal mining practices.

The party(ies) of the first part grant(s) the aforesaid rights and permission unto the party of the second part subject to the following terms and conditions:

- 1.) Entry and exploratory work performed by the party of the second part, its agents, assigns, employees, and/or contractors shall be pursuant to the authority vested in the party of the second part by Chapter 22, Article 2, of the Official Code of West Virginia, 1931, as amended.
- 2.) No lien shall be filed by the party of the second part against the aforesaid real estate as a result of this agreement and the exercise of the rights and permission granted herein.
- 3.) The TERM of this agreement shall be for the length of time necessary for the party of the second part, its agents, employees assigns and/or contractors to complete study and/or exploratory work for the purposes stated herein.
- 4.) The party(ies) of the first part do(does) not waive any rights which are vested in or conferred upon the party(ies) of the first part by virtue of Chapter 22, Article 2, of the Official Code of West Virginia, 1931, as amended.
- 5.) Party of the Second Part shall require its contractor to carry and maintain General Liability Insurance with coverage in an amount not less than \$1,000,000.00 for each occurrence and not less than \$2,000,000.00 aggregate in addition to carrying and maintaining Automotive Liability Insurance in an amount not less than \$1,000,000.00 and Professional Liability Insurance in an amount not less than \$1,000,000.00.

IN WITNESS WHEREOF, the party(ies) of the first part has(have) caused their name(s) to be signed hereto as of the day and year first hereinabove written.

(Address & Phone No.):

389 SPRUCE STREET

MORGTANTOWN, WV 26505

PHONE# 304-284-7405

CITY MANAGER

STATE OF WEST VIRGINIA;

COUNTY OF MONONGALIA To-wit:

I, \_\_\_\_\_, a Notary Public in and for said County do hereby certify that \_\_\_\_\_

\_\_\_\_\_ who signed the foregoing and hereto annexed writing bearing date the \_\_\_\_ day of \_\_\_\_\_, 2013 has(have) this day acknowledged the same before me in my said county.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

My commission expires \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

Approved By: \_\_\_\_\_  
Abandoned Mine Land & Reclamation

Prepared By:

West Virginia Department of Environmental Protection  
Abandoned Mine Land & Reclamation