



Office of the City Clerk

The City of Morgantown

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**AMENDED AGENDA
MORGANTOWN CITY COUNCIL
REGULAR MEETING
November 17, 2015
7:00 p.m.**

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **PLEDGE TO THE FLAG**
4. **APPROVAL OF MINUTES: November 3rd, 2015 Regular Meeting**
5. **CORRESPONDENCE:**
6. **PUBLIC HEARINGS:**
7. **UNFINISHED BUSINESS:**
 - A. **BOARDS AND COMMISSIONS.**
 1. Council to interview BZA Candidates at Special Meeting on December 1, 2015 at 6pm.
 2. Planning Commission there were no applicants; Council re-appoint members at 11/17/15 meeting.
 3. Council to re-appoint two commissioners to Sister Cities Commission 11/17/15 meeting.
 4. Morgantown Housing Advisory Commission still advertising for Real Estate opening.
 5. Sister Cities still advertising for one vacancy.
8. **PUBLIC PORTION WHICH SHALL BE SUBJECT TO RULES ESTABLISHED BY COUNCIL AND ADOPTED BY RESOLUTION:**
9. **SPECIAL COMMITTEE REPORTS:**

10. NEW BUSINESS:

- A. Consideration of APPROVAL of (FIRST READING) of AN ORDINANCE AUTHORIZING AN AGREEMENT WITH THE FEDERAL AVIATION ADMINISTRATION LEASING OFFICE SPACE AT THE MORGANTOWN MUNICIPAL AIRPORT.**
- B. Consideration of APPROVAL of (FIRST READING) of AN ORDINANCE TO APPROVE CURRENT REPLACEMENT PAGES TO THE CITY CODE.**
- C. Consideration of APPROVAL of (FIRST READING) of AN ORDINANCE AMENDING THE FY 2015-2016 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND.**
- D. Consideration of APPROVAL of a RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE GRANT AGREEMENT TO FUND A MORGANTOWN BICYCLE SIGNAGE AND FACILITIES TRANSPORTATION ALTERNATIVES PROGRAM**

11. CITY MANAGER'S REPORT:

INFORMATION:

- 1. Fire Service Fee Collection Process**

NEW BUSINESS:

- 1. Main Street Morgantown Request For Amended Funding**

12. REPORT FROM CITY CLERK:

13. REPORT FROM CITY ATTORNEY:

14. REPORT FROM COUNCIL MEMBERS:

15. ADJOURNMENT:

If you need an accommodation contact us at (304) 284-7439



Office of the City Manager

The City of Morgantown

City Manager

Jeff Mikorski, ICMA-CM

389 SPRUCE STREET

MORGANTOWN, WEST VIRGINIA 26505

(304) 284-7405 FAX: (304) 284-7430

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City Manager's Report for City Council Meeting on November 17, 2015

Information:

1. Fire Service Fee collections process

In an effort to provide information to City Council on the actions that the City takes to improve the collection rates for fees, I have attached a timeline that we work through with property owners that have been delinquent on fire service fees. As you can see, we follow up bills with two certified letters and then provide a third letter when the City places a lien on the property. We are in the process of placing liens on twenty-one property's that total \$65,068.73 in delinquent fees.

New Business:

2. Main Street Morgantown request for amended funding

For the last eleven months, Main Street Morgantown has not had an Executive Director in place, reducing the amount of funds that we will provided for operations of the organization. They have made a request to use \$5,000 of the amount that will be not used for salary and personnel operations for additional promotional funds to improve business activity in the Downtown Business District. I recommend City Council approve the change in donations, outlined in their budget request, to provide Main Street Morgantown to allow additional promotional funding for Downtown Morgantown.

Jeff Mikorski ICMA-CM,
Morgantown City Manager

FIRE FEE TIME LINE PROCEDURES

FIRE FEES BILLING CYCLE IS JULY 1 THROUGH JUNE 30

BILLING IS USUALLY THE FIRST WEEK OF JULY (INVOICES ARE MAILED AND POSTED ANY PREPAID AMOUNTS ARE APPLIED TO THE ACCOUNTS

First Bill

AUGUST 15TH DISCOUNT DATE (5% DISCOUNT IF PAID IN FULL)
(ALL PAYMENTS MUST BE POSTED BEFORE DISCOUNT IS ADDED IN THE SYSTEM)

JANUARY 1ST A NOTICE OF BALANCE DUE ON ACCOUNT IS SENT
(2ND HALF OR BALANCE IS MAILED FIRE FEE NOTICE)

Second Bill

FEBRUARY 15TH A 5% PENALTY IS ADDED TO ALL UNPAID BALANCES
(ALL PAYMENTS MUST BE POSTED BEFORE PENALTY IS ADDED TO THE ACCOUNT)

NOTICE IS SENT THAT A 5% PENALTY HAS BEEN ADDED TO THE ACCOUNT IN LETTER FORM AND NOTICE FORM (15 DAYS TO RESPOND.)

1st Letter

CERTIFIED LETTER INFORMING A LIEN MAY BE FILED ON REAL PROPERTY LOCATED WITH IN THE MUNICIPAL CORPORATE LIMITS FOR UNPAID AND DELINQUENT FIRE SERVICE FEES. (ENCLOSED WILL BE AN ACCOUNTING OF THE DELINQUENT FIRE FEES.)

2nd Letter
(Certified)

NINETY (90) DAYS FROM THE DATE THE NOTICE WAS RECEIVED A LIEN MAY BE FILED AT THE MONONGALIA COUNTY COURT HOUSE.

3rd Letter
(Certified)



MAIN STREET morgantown

downtownmorgantown.com • director@downtownmorgantown.com

Main Street Morgantown, Inc. • 201 High St., Suite 2 • Morgantown, WV 26505 • (304) 292-0168

November 12, 2015

Dear Jeff,

Main Street Morgantown would like to request that \$5,000 of fiscal year 2015-2016 funds be moved from operation funding to our marketing budget. Main Street Morgantown will be doing a Marketing Campaign with these funds for the downtown and Wharf districts. Main Street Morgantown will be matching the funds from our Promotion budget. With the extended closure of University Avenue we feel that these funds are needed to bring awareness back to the Historic downtown and the heart of the City.

Thank you for your consideration in this matter.

Barbara Watkins

REGULAR MEETING November 3, 2015: The regular meeting of November 3, 2015 at 7:05 p.m.

PRESENT: City Manager Jeff Mikorski, City Clerk Linda Tucker, Mayor Marti Shamberger, City Attorney Ryan Simonton, Assistant City Manager Glen Kelly and Council Members: Rone Bane, Deputy Mayor Bill Kawecki, Wes Nugent, Jenny Selin, Jay Redmond, and Nancy Ganz.

The meeting was called to order by Mayor Shamberger.

APPROVAL OF MINUTES: Minutes from the October 20, 2015 meeting were approved as printed.

CORRESPONDENCE: Mayor Shamberger presented several Proclamations for Extra Mile and Home Health. Mayor Shamberger also read an email from Adrienne Derring in reference to the Urban Agriculture Ordinance and wants it to be put in as part of the record. **(Exhibit A will be filed in the Vault)** Marti Shamberger also announced and recognized the Bas to Better Buildings that the City Manager is working -on along with the students that are helping with this project. The following students are: William Bard, Elizabeth Barnett, Tracy Bercenni, and Francis Rebarr.

PUBLIC HEARING:

PUBLIC HEARING - AN ORDINANCE AUTHORIZING A LEASE AGREEMENT WITH FRIENDS OF DECKERS CREEK, INC. FOR SPACE AT THE WOODBURN SCHOOL SITE.

Mayor Shamberger declared this Public Hearing open.

Holly Pupura, 2756 University Avenue, is with the Friends of Deckers Creek and spoke in reference to getting the approval from Council for the lease agreement and encourages them to consider the approval at Woodburn School.

There being no other appearances, Mayor Shamberger declared the Public Hearing closed.

PUBLIC HEARING - AN ORDINANCE AUTHORIZING A LEASE AGREEMENT WITH MORGANTOWN THEATRE COMPANY FOR SPACE AT THE METROPOLITAN THEATRE.

Mayor Shamberger declared this Public Hearing open.

There being no appearances, Mayor Shamberger declared the Public Hearing closed.

UNFINISHED BUSINESS:

AN ORDINANCE AUTHORIZING A LEASE AGREEMENT WITH FRIENDS OF DECKERS CREEK, INC. FOR SPACE AT THE WOODBURN SCHOOL SITE. The below entitled Ordinance was presented for second reading.

AN ORDINANCE AUTHORIZING A LEASE AGREEMENT WITH FRIENDS OF DECKERS CREEK, INC. FOR SPACE AT THE WOODBURN SCHOOL SITE.

City Manager explained, motion by Ganz, second by Selin, to adopt the above entitled Ordinance. Motion carried 7-0.

AN ORDINANCE AUTHORIZING A LEASE AGREEMENT WITH MORGANTOWN THEATRE COMPANY FOR SPACE AT THE METROPOLITAN THEATRE.

The below entitled Ordinance was presented for second reading.

AN ORDINANCE AUTHORIZING A LEASE AGREEMENT WITH MORGANTOWN THEATRE COMPANY FOR SPACE AT THE METROPOLITAN THEATRE.

City Manager explained, motion by Selin, second by Ganz, to adopt the above entitled Ordinance. Motion carried 7-0.

BOARDS AND COMMISSIONS: By acclamation Council approved the appointment of Lola Contreras to serve on the Sister Cities Commission.

PUBLIC PORTION:

Mayor Shamberger declared the Public Portion open.

Dave Biafora, 6200 Mid Atlantic Drive, spoke in regards to the non-permitted building at the ACC, the University Avenue closure and Council or City Manager who gave the authorization to close a city street. He continued on by saying that the city has been stealing and then Marti Shamberger speaks up and tells Dave that he needs to refrain from using those phrases. He then continues to slander the Council, Mayor, and the City Manager on how they manage the City. The Mayor then requests for him to be escorted out by the Police Officer.

James Giuliani, 256 Prairie Avenue, gave a handout to all of Council explaining to them that his neighbor was approved for something that he got denied for and it was the same thing for both. He wants questions answered. He also mentioned about the WVU Housing and how they are going to sophomore housing. How can they continue building new housing for their students when there are some housing not being completely at full capacity? University Place is 55% with 400 and some empty, Evansdale Park is 35% with 750 empty, and Pierpont is sitting with the lights off with no one living there and Vandalia is at 80%. WVU is paying \$2 million for housing and no one is living in them and the City does not have a say in what they do.

There being no more appearances, Mayor Shamberger declared the Public Portion closed.

SPECIAL COMMITTEE REPORTS: Mayor Shamberger announced that the I-79 access study will be meeting on the first weekend in December.

NEW BUSINESS:

AN ORDINANCE AMENDING TABLE 1331.05.01 "PERMITTED LAND USES" OF THE PLANNING AND ZONING CODE AS IT RELATES TO "TWO-FAMILY DWELLING" USES IN THE B-1, NEIGHBORHOOD BUSINESS DISTRICT: The above entitled Ordinance was presented for first reading.

AN ORDINANCE AMENDING TABLE 1331.05.01 "PERMITTED LAND USES" OF THE PLANNING AND ZONING CODE AS IT RELATES TO "TWO-FAMILY DWELLING" USES IN THE B-1, NEIGHBORHOOD BUSINESS DISTRICT.

City Manager explained, motion by Kawecki, second by Selin, to suspend the above entitled Ordinance to second reading. Motion failed 6-1. (Jenny Selin voting yes)

AN ORDINANCE TO PROVIDE THE ZONING CLASSIFICATION FOR 14.50 ACRES, MORE OR LESS, OF ADDITIONAL TERRITORY THAT WAS ANNEXED INTO THE CITY OF MORGANTOWN BY ORDINANCE 15-48 BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN: The above entitled Ordinance was presented for first reading.

