



Office of the City Clerk

# The City of Morgantown

Linda L. Tucker, CMC  
389 Spruce Street, Room 10  
Morgantown, West Virginia 26505  
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**AGENDA**  
**MORGANTOWN CITY COUNCIL**  
**COMMITTEE OF THE WHOLE**  
**July 28, 2015**  
**7:00 p.m.**

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

**PRESENTATIONS:**

1. Republic Services – John McGoran
2. DNG Wireless Pilot Project

**PUBLIC PORTION:**

**ITEMS FOR DISCUSSION:**

1. Wings Olé Lease agreement
2. Petition for Annexation of Grafton Road
3. Animal Control Officer Agreement with County
4. Easement Agreement on Grant Avenue
5. Long range strategy for street improvements and economic development

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

**AN ORDINANCE AUTHORIZING AN AGREEMENT DANIEL A. NAGOWSKI  
REVOCABLE INTER VIVOS TRUST and ROSE MARY NAGOWSKI FOR A  
PARKING LOT LEASE**

The City of Morgantown hereby ordains that the City Manager is authorized to execute the attached agreement, which is incorporated in this Ordinance by reference, to lease a parking area described in the agreement.

**FIRST READING:**

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

**ADOPTED:**

**FILED:**

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

**RECORDED:**

## LEASE AGREEMENT

This lease agreement (the "Agreement" or "Lease"), made this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by and between DANIEL A. NAGOWSKI REVOCABLE INTER VIVOS TRUST and ROSE MARY NAGOWSKI, (collectively "Landlord"), and the City of Morgantown, a municipal corporation of the State of West Virginia with its address at 389 Spruce Street, Morgantown, WV 26505 ("Tenant"). In consideration of the premises and conditions stated herein, the parties hereto agree to be bound as follows:

1. Premises and Terms: Landlord does hereby demise unto Tenant, and Tenant does hereby lease from Landlord, the real property, situated in the City of Morgantown, the County of Monongalia, and the State of West Virginia, more particularly described on the attached "Exhibit A," which is incorporated herein by reference ("Demised Premises"). Landlord leases to Tenant the Demised Premises unto Tenant for Tenant's use, except as specifically provided otherwise in this Agreement, for a term commencing **September 1, 2015**, and extending until midnight on the day preceding the third anniversary of such date, provided that either of parties to this lease gives to the other, three months before the latter date, notice in writing of the party's intention to terminate this lease on that date. Otherwise this lease will continue in force for another term of one year, and in the same manner from year to year ("Term"), including all terms and conditions in this lease, until one of parties terminates this lease by notice in writing in some ensuing year in the manner described above which notice terminates this lease at the end of year for which premises are then held.

2. Representations and Warranties:

a. Landlord hereby represents and warrants that Landlord has full authority to grant Tenant the rights provided to Tenant under this Agreement and to execute this Agreement and comply with the terms of this Agreement; that no current or anticipated litigation exists relating to the Demised Premises; that the Demised Premises are not in violation of any environmental or regulatory law, rule, or regulation, or in violation of any other law; and that no known or reasonably apparent defect exists in the Demised Premises that could constitute a danger to entrants thereon.

b. Tenant hereby represents and warrants that it has full authority, through its authorized agent executing this Agreement, to execute the Agreement and comply with the terms hereof.

3. Definitions: As used herein, the following terms shall have the meanings ascribed to them herein:

"Landlord's Improvements" shall mean all structures, improvements, fixtures and items of property, whether real or personal, located on the Demised Premises on the date hereof, except for those removable items of personal property that have been placed or will be placed on the leased property by Tenant under any prior lease agreement or this Lease. The Parties specifically agree that the lightpoles and related objects or structures – including wiring, controls, and housing – are not Landlord's Improvements and shall remain Tenant's property; provided, however, that if such

objects or structures are removed Tenant shall repair any damage to the surface of the premises caused by the removal.

“Tenant’s improvements” shall mean all removable (i) buildings, (ii) structures, (iii) improvements, and (iv) items of personal property, and any temporary office placed on the Demised Premises, but not including any permanent improvement or fixture, or any surfacing material used to cover the Demised Premises or a portion thereof as Tenant may have previously constructed or installed or may hereafter construct or otherwise place on the Demised Premises.

4. Rent:

a. Amount: For and during the Term, Tenant shall pay to Landlord rent at the annual rate of **an amount equal to the annual real estate taxes assessed against the Demised Premises by the Monongalia County Assessor** for such year.

b. Payment: Payment shall be made directly by the Tenant to the appropriate authority; provided, however, that Landlord must provide a statement of taxes due no later than thirty (30) days before the earliest due date on the annual statement of taxes owed. If Landlord fails to timely deliver the statement, Tenant shall make payment within 60 days of receipt of the statement and shall be entitled to recover from Landlord any additional amounts paid due to the delay in payment.

5. Maintenance and Repairs:

a. Tenant shall maintain the Landlord’s Improvements and the Tenant’s Improvements in good repair, reasonable wear and tear excepted, and Tenant shall at its own cost and expense promptly make all necessary repairs thereto, including structural repairs.

b. Tenant shall be responsible for regular maintenance of the unimproved condition of the property by mowing grass and removing snow, ice, and debris.

6. Utilities Services: Tenant shall pay for all water, electricity and other utilities consumed by Tenant on the Demised Premises during the Term. Tenant shall take all necessary measures to ensure utilities services are available on the Demised Premises as of the effective date of this Agreement remain available to Tenant. Landlord shall provide reasonable assistance to Tenant respecting reasonably necessary measures so that utility services are available on the Demised Premises.

7. New Construction and Alterations: During the Term, Tenant may, with Landlord’s consent, which consent may not be unreasonably withheld, undertake construction of Tenant’s Improvements, make alterations thereto and take any other actions with respect thereto and may, without Landlord’s consent, by use of blacktop or other surfacing material, cover the Demised Premises or a portion thereof. Tenant shall make Tenant’s Improvements and surface the Demised Premises or a portion thereof in accordance with the local ordinances.

