



# The City of Morgantown

430 Spruce Street  
Morgantown, West Virginia 26505  
(304) 284-7439  
www.morgantownwv.gov

## AGENDA

### MORGANTOWN CITY COUNCIL REGULAR MEETING

Mon County Commission Chambers, 243 High Street, 2nd Floor, Morgantown, WV 26505

Tuesday, April 04, 2023 at 7:00 PM

1. **CALL TO ORDER:**
2. **ROLL CALL:**
3. **PLEDGE:**
4. **APPROVAL OF MINUTES:**
  - A. March 21, 2023, Special Meeting Minutes
  - B. March 21, 2023, Regular Meeting Minutes
  - C. March 28, 2023, Committee of the Whole Meeting minutes
5. **CORRESPONDENCE:**
  - A.** Week of Engagement Proclamation
  - B.** Sexual Assault Awareness Month Proclamation
  - C.** Fair Housing Month Proclamation
6. **PUBLIC HEARINGS:**
  - A. An Ordinance providing for the Zoning Reclassification of Certain Parcels of Real Estate in the Second Ward of the City of Morgantown from B-1, Neighborhood Business District to B-4, General Business District Amending Article 1331 of the Planning and Zoning Code of the City of Morgantown as shown on the exhibit hereto attached and declared to be a part of this Ordinance as if the same were fully set forth herein**
7. **UNFINISHED BUSINESS:**
  - A.** Consideration of **APPROVAL** of (Second Reading) of An Ordinance providing for the Zoning Reclassification of Certain Parcels of Real Estate in the Second Ward of the City of Morgantown from B-1, Neighborhood Business District to B-4, General Business District Amending Article 1331 of the Planning and Zoning Code of the City

of Morgantown as shown on the exhibit hereto attached and declared to be a part of this Ordinance as if the same were fully set forth herein (*First reading 2/7/23*)

**B. Boards & Commissions**

**8. PUBLIC PORTION WHICH SHALL BE SUBJECT TO RULES ESTABLISHED BY COUNCIL AND ADOPTED BY RESOLUTION:**

**9. SPECIAL COMMITTEE REPORTS:**

**10. CONSENT AGENDA:**

**11. NEW BUSINESS:**

**A.** Consideration of **APPROVAL** of (First Reading) of An Ordinance providing for the Zoning Reclassification of certain parcels of Real Estate in the Seventh Ward of the City of Morgantown, Tax District 15, Tax Map 55, Parcel 92, from PRO. Professional, Residential, and Office District to B-2, Service Business District amending Article 1331 of the Planning and Zoning Code of the City of Morgantown as shown on the exhibit hereto attached and declared to be a part of this Ordinance as if the same were fully set forth herein

**B.** Consideration of **APPROVAL** of (First Reading) of An Ordinance providing for the Zoning Reclassification of certain parcels of Real Estate in the Seventh Ward of the City of Morgantown Tax District 15, Tax Map 55, Parcel 93, Commonly known as 699 Burroughs Street from PRO, Professional, Residential, and Office District to B-2, Service Business District amending Article 1331 of the Planning and Zoning Code of the City of Morgantown as shown on the exhibit hereto attached and declared to be a part of this Ordinance as if the same were fully set forth herein

**C.** Consideration of **APPROVAL** of (First Reading) of An Ordinance Authorizing Execution of a Lease Agreement with POPSHOPWV, Inc. for Space within the Woodburn School Building

**D.** Consideration of **APPROVAL** of (First Reading) of An Ordinance Authorizing acceptance of a Deed of Release from the Federal Aviation Administration and Conveyance of a Quit Claim Deed to West Virginia Department of Transportation Division of Highways for Real Estate along West Run Road

**E.** Consideration of **APPROVAL** of (First Reading) of An Ordinance Annulling a portion of First Street and providing for dedication of additional Public Right-of-Way to First Street

**F.** Consideration of **APPROVAL** of White Park Tree Bid Award 2023-04

**12. CITY MANAGER'S REPORT:**

**13. REPORT FROM CITY CLERK:**

**14. REPORT FROM CITY ATTORNEY:**

**15. REPORT FROM COUNCIL MEMBERS:**

**16. EXECUTIVE SESSION:**

- A.** Pursuant to West Virginia State Code Section 6-9A-4(2)(9) to discuss acquisition and or development of real estate in the Fifth Ward.
- B.** Pursuant to West Virginia State Code Section 6-9A-4(2)(9) to discuss acquisition and or development of real estate in the Sixth Ward.

**17. ADJOURNMENT:**

**For accommodations please call or text 304-288-7072**



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389 Spruce Street  
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Office of the Mayor

## ***PROCLAMATION***

- Whereas,*** service to others is a hallmark of the American character, and central to how we meet our challenges; and
- Whereas,*** West Virginia University and the City of Morgantown is committed to fostering a culture of academic engagement and community service among its students, staff, and community members; and
- Whereas,*** volunteerism and community engagement are proven cost-effective strategies to meet city needs; and
- Whereas,*** service participants demonstrate commitment, and patriotism by making an intensive commitment to service, a commitment that remains with them in their future endeavors; and
- Whereas,*** Points of Light have declared April 16 through April 22, 2023, as National Volunteer Week; and
- Whereas,*** the West Virginia University Center for Community Engagement serves as a hub for coordinating and executing community-wide engagement and volunteer initiatives between university and community partnerships.

***Now therefore, I,*** Jenny Selin, Mayor of the City of Morgantown, West Virginia, on behalf of the City Council, do hereby proclaim the third week of April 2023 as

## **Week of Engagement**

in the City of Morgantown and encourage residents to recognize the positive impact of engagement in our city, and to find ways to give back to their communities.

***In Witness thereof,*** we have hereunto set our hands and caused the Seals of the city and County of Monongalia, to be affixed this third week in April 2023.