AN ORDINANCE TO PROVIDE THE ZONING CLASSIFICATION FOR 14.50 ACRES, MORE OR LESS, OF ADDITIONAL TERRITORY THAT WAS ANNEXED INTO THE CITY OF MORGANTOWN BY ORDINANCE 15-48 BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.

City Manager explained, motion by Kawecki, second by Selin, to pass the above entitled Ordinance to second reading. Motion carried 7-0.

AN ORDINANCE TO PROVIDE THE ZONING CLASSIFICATION FOR 0.76 ACRES, MORE OR LESS, OF ADDITIONAL TERRITORY THAT WAS ANNEXED INTO THE CITY OF MORGANTOWN BY ORDINANCE 15-60 BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERTO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN: The above entitled Ordinance was presented for first reading.

AN ORDINANCE TO PROVIDE THE ZONING CLASSIFICATION FOR 0.76 ACRES, MORE OR LESS, OF ADDITIONAL TERRITORY THAT WAS ANNEXED INTO THE CITY OF MORGANTOWN BY ORDINANCE 15-60 BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.

City Manager explained, motion by Selin, second by Kawecki, to pass the above entitled Ordinance to second reading. Motion carried 7-0.

AN ORDINANCE TO PROVIDE THE ZONING CLASSIFICATION FOR 4.20 ACRES, MORE OR LESS, OF ADDITIONAL TERRITORY THAT WAS ANNEXED INTO THE CITY OF MORGANTOWN BY ORDINANCE 15-66 BY AMENDING ARTICLE 1131 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN: The above entitled Ordinance was presented for first reading.

AN ORDINANCE TO PROVIDE THE ZONING CLASSIFICATION FOR 4.20 ACRES, MORE OR LESS, OF ADDITIONAL TERRITORY THAT WAS ANNEXED INTO THE CITY OF MORGANTOWN BY ORDINANCE 15-66 BY AMENDING ARTICLE 1131 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO

ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.

City Manager explained, motion by Selin, second by Kawecki, to pass the above entitled Ordinance to second reading. Motion carried 7-0.

CITY MANAGERS REPORT:

Information:

1. City's New Director of Finance

I am happy to announce that after many applicants and interviews, the position offer was accepted by James Goff, CPA to be Morgantown's new Director of Finance starting November 16, 2015. He comes to us with 20 years of professional experience in finance and management. For the last year he was the Director of Commercial Finance for Mylan, Inc., prior to that he worked as the Vice President of Finance and Accounting for Thrasher Engineering and the Vice President of Finance of Greer Industries and Corporate Controller for West Virginia Radio Corporation. I know he will be an outstanding addition to the City of Morgantown's management team and guide the Finance Department as we move forward.

I want to thank Denise White who filled in as the interim Director and Lori Livengood who took on the role of Acting Director over these past few months. With their help and commitment to the City, it allowed us to continue to move forward in the Finance Department.

New Business:

1. Everbridge Mass Notification

The City of Morgantown has used the Nixle system for mass notification information in the City for the last few years and the system has not generated very much activity, with less than 200 accounts over that time. Recently the Monongalia County Office of Emergency Management requested we look to join them in getting a more robust mass notification system that each can use for small scale notifications, but joined that in the case of a large scale event, one system would be able to be used for everyone. It would allow anyone to join through a single setup process in or outside of the City. By joining resources, we are able to provide a far better program for the residents of the City and the whole County. Attached are descriptions of the program that include text and phone calling notifications, GIS support, and SMART weather alerting. I recommend we replace our Nixle system, (which costs \$2790 annually) with the more robust system from Everbridge and allocate additional \$7,210 toward the improved, integrated program. Monongalia County Office of Emergency Management would pay the remaining \$26,504. If approved, additional funding will be seen in an upcoming budget adjustment in contracted services for in the City Manager's office account.

After City Manager explained, after discussion, motion by Selin, second by Bane to replace our Nixle System with the Everbridge Mass Notification System. Motion carried 7-0.

REPORT FROM ASSISTANT CITY MANAGER: Assistant City Manager, Glen Kelly was surprised that the annexation of other properties was not on the Agenda for tonight. He announces that Senator Capito, and Senator Manchin will be in on a Conference Call on Wednesday in regards to 6 of the airports including the President of the Airport Association. He also announced that the City's property will be sold to MCDA for \$1.1 million this week and that money will go to the Airport, in which \$300,000 and some thousand will go to the design work and the rest to the hangers.

REPORT FROM CITY CLERK: City Clerk, Linda Tucker, spoke about the Wards & Boundaries changes and has spoken with the County Clerk, Carey Blaney, and she is going to be at the COW Meeting on November 24, 2015 for any questions that are needed to be answered. You will need to email your questions to Linda Tucker, City Clerk, by November 16th and then she will forward them on to Carey. Linda then mentioned about contacting the Secretary of State's Office and she was told that we should use the charter unless it is changed. Linda Tucker, City Clerk mentioned the laminated post card that was being passed out during the election. All head commissioners and commissioners were called at each Precinct to find out if they were aware of the laminated card that was being passed out to citizens. Precinct 1 - **Jeanne Strader** from Church of God (Head Commissioner) was not aware of any laminated post card or any problems with the write in candidates; Precinct 2A & 2B - **Debra Saab & Marsha Bellotte** from Morgantown High School (Poll workers) also was not aware of any laminated post card or any problems with the write in candidates; Marsha did say that there was some voters that came in and were at the wrong precinct but they were given the option to leave or they could vote there they would have to do a provisional ballot. Precinct 10 - **Dave Gaston** from BOPARC (Head Commissioner) said that the write in candidates was very easy to handle and the training that was provided to the Head Commissioners and Poll workers was very good. Dave was not aware of any post card. Linda Tucker then mentioned that she also contacted everyone at the Presbyterian Church and was not successful in reaching anyone. Precinct 23 - **Toni Jones** from Suncrest United Methodist Church (Head Commissioner) stated that no one at her precinct with citizens or poll workers had any problems with the write in candidates and also there was no post card and if there was she would have contacted Linda Tucker or Colleen Skotnicki. Precinct 26 - **Mechelle Cunningham** from CMA Church was contacted but was not able to be reached at that time. A message was left for her to contact Linda Tucker or Colleen Skotnicki. Precinct 26 - **Roger Warsewich** from Sabraton Baptist Church stated that everyone understood how the write in candidates worked and was trained properly, he also did not see any laminated post card at his precinct. The information from each head commissioners and Poll workers was received directly from them. Linda continued on with the early voting stating that she contacted the Secretary of State's office in which they told her that the citizens were able to bring the sample ballot from the newspaper in. Sample ballots that were placed at early voting and during, the citizens kept taking the sample ballots and placing them to the IVO's, which did not have the write in candidates on it. Dave Gaston did mention to Linda Tucker when he was called that he had the same issue at his precinct with the sample ballots. Mayor, Marti Shamberger mentioned that she wanted Linda Tucker to get the Ordinances of the pay scale of the Poll workers from 2013 to present that has passed. Linda had enclosed in the packet a spreadsheet of the pay scale. Also enclosed is a chart of the Municipal Election Comparison that shows the percentage of the surrounding cities and what their voter turnout was. Linda spoke with Carey Blaney, County Clerk, in regards to doing the election with the county. Linda also mentioned that the Poll workers will not work if there are paper ballots for the next election. Councilor Ganz experienced questions from citizens and from the questions asked, there was a lot of good and bad things. She thinks that we should have a Procedures and Lesson's Learned, in other words she states that in the case of circumstances that have occurred, and there was questions about the cards sent out and the press releases. She would like to see how to prevent some of the difficulties with that, and to prevent difficulties with the Wards & Boundaries, and the citizens knowing where they are. Linda Tucker, City Clerk, stated that the Wards & Boundaries is a county issue not the City. Councilor Ganz proceeds to mention that there has been some concerns and in fact there are current litigations on that issue. To prevent this in the future a procedure needs to be done. Councilor Selin stated that even if there was a card with the write in candidates, the concern is uniformity. Selin also mentioned that if someone had a card that was laminated for the people

to use to vote that it should be everywhere. Linda Tucker, City Clerk, states that she was not aware of any card that supposedly the Poll workers were given. Councilor Nugent asked that would be electioneering information. Councilor Selin states that it was not electioneering information and that a Poll worker had the card and that it was provided by a Poll worker. Councilor Nugent then asks Councilor Selin if she had the card with her and she said no. Councilor Selin then stated that the card was offered at the polling place that she voted at and she believed it was being offered as a courtesy and not electioneering and thought it would be useful. Councilor Nugent stated that it is inappropriate that there is no card to verify electioneering based information at some of the polling places, he states "This is outside of the laws" so if that was happening regardless if it was a courtesy, it is not appropriate. Councilor Bane is concerned because Councilor Selin just made the statement that she knew of a polling place that had the plastic laminated cards and that is in direct violation of any kind of election laws. Mayor, Marti Shamberger states that she kind of back tracks on that statement that was made, because if you can bring in the sample ballot that was posted in the newspaper, what is the difference? Councilor Bane states that the laminated card has the write in candidates on it and the newspaper was just a sample ballot. Councilor Selin then stated that it was something that she did not do but was offered to her at her polling place. Councilor Bane says that because Councilor Selin had knowledge of this going on, the law was broken at a polling place and she did not contact anyone in regards to it. Councilor Selin said that she did not know that anyone at that time was breaking the law. Councilor Bane says to her that this was not her first election. Councilor Selin then states that she did not do anything wrong and that she went to vote just like everyone else. Linda Tucker, City Clerk, says that she is just hearing of this now, why didn't someone come forward to me during the election. Councilor Selin says to Linda Tucker "this was not new information" and that it was mentioned to you by Mayor, Marti Shamberger. Councilor Ganz proceeds to speak and states that her and her husband voted early and while in the early voting they saw the laminated card that was taped to the IVO. Councilor Ganz proceeded to say that Linda Tucker, City Clerk, that she was aware that it was taped on the IVO's and that it was a mistake and that is why we need to have these procedures in order before the next election so this does not happen again in the future. Councilor Ganz does not believe that there was any malfeasance intended and that Linda Tucker, City Clerk agreed. Councilor Ganz proceeded to state that there has been issues and a current lawsuit related to the Ethics Commission, Wards & Boundaries and on and on and she is asking the City Election Official to go from the beginning and do an outline to prevent problems in the future. Councilor Ganz would like to see a procedural manual as our report on lessons learned such as, the laminated card that had the incorrect precinct on it. Linda Tucker, City Clerk, spoke up and said "That was not my fault someone made up those cards" and then Councilor Ganz said "it does not matter whose fault it was she did not want it to happen again" and she continues on to say that it does not matter who handed the laminated cards out she thinks it was in good faith. Councilor Selin says "that it was just a courtesy". Councilor Ganz continues on to say that she just does not want it taped to the IVO's and that it was someone trying to help somebody, so to prevent that "if we would have had the procedures from the beginning this would have never happened". Councilor Ganz also brought up about the Ethics Commission and how Linda Tucker, City Clerk, contacted them by phone and letter and was never publicized, so Councilor Ganz does not want to see this happen again. Councilor Nugent calls a point of order stating "this is not relevant whatsoever" and Councilor Ganz says "it has a lot to do with it" then the Mayor, Marti Shamberger, wants order back in this meeting and says that Councilor Nugent was out of order. Linda Tucker, City Clerk requests that Council send an email to her exactly what they want in the report. Mayor Marti Shamberger also requests that the Election Report be done within 60 days of the election.