8. Uses:

a. Tenant use: Landlord hereby agrees, represents, and warrants that Tenant may use and occupy the Demised Premises for the provision of public parking only. Tenant shall not authorize any other entity, including the Mountain Line Transit Authority, to use the Demised Premises other than for the general public parking provided under this Agreement.

b. Landlord use: The Parties agree that customers of Landlord's business located adjacent to the Demise Premises, known as Wings Olé restaurant, may use the Demised Premises for parking without charge but otherwise upon the same terms and conditions available to the general public. The Parties agree that Tenant will not be liable to Landlord for unavailability of parking for restaurant customers or consequences thereof. Tenant shall not authorize other entities to use or block the Demised Premises.

9. Enforcement of Premises Regulations: Parking on the Demised Premises shall be subject to a two-hour limit. Landlord and Tenant are each entitled to enforce the time limitation on parking by appropriate means.

10. Landlord Not Liable for Damage to Tenant's Improvements: Landlord shall not be responsible to Tenant for any loss or damage to the Tenant's Improvements or Landlord's Improvements for any cause whatever, except the willful or negligent act of Landlord and the default by Landlord in any obligation of Landlord herein.

11. Tenant Not Liable for Damage to Landlord's Improvements: Tenant shall not be responsible to Landlord for any loss or damage to the Landlord's Improvements, except the willful or negligent act of Tenant and the default by Tenant in any obligation of Tenant herein, but this shall not affect or limit the Tenant's obligation to maintain and repair as recited in Part 5, above.

12. Removal of Tenant's Improvements: Tenant may, but shall not be obligated to, remove, free of any right or claim of Landlord, any of Tenant's Improvements located on the Demised Premises.

13. Compliance with Ordinances, Laws, etc.: During the Term, Tenant shall promptly execute and comply with all statutes, ordinances, rules, orders, regulations, and requirements of the Federal, State and municipal governments and of any and all their departments and bureaus applicable to Tenant's Improvements and Tenant's use of the premises, for the correction, prevention, and abatement of nuisances, violations or other grievances, in, upon or connected with the use of the premises but only, however, to the extent that such results from the particular use of the Tenant.

Compliance with all such laws, rules, and regulations – to include correction of any violation thereof – shall be the sole responsibility of Landlord if not resulting directly from a particular use of the Tenant.

14. Assignment and Subletting: Tenant may assign this lease, or sublet the whole or any part or parts of the Demised Premises, with the prior written consent of Landlord which consent shall not be unreasonably withheld or delayed; but no assignment or subletting shall relieve Tenant from continuing liability from entire performance of this lease and full payment of the rent herein provided for.

15. Events of Default: If any one or more of the following events (“default” or “event of default”) shall happen:

(A) Tenant shall default in the due and punctual payment of rent or any other payments required of Tenant hereunder and such default shall continue for 15 days after receipt of written notice from Landlord; or

(B) Tenant shall neglect or fail to perform or observe any of the covenants herein contained on Tenant’s part to be performed or observed and Tenant shall fail to remedy the same within 30 days after Landlord shall have given to Tenant written notice specifying such neglect or failure or within such additional period, if any, as may be reasonably required to cure such default if it is of such a nature that it cannot be cured within such 30 day period;

then Landlord shall have the right, at its election, then or at any time thereafter, and while such event of default shall continue, to either

(A) Give Tenant written notice of Landlord’s intention to terminate this Lease on the date of such notice or on any later date specified therein, and on the date specified in such notice Tenant’s right to the use, occupancy and possession of the Demised Premises shall cease and this Lease shall thereupon be terminated; or

(B) Re-enter and take possession of the Demised Premises or any part thereof and repossess the same as of Landlord’s former estate and expel Tenant and those claiming through or under Tenant without being deemed guilty of any manner of trespass. Landlord may not remove any of Tenant’s Improvements pursuant to such entry. Should Landlord elect to reenter as provided in this subparagraph (B) or should Landlord take possession pursuant to legal proceedings or pursuant to any notice provided for by law then this Lease shall be deemed to have been terminated as of the date of such repossession or reentry.

The Landlord’s remedies stated in this Part 15 are cumulative and do not limit the Landlord’s other remedies at law or in equity.

16. Landlord’s Covenants in Respect to Superior: Landlord shall pay when due all principal and interest on any mortgage or superior lease to which this Lease is subordinate or subordinated, and shall pay (or discharge by bonding or otherwise) all mechanic’s liens filed against the Demised Premises by reason of any construction requested, performed or contracted by Landlord .

17. Surrender of Premises: Upon termination of this lease, whether by lapse of time, cancellation pursuant to an election provided for herein, forfeiture or otherwise, Tenant shall

immediately surrender possession of the Demised Premises to Landlord, reasonable wear and tear and damage from fire or other casualty or peril excepted.

At any time during the term of this Lease and upon the termination of this Lease, Tenant shall have the right but not the duty to remove from the Demised Premises all Tenant's Improvements and other property of Tenant. Following any termination of this Agreement, Tenant shall have a reasonable time not exceeding 90 days thereafter to effect such removal. If any of such property shall remain on the Demised Premises after the end of the Term, or after the 90-day period above specified in the event termination occurs prior to the time fixed as expiration of the Term, such property shall be and become the property of Landlord without any claim therein of Tenant should Landlord so elect.

18. Quiet Enjoyment: Landlord covenants that Tenant, so long as Tenant is not in default hereunder, shall and may peaceably and quietly have, hold and enjoy the premises for and during the Term, subject to Landlord's specific rights to use the Demised Premises granted in this Agreement.

19. Right To Cure Other Party's Defaults: In the event of any default hereunder by Tenant, Landlord may, if such default continues after reasonable notice thereof to Tenant, cure such default for the account and at the expense of Tenant. If Landlord at any time, by reason of such breach, is compelled to pay, or elects to pay, any sum of money or do any act which requires the payment of any sum of money or is compelled to incur any expense, excluding attorneys' fees, to cure such default, Landlord may institute an appropriate action seeking recovery of the expense incurred.

20. In the event of any default hereunder by Landlord, including without limitation violation of a representation or a warranty contained herein, Tenant may, if such default continues after reasonable notice thereof to Landlord, cure such default for the account and at the expense of Landlord. If Tenant at any time, by reason of such breach, is compelled to pay, or elects to pay, any sum of money or do any act which requires the payment of any sum of money or is compelled to incur any expense, excluding attorneys' fees, to cure such default, Tenant may institute an appropriate action seeking recovery of the expense incurred, or, at Tenant's election, such expense may be deducted by Tenant from any monies then due or thereafter becoming due from Tenant to Landlord.

21. Memoranda of Lease: This Agreement shall not be recorded. At the request of either party, Landlord and Tenant will execute and deliver, in duplicate original counterparts, a recordable memorandum of this Lease Agreement identifying the Demised Premises and stating the Term and providing such other information as may reasonably be required. The costs of recording any such memorandum shall be borne by the party requesting the same.

22. Indemnification: It is the interest of the parties hereto that Tenant shall enjoy the complete use and enjoyment of the Demised Premises. Therefore, Landlord covenants and warrants to Tenant that Landlord will not do, cause to be done, or suffer the conclusion of any action, matter or thing which would hinder the aforementioned rights of the Tenant; and Landlord hereto agrees to defend and indemnify the Tenant against, and to hold it harmless from, any claim

for damages, demand for performance, or any other matter or thing arising out of the actions of the Landlord with respect to use of the Demised Premises and/or any claim, demand, or other matter related to the breach or falsity of any of Landlord's representations and warranties stated herein.

23. Notices: Any notice, demand or request which under the terms of this Lease or under any statute must or may be given or made by either of the parties hereto to the other party shall be in writing, and shall be delivered by mailing the same by certified or registered United States Mail, postage prepaid, addressed to the address first written above. Either party, however, may designate in writing any new or other address to which such notice, demand or request shall thereafter be so delivered in the manner provided herein.

24. No Oral Modification: This instrument contains all the agreements and conditions made between the parties hereto with respect to the leasing of the Demised Premises, and may not be modified, waived, or terminated in any manner other than by an agreement in writing signed by all the parties hereto or their respective successors in interest.

25. Rights of Successors and Assigns: The covenants and agreements contained in this Lease shall apply, inure to the benefit of, and be binding upon the parties hereto and their respective successors in interest and legal representatives, except as otherwise herein expressly provided. The terms "Landlord" and "Tenant," as used in this Lease, shall be deemed to refer to the parties executing this Lease as Landlord and Tenant as well as their respective successors, assigns, and legal representatives.

26. Applicable Law: The laws of the State of West Virginia shall govern the rights and duties of the parties to this Lease and the interpretation of its provisions.

27. Captions: The captions used herein are included only for convenience and reference, and are in no way to define, limit, or describe the scope of the terms and conditions of the Agreement and will not be considered in the interpretation, construction, or enforcement hereof.

28. Provisions Severable: In the event that any provision of this Agreement is determined to be illegal or unenforceable, such determination shall not invalidate the entire Agreement and the remaining provisions of the Agreement shall remain in force.

29. Duplicate Originals: This Agreement may be executed in duplicate originals, each of which shall have the force and effect of an original of this Agreement.

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IN WITNESS WHEREOF, the parties have executed this Agreement this \_\_\_\_ day of \_\_\_\_\_, 2015, as follows:

**LANDLORD:**

\_\_\_\_\_  
DANIEL A. NAGOWSKI REVOCABLE INTER VIVOS TRUST

By: Daniel A. Nagowski

Its: Trustee

\_\_\_\_\_  
ROSE MARY NAGOWSKI

**TENANT:**

\_\_\_\_\_  
City of Morgantown

By: Jeff Mikorski

Its: City Manager

STATE OF WEST VIRGINIA,  
COUNTY OF \_\_\_\_\_,

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year 2015, before me did personally appear Daniel A. Nagowski known to me to be the person who executed the within Lease Agreement as an authorized representative of Landlord DANIEL A. NAGOWSKI REVOCABLE INTER VIVOS TRUST and acknowledged to me that he executed the same for the purposes therein stated.

Taken, subscribed and sworn to before me, this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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

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NOTARY PUBLIC

STATE OF WEST VIRGINIA,  
COUNTY OF \_\_\_\_\_,

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year 2015, before me did personally appear Daniel A. Nagowski known to me to be the person who executed the within Lease Agreement as Landlord ROSE MARY NAGOWSKI and acknowledged to me that she executed the same for the purposes therein stated.

Taken, subscribed and sworn to before me, this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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

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

STATE OF WEST VIRGINIA,  
COUNTY OF \_\_\_\_\_,

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year 2015, before me did personally appear Jeff Mikorski known to me to be the person who executed the within Lease Agreement and acknowledged to me that he executed the same for the purposes therein stated.

Taken, subscribed and sworn to before me, this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

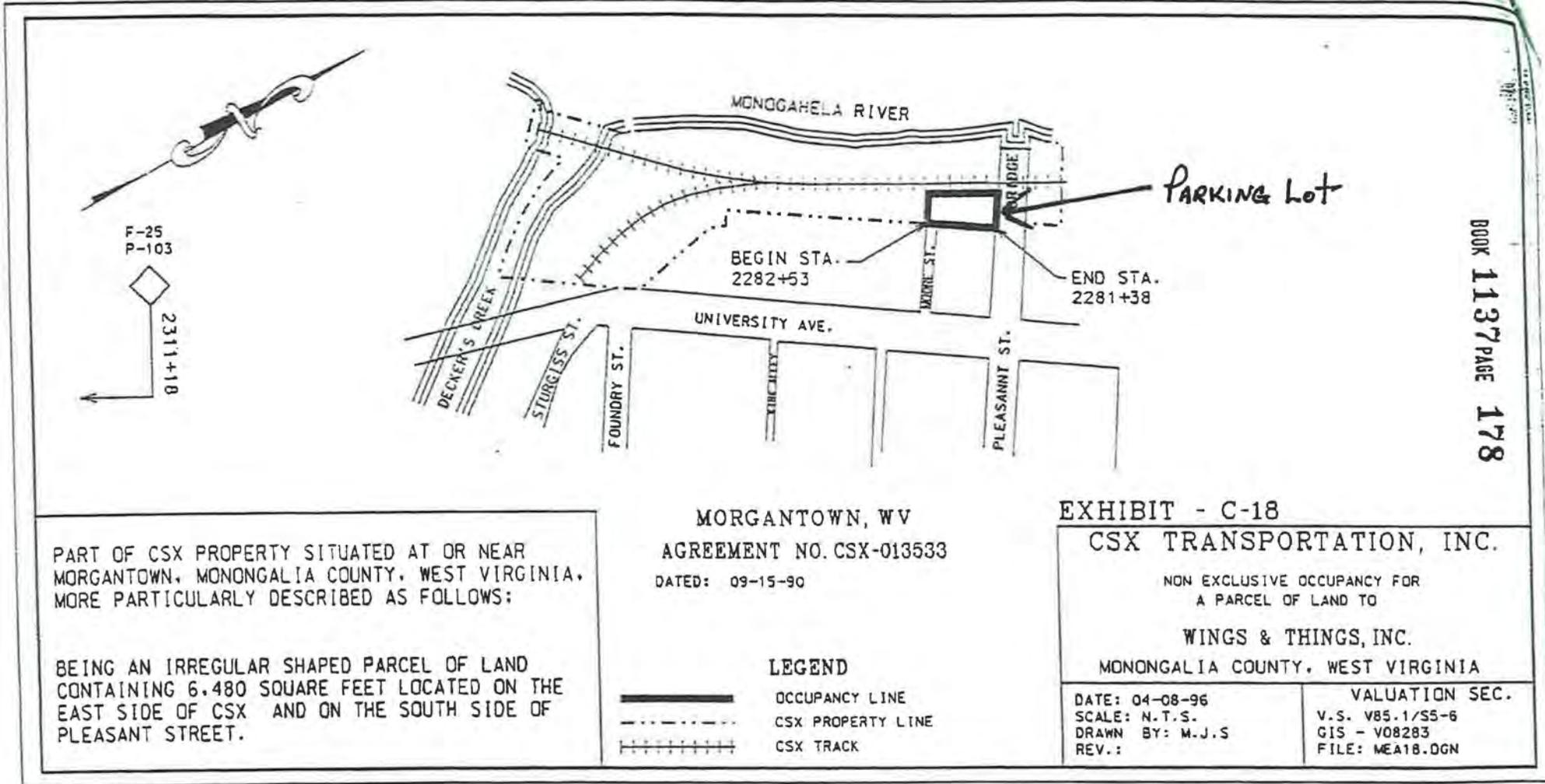
My commission expires: \_\_\_\_\_.

\_\_\_\_\_

NOTARY PUBLIC

# EXHIBIT A

# EXHIBIT



BOOK 1137 PAGE 178

PART OF CSX PROPERTY SITUATED AT OR NEAR MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING AN IRREGULAR SHAPED PARCEL OF LAND CONTAINING 6,480 SQUARE FEET LOCATED ON THE EAST SIDE OF CSX AND ON THE SOUTH SIDE OF PLEASANT STREET.

MORGANTOWN, WV  
 AGREEMENT NO. CSX-013533  
 DATED: 09-15-90

**LEGEND**  
 ————— OCCUPANCY LINE  
 - - - - - CSX PROPERTY LINE  
 + + + + + CSX TRACK

**EXHIBIT - C-18**

**CSX TRANSPORTATION, INC.**

NON EXCLUSIVE OCCUPANCY FOR  
 A PARCEL OF LAND TO

**WINGS & THINGS, INC.**

MONONGALIA COUNTY, WEST VIRGINIA

DATE: 04-08-96  
 SCALE: N.T.S.  
 DRAWN BY: M.J.S  
 REV.:

VALUATION SEC.  
 V.S. V85.1/S5-6  
 GIS - V08283  
 FILE: ME18.DGN

**AN ORDINANCE ANNEXING PROPERTY IN MORGAN DISTRICT INTO THE  
CORPORATE BOUNDARIES OF THE CITY OF MORGANTOWN**

WHEREAS, West Virginia Code section 8-6-4 permits a municipality to order annexation of additional territory by ordinance without a vote if a majority of freeholders and qualified voters petition for such annexation; and

WHEREAS, all freeholders in the territory subject of the attached "Petition for Annexation," which is incorporated in this Ordinance by reference, have petitioned for annexation and no qualified voters, as defined by *W. Va. Code* § 8-6-4, are present in the territory; and

WHEREAS, the City has enumerated and verified the total number of eligible petitioners in each category and is satisfied that the petition is sufficient in every respect and that the territory to be annexed is contiguous to the current municipal boundaries;

NOW, THEREFORE, the City of Morgantown hereby ordains as follows:

- (1) That the territory described in the Petition for Annexation, being a part of Parcel 4.6 of Tax Map Number 6 in Morgan District, Monongalia County, West Virginia, as more fully described in the Petition for Annexation and exhibit thereto, shall be annexed into the City of Morgantown;
- (2) That the City Clerk is directed to enter upon the journal of the City the finding that the Petition for Annexation is sufficient in every respect and forward a certificate to that effect to the County Commission of Monongalia County, West Virginia, pursuant to *W. Va. Code* § 8-6-4(g), notifying the Commission that it shall enter an order as described in *W. Va. Code* § 8-6-3 describing the annexation of the additional territory to the corporate limits of the City of Morgantown.

**FIRST READING:**

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

**ADOPTED:**

**FILED:**

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

**RECORDED:**

### PETITION FOR ANNEXATION

The undersigned, being the freeholder of the property situated within the area of proposed annexation, and not being a qualified voter of the territory or a signator to a qualified voters' petition for annexation of the territory, hereby petitions the City Council of the City of Morgantown, West Virginia, to annex the territory described in this Petition and shown and described on the attached map or plat, as required by law, pursuant to West Virginia Code Chapter 8, Article 6, Section 4.

<u>Owner</u>	<u>District</u>	<u>Tax Map No.</u>	<u>Parcel No.</u>	<u>Signature</u>
WWYD, LLC	Morgan	6	p/o 4.6	

Gregory A. Morgan, residing at 363 Lee Avenue, Clarksburg, West Virginia, the Manager and an authorized representative of WWYD, LLC, the freeholder of the parcel identified in the foregoing "Petition for Annexation," hereby petitions the City of Morgantown for annexation of that part of the parcel identified in the table and attached exhibit.

WWYD, LLC

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

Gregory A Morgan

Its: Manager

**DESCRIPTION OF SURVEY**  
for  
**PROPOSED CONVEYANCE OF PROPERTY**

A CERTAIN TRACT OR PARCEL, SITUATE ON THE WESTERLY RIGHT-OF-WAY LINE OF UNITED STATE ROUTE 119 (GRAFTON ROAD), AND THE SOUTHERLY RIGHT-OF-WAY LINE OF MONONGALIA COUNTY ROUTE 76 (HORNBECK ROAD), IN CLINTON DISTRICT, MONONGALIA COUNTY, WEST VIRGINIA, MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

**Beginning** at a ¾" iron rebar now set on the westerly right-of-way line of United States Route 119, said rebar being 368.11 feet right of and radial to Centerline Station 65+99.50, Project # APD 483(7), said rebar also being on a line of Monongalia County Route 76 (Hornbeck Road), and on a line of WWYD, LLC (Tax Map 6 Parcel 4.6, Deed Book 1486 Page 730), said rod bears, South 77 degrees 40 minutes 36 seconds West, a distance of 221.52 feet from a 1/2" iron rod found at a corner common to said WWYD, LLC (Parcel 4.6);

**Thence**, leaving said WWYD, LLC (Parcel 4.6), and through said United States Route 119 for fourteen (14) lines, North 22 degrees 02 minutes 50 seconds West, a distance of 17.75 feet to a point;

**Thence**, North 19 degrees 02 minutes 50 seconds West, a distance of 7.17 feet to a point;

**Thence**, by a curve to the right having a radius of 100.00 feet, an arc length of 42.01 feet, and a chord bearing of North 06 degrees 08 minutes 55 seconds West, a distance of 41.70 feet to a point;

**Thence**, North 05 degrees 53 minutes 12 seconds East, a distance of 41.70 feet to a point;

**Thence**, by a curve to the right having a radius of 50.00 feet, an arc length of 19.66 feet, and a chord bearing of North 17 degrees 09 minutes 09 seconds East, a distance of 19.54 feet to a ¾" iron rebar now set, said rebar being 50.88 feet right of and radial to Centerline Station 125+36.79, of Monongalia County Route 76 (Hornbeck Road), Project # APD 483(7);

**Thence**, North 82 degrees 06 minutes 55 seconds East, a distance of 137.06 feet to a point;

**Thence**, by a curve to the left having a radius of 5.00 feet, an arc length of 0.54 feet, and a chord bearing of North 79 degrees 00 minutes 57 seconds East, a distance of 0.54 feet to a ¾" iron rebar now set, said rebar being 46.00 feet right of and radial to Centerline Station 126+63.85, of Monongalia County Route 76 (Hornbeck Road), Project # APD 483(7);

**Thence**, North 75 degrees 55 minutes 00 seconds East, a distance of 103.96 feet to a ¾" iron rebar now set, said rebar being 50.50 feet right of and radial to Centerline Station 127+62.50, of Monongalia County Route 76 (Hornbeck Road), Project # APD 483(7) and, and being 87.10 feet right of and radial to Centerline Station 65+46.63, of United States Route 119, Project # APD 483(7);

**Thence**, South 31 degrees 48 minutes 55 seconds East, a distance of 253.58 feet to a ¾" iron

R:\030-2431 WWDD- R\119 Sheet\Survey\DOH Exhibit.doc

rebar now set, said rebar being 71.00 feet right of and radial to Centerline Station 67+80.95, of United States Route 119, Project # APD 483(7);

**Thence**, South 30 degrees 50 minutes 55 seconds East, a distance of 40.00 feet to a ¾" iron rebar now set, said rebar being 73.69 feet right of and radial to Centerline Station 68+18.28, of United States Route 119, Project # APD 483(7);

**Thence**, South 13 degrees 56 minutes 14 seconds East, a distance of 56.24 feet to a ¾" iron rebar now set, said rebar being 98.11 feet right of and radial to Centerline Station 68+66.00, of United States Route 119, Project # APD 483(7);

**Thence**, South 43 degrees 32 minutes 29 seconds East, a distance of 13.22 feet to a ¾" iron rebar now set, said rebar being 97.87 feet right of and radial to Centerline Station 68+78.33, of United States Route 119, Project # APD 483(7);

**Thence**, by a curve to the right having a radius of 138.00 feet, an arc length of 46.28 feet, and a chord bearing of South 80 degrees 54 minutes 09 seconds West, a distance of 46.07 feet to a point;

**Thence**, North 89 degrees 29 minutes 22 seconds West, a distance of 5.88 feet to a point;

**Thence**, by a curve to the left having a radius of 165.43 feet, an arc length of 37.37 feet, and a chord bearing of South 83 degrees 54 minutes 03 seconds West, a distance of 37.29 feet to a ¾" iron rebar now set, said rebar being 173.06 feet right of and radial to Centerline Station 68+34.72, of United States Route 119, Project # APD 483(7) said rebar also being on a line of said WWYD, LLC (Parcel 4.6);

**Thence**, with said United States Route 119 and said WWYD, LLC (Parcel 4.6) for two (2) lines, North 47 degrees 15 minutes 41 seconds West, a distance of 165.73 feet to a ¾" iron rebar now set, said rebar being 210.00 feet right of and radial to Centerline Station 67+00.01, of United States Route 119, Project # APD 483(7);

**Thence**, North 77 degrees 42 minutes 17 seconds West, a distance of 205.08 feet to the **Point of Beginning**, containing 1.58 acres, MORE OR LESS, as shown on a plat attached hereto and made part of this description.

The tract or parcel of land herein described being a part of the same lands conveyed to West Virginia Department of Transportation Division of Highways as shown on United States Route 119, Project # APD 483(7), Monongalia County, West Virginia.

**DESCRIPTION OF SURVEY**  
for  
**PROPOSED CONVEYANCE OF PROPERTY**

A CERTAIN TRACT OR PARCEL, SITUATE ON THE WESTERLY RIGHT-OF-WAY LINE OF UNITED STATES ROUTE 119 (GRAFTON ROAD), AND THE SOUTHERLY RIGHT-OF-WAY LINE OF MONONGALIA COUNTY ROUTE 76 (HORNBECK ROAD), IN CLINTON DISTRICT, MONONGALIA COUNTY, WEST VIRGINIA, MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

**Beginning** at a ¾" iron rebar now set on the westerly right-of-way line of United States Route 119, said rebar being 368.11 feet right of and radial to Centerline Station 65+99.50, Project # APD 483(7), said rebar also being on a line of Monongalia County Route 76 (Hornbeck Road), and on a line of WWYD, LLC (Tax Map 6 Parcel 4.6, Deed Book 1486 Page 730), said rod bears, South 77 degrees 40 minutes 36 seconds East, a distance of 221.52 feet from a 1/2" iron rod found at a corner common to said WWYD, LLC (Parcel 4.6);

**Thence**, with said United States Route 119 and said WWYD, LLC (Parcel 4.6) for two (2) lines, South 77 degrees 42 minutes 17 seconds East, a distance of 205.08 feet to a ¾" iron rebar now set, said rebar being 210.00 feet right of and radial to Centerline Station 67+00.01, of United States Route 119, Project # APD 483(7);

**Thence**, South 47 degrees 15 minutes 41 seconds East, a distance of 165.73 feet to a ¾" iron rebar now set, said rebar being 173.06 feet right of and radial to Centerline Station 68+34.72, of United States Route 119, Project # APD 483(7) ), said rod bears, North 47 degrees 15 minutes 41 seconds West, a distance of 463.09 feet from a 1/2" iron rod found at a corner common to said WWYD, LLC (Parcel 4.6);

**Thence**, leaving said United States Route 119 and through said WWYD, LLC (Parcel 4.6) by a curve to the left having a radius of 162.00 feet, an arc length of 54.15 feet, a chord bearing of South 67 degrees 42 minutes 55 seconds West, a distance of 53.90 feet to a point;

**Thence**, South 58 degrees 08 minutes 23 seconds West, a distance of 4.86 feet to a point;

**Thence**, by a curve to the right having a radius of 138.00 feet, an arc length of 219.78 feet, and a chord bearing of North 76 degrees 14 minutes 07 seconds West, a distance of 197.28 feet to a point;

**Thence**, North 30 degrees 36 minutes 36 seconds West, a distance of 126.10 feet to a point;

**Thence**, by a curve to the right having a radius of 238.00 feet, an arc length of 26.69 feet, and a chord bearing of North 27 degrees 23 minutes 49 seconds West, a distance of 26.68 feet to the **Point of Beginning**, containing 0.76 acres, MORE OR LESS, as shown on a plat attached hereto and made part of this description.

The tract or parcel of land herein described being a part of the same lands conveyed to WWYD, LLC from 3M Realty, LLC as recorded in Deed Book 1486 Page 730 at the Office of the Clerk, Monongalia County, West Virginia.

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**DESCRIPTION OF SURVEY**  
for  
**PROPOSED AREA TO BE INCORPORATED**

A CERTAIN TRACT OR PARCEL, SITUATE ON THE WESTERLY RIGHT-OF-WAY LINE OF UNITED STATE ROUTE 119 (GRAFTON ROAD), AND THE SOUTHERLY RIGHT-OF-WAY LINE OF MONONGALIA COUNTY ROUTE 76 (HORNBECK ROAD), IN CLINTON DISTRICT, MONONGALIA COUNTY, WEST VIRGINIA, MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

**Beginning** at a ¾" iron rebar now set on the westerly right-of-way line of United States Route 119, said rebar being 368.11 feet right of and radial to Centerline Station 65+99.50, Project # APD 483(7), said rebar also being on a line of Monongalia County Route 76 (Hornbeck Road), and on a line of WWYD, LLC (Tax Map 6 Parcel 4.6, Deed Book 1486 Page 730), said rod bears, South 77 degrees 40 minutes 36 seconds East, a distance of 221.52 feet from a 1/2" iron rod found at a corner common to said WWYD, LLC (Parcel 4.6);

**Thence**, leaving said WWYD, LLC (Parcel 4.6), and through said United States Route 119 for fourteen (14) lines, North 22 degrees 02 minutes 50 seconds West, a distance of 17.75 feet to a point;

**Thence**, North 19 degrees 02 minutes 50 seconds West, a distance of 7.17 feet to a point;

**Thence**, by a curve to the right having a radius of 100.00 feet, an arc length of 42.01 feet, and a chord bearing of North 06 degrees 08 minutes 55 seconds West, a distance of 41.70 feet to a point;

**Thence**, North 05 degrees 53 minutes 12 seconds East, a distance of 41.70 feet to a point;

**Thence**, by a curve to the right having a radius of 50.00 feet, an arc length of 19.66 feet, and a chord bearing of North 17 degrees 09 minutes 09 seconds East, a distance of 19.54 feet to a ¾" iron rebar now set, said rebar being 50.88 feet right of and radial to Centerline Station 125+36.79, of Monongalia County Route 76 (Hornbeck Road), Project # APD 483(7);

**Thence**, North 82 degrees 06 minutes 55 seconds East, a distance of 137.06 feet to a point;

**Thence**, by a curve to the left having a radius of 5.00 feet, an arc length of 0.54 feet, and a chord bearing of North 79 degrees 00 minutes 57 seconds East, a distance of 0.54 feet to a ¾" iron rebar now set, said rebar being 46.00 feet right of and radial to Centerline Station 126+63.85, of Monongalia County Route 76 (Hornbeck Road), Project # APD 483(7);

**Thence**, North 75 degrees 55 minutes 00 seconds East, a distance of 103.96 feet to a ¾" iron rebar now set, said rebar being 50.50 feet right of and radial to Centerline Station 127+62.50, of Monongalia County Route 76 (Hornbeck Road), Project # APD 483(7) and, and being 87.10 feet right of and radial to Centerline Station 65+46.63, of United States Route 119, Project # APD 483(7);

**Thence**, South 31 degrees 48 minutes 55 seconds East, a distance of 253.58 feet to a ¾" iron

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rebar now set, said rebar being 71.00 feet right of and radial to Centerline Station 67+80.95, of United States Route 119, Project # APD 483(7);

**Thence**, South 30 degrees 50 minutes 55 seconds East, a distance of 40.00 feet to a ¾" iron rebar now set, said rebar being 73.69 feet right of and radial to Centerline Station 68+18.28, of United States Route 119, Project # APD 483(7);

**Thence**, South 13 degrees 56 minutes 14 seconds East, a distance of 56.24 feet to a ¾" iron rebar now set, said rebar being 98.11 feet right of and radial to Centerline Station 68+66.00, of United States Route 119, Project # APD 483(7);

**Thence**, South 43 degrees 32 minutes 29 seconds East, a distance of 13.22 feet to a ¾" iron rebar now set, said rebar being 97.87 feet right of and radial to Centerline Station 68+78.33, of United States Route 119, Project # APD 483(7);

**Thence**, by a curve to the right having a radius of 138.00 feet, an arc length of 46.28 feet, and a chord bearing of South 80 degrees 54 minutes 09 seconds West, a distance of 46.07 feet to a point;

**Thence**, North 89 degrees 29 minutes 22 seconds West, a distance of 5.88 feet to a point;

**Thence**, by a curve to the left having a radius of 165.43 feet, an arc length of 37.37 feet, and a chord bearing of South 83 degrees 54 minutes 03 seconds West, a distance of 37.29 feet to a ¾" iron rebar now set, said rebar being 173.06 feet right of and radial to Centerline Station 68+34.72, of United States Route 119, Project # APD 483(7) said rebar also being on a line of said WWYD, LLC (Parcel 4.6) which bears, North 47 degrees 15 minutes 41 seconds West, a distance of 463.09 feet from a ½" iron rod found at a corner common to said WWYD, LLC (Parcel 4.6);

**Thence**, leaving said United States Route 119 and through said WWYD, LLC (Parcel 4.6) for five (5) lines, by a curve to the left having a radius of 162.00 feet, an arc length of 54.15 feet, and a chord bearing of South 67 degrees 42 minutes 55 seconds West, a distance of 53.90 feet to a point;

**Thence**, South 58 degrees 08 minutes 23 seconds West, a distance of 4.86 feet to a point;

**Thence**, by a curve to the right having a radius of 138.00 feet, an arc length of 219.78 feet, and a chord bearing of North 76 degrees 14 minutes 07 seconds West, a distance of 197.28 feet to a point;

**Thence**, North 30 degrees 36 minutes 36 seconds West, a distance of 126.10 feet to a point;

**Thence**, by a curve to the right having a radius of 238.00 feet, an arc length of 26.69 feet, and a chord bearing of North 27 degrees 23 minutes 49 seconds West, a distance of 26.68 feet to the **Point of Beginning**, containing 2.34 acres, MORE OR LESS, as shown on a plat attached hereto and made part of this description.

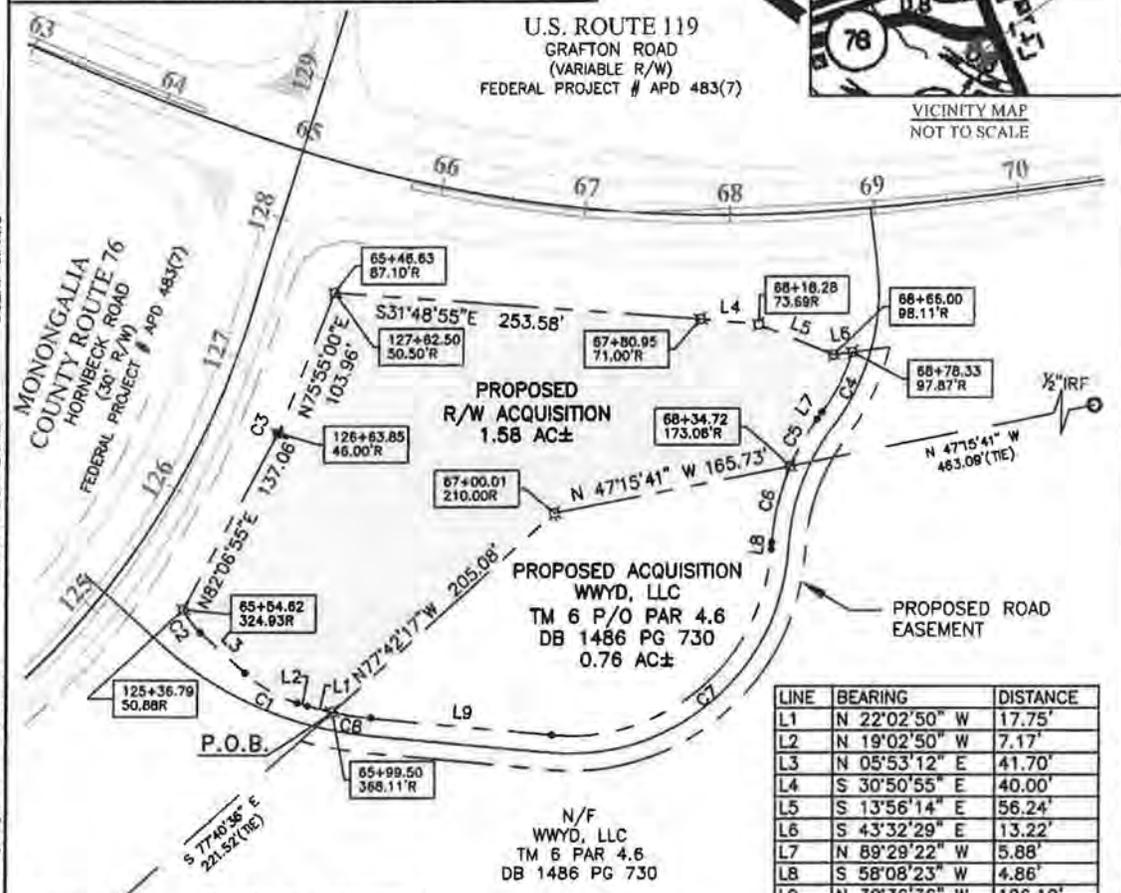
The tract or parcel of land herein described being a part of the same lands conveyed to West Virginia Department of Transportation Division of Highways as shown on United States Route 119, Project # APD 483(7), and a part of the same lands conveyed to WWYD, LLC from 3M Realty, LLC as recorded in Deed Book 1486 Page 730 at the Office of the Clerk, Monongalia County, West Virginia.

NOTE: THE TRACTS SHOWN BEING PART OF THE SAME LANDS CONVEYED TO WEST VIRGINIA DEPARTMENT OF TRANSPORTATION DIVISION OF HIGHWAYS ACQUIRED AS PART OF FEDERAL PROJECT # APD 483(7) SHEETS 15 & 16 AND PART OF THE SAME LANDS CONVEYED TO WWYD, LLC FROM 3M REALTY, LLC AS RECORDED IN DEED BOOK 1486 PAGE 730 AT THE OFFICE OF THE CLERK, MONONGALIA COUNTY, WEST VIRGINIA.



U.S. ROUTE 119  
GRAFTON ROAD  
(VARIABLE R/W)  
FEDERAL PROJECT # APD 483(7)

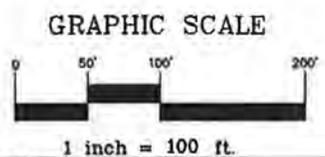
PLOT DATE / TIME: 4/28/2015 - 10:55am  
LAYOUT: DOH EXHIBIT  
USER: cirvine  
CAD FILE: R:\030-2431\WVDD-Rt 119 Sheet\Survey\CITY EXHIBIT.dwg



LINE	BEARING	DISTANCE
L1	N 22°02'50" W	17.75'
L2	N 19°02'50" W	7.17'
L3	N 05°53'12" E	41.70'
L4	S 30°50'55" E	40.00'
L5	S 13°56'14" E	56.24'
L6	S 43°32'29" E	13.22'
L7	N 89°29'22" W	5.88'
L8	S 58°08'23" W	4.86'
L9	N 30°36'36" W	126.10'

CURVE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	100.00'	42.01'	N 06°08'55" W	41.70'
C2	50.00'	19.66'	N 17°09'09" E	19.54'
C3	5.00'	0.54'	N 79°00'57" E	0.54'
C4	138.00'	46.28'	S 80°54'09" W	46.07'
C5	165.43'	37.37'	S 83°54'03" W	37.29'
C6	162.00'	54.15'	S 67°42'55" W	53.90'
C7	138.00'	219.78'	N 76°14'07" W	197.28'
C8	238.00'	26.69'	N 27°23'49" W	26.68'

PROPOSED ACQUISITION  
1.58 AC±  
0.76 AC±  
2.34 AC± TOTAL



**LEGEND/ABBREVIATIONS**

- P = PROPERTY LINE
- = POINT
- = MONUMENT FOUND (AS NOTED)
- (T) = TOTAL
- R/W = RIGHT-OF-WAY
- P.O.B. = POINT OF BEGINNING
- TM = TAX MAP NUMBER
- PAR = PARCEL NUMBER
- P/O = PART OF
- N/F = NOW OR FORMERLY
- IRF = REBAR FOUND (size as noted)
- (S 45° 45' E 100.0') = DEED BEARING & DISTANCE

EXHIBIT FOR  
CITY OF MORGANTOWN

MISC. INFO: BEARINGS BASED ON WEST VIRGINIA STATE PLANE NORTH ZONE NAD 83 (CORS) TRIMBLE S3 TOTAL STATION ◊ = 3/4" x 30" REBAR SET	TAX MAP N/A	SHOWING PROPOSED AREA TO BE INCORPORATED on UNITED STATES ROUTE 119 (GRAFTON ROAD) MONONGALIA COUNTY ROUTE 76 (HORNBECK ROAD)
	PARCEL No. N/A	
THE THRASHER GROUP, INC. 600 WHITE OAKS BLVD. BRIDGEPORT, WV 26330 PHONE 304-624-4108	JOB. No. 030-2431	SITUATE CLINTON DISTRICT MONONGALIA COUNTY WEST VIRGINIA SCALE: 1" = 100' APRIL 2015
	OWNER: WV DOT-DOH WWYD, LLC REFERENCE: DB PG 1486 PG 730	LAYOUT TAB: DOH EXHIBIT CAD FILE: R:\030-2431\WVDD-Rt 119 Sheet\Survey\CITY

**AN ORDINANCE AUTHORIZING AN AGREEMENT WITH THE MONONGALIA  
COUNTY COMMISSION FOR EMPLOYMENT OF AN ANIMAL CONTROL  
OFFICER**

The City of Morgantown hereby ordains that the City Manager is authorized to execute the attached agreement, which is incorporated in this Ordinance by reference, to employ an Animal Control Officer as set forth in City Code section 505.13.

**FIRST READING:**

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

**ADOPTED:**

**FILED:**

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

**RECORDED:**

## INTERGOVERNMENTAL AGREEMENT

This Agreement made and entered into this 3<sup>rd</sup> day of June, 2015, 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 Dog Wardens 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 Dog Warden 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 ordinances of the CITY.
- (2) The COMMISSION shall begin providing such Dog Warden 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 ordinance service needs of the CITY.
- (5) That the COMMISSION employee(s) shall respond to calls for assistance regarding domesticated animals within the CITY in which a resident may be threatened by said domesticated animal.
- (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 Dog Warden assistance pursuant to this Agreement.
- (8) The COMMISSION shall provide the City Manager with periodic reports, as requested by the City Manager, summarizing Dog Warden 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 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 Dog Warden services provided by the COMMISSION, CITY agrees to pay the COMMISSION \$35,746.71 for the 12 month term of this agreement in installment payments of \$2,978.89 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 \$35,746.71 due the COMMISSION will be reduced by \$2,978.89 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 both parties which shall be subject to approval by the governing bodies

of both parties.

THE MONONGALIA COUNTY COMMISSION,

By: Thomas C. Bloom  
Thomas C. Bloom

It's: President

THE CITY OF MORGANTOWN,

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

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

**AN ORDINANCE AUTHORIZING A RIGHT-OF-WAY AND EASEMENT AGREEMENT OVER PROPERTY IN THE FOURTH WARD OF THE CITY OF MORGANTOWN IDENTIFIED AS TAX MAP 19, PARCEL 89.**

The City of Morgantown hereby ordains that the City Manager is authorized to execute the attached agreement, which is incorporated in this Ordinance by reference, granting a right-of-way and easement to the owner of property located in the Fourth Ward and shown on Tax Map 19, parcel 89.

**FIRST READING:**

\_\_\_\_\_  
Mayor

**ADOPTED:**

**FILED:**

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

**RECORDED:**

**AN ORDINANCE AUTHORIZING A RIGHT-OF-WAY AND EASEMENT  
AGREEMENT OVER PROPERTY IN THE FOURTH WARD OF THE CITY OF  
MORGANTOWN IDENTIFIED AS TAX MAP 15, PARCELS 211 and 212, AND TAX  
MAP 19, PARCELS 90, 91, 92, 93, 94, and 95**

The City of Morgantown hereby ordains that the City Manager is authorized to execute the attached agreement, which is incorporated in this Ordinance by reference, granting a right-of-way and easement to the owner of property located in the Fourth Ward and shown on Tax Map 15, parcels 211 and 212, and Tax Map 19, parcels 90, 91, 92, 93, 94, and 95.

**FIRST READING:**

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

**ADOPTED:**

**FILED:**

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

**RECORDED:**