

# The City of Morgantown

Linda L. Little, CMC  
389 Spruce Street, Room 10  
Morgantown, West Virginia 26505  
(304) 284-7439 Fax: (304) 284-7525  
llittle@cityofmorgantown.org

Office of the City Clerk

**AGENDA**  
**MORGANTOWN CITY COUNCIL**  
**COMMITTEE OF THE WHOLE**  
**June 25, 2013**  
**7:00 p.m.**

**NOTE:** Committee of the Whole Meetings of the Morgantown City Council are intended to provide an opportunity for the Council to receive information, ask questions, and identify policy options in an informal setting. No official action is taken at these meetings. At this Committee of the Whole Meeting the following matters are scheduled:

**PRESENTATIONS:**

- Deer Hunt Presentation
- Allstate Safe and Secure Community Presentation
- BOPARC – Youth Commission and Requested Changes
- Public Portion

**ITEMS FOR DISCUSSION:**

1. Plans Review Fee Schedule
2. Authorization of an Easement within Krepps Park Realty
3. Amending Building and Housing Code, Carbon Monoxide Detectors
4. Amending Airport Lease Agreement for Army National Guard Band

\*If you need an accommodation contact us at 284-7439\*

ARTICLE 170  
Greater Morgantown Metropolitan  
Area Youth Commission

- |        |  |        |                         |
|--------|--|--------|-------------------------|
| 170.01 | Established.   | 170.07 | Officers.               |
| 170.02 | Cooperation of other local<br>governmental entities. | 170.08 | Meetings.               |
| 170.03 | Purpose and mission.                                 | 170.09 | Membership training.    |
| 170.04 | Membership.  | 170.10 | Powers and duties.      |
| 170.05 | Term.  | 170.11 | Appropriation of funds. |
| 170.06 | Vacancies.   |        |                         |

CROSS REFERENCES  
Authority to establish - see CHTR. 4.02

170.01 ESTABLISHED.

There is hereby established a Greater Morgantown Metropolitan Area Youth Commission (hereinafter "Youth Commission").  
(Ord. 05-08. Passed 4-5-05.)

170.02 COOPERATION OF OTHER LOCAL GOVERNMENTAL ENTITIES.

The City shall seek the cooperation and assistance of local governmental entities, so as to make the efforts of the Youth Commission a success.  
(Ord. 05-08. Passed 4-5-05.)

170.03 PURPOSE AND MISSION.

The purpose of this article is to acknowledge this community's youth as an integral part of our society and to give youth a voice in government, thus enabling them to help shape the future of the greater Morgantown metropolitan area and thereby benefit all of its citizenry.  
(Ord. 05-08. Passed 4-5-05.)

170.04 MEMBERSHIP.

The Youth Commission shall consist of twenty-two members and all shall be of high school age and reside within the greater Morgantown metropolitan area. Initial appointments to the Youth Commission shall be made by the Morgantown City Council after having received nominations.

Subsequent appointments shall be made by Morgantown City Council after having received nominations from a nominating committee comprised of five Youth Commission members and the Commission's adult advisors.

(Ord. 05-08. Passed 4-5-05.)

170.05 TERM.

Youth Commission members shall be appointed for a one-year term and may be appointed. (Ord. 05-08. Passed 4-5-05.)

170.06 VACANCIES.

Vacancies shall be filled in the same manner as appointments, but only for the remainder of the unexpired term. (Ord. 05-08. Passed 4-5-05.)

170.07 OFFICERS.

The Youth Commission shall select from its own membership a chairperson, vice-chairperson and secretary. (Ord. 05-08. Passed 4-5-05.)

170.08 MEETINGS.

The Youth Commission shall have one regularly scheduled meeting each month. Special meetings may be called by the chairperson. (Ord. 05-08. Passed 4-5-05.)

170.09 MEMBERSHIP TRAINING.

Training, which will assist the individual members of the Youth Commission in performing their Commission duties, will be provided. (Ord. 05-08. Passed 4-5-05.)

170.10 POWERS AND DUTIES.

It shall be the duty of the Youth Commission to advise and recommend to the City, such programs or projects which, in the opinion of the Youth Commission, will improve the quality of life for youth within the greater Morgantown area. (Ord. 05-08. Passed 4-5-05.)

170.11 APPROPRIATION OF FUNDS.

City Council may appropriate any funds that it deems necessary to carry out any of the proposals set forth by the Youth Commission. (Ord. 05-08. Passed 4-5-05.)



**Development Services**

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431

---

**MEMORANDUM**

---

Date: 21-Jun-2013  
To: Jeff Mikorski, City Manager.....*via email*  
RE: Development Plans Review Fees

As directed by your Office and outlined in your six-month goals relative to improving financial stabilization, a working group has been assembled to examine development plans reviews services and related fees. The working group includes the Planning Division, Code Enforcement Division, Engineering Department, Fire Department, and Finance Department.

With the exception of the Finance Department, each section identified above provides various levels of plans review for all multi-family residential, commercial, and industrial developments. The process of coordinated multi-disciplinary plans review is, by nature, resource intensive. Excluding application fees associated with approvals by the Planning Commission and Board of Zoning Appeals, the only fees related to development that involves plans reviews by all the noted code disciplines are building permit fees.

According to Chief Building Code Official Michael Stone, the International Code Council (ICC) recommends that revenue generated from building permit fees should fund at least 70% of costs associated with Building Inspection services, which includes building permit application intake, Building Code plans review, permit issuance, construction inspections, and travel and training associated with requisite Building Code certifications. It is estimated that the current building permit fee schedule generates only 25% of the Building Inspection services cost to the general fund.

Like Building Inspection services, the fee schedule for Planning Division plans review services is significantly less than its associated administrative cost to the general fund. Further, the City has not enacted a fee schedule to defray general fund costs associated with the development plans review services provided by the Fire Department or the Engineering Department.

Simply put, the City's general fund heavily subsidizes multi-disciplinary development plans review services.

The working group is developing a methodology on which a new fee schedule can be advanced that incorporates all plans review services. Presently, this process is being guided by the following objectives:

1. Identify, to the greatest extent practicable, market value for the City's plans review services.
2. Identify the most fair and equitable standard on which a new plans review fee schedule can be based (e.g., cost of construction basis verse per square foot basis).



**Development Services**

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431

## MEMORANDUM

---

3. Integrate, to the greatest extent practicable, a very diverse set of development and construction code review elements (e.g., construction type; square footage; electrical, plumbing, mechanical, alarm, and sprinkler systems; development/construction site design, etc.) into one logical and reasonable fee structure.

The working group fully understands and appreciates the economic and political challenges associated with developing new/additional fees for the general public. Of particular concern is the real and perceived impact this policy may have to the cost of doing business and development within the City. Given the varying degrees of building, fire, engineering, and planning regulations administered outside Morgantown corporate boundaries, the working group is very sensitive to ensuring that we remain attractive and competitive in terms of continued growth, expansion, and development in housing, commercial, and industrial sectors.

To this end, the working group is preparing to report its findings and recommended course at the 30-Jul-2013 Committee of the Whole meeting.

cc via email: Glen Kelly, Assistant City Manager for Operations  
Chief Mark Caravasos, Fire Department  
Terry Hough, City Engineer  
J.R. Sabatelli, Finance Director  
Michael Stone, Chief Building Code Official

**AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING A TERMINABLE RIGHT-OF-WAY AND EASEMENT AGREEMENT BY AND BETWEEN THE CITY OF MORGANTOWN, GRANTOR, AND DEBRA F. BLANKENSHIP, GRANTEE, AS THE SAME APPLIES TO A STORMWATER LINE WITHIN THE CITY'S KREPPS PARK REALTY.**

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

The Ordinance shall be effective upon date of adoption.

FIRST READING:

\_\_\_\_\_

MAYOR

ADOPTED:

FILED:

\_\_\_\_\_

CITY CLERK

RECORDED:

1 TERMINABLE RIGHT-OF-WAY AND EASEMENT AGREEMENT

2 THIS RIGHT-OF-WAY AND EASEMENT AGREEMENT, made and executed this \_\_\_\_ day  
3 of \_\_\_\_\_, 2013, by and between the City of Morgantown, West Virginia, a municipal corporation,  
4 party of the first part, Grantor and Dedra F. Blankenship, Party of the second part, Grantee.

5 WITNESSETH: That for and in consideration of the sum of \$1.00 and other good and valuable  
6 consideration, the receipt of all which is hereby acknowledged, the said party of the first part, Grantor,  
7 does hereby grant and convey, with covenants of Special Warranty, unto the said party of the second  
8 part, Grantee and to its successors or assigns, a terminable right-of-way and easement to construct, lay,  
9 operate, maintain, remove, reconstruct, replace or repair pipelines for the carrying and transporting of  
10 storm water in, on, under and through a certain tract and parcel of land situate in the Morgantown  
11 Taxing District, Tax Map 8, Parcel 2, Monongalia County, West Virginia, and which said tract and parcel  
12 of land is further described in a deed record in the Office of the Clerk of the County Commission of  
13 Monongalia County, West Virginia, in Deed Book 225 at Page 178, to which said deed reference is  
14 hereby made for all pertinent purposes.

15 The said right-of-way and easement on side property is as follows:

16 **±130' of storm piping traveling generally west from a common line**  
17 **between the subject parcel and a parcel owned by the Grantee and**  
18 **further described as Morgantown Taxing District, Tax Map 8, Parcel 4,**  
19 **Monongalia County, West Virginia, and which said parcel of land is**  
20 **further described in a deed of record in the Office of Clerk of the**  
21 **County Commission of Monongalia County, West Virginia, in Deed**  
22 **Book 1349 at page 741 to a point on an unnamed tributary of Poponoe**  
23 **Run; all as depicted and further described in Exhibit "A", attached and**  
24 **incorporated herein.**

25 It is covenanted and agreed between the parties hereto that the Grantee shall have a centerline  
26 right-of-way and easement on said property ten feet in width, as described above, in order to facilitate  
27 the conveyance of storm water runoff. It is further covenanted and agreed that the Grantee shall  
28 properly backfill and restore to ground level any ditch opened on said right-of-way and easement upon  
29 the completion of any construction work performed thereon. Grantee shall present construction plans

30 for the storm water project to the City Engineer, for review prior to initiating work. Grantee shall  
31 comply with all changes to the plan that are requested by the City Engineer.

32 The said Grantor further grants and conveys unto said Grantee, its successors or assigns, the  
33 right of ingress, egress, and regress, to and from said right-of-way and easement for all proper purposes  
34 and at all reasonable times and a temporary construction right-of-way and easement of such width as is  
35 reasonable and necessary to carry out the construction, repair, or replacement of all or part of the  
36 above described storm line.

37 The said Grantor, its successors and assigns, shall use and enjoy the premises of said right-of-  
38 way and easement, except for the purposes hereinabove granted to the said Grantee, its successors or  
39 assigns.

40 The Grantor does hereby grant and convey said right-of-way and easement to the Grantee, its  
41 successors or assigns, upon the following terms and conditions:

42 This Agreement shall be binding upon the parties hereto, their successors or assigns.

- 43 1. Prior to initiating work on the storm water line, Grantee is to obtain all necessary municipal  
44 permits.
- 45 2. Grantee agrees to indemnify and hold harmless the City of Morgantown, its Board of Park  
46 and Recreation Commissioners, and their successors or assigns from any and all property or  
47 injury claims that result from this easement being granted.
- 48 3. **Relocation or Removal** - The City of Morgantown reserves the right to require Grantee to  
49 relocate the storm line at anytime the City deems that relocation is necessary. Should  
50 relocation be required, Grantee will be required to obtain a new easement from the City.  
51 The City's granting of any such relocation easement will not be unreasonably withheld. The  
52 City of Morgantown reserves the right to terminate this easement agreement and require  
53 Grantee to remove the storm water system that Grantee has placed within the easement  
54 area. Removal by Grantee shall take place within (90) days of receiving written notice from  
55 the City of Morgantown that this easement is being terminated.

56

57

**DECLARATION OF CONSIDERATION OR VALUE**

58

The undersigned hereby declare:

59

That the conveyance made in the document to which this declaration is appended is exempt from

60

taxation under the provisions of Chapter 11, Article 22, of the Code of West Virginia, for the reason that it is a

61

conveyance made from a political subdivision of the State of West Virginia.

62

WITNESS the following signatures:

63

City of Morgantown

64

65

By: \_\_\_\_\_

By: \_\_\_\_\_

66

Jeff Mikorski

Dedra F. Blankenship

67

City Manager

68

69

STATE OF WEST VIRGINIA,

70

71

CONTY OF MONONGALIA, to-wit:

72

73

The foregoing instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2013, by

74

Debra F. Blankenship.

75

My commission expires: \_\_\_\_\_

76

77

\_\_\_\_\_

78

Notary Public in and for the State of West Virginia

79

STATE OF WEST VIRGINIA,

80

COUNTY OF MONONGALIA, to-wit:

81

The foregoing instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2013, by

82

Jeff Mikorski, City Manager, acting for and on behalf of the City of Morgantown, a municipal corporation.

83

My commission expires: \_\_\_\_\_

84

85

\_\_\_\_\_



EXHIBIT "A"

STAR CITY

CITY OF MORGANTOWN  
MONONGALIA COUNTY, WV  
MORGANTOWN TAX DISTRICT  
TAX MAP 8 PARCEL 2  
DEED BOOK 225 PAGE 178

DEDRA F. BLANKENSHIP  
MONONGALIA COUNTY, WV  
MORGANTOWN TAX DISTRICT  
TAX MAP 8 PARCEL 4  
DEED BOOK 1349 PAGE 741

PROPERTY LINE  
(TYP.)

UNNAMED TRIBUTARY  
OF POPONOE RUN

PROPOSED  
RESIDENTIAL  
HOME

N/F BRIAN C. WALDEN  
MONONGALIA COUNTY, WV  
MORGANTOWN TAX DISTRICT  
TAX MAP 8 PARCEL 5  
DEED BOOK 1393 PAGE 768

±130'

±89'

N/F HAZEL LUCILLE MCCORD  
MONONGALIA COUNTY, WV  
MORGANTOWN TAX DISTRICT  
TAX MAP 8 PARCEL 6  
DEED BOOK 362 PAGE 822

PROPOSED  
CENTERLINE RIGHT-OF-WAY

PROPOSED  
SWM SYSTEM

PARKVIEW  
DRIVE

±45'

POPONOE RUN

N/F MARY K. MCCARTNEY  
MONONGALIA COUNTY, WV  
MORGANTOWN TAX DISTRICT  
TAX MAP 8 PARCEL 3  
DEED BOOK 516 PAGE 295

N/F JOHN ROSCOE &  
AMY STRICKLAND DALE  
MONONGALIA COUNTY, WV  
MORGANTOWN TAX DISTRICT  
TAX MAP 8 PARCEL 7  
DEED BOOK 1269 PAGE 504

THIS EXHIBIT IS NOT INTENDED TO BE A PROPERTY SURVEY. IT IS  
INTENDED TO BE USED FOR INFORMATION PURPOSES ONLY.

DRAWN BY: S. COPEN	DATE: 5-1-13	3			
DESIGN BY:	DATE:	2			
CHECKED BY:	DATE:	1			
APPROVED BY:	DATE:				
SCALE: 1" = 50'		REV.	DATE	BY	DESCRIPTION

**Cheat Road Engineering**  
170 Old Cheat Road  
Morgantown, WV 26508

PROJECT NAME  
1319 Parkview Drive  
Residential Home  
Morgantown, WV

OWNER / CLIENT  
Dedra Blankenship  
639 Poplar Woods Drive  
Morgantown, WV 26505

DRAWING TITLE  
Exhibit A

PROJECT NUMBER  
13-012

DRAWING NUMBER  
13-012-Design  
SHT. 1 OF 1

DATE  
5-02-13

**AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTIONS 1751.06(b) AND 1751.07 (d) OF ITS BUILDING AND HOUSING CODE, AS THE SAME APPLY TO INSPECTIONS AND LETTERS OF COMPLIANCE; AND ADDING A NEW SECTION 1751.18 TO ARTICLE 1751 ADDRESSING CARBON MONOXIDE DETECTORS.**

The City of Morgantown hereby ordains that Sections 1751.06 (b) and 1751.07 (d) of its Building and Housing Code are amended and a new section 1751.18 is added to the foregoing code as follows (new matter underlined, deleted matter struck through):

**1751.06 INSPECTIONS.**

- (a) The Housing Inspector shall conduct all inspections during reasonable hours of the day and after presentation of proper identification. The owner may arrange, and the occupant shall have the opportunity, to be present during an inspection. In all cases, if the occupant or owner of a dwelling unit refuses entry to conduct inspection, the Housing Inspector shall not conduct any such inspection without a search warrant. The Housing Inspector shall take the necessary action to obtain such search warrant.
- (b) The Housing Inspector shall inspect within ~~four~~ three years of the effective date of this section, all rental units.
- (c) The Housing Inspector shall promptly inspect any dwelling at the written request of the owner, or upon receipt of a written complaint from a person with demonstrable interest with the nature of the noncompliance specifically indicated and with evidence that the subject matter of the complaint has been reported to the operator in writing and that five working days have since passed without the operator having made an effort to correct the alleged problem. In addition, the Housing Inspector may inspect any dwelling as frequently as necessary to assure abatement of the noncompliance. The Housing Inspector shall not respond to a second letter or further letter by any person requesting an inspection where he has reason to believe the request is made for harassment and not made in good faith. If after inspection the dwelling unit is found in nonconformance with the requirements of this article, the Housing Inspector shall proceed under Section 1751.08.
- (d) Persons with demonstrable interest are: owner, occupant, tenant, lessee or other occupant in the same dwelling, owner or occupant of abutting properties.
- (e) The fact that a complaint of nonconformance with this article is made by the occupant shall not be used as a ground, cause or basis for termination of the tenancy or reduction of services by the owner. However, at the end of any lease, the owner may change occupants.

- (f) The inspection of any owner-occupied single-family dwelling with roomers shall be limited to the utilities and the areas occupied and used by the roomers and to the egress from those areas.
- (g) The Housing Inspector shall keep confidential all evidence exclusive of the inspection record, which he may discover or obtain in the course of an inspection made pursuant to this article and such evidence shall be considered privileged.

#### **1751.07 GRANT OF LETTER OF COMPLIANCE; EXPIRATION.**

- (a) If after inspections the dwelling is found to conform with the requirements of this article, the Housing Inspector shall issue a letter of compliance within two working days.
- (b) If dwelling units of a duplex or multiple dwelling are not all in compliance, the Housing Inspector may issue a temporary letter of compliance for each dwelling unit conforming to the provisions of this article. A three-year letter of compliance shall be issued for the completed dwelling after the Housing Inspector finds it in conformance with this article.
- (c) A copy of the letter of compliance shall be available for inspection at the Inspection Office.
- (d) Letters of compliance issued after the effective date of this section shall expire ~~five~~ three years from the date of issuance unless sooner revoked under Section 1751.08. In those cases where a temporary letter of compliance is first issued for the completed dwelling after the Housing Inspector finds it in conformance with this article.
- (e) The letter of compliance shall include at least: The information contained in the application, the date of inspection, the name of the Inspector, the date of issue, and date of expiration.
- (f) For multiple dwellings, the Inspector may issue a letter of compliance for the entire dwelling that includes all the required information and that lists the address for each dwelling unit.

and

#### **1751.18 CARBON MONOXIDE DETECTORS**

An operational single station carbon monoxide detector with a suitable alarm or a combination smoke detector and carbon monoxide detector, which shall be alternating current (AC) powered, either plugged directly in to an electrical source, with battery back up, shall be installed, maintained, tested, repaired or replaced, if necessary, in accordance with manufacturer's direction as follows:

1. In the sleeping rooms of any existing one and two- family dwelling unit, apartment or lodging and rooming house intended to be rented or leased which has fuel-burning heating or cooking sources including, but not limited to, furnace, stove, or hot water heater;
2. In the sleeping rooms of any existing one and two-family dwelling unit, apartment or lodging and rooming house that is connected to a garage, storage shed or barn, which has fuel-burning heating or cooking sources, including, but not limited to, a furnace, stove, or hot water heater;
3. All single station carbon monoxide detectors with a suitable alarm or combination smoke detector and carbon monoxide detectors shall be hardwired into alternating current (AC) electrical source, with battery back-up when installed in newly constructed one and two-family dwelling units whether owned or intended to be rented or leased, apartments or lodging and rooming houses.
  - (a) Any person installing a carbon monoxide detector in a residential unit shall inform the owner, lessor or the occupant or occupants of the residential unit of the dangers of carbon monoxide poisoning and instructions on the operation of the carbon monoxide detector installed.
  - (b) When repair or maintenance work is undertaken on a fuel-burning heating or cooking source or a venting system in an existing residential unit, the person making the repair or performing the maintenance shall inform the owner, lessor or the occupant or occupants of the unit being served by the fuel-burning heating or cooking source or venting system of the dangers of carbon monoxide poisoning and recommend the installation of a carbon monoxide detector.
  - (c) As set forth in Section 29-3-16(k) of the West Virginia Code, any person who violates any provision of this section is guilty of a misdemeanor and, upon conviction thereof, for a first offense, shall be fined \$250. For a second offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be fined \$750. For a third and subsequent offenses, the person is guilty of a misdemeanor and, upon conviction thereof, shall be fined \$2,000.
  - (d) As set forth in Section 29-3-16(l) of the West Virginia Code, a violation of this section may not be considered by virtue of the violation to constitute evidence of negligence or contributory negligence or comparative negligence in any civil action or proceeding for damages.
  - (e) As set forth in Section 29-3-16(m) of the West Virginia Code, a violation of this section may not constitute a defense in any civil action or proceeding involving any insurance policy.

This ordinance shall be effective upon date of adoption.

FIRST READING:

---

Mayor

ADOPTED:

FILED:

---

City Clerk

RECORDED:

**AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING A JANUARY 6, 2009, LEASE AGREEMENT BY AND BETWEEN IT, AS LESSOR, AND THE STATE OF WEST VIRGINIA, AS LESSEE, PERTAINING TO SPACE WITHIN THE AIRPORT TERMINAL BUILDING BEING UTILIZED BY THE WEST VIRGINIA ARMY NATIONAL GUARD BAND.**

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

This ordinance shall be effective upon date of adoption.

FIRST READING:

\_\_\_\_\_  
MAYOR

ADOPTED:

FILED:

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

RECORDED:

## ADDENDUM I

**THIS ADDENDUM**, made **June 14, 2013**, is hereby made an integral part of the Contract of Lease ADG-022-113, which lease was made **January 6, 2009**, by and between **CITY OF MORGANTOWN**, hereinafter referred to as "Lessor," and the **STATE OF WEST VIRGINIA, by the Department of Administration, Real Estate Division**, as "Lessee", for and on behalf of the **Department of Military Affairs and Public Safety**, as "Tenant."

**WHEREAS**, the Lessor has leased unto the Lessee, for use by the Tenant, the following described Leased Premises:

**Office and storage space consisting of approximately 7,000 square feet, more or less, located in the single story metal building commonly known as the Terminal Building at 100 Hart Field Road, in the City of Morgantown, Monongalia County, West Virginia, along with adequate parking (hereinafter referred to as the "Premises").**

**WHEREAS**, the Department of Administration, Real Estate Division assigned its rights under the Contract of Lease ADG-022-113 to the State of West Virginia, Adjutant General's Department as of November 30, 2011 by letter dated November 22, 2011 (attached to this Addendum as Exhibit A).

**WHEREAS**, both parties hereto agree to extend the term of said Contract of Lease on a month to month basis effective **February 1, 2013**, at the current annual per square foot rate of **\$6.00**.

**WHEREAS**, both parties hereto agree that the above-stated changes shall be effective **January 31, 2013**.

### **NOW, THEREFORE, THIS ADDENDUM WITNESSETH:**

It is agreed by and between the parties hereto that the Lessee will now be referred to as the **STATE OF WEST VIRGINIA, ADJUTANT GENERAL'S DEPARTMENT** and the Tenant will now be referred to as the **WEST VIRGINIA ARMY NATIONAL GUARD BAND** and that certain sections of the subject Contract of Lease and addendum are amended as follows:

(A) Contract Section 1, TERM AND NOTICES, shall be amended to read as follows:

The term of this Contract of Lease, subject to the provisions hereof, shall begin on **February 1, 2013** and continue on a month to month basis until the new West Virginia Army National Guard Readiness Center facility currently under construction at the Airport is complete and the Army National Guard Band is able to move. Pursuant to provisions of W.Va. Code §18B-19-12 (e)

(3), this lease shall be considered renewed for each ensuing fiscal year during the term of the Contract of Lease unless it is canceled by the Lessee before the end of the then current fiscal year.

Notices may be given by personal service upon the party(s) entitled to such notice, being Lessor and Lessee (not Tenant); or by certified mail, duly stamped and directed to the last-known address of the party to be notified, and deposited in the post office. The proper mailing of such notice and not the receipt thereof shall constitute the giving of such notice by either party to the other. Notices shall be directed as follows:

To the Lessor

Office of the Airport Director  
Morgantown Municipal Airport  
100 Hart Field Road  
Morgantown, WV 26505

To the Lessee

State of West Virginia  
Adjutant General's Department  
Construction & Facilities Mgmt. Division  
1703 Coonskin Drive  
Charleston, WV 25311-1085  
Phone: 304.561.6353  
Fax: 304.561.6344  
Email: rocky.hodges@us.army.mil  
Attn: CPT Melvin "Rocky" Hodges

(B) Other Terms and Conditions:

The subject Contract of Lease shall now be identified as **ADG-022-114**.

All other terms and conditions shall remain in full force and effect.

**IN WITNESS WHEREOF**, the parties hereto have caused their names to be affixed to this ADDENDUM I.

WITNESS: City of Morgantown - Lessor

By \_\_\_\_\_ By \_\_\_\_\_  
Jeff Mikorski, City Manager

WITNESS: State of West Virginia,  
Adjutant General's Department - Lessee

By \_\_\_\_\_ By \_\_\_\_\_  
LTC David P. Shafer, CFMO  
On behalf of The Adjutant General for  
the State of West Virginia

Approved as to form this \_\_\_\_ day of \_\_\_\_\_, 2013.

Patrick Morrisey, Attorney General

By \_\_\_\_\_, Dan Greear, Chief Counsel

EXHIBIT A

Transfer of Assignment of Lease ADG-022 Letter

Mailed to Gessor 11/22/11

STATE OF WEST VIRGINIA  
DEPARTMENT OF ADMINISTRATION  
REAL ESTATE DIVISION  
1409 Greenbrier Street  
Charleston, West Virginia 25311

Earl Ray Tomblin  
Governor

Robert W. Ferguson, Jr.  
Cabinet Secretary

Charles D. Lawrence, Jr.  
Executive Director

November 22, 2011

Dan W. Boroff, City Manager  
Office of the Airport Director Morgantown Municipal Airport  
100 Hart Field Road  
Morgantown, WV 26505

Re: Transfer of Assignment of Lease ADG-022

Dan,

During the 2011 2<sup>nd</sup> Special Session, a Legislative change was made to West Virginia Code §5A-10-2. (7) that exempts the Adjutant General's Office from the Real Estate Division.

In order to conform to the change in Code, the Real Estate Division is informing you that as of 11/30/2011, the Adjutant General's Office, Department of Military Affairs and Public Safety will be solely responsible for Lease ADG-022.

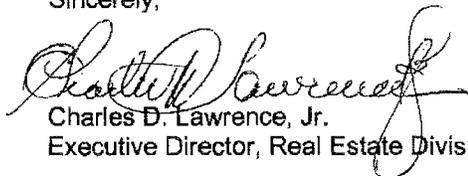
The Adjutant General's Office shall have all of the rights of Lessee contained in Lease ADG-022 including, without limitation, any option to renew, extend or cancel the Lease and shall have signatory authority as required.

As Lessee, the Adjutant General's Office assumes and agrees to be bound by all of the Real Estate Division's obligations under the Lease and shall perform all the terms, covenants and conditions of the Lease, including the payment of rent and any other required amounts to the Lessor, Office of the Airport Director Morgantown Municipal Airport.

The Adjutant General's Office shall indemnify and hold the Real Estate Division harmless from any and all claims, damages, expenses and liabilities of whatever nature, including attorney's fees, arising under the Lease or relating to the Premises after the date hereof.

All terms and conditions contained in Lease ADG-022 shall continue in full force and effect.

Sincerely,

  
Charles D. Lawrence, Jr.  
Executive Director, Real Estate Division

cc: Rhonda Combs Wick  
Attachment: West Virginia Code §5A-10-2. (7)

Telephone: (304) 558-3062

E.E.O./AFFIRMATIVE ACTION EMPLOYER

Fax: (304) 558-8082

## Attachment 1

### **§5A-10-2. Leases for space to be made in accordance with article; exceptions.**

(a) Notwithstanding any other provision of this code, no department, agency or institution of state government may lease, or offer to lease, as lessee, any grounds, buildings, office or other space except in accordance with the provisions of this article and article three of this chapter.

(b) The provisions of the article, except as to office space, do not apply to the Division of Highways of the Department of Transportation.

(c) The provisions of this article do not apply to:

(1) Public lands, rivers and streams acquired, managed or which title is vested in or transferred to the Division of Natural Resources of the Department of Commerce, pursuant to section seven, article one, chapter twenty of this code and section two, article five of said chapter;

(2) The Higher Education Policy Commission;

(3) The West Virginia Council for Community and Technical College Education;

(4) The institutional boards of governors in accordance with the provisions of subsection (v), section four, article five, chapter eighteen-b of this code;

(5) The real property held by the Department of Agriculture, including all institutional farms, easements, mineral rights, appurtenances, farm equipment, agricultural products, inventories, farm facilities and operating revenue funds for those operations;

(6) The real property held by the West Virginia State Conservation Committee, including all easements, mineral rights, appurtenances and operating revenue funds for those operations; or

(7) The Adjutant General's Department and the West Virginia National Guard, including all real property, acquisitions, leases, easements, armories, armory projects, appurtenances and operating revenue funds for those operations.