REPORT FROM CITY ATTORNEY:

No Report

REPORT FROM COUNCIL MEMBERS:

Councilor Bane:

Councilor Bane mentions to the City Manager, Jeff Mikorski, about a lighting project that was talked about several

years ago about a citizen who came to Council about LED street lights on High Street to be switched for better efficiency and he was wanting to know if they are still wanting to do this. City Manager, Jeff Mikorski noted that Mon Power has not provided us with any information about the LED lighting and they are currently working on that. City Manager, Jeff Mikorski, did say that they talked about adding LED lights to the decorative lights on High Street which is owned by the City. Councilor Bane is requesting Council that if they can consider looking into filing for a grant to fund this project. Councilor Bane also mentions on University Avenue the Morgantown sign is in terrible shape and needs to be repaired or replaced. Councilor Bane announced that over the weekend a race was held at Morgantown High School by Med Express for L.J. Haines (Bane's Nephew) in memory of him and wants to thank everyone who participated at this event which they had 80 participate and raised \$2,000 for the Morgantown Boosters. He wants to thank the Morgantown City Police Officers that worked the event and next year he will promote this more to get more participants.

Deputy Mayor Kawecki:

Deputy Mayor Kawecki mentions about the lighting downtown and agrees with Councilor Bane and states that Main Street has been working with the City to improve the lighting in the downtown area. Deputy Mayor Kawecki states that by 2017 Pittsburgh will have replaced sodium fixtures in place which the cost savings would be \$14 million so therefore we need to watch as to what we can ask Allegheny Power to do. Deputy Mayor Kawecki stated that we would need their cooperation in order to put this in place. He would like to thank Allegheny Power for the placement of the new light pole that was replaced on Pleasant Street that was torn down.

Councilor Nugent:

Councilor Nugent read an email to City Council by the City Manager, Jeff Mikorski in regards to University/Overhill that American Campus Communities opened a model apartment leasing office on their construction site without applying for a temporary permit. Councilor Nugent wants to thank the City Manager, Mayor, and Deputy Mayor for attending the Wiles Hill groundbreaking for the new Fairmont-Morgantown Housing Authority. Councilor Nugent did mention about the December COW Meeting and when a vote was going to be done on whether it will take place or not. Councilor Nugent mentions the proposed increase from MUB and he will be looking into how they came up with the rate increase that they did. Councilor Nugent mentions about the rules for Council, the order of the Agenda, and the COW Meetings and other topics in November. After the public portion he thinks that it would be good to have a discussion because we as a Council would quiet anyone speaking at the public podium and thinks that it is a harsh recourse that is reserved for the extreme and he does not believe that what he heard did not violate the rules of decorum. In fact he questions whether if it was in fact out of order. As American citizens we have no right not to be offended and the comments as tough as they may be, as long as they are not derogatory and slanderous. Councilor Nugent did not hear any names being used and he thinks it is a very delicate balancing act that we need to follow with the public portion. Councilor Nugent also hopes that Council can keep that in mind in future sessions.

Councilor Selin:

Councilor Selin comments on the public portion and thinks that there is a line between where remarks are personal and generally slanderous. We as Council are seen each and every week people who steal and comments are made that are not germane to an individual topic.

Councilor Selin also states that when personal remarks are made there is not any documentation to back it up. Councilor Selin encourages the public to speak on any topic but the general personal remarks that is not furthering any public disclosure does not have a proper place and are not welcome. Councilor Selin states that the University Avenue Corridor Study forum the MPO is continuing and she appreciates what they have done and the work put into what they have done.

Councilor Redmond:

Councilor Redmond mentions that the Pedestrian Safety Board had a meeting on Tuesday, which he stated “this should have been brought up in the Special Committee Report” and Main Street Morgantown announced in their meeting work that is being done with the Grant that they received. Councilor Redmond stated that essentially the Economic Development is working to identify safe walking routes from all the city’s neighborhoods to downtown and that will bring the sidewalk issue, to come forward. Councilor Redmond mentioned something that has been mentioned by numerous residents, and also spoken to several Council members about this is the Comprehensive Plan. Councilor Redmond knows we are operating based on its recommendations and directions, but if we do not have a way to reiterate ourselves toward that plan on a regular basis he would like to suggest that Council find that way in the near future. Councilor Redmond wants to announce that removal of ice and snow is coming and he wants to remind everyone in the city that the removal is your responsibility and it will be here sooner than you think.

Councilor Ganz:

Councilor Ganz appreciates the comments that Councilor Redmond made about the Pedestrian Safety Board. Councilor Ganz wants to talk about the question on public comments. She had spoken about it last week and finds that

anything that is personally slanderous about taking funds are personal and she does not appreciate it. Councilor Ganz states that she is looking forward to resolving some of the election concerns with a manual or procedures. Councilor Ganz mentions that Dr. Lori Sherlock was the National Representative of the Ironman Competition in Hawaii and was very successful. One day Lori was riding her bicycle and fell and was wearing her helmet which saved her from any injuries. Councilor Ganz wants to remind everyone that there is an Ordinance where you have to wear your helmet anytime you are riding your bicycle and its for the safety of the pedestrians. Councilor Ganz announces that several Credit Unions and Mon General are selling the Enjoy Coupon Books to fund the transportation for the Special Needs. She is encouraging everyone to look this up and consider purchasing one as there are a lot of savings for many stores, restaurants etc. Councilor Ganz announces that the Met Theatre is hosting "Oliver" sponsored by MTC and she is encouraging everyone to go see it.

Mayor Shamberger:

Mayor Shamberger announces that the first Friday of every month Woodburn hosts a pot luck at 6:00 pm and music with Jim Truman at 6:45 pm and is open to the public; Mayor Shamberger enjoyed attending the Fairmont-Housing event on Grove Street; She wants to thank the Police and Fire for all of their work on Halloween, not only patrolling the neighborhoods but downtown as well. Chief Ed Preston did announce that there was anywhere from 15,000 – 20,000 people downtown on Halloween night; Veterans Day is next week and wants to thank Deputy Mayor Bill Kaweck, Assistant City Manager Glen Kelly and all of the veterans that work for our City and all others for serving our Country. Mayor Shamberger states that the action to having someone removed from a meeting is in the

brochure that can be picked up on your way out this evening. Mayor Shamberger announces that there will be no December COW Meeting this year; Fire Fighter Coats Operation Warm at Suncrest Primary; Ragtime at the CAC 11/4/15; Puppy Day at the Morgantown Public Library at 11:00 am. - 1:00 pm on 11/7/15; Author Daniel Devece at the Morgantown Public Library at 6:30 pm on 11/11/15; Read Baby Read at 10:30 am 11/12/15; Inside Out; Oliver at the Met Theatre November 12th -15th ; Eastwood Elementary 4th and 5th Graders will be doing a Veterans Day Program at 9:30 am on 11/6/15; A reminder to the Councilors about the Community Leadership Forum at 6:30 pm tomorrow in the theatre room of the basketball facility and if you would like to go on a tour you would need to be there at 6:00 pm sharp.

EXECUTIVE SESSION: Motion by Nugent, second by Kawecki, to go into an Executive Session to discuss personnel issues per State Code WV 6-9A-4(b) (2). Present was City Manager, Jeff Mikorski, City Council, and City Attorney, Ryan Simonton. Motion carried by unanimous consent at 9:30 p.m.

ADJOURNMENT: There being no further items of business or discussion, motion by Selin, second by Ganz to adjourn. Motion carried by unanimous consent at 10:50 p.m.

City Clerk

Mayor

***A FULL TRANSCRIPT OF ALL COUNCIL MEETINGS ARE AVAILABLE ON DVD AT THE MORGANTOWN CITY LIBRARY.**

Boards & Commissions Available Positions

| <u>Board/Commission</u> | <u>Vacancy(s)</u> | <u>Name of Applicants</u> | <u>Res./Non Res.</u> | <u>Ward</u> | <u>Code Sec.</u> | <u>Other</u> |
|---|-------------------|---------------------------|----------------------|-------------|------------------|---------------|
| Board of Zoning Appeals | 2 | Leanne Cardoso | Resident | | 1389.01 | Advertise |
| | | James Shaffer | Resident | | 1389.01 | Advertise |
| Morgantown Housing | 1 | | Res/Real Estate | | 160.03 | Advertise |
| Planning Commission | 3 | Carol Pyles | Resident | 7 | 145.02 | Advertise |
| | | Mike Shuman | Resident | 5 | 145.02 | Advertise |
| | | William Petros | Resident | 4 | 145.02 | Advertise |
| Sister Cities | 1 | | Resident | | 172.02 | Advertise |
| | | Helene Friedberg | | | 172.02 | Re-appt 11/17 |
| | | Zhengjun Wang | | | 172.02 | Re-appt 11/17 |
| One applicant interview candidates SM 12/1/15 6pm | | | | | | Interview BZA |
| MORGANTOWN HOUSING AND SISTER ADV. ONGOING. | | | | | | Advertise |
| | | | | | | |
| | | | | | | |
| | | | | | | |

****Council decided on 3-21-06 by unanimous consent that if there is only one candidate for Boards & Commissions, that they will not interview; the City Clerk will check with Council before scheduling a Special Meeting.***

****BZA and Planning Commission term expirations are advertised in October and interviews must be completed by December per State Law.***

11/12/2015

AN ORDINANCE AUTHORIZING AN AGREEMENT WITH THE FEDERAL AVIATION ADMINISTRATION LEASING OFFICE SPACE AT THE MORGANTOWN MUNICIPAL AIRPORT

The City of Morgantown hereby ordains that the City Manager is authorized to execute the attached agreement, which is incorporated in this Ordinance by reference, leasing office space to the Federal Aviation Administration at the Morgantown Municipal Airport.

FIRST READING:

Mayor

ADOPTED:

FILED:

City Clerk

RECORDED:

SMALL SPACE LEASE

Between

**THE UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION**

And

THE CITY OF MORGANTOWN

Lease No. DTFAEN-16-L-00007
MGW, FTC Managers Office
Morganton, WV

This lease is entered into by and between The City of Morgantown, whose address is Morgantown, WV 26505 and interest in the property hereinafter described is Owner, hereby referred to as Lessor, and the United States of America, hereinafter referred to as the Government or FAA.

WITNESSETH: The Parties hereto, and for the consideration hereinafter mentioned, covenant and agree as follows:

1. Terms

- 1.1. DESCRIPTION (7/14) - The Lessor hereby leases to the Government the following described premises, including parking.

Approximately 155 square feet of office space located in the North Terminal Building at the Morgantown Municipal Airport to be utilized by the FCT manager in support of the Federal Contract Tower Program (FCT).

- 1.2. LEASE TERM (8/02) - To have and to hold, for the term commencing on October 1, 2016 and continuing through September 30, 2021 inclusive, PROVIDED, that adequate appropriations are available from year to year for the payment of rentals.

1.2.1. clause shall be subject to the availability of adequate appropriations from year to year for the payment of rentals.

- 1.3. CANCELLATION (8/02) - The Government may terminate this lease at any time, in whole or in part, if the Real Estate Contracting Officer (RECO) determines that a

termination is in the best interest of the Government, on or after October 1, 2016 by giving at least thirty (30) days' notice in writing to the Lessor. No rental will accrue after the effective date of termination. Said notice will be computed commencing with the day after the date of mailing.

1.4. RENTAL (7/14) - Rent in the amount of \$ 275.00 per month will be payable to the Lessor in arrears, without the submission of invoices or vouchers, and subject to available appropriations. The rental payments are due on the first business day following the end of the payment period. Rent will be considered paid on the date a check is dated or an electronic funds transfer is made. Rent for a lesser period will be prorated. Checks will be made payable to: The City of Morgantown.

1.4.1. INTEREST FOR LATE PAYMENTS (4/12) (O) - If requested by the Lessor in writing, the Government will pay an interest penalty when payment is not made within 30 days of the due date.

Payment shall be considered as being made on the day a check is dated or an electronic funds transfer is made. All days referred to in this clause are calendar days, unless otherwise specified. Rent shall be paid monthly in arrears and will be due on the first workday of each month and only as provided for by the lease.

