



Office of the City Clerk

# The City of Morgantown

Linda L. Little, CMC  
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Morgantown, West Virginia 26505  
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**AGENDA**  
**MORGANTOWN CITY COUNCIL**  
**REGULAR MEETING**  
**June 4, 2013**  
**7:00 p.m.**

1. CALL TO ORDER
2. ROLL CALL BY CITY CLERK
3. PLEDGE TO THE FLAG
4. APPROVAL OF MINUTES: Regular Meeting – May 21, 2013
5. CORRESPONDENCE
6. PUBLIC HEARING:
  - A. AN ORDINANCE AMENDING THE FY 2012-2013 ANNUAL BUDGET OF THE CITY OF MORGANTOWN ON AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND.
  - B. AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN THE CITY OF MORGANTOWN AN MONONGALIA COUNTY COMMISSION AS THE SAME APPLIES TO CERTAIN ANIMAL CONTROL SERVICES TO BE PROVIDED BY THE COUNTY TO THE CITY.
7. UNFINISHED BUSINESS:
  - A. Consideration of APPROVAL of SECOND READING (ADOPTION) of AN ORDINANCE AMENDING THE FY 2012-2013 ANNUAL BUDGET OF THE CITY OF MORGANTOWN ON AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND.

B. Consideration of APPROVAL of SECOND READING (ADOPTION) of AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN THE CITY OF MORGANTOWN AN MONONGALIA COUNTY COMMISSION AS THE SAME APPLIES TO CERTAIN ANIMAL CONTROL SERVICES TO BE PROVIDED BY THE COUNTY TO THE CITY.

C. BOARDS AND COMMISSIONS

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 BY THE CITY OF MORGANTOWN AMENDING SECTION 365.01, AND REPEALING AND REENACTING SECTION 365.12 OF ITS TRAFFIC CODE AS THE SAME APPLY TO DEFINITIONS AND GATE AND PULL TICKET VIOLATIONS.

B. Consideration of APPROVAL of FIRST READING of AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTIONS 363.07 AND 363.08 OF ITS TRAFFIC CODE, AS THE SAME APPLY TO PARKING METER ENFORCEMENT ON SUNDAY AND HOLIDAYS, AND PARKING TIME LIMITS AND FEES.

C. Consideration of APPROVAL of FIRST READING of AN ORDINANCE AMENDING TABLE 1331.05.01 "PERMITTED LAND USES" OF THE PLANNING AND ZONING CODE AS IT PERTAINS TO "LODGING OR ROOMING HOUSE" USES.

D. Consideration of APPROVAL of FIRST READING of AN ORDINANCE AMENDING ARTICLE 1365.09 OF THE PLANNING AND ZONING CODE AS IT PERTAINS TO PARKING DEVELOPMENT STANDARDS.

E. Consideration of APPROVAL of FIRST READING of AN ORDINANCE AMENDING ARTICLE 1363.04 "SPECIAL REQUIREMENTS" OF THE PLANNING AND ZONING CODE AS IT PERTAINS TO THE NUMBER OF PRINCIPAL STRUCTURES PERMITTED ON A LOT.

- F. Consideration of APPROVAL of FIRST READING of AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTION 747.02(a) OF ITS FIRE PROTECTION SERVICE CHARGES CODE, AS THE SAME APPLIES TO THE LEVY AND IMPOSITION OF FIRE PROTECTION SERVICE.
- G. Consideration of APPROVAL of FIRST READING of AN ORDINANCE VACATING, ABANDONING AND ANNULLING AND APPROXIMATE 50' RIGHT-OF-WAY EXTENDING ALONG A PORTION OF SIXTH STREET AND RUNNING A DISTANCE OF APPROXIMATELY ONE HUNDRED AND NINE FEET IN THE FOURTH WARD OF THE CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA, NOT USED NOR USEFUL FOR STREET PURPOSES.
- H. Consideration of APPROVAL of FIRST READING of AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING THE EXECUTION OF AN INTER-GOVERNMENTAL AGREEMENT BY AND BETWEEN THE CITY AND THE BOARD OF EDUCATION OF THE COUNTY OF MONONGALIA, OUTLINING THE TERMS AND CONDITIONS OF THE CITY'S PURCHASE OF PROPERTY KNOWN AS THE WOODBURN ELEMENTARY SCHOOL.
- I. Consideration of APPROVAL of FIRST READING of AN ORDINANCE ESTABLISHING THE RATES OF COMPENSATION FOR THE CITY OF MORGANTOWN EMPLOYEES FOR THE FISCAL YEAR 2013-2014.
- J. Consideration of APPROVAL of A RESOLUTION APPROVING THE FY 2013-2014 MORGANTOWN MUNICIPAL AIRPORT FUND AND AIRPORT IMPROVEMENT FUND BUDGET.
- K. Consideration of APPROVAL of A RESOLUTION AUTHORIZING THE EXECUTION OF A GOVERNOR'S COMMUNITY PARTICIPATION GRANT, FUNDS FOR USE FOR THE MORGANTOWN MARKET PLACE.

11. CITY MANAGER'S REPORT:

INFORMATION:

- 1. Fire Marshall's End-of-semester Report

12. REPORT FROM CITY CLERK
13. REPORT FROM CITY ATTORNEY
14. REPORT FROM COUNCIL MEMBERS
15. EXECUTIVE SESSION: Pursuant to WV State Code Section 6-9A-4(2)(9) as it Pertains to the Sale, Purchase or Lease of Realty and Pursuant to WV State Code Section 6-9A-4(b)(2)(A) in Order to Discuss Personnel Matters.
16. ADJOURNMENT

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

**REGULAR MEETING, MAY 21, 2013:** The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers of City Hall on Tuesday, May 21, 2013 at 7:00P.M.

**PRESENT:** City Manager Jeff Mikorski, City Attorney Steve Fanok, City Clerk Linda Little, Mayor Jim Manilla and Council Members: Ron Bane, Wes Nugent, Jenny Selin, Marti Shamberger, Bill Byrne and Linda Herbst.

**APPROVAL OF MINUTES:** The minutes of the Regular Meeting of May 7, 2013, were approved as presented. The May 6, 2013 minutes of the Canvassing Board of the 2013 Municipal Election were also approved as presented.

**CORRESPONDENCE:** City Clerk Linda Little administered oaths of office to Dave Ross and Keith Watson for obtaining Firefighter First Class designation. Mayor Manilla presented Lt. Mike Caravaso a retirement proclamation for his 30 years of service. Mayor Manilla also noted that May 20, 2013 is National Missing Children's Day.

**PUBLIC HEARING - AN ORDINANCE PROVIDING FOR THE ANNEXATION OF 5 ACRES ADDITIONAL TERRITORY, COMMONLY KNOWN AS MILEGROUND ARMORY SITE, INTO THE CITY OF MORGANTOWN PURSUANT TO SECTION 8-6-4 OF THE WEST VIRGINIA CODE:**

There being no appearances, Mayor Manilla declared the public hearing closed.

**PUBLIC HEARING -AN ORDINANCE AND RESOLUTION WHICH WOULD AUTHORIZE AND DIRECT THE MODIFICATION OF CERTAIN TERMS OF THE CITY'S OUTSTANDING TAX INCREMENT REVENUE BONDS (FALLING RUN PROJECT NO. 1) SERIES 2007A AND APPROVE THE FORMS OF CERTAIN DOCUMENTS IN CONNECTION WITH SUCH MODIFICATIONS:**

There being no appearances, Mayor Manilla declared the public hearing closed.

**UNFINISHED BUSINESS:**

**AN ORDINANCE ANNEXING 5 ACRES OF ADDITIONAL TERRITORY INTO THE CITY OF MORGANTOWN:** The below entitled Ordinance was presented for second reading:

AN ORDINANCE PROVIDING FOR THE ANNEXATION OF 5 ACRES ADDITIONAL TERRITORY, COMMONLY KNOWN AS MILEGROUND ARMORY SITE, INTO THE CITY OF MORGANTOWN PURSUANT TO SECTION 8-6-4 OF THE WEST VIRGINIA CODE.

Motion by Nugent, second by Herbst to adopt the above entitled Ordinance. Motion carried 7-0.

**AN ORDINANCE AND RESOLUTION WHICH WOULD AUTHORIZE AND DIRECT THE MODIFICATION OF CERTAIN TERMS OF THE CITY'S OUTSTANDING TAX INCREMENT REVENUE BONDS (FALLING RUN PROJECT NO. 1) SERIES 2007A AND APPROVE THE FORMS OF CERTAIN DOCUMENTS IN CONNECTION WITH SUCH MODIFICATIONS:** The above entitled Ordinance and Resolution was presented for second reading.

Motion by Byrne, second by Herbst to pass the above entitled Ordinance and Resolution to second reading. After explanation from the City Manager, motion carried 7-0.

**A RESOLUTION OF THE CITY OF MORGANTOWN CONCERNING ELECTRIC UTILITY RATE IMPACTS OF PROPOSED POWER PLANT TRANSFERS:** The above entitled Resolution was presented for approval in two versions denoted as "A" and "B".

After a making a point of information, motion by Byrne, second by Selin to approve version "B" of the above entitled Resolution, which includes language protesting, and calling for the rejection of, the proposed power plant transfer by the WV Public Service Commission. Discussion commenced regarding the effectiveness of the language of both versions and their possible impacts on the future outcome of the PCS proceedings regarding the matter. Discussion continued and views were expressed that Council as a non-partisan body shouldn't consider such a politically charged issue, as it could be perceived as taking sides with labor unions and other political bodies.

It was also brought to Council's attention that other local government bodies have declined to pass similar resolutions on the grounds that they have confidence in the decision the State PCS can arrive at. Discussion also arose with regard to standing up for Morgantown's ratepayers in the face of an impending increase in the cost of the electricity associated with the transfer. Discussion continued about the various sides of the issue and the merits and detriments of passing either version of the Resolution.

After discussion, the motion to approve of version "B" of the above entitled Resolution, which includes language protesting, and calling for the rejection of, the proposed power plant transfer by the WV Public Service Commission, was denied by a vote of 3-4; with Councilors Bane, Nugent, Herbst and Mayor Manilla voting NO.

Mayor Manilla then called for motions on version "A" of the above entitled Resolution, which includes language stating concern for, and calling for the evaluation of, the proposed power plant transfer by the WV Public Service Commission. Motion by Selin, second by Nugent to approve version "A" of the above entitled Resolution. After brief discussion about the language differences of version "A", motion carried approving version "A" by a vote of 5-2. Councilor Bane and Mayor Manilla voted NO.

**BOARDS AND COMMISSIONS:** Michael A. Jacks was appointed by acclamation to serve the remainder of an unexpired term on the Fire Civil Service Commission as the Chamber of Commerce representative.

**PUBLIC PORTION:**

James Kotcon, 414 Tyrone Avery Road, Green Team representative, thanked Council for considering and passing the amended power plant transfer Resolution, and regretted that the original Resolution proposed was not accepted.

There being no other appearances, Mayor Manilla declared the public portion closed.

**SPECIAL COMMITTEE REPORTS:** None

**NEW BUSINESS:**

**AN ORDINANCE AMENDING THE PLANNING AND ZONING CODE AND ADOPTING THE 2013 COMPREHENSIVE PLAN:** The below entitled Ordinance was presented for first reading:

AMENDING ARTICLE 1301 OF THE MORGANTOWN PLANNING AND ZONING CODE PERTAINING TO THE COMPREHENSIVE PLAN FOR THE PHYSICAL DEVELOPMENT OF THE CITY OF MORGANTOWN; TO DELETE REFERENCES TO THE 1998 COMPREHENSIVE PLAN; AND, TO ADOPT THE 2013 COMPREHENSIVE PLAN.

Motion by Byrne, second by Shamberger to pass the above entitled Ordinance to second reading. After discussion, motion carried 7-0.

**AN ORDINANCE AMENDING THE FY 2012-2013 ANNUAL BUDGET, GENERAL FUND:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE AMENDING THE FY 2012-2013 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.

Motion by Bane, second by Selin to pass the above entitled Ordinance to second reading. After lengthy discussion and explanation from the City Manager, motion carried 7-0.

**AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT WITH THE COUNTY FOR ANIMAL CONTROL SERVICES:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN THE CITY OF MORGANTOWN AND MONONGALIA COUNTY COMMISSION AS THE SAME APPLIES TO CERTAIN ANIMAL CONTROL SERVICES TO BE PROVIDED BY THE COUNTY TO THE CITY.

Motion by Bane, second by Byrne to pass the above entitled Ordinance to second reading. After explanation from the City Manager, motion carried 7-0.

**CITY MANAGERS REPORT:**

**INFORMATION:**

**1. Letter from the County Commission Regarding the Hartman Run Bridge.**

Mr. Mikorski explained the letter received from the County. Mr. Mikorski asked for Council's direction in order to ascertain details about the project and the County's expectations of the City before bringing a recommendation to Council about the request.

Mayor Manilla recalled information for the Manager to look into, that State funding could be available to assist the bridge project, and that the County may be unaware of this opportunity. Discussion continued about the City's financial ability to contribute and support for the Manager further investigating the project's needs.

Mr. Mikorski then informed Council that he will travel to attend the International Town and Gown Association conference in Buffalo, NY, June 3-4. He noted he was invited to be a panel speaker with others from WVU about the impact of campus misbehaviors related to athletic events.

**REPORT FROM CITY CLERK:** No report.

**REPORT FROM CITY ATTORNEY:** No report.

**REPORT FROM COUNCIL MEMBERS:**

Councilor Bane:

Councilor Bane thanked Councilor Selin for mentioning the tornado tragedy in Oklahoma and encouraged citizens to support those in need. He remarked that Americans should stand tall and not lose hope even in the midst of these great political scandals on the national level.

Councilor Bane also asked people to remember veterans during their Memorial Day celebrations.