***Seal:***

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***Jenny Selin, Mayor***  
***April 4, 2023***



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Office of the Mayor

## ***PROCLAMATION***

- Whereas,*** Sexual Assault Awareness Month is intended to draw attention to the fact that sexual violence is widespread and has public health implications for every community member of Monongalia County; and
- Whereas,*** rape, sexual assault, and sexual harassment impact our community as seen by statistics indicating that one of five women will have experienced sexual assault by the time they complete college (Fisher, Cullen & Turner, 200); and
- Whereas,*** we must work together to educate our community about what can be done to prevent sexual assault and how to support survivors; and
- Whereas,*** staff and volunteers of West Virginia sexual assault programs and other professionals have come together as the West Virginia Foundation for Rape Information Services (WV FRIS) to support each other in their work and provide the State of West Virginia and its citizens with a central source of information on sexual assault; and
- Whereas,*** with leadership, dedication, and encouragement, there is compelling evidence that we can be successful in reducing sexual violence in Monongalia County through prevention education, increased awareness and holding perpetrators who commit acts of violence responsible for their actions; and
- Whereas,*** the Rape and Domestic Violence Information Center (RDVIC) strongly supports the efforts of national, state and local partners, and of every citizen to actively engage in public and private efforts, including conversations about what sexual violence is, how to prevent it, how to help survivors connect with services, and how every segment of our society can work together to better address sexual violence.

***Now therefore be it resolved,*** that I, Jenny Selin, Mayor of the City of Morgantown, West Virginia, on behalf of the City Council, join anti-sexual violence advocates and support service programs in the belief that all community members must be part of the solution to end sexual violence. Along with the United States government and the State of West Virginia, the Council does hereby proclaim April 2023 as

## **Sexual Assault Awareness Month**

in Monongalia County and applauds the efforts of the many victim service providers, police officers, prosecutors, national and community organizations, and private sector supporters for their efforts in promoting awareness about sexual assault.

***Seal:***

---

***Jenny Selin, Mayor***  
***April 4, 2023***



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Office of the Mayor

## ***PROCLAMATION***

- Whereas,*** under the Federal Fair Housing Law, Title VIII of the Civil Rights Act of 1968 no American should have the right to purchase or rent shelter of choice abridged because of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity; and
- Whereas,*** under the West Virginia State Fair Housing Law, Title 49-2-305, MCA, it is illegal to deny housing to any person because of race, sex, religion, color, age, physical or mental disability or national origin; and
- Whereas,*** it is the fundamental policy of this nation, our state, and our City to advance, safeguard, and defend the principles and guarantees of equality of opportunity for all; and
- Whereas,*** the places where people live have a direct impact on the quality of their health, education, and access to economic opportunities; and
- Whereas,*** discriminatory housing practices create racial and economic segregation in communities that can lead to disparate outcomes in overall quality of life; and
- Whereas,*** the City of Morgantown believes that understanding of and access to fair housing laws have made our community and our neighborhoods stronger and more vibrant; and
- Whereas,*** we are committed to programs what will help educate the public about the right to fair housing practices in the City of Morgantown; and
- Whereas,*** we are committed to promoting housing choices and fostering inclusive communities free from housing discrimination.

***Now therefore,*** I, Jenny Selin, Mayor of the City of Morgantown, West Virginia, and behalf of City Council, want to thank the many people and organizations in our community who have opened the doors of housing opportunity to all citizens and proclaim the month of April 2023 to be

## Fair Housing Month

***Seal:***

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***Jenny Selin, Mayor***  
***April 4, 2023***

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

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF CERTAIN PARCELS OF REAL ESTATE IN THE SECOND WARD OF THE CITY OF MORGANTOWN FROM B-1, NEIGHBORHOOD BUSINESS DISTRICT TO B-4, GENERAL BUSINESS DISTRICT AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WERE FULLY SET FORTH HEREIN.

Property in this ordinance is identified as Tax District 13, Tax Map 26, Parcels 246, 243 and 240 Parcel 186, Fifth Ward commonly known as 261 Willey Street, and 544 and 552 North Spruce Street respectively.

THE CITY OF MORGANTOWN HEREBY ORDAINS:

1. That the zoning designation for Tax District 13, Tax Map 26; Parcels 246, 243 and 240 of the Monongalia County tax assessment as described herein and illustrated on the exhibit hereto attached and declared to be a part of this Ordinance to be read herewith as if the same were fully set forth herein is reclassified from B-1, Neighborhood Business District to B-4, General Business District.
2. That the Official Zoning Map be accordingly changed to show said zoning classifications.

This Ordinance shall be effective from the date of adoption and the Official Zoning Map shall be duly noted with the effective date of adoption.

FIRST READING:

\_\_\_\_\_

Mayor

ADOPTED:

FILED:

RECORDED:

\_\_\_\_\_

City Clerk

**CASE NUMBER:  
RZ22-03 / Daniel Scott / 261 Willey Street, 544 and 552 North Spruce Street**



**Legend**

- Zoning Districts
- Parcels
- Buildings
- Parcels to be Rezoned from B-1 to B-4

**THE CITY OF  
MORGANTOWN  
WEST VIRGINIA**

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

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF CERTAIN PARCELS OF REAL ESTATE IN THE SEVENTH WARD OF THE CITY OF MORGANTOWN, TAX DISTRICT 15, TAX MAP 55, PARCEL 92, FROM PRO, PROFESSIONAL, RESIDENTIAL, AND OFFICE DISTRICT TO B-2, SERVICE BUSINESS DISTRICT AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WERE FULLY SET FORTH HEREIN.

THE CITY OF MORGANTOWN HEREBY ORDAINS:

1. That the zoning designation for Tax District 15, Tax Map 55; Parcel 92 of the Monongalia County tax assessment as described herein and illustrated on the exhibit hereto attached and declared to be a part of this Ordinance to be read herewith as if the same were fully set forth herein is reclassified from PRO, Professional, Residential, and Office District to B-2, Service Business District.
2. That the Official Zoning Map be accordingly changed to show said zoning classifications.

This Ordinance shall be effective from the date of adoption and the Official Zoning Map shall be duly noted with the effective date of adoption.