The interest penalty shall be at the rate established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date. This rate is referred to as the "Renegotiation Board Interest Rate," and it is published in the Federal Register semiannually on or about January 1 and July 1. Interest penalties of less than \$1.00 need not be paid.

Interest penalties will not be paid on delays due to disagreement between the Government and Lessor over the payment amount, requests for additional information, or for other issues involving contract compliance, or on amounts temporarily withheld or retained in accordance with the terms of the contract.

For payments other than rent, the Lessor shall prepare and submit an invoice to the RECO or the RECO's designated representative for approval not later than 60 days after completion and acceptance of the work. An invoice shall include the following items:

- A. Name and address of the Lessor
- B. Invoice date
- C. Lease Number
- D. Government's order number or other authorization.
- E. Description, price, and quantity of work or services delivered.
- F. Name and address of Lessor official to whom payment is to be sent

- 1.5. **HOLDOVER (7/14)** - If after the expiration of the lease, the Government shall retain possession of the premises, the lease shall continue in force and effect on a month-to-month basis. Rent shall be paid in accordance with the terms of the lease, in arrears on a prorated base, at the rate paid during the lease term. This period shall continue until the Government shall have signed a new lease with the Lessor, acquire the property in fee, or vacated the premises.
- 1.6. **LESSOR'S SUCCESSORS (10/96)** - The terms and provisions of this lease and the conditions herein bind the Lessor and the Lessor's heirs, executors, administrators, successors, and assigns.

2. GENERAL CLAUSES

- 2.1. **ACCESSIBILITY (7/14)** - The Building and the leased premises shall be accessible to persons with disabilities pursuant to the Architectural Barriers Act and Rehabilitation Act as detailed in the Architectural Barriers Act Accessibility Standards (ABAAS) 41 CFR Parts 102-71, 102-72, et al, and all applicable state and local accessibility laws and regulations. ABAAS is available at www.access-board.gov.

Subject to the exception set forth herein, separate ABAAS compliant toilet facilities for men and women shall be provided on each floor where the FAA leases space. Separate ABAAS compliant toilet facilities shall not be required if due to the age of the building, design layout, or other structural requirements, it is technically infeasible to do so. In the event the Lessor determines that it is technically infeasible to provide separate ABAAS compliant toilet facilities, the Lessor shall provide the basis for the determination of technical infeasibility in writing to the RECO, together with all supporting documentation.

Water closets and urinals shall not be visible when the exterior door is open. Each toilet room shall contain toilet paper dispensers, soap dispensers, paper towel dispensers, waste receptacles; a coin operated sanitary napkin dispenser with receptacle for each toilet in the women's restroom, disposable toilet seat cover dispensers, a convenience outlet, and hot and cold water for all restrooms. No fewer than two drinking fountains shall be provided. One drinking fountain shall be a low unit commonly called a wheelchair unit and one drinking fountain shall comply with standing persons requirements, unless sufficient space is not available to provide both a wheelchair unit and a standing persons unit. In such instance, and subject to the approval of the RECO, a single unit able to accommodate both disabled and non-disabled persons shall be provided.

- 2.2. **CONTRACT DISPUTES (11/03)** - All contract disputes and arising under or related to this lease contract will be resolved through the Federal Aviation Administration (FAA) dispute resolution system at the Office of Dispute Resolution for Acquisition (ODRA) and will be governed by the procedures set forth in 14 C.F.R. Parts 14 and 17, which are hereby incorporated by reference. Judicial review, where available, will be in accordance with 49 U.S.C. 46110 and will apply only to final agency decisions. A Lessor may seek

review of a final FAA decision only after its administrative remedies have been exhausted.

All Contract Disputes will be in writing and will be filed at the following address:

Office of Dispute Resolution for Acquisition, AGC-70
Federal Aviation Administration
800 Independence Avenue SW, Room 323
Washington, DC 20591
Telephone: (202) 267-3290
Facsimile: (202) 267-3720

A contract dispute against the FAA will be filed with the ODRA within two (2) years of the accrual of the lease contract claim involved. A contract dispute is considered to be filed on the date it is received by the ODRA.

The full text of the Contract Disputes clause is incorporated by reference. Upon request the full text will be provided by the RECO.

- 2.3. MAINTENANCE OF THE PREMISES (10/96) - The Lessor will maintain the demised premises, including the building, grounds, and all equipment, fixtures, and appurtenances furnished by the Lessor under this lease, in good repair and tenable condition.
- 2.4. FAILURE IN PERFORMANCE (10/96) - In the event the Lessor fails to perform any service, to provide any item, or meet any requirement of this lease, the Government may perform the service, provide the item, or meet the requirement, either directly or through a contract. The Government may deduct any costs incurred for the service or item, including administrative costs, from the rental payments. No deduction of rent pursuant to this clause will constitute default by the Government on this lease.
- 2.5. NO WAIVER (10/96) - No failure by the Government to insist upon strict performance of any provision of this lease, or failure to exercise any right, or remedy consequent to a breach thereof, will constitute a waiver of any such breach in the future.
- 2.6. NON-RESTORATION (10/96) - The FAA will have no obligation to restore and/or rehabilitate, either wholly or partially, the premises under this lease. It is further agreed that the FAA may abandon in place any or all of the structures, improvements and/or equipment installed in or located upon said property by the FAA during its tenure. Notice of abandonment will be conveyed to the Lessor in writing.
- 2.7. DAMAGE BY FIRE OR OTHER CASUALTY (10/96) - If the building or structure is partially or totally destroyed or damaged by fire or other casualty or if environmentally hazardous conditions are found to exist so that the leased premises is untenable as determined by the Government, the Government may terminate the lease, in whole or in part, immediately by giving written notice to the Lessor and no further rental will be due.

2.8. DELIVERY AND CONDITION (10/96) - Unless the Government elects to have the space occupied in increments, the space must be delivered ready for occupancy as a complete unit. The Government reserves the right to determine when the space is ready to occupy.

2.8.1. OCCUPANCY PERMIT (7/14) - The premises offered will have a valid Occupancy Permit, issued by the local jurisdiction, for the intended use of the Government, or the Lessor will complete and provide a certified copy of "FAA Safety & Environmental Checklist" form, in lieu of an occupancy permit, at the RECO's discretion.

2.9. HOLD HARMLESS (10/96) - In accordance with and subject to the conditions, limitations and exceptions set forth in the Federal Tort Claims Act of 1948, as amended (28 USC 2671 et. seq.), hereafter termed "the Act" the Government will be liable to persons damaged by any personal injury, death or injury to or loss of property, which is caused by a negligent or wrongful act or omission of an employee of the Government while acting within the scope of his office or employment under circumstances where a private person would be liable in accordance with the law of the place where the act or omission occurred. The foregoing shall not be deemed to extend the Government's liability beyond that existing under the Act at the time of such act or omission or to preclude the Government from using any defense available in law or equity.

2.10. CLAUSES INCLUDED BY REFERENCE (7/14) - This lease incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request the full text will be provided by the RECO.

- A. DEFAULT BY LESSOR (10/96)
- B. COMPLIANCE WITH APPLICABLE LAWS (10/96)
- C. OFFICIALS NOT TO BENEFIT (10/96)
- D. COVENANT AGAINST CONTINGENT FEES (8/02)
- E. ANTI-KICKBACK (7/14)
- F. EXAMINATION OF RECORDS (10/96)
- G. ASSIGNMENT OF CLAIMS (10/96)
- H. SUBORDINATION, NONDISTURBANCE AND ATTORNMENT (7/14)
- I. SUBLEASE (10/96)
- J. INTEGRATED AGREEMENT (10/96)
- K. EQUAL OPPORTUNITY (10/96)
- L. AFFIRMATIVE ACTION FOR SPECIAL DISABLED AND VIETNAM ERA VETERANS (10/96)
- M. AFFIRMATIVE ACTION FOR DISABLED WORKERS (10/96)
- N. UNAUTHORIZED NEGOTIATING (10/96)

3. FINANCIAL CLAUSES

3.1. **CLAUSES INCLUDED BY REFERENCE (7/14)** - This lease incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request the full text will be provided by the RECO.

- A. ELECTRONIC FUNDS TRANSFER (EFT) (7/14)
- B. SYSTEM FOR AWARD MANAGEMENT (7/14)
- C. SYSTEM FOR AWARD MANAGEMENT – REAL PROPERTY (1/13)

4. **DESIGN AND CONSTRUCTION CLAUSES**

4.1. **CONSTRUCTION COORDINATION (8/02)** - A pre-construction meeting shall be held at the facility prior to the commencement of any construction, renovation, remodeling, or repair within the leased premises and areas connected to or integrated with the leased premises. If any items on the checklist are questionable or undone, full resolution of the issues will be expected before the project starts. The pre-construction meeting will be planned, scheduled, and coordinated with the RECO, the Government's supervisor or manager responsible for the facility, at least one week before the execution of the work.

4.2. **INSPECTION (10/96)** - The Government reserves the right, at any time after the lease is signed and during the term of the lease, to inspect the leased premises and all other areas of the building to which access is necessary to ensure a safe and healthy work environment for the Government tenants and the Lessor's performance under this lease. The Government shall have the right to perform sampling of suspected hazardous conditions.

4.3. **WARRANTY OF SPACE (4/12)**

- A. Notwithstanding inspection and acceptance by the Government or any provision concerning the conclusiveness thereof, the Lessor warrants that all space leased to the Government under this contract, which space is not limited to that set forth in paragraph A.1 of this lease, but which also shall include spaces above suspended ceilings in the leased space, air plenums elsewhere in the building which service the leased space, engineering spaces in the same ventilation zone as the leased space, public spaces and common use space (e.g., lobbies, hallways) will, at the time of acceptance and during the term of this lease, including all extensions thereof, comply with the asbestos containing material (ACM) and polychlorinated biphenyl (PCB) requirements of the Toxic Substance Control Act (TSCA). The RECO shall notify the Lessor in writing of any failure to comply with asbestos requirements, within 30 days after the discovery thereof. All construction by the Lessor is required to comply with the OSHA regulations for Asbestos.
- B. The leased premises shall be free of all asbestos-containing material, PCB's, Radon, and other environmentally hazardous substances during the time of this lease. If either ACMs or PCBs are found to be in the leased space, the Government reserves the right to require the Lessor, at no cost to the Government, to take whatever corrective action required by the Toxic Substance Control Act, EPA regulations and

state requirements. All facilities constructed prior to 1981 are required to have an asbestos building survey conducted by a qualified inspector, including a visual examination and bulk sampling. All ACM survey reports must be sent to the RECO.

C. The leased premises shall be free of all asbestos-containing material, PCB's, Radon, and other environmentally hazardous substances during the time of this lease. If either ACMs or PCBs are found to be in the leased space, the Government reserves the right to require the Lessor, at no cost to the Government, to take whatever corrective action required by the Toxic Substance Control Act, EPA regulations and state requirements. All facilities constructed prior to 1981 are required to have an asbestos building survey conducted by a qualified inspector, including a visual examination and bulk sampling. All ACM survey reports must be sent to the RECO.

1. "Acceptance", as used in this clause means the act of an authorized representative of the Government by which the Government assumes for itself, or as an agent of another, the leased premises as ready for occupancy or approves a portion of the premises for occupancy in accordance with the provisions of this lease contract.

2. "Correction", as used in this clause, means (i) the removal, encapsulation or enclosure of any friable asbestos materials found in the space leased to the Government, spaces above suspended ceilings in the leased space, air plenums elsewhere in the building which service the leased space, public spaces, engineering spaces in the same ventilation zone as the leased space and common use space (e.g., lobbies, hallways). Following such abatement actions, the Lessor shall adhere to the FAA's required post-asbestos-abatement air monitoring program. (ii) With regard to non-friable asbestos materials in good condition, it means the establishment and execution of a special operations and maintenance program and an abatement plan, approved by the Government, to be implemented from the time the materials are discovered through the remainder of the lease term, and (iii) with regard to PCBs, it involves the removal or retrofitting, in accordance with EPA regulations, of any PCB equipment present in the building.