Councilor Nugent:

Councilor Nugent announced the Wiles Hill-Highland Park neighborhood yard sale, going on at the same time as the WVU Blue and Gold Mine sale.

Councilor Selin:

Councilor Selin announced the Farmer's Market each weekend, and noted that Susan Sullivan would be speaking at the next Suncrest neighborhood association meeting. She announced the Evansdale annual neighborhood picnic as well. She mentioned a bike-to-work event and a visit to the Botanical Garden.

Councilor Shamberger:

Councilor Shamberger encouraged citizens to visit local parks and pools over the Memorial Day weekend.

Councilor Byrne:

Councilor Byrne echoed concerns for those who were affected by the tornado in Oklahoma and wished everyone a safe Memorial Day weekend.

Councilor Herbst:

Councilor Herbst expressed her disappointment that some Council members still have not converted to using an electronic version of the Council meeting packet. She noted that Police Officers take time to make home deliveries of the envelopes.

Mayor Manilla:

No Report.

**ADJOURNMENT:** There being no further items of business or discussion, the meeting adjourned by unanimous consent at 8:15 p.m.

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

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



**Office of the City Manager**

# The City of Morgantown

Interim City Manager

Jeff Mikorski, ICMA-CM

389 SPRUCE STREET

MORGANTOWN, WEST VIRGINIA 26505

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

[www.morgantownwv.gov](http://www.morgantownwv.gov)

## **City Manager's Report for City Council June 4, 2013**

### Information:

Attached you will find the Morgantown Fire Marshall's End-of-semester Report. We hope that actions taken this past semester, such as the increase in fines, increased enforcement, and better communication between the City and WVU, continue to promote an atmosphere of non-violent celebrating. The spring 2013 semester saw 43 fires, less than the amount in the past five semesters, and no additional arrests or citations were given. City Administration will continue to work diligently with City fire and police staff to develop additional actions to reduce the incentive to starting fires.

Jeff Mikorski, City Manager



## **Malicious Street and Dumpster Fires**

### **Three-year totals by WVU semester**

**2010-2013**

<u>Semester</u>	<u>Fire Total</u>	<u>Cited / Arrested</u>
Fall 2010	65	7
Spring 2011	126	22
Fall 2011	57	13
Spring 2012	106	12
Fall 2012	90	6
Spring 2013	43	0

#### **Possible factors in decreased fires:**

- Mediocre football and basketball seasons
- Demolition of Sunnyside properties
- Increased fire marshal and police enforcement at house parties
- Increased use of uniformed fire marshals
- Fine increase for malicious burning now \$2,000
- More WVU prevention and education measures
- Quick actions taken by WVU student conduct office

## **BOARDS AND COMMISSIONS - TERMS EXPIRED AND CURRENT VACANCIES**

### **BOARD OF PARKS AND RECREATION COMMISSION:**

**Frank Scafella's term expires on June 30<sup>th</sup>, 2013. Mark Wise is checking to see if he wishes to continue to serve. Marti Shamberger, Council Appt. Term expires on June 30<sup>th</sup> New Council needs to decide who will serve on this commission. Residents appointed by City Council- 5 members.**

### **HISTORIC LANDMARKS COMMISSION:**

**Linda Herbst's Council Appt. Term expires on June 30<sup>th</sup>, 2013. New Council needs to decide who will serve on this commission. Appt. by Council at least 2 members inter. In historic preservation- 1 Council Rep.**

### **HUMAN RIGHTS COMMISSION:**

**Terms for Anna Marie Lofaso, Jan Derry and Warren Hager expire on June 30, 2013. Don Spencer is checking to see if they wish to continue to serve. Appt. by Council. Terms to be staggered.**

### **METROPOLITAN THEATER COMMISSION:**

**Marty Shamberger's Council Appt. Term expires on June 30<sup>th</sup>, 2013. New Council needs to decide who will serve on this commission. 7 Members to be City residents, 1 Council Member and 1 Council Commission**

### **MORGANTOWN UTILITY BOARD:**

**William Burton resigned (e-mail attached) on May 7, 2013 due to health reasons. City Clerk is advertising for applicants. Deadline for applicants May 28, 2013. Council will interview candidates at a Special Meeting. Residents to serve at large, two appointees citizens of Mon County, 3 residents of the City.**

### **PARKING AUTHORITY:**

**Dennis Bidwell's term expires on 6-30-13 and Tom Arnold, Parking Authority Director says he wishes to continue to serve. Council can vote on that apt. at the June 4<sup>th</sup> Regular Meeting. Linda Herbst Council Appt. Term expires June 30, 2013. New Council needs to decide who will serve on this commission. Residents-3 members at large appointed by Mayor, 1 elected and 1 Council Member**

### **PLANNING COMMISSION:**

**Jenny Selin Council Appt. Term expires June 30, 2013. New Council needs to decide who will serve on this commission. Nominated by CM on recommendation, confirmed by Council.**

### **SISTER CITIES COMMISSION:**

**Bill Byrne's Council Appt. Term expires June 30, 2013. New Council needs to decide who will serve on this commission. Two members from greater metro area. 1 Council member. 9 member commission. Staggered terms.**

### TRAFFIC COMMISSION:

**Margaret Roberts First Ward representative wishes not to continue to serve. First Ward Councilor will check to see if there is a representative in their ward that is interested in serving. Wes Nugent Council Appt. Term expires June 30, 2013. New Council needs to decide who will serve on this commission. Residents appointed by Council, must represent specific categories.**

### TRANSIT AUTHORITY:

**Ron Bane Council Appt. Term expires June 30, 2013. New Council needs to decide who will serve on this commission. Specific categories. Council Member, 2 City Appt. City/County Join Apt, 3 County Appt.**

### URBAN LANDSCAPE COMMISSION:

**Julie Lattanzi, Fifth Ward apt. resigned and sixth ward apt Annette Tanner term expires on 7-1-13. Need the Fifth Ward Councilor to find a replacement and checking to see if Annette wishes to continue to serve. Jenny Selin Appt. Term expires June 30, 2013. New Council needs to decide who will serve on this commission. Residents appointed by Council, must represent specific categories.**

### WARD AND BOUNDARY COMMISSION:

**Terms for all wards expire on 6-30-2013. All wish to continue to serve except Third. Third Ward Council Member will find replacement for that commission. Council can vote on those appointments at the June 4<sup>th</sup> Regular Meeting. Appt. by Council. Per Wd.**

### YOUTH COMMISSION:

**ALL TERMS EXPIRE 6/1/13 FOR MEMBERS. Waiting to hear from Melissa at BOPARC on new appointments. High School students residing in Metropolitan area.**

**\*POLICE & FIRE CIVIL SERVICE COMMISSIONS: NEW PRESIDENTS APPOINTED IN JANUARY.**

***\*Information for Boards and Commissions vacancies are placed in the Dominion Post, are advertised on the City's Government Station Channel 15, and are posted at the Library and also information is on the City's Web Page.***

***\*Council decided on 3-21-06 by unanimous consent that if there is only one candidate for Boards & Commissions, 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.***

5/28/13

**AN ORDINANCE AMENDING THE FY 2012-2013 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 2012-2013 Annual Budget of the General Fund of the City of Morgantown is amended as shown in the revised budget (Revision 04) attached hereto and made a part of this ordinance.

First Reading:

Adopted:

\_\_\_\_\_  
Mayor

Filed:

Recorded:

\_\_\_\_\_  
City Clerk

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

Person To Contact Regarding  
 Budget Revision: **J.R. Sabatelli**  
 Phone: **304-284-7407**  
 Fax: **304-284-7418**

**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)

City of Morgantown  
 GOVERNMENT ENTITY  
 389 Spruce Street  
 STREET OR PO BOX  
 Morgantown 26505  
 CITY ZIP CODE

CONTROL NUMBER  
**2012-2013**  
 FY  
**General Fund**  
 FUND  
**4**  
 REV. NO.  
**1 of 2**  
 PG. OF NO.  
**Municipality**  
 Government Type

**REVENUES: (net each acct.)**

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
301-02-05	Prior Year Taxes	170,000	25,000		195,000
305	Business and Occupation Tax	12,790,704		622,000	12,168,704
304	Excise Tax on Utilities	1,009,000	33,000		1,042,000
306	Wine & Liquor Tax	550,000	43,000		593,000
308	Hotel Occupancy Tax	820,000	96,000		916,000
329	Inspection Fees	66,700		13,000	53,700

**NET INCREASE/(DECREASE) Revenues (ALL PAGES)** -286,700

**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
415	City Clerk	152,115	11,000		163,115
700	Police Department	6,468,937	276,560		6,745,497
706	Fire Department	4,320,972	81,120		4,402,092
699	Contingencies*	13,621	2,912		16,533
900	Parks & Recreation	1,284,453	24,000		1,308,453
901	Visitors Bureau	410,000	48,000		458,000
754	Central Garage	737,163	47,025		784,188
444	Contributions / Transfers to Other Funds	2,435,704		800,000	1,635,704
416	Police Judge's Office	234,738	7,500		242,238
417	City Attorney	285,549	10,687		296,236
420	Engineering	457,448	4,496		461,944

**NET INCREASE/(DECREASE) Expenditures** -286,700

APPROVED BY THE STATE AUDITOR

BY: Director, Local Government Services Division Date

AUTHORIZED SIGNATURE OF ENTITY

APPROVAL DATE



City of Morgantown  
 General Fund  
 Budget Revision #4  
 Fiscal Year 2013

Wage related adjustments:

Department 417

City Attorney:	Current	New	Revision
Salaries & Wages	179,889.00	182,389.00	2,500.00
Social Security	11,153.00	11,308.00	155.00
Employee Pension	20,777.00	21,072.00	295.00
Medicare	2,608.00	2,645.00	37.00
			<u>2,987.00</u>

Department 420

Engineering:	Current	New	Revision
Salaries & Wages	263,412.00	266,112.00	2,700.00
Social Security	16,394.00	16,561.00	167.00
Employee Pension	31,227.00	31,546.00	319.00
Medicare	3,834.00	3,890.00	56.00
			<u>3,242.00</u>

Department 700

Police:	Current	New	Revision
Wages	3,415,885.00	3,390,885.00	(25,000.00)
Overtime	394,500.00	600,500.00	206,000.00
Employee Pension	32,365.00	63,300.00	30,935.00
Medicare	54,441.00	57,066.00	2,625.00
			<u>214,560.00</u>

Department 706

Fire:	Current	New	Revision
Overtime	135,000.00	195,000.00	60,000.00
Medicare	34,924.00	35,794.00	870.00
			<u>60,870.00</u>

Department 754

Equipment Maintenance:	Current	New	Revision
Overtime	8,000.00	19,000.00	11,000.00
Social Security	16,464.00	17,146.00	682.00
Employee Pension	31,361.00	32,660.00	1,299.00
Medicare	3,851.00	4,011.00	160.00
			<u>13,141.00</u>

Total wage related items 294,800.00

Non-wage items requiring adjustment:

	Current	New	Revision
Dept 415 City Clerk			
Civil Service Expense	12,000.00	23,000.00	11,000.00
Dept 416 Municipal Court			
Telephone	3,000.00	8,000.00	5,000.00
Travel & Training	850.00	3,350.00	<u>2,500.00</u>
			7,500.00
Dept 417 Attorney			
Telephone	2,000.00	2,700.00	700.00
Professional Services	10,000.00	17,000.00	<u>7,000.00</u>
			7,700.00
Dept 420 Engineering			
Liability Insurance	3,746.00	5,000.00	1,254.00
Dept 700 Police			
Contracted Services	17,000.00	31,000.00	14,000.00
Telephone	25,000.00	38,000.00	13,000.00
Vehicle Maintenance	55,000.00	65,000.00	10,000.00
Vehicle Supplies	120,000.00	145,000.00	<u>25,000.00</u>
			62,000.00
Dept 706 Fire			
Utilities/Electric	8,500.00	15,750.00	7,250.00
Utilities/Gas	10,000.00	14,000.00	4,000.00
Vehicle Supplies	31,000.00	40,000.00	<u>9,000.00</u>
			20,250.00
Dept 754 Equip Maint			
Telephone	500.00	11,000.00	10,500.00
Liability Insurance	16,776.00	18,160.00	1,384.00
Monongalia Co. Gasoline	240,000.00	262,000.00	<u>22,000.00</u>
			33,884.00
Dept 50 Contributions			
Greater Morgantown CVB	410,000.00	458,000.00	48,000.00
Dept 70 Operating Transfers			
BOPARC-Hotel/Motel Contrib	205,000.00	229,000.00	24,000.00
Contrib to Capital Escrow	2,435,704.00	1,635,704.00	(800,000.00)
Total nonwage	248,596.00	338,050.00	(584,412.00)
Total Increase overall			(289,612.00)

Totals by Department	
Dept 415 City Clerk	11,000.00
Dept 416 Municipal Court	7,500.00
Dept 417 Attorney	10,687.00
Dept 420 Engineering	4,496.00
Dept 700 Police	276,560.00
Dept 706 Fire	81,120.00
Dept 754 Equip Maint	47,025.00
Dept 50 Contributions	48,000.00
Dept 70 Operating Transfers	(776,000.00)
Contingencies	2,912.00
	<u>(286,700.00)</u>

Revenue Adjustment

	Current	New	Revision
Prior Year Taxes	170,000.00	195,000.00	25,000.00
Supplemental Taxes	32,000.00	40,000.00	8,000.00
Electric Utility Tax	405,000.00	424,000.00	19,000.00
MUB Utility Tax	115,000.00	129,000.00	14,000.00
B&O Taxes	10,600,000.00	10,778,000.00	178,000.00
B&O Taxes - Construction	2,190,704.00	1,390,704.00	(800,000.00)
Liquor Taxes	550,000.00	593,000.00	43,000.00
Hotel/Motel Taxes	820,000.00	916,000.00	96,000.00
Housing Inspection	61,000.00	48,000.00	(13,000.00)
Fire Fee Residential	1,059,000.00	1,104,000.00	45,000.00
Fire Fee Commercial	536,000.00	478,000.00	(58,000.00)
Contribution from TIF	16,800.00	33,600.00	16,800.00
Sale of Fixed Assets	2,500.00	142,000.00	139,500.00
	<u>16,558,004.00</u>	<u>16,271,304.00</u>	<u>(286,700.00)</u>

# *City of Morgantown*

## *Finance Department*

*389 Spruce Street*

*Morgantown, WV 26505*

*Phone (304) 284-7407/Fax 7418*

*jsabatelli@cityofmorgantown.org*

# MEMO

**DATE:** May 15, 2013

**TO:** Jeff Mikorski, ICMA-CM, City Manager

**FROM:** J.R. Sabatelli, CPA, Finance Director 

**RE:** General Fund Budget Revision 4

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Included herewith you will find the proposed ordinance and "Request for Revision to Approved Budget" for the FY2013 General Fund Budget. An explanation of the proposed changes follows:

The adjustments to revenue reflect changes in projections for the remainder of the fiscal year based on activity through the date of this memo. The "Request for Revision to Approved Budget" is required to include and combine various revenue accounts; however, the attached summary provides the detail breakdown for the specific revenue lines affected. The "Request for Revision to Approved Budget" reflects the adjustments as they were submitted to the Auditor's Office, while the accompanying detail reflects the appropriate internal adjustment.

The adjustments to expenditures reflect various changes necessary for operating activities within the City, as well as adjustments for the reallocation of Hotel/Motel Tax to the Convention and Visitors Bureau (50% of the tax as required by State Code) and to BOPARC (25% of the tax as dedicated from previous councils).

**AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN THE CITY OF MORGANTOWN AND MONONGALIA COUNTY COMMISSION AS THE SAME APPLIES TO CERTAIN ANIMAL CONTROL SERVICES TO BE PROVIDED BY THE COUNTY TO THE CITY.**

The City of Morgantown hereby ordains that it's City Manager is authorized to execute the attached Agreement 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:

## INTERGOVERNMENTAL AGREEMENT

This Agreement made and entered into this 8<sup>th</sup> day of May, 2013, by and between the City of Morgantown, hereinafter referred to as "CITY", and the Monongalia County Commission, hereinafter referred to as "COMMISSION", witnesseth

Whereas, the CITY deems it necessary to provide the municipality with the services of an Animal Control Officer who will be responsible for enforcing all CITY ordinances related to the regulation of animals; specifically, Articles 505 and 507 of the Morgantown Municipal Code:

Whereas, the COMMISSION has agreed to provide the foregoing animal control services to the CITY subject to the terms and conditions hereinafter contained within this Agreement:

Now, therefore, the parties hereto agree as follows:

- (1) The COMMISSION agrees to assume the responsibility for employing and supervising a qualified individual(s) who will enforce the animal control ordinances of the CITY.
- (2) The COMMISSION shall continue providing such animal control services to the CITY effective with the date of this Agreement.
- (3) That the individual(s) employed by the COMMISSION to perform the services contemplated herein shall not be employees of the CITY.
- (4) That the individual(s) employed by the COMMISSION to perform the services contemplated herein shall be available seven days each week to respond to animal control service needs of the CITY.
- (5) That the COMMISSION employee(s) shall respond to calls for assistance regarding wild animals within the CITY in which a resident may be threatened by said animal, and if the employee is not capable of handling the situation, the employee will refer the property owner to the professional services of a private business that is qualified to handle the situation. Should the services of any such professional be necessary, the professional will contract for such service with the property owner.
- (6) That the COMMISSION'S employee(s) will respond to calls regarding small dead animals within the public right of ways within the CITY and

on private property within the CITY and will dispose of any such carcass. The COMMISSION will pay for any costs that may be associated with the disposal of any such carcass.

- (7) That the COMMISSION will provide a phone number to the Morgantown City Manager, at the time this Agreement is executed, which the CITY may call to request specific animal control assistance pursuant to this Agreement.
- (8) The COMMISSION shall provide the City Manager with periodic reports, as requested by the City Manager, summarizing animal control incidents within the municipality and responsive action taken by the COMMISSION'S employee(s).
- (9) The COMMISSION'S employee(s) will issue citations for violations of the CITY'S animal control ordinances and will be available to testify in the Morgantown Municipal Court regarding the same.
- (10) That the COMMISSION shall be responsible for the actions of its employee(s) while they are performing services within the municipality pursuant to this Agreement.
- (11) That the term of this Agreement shall be for twelve consecutive months beginning with the first day of July and ending June 30 of the following year.
- (12) As consideration for the animal control services provided by the COMMISSION, CITY agrees to pay the COMMISSION \$38,245.35 for the 12 month term of this agreement in installment payments of \$3,187.11 for each of the 12 months, payable by the 15<sup>th</sup> day of each month that the Agreement is in effect. If this Agreement is terminated by either party hereto, per paragraph 12 below, the balance of the above \$38,245.35 due the COMMISSION will be reduced by \$3,187.11 for each and every month which would have remained on the term of the agreement had it not been terminated by the party doing so. (This paragraph includes a 3% cost of living increase).
- (13) Either party hereto has the right to terminate this Agreement at any time by providing 30 days prior written notice of the same to the other party.
- (14) At the conclusion of the twelve month term this Agreement will automatically be renewed for an additional twelve month period with a standard increase of 3% per year.

(15) This document shall constitute the entire Agreement between the parties and any amendment or additions hereto shall be by written agreement of the parties, which shall be subject to approval by the governing bodies of both parties.

THE MONONGALIA COUNTY COMMISSION,

By:   
Eldon A. Callen

It's: President

THE CITY OF MORGANTOWN,

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

It's: \_\_\_\_\_

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTION 365.01, AND REPEALING AND REENACTING SECTION 365.12 OF ITS TRAFFIC CODE AS THE SAME APPLY TO DEFINITIONS AND GATE AND PULL TICKET VIOLATIONS.

The City of Morgantown hereby ordains that Section 365.01 of its Traffic Code is amended, and Section 365.12 of its Traffic Code is repealed and reenacted as follows (new matter underlined, deleted matter struck through):

365.01 DEFINITIONS.

For the purposes of this article, unless the context clearly otherwise requires, the following words and phrases shall have the meanings respectively ascribed to them by this section:

“Off-street facilities” means the areas of land in the City which are now, or which may hereafter, be improved, paved, lighted and marked off in individual parking spaces, and equipped with parking meters for use in parking vehicles.

“Off-street gated parking facility” means any parking lot or multi-level parking garage with an installed access gate system for the purpose of regulating ingress and egress to the facility and requiring payment for time parked prior to exiting that facility.

“Parking” means the standing of a vehicle upon any off-street facility provided therefor, whether such vehicle is occupied or not, by an operator or otherwise, for a period in excess of one minute.

“Parking authority” means the Morgantown Parking Authority, established by Council.

“Parking meter” means a device which shall indicate thereon the length of time during which a vehicle may be parked in the particular individual parking space and which shall have as a part thereof a receptacle or chamber for receiving and storing coins representing currency of the United States of America, or tokens approved by the Parking Authority, and a slot or place in which such coins or tokens may be deposited.

“Vehicle” means any device in which any person or property is or may be transported upon a public highway, except such as are motivated or propelled exclusively by human power.

~~365.12 LOTE PARKING RESTRICTIONS:~~

~~Parking of vehicles within Lot E (Bossio Lot) shall be prohibited between the hours of two a.m. and six a.m.~~

365.12. GATE AND PULL TICKET VIOLATIONS.

(a) No vehicle shall exit any off-street gated parking facility by means of a gate being physically lifted for the purpose of exiting the facility without paying for time parked.

(b) No vehicle shall exit any off street gated parking facility by means of a pull ticket which has been modified or is different than that which was issued to the vehicle upon entering the facility.

(c) No vehicle shall tailgate while exiting an off street gated parking facility. For purposes of this subsection, tailgate shall mean one vehicle following another vehicle so closely that the tailgating vehicle exits through the gated area during the gate cycle for the vehicle in

front of it without using a paid parking ticket to exit.

Violations of any of the prohibitions within Section 365.12 shall be subject to a penalty of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00). Parking Authority Enforcement Officers shall have the authority to mail citations to a vehicle's registered owner who shall be responsible for violations set forth in Section 365.12

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 SECTIONS 363.07 AND 363.08 OF ITS TRAFFIC CODE, AS THE SAME APPLY TO PARKING METER ENFORCEMENT ON SUNDAY AND HOLIDAYS, AND PARKING TIME LIMITS AND FEES.

The City of Morgantown hereby ordains that Sections 363.07 and 363.08 of its Traffic Code are amended as follows (new matter underlined, deleted matter struck through):

353.07 METERS NOT OPERATIVE ON SUNDAYS FROM 6:00 a.m. TO MIDNIGHT AND THE ENTIRE DAY ON HOLIDAYS.

Parking meters installed under the provisions of this article shall be operated twenty four hours per day in the parking meter zones on Monday, Tuesday, Wednesday, Thursday, Friday, and Saturday of each week; and shall not operate on Sundays after 6:00 a.m. and holidays; provided, however, that within the meaning of this article, "holidays" includes only the following days: January 1 (New Year's Day); January 21 (Martin Luther King, Jr. Day); February 22 (Washington's Birthday); the last Monday in May (Memorial Day); June 20 (West Virginia Day); July 4 (Independence Day); the first Monday in September (Labor Day); October 12 (Columbus Day); November 11 (Veteran's Day); the fourth Thursday in November (Thanksgiving Day); the day after Thanksgiving; December 24 from twelve o'clock noon to midnight; December 25 (Christmas Day); December 31 from twelve o'clock noon to midnight (New Year's Eve) and election days held within the City as follows: (national, state municipal and other primary, general, and Morgantown City Council elections.

363.08 PARKING TIME LIMITS AND FEES.

The hereinafter designated parking fees, regulations and fines shall become effective upon entry and recordation in the journal of the City, pursuant to Section 363.09:

- (a) Rate - \$0.50/hour - Two hour limit.  
Court Street - High to Chestnut  
Walnut Street - High to University  
Foundary Street - High to University  
Chestnut Street - Foundry to Willey  
Brockway Avenue - Walnut to Kingwood  
High Street - Willey to Foundry  
Fayette Street - High to Spruce  
Walnut Street - Spruce to Chestnut  
Donley Street - Don Knotts Blvd. To Clay Street
  
- (b) Rate - \$0.75/hour - Ten hour limit.  
North Spruce Street - Willey to Fife  
North High Street - Willey to Fife  
Prospect Street - Willey to University  
University Avenue - Willey to Fayette  
Reid Street - Chestnut to University  
Fife Street - North High to Price

(c) Off-Street Parking.

“J” Lot (Wesley Methodist Church)

Rate: \$0.75/hr.

“G” Lot (Trinity Episcopal Church)

Rate: \$0.75/hr.

“K” Lot (University Avenue Garage)

Rate: \$0.75/hr.      6:00 a.m. to 6:00 p.m.

\$1.00/hr.      6:00 p.m. to 6:00 a.m.

“A” Lot (Spruce Street Pavilion)

Rate: \$1.25/hr.      6:00 p.m. to 6:00 a.m.

Permit Lot Only      6:00 a.m. - 6:00 p.m.

“B” Lot (Behind Daniels)

Rate: \$0.75/hr.      6:00 a.m. - 6:00 p.m.

\$1.25/hr.      6:00 p.m. to 6:00 a.m.

“E” Lot Across from Bent Willeys)

Rate: \$0.75/hr.      6:00 a.m. - 6:00 p.m.

\$1.25/hr.      6:00 p.m. - 6:00 a.m.

All remaining off-street parking lots and garages of the City

Rate: \$0.50/hr.

(d) Overtime.

(1) Long term Spaces (10 hr.) and short term spaces (2 hr.) at the following locations:

Foundry Street - High to University

Brockway Avenue - Walnut to Kingwood

North Spruce Street - Willey to Fife

North High Street - Willey to Fife

Prospect Street - Willey to University

University Avenue - Willey to Fayette

Reid Street - Chestnut to University

Fife Street - North High to Price

First violation - \$5.00

Each subsequent violation - \$5.00

If any of the above fines are not paid within ten days from date of issue, then in such an event the fines will be increased to \$10.00, plus municipal court costs, if any.

(2) Short-term spaces (2 hr.) at the following locations between the hours of 11:00 p.m. through 6:00 p.m.:

Court Street - High to Chestnut

Walnut Street - High to University

Chestnut Street - Foundry to Willey

High Street - Willey to Foundry

Fayette Street - High to Spruce

Walnut Street - Spruce to Chestnut

First violation: \$5.00

Second violation for same incident for which first violation was issued - \$10.00.

Third violation for same incident for which first and second violations were issued - \$25.00.

If any of the above fines are not paid within ten (10) days from date of issue, then in such an event the fines will be increased by \$5.00, plus municipal court costs, if any.

There shall not be a 2 hour parking time limit upon the streets listed in this subparagraph (d) (2) between the hours of 6:00 p.m. through 11:00 p.m.

This Ordinance shall be effective upon date of adoption.

FIRST READING:

\_\_\_\_\_  
MAYOR

ADOPTED:

FILED:

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

RECORDED:

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING TABLE 1331.05.01 "PERMITTED LAND USES" OF THE PLANNING AND ZONING CODE AS IT PERTAINS TO "LODGING OR ROOMING HOUSE" USES.**

**The Morgantown City Council hereby ordains that Table 1331.05.01 "Permitted Land Uses" of the City's Planning and Zoning Code is amended as follows (deleted matter struck through):**

Table 1331.05.01: Permitted Land Uses

Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
Lodging or Rooming House			C	P			P	C				

This ordinance shall be effective upon date of adoption.

FIRST READING:

\_\_\_\_\_  
Mayor

ADOPTED:

FILED:

RECORDED:

\_\_\_\_\_  
City Clerk

**AN ORDINANCE AMENDING ARTICLE 1365.09 OF THE PLANNING AND ZONING CODE AS IT PERTAINS TO PARKING DEVELOPMENT STANDARDS.**

**The Morgantown City Council hereby ordains that Article 1365.09 "Parking Development Standards" of the City's Planning and Zoning Code is amended as follows (deleted matter struck through; new matter underlined):**

1365.09 PARKING DEVELOPMENT STANDARDS.

All off-street parking areas for four or more automobiles shall be developed in accordance with the standards of this section, except in the case of one and two-family dwellings, agricultural and rural uses, and storage of vehicular merchandise not counting toward the minimum requirements as set forth in this Code.

(A) Dimensions.

- (1) Each required off-street standard parking space shall be at least ~~nine (9)~~ eight and one half (8.5) feet in width and at least eighteen (18) feet in ~~length~~ depth, exclusive of access drives or aisles, ramps, columns, or office or work areas. Such space shall have adequate vertical clearance. ~~For compact stalls, the size may be reduced to seven (7) feet by sixteen (16) feet. Angled parking lots shall conform to the design standards illustrated in Graphic 1365.09.01.~~
- (2) Up to ten (10) percent of the total number of required parking spaces may be designed for compact cars; provided, compact spaces are limited to employees or residents only and the property owner/manager assigns and enforces such spaces accordingly. Compact spaces shall be grouped together and identified as "compact cars only" with pavement stenciling and/or signage. Compact spaces should be located furthest from building entrances to discourage use by non-compact vehicles. Each compact space shall be at least eight (8) feet in width and at least fifteen (15) feet in depth, exclusive of access drives or aisles, ramps, columns, or office or work areas. Such space shall have adequate vertical clearance.
- (23) Except on lots occupied by one and two-family dwellings, each off-street parking space shall open directly upon an aisle or driveway at least twelve (12) feet wide or such additional width and design in accordance with Table 1365.09.01, so as to provide safe and efficient means of vehicular access to such parking space. Such aisle or driveway shall be unobstructed and allow for the passage of emergency vehicles at all times. This requirement may be waived by the Planning Director where such waiver will not cause a hazard.
- (34) All required parking spaces and aisles shall be provided wholly within the property lines and shall not extend into any public right-of-way.

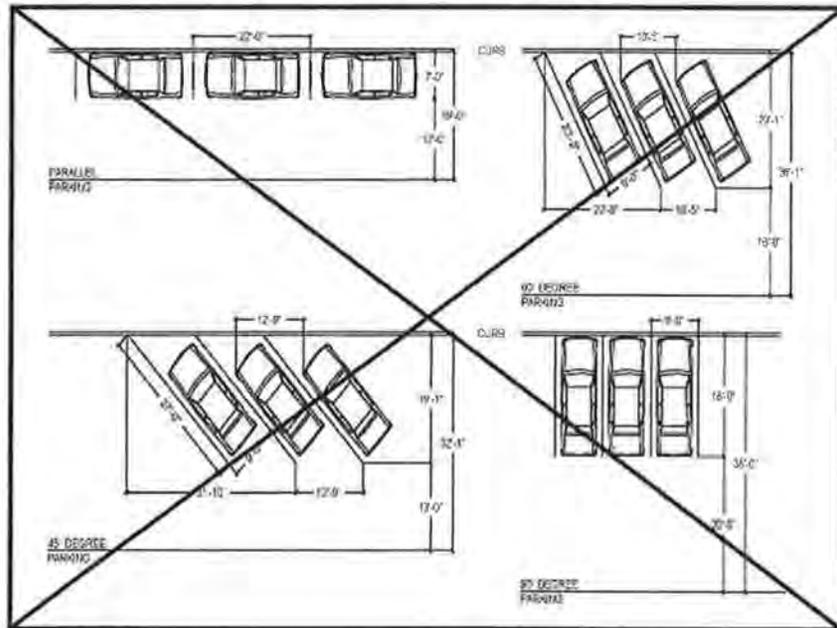
Table 1365.09.01: Dimensions of Parking Stalls, Angles and Aisles and Angles of Parking Spaces

<b>Parking Angle* (in-degrees)</b>	<b>Aisle Width (in-feet)</b>	<b>Aisle Traffic Flow</b>
45°	13'	One-way
60°	16'	One-way
90° or angled parking opening onto two-way aisles	20'	Two-way
Parallel	12'	One-way

\*Angle shall be measured between centerline of parking space and centerline of aisle.

<u>Parking Angle</u>	<u>Stall Type</u>	<u>Width of Stall (feet)</u>	<u>Depth of Stall Perpendicular to Aisle (feet)</u>	<u>One-Way Aisle Width (feet)</u>	<u>Two-Way Aisle Width (feet)</u>
45°	Standard	8.5	17.5	12.0	20.0
	Compact	8	16.0	12.0	20.0
60°	Standard	8.5	19.0	16.0	20.0
	Compact	8	17.0	15.0	20.0
90°	Standard	8.5	18.0	20.0	20.0
	Compact	8	15.0	20.0	20.0
Parallel	Standard	22.0	7.5	12.0	20.0
	Compact	19.0	7.5	10.0	20.0

Graphic 1365.09.01: "Parking Angles"



(B) Layout and Design.

- (1) All off-street parking or loading facilities shall be designed with appropriate means of vehicular access to a street or an alley in a manner which will least interfere with traffic movement.
- (2) Driveway entrances or exits shall be no closer than 15 feet to an adjoining residential property line or 5 feet to an adjoining non-residential property line or designed in such a manner as to least interfere with traffic movement. No driveway across public property at the right-of-way line of the street shall exceed a width of 22 feet, unless a greater width is specifically approved by the City Engineer. No driveway shall be located closer than 30 feet of the nearest point of the intersection of two streets.
- (3) Connections between parking lots or reservations of land for future such connections may be required at the discretion of the Planning Director.
- (4) Required off-street parking spaces shall be so designed, arranged and regulated so that:
  - (a) Such parking areas are lined or designated to insure the most efficient use of the parking spaces.
  - (b) Individual spaces on lots with 5 percent average slope or greater are provided with anchored bumper guards or wheel guards. Under no circumstances shall parking spaces be provided on lots in excess of 10 percent slope.
  - (c) Parking spaces are unobstructed and have access to an aisle or driveway so that any automobile may be moved without moving another, and so that no maneuvering directly incidental to entering or leaving a parking space shall be on any public right-of-way or walkway, unless otherwise permitted at the direction of the Planning Director.
  - (d) With the exception of drive-through windows and related stacking lanes, All paved portions of all parking spaces and maneuvering aisles shall be physically separated from any wall of a building by a vertical curb, maintained planting strip, and/or other suitable barrier set back a minimum of five (5) feet from any wall of a building.
- (5) Off-street parking spaces may be open to the sky or enclosed in a building. In any instance when a building is constructed or used for parking facilities on the lot, said building shall be treated as any major structure and subject to all requirements thereof.
- (6) All parking lots abutting residential uses or districts, and all parking lots in any district containing more than four (4) spaces shall be subject to the landscaping and screening requirements for such parking lots as set forth in Article 1367, Landscaping and Screening.

(7) Any lighting facilities used to illuminate off-street parking areas shall be so located, shielded and directed upon the parking area in such a manner that they do not reflect or cause glare onto adjacent properties or interfere with street traffic. In no instance shall bare, unshaded bulbs be used for such illumination.

(C) Surfacing and Drainage.

- (1) All open off-street parking areas shall be surfaced with an all-weather, dust-free concrete or asphalt material, and shall be maintained in good condition and free of weeds, dirt, trash and debris; except that, a gravel surface may be used for a period not exceeding six months after the date of granting the Certificate of Occupancy where ground conditions are not immediately suitable for permanent surfacing as specified above.
- (2) A gravel surface in the area of storage or handling may be used permanently in association with industries that handle liquids or chemicals which create a potential hazard if containment should be lost and where absorption into the ground through a loose surface material would eliminate or alleviate such hazard.
- (3) Such parking areas shall be graded and properly drained in such a manner that there will be no free flow of water onto either adjacent property or public sidewalks. Further, any run-off generated by such improved areas shall be disposed of in accordance with the stormwater management ordinance and other City regulations.
- (4) Other surface materials and designs may be utilized when specifically approved by the City Engineer, for purposes of reducing storm water runoff or other environmental and aesthetic considerations.

This ordinance shall be effective upon date of adoption.

FIRST READING:

\_\_\_\_\_  
Mayor

ADOPTED:

FILED:

RECORDED:

\_\_\_\_\_  
City Clerk

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING ARTICLE 1363.04 "SPECIAL REQUIREMENTS" OF THE PLANNING AND ZONING CODE AS IT PERTAINS TO THE NUMBER OF PRINCIPAL STRUCTURES PERMITTED ON A LOT.**

**The Morgantown City Council hereby ordains that Article 1363.04 "Special Requirements" of the City's Planning and Zoning Code is amended as follows (deleted matter struck through; new matter underlined):**

1363.04 SPECIAL REQUIREMENTS.

The following special requirements are established to clarify certain conditions pertaining to the use of lots and access points:

- (A) Structures on a Lot. Only one principal building and its accessory structures may be located on a lot unless development is approved as a planned unit development, ~~or as a shopping center, office park, or research and development center,~~ townhouse dwellings, or multi-family dwellings as permitted in ~~the O-1, B-5, and I-1 districts~~ Table 1331.05.01 "Permitted Land Uses.
- (B) Lot of Record. Any lot recorded or in single ownership at the time of adoption of these regulations shall be permitted to exist in its present dimension.
- (C) Permanent Outdoor Display of Goods. For nonresidential uses in nonresidential zones, a permanent outdoor display of goods shall conform to the required building setback. No display shall be permitted in any public right-of-way.
- (D) Temporary Outdoor Display of Goods. Temporary outdoor display of merchandise may encroach ten (10) feet on the required building setback. No display shall be permitted in any public right-of-way.

This ordinance shall be effective upon date of adoption.

FIRST READING:

\_\_\_\_\_  
Mayor

ADOPTED:

FILED:

RECORDED:

\_\_\_\_\_  
City Clerk

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTION 747.02(a) OF ITS FIRE PROTECTION SERVICE CHARGES CODE, AS THE SAME APPLIES TO THE LEVY AND IMPOSITION OF FIRE PROTECTION SERVICE.

**747.02 LEVY AND IMPOSITION OF FEE.**

(a) There is hereby levied and imposed upon all users of the fire protection service provided by the City, a fee for the continuation, maintenance and improvement of such service. The fee shall be ~~5.80~~ 6.38 cents per square foot of space within each structure, per annum. Structures exceeding three floors shall be charged an additional ~~3.66~~ 4.03 cents per square foot of space above the third floor.

The gross square footage of each structure shall be determined by the duly authorized and designated agents of the City in accordance with the definition of terms in Section 747.01 and the gross square footage measurements for each structure shall then be multiplied by the rates shown above to determine the amount of the fee to be charged against the use of the fire protection service.

This Ordinance shall be effective on July 1, 2013.

FIRST READING:

\_\_\_\_\_  
MAYOR

ADOPTED:

FILED:

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

RECORDED:

**AN ORDINANCE VACATING, ABANDONING AND ANNULING AN APPROXIMATE 50' RIGHT-OF-WAY EXTENDING ALONG A PORTION OF SIXTH STREET AND RUNNING A DISTANCE OF APPROXIMATELY ONE HUNDRED AND NINE FEET IN THE FOURTH WARD OF THE CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA, NOT USED NOR USEFUL FOR STREET PURPOSES.**

WHEREAS, It appears to the Common Council of the City of Morgantown, West Virginia, that a portion of Sixth Street being an approximate 50' wide right-of-way and running a distance of approximately one hundred and nine feet in the Fourth Ward of the City of Morgantown, Monongalia County, West Virginia, and as laid down, designated and dedicated to public use as a street on a map or plat, as shown on the exhibit hereto attached, is not useful for street purposes, is not needed for street purposes, nor for any other public uses and purposes except to reserve and retain sewer and utility rights-of-way and it further appearing that it is in the interests of the City of Morgantown and of the public generally that a portion of Sixth Street being an approximate 50' right-of-way and running a distance of approximately one hundred and nine feet, be vacated, abandoned, and annulled as a public street within said City, and it further appearing that the property of no person, firm or corporation will be injured or damaged thereby, and that the owners of property abutting on said portion of Sixth Street have petitioned the Common Council to vacate, abandon and annul said street.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MORGANTOWN, WEST VIRGINIA, IN REGULAR SESSION ASSEMBLED AS FOLLOWS:

Section 1. That for the reasons hereinbefore set forth that a portion of Sixth Street being an approximate 50' wide right-of-way running a distance of approximately one hundred and nine feet, reserving, however, rights-of-way over the entire width thereof, as shown on the exhibit hereto attached, for storm, sanitary sewers and all other utilities, in the City of Morgantown, West Virginia, is hereby vacated, abandoned, and annulled and from and after the date of the adoption of this ordinance the same shall cease to be a public way or public street within the City of Morgantown, and the easement of the City of Morgantown therein, thereon, and thereover for street purposes is hereby vacated, abandoned and annulled, and all right, titles and interests of the City of Morgantown therein as an easement for street purposes are hereby expressly released.

Section 2. That as set forth in Section 1 of this ordinance the easement and right-of-way of the City of Morgantown for street purposes on and over a portion of Sixth Street being an approximate 50' wide right-of-way and running a distance of approximately one hundred and nine feet, as shown on the exhibit hereto attached, is hereby vacated, abandoned and annulled.

Section 3. That upon the adoption of this Ordinance the City Clerk of the City of Morgantown shall cause a duly certified copy thereof to be recorded in the appropriate deed book in the office of the Clerk of the County Commission of Monongalia County, West Virginia, as evidence of the vacating, abandoning and annulling of said portion of Sixth Street being an approximate 50' wide right-of-way and running a distance of approximately one hundred and nine feet for public uses and public purposes as a public street or public way within the City of Morgantown, and said Clerk shall also file with said certified copy of said ordinance an exhibit showing the location of said street so vacated, abandoned and annulled.

Section 4. Prior to adoption of this ordinance the adjacent land owners shall pay to the City Clerk the cost of this proceeding.

Section 5. This ordinance shall be effective from the date of its adoption.

FIRST READING:

\_\_\_\_\_  
MAYOR

ADOPTED:

FILED:

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

RECORDED:

STATE OF WEST VIRGINIA

COUNTY OF MONONGALIA, to-wit:

I, \_\_\_\_\_, a Notary Public of said County do hereby certify that Linda L. Little and \_\_\_\_\_, whose names are signed to the foregoing document, bearing the \_\_\_\_\_ day of \_\_\_\_\_, 2013, has this day acknowledged the same before me in my said County.

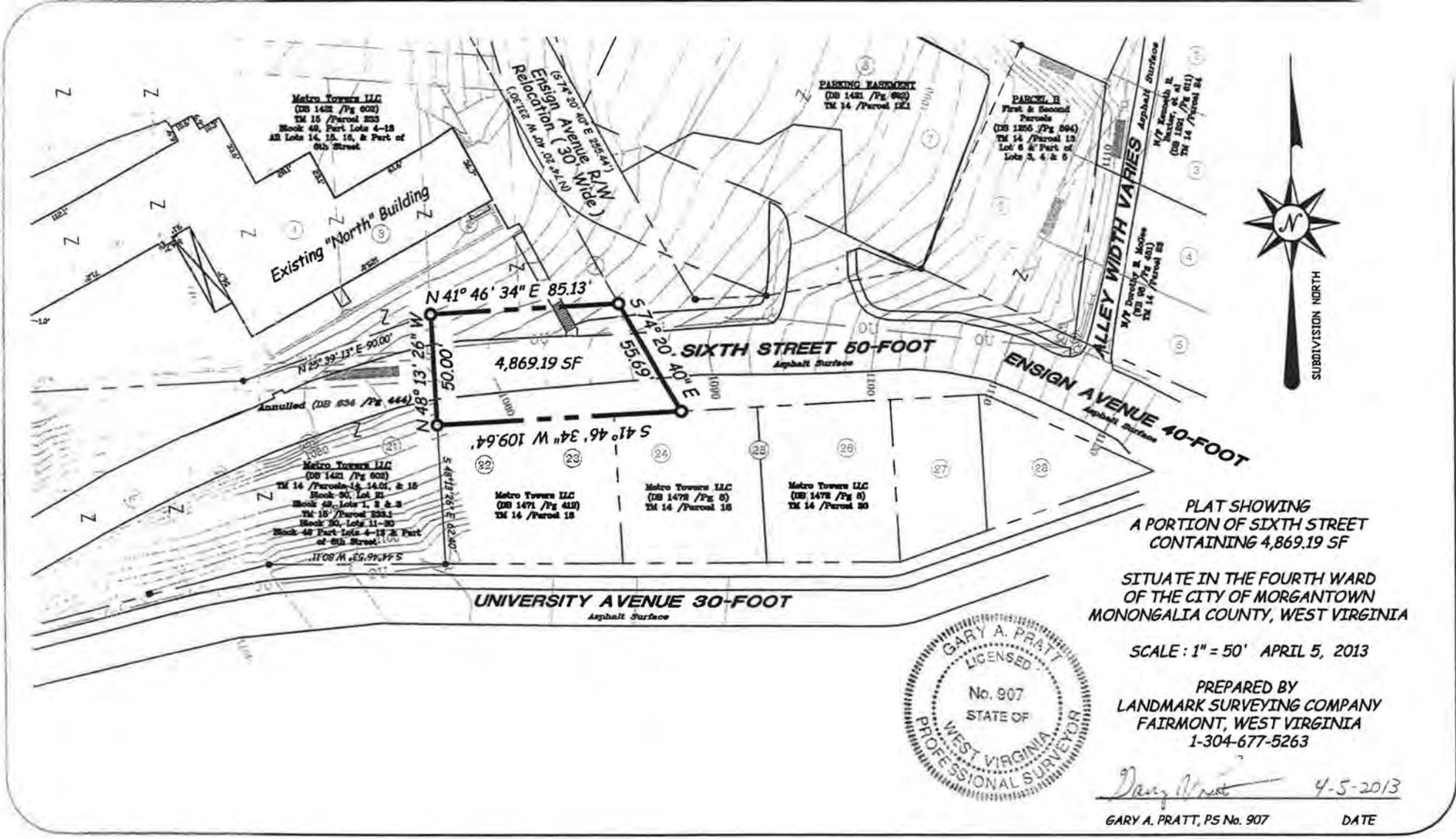
Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

My Commission expires \_\_\_\_\_

\_\_\_\_\_  
Notary Public

This document was prepared by:

Stephen R. Fanok, Esquire  
389 Spruce Street  
Morgantown, WV 26505



PLAT SHOWING  
 A PORTION OF SIXTH STREET  
 CONTAINING 4,869.19 SF  
 SITUATE IN THE FOURTH WARD  
 OF THE CITY OF MORGANTOWN  
 MONONGALIA COUNTY, WEST VIRGINIA

SCALE: 1" = 50' APRIL 5, 2013

PREPARED BY  
 LANDMARK SURVEYING COMPANY  
 FAIRMONT, WEST VIRGINIA  
 1-304-677-5263



*Gary A. Pratt* 4-5-2013  
 GARY A. PRATT, PS No. 907 DATE

AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING THE EXECUTION OF AN INTER-GOVERNMENTAL AGREEMENT BY AND BETWEEN THE CITY AND THE BOARD OF EDUCATION OF THE COUNTY OF MONONGALIA, OUTLINING THE TERMS AND CONDITIONS OF THE CITY'S PURCHASE OF PROPERTY KNOWN AS THE WOODBURN ELEMENTARY SCHOOL.

The City of Morgantown hereby ordains that its City Manager is authorized to execute the Intergovernmental Agreement hereto attached and to proceed with the acquisition of the Woodburn Elementary School property on behalf of the City of Morgantown, as set forth in the Intergovernmental Agreement.

FIRST READING:

\_\_\_\_\_  
MAYOR

ADOPTED:

FILED:

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

RECORDED:

## INTERGOVERNMENTAL AGREEMENT

THIS AGREEMENT, dated this \_\_\_ day of May, 2013, by and between THE CITY OF MORGANTOWN (CITY) and THE BOARD OF EDUCATION OF THE COUNTY OF MONONGALIA (BOARD).

**WHEREAS**, W. Va. Code § 8-23-3 authorizes public agencies to enter into written agreements with one another for joint or cooperative action; and

**WHEREAS**, in the sound judgment of the BOARD, the needs of the community require the use of the property known as Woodburn Elementary School, which is not needed for school purposes, located at 918 Fortney Street, Morgantown, West Virginia 26505, for charitable, economic development and/or community use; and

**WHEREAS**, the BOARD has determined that the CITY is an organization well suited to meet charitable, economic development and community needs, and that CITY's mission to meet charitable, economic development and community needs will be enhanced through the use and acquisition of the hereinafter-described property.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

**1. PURPOSE:** The purpose of this Agreement is to facilitate the charitable, economic development and community use through the transfer of the real property known as Woodburn Elementary School (the Property") from the BOARD to the CITY. BOARD hereby agrees to sell to CITY and CITY hereby agrees to purchase from BOARD, for the Purchase Price and upon the terms and conditions specified herein all of those certain lots or parcels of real estate which are located, situate and being in Fifth Ward, Morgan District, City of Morgantown, Monongalia County, West Virginia, collectively known and identified as the "Woodburn Elementary School", being all of Tax Map 25, Parcels 525 and 362, together with all buildings, structures, fixtures, and other improvements thereon and all appurtenances pertaining thereto (the "Property"), as more particularly bound and described in the following deeds of record in the Office of the Clerk of the County Commission of Monongalia County:

(i) **Deed Book 104, Page 180**, dated July 14, 1909, recorded August 12, 1909, from Warren G. Smith and Sarah J. Smith, husband and wife, to The Board of Education of Morgantown School District, conveying a small part dedicated as and for public streets;

(ii) **Deed Book 184, page 346**, dated November 22, 1922, recoded November 29, 1922, from William A. Tucker and Rebecca P. Tucker, husband and wife, Ulysses J. Courtney and Mary J. Courtney, husband and wife, to the Board of Education of Morgantown School District, conveying Lots Nos. 3, 4, 5, 6 and 7 in Block No. 1 and Lots Nos. 2, 3 and 4 in Block No. 2 in the Smith, Courtney, Tucker Addition.

(iii) **Deed Book 185, page 237**, dated October 17, 1922, recorded January 11, 1923, from Walter W. Hammond, Leah Ruth Hammond, and Isa May Reeder and W. P. Reeder, husband and wife, to the Board of Education of Morgantown School District, conveying their undivided one-fourth interests in Lots Nos. 1, 5, 6, and 7 in Block No. 2 in the Smith, Courtney and Tucker Addition;

(iv) **Deed Book 185, page 240**, dated January 11, 1923, recorded 11, 1923, from William S. John, Special Commissioner for Mary Alice Hammond, to the Board of Education, Morgantown School District, conveying an undivided one-fourth interest of Mary Alice Hammond, infant, in Lots Nos. 1, 5, 6, and 7 in Block No. 2 in the Smith, Courtney and Tucker Addition;

(v) **Deed Book 187, page 364**, dated March 24, 1923, recorded April 11, 1923, from James M. Shanks and M. Belle Shanks, husband and wife, to the Board of Education of Morgantown School District, conveying all of Lots Nos. 1, 2, 3, 4, and 5 in the Woodburn Addition;

(vi) **Deed Book 188, page 199**, dated December 26, 1922, recorded May 4, 1923, from B. T. Gibson and May Gibson, husband and wife, and J. C. Gibson and Lula Gibson, husband and wife, (the said B. T. Gibson and J. C. Gibson partners doing business as the Gibson Lumber Company), to the Board of Education of Morgantown School District, conveying all of Lots 1 and 2 in Block No. 1 of the Smith, Courtney and Tucker addition to East Morgantown.

**2. DURATION:** The term of this agreement shall be from July 1, 2013, to July 1, 2014, unless terminated on an earlier date, as hereinafter provided. This agreement shall be automatically renewed for succeeding fiscal years until the manner of financing is complete, unless a party hereto provides written notice prior to June 30 of the then current fiscal year to the remaining party of an intent not to renew for any additional period.

**3. ADMINISTRATION:** The CITY shall be responsible for the overall coordination and administration of the project.

**4. MANNER OF FINANCING:** The cost of the project is estimated to be the total purchase price (the "Purchase Price") for the Property of Four Hundred Ninety Thousand Dollars (\$490,000.00), payable in cash or other immediately available funds, as follows:

(i) Beginning on July 1, 2014, and on or before July 1 of each calendar year thereafter for six (6) successive calendar years, CITY shall pay BOARD seven (7) installments of Seventy Thousand Dollars and No Cents (\$70,000.00) each. Said installments shall be applied to the unpaid balance of the Purchase Price only.

(ii) CITY will add the BOARD as an additional insured for liability purposes for claims incurred during the Financing Period.

(iii) In the event CITY fails to make a payment as described above, or shall otherwise default in any way as described in this agreement, BOARD shall notify CITY, in writing at the address listed below in NOTICE, of such default. CITY shall have 10 days to cure any default. In the event CITY fails to cure its default, the Property shall automatically revert to BOARD and CITY shall execute a deed for the PROPERTY to BOARD. All monies paid to BOARD shall remain the sole property of the BOARD.

**5. FREE OF ENCUMBRANCES:** BOARD hereby warrants, represents and covenants that BOARD is and will be at the time of the Closing, the lawful owner of full marketable fee simple title to the Property and that the Property will be conveyed to CITY at the Closing free and clear of any and all liens and leases, but subject to all easements, rights of way, building restriction lines, covenants, conditions and restrictions of record.

**6. SUBSEQUENT SALE OF ALL OR PART OF PROPERTY:** (a) CITY acknowledges that the conveyance of the Property to CITY is made pursuant to W. Va. Code Section 18-5-7b. As such, if the CITY or its assigns ceases to use the Property for charitable, economic development or other community use within 5 years of the Closing, as defined below, the Property shall revert to the BOARD. The BOARD acknowledges that all or a portion of the Property may be transferred or sold in connection with the development of housing for low and reduced income purchasers, through such entities qualified to provide services under the provisions of the Internal Revenue Service under the provisions of 26 United State Code section 501(c)(3) through (8) inclusive, (19) or (23). To the extent all or a portion of the property is sold for such purposes, the BOARD agrees that such transfer will not trigger a reverter of the property.

(b) After the 5 year period stated in Paragraph 6(a) above, during the following period of 5 years, CITY hereby warrants and agrees that if CITY sells all of the Property or any portion thereof to an entity that does not possess non-profit, tax-exempt status, such tax status having been granted by the Internal Revenue Service under the provisions of 26 United State Code section 501(c)(3) through (8) inclusive, (19) or (23), CITY shall pay to BOARD fifty percent (50%) of all gross proceeds generated from said sales in excess of the Purchase Price of \$490,000.00. This paragraph shall be binding on the CITY's successors and assigns, and shall be considered a covenant running with the land.

The provisions of this Paragraph 6 shall survive the Closing.

**7. CLOSING:** The Closing shall occur on or before July 1, 2013, (the "Closing Date") unless CITY and BOARD otherwise agree. At the Closing, BOARD shall deliver to CITY the following items, which items shall be in form and substance reasonably satisfactory to CITY: (i) a properly executed and acknowledged special warranty deed in recordable form conveying marketable title to the Property to CITY subject to all easements, rights of way, building restriction lines, covenants, conditions and restrictions of record; (ii) an owner's affidavit as to mechanic's liens in ALTA standard form; and (iii) such other documents as are required to be

delivered by BOARD to CITY on or before the Closing pursuant to the terms of this Agreement or as are reasonably necessary or appropriate to the consummation of this transaction.

In the event the Closing occurs prior to July 1, 2013, CITY agrees that BOARD may need until June 30, 2013, to remove all of its personal property from the Property. BOARD shall have the right to enter the Property at such times as necessary after the Closing and on or before June 30, 2013, to remove said property.

**8. CLOSING COSTS:**

(i) BOARD shall pay (a) for the preparation of the deed of conveyance and any other documents necessary to convey the Property to CITY, and (b) for BOARD's legal fees.

(ii) CITY shall pay (a) for examination of title, environmental inspection reports, soil tests, structural inspections, due diligence and feasibility inspections and studies, and any other inspections or tests CITY desires, (b) for the cost of recording all documents, except for releases of liens, and (c) for CITY's legal fees.

**9. INSPECTION PERIOD:** Commencing on the execution date of this Agreement, CITY shall have thirty (30) days (the "Inspection Period") to perform due diligence and to determine the sufficiency of BOARD's title to the Property.

**10. TITLE REVIEW:**

(i) CITY shall have until the expiration of the Inspection Period to examine title to the Property and obtain, examine and review a commitment from a title insurance company to issue an owner's title insurance policy, in the amount of the Purchase Price, showing title to the Property as being good, record, and marketable and indefeasibly vested in BOARD, subject only to permitted title exceptions (the "Commitment").

(ii) In the event CITY fails to notify BOARD of any adverse title exceptions prior to the expiration of the Inspection Period, CITY shall be conclusively deemed to have approved the title to the Property as set forth in the Commitment, any and all exceptions, items and matters referenced in the Commitment shall be conclusively deemed to be Permitted Title Exceptions.

(iii) In the event CITY notifies BOARD of an adverse title exception prior to the expiration of the Inspection Period, BOARD shall have ten (10) days to cure any such adverse title exception. In the event BOARD notifies CITY that BOARD is unable to cure, or declines to cure any such adverse title exception, CITY shall have five (5) days from the receipt of said notice to notify BOARD of its intent to: (a) proceed with the transaction contemplated hereby without a reduction in Purchase Price; or (b) terminate this Agreement. Upon such a termination, CITY shall (a) return to BOARD all due diligence and feasibility reports; and (b) correct and repair any and all damage to the Property caused by CITY's due diligence and feasibility inspections and studies.

(iv) By the written mutual consent of the Parties, the Inspection Period may be extended to cure any adverse title exceptions raised under this Section.

**11. AS-IS PURCHASE AND SALE:** CITY shall accept the Property in its current and present condition, AS-IS, with all defects and faults and without warranty or representation except as is otherwise set forth herein. CITY acknowledges that all liability for hazards associated with the Property, known or unknown, are assumed by the CITY. BOARD shall inform CITY upon executing of this agreement of all known or suspected hazards associated with the Property.

**12. POSSESSION:** CITY shall be entitled to exclusive possession of the Property at Closing. In the event of a Closing prior to July 1, 2013, CITY acknowledges that BOARD may need until June 30, 2013, to remove all of its personal property from the Property. BOARD shall have the right to enter the Property at such times as necessary after the Closing and on or before June 30, 2013, to remove said property.

**13. ADJUSTMENTS:** Ad valorem real estate and personal property taxes on the Property for the current calendar year and any other charges related to the Property shall be paid and prorated at the Closing, effective as of the Closing Date.

**14. COMMISSIONS:** CITY and BOARD represent that they have dealt with no real estate broker or agent in connection with this transaction, and that there is no such broker or agent involved in this transaction who would be entitled to any commission or fee. CITY hereby agrees to indemnify and hold harmless BOARD from any and all claims for brokerage commissions or fees due any broker or agent allegedly representing the CITY or BOARD or claiming to be entitled to any such commission or fee arising out of this transaction.

**15. CITY'S DEFAULT:** If CITY defaults in performing any of CITY's obligations under this Agreement for any reason other than BOARD's default or a permitted termination hereof by CITY, then the contract shall be ruled void.

**16. BOARD'S DEFAULT:** If BOARD defaults in performing any of BOARD's obligations under this Agreement for any reason other than CITY's default or a permitted termination hereof, then CITY may terminate this Agreement, subject to CITY's fulfillment of its obligations to: (a) return to BOARD all due diligence reports; and (b) correct and repair any and all damage to the Property caused by CITY's due diligence and feasibility inspections and studies.

**17. ENTIRE AGREEMENT/GOVERNING LAW:** This Agreement, together with all Exhibits hereto, constitutes the entire agreement of the parties hereto and cannot be amended or varied without the express written agreement of the parties, provided, that Paragraph 4 and Paragraph 6 shall survive the closing and be binding upon all parties hereto, their successors and assigns. This Agreement shall be governed and construed according to the laws of the State of West Virginia.

**18. SUCCESSORS:** This Agreement and the terms and provisions hereof shall inure to the benefit of and be binding upon the parties hereto and their respective legal representatives, successors and assigns wherever the context so requires or admits.



one and the same instrument, and in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

**25. SURVIVAL:** Each and every representation, warranty and covenant of CITY and BOARD set forth in this Agreement, to the extent the same has not been nor cannot be fully satisfied or performed at or before the date of Closing, shall survive Closing and continue in full force and effect, and bind CITY or BOARD, as applicable.

**26. ASSIGNMENT:** At any time prior to Closing, BOARD may assign all its rights, title and interest in this Agreement. CITY shall not have the right to assign this Agreement.

**27. RULE OF CONSTRUCTION:** The parties hereto acknowledge that each party and its counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

**28. HEADINGS:** The captions or headings used in this Agreement are for convenience of reference only and shall not be considered in interpreting this Agreement.

**29. AMENDMENTS:** This agreement may be amended or modified by written addendum thereto, executed by each party.

THE BOARD OF EDUCATION OF THE COUNTY OF  
MONONGALIA,  
a West Virginia statutory corporation

By: \_\_\_\_\_  
Barbara Parsons, its President

THE CITY OF MORGANTOWN,  
a West Virginia political subdivision

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

STATE OF WEST VIRGINIA,  
COUNTY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2013, by \_\_\_\_\_, the President of **THE BOARD OF EDUCATION OF COUNTY OF MONONGALIA**, a West Virginia statutory corporation, on behalf of said statutory corporation under authority duly granted.

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

STATE OF WEST VIRGINIA,  
COUNTY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2013, by \_\_\_\_\_, as \_\_\_\_\_ for **THE CITY OF MORGANTOWN**, a West Virginia political subdivision, on behalf of said political subdivision under authority duly granted.

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

APPROVED AS TO FORM BY  
THE ATTORNEY GENERAL

By \_\_\_\_\_

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

**AN ORDINANCE ESTABLISHING THE RATES OF COMPENSATION FOR THE CITY OF MORGANTOWN EMPLOYEES FOR THE FISCAL YEAR 2013-2014.**

WHEREAS, the City of Morgantown is of the opinion it should adjust the rates of compensation for City of Morgantown employees for the fiscal year 2013-2014, as reflected on the attached exhibit:

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF MORGANTOWN THAT:**

1. Employees of the City of Morgantown designated by title or position in the attached exhibit shall receive the base salary or compensation for fiscal year 2013-2014, as set forth in the attached exhibit.
2. That the attached exhibit shall be considered as the Pay Plan for the City of Morgantown and shall replace Appendix A of the City's Personnel Rules in its entirety.
3. That where there may be errors, omissions, or other irregularities of pay for a given position, the City Manager shall be authorized and directed to correct such errors.

This ordinance for said wages and salaries shall be for fiscal year 2013-2014 and thereafter until amended or repealed and its effective date of operation shall be on and after July 1, 2013.

Any ordinance or the provisions of any ordinance heretofore passed by City of Morgantown and now in effect which is in conflict with the provisions of this ordinance is hereby repealed insofar as it conflicts with the provisions hereof.

This Ordinance shall be effective July 1, 2013.

FIRST READING:

ADOPTED:

FILED:

RECORDED:

\_\_\_\_\_  
MAYOR

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

**APPENDIX A  
CITY PAY PLAN**

<b>TITLE</b>	<b>Base Hourly Rate</b>
<b>FLSA Exempt Employees:</b>	
City Manager	60.10
Assistant City Manager of Operations	45.67
Police Chief	42.60
Airport Director	41.68
City Attorney	41.19
Finance Director	38.82
Fire Chief	38.82
Public Works Director	38.82
Director of Development Services	38.82
Assistant City Attorney	31.95
City Clerk	29.43
Community Development Administrator	28.06
Assistant Public Works Director	27.65
Treasury Manager - Full Time	26.52
Budget & Accounting Manager	26.52
Principal Planner	26.44
Assistant City Engineer	26.41
Chief Code Enforcement Officer	25.78
Staff Engineer	23.79
Deputy Airport Director	21.52
Municipal Court Clerk	19.14
Communications Manager	18.36
Municipal Court Judge - Part Time	21,975.92
<b>FLSA NonExempt Employees:</b>	
Treasury Manager - Part Time	26.52
Superintendent II	21.21
Information Technology Specialist II	19.97
Commercial Building Inspector I	19.41
Commercial Building Inspector II	19.41
Commercial Building Inspector III	19.41
Electrical Inspector I	19.41
Electrical Inspector II	19.41
Technician III	19.41
Equipment Operator	18.64
Superintendent I	18.64
Urban Landscape Superintendent	18.64

Master Mechanic	17.63
Executive Assistant for City Manager	16.94
Accounting Clerk IV	16.69
Truck Driver	16.69
Technician II/Maintenance	16.69
Executive Secretary	16.69
Personnel Specialist	16.69
Information Technology Specialist I	16.36
Residential Building Inspector I	15.87
Residential Building Inspector II	15.87
Residential Building Inspector III	15.87
Housing Inspector	15.87
Property Maintenance Inspector	15.87
Mechanic	15.87
Secretary III	15.16
Building Permit Technician	15.16
Rental Housing Technician	15.16
Accounting Clerk III	15.16
Technician II	15.16
Records Supervisor	15.16
Deputy Clerk	14.52
Accounting Clerk II	14.43
Secretary II	14.43
Skilled Laborer	14.43
Accounting Clerk I	13.77
Secretary I	13.77
Laborer	13.77
Clerk	10.80

Fire Department (based on 2912 Hours/Year)

Captain	14.74
Lieutenant	13.65
FFFC	12.02
FF	11.32
Apprentice FFII	11.01
Apprentice FFI	10.83
Recruit	10.59
Probationary FF	10.46

\*Fire Department (based on 2080 Hours/Year)

Captain	23.62
Lieutenant	21.83
FFFC	19.24

Police Department

Captain	27.19
Lieutenant	23.60
First Sergeant	21.85
Sergeant	20.84
Police Officer First Class	19.20
Police Officer	18.17
Probationary Police Officer	16.36

In addition to the above rates, all employees as of December 1<sup>st</sup>, whether active or on leave, will receive a \$60.00 gross enhancement paycheck (approximately \$50.00 after required deductions).

**RESOLUTION**

*WHEREAS, City Administration has presented to Morgantown City Council a 2013-2014 budget for the Morgantown Municipal Airport Fund and Airport Improvement Fund and has requested that City Council review and approve the same;*

*WHEREAS, the budget in question, a copy of which is hereto attached, appears to not only be in proper form, but also, acceptable as to income and expenditures set forth therein;*

*WHEREAS, City Council is of the opinion that it should approve said budget.*

*NOW, THEREFORE, BE IT RESOLVED by the City of Morgantown this \_\_\_\_\_ day of \_\_\_\_\_, 2013, that the 2013-2014 Morgantown Municipal Airport Fund and Airport Improvement Fund Budget hereto attached is approved.*

\_\_\_\_\_  
*Mayor*

\_\_\_\_\_  
*City Clerk*

**MORGANTOWN MUNICIPAL AIRPORT  
2014 PROPOSED OPERATING BUDGET**

	ACTUAL FY2009	ACTUAL FY2010	ACTUAL FY2011	ACTUAL FY2012	Adopted BUDGET FY2013	PROPOSED BUDGET FY2014
<b>REVENUE:</b>						
<b>560 AIRPORT OPERATIONS</b>						
<u>Rents</u>						
346.04 Office Rent	170,714	172,212	196,341	206,182	206,991	212,425
346.06 Restaurant Rent	6,000	10,672	13,100	16,800	17,400	18,000
385.02 Car Rental	32,816	36,697	36,328	35,859	38,180	38,180
346.02 Hangar Rent	84,330	103,185	96,622	94,086	110,531	118,377
346.03 Byers Hangar Rent	900	900	1,065	1,305	900	900
	<b>294,759</b>	<b>323,666</b>	<b>343,456</b>	<b>354,232</b>	<b>374,003</b>	<b>387,882</b>
<u>Parking</u>						
342.14 Meters	-	-	-	-	-	-
342.15 Car Rental Parking	3,680	4,000	3,840	5,399	3,840	4,440
	<b>3,680</b>	<b>4,000</b>	<b>3,840</b>	<b>5,399</b>	<b>3,840</b>	<b>4,440</b>
<u>Other</u>						
369.13 AIP (Capital Asset Transfers)***	583,909	1,392,751	878,937	586,650	-	-
346.11 Arpt. Advertising	9,296	9,296	7,505	3,514	6,296	6,243
346.05 Airline Landing	33,984	30,705	22,484	20,771	30,000	30,607
342.16 Vending Machines	4,300	7,923	5,428	7,717	6,000	6,500
366.03 Marketing Grant	10,000	10,000	15,000	15,000	15,000	15,000
380.00 Interest	363	67	48	30	50	50
399.04 Miscellaneous	6,146	6,539	12,935	9,426	10,000	10,000
399.07 Grant administration	5,438	7,073	1,885	-	-	-
	<b>653,435</b>	<b>1,464,354</b>	<b>944,222</b>	<b>643,108</b>	<b>67,346</b>	<b>68,400</b>
<b>TOTAL AIRPORT OPERATIONS</b>	<b>951,875</b>	<b>1,792,020</b>	<b>1,291,518</b>	<b>1,002,739</b>	<b>445,189</b>	<b>460,722</b>
<b>562 FBO OPERATIONS</b>						
345.10 Fuel Sales - Jet A	1,175,440	968,179	1,277,723	1,590,160	1,755,000	1,494,000
345.13 Fuel Sales - Military	696,393	155,003	144,273	235,213	143,000	291,000
345.14 Fuel Sales - Avgas	325,276	346,539	332,119	332,758	392,000	315,000
345.15 Fuel Sales Adjustment	(10,948)	-	-	-	-	-
345.18 Sales - Oil & Prist	854	1,285	732	787	1,000	1,000
345.20 Catering	320	28	92	66	200	200
345.21 Pilot Supplies	930	1,525	1,073	1,075	1,300	1,300
346.05 Landing & Parking Fees	43,298	44,116	54,840	54,151	50,000	46,000
346.09 De-icing	7,990	34,029	30,065	24,384	36,000	37,500
399.04 Misc (callouts, fbo fees, etc)	5,706	7,913	7,085	8,313	7,500	7,500
380.00 Interest	28	20	26	31	50	50
	<b>2,245,287</b>	<b>1,558,637</b>	<b>1,848,028</b>	<b>2,246,938</b>	<b>2,386,050</b>	<b>2,193,550</b>
<b>TOTAL FBO OPERATIONS</b>	<b>2,245,287</b>	<b>1,558,637</b>	<b>1,848,028</b>	<b>2,246,938</b>	<b>2,386,050</b>	<b>2,193,550</b>
369.00 Contrib from Other Funds	-	-	-	-	-	-
<b>TOTAL REVENUE</b>	<b>3,197,161</b>	<b>3,350,658</b>	<b>3,139,546</b>	<b>3,249,677</b>	<b>2,831,239</b>	<b>2,654,272</b>

		ACTUAL	ACTUAL	ACTUAL	ACTUAL	Adopted	PROPOSED
		FY2009	FY2010	FY2011	FY2012	BUDGET	BUDGET
						FY2013	FY2014
<b>EXPENDITURES:</b>							
<b>561</b>	<b>AIRPORT OPERATIONS</b>						
	<u>Personnel Services:</u>						
03.00	Salaries and Wages	217,553	222,489	225,333	217,546	270,737	205,765
04.00	Social Security	13,731	14,463	14,477	13,574	17,406	13,377
05.00	Health and Life Insurance	70,955	79,769	89,008	88,515	97,536	61,260
07.00	Retirement	16,631	18,209	23,856	26,242	33,155	28,740
08.00	Medicare	3,229	3,382	3,386	3,174	4,071	3,129
10.00	Overtime	5,946	11,784	9,814	4,571	10,000	10,000
10.03	Vac & SL Adjustments***	8,166	(9,164)	1,089	3,067	-	-
		<b>336,211</b>	<b>340,932</b>	<b>366,963</b>	<b>356,689</b>	<b>432,905</b>	<b>322,271</b>
	<u>Contracted Services:</u>						
11.00	Telephone	10,978	7,855	9,461	8,697	8,000	8,000
13.01	Utilities/Electric	77,035	86,731	78,547	80,599	80,000	80,000
13.02	Utilities/Gas	50,219	24,206	28,030	30,702	25,000	25,000
13.03	Utilities/Water	3,184	4,561	3,029	5,035	4,500	4,500
13.09	Utilities/Storm Sewer	6,155	7,712	8,951	10,679	9,000	9,000
14.00	Travel & Training	2,285	1,574	3,063	9,093	4,000	1,500
15.00	Building Maintenance	24,454	22,614	9,786	15,759	25,000	20,000
15.03	Hangar Maintenance	635	-	74	-	5,000	10,000
15.20	Airfield Maintenance	18,742	13,791	43,240	59,257	15,000	15,000
16.00	Equipment Maintenance	16,537	22,337	33,392	12,914	20,000	14,000
17.00	Vehicle Maintenance	10,387	9,754	17,381	12,714	5,000	9,000
18.00	Postage	-	-	194	267	300	300
20.00	Advertising	19,743	19,678	29,915	32,710	25,000	20,000
22.00	Dues & Subscriptions	702	745	415	667	1,000	1,000
23.00	Professional Services	-	130	-	-	-	-
24.00	Audit Costs	2,000	2,000	2,200	2,300	2,250	2,300
26.00	Workers Compensation	6,324	3,874	6,315	5,712	5,410	5,302
26.01	Property & Liability Insurance	38,048	37,883	41,688	31,537	39,000	38,832
26.02	Unemployment Compensation	-	1,355	-	-	-	-
30.00	Contracted Services	82,075	28,233	21,769	28,441	24,000	24,000
31.00	Fire Service Fees	5,711	5,711	3,526	5,711	5,711	6,283
32.00	Bank Charges	-	-	-	-	-	-
48.00	Administrative Fee	10,000	10,000	10,000	10,000	10,000	10,000
		<b>385,212</b>	<b>310,744</b>	<b>350,976</b>	<b>362,794</b>	<b>313,171</b>	<b>304,017</b>
	<u>Commodities:</u>						
40.12	Hand Tools	299	410	113	-	500	500
41.01	Office Supplies	4,131	2,502	4,145	2,299	3,000	3,000
41.05	Janitorial Supplies	5,097	3,972	4,415	3,658	5,000	9,000
41.20	Concession Supplies	7,839	4,689	3,742	3,593	4,000	4,000
43.00	Vehicle Supplies	8,679	10,460	4,377	(167)	5,000	5,000
45.00	Uniforms	2,863	2,505	2,702	90	1,500	5,200
		<b>28,909</b>	<b>24,538</b>	<b>19,494</b>	<b>9,473</b>	<b>19,000</b>	<b>26,700</b>

	ACTUAL FY2009	ACTUAL FY2010	ACTUAL FY2011	ACTUAL FY2012	Adopted BUDGET FY2013	PROPOSED BUDGET FY2014
<u>Capital Outlay:</u>						
56.00	-	-	-	-	-	-
59.02	1,112	6,545	-	-	3,000	-
65.00	1,007,670	1,048,289	1,074,795	1,092,626	-	-
58.00	-	-	-	-	-	-
72.00	-	-	18,428	17,908	17,328	16,674
	<b>1,008,782</b>	<b>1,054,834</b>	<b>1,093,223</b>	<b>1,110,534</b>	<b>20,328</b>	<b>16,674</b>
<u>Contributions:</u>						
00.00	-	-	-	-	464	8
	-	-	-	-	<b>464</b>	<b>8</b>
<b>TOTAL AIRPORT OPERATIONS</b>	<b>1,759,114</b>	<b>1,731,048</b>	<b>1,830,656</b>	<b>1,839,490</b>	<b>785,868</b>	<b>669,670</b>
<b>563</b>	<b>FBO OPERATIONS</b>					
<u>Personnel Services:</u>						
03.00	174,990	183,803	188,578	153,979	193,038	212,254
04.00	11,531	12,208	12,597	10,398	12,588	13,780
05.00	85,698	94,308	100,263	106,218	97,536	91,890
07.00	15,121	16,501	20,366	18,659	23,979	29,604
08.00	2,679	2,855	2,946	2,432	2,944	3,223
10.00	11,927	15,214	18,132	13,306	10,000	10,000
	<b>301,946</b>	<b>324,889</b>	<b>342,882</b>	<b>304,992</b>	<b>340,085</b>	<b>360,751</b>
<u>Contracted Services:</u>						
11.00	7,678	7,546	7,997	7,094	8,000	8,000
14.00	909	2,710	542	1,292	3,000	3,000
16.00	4,565	4,433	6,932	4,799	2,500	5,000
17.00	-	-	-	-	-	-
18.00	-	-	-	32	-	-
19.02	18,000	16,500	9,750	-	-	38,855
26.00	4,193	5,355	6,953	7,252	7,357	10,381
26.01	11,306	12,020	18,030	21,147	21,200	19,089
26.02	6,500	4,118	6,509	-	-	-
30.00	2,538	2,238	2,469	2,388	2,400	2,400
32.00	48,176	42,474	41,834	40,984	44,000	35,000
	<b>103,864</b>	<b>97,393</b>	<b>101,016</b>	<b>84,988</b>	<b>88,457</b>	<b>121,725</b>
<u>Commodities:</u>						
41.01	1,919	1,221	2,231	1,598	2,000	1,750
41.05	-	-	-	224	-	-
41.21	992	1,268	42	172	-	-
46.10	1,305,680	695,576	1,014,614	1,357,023	1,300,000	1,222,000
46.12	252,623	260,005	301,854	232,686	280,000	239,000
46.15	9,749	21,801	14,092	23,369	15,000	17,000
46.20	1,642	971	882	894	1,000	1,000
46.21	2,123	987	543	774	1,000	1,000
	<b>1,574,728</b>	<b>981,828</b>	<b>1,334,258</b>	<b>1,616,740</b>	<b>1,599,000</b>	<b>1,481,750</b>

	ACTUAL FY2009	ACTUAL FY2010	ACTUAL FY2011	ACTUAL FY2012	Adopted BUDGET FY2013	PROPOSED BUDGET FY2014
<u>Capital Outlay:</u>						
59.02 Equipment	-	-	-	-	-	-
<u>Contributions:</u>						
65.00 <i>Depreciation***</i>	3,724	-	-	-	-	-
65.10 <i>Amortization***</i>	5,825	5,825	(1,843)	5,825	-	-
66.00 <i>Contributions to AIP***</i>	-	-	-	-	-	-
	<b>9,549</b>	<b>5,825</b>	<b>(1,843)</b>	<b>5,825</b>	<b>-</b>	<b>-</b>
<b>TOTAL FBO OPERATIONS</b>	<b>1,990,087</b>	<b>1,409,935</b>	<b>1,776,313</b>	<b>2,012,545</b>	<b>2,027,542</b>	<b>1,964,226</b>
Non Expense Line Budget Items -						
Contingency Net to Contingency						
CLT Capital Lease Principal	-	-	-	-	17,829	20,376
<b>TOTAL EXPENDITURES</b>	<b>3,749,201</b>	<b>3,140,983</b>	<b>3,606,969</b>	<b>3,852,035</b>	<b>2,831,239</b>	<b>2,654,272</b>
<b>EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES (Accounting Basis)</b>	<b>(552,039)</b>	<b>209,675</b>	<b>(467,423)</b>	<b>(602,358)</b>		
Accounting Basis Adjustments above CLT Capital Lease Principal	441,476	(347,801)	195,104	514,868		
	-	-	(16,131)	(16,131)		
<b>EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES (Budgetary Basis)</b>	<b>(110,563)</b>	<b>(138,126)</b>	<b>(288,450)</b>	<b>(103,621)</b>	<b>(0)</b>	<b>0</b>

\*\*\*NOTE: Line items above, denoted in italics and "\*\*\*", are non-budgetary, accounting related, lines that have been provided for informational purposes only. These lines may be utilized to review for the overall financial condition of the airport, but are not added or subtracted for budgetary considerations. A reconciliation from Accounting Basis to Budgetary Basis has been provided for comparison purposes.

Morgantown Municipal Airport  
 Airport Improvement Fund  
 Proposed Budget for Fiscal Year 2014

Revenues

94.94	FAA 3513	Terminal Renovation	1,340,000
94.94	State 3513		149,000

1,489,000

94.940.341.00	PFC		43,900
94.940.380	Interest		50
94.940.369.00	Contribution From Airport Fund		-

43,950

TOTAL REVENUES

1,532,950

Expenditures

94.941	Grant 3513/FAA and State		1,489,000
94.941	Local Match/PFC		40,000
94.941	Local Match/Capital Outlay		-
94.941	Contingency		3,950

1,532,950

Total Expenditures

EXCESS/(DEFICIENCY)

-

FUND BALANCE BEGINNING

-

FUND BALANCE ENDING

-

**RESOLUTION**

*WHEREAS, the City of Morgantown submitted the necessary paperwork to obtain \$30,000 for the Morgantown Marketplace through the Governor's Community Participation Grant Program, and the grant application has been approved for funding; and*

*WHEREAS, the grant (13LEDA0189) will help the City of Morgantown to pay for the design and construction of a pavilion, sidewalks, and landscaping at the site of the Morgantown Marketplace; and*

*WHEREAS, Morgantown City Council is of the opinion that this will be of great benefit to the downtown Farmers' market and the residents of Morgantown, therefore agrees to administer the grant contract.*

*NOW, THEREFORE, BE IT RESOLVED by the City of Morgantown this 4th day of June, 2013, that the City agrees to the conditions of the contract and authorizes the Mayor to sign the West Virginia Development Office contract, and City Manager to administer the execution of the grant*

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*Mayor*

---

*City Clerk*

# GOVERNOR'S COMMUNITY PARTICIPATION GRANT PROGRAM CONTRACT

## BETWEEN THE WEST VIRGINIA DEVELOPMENT OFFICE AND THE CITY OF MORGANTOWN

Project Number 13LEDA0189

**THIS AGREEMENT**, entered into this 1st day of July, 2012, by the West Virginia Department of Finance and Administration on behalf of the West Virginia Development Office hereinafter called the "WVDEVO" and the City of Morgantown and its authorized officers, agents, and representatives, hereinafter called the "Grantee."

### WITNESS THAT:

**WHEREAS**, the WVDEVO has promised and agreed to assist the Grantee to perform such tasks described in the scope of services, which is to be partially financed by funds made available through the Governor's Community Participation Grant program.

**NOW, THEREFORE**, the parties do mutually agree as follows:

1. **Scope of Services.** The Grantee shall complete in a satisfactory manner as determined by the WVDEVO, and appropriate regulatory agencies, if required, all duties, tasks, and functions necessary to construct the Morgantown Market Place.
2. **Personnel and Employment.** The Grantee will secure at its own expense, personnel with the necessary qualifications and experience required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with WVDEVO.

With respect to employment in carrying out the program objectives, the Grantee agrees that it will not discriminate against any employee or applicant for employment because of race, color, age, religion, sex, national origin, or physical handicap.

3. **Time Performance.** The Grantee will commence its duties under this Contract on July 1, 2012, and such duties shall be undertaken and completed by June 30, 2014.
4. **Compensation and Fiscal Management.** In consideration of the services rendered by the Grantee, the WVDEVO agrees to pay the Grantee the sum of \$30,000. This amount constitutes complete compensation for all services rendered.

The Grantee shall provide local matching funds totaling up to ten percent of the total compensation for all services rendered.

The Grantee shall be responsible for establishing and maintaining adequate procedures and internal financial controls governing the management and utilization of funds provided under this Contract, as well as funds provided as the Grantee's matching share.

5. **Amendments.** Any changes to the scope of services, completion date, compensation or any other terms or conditions of this agreement shall be incorporated in written amendments to the Contract. If necessary and/or required, any amendments to this Contract are subject to the reappropriation of funds and approval of the WVDEVO and/or the Governor of the State of West Virginia.
6. **Payments and Repayment.** In order to receive payments under the terms of this Agreement, the Grantee shall submit the following: (a) a Letter of Transmittal containing a progress report, and (b) a Request for Payment

Financial Report. The final ten percent shall be made available upon submission of certification of completion and acceptance of the project by the Grantee.

Furthermore, the Grantee shall refund to the State any expenditures determined to be made for an ineligible purpose for which State funds were received.

7. **Sub-Grantees and Reversion of Property.** The Grantee may administer funds on behalf of sub-grantees, provided that the sub-grantee is certified as a nonprofit organization by the United States Internal Revenue Service and the West Virginia Secretary of State's Office. Should the sub-grantee cease to exist, all commodities or supplies purchased with funds provided under the auspices of this Contract by or for the sub-grantee shall become the property of the Grantee.
8. **Competitive Bid Procedures.** Competitive bidding shall be pursued in all instances. The Grantee must follow the more stringent of either state or local purchasing regulations. The West Virginia Purchasing Division requirements, at a minimum, are as follows: Commodities and services expected to cost \$2,500 or less require no bids, however, competition is encouraged. Purchases between \$2,500.01 and \$5,000 require three verbal bids to be documented on a verbal bid quotation summary. Purchases \$5,000.01 to \$25,000 require three written bids.

Purchases exceeding \$25,000 require public notices as a Class II legal advertisement in compliance with the provisions of West Virginia Code §59-3. This notice shall be published by the Grantee in the newspaper with the largest circulation serving the general area once a week for two successive weeks preceding the final bid date. The Grantee shall also, where feasible, solicit sealed bids by listing the project in the F. W. Dodge Reports, sending requests by mail to prospective suppliers or contractors, and by posting notice on a bulletin board in a public place. Any attempts by the Grantee to segregate the project into sections having an estimated value of less than \$25,000 shall be cause for termination of this agreement.

9. **Construction.** The Grantee shall procure construction contracts in accordance with West Virginia Code §5-22-1. The term construction shall mean any construction, reconstruction, improvement, enlargement, painting, decorating, or repair of any public improvement let to contract. **The state and its subdivisions shall, except as provided in this section, solicit competitive bids for every construction project exceeding \$25,000 in total cost. Further, the receipt and utilization of funds procured under this agreement mandate that ALL CONSTRUCTION CONTRACTS NECESSARY FOR THE UNDERTAKING AND COMPLETION OF THIS PROJECT, regardless of the source of funds utilized to pay such construction contracts, must comply with the provisions of West Virginia Code §21-5A.** These bids shall be obtained by public notice as a Class II legal advertisement in compliance with the provisions of West Virginia Code §59-3 as outlined in Section 8 of this agreement.

Any contracts executed for the completion of construction services under this agreement, including contracts which involve the employment of any contractor and/or subcontractor, must comply with the provisions of the West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A. **This law applies to all construction contracts, regardless of cost and source of funds utilized to pay such contract.** Such provisions shall include the payment of the Fair Minimum Wage Rates as determined by the West Virginia Commissioner of Labor for each craft or classification of all workmen needed to perform the contract in the locality in which the public work is performed. For projects involving federal funds which are covered by the provisions of the Davis Bacon Act (40 U.S.C. 276-a 276a-5), the Grantee shall cause the contractor and/or subcontractors to pay the higher wage rate, federal or state.

The Grantee shall note this requirement in the advertisement for bids and print these wage rates on all bidding blanks. The Grantee shall designate the time and place for opening such construction bids in accordance with West Virginia Code §5-22-2.

The Grantee shall secure bonding in accordance with West Virginia Code §5-22-1. All bids submitted pursuant to this chapter shall include a valid bid bond or other surety as approved by the state of West Virginia or its subdivisions. Following the solicitation of such bids, the construction contract shall be awarded to the lowest qualified responsible bidder, who shall furnish a sufficient performance and payment bond, provided, that the state and its subdivisions may reject all bids and solicit new bids.

In the procurement of contracts or subcontracts for construction of less than \$100,000, the Grantee shall follow local or State requirements relating to bid guarantees, performance bonds, and payment bonds, provided that the Grantee's and State's interests are adequately protected and that such contracts can be executed in a timely manner.

**In the procurement of contracts or subcontracts for construction that exceed \$100,000, the Grantee shall obtain the following:**

- (a) A bid guarantee from each bidder equivalent to five percent of the bid price. This bid guarantee shall consist of a firm commitment such as bid bond, certified check, or other negotiable instrument accompanying a bid that the bidder will, upon acceptance of the bid, execute the contractual documents as may be required with the time specified.
- (b) A performance bond on the part of the contractor for 100 percent of the contract price. This performance bond shall be executed by the successful contractor in connection with the contract to secure fulfillment of the contractor's obligations under such contract.
- (c) A payment bond on the part of the contractor for 100 percent of the contract price. This payment bond shall be executed in connection with a contract to assure payment is required by law of all persons supplying labor and materials in the execution of the work provided for in the contract.

The Grantee shall procure architectural or engineering services in accordance with the provisions of West Virginia Code §5G. In the procurement of architectural and engineering services for projects estimated to cost \$250,000 or more, the Grantee shall publish a Class II legal ad in compliance with West Virginia Code §59-3. In the procurement of services for projects estimated to cost less than \$250,000, the Grantee shall conduct discussions with three or more professional firms.

The Grantee shall procure design-build projects in accordance with West Virginia Code §5-22A-1. This applies solely to building projects. Highways, water, sewer, and all other public works projects are specifically prohibited from using the design-build method.

The Grantee shall require any facilities constructed under the auspices of this Contract to be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," Number A11/.1-1961, as modified (41CFR101-17.1703 and (13CFR309.14)). The Grantee shall be responsible for conducting inspections to ensure compliance with these specifications.

The Grantee shall operate and maintain all facilities constructed under the auspices of this Contract in accordance with minimum standards as may be required or prescribed by the applicable federal, state and local statute, law, ordinance or regulation as to actual construction procedures, as well as maintenance and operation of such facilities upon completion.

The Grantee shall comply with all applicable federal, state and local environmental and historical preservation laws and regulations. The Grantee acknowledges this requirement and certifies that the project will be in compliance with such laws and regulations.

10. **Interest of Officials, Members of WVDEVO and Others.** No officer, member or employee of the WVDEVO or officer, member or employee of the Grantee who exercises any function or responsibilities in the review or approval of the undertaking or carrying out of this project, shall participate in any decision relating to this Contract which affects his personal interest or the interest of any corporation, partnership, or association in which he is directly or indirectly interested or has any personal or pecuniary interest, nor shall any officer, member of, or employee of, the Grantee or any member of its governing body, or officer, member, or employee of the contractor have any interest, direct or indirect, in this Contract or the proceeds thereof.

Furthermore, no member of the Legislature of the State of West Virginia, or individual performing a service for the Grantee in connection with this project, shall be admitted to any share thereof or to any benefit to arise from this Agreement.

11. **Inspections of Records and Audits.** At any time during normal business hours and as often as the WVDEVO or its designated representative may deem necessary, there shall be made available to the WVDEVO or its designated representative for examination, all of its records with respect to all matters covered by this Contract and permit the WVDEVO or its designated representative to audit, examine and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records and personnel, conditions of employment and other data relating to all matters covered by this Contract during the entire time period beginning with project approval and ending three years after the final disbursement of grant funds.

The Grantee shall cause an audit of this program to be included in the audit of the Grantee performed by the West Virginia State Auditor's Office, Chief Inspection Division, or its designated representative in accordance with West Virginia Code §6-9-7. The audit shall be performed in conformance with generally acceptable accounting procedures.

In accordance West Virginia Code §12-4-14, if the grantee is not audited by the West Virginia State Auditor's Office and the grantee received state funds or grants in the amount of fifteen thousand dollars or more, the grantee shall file an audit of the disbursement of funds with the legislative auditor's office. The audit shall be filed within two years of the disbursement of funds or grants by the grantee and shall be made by an independent certified public accountant at the cost of the corporation, association or other organization, and must show that the funds or grants were spent for the purposes intended when the grant was made. State funds or audits of state funds or grants under fifteen thousand dollars (\$15,000) may be authorized by the joint committee on government and finance to be conducted by the legislative auditor's office at no cost to the grantee.

The Grantee shall submit any reports requested by the WVDEVO concerning financial status and program progress.

12. **Political Activity.** No officer or employee of the Grantee whose principal employment is in connection with any activity which is financed in whole or in part pursuant to this agreement shall take part in any of the activities expressly prohibited by the Hatch Act.
13. **Resolution of Disputes.** Resolution of disputes between the State and the Grantee concerning administrative and programmatic matters during the terms of this Agreement shall be initiated through consultation and discussion at the State's Administrative Offices with final decision on questions of policy or fact being determined by the Director of the Community Development Division or his/her designated representative. Nothing in this Agreement shall be construed as making the final decision on a question of law, or to limit in any manner any remedies or recourses available under applicable laws. Citizen's complaints or disputes regarding Grantee performance or actions relative to the approved project are the responsibility of the Grantee.
14. **Termination of Contract.** If, through any cause, the Grantee shall fail to fulfill in a necessary and proper manner his obligations under this Contract, or if the Grantee shall violate any of the covenants, agreements, or stipulations of this Contract, the WVDEVO shall thereupon have the right to terminate this Contract by giving written notice to the Grantee of such termination and specifying the effective date thereof, at least fifteen days before the effective date of such termination. The Grantee shall be entitled to receive just and equitable compensation for any satisfactory work completed on the described project.

Notwithstanding the above, the Grantee shall not be relieved of liability to the WVDEVO for damages sustained by the WVDEVO by virtue of any breach of the Contract by the Grantee, and the WVDEVO may withhold any payments to the Grantee for the purpose of set-off until such time as the exact amount of damages due the WVDEVO from the Grantee is determined.

Furthermore, the WVDEVO may terminate this Contract at any time by giving written notice to the Grantee of such termination and specifying the effective date of termination. If the Contract is terminated by the WVDEVO as provided herein, the Grantee will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Grantee covered by this Contract, less payments of compensation previously made.

The Grantee may unilaterally rescind this agreement at any time prior to the commencement of the project. After project commencement, this agreement may be rescinded, modified, or amended only by mutual agreement. A project shall be deemed commenced when the Grantee makes any expenditure or incurs any obligation with respect to the project.

This Contract shall be signed by the Executive Director of the West Virginia Development Office and by the Mayor of the City of Morgantown upon authorization of the City of Morgantown by adoption and passage of a resolution, motion or similar official action.

**IN WITNESS WHEREOF, the WVDEVO and the Grantee have executed this Agreement as of the date first above written.**

**STATE OF WEST VIRGINIA  
WEST VIRGINIA DEVELOPMENT OFFICE**

\_\_\_\_\_  
**J. Keith Burdette, Executive Director**

**CITY OF MORGANTOWN**

By: \_\_\_\_\_  
**Jim Manilla, Mayor**

Federal Employee Identification Number

\_\_\_\_\_  
F.E.I.N.

Project Number: 13LEDA0189

0256-2003 7440-819-083



*State of West Virginia*  
*Earl Ray Tomblin*  
*Governor*

Office of the Governor  
State Capitol  
1900 Kanawha Boulevard, East  
Charleston, WV 25305

Telephone: (304) 558-2000  
Toll Free: 1-888-438-2731  
FAX: (304) 342-7025  
www.wv.gov.org

April 25, 2013

The Honorable Jim Manilla  
Mayor  
City of Morgantown  
389 Spruce Street  
Morgantown, West Virginia 26505

Dear Mayor Manilla:

Thank you for your application to the Governor's Community Participation Grant Program.

I, along with Senator Beach, am pleased to approve your request in the amount of \$30,000. These funds will enable you to construct the Morgantown Market Place.

To proceed with this project, please fax this letter to 304-558-2246, or mail a copy to: Community Participation Program, West Virginia Development Office, 1900 Kanawha Boulevard, East, Charleston, West Virginia 25305. Please note that funds should not be obligated prior to the full execution of a contract with the State of West Virginia.

We are pleased to work with you to make this improvement a reality for the citizens of Morgantown.

Sincerely,

Earl Ray Tomblin  
Governor

ERT:kf

Project Number: 13LEDA0189