FIRST READING:

\_\_\_\_\_  
Mayor

ADOPTED:

FILED:

RECORDED:

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

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

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF CERTAIN PARCELS OF REAL ESTATE IN THE SEVENTH WARD OF THE CITY OF MORGANTOWN, TAX DISTRICT 15, TAX MAP 55, PARCEL 93, COMMONLY KNOWN AS 699 BURROUGHS STREET FROM PRO, PROFESSIONAL, RESIDENTIAL, AND OFFICE DISTRICT TO B-2, SERVICE BUSINESS DISTRICT AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WERE FULLY SET FORTH HEREIN.

THE CITY OF MORGANTOWN HEREBY ORDAINS:

1. That the zoning designation for Tax District 15, Tax Map 55; Parcel 93 of the Monongalia County tax assessment as described herein and illustrated on the exhibit hereto attached and declared to be a part of this Ordinance to be read herewith as if the same were fully set forth herein is reclassified from PRO, Professional, Residential and Office District to B-2, Service Business District.
2. That the Official Zoning Map be accordingly changed to show said zoning classifications.

This Ordinance shall be effective from the date of adoption and the Official Zoning Map shall be duly noted with the effective date of adoption.

FIRST READING:

\_\_\_\_\_  
Mayor

ADOPTED:

FILED:

RECORDED:

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

Ordinance No. 2023-\_\_\_\_\_

**AN ORDINANCE AUTHORIZING EXECUTION OF A LEASE AGREEMENT WITH POPSHOPWV, INC. FOR SPACE WITHIN THE WOODBURGN SCHOOL BUILDING**

The City of Morgantown hereby ordains that the City Manager is authorized to enter into the attached Lease Agreement with POPSHOPWV, Inc., for lease of space within the Woodburn School Building, and that the City Manager is also authorized to take such other actions as are necessary and helpful to accomplish the purpose of such lease.

This ordinance is effective upon adoption.

FIRST READING: \_\_\_\_\_

\_\_\_\_\_  
Mayor

SECOND READING: \_\_\_\_\_

ADOPTED: \_\_\_\_\_

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

FILED: \_\_\_\_\_

## LEASE AGREEMENT

This agreement is made this \_\_\_\_\_ day of \_\_\_\_\_, 2023 by and between **THE CITY OF MORGANTOWN**, a municipal corporation and political subdivision of the State of West Virginia (“Lessor”), and **POPSHOPWV, INC.**, a West Virginia nonprofit corporation (“Lessee”), upon the following terms:

### RECITALS

- A. Lessor is the sole owner of the premises described below.
  
- B. Lessee is a non-profit organization that was established to conduct educational services and educational support services and desires to lease office space from lessor.
  
- C. The parties desire to enter a lease agreement defining their respective rights, duties, and liabilities relating to the premises.

In consideration of the matters described above and of the mutual benefits and obligations set forth in this lease agreement, the parties agree as follows:

### SECTION ONE. DESCRIPTION OF PREMISES

- A. Lessor leases to lessee that certain space consisting of **Rooms 103, 105, and 106** located at the former Woodburn Elementary School, consisting of **2,272 square feet**, more or less, situated in Morgantown, Monongalia County, West Virginia, and shown on the attached “**Exhibit 1**,” which is incorporated herein by reference (the “Premises”).
  
- B. The premises shall be used for the following purpose and for no other purpose: music educational services, fine arts instruction, and music recording.
  
- C. In addition to the demised premises, the Lessee shall have the right to use all driveways, parking areas, and sidewalks (collectively, “Common Areas”), if any, in or about the Woodburn School building, jointly with other tenants and their respective representatives, agents, customers, guests and invitees. The Lessor will be responsible for routine maintenance of the Common Areas.
  
- D. Lessee’s use of the gymnasium portion of the Premises shall be subject to Lessor’s right to utilize the gymnasium for storage of furniture and/or hosting of occasional events that do not interfere with Lessee’s ordinary use of the Premises. Lessee acknowledges that Lessor and its officers, employees, agents, and invitees may have access to the gymnasium space and that Lessee is responsible for securing any of Lessee’s property in the gymnasium space to avoid impacts of Lessor’s use of such space.

### SECTION TWO. TERM OF LEASE

- A. This lease agreement shall cover a term commencing **April 1, 2023** (the “Effective Date”) and extending until midnight on the day preceding the **first** 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.

B. Lessee shall surrender the premises to lessor immediately on termination of the lease.

### SECTION THREE. DELIVERY OF POSSESSION

If, for any reason, lessor cannot deliver possession of the demised premises at the commencement of the term, this lease agreement shall not be void or voidable, nor shall lessor be liable to lessee for any loss or damage resulting from the inability to deliver possession. However, there shall be a proportionate reduction in total rent, covering the period between the commencement of the term and actual delivery of the demised premises to lessee, in the event of a late delivery by lessor.

### SECTION FOUR. RENTAL

A. Lessee shall pay a total of **\$9,883.20** per year, resulting in a monthly rate of **\$823.60** per month, due on the **1st** day of each month for the succeeding month's rental. This sum reflects annual rate of **\$4.35** per square foot of space. Payments shall be made to lessor at the address specified herein, and a payment shall be delinquent if not paid by the fifth day after which it is due. In any month not entirely covered by the term of this lease, the monthly rental fee shall be prorated according to the number of days of that month covered by the lease term, resulting in a fee for that fractional month equal to (Number of days of month in lease term / number of days in calendar month) x **\$823.60**.

B. The annual rental payment for each year beyond the initial term shall increase by Three Percent (3%) of the prior year annual rental payment.

C. On lessee's failure to pay the rental on a timely basis, lessor shall have the right to terminate this lease agreement, and the lease agreement will then be forfeited.