4.4. **DOORS (4/12)** - Exterior doors shall be weather tight, equipped with cylinder locks and door checks, automatic door closures and open outward. The FAA will be furnished at least two master keys and two keys for each lock. Interior doors must be solid cored and at least 32 by 80 inches with a minimum opening of 32 inches and be of sturdy construction. Fire doors shall conform to NFPA Standard No. 80. As designated by the FAA, doors shall be equipped with non-removable hinge pins, and locks with 7-pin removable cores. The FAA shall provide cores.

4.5. **LIGHTING (4/12)** - Modern, diffused, energy efficient fluorescent fixtures shall be provided at working surfaces that maintain a uniform lighting level of 50 foot candles. Emergency lighting must provide at least 0.5 foot candles of illumination throughout the exit path, including exit access routes, exit stairways, or other routes such as passageways to the outside of the building.

4.6. ADHESIVES AND SEALANTS (1/12) - The Lessor shall use adhesives and sealants that contain no formaldehyde or heavy metals.

5. SERVICE, UTILITIES, AND MAINTENANCE

- 5.1. SERVICE, UTILITIES, AND MAINTENANCE OF PREMISES (7/14) - The Lessor shall maintain the leased premises, including outside areas in a clean condition. The Lessor shall provide the labor, materials, equipment and supervision necessary to ensure good repair and tenable condition. The Lessor shall provide the following:
- A. Services, utilities, and maintenance will be provided daily, extending from 7:00 a.m. to 6:00 p.m. except Saturday, Sunday, and Federal holidays. Services supplied to technical equipment will be supplied 24 hours a day, and seven days a week. The Government will have access to the leased premises at all times, including the use of electrical services, toilets, lights, elevators, and Government office machines without additional payment.
 - B. Water (hot and cold) and sewer to leased premises.
 - C. Trash removal for leased premises.
 - D. Utilities to be provided by Lessor at no additional cost to the Government.

- 5.2. HVAC (4/14) - All heating, ventilation and air-conditioning systems that service the leased space must maintain a temperature range of 68-72 degrees Fahrenheit year-round. These temperatures must be maintained during hours of operation throughout the leased premises and service areas regardless of outside temperatures. For purposes of this paragraph, compliance with ASHRAE standard ANSI/ ANSI/ASHRAE 62-1999 - Ventilation for Acceptable Indoor Air Quality, will meet FAA's requirements for indoor air quality.

In order to ensure that there is no degradation of air quality or air flow in the leased premises during the term of the lease, the Lessor agrees to service the roof and/or ground mounted HVAC units (check for defects, lubricate, make adjustments, change the filters, cleaned and make other necessary service requirements) every 60 days. Lessor also agrees to service the VAV boxes annually (on or before each lease anniversary date). Such service will include checking the temperature ranges (refer to section B4), checking all speeds on each fan, cleaning the fans and other components, replacing defective parts and completing other necessary repairs and maintenance.

- 5.3. CLAUSES INCLUDED BY REFERENCE (7/14) - This lease incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request the full text will be provided by the RECO.

- A. PEST CONTROL (1/15)

6. FIRE PREVENTION AND SAFETY

6.1. CLAUSES INCLUDED BY REFERENCE (7/14) - This lease incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request the full text will be provided by the RECO.

- A. ENVIRONMENTAL, OCCUPATIONAL SAFETY AND HEALTH (EOSH) CONSIDERATIONS FOR RENOVATION, CONSTRUCTION AND MAINTENANCE ACTIVITIES (1/15)
- B. EOSH REQUIREMENTS (1/15)
- C. FIRE PROTECTION AND LIFE SAFETY REQUIREMENTS (1/15)
- D. ELECTRICAL SAFETY (1/15)

7. ENVIRONMENTAL CLAUSES

7.1. INDOOR AIR QUALITY (1/15) - The Lessor must control contaminants at the source and/or operate the space in such a manner that the indicator levels for carbon monoxide (CO), carbon dioxide (CO₂), and formaldehyde (CH₂O), are not exceeded. The indicator levels for office area are as follows: CO-less than 5 parts per million (PPM) time weighted average (TWA - 8-hour sample); CO₂ - 700 PPM (TWA); CH₂O - 0.027 PPM (TWA). All indoor air contaminant levels in leased space will be kept below appropriate OSHA regulations or Consensus standards, whichever is stricter. Air quality and facility cleaning will be required and adequate to prevent the growth of mold, mildew and bacteria. Any visual evidence of these will require immediate sampling and remediation. Moisture/standing water will be controlled to prevent the growth of these.

During working hours, ventilation must be provided in accordance with the latest edition of ANSI/American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Standard 62, *Ventilation for Acceptable Indoor Air Quality* and ASHRAE Standard 55-2010, *Thermal Environmental Conditions for Human Occupancy*. The indicator levels for office area for Relative Humidity is 20% to 60%; Humidity ratio of <0.0124 (humidity ratio is the amount of water vapor relative to dry air) and for temperature is 68-82° F.

The Lessor must promptly investigate indoor air quality (IAQ) complaints and shall implement controls including alteration of building operating procedures (e.g., adjusting air intakes, adjusting air distribution, cleaning and maintaining heating, ventilation and air conditioning (HVAC) systems, etc.). The FAA is responsible for addressing IAQ problems resulting from its own activities.

7.2. The Lessor will provide SDS to the FAA facility manager as well as send a copy to the RECO for all chemicals and cleaning solutions prior to their use in the FAA space or other building spaces that might affect air quality in the FAA space. Materials should

contain low or no VOCs and additional ventilation may be required when using chemicals and cleaning solutions.

7.3. CLAUSES INCLUDED BY REFERENCE (7/14) - This lease incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request the full text will be provided by the RECO.

- A. GENERAL HEALTH AND SAFETY STANDARDS (8/02)
- B. HAZARDOUS MATERIALS (1/15)
- C. HALON (4/12)
- D. RADON (10/96)
- E. REFRIGERANTS (8/02)

8. ADDITIONAL CLAUSES

General Clauses

8.1. ALTERATIONS (10/96) – The Government shall have the right during the existence of this lease to make alterations, attach fixtures, and erect structures or signs in or upon the premises hereby leased, which fixtures, additions or structures so placed in, on, upon, or attached to the said premises shall be and remain the property of the Government and may be removed or otherwise disposed of by the Government subject to the Lessor's approval not to be unreasonably withheld. The parties hereto mutually agreed and understood, that no restoration rights shall accrue to the Lessor for any alterations to the leased premises under this lease, and that the Government shall have the option of abandoning alterations in place, when terminating the lease, at no additional cost.

8.2. EXCUSABLE DELAYS (7/14) –

- A. The Lessor shall not be in default because of any failure to perform this lease under its terms if the failure arises from causes beyond the control and without the fault or negligence of the Lessor. Examples of these causes are (1) acts of God or of the public enemy, (2) acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance, the failure to perform must be beyond the control and without the fault or negligence of the Lessor. 'Default' includes failure to make progress in the work so as to endanger performance.
- B. The RECO shall ascertain the facts and extent of the failure. If the RECO determines that any failure to perform results from one or more of the causes above, the delivery schedule shall be revised, subject to the rights of the Government under the termination clause of this contract.

Financial Clauses

8.3. CONTRACTOR IDENTIFICATION NUMBER - DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER - REAL PROPERTY (7/14)

A. Definitions. As used in this clause

1. "Contractor Identification Number," as used in this provision, means "Data Universal Numbering System (DUNS) number, which is a nine-digit number assigned by Dun and Bradstreet Information Services, to identify unique business entities (taken from SAM clause)
2. "Data Universal Numbering System +4 (DUNS+4) number" means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional SAM records for identifying alternative Electronic Fund Transfer.

B. Contractor identification is essential for receiving payment and complying with statutory contract reporting requirements. Therefore, the offeror will provide its DUNS or DUNS+4 number below. The DUNS number will be used by the RECO to verify that the offeror is registered in the SAM database.

1. DUNS OR DUNS+4 NUMBER: <Insert DUNS or DUNS+4 Number>

C. If the offeror does not have a DUNS number, he should contact Dun and Bradstreet at 1-866-705-5711, or via the internet at <http://www.dnb.com> directly to obtain one. Detailed requirements for obtaining a DUNS number is contained in Paragraph (c) of clause "System for Award Management-Real Property".

Design and Construction Clauses

- 8.4. LABOR STANDARDS (6/09) – By signing this lease, the Lessor certifies to the RECO that all laborers and mechanics employed or working upon the leased premises will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Lessor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act (40 U.S.C. § 3141 et seq.) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (d) of this clause;

also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period are deemed to be constructively made or incurred during such period. Such laborers and mechanics shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in the clause titled "Apprentices, Trainees, and Helpers." Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (b) of this clause) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Lessor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

- 8.5. CEILINGS (10/96) - Must have acoustical treatment with a flame spread of 25 or less and smoke development rating of 50 or less.
- 8.6. DISPLAY ADVERTISING (10/96) - If the leased premises are solely for Government use, no advertising matter shall be constructed on or over the premises, unless authorized by the RECO.
- 8.7. ERECTION OF SIGNS (10/96) - The Government shall have the right to erect on or attach to the Lessor's premises such signs as may be required to clearly identify the Government's facility. Said signs so erected will remain the property of the Government and shall be removed from the premises upon termination of the lease.
- 8.8. FLOOR LOAD (4/12) - All adjoining floor areas shall be 1) of a common level not varying more than 1/4 inch over a 10-foot, 0-inch horizontal run in accordance with the American Concrete Institute standards, 2) non-slip, and 3) accepted by the RECO.
- Under floor surfaces shall be smooth and level. Office areas shall have a minimum live load capacity of 50 pounds per square foot plus 20 pounds per square foot for moveable partitions. Storage areas shall have a minimum live load capacity of 100 pounds per square foot including moveable partitions. A report showing the floor load capacity, at no cost to the Government, by a registered professional engineer may be required by the RECO. Calculations and structural drawings may also be required.
- 8.9. WINDOW AND FLOOR COVERING (4/12) - All exterior windows shall be equipped with window covering. Floors will be carpeted with a commercial grade of carpet acceptable (carpet tiles or carpet broadloom) to the FAA. Existing floor and window coverings may be accepted at the discretion of the RECO however; prior to occupancy all carpeting and window coverings shall be cleaned.

At no additional cost to the FAA, the Lessor shall replace carpeting at least every seven (7) years during FAA occupancy or any time during the lease when:

- A. Backing or underlayment is exposed,
- B. There are noticeable variations in surface color or texture, and/or
- C. The condition of the carpet is such that it presents a clear and present danger to pedestrians.

Replacement includes moving and return of furniture including dismantling, moving and re-assembling the FAA's systems furniture if directed by the FAA

8.10. WIRING FOR TELEPHONES (10/96) - The Government reserves the right to provide its own telephone service in the space to be leased. It may have inside wiring and telephone equipment installed by the local telephone company or a private contractor. Alternately, the FAA may wish to consider using inside wiring provided by the building, if available. However, the final decision will remain the Government's.

8.11. INSTALLATION OF ANTENNAS, CABLES AND OTHER APPURTENANCES (4/12) - The FAA shall have the right to install, operate and maintain antennas, wires and their supporting structures, including any linking wires, connecting cables and conduits atop and within buildings and structures, or at other locations, as deemed necessary by the Government. The Government will coordinate with the Lessor when installing antennas, cables, and other appurtenances.

8.12. PAINTING (1/15) - Prior to occupancy, all surfaces must be newly painted with non-lead based paints in colors acceptable to the Government. All surfaces must be repainted after working hours at Lessor's expense at least once every eight (8) years. Such repainting includes the moving and returning of the furniture, including dismantling, moving and re-assembling the Government's systems furniture, if directed by the Government, at the Lessor's expense. Any existing lead based paint shall be properly maintained and managed per existing federal, state and local regulatory requirements. If there is chipping, flaking or peeling paint, it would need to be sampled for lead at the Lessor's expense. If containing lead, it would need to be abated at the Lessor's expense prior to occupancy by the Government. This could be performed either by removal or sealing with an encapsulating material.

Service, Utilities, and Maintenance Clauses

8.13. JANITORIAL SERVICES (7/14) – The Lessor shall provide janitorial services for the leased space, public areas, entrances, and all other common areas and shall provide replacement of supplies.

A. The Lessor shall select, to the maximum extent practicable janitorial cleaning products and equipment that promote environmental stewardship. At a minimum, the Lessor shall:

1. Use products that are packaged ecologically;

2. Use products and equipment considered environmentally beneficial and/or recycled products that are phosphate-free, non-corrosive, non-flammable, and fully biodegradable; and;
 3. Minimize the use of harsh chemicals and the release of irritating fumes.
 4. Examples of acceptable products may be found at www.gsa.gov/p2products.
- B. SELECTION OF PAPER PRODUCTS - The Lessor shall select paper and paper products (i.e., bathroom tissue and paper towels) with recycled content conforming to EPA's Comprehensive Procurement Guidance (CPG).
- C. SCHEDULE OF CLEANING - Cleaning shall be performed after the hours identified in 5.1 as defined in this lease, unless cleaning during official duty hours is specified as a special requirement. The Lessor shall provide the schedule for the required cleaning services and their frequencies. A suggested schedule is set forth below:
1. Daily:
 - a. Sweep floors using chemically treated absorbent or dusting tools (such as DEX or equal).
 - b. Vacuum all carpeted areas, as needed.
 - c. Empty waste baskets and containers; dispose of waste paper, trash, and other extraneous materials.
 - d. Clean toilet rooms, including toilets, sinks and soap containers. Furnish and maintain constant supply of deodorant material and paper products
 - e. Wash all drinking fountains.
 - f. Refill hand sanitizer dispensers in common areas, where applicable
 - g. In the restrooms:
 - i. Clean restroom fixtures and chrome fittings.
 - ii. Clean and refill all dispensers (including deodorant material)
 - iii. Wet mop restroom floors.
 - iv. Sanitize toilets, toilet seats, and urinals.
 - v. Spot wash walls, partitions, and doors.
 2. Weekly:
 - a. Dust counters, file cabinets, and telephones, and surfaces of all office furniture, fixtures, and window sills (except desk tops).
 - b. Damp mop, and buff all non-carpeted floors.
 - c. Vacuum all carpeted areas.
 3. Monthly:
 - a. Wash waste baskets.
 - b. Damp mop and buff all non-carpeted floors; wax and buff non-carpeted floors.
 - c. Clean or wash walls as needed to present a neat appearance.
 - d. Dust all ledges and flat surfaces within reach.
 - e. Dust and clean all light fixtures.
 - f. Dust and clean all venetian blinds.

- g. Wash restroom walls, partitions, and doors.
- 4. Semi-Annually:
 - a. Wash all exterior office windows.
- 5. Once a Year:
 - a. Strip old wax from all floor space and re wax. This service is to be performed in conjunction with one of the quarterly cleaning schedules.
 - b. Shampoo all carpeted floors.

Within 60 days after occupancy by the Government, the Lessor shall provide the RECO with a detailed written schedule of all periodic services and maintenance to be performed other than daily, weekly, or monthly.

8.14. RECYCLING (1/15) - Where state or local law, code, or ordinance requires recycling programs (including those for mercury containing lamps) for the space to be provided, the Lessor must comply with such state and/or local law, code, or ordinance. In all other cases, the Lessor must establish a recycling program for paper, corrugated cardboard, glass, plastics, and metals to the extent practicable and where local markets for those recovered materials exist. The Lessor agrees, upon request, to provide the Government with additional information concerning recycling programs maintained in the building and in the leased space after lease execution.

8.15. MAINTENANCE OF GROUND AND WALKWAY (7/14) - The Lessor shall maintain in good condition landscape plants and lawns. The Lessor shall also remove snow and ice from the entrances, exterior walks and parking areas around the premises, prior to and during the Government's hours set forth in 5.1.

8.16. LANDSCAPING (1/15)

- A. Landscaping must comply with Government security requirements.
- B. Where conditions permit, the site shall be landscaped for low maintenance and water conservation with plants that are either native or well-adapted to local growing conditions.
- C. Landscape management practices must prevent or minimize pollution by:
 - 1. Employing practices which avoid or minimize the need for fertilizers and pesticides;
 - 2. Prohibiting the use of the 2,4-Dichlorophenoxyacetic Acid (2,4-D) herbicide and organophosphates; and
 - 3. Composting/recycling all yard waste.
- D. The Lessor must use landscaping products with recycled content required by the Environmental Protection Agency's (EPA's) Comprehensive Procurement Guidelines (CPG) for landscaping products. Refer to EPA's CPG web site, www.epa.gov/cpg.

Fire Prevention and Safety Clause

8.17. SEISMIC SAFETY FOR EXISTING BUILDINGS (10/14) – All existing buildings leased by the Government under this contract must meet the minimum acceptable performance seismic standard of ‘Life Safety’ as specified in Section 2.2 of Standards of Seismic Safety for Existing Federally Owned or Leased Buildings and Commentary issued by the Interagency Committee on Seismic Safety in Construction as ICSSC RP-8, Seismic Standards for Existing Federally Owned and Leased Buildings, Dec 2011. RP-8 is available on-line at (http://wbdg.org/ccb/NIST/nist_gcr11_917_12.pdf) and is available in print from the National Institute of Standards and Technology as NISTIR GCR 11-917-12.

A. Compliance with Life Safety – The Lessor shall provide proof of compliance in the form of a written certification by an independent licensed structural engineer that the building was designed, built and maintained to the requirements of RP-8. The structural engineer certification shall be in the format of the Government-provided “*Life Safety Compliance/ Seismic Certification*” form. If the building cannot be certified in accordance with RP-8, the structural engineer must evaluate the building using the American Society for Civil Engineers (ASCE) 31-03, Seismic Evaluation of Existing Buildings and attach the evaluation to the “Life Safety Compliance/Seismic Certification” form. Buildings meeting the requirements of ASCE31-03 using a safety objective of ‘Life Safety’ are considered to meet the Government’s requirement. Alternatively, if the building qualifies as a Benchmark Building in accordance with RP-8 and as certified on the “*Life Safety Compliance/Seismic Certification*” form, it will be deemed to meet minimum seismic requirements.

In the event a building with a certification of life safety/seismic compliance is occupied by the Government and is later determined to not meet the standard indicated on the certification form, the Government at its discretion may require the Lessor to meet the agreed upon standard or may terminate this lease upon giving written notice, with no cost accruing to the Government, notwithstanding any other agreements contained in this lease.

8.18. SEISMIC SAFETY FOR NEW CONSTRUCTION (10/14) – If a Lessor proposes to meet the Government’s requirement by New Construction, or by a Major Renovation to an existing building, then all construction performed under this contract must, as a minimum, be in accordance with the current edition of the International Building Code (IBC). For purposes of this provision, a “Major Renovation” is a renovation where the cost of the project will be more than fifty percent (50%) of the replacement value of the building as of the date of project commencement. Local seismic building codes may be used in place of IBC if, and only if, they provide a higher level of occupant safety. The Lessor shall provide, prior to the Government’s acceptance of the building(s) OR SPACE, a written certification from an independent licensed structural engineer that the building(s) conforms to this requirement. The structural engineer certification shall be in

the format of the Government-provided *Life Safety Compliance/Seismic Certification* form. When a code equivalency study is required, it shall be attached to the structural engineer's certification. During the design and development stages of construction, all design and engineering documents, including structural engineering calculations shall be made available within twenty-four hours, after a verbal request from Government personnel to review said documents, or in another time frame agreed to in writing by the RECO.

The sole purpose of this clause is to require the Lessor to certify that the end product of any renovation or alteration described in this provision meets the seismic standards of the National Earthquake Hazard Reduction Program (NEHRP), Interagency Committee for Seismic Safety in Construction (ICSSC) Recommended Practice (RP) 8. This clause does not in any way change the requirements of the statement of work, which may require seismic standards higher than those required by this clause.

In the event a building with a certification of seismic compliance is occupied by the Government and is later determined to not meet the standard indicated on the "*Life Safety Compliance/Seismic Certification*" form, the Government at its discretion may require the Lessor to meet the agreed upon standard or may terminate this lease upon giving written notice, with no cost accruing to the Government, notwithstanding any other agreements contained in this lease.

8.19. SEISMIC SAFETY FOR EQUIPMENT (4/12) - The lessor shall ensure that building installed equipment is properly anchored to protect personnel during a seismic event, in accordance with DOT Specification FAA-G-2100H, *Electronic Equipment, General Requirements*, Section 3.3.5, Personnel Safety and Health, and requirements for the seismic zone in which the facility is located.

8.20. FALL PROTECTION (1/15) – The Lessor must ensure proper fall protection safety systems are in place for all work areas where Government personnel are required to perform work at four feet or more above the next lowest level on fixed ladders, and within access points to elevated work areas in accordance with FAA Order 3900.19, *FAA Occupational Safety and Health Program*, Chapter 19, 29 CFR 1910 Subpart D, *Occupational Safety and Health Standards (General Industry)*, and 29 CFR 1926 Subpart M, *Safety and Health Regulations for Construction*, and applicable ANSI Standards. All such elevated work surfaces (platforms, catwalks, roofs, etc.) must have OSHA compliant guardrails, railings, toeboards and/or parapets where applicable to meet OSHA and ANSI requirements as referenced above.

Security Clauses

8.21. FACILITY SECURITY (04/12) - Security requirements for Government occupied space must meet minimum-security accreditation standards for the type of facility covered by this lease. The FAA Facility Security Management Program defines facility security accreditation standard levels. The security requirements identified below are tailored specifically for the type of facility covered by this lease. The Lessor shall

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provide or make accommodation to provide for all the security requirements listed herein for the leased premises covered by this lease agreement: NONE.

The local SSE will determine any additional security upgrades that are required to meet accreditation and shall conduct a final security assessment of the building. The Lessor shall provide maintenance services to the security upgrades installed by the Lessor within the leased premises and covered under this lease.

8.22. FOREIGN NATIONALS AS CONTRACTOR EMPLOYEES (10/14)

- A. Definition. "Foreign National" is any citizen or national of a country other than the United States who has not immigrated to the United States and is not a Legal Permanent Resident (LPR) of the United States.
- B. Each contractor or subcontractor employee under this contract having access to FAA facilities, sensitive information, or resources must be a citizen of the United States, or an alien who has been lawfully admitted for permanent residence as evidenced by Alien Registration Receipt Card Form I-151, or who presents other evidence from the U.S. Citizenship and Immigration Service that employment must not affect his/her immigration status.
- C. Aliens and foreign nationals proposed under this contract must meet the following conditions in accordance with FAA Order 1600.72A, chapter 5, paragraph 7 & 8:
 - 1. Must have resided within the United States for three (3) of the last five (5) years unless a waiver of this requirement is requested and approved in accordance with the requirements stated in FAA Order 1600.72A, chapter 5, paragraph 9;
 - 2. A risk or sensitivity level designation can be made for the position; and
 - 3. The appropriate security-related background investigation/inquiry can be adequately conducted.
- D. Foreign nationals proposed under this contract must meet the following additional conditions:
 - 1. Provide a current passport and Place of Birth in order to successfully pass a Security background check in accordance with the FAA Order 1600.74, Visitor Policy, and
 - 2. Successfully pass an export control review as outlined in FAA Order 1240.13 FAA Export Control Compliance.
- E. Interim suitability requirements may not be applied unless the position is low/moderate in risk, and/or temporary, and/or is not in a critical area position.

8.23. LESSOR PERSONNEL SUITABILITY REQUIREMENTS (10/13)

- A. This clause applies to the extent that this lease requires Lessor's employees, agents, subcontractors, or consultants to have unescorted access to FAA:

1. Facilities;
2. Sensitive information; and/or;
3. Resources regardless of the location where such access occurs, and none of the exceptions of FAA Order 1600.72A, Lessor and Industrial Security Program, Chapter 5, paragraphs 4, 6, 7 and 8 pertains.
Definitions of applicable terminology are contained in the corresponding guidance and FAA Order 1600.72A, Appendix A.

- B. Consistent with FAA Order 1600.72A, the FAA Servicing Security Element (SSE) has approved designated risk levels for the positions under the lease. Those designated risk levels are NONE.
- C. If a National Agency Check with Inquiries (NACI) or other investigation is required under paragraph (b) for a given position, the Lessor will submit to the RECO a point of contact (POC) that will enter applicant data into the Vendor Applicant Process (VAP) system (vap.faa.gov). VAP is a FAA system used to process and manage security information for FAA contractor personnel. Each contract may have up to 5 POCs. Once designated, a VAP administrator will provide each POC a Web ID and password.

The type of investigation conducted will be determined by the position risk level designation for all duties, functions, and/or tasks performed and will serve as the basis for granting a favorable employment suitability authorization as described in FAA Order 1600.72A. If an employee has had a previous U. S. Government conducted background investigation which meets the requirements of Chapter 5 of FAA Order 1600.72A and Homeland Security Presidential Directive 12 (HSPD-12), it will be accepted by the FAA. However, the FAA reserves the right to conduct further investigations, if necessary. The contract may include positions that are temporary, seasonal, or under escort only. In such cases, an OPM Position Designation or FAA Form 1600-77 for each specific position will be established as the investigative requirements may differ from the NACI.

The following information must be entered into VAP by the POC for each applicant requiring an investigation:

- Name;
- Date and place of birth (city and state);
- Social Security Number (SSN);
- Position and office location;
- Contract number;
- Current e-mail address and telephone number (personal or work); and
- Any known information regarding current security clearance or previous investigations (e.g. the name of the investigating entity, type of background investigation conducted, contract number, labor category (Position), and approximate date the previous background investigation was completed).

If a prior investigation exists and there has not been a 2 year break in service by the applicant, the SSE will notify the Lessor that no investigation is required and that final suitability is approved.

If no previous investigation exists, the SSE will send the applicant an e-mail (this step may be delegated to VAP POC):

- Stating that no previous investigation exists and the applicant must complete a form through the Electronic Questionnaires for Investigations Processing (eQIP) system
- Instructing the applicant how to enter and complete the eQIP form;
- Providing where to send/fax signature and release pages and other applicable forms; and
- Providing instructions regarding fingerprinting.

The applicant must complete the eQIP form and submit other required material within 15 days of receiving the e-mail from the SSE.

For items to be submitted outside eQIP, the Lessor must submit the required information with a transmittal letter referencing the lease number to:

Headquarters Contracts:

Federal Aviation Administration
Manager, Personnel Security Division, AIN-400
800 Independence Avenue, S.W., Room 315
Washington, D.C. 20591

Regional and Center Contracts: Servicing Security Element (SSE)

- D. The Lessor must submit the information required by paragraph (c) of this Clause for any new employee not listed in the Lessor's initial submission who is hired into any position identified in paragraph (b) of this Clause.
- E. The RECO will provide notice to the Lessor when any Lessor employee is found to be unsuitable or otherwise objectionable, or whose conduct appears contrary to the public interest, or inconsistent with the best interest of national security. The Lessor must take appropriate action, including the removal of such employee from working on this FAA contract, at their own expense. Once action has been taken, the Lessor will report the action to the RECO and SSE.
- F. No Lessor employee will work in a high, moderate, or low risk position unless the SSE has received all forms necessary to conduct any required investigation and has authorized the Lessor employee to begin work.
- G. The Lessor must notify the RECO within one (1) business day after any employee identified pursuant to paragraph (c) of this Clause is terminated from performance on the contract. This notification must be done utilizing the Removal Entry Screen of

VAP. If FAA issued the terminated employee an identification card, the Lessor must collect the card and submit it to the SSE.

- H. The Lessor must request a report from the VAP on at least a semiannual basis in order to reconcile discrepancies and then must notify the SSE of these discrepancies as soon as possible.
- I. The RECO may also, after coordination with the SSE and other security specialists, require Lessor employees to submit any other security information (including additional fingerprinting) deemed reasonably necessary to protect the interests of the FAA. In this event, the Lessor must provide, or cause each of its employees to provide, such security information to the SSE, to meet the requirements of paragraph (c) of this Clause.
- J. The Lessor and/or subcontractor(s) must contact the SSE (Regional and/or Center Security Divisions) or AIN-400 at Headquarters within one (1) business day in the event an employee is arrested (detained by law enforcement for any offenses, other than minor traffic offenses) or is involved in theft of government property or the Lessor becomes aware of any information that may raise a question about the suitability of a Lessor employee.
- K. Failure to submit information required by this clause within the time required may be determined by the RECO as a material breach of the contract.
- L. If subsequent to the effective date of this contract, the security classification or security requirements under this contract are changed by the Government and if the changes cause an increase or decrease in direct contract costs or otherwise affect any other term or condition of this contract, the contract will be subject to an equitable adjustment.
- M. The Lessor agrees to insert terms that conform substantially to the language of this clause, including paragraph (k) but excluding any reference to the Changes clause of this contract, in all subcontracts under this contract that involve access and where the exceptions under Chapter 5, FAA Order 1600.72A do not apply.
- N. Lessor employees who have not undergone a background investigation must be escorted at all times. In some instances, a Lessor employee may be required to serve as an escort. To serve as an escort, a Lessor employee must have a favorably adjudicated fingerprint check and initiated a NACI with FAA.

8.24. ACCESS TO FAA SYSTEMS AND GOVERNMENT-ISSUED KEYS, PERSONAL IDENTITY VERIFICATION (PIV) CARDS, AND VEHICLE DECALS (10/13) -

- A. It may become necessary for the Government to grant access to FAA systems or issue keys, PIV cards, vehicle decals, and/or access control cards to Lessor employees. Prior to or upon completion or termination of the work required hereunder, the Lessor must return all such Government-issued items and submit a request to terminate all user accounts on applicable FAA systems to the issuing office with notification to the Contracting Officer's Representative (COR). When

Lessor employees who have been issued such items are terminated or no longer required to perform the work, the Government-issued items must be returned to the Government and a request submitted for the termination of FAA system access within three (3) business days after termination of the contract or the employee. Improper use, possession or alteration of FAA issued keys, PIV Cards and/or vehicle decals is subject to penalties under Title 18, USC 499, 506, 701, and 1030.

- B. In the event such keys, PIV Cards, or vehicle decals are lost, stolen, or not returned, the Lessor understands and agrees that the Government may, in addition to any other withholding provision of the contract, withhold \$25.00 for each key, PIV Card, and vehicle decal lost, stolen, or not returned. If the keys, PIV Cards, or vehicle decals are not returned within 30 calendar days from the date the withholding action was initiated, any amount so withheld must be forfeited by the Lessor.
- C. Access to aircraft ramp/hangar areas is authorized only to those persons displaying a flight line identification card and for vehicles, a current ramp permit issued pursuant to Title 49, Part 1542, Code of Federal Regulations.
- D. The Government retains the right to inspect inventory, or audit PIV Cards, keys, vehicle decals, and access control cards issued to the Lessor in connection with the contract at the convenience of the Government. Any items not accounted for, to the satisfaction of the Government will be assumed to be lost and the provisions of section (b) apply.
- E. Keys must be obtained from the appropriate line of business who will require the Lessor to sign a receipt for each key obtained. Lost or stolen keys, PIV Cards, vehicle decals, and access control cards must immediately be reported concurrently to the Servicing Security Element (SSE), SSC Manager and RECO. Electronic keying cards are handled in the same manner as metal keys.
- F. Each contract employee, during all times of on-site performance at the FTC Administrative Office, Morgantown, WV must prominently display his/her current and valid PIV card on the front portion of his/her body between the neck and waist. Each PIV card holder must not affix pins, stickers, or other decorations to the PIV.
 - 1. Prior to any Lessor employee obtaining a PIV Card or vehicle decals, the Lessor is required to enter data for each employee into the Vendor Applicant Process (VAP) as described in AMS clause 3.14-2, Contractor Personnel Suitability Requirements. From the information entered into the VAP, the SSE will determine whether final suitability can be granted due to the existence of a previous investigation, or will initiate the Lessor applicant into the Electronic Questionnaires for Investigations Processing (eQIP) system so that the applicant can complete the investigative forms. Interim suitability cannot be granted until the eQIP form is completed, and fingerprints and signature pages are submitted to the SSE. When an interim is granted by the SSE, the individual may begin work under escort until their OPM fingerprint check has been returned and successfully adjudicated. Once the OPM fingerprint check has been successfully adjudicated, they can then be badged. If the contract employee requires a PIV Card, a

fingerprint check must be completed and favorably adjudicated by the SSE prior to approval or issuance of the PIV card.

2. To obtain the PIV Card, Lessor employee must submit an identification Card/Credential Application (DOT 1681) signed by the Lessor employee and by the authorized trusted agent (when applicable) and also by the authorized sponsor to the Federal Contract Tower Office (FCT). The DOT 1681 must contain, as a minimum, under the "Credential Justification" heading, the name of the Lessor/company, the contract number or the appropriate acquisition identification number, the expiration date of the contract or the task (whichever is sooner), and the required signatures. The Lessor will be notified when the DOT 1681 has been approved and is ready for processing by the servicing Security Element (SSE). Arrangements for processing the identification cards, including photographs and lamination can be made by contacting the Federal Contract Tower Program Office: Kim Curry, (202) 267-0891.
3. The Lessor must contact the SSE to obtain the procedures that the Lessor's employees must utilize to obtain their PIV Card.

The Lessor is responsible for ensuring final out-processing is accomplished for all departing Lessor employees. Final out-processing must be accomplished by close of business the final workday of the Lessor employee or the next day under special conditions. The SSE must be notified in writing and ensure that all FAA media, including the PIV card, are returned to the SSE.

Environmental Clauses

8.25. RECYCLED CONTENT PRODUCTS (COMPREHENSIVE PROCUREMENT GUIDELINES) (7/14)

- A. To the extent feasible, the Lessor shall comply with Section 6002 of the Resource Conservation and Recovery Act of 1976 (RCRA). As required by this lease or in any succeeding lease entered into by and between the FAA and the Lessor, the Lessor shall use recycled content products as designated by the U.S. Environmental Protection Agency (EPA) in the Comprehensive Procurement Guidelines (CPG), 40 CFR Part 247, and its accompanying Recovered Materials Advisory Notice (RMAN). The CPG lists the designated recycled content products. EPA also provides recommended levels of recycled content for these products. The list of designated products, EPA's recommendations, and lists of manufacturers and suppliers of the products can be found at the www.epa.gov/cpg/products.htm web site.
- B. The Lessor, if unable to comply with both the CPG and RMAN lists, shall submit to the RECO a request for waiver for each non-compliant material. The request for waiver shall be based on one of the following criteria: 1.) the cost of the recommended product is unreasonable; 2.) inadequate competition with respect to

product manufacturers; 3.) compliant items are not available within a reasonable period of time; or 4.) items do not meet the requirements of this lease.

9. CLOSING

9.1. NOTICES - All notices/correspondence shall be in writing, reference the lease number, and be addressed as follows:

TO THE LESSOR:
The City of Morgantown

TO THE GOVERNMENT
Federal Aviation Administration
Real Estate & Utilities Group, ALO-620
1701 Columbia Avenue
College Park, GA 30337

IN WITNESS WHEREOF, the parties hereto have signed their names.

THE CITY OF MORGANTOWN

BY _____
Signature Title Date

UNITED STATES OF AMERICA

BY _____
Signature/ David M. Henry Title Date
Real Estate Contracting Officer

AN ORDINANCE TO APPROVE CURRENT REPLACEMENT PAGES TO THE CITY CODE.

WHEREAS, various ordinances of a general and permanent nature have been passed by Council which should be included in the City Code;

WHEREAS, certain provisions in the Traffic and General Offenses Codes should be revised to comply with current State law;

WHEREAS, the City has heretofore entered into a contract with the Walter H. Drane Company to prepare and publish such revision which is before Council; now, therefore,

THE CITY OF MORGANTOWN HEREBY ORDAINS:

Section 1. That the ordinances of the City of Morgantown, West Virginia, of a general and permanent nature, as revised, recodified, rearranged and consolidated into component codes, chapters, articles and sections within the 2015 Replacement Pages to the City Code are hereby approved and adopted.

Traffic Code

331.03 Duty to Give Information and Render Aid. (Amended)
Art. 334 Open Container Law. (Added)

General Offenses Code

509.05 Criminal Loitering by Persons on Supervised Release. (Added)
509.99 Penalty. (Amended)
521.99 Penalty. (Amended)

Section 2. That this Ordinance shall be effective from the date of its adoption.

FIRST READING:

MAYOR

ADOPTED:

FILED:

CITY CLERK

RECORDED:

AN ORDINANCE AMENDING THE FY 2015-2016 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND.

The City of Morgantown hereby ordains:

That the FY 2015-2016 Annual Budget of the General Fund of the City of Morgantown is amended as shown in the revised budget (Revision 02) attached hereto and made a part of this ordinance.

First Reading:

Adopted:

Mayor

Filed:

Recorded:

City Clerk

Ora Ash, Deputy State Auditor
 West Virginia State Auditor's Office
 200 West Main Street
 Clarksburg, WV 26301
 Phone: 627-2415 ext. 5114
 Fax: 627-2417

REQUEST FOR REVISION TO APPROVED BUDGET

Subject to approval of the state auditor, the governing body requests that the budget be revised prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists. (§ 11-8-26a)

CONTROL NUMBER
 FY: **2015-2016**
 Fund: **General**
 Rev. No. **2**
 Pg. of No. **1 of 1**

City of Morgantown
 GOVERNMENT ENTITY

389 Spruce Street
 STREET OR PO BOX

Municipality
 Government Type

Person To Contact Regarding Request:

Name: **Jeff Mikorski**

Phone: **304-284-7405**

Fax: **304-284-7418**

Morgantown
 CITY

26505
 ZIP CODE

REVENUES: (net each acct.)

| ACCOUNT NUMBER | ACCOUNT DESCRIPTION | PREVIOUSLY APPROVED AMOUNT | (INCREASE) | (DECREASE) | REVISED AMOUNT |
|----------------|------------------------|----------------------------|------------|------------|----------------|
| 341 | Municipal Service Fees | | 1,170,000 | | 1,170,000 |
| | #N/A | | | | |

NET INCREASE/(DECREASE) Revenues (ALL PAGES)

1,170,000

Explanation for Account # 378, Municipal Specific:
Explanation for Account # 369, Contributions from Other Funds:

EXPENDITURES: (net each account category)

(WV CODE 7-1-9)

| ACCOUNT NUMBER | ACCOUNT DESCRIPTION | PREVIOUSLY APPROVED AMOUNT | (INCREASE) | (DECREASE) | REVISED AMOUNT |
|----------------|--|----------------------------|------------|------------|----------------|
| 700 | Police Department | 7,113,233 | 468,000 | | 7,581,233 |
| 750 | Streets and Highways | 2,517,019 | 187,200 | | 2,704,219 |
| 444 | Contributions / Transfers to Other Funds | 2,343,300 | 514,800 | | 2,858,100 |
| | #N/A | | | | |

NET INCREASE/(DECREASE) Expenditures

1,170,000

APPROVED BY THE STATE AUDITOR

BY: Deputy State Auditor, Local Government Services Division Date

AUTHORIZED SIGNATURE OF ENTITY

APPROVAL DATE

RESOLUTION

WHEREAS, the City of Morgantown has applied to the West Virginia Department of Transportation, Division of Highways, for a grant to fund a Morgantown Bicycle Signage and Facilities Transportation Alternatives Program.

WHEREAS, the total eligible project costs of the grant to help fund the aforementioned project will be \$120,000 with \$96,000 coming from the Federal Highway Administration Funds and a \$24,000 local match coming from the City of Morgantown; and

WHEREAS, the West Virginia Department of Transportation has tentatively approved the \$96,000 grant contingent upon the City of Morgantown executing the agreement hereto attached and made a part of this Resolution; and

WHEREAS, Morgantown City Council is of the opinion that it is in the best interest of the citizens of the community for the project to be undertaken and the agreement to be executed.

NOW, THEREFORE, BE IT RESOLVED by the City of Morgantown this 17th day of November, 2015, that its City Manager is authorized to execute the Agreement \State Project U331-Mor/GA-18.00 - Federal Project TEA-2014(195)D hereto attached.

Mayor

City Clerk

AGREEMENT

STATE PROJECT: U331-MOR/GA-18. 00

**FEDERAL PROJECT:
Construction: TEA-2014(195)D**

MORGANTOWN BICYCLE SIGNAGE AND FACILITIES

TRANSPORTATION ALTERNATIVES

MONONGALIA COUNTY

THIS AGREEMENT, executed in triplicate, made and entered into this _____ day of _____, 201____, by and between the **WEST VIRGINIA DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAYS**, hereinafter called "**DEPARTMENT**" and the **CITY OF MORGANTOWN**, hereinafter called "**SPONSOR**".

WITNESSETH that,

WHEREAS, DEPARTMENT and **SPONSOR** have determined that a project for the construction of on- and off-road trail facilities for non-motorized transportation within the city limits of Morgantown is an eligible project for funding under the Transportation Alternatives Program as appropriated in the Moving Ahead for Progress in the 21st Century Act; and

WHEREAS, DEPARTMENT desires to cooperate with **SPONSOR** in accomplishing the project; and

WHEREAS, by Resolution bearing the date of the _____ day of _____, 201____, the _____ directed the proper authorities to execute, acknowledge and deliver this Agreement, a copy of which Resolution is affixed hereto and made a part hereof;

NOW THEREFORE, it is mutually agreed as follows:

- A. That **SPONSOR** shall submit Right-of-Way plans, specifications, and estimate (PS&E) package to **DEPARTMENT** for review and written approval prior to any construction, then use either a "Force Account" and/or contract with a qualified contractor for construction of those project elements approved within the design plan, which may include:

1. Installation of approximately sixty-one (61) 'Shared Lane' markings;
2. Installation of approximately thirty-six (36) 'Bicycles May Use Full Lane' signage; and
3. Installation of approximately twelve (12) sheltered bicycle parking at Mountain Line Transit Authority bus stops.

All newly constructed or upgraded by maintenance activities must be compliant with the American Association of State Highway and Transportation Officials (AASHTO) Guidelines for the development of bicycle facilities.

The above described scope of work is to hereafter be referred to as "**PROJECT**".

"Force Account" is defined as regularly employed City of Morgantown employees and City of Morgantown owned or rented equipment and will require a letter request/justification from the **SPONSOR** and approval from **DEPARTMENT** before being utilized on the **PROJECT**.

- B. That **SPONSOR** shall provide for, or cause to be provided for, the future maintenance of **PROJECT** for a period of no less than ten (10) years once the work under this Agreement is completed. Further it is acknowledged and agreed that all future maintenance of project elements constructed under this Agreement will be the sole responsibility of **SPONSOR**.
- C. That the total eligible project cost as set by this Agreement is one hundred twenty thousand dollars (\$120,000) and the amount of funds available for reimbursement from **DEPARTMENT** shall be eighty percent (80%) of the funds expended by **SPONSOR** for eligible project costs, up to a maximum reimbursement of ninety-six thousand dollars (\$96,000). **SPONSOR** shall be responsible for the remaining twenty percent (20%) of the eligible project costs that are expended, in addition to all costs deemed ineligible by **DEPARTMENT**. **SPONSOR** will also be responsible, at the one hundred percent (100%) level, for any and all costs in excess of the total eligible project cost as set by this Agreement including any deficiencies found upon inspection/final inspection of the project or deviation from the plans and specification approved by **DEPARTMENT**. **SPONSOR'S** twenty percent (20%) match for the estimated total eligible project cost is twenty-four thousand dollars (\$24,000).
- D. The project funding shall be expended during the construction phase; total funding will be one hundred twenty thousand dollars (\$120,000) with the

federal aid amount being ninety-six thousand dollars (\$96,000) and the local sponsor's match being twenty-four thousand dollars (\$24,000).

- E. That **SPONSOR** may submit invoices and/or "Force Account" documentation to **DEPARTMENT**, on no more often than a monthly basis, for up to eighty percent (80%) reimbursement to **SPONSOR** for the performance of work set forth herein, and certify that the invoices/documents properly represent payment for approved work that has been satisfactorily completed and paid for by the **SPONSOR**. Each invoice must be accompanied by an up-to-date progress report detailing work undertaken and percentage of completion that reflects the reimbursement sought.
- F. That all "Force Account" labor and/or equipment shall be invoiced at the rate normally paid by the **SPONSOR** and all labor shall be documented by name of worker, rate of pay, hours worked on the approved project and dates of work and specific work performed. Equipment shall be documented by type of equipment, source of equipment, rate of rental/expense, use and dates of use. **SPONSOR** acknowledges that when using "Force Account," if City of Morgantown employees and/or equipment are used outside of the City of Morgantown boundaries, it is with the express understanding that the **DEPARTMENT'S** involvement is limited to reimbursement of regular compensation of City of Morgantown employees, or for City of Morgantown owned or rented equipment, at a rate not to exceed that of comparable rental equipment. It is to be the sole responsibility of the **SPONSOR** to determine if the use of City of Morgantown employees and/or equipment outside the **SPONSOR'S** City of Morgantown boundaries would require payment of Davis-Bacon Wage rates.
- G. That when using a contractor, **SPONSOR** will comply, and insure compliance, with provisions of the West Virginia Prevailing Wage Code regarding labor standards for federally assisted construction.
- H. Materials Control on this project will consist of purchasing from certified vendors (with listings provided to **SPONSOR** from **DEPARTMENT**) and regular inspection from **DEPARTMENT** to verify acquisition, suitability and placement of project materials according to the scale of the project.
- I. That the following attachment(s) is incorporated herein and made a part hereof as though fully set out herein: Attachment A-1 – "Grant Program General Clauses and Covenants (May 8, 2014)" and FHWA-1273 "Required Contract Provisions Federal-Aid Construction Contracts."

IN WITNESS WHEREOF, the parties hereto have caused their respective names to be signed by their duly authorized officers.

**WEST VIRGINIA DEPARTMENT
OF TRANSPORTATION,
DIVISION OF HIGHWAYS**

ATTESTED BY:

(signature)

(signature)

(title)

(title)



CITY OF MORGANTOWN

ATTESTED BY:

(signature)

(signature)

(title)

(title)

(To be executed in triplicate)

Distribution:
City of Morgantown
Planning Division
Legal Division