### SECTION FIVE. RESTRICTIONS ON USE

Lessee shall not use or permit the demised premises, or any part of the demised premises, to be used for any purposes other than those set forth in this lease agreement. Lessee shall neither permit on the demised premises any act, sale, or storage that may be prohibited under standard forms of fire insurance policies, nor use the premises for any such purpose. In addition, no use shall be made or permitted to be made that shall result in: (1) waste on the demised premises; (2) a public or private nuisance that may disturb the quiet enjoyment of other tenants in the building; (3) improper, unlawful, or objectionable use, including sale, storage, or preparation, of food, alcoholic beverages, or materials generating an odor on the premises; or (4) noises or vibrations, which are outside the scope of the stated use of the property by Lessee described in this Agreement as music education services, fine arts instruction, and music recording; provided that unreasonably loud noise may be considered a nuisance in violation of paragraph (2) of this section. Lessee shall comply with all governmental regulations and statutes affecting the demised premises either now or in the future.

### SECTION SIX. ABANDONING PREMISES OR PERSONAL PROPERTY

Lessee shall not vacate or abandon the demised premises at any time during the term of this lease agreement. If lessee does vacate or abandon the demised premises or is dispossessed by process of law, any personal property belonging to lessee and left on the demised premises shall be deemed abandoned at the option of lessor and shall become the property of lessor.

### SECTION SEVEN. UTILITIES AND SERVICES

A. Lessor shall furnish and timely pay when due and payable, at no additional cost to the Lessee, the following utilities and/or

services:

- (i) Custodial services in the common areas used by other tenants.
- (ii) Ground maintenance, including mowing, landscaping, and parking lot maintenance.
- (iii) Snow removal in front of the Activity Center, including only the front of the modular building constituting the Leased Premises and the walkway adjacent thereto, to be paid by the Lessor if third-party services are required, who shall be entitled to reimbursement as Additional Rent from the Lessee upon Lessor's delivery of a separate invoice, providing evidence of payment made.
- (iv) Utilities including natural gas, electric, and water.
- (v) Trash service

B. The Lessee, at its expense, shall furnish and provide payment to the applicable company or vendor for the following utilities and/or services:

- (i) Custodial Services in the demised premises, excluding common areas.
- (ii) Telephone and internet connectivity services, as desired by Lessee.
- (iii) The Lessee shall have the right to rekey locks, install a key card access system, or provide any other security system for the demised premises, using such security services provider as the Lessee may choose in its sole discretion, provided that Lessee shall ensure Lessor is able to access the premises through such locks or system. The Lessee may remove said system at any time during the term of this lease, provided that Lessee, at its sole expense, shall repair any damage resulting from such removal and ensure that an adequate method for securing the demised premises is in place.

C. In the event that any utilities or services being provided by the Lessor are interrupted for reasons within the Lessor's control and as a result, suitability of the Premises is interrupted, the Lessee shall have the option to (i) cause the utilities or services to be reinstated and deduct the costs and expense thereof from the rents which may become due and payable thereafter to the Lessor until the Lessee is fully reimbursed for such expenditures; or (ii) terminate this Lease upon notice to Lessor and Lessor's failure to cure such default within three (3) business days.

#### **SECTION EIGHT. ALTERATIONS AND MODIFICATION; REPAIRS**

A. Lessee has inspected the demised premises, and they are now in a tenantable and good condition, except as specifically identified by Lessee on the attached "**Schedule 1 – Lessee Identification of Defects.**"

B. Lessee shall take good care of the demised premises and shall not alter, repair, or change the demised premises without the prior, express, and written consent of lessor, which consent shall not be unreasonably withheld.

C. All alterations, improvements, and changes that lessor allows shall be done either by or under the direction of lessee and at the expense of lessee. Lessor shall not have the right to control the manner of performance or the selection of contractors, and it is the intent of the parties that no public funds be contributed either directly or indirectly to the payment for any alterations or improvements. Lessee shall be responsible for ensuring that any approved alterations or improvements are performed in compliance with applicable laws. All alterations and improvements shall become the property of lessor and remain on the demised premises, except that at the option of lessor, lessee shall, at its expense, remove from the demised premises all partitions, counters, railings, and similarly installed improvements when surrendering the demised premises.

D. All damage or injury done to the demised premises by lessee or any person who may be in or on the demised premises with the consent of lessee shall be paid for by lessee.

E. Lessee shall, at the termination of this lease agreement, surrender the demised premises to lessor in as good condition and repair as reasonable and proper use of the premises will permit.

F. Lessor shall be responsible for making all routine repairs and for performing routine maintenance in the demised premises except the services and maintenance for which Lessee is responsible pursuant to **Section 7.B.** of this Agreement. Lessee shall permit lessor and lessor’s agents to enter the demised premises at all reasonable times to inspect them, clean windows, perform other janitorial services, maintain the building and demised premises, make repairs, alterations, or additions to the demised premises, or any portion of the building, including the erection of scaffolding, props, or other mechanical devices, to post notices of nonliability for alterations, additions, or repairs, or to place on the premises any usual or ordinary “For Sale” signs, without any rebate of rent to lessee or damages for any loss of occupation or quiet enjoyment of the demised premises. Lessor may, at any time within ninety days prior to the expiration of this lease agreement, place on the windows and doors of the premises any usual or ordinary “To Let” or “To Lease” signs. Lessor and lessor’s agents may, during the last-mentioned period, enter on the demised premises at reasonable hours and exhibit them to prospective tenants.

**SECTION NINE. LIMITATION OF LIABILITY; INDEMNIFICATION**

A. Lessee waives all claims against lessor for damages to goods or for injuries to persons on or about the demised premises from any cause arising at any time.

B. Lessee will indemnify lessor on account of any damage or injury to any person, or to the goods of any person, arising from the use of the demised premises by lessee, or arising from the failure of lessee to keep the demised premises in good condition as provided in this lease agreement.

C. Lessor shall not be liable to lessee for any damage by or from any act or negligence of any other occupant of the same building, or by any owner or occupant of adjoining or contiguous property.

D. Lessee agrees to pay for all damage to the building, as well as all damage or injury suffered by tenants or occupants of the building caused by the misuse or neglect of the demised premises by lessee.

E. Lessee shall defend, indemnify, and hold harmless the lessor and its representatives and employees from and against any and all liabilities, demands, suits, claims, losses, fines, or judgments arising by reason of the injury or death of any person or damage to or loss of any property, including all reasonable costs for investigation and defense thereof, (including, but not limited to, attorney fees, court costs, and expert fees), of any nature whatsoever arising out of, or incidental to, this Lease Agreement or Lessee’s use or occupancy of the leased premises, or the acts or omissions of the Lessee, its officers, employees, agents, representatives, contractors, sub-contractors, licensees or invitees, regardless of where the injury, death, loss, or damage may occur unless such injury, death, loss, or damage is caused by the sole negligence of the Lessor, its employees, agents, officers, or representatives. The Lessor shall give Lessee reasonable notice of any such claims or actions. The provisions of this Article shall survive the expiration or earlier termination of this Lease Agreement.

F. In order to assure its ability to defend and hold harmless the lessor, lessee shall carry insurance in the following minimum amounts during the term of this lease, naming the lessor as an additional insured on the policy(ies):

- Bodily Injury .....\$1,000,000 per occurrence
- Property Damage.....\$ 100,000 per occurrence

G. Lessee shall provide the lessor with certification of insurance through the term of this Agreement, evidencing such coverage to be in force.

H. The Lessor agrees to notify the lessee in writing, as soon as practicable, of any claims, demands, or action arising out of an

occurrence covered hereunder of which the lessor has knowledge, and to cooperate with the lessee in the investigation and defense thereof.

#### **SECTION TEN. DESTRUCTION OF PREMISES**

A. In the event of a partial destruction of the demised premises during the term of this lease agreement from any cause, lessor may, at its option, repair the demised premises.

B. Any partial destruction of the demised premises shall neither annul nor void this lease agreement, except that lessee shall be entitled to a proportionate reduction of rent while the repairs are being made, any proportionate reduction being based on the extent to which the making of repairs shall interfere with the business carried on by lessee on the demised premises. Lessor may, at lessor's option, make repairs within a reasonable time, this lease agreement continuing in full force and effect and the rent to be proportionately rebated as previously set forth in this section. If lessor elects not to make repairs, or if repairs cannot be made under the laws and regulations of the applicable governmental authorities, this lease agreement may be terminated at the option of either party.

C. In the event of any partial destruction of the demised premises which lessor may elect to repair under the terms of this section, the provisions of any statute or common law rule authorizing lessee to make the repairs and deduct the expenses from the rent are waived by lessee.

D. A total destruction of the building in which the demised premises are situated shall terminate this lease agreement.

#### **SECTION ELEVEN. CONDEMNATION**

A condemnation of the entire building or a condemnation of the portion of the demised premises occupied by lessee shall result in a termination of this lease agreement. Lessor shall receive the total of any consequential damages awarded as a result of condemnation proceedings. All future rent installments to be paid by lessee under this lease shall be terminated.

#### **SECTION TWELVE. ASSIGNMENT AND SUBLEASE**

A. Lessee shall not assign any rights or duties under this lease agreement nor sublet the demised premises or any part of the demised premises, nor allow any other person to occupy or use the demised premises without the prior, express, and written consent of lessor. A consent to one assignment, sublease, or occupation or use by any other person shall not be a consent to any subsequent assignment, sublease, or occupation or use by another person. Any assignment or subletting without consent shall be void.

B. This lease agreement shall not be assignable, as to the interest of lessee, by operation of law, without the written consent of lessor.

C. Lessor may withhold consent to an assignment or sublease of the demised premises in lessor's sole discretion.

#### **SECTION THIRTEEN. BREACH OR DEFAULT**

Lessee shall have breached this lease agreement and shall be considered in default under this lease agreement if: (1) lessee fails to pay any rent when due and does not make the delinquent payment within five days after receipt of notice from lessor; or (2) lessee fails to perform or comply with any of the covenants or conditions of this lease agreement and such failure continues for a period of ten days after receipt of notice from lessor in the fashion described in Section 21 below.

#### **SECTION FOURTEEN. LESSOR'S REMEDIES**

In the event of a breach of this lease agreement as set forth in SECTION THIRTEEN above, the rights of lessor shall be as follows:

A. Lessor shall have the right to cancel and terminate this lease agreement, as well as all of the right, title, and interest of lessee under this lease agreement, by giving to lessee not less than five days' notice of the cancellation and termination. On expiration of the time fixed in the notice, this lease agreement and the right, title, and interest of lessee under this lease agreement shall terminate in the same manner and with the same force and effect, except as to lessee's liability, as if the date fixed in the notice of cancellation and termination were the end of the lease term.

B. Lessor may elect but shall not be obligated to make any payment required of lessee in this lease agreement or comply with any agreement, term, or condition required by this lease agreement to be performed by lessee. Lessor shall have the right to enter the demised premises for the purpose of correcting or remedying any such default and to remain until the default has been corrected or remedied. However, any expenditure by lessor incurred in any such correction of a default shall not be deemed to waive or release lessee's default or lessor's right to take any action as may be otherwise permissible under this lease agreement in the case of any default.

C. Lessor may reenter the demised premises immediately and remove the property and personnel of lessee, and store the property in a public warehouse or at a place selected by lessor, at the expense of lessee. After reentry lessor may terminate this lease agreement on giving five days' written notice of termination to lessee. Without the notice, reentry will not terminate this lease agreement. On termination, lessor may recover from lessee all damages proximately resulting from the breach, including the cost of recovering the demised premises and the worth of the balance of this lease agreement over the reasonable rental value of the demised premises for the remainder of the lease term, which sum shall be immediately due lessor from lessee.

After reentry, lessor may relet the demised premises or any part of the demised premises for any term without terminating this lease agreement, at the rent and on the terms as lessor may choose. Lessor may make alterations and repairs to the demised premises. The duties and liabilities of the parties if the demised premises are relet as provided in this paragraph shall be as follows:

1. In addition to lessee's liability to lessor for breach of the lease agreement, lessee shall be liable for all expenses of the reletting, for the alterations and repairs made, and for the difference between the rent received by lessor under the new lease agreement and the rent installments that are due for the same period under this lease agreement.

2. Lessor shall have the right to apply the rent received from reletting the premises (a) to reduce lessee's indebtedness to lessor under this lease agreement, not including indebtedness for rent, (b) to expenses of the reletting and alterations and repairs made, (c) to rent due under this lease agreement, or (d) to payment of future rent under this lease agreement as it becomes due.

If the new lessee does not pay a rent installment promptly to lessor, and the rent installment has been credited in advance of payment to the indebtedness of lessee other than rent, or if rentals from the new lessee have been otherwise applied by lessor as provided for in this section, and during any rent installment period, are less than the rent payable for the corresponding installment period under this lease agreement, lessee shall pay lessor the deficiency, separately for each rent installment

deficiency period and before the end of that period. Lessor may at any time after a reletting terminate this lease agreement for the breach on which lessor had based the reentry and subsequently relet the premises.

D. After reentry, lessor may procure the appointment of a receiver to take possession and collect rents and profits of the business of lessee, and, if necessary to collect the rents and profits the receiver may carry on the business of lessee and take possession of the personal property used in the business of lessee, including inventory, trade fixtures, and furnishings, and use them in the business without compensating lessee.

#### **SECTION FIFTEEN. UNLAWFUL DETAINER AND ATTORNEYS' FEES**

In case suit shall be brought for an unlawful detainer of the demised premises, for the recovery of any rent due under the provisions of this lease agreement, or for lessee's breach of any other condition contained in this lease agreement, lessee shall pay to lessor reasonable attorneys' fees that shall be fixed by the court. Any such attorneys' fee shall be deemed to have accrued on the commencement of the action and shall be paid on the successful completion of the action by lessor. Lessee shall be entitled to attorneys' fees in the same manner if judgment is rendered for lessee.

#### **SECTION SIXTEEN. REMEDIES OF LESSOR CUMULATIVE**

The remedies given to lessor in this lease agreement shall be cumulative, and the exercise of any one remedy by lessor shall not be to the exclusion of any other remedy.

#### **SECTION SEVENTEEN. GOVERNING LAW**

This lease agreement shall be governed by, construed, and enforced in accordance with the laws of the State of West Virginia.

#### **SECTION EIGHTEEN. NO WAIVER**

Waiver by lessor of any breach of any covenant or duty of lessee under this lease is not a waiver of a breach of any other covenant or duty of lessee, or of any subsequent breach of the same covenant or duty.

#### **SECTION NINETEEN. ENTIRE AGREEMENT**

This lease agreement shall constitute the entire agreement between the parties. Any prior understanding or representation of any kind preceding the date of this lease agreement shall not be binding upon either party except to the extent incorporated in this lease agreement.

#### **SECTION TWENTY. MODIFICATION OF AGREEMENT**

Any modification of this lease agreement or additional obligation assumed by either party in connection with this agreement shall be binding only if evidenced in a writing signed by each party or an authorized representative of each party.

#### **SECTION TWENTY-ONE. NOTICES**

A. All notices, demands, or other writings in this lease agreement provided to be given or made or sent, or which may be given or made or sent, by either party to the other, shall be deemed to have been fully given or made or sent when made in writing and deposited in the United States mail, registered and postage prepaid, and addressed as follows:

If to lessor: City of Morgantown  
c/o City Manager  
430 Spruce Street  
Morgantown, WV 26505  
With a copy to [rsimonton@kaycasto.com](mailto:rsimonton@kaycasto.com)

If to lessee: Chris Russell  
918 Fortney St.  
Morgantown, WV 26505  
[chris@popshopwv.com](mailto:chris@popshopwv.com)  
With a copy to [mgarrison@spilmanlaw.com](mailto:mgarrison@spilmanlaw.com)

B. The address to which any notice, demand, or other writing may be given or made or sent to any party as above provided may be changed by written notice given by such party as above provided.

#### **SECTION TWENTY-TWO. COUNTERPARTS**

This lease agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument.

#### **SECTION TWENTY-THREE. SECTION HEADINGS**

The titles to the sections of this lease agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this lease agreement.

The parties have executed this lease agreement in Morgantown, Monongalia County, West Virginia the day and year first set forth above.

[Signature page follows]

**LESSOR:** City of Morgantown

By: \_\_\_\_\_  
A. Kim Haws  
City Manager

STATE OF WEST VIRGINIA,  
COUNTY OF MONONGALIA, TO-WIT:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by A. Kim Haws, City Manager of the City of Morgantown, West Virginia.

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

\_\_\_\_\_  
Notary Public in and for  
said State and County

**LESSEE:**

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

Title: \_\_\_\_\_

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

Title: \_\_\_\_\_

STATE OF WEST VIRGINIA,  
COUNTY OF MONONGALIA, TO-WIT:

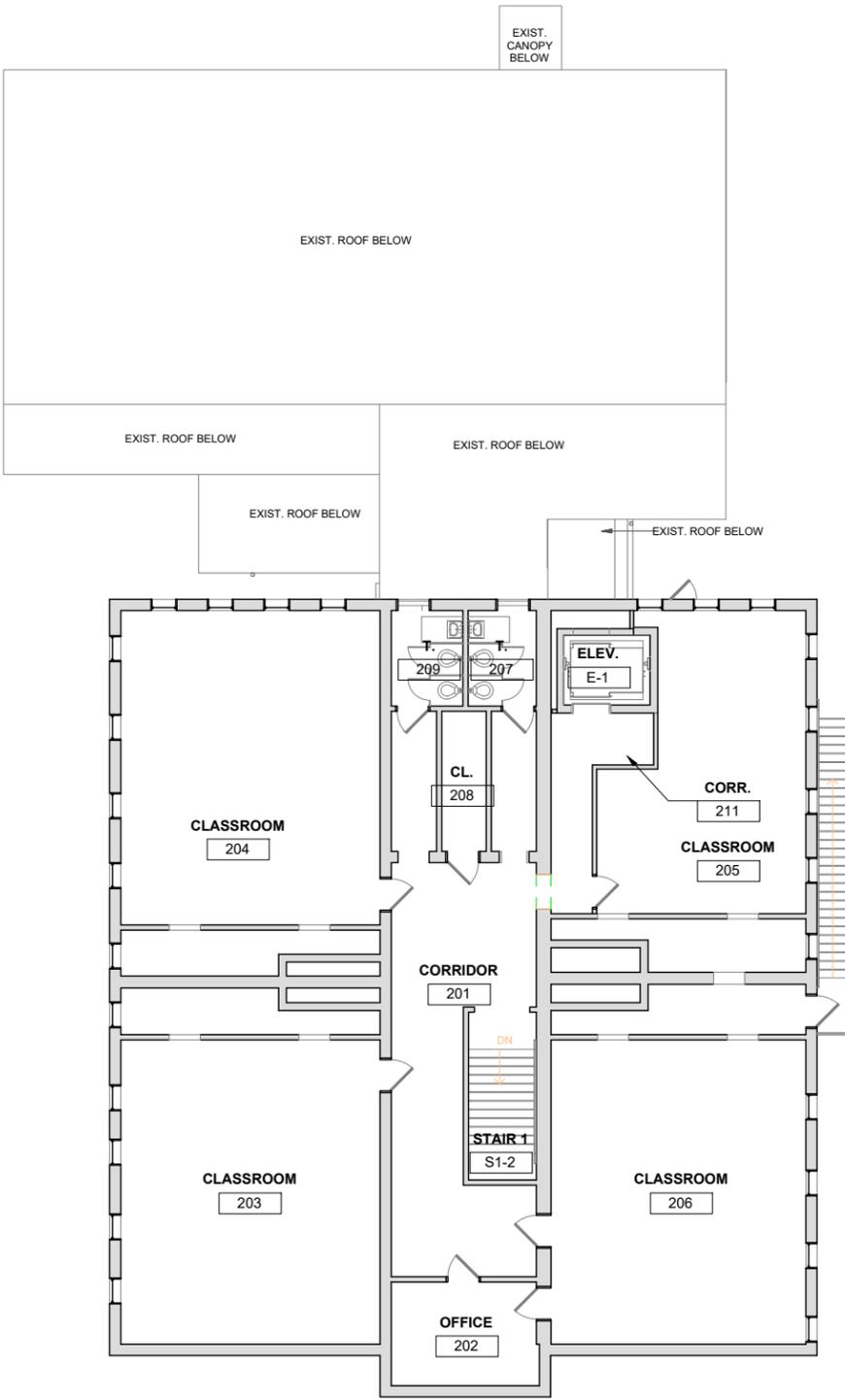
The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, its \_\_\_\_\_.

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

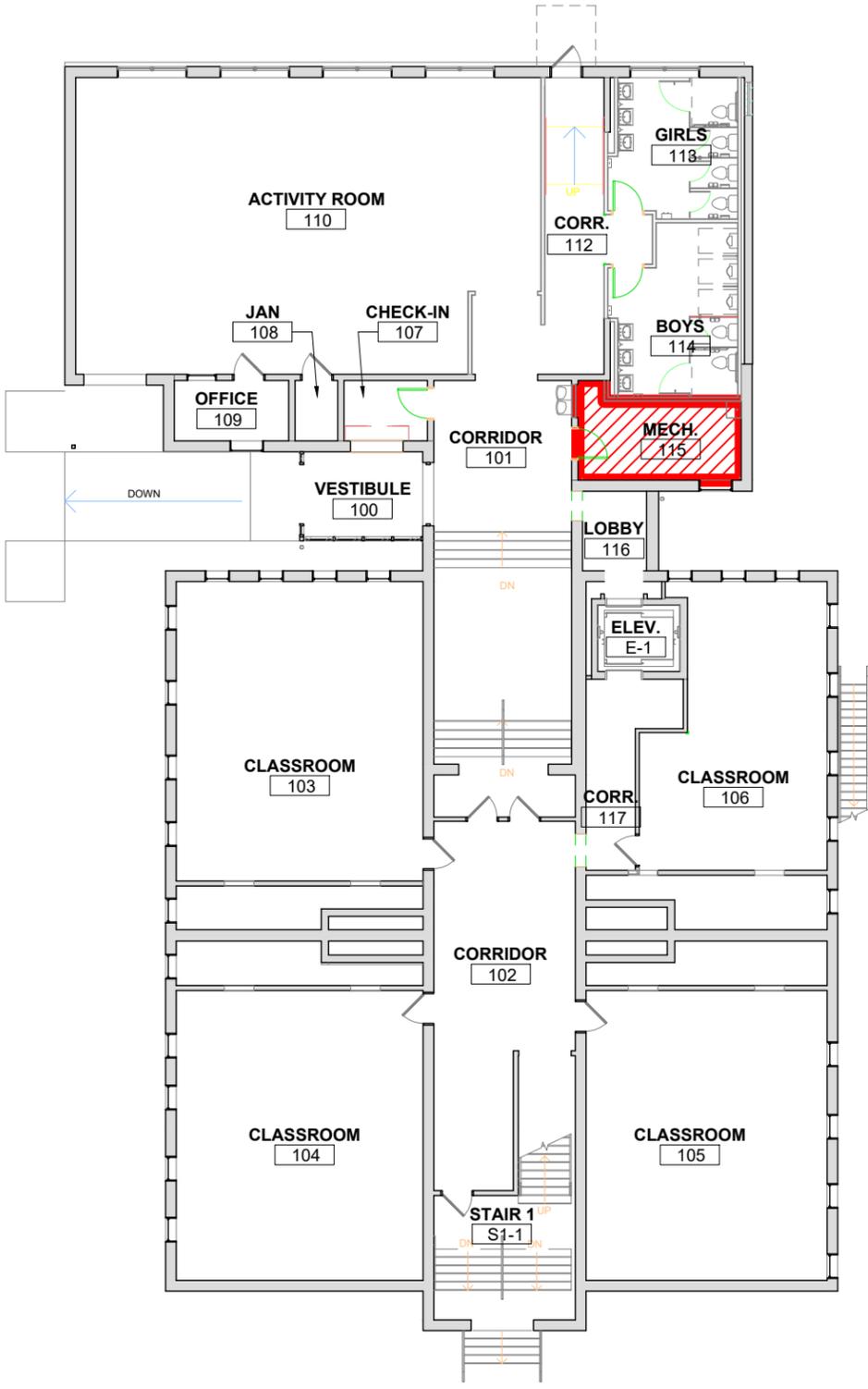
\_\_\_\_\_  
Notary Public in and for  
said State and County

Schedule 1 – Lessee Identification of Defects

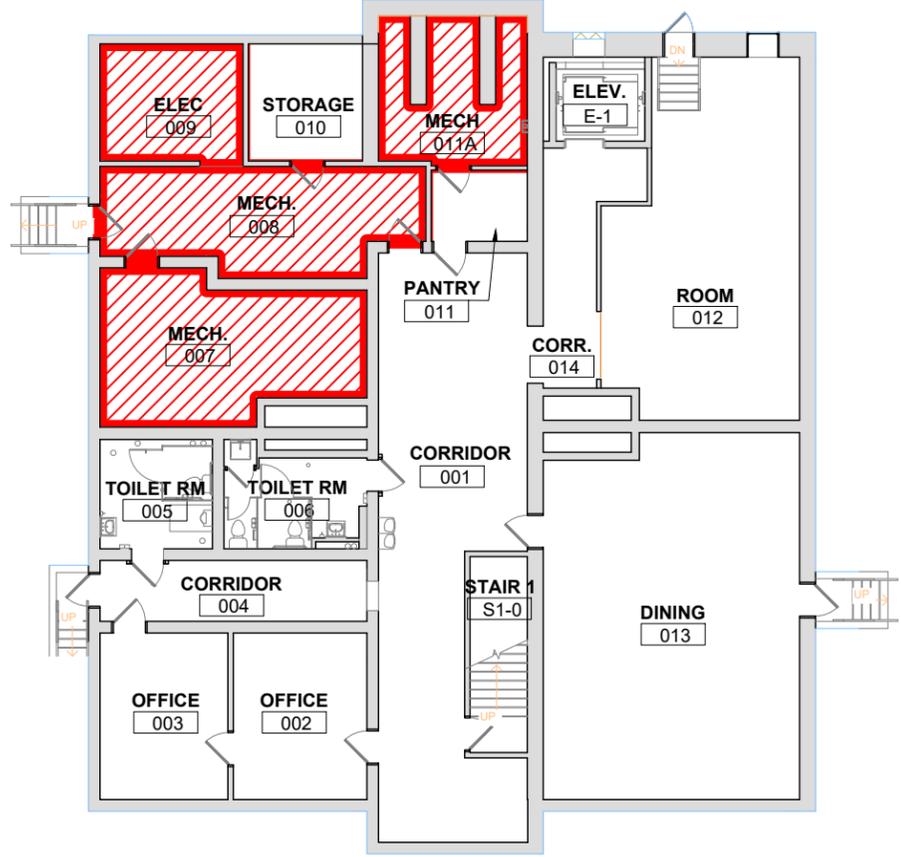
# Woodburn School Floor Plans



2nd Floor Level



Ground and 1st Floor Level



Basement Floor Level

# Woodburn Floor Sq Ft

## Basement

Corridor	▼	001	-	656.3	sqft
Office	▼	002	-	195.4	sqft
Office	▼	003	-	187	sqft
Corridor	▼	004	-	142.9	sqft
Toilet Room	▼	005	-	107.8	sqft
Toilet Room	▼	006	-	111.6	sqft
Mechanical	▼	007	-	313.5	sqft
Mechanical	▼	008	-	278.6	sqft
Electrical	▼	009	-	149.1	sqft
Storage	▼	010	-	117.4	sqft
Pantry	▼	011	-	60.1	sqft
Mechanical		011A	-	168.7	sqft
Room	▼	012	-	556	sqft
Dining	▼	013	-	802.2	sqft
Corridor	▼	014	-	136.1	sqft
Stair 1		S1-0		98.54	sqft
Elevator		E-1		69.1	sqft
Total				4150.34	sqft
Total minus Common Areas				1918.1	sqft

## Ground and 1st Floor

Vestibule		100	-	105	sqft
Corridor		101	-	614.9	sqft
Corridor		102	-	448.3	sqft
Classroom		103	-	855.6	sqft
Classroom		104	-	832.3	sqft
Classroom		105	-	815.9	sqft
Classroom		106	-	601.2	sqft
Check-In		107	-	51.8	sqft
Janitors		108	-	26.5	sqft
Office		109	-	71.1	sqft
Activity Room		110	-	1355.3	sqft
Corridor		112	-	265	sqft
Girls		113	-	176.3	sqft
Boys		114	-	201.7	sqft
Mechanical		115	-	138.2	sqft
Lobby		116	-	58	sqft
Corridor		117	-	123.2	sqft
Stair 1		S1-1	-	262.8	sqft
Elevator		E-1	-	65.5	sqft
Total				7068.6	sqft
Total minus Common Areas				4583.2	sqft

## 2nd Floor

Corridor	▼	201	-	438.2	sqft
Office	▼	202	-	141.3	sqft
Classroom	▼	203	-	833.8	sqft
Classroom	▼	204	-	856.6	sqft
Classroom	▼	205	-	609.1	sqft
Classroom	▼	206	-	825.6	sqft
Toilet Room	▼	207	-	60.3	sqft
Closet	▼	208	-	57.9	sqft
Toilet Room	▼	209	-	63.8	sqft
Corridor	▼	211	-	109.2	sqft
Stair 1		S1-2	-	105.9	sqft
Elevator		E-1	-	57.2	sqft
Total				4158.9	sqft
Total minus Common Areas				3266.4	sqft

Ordinance No. 2023-\_\_\_\_\_

**AN ORDINANCE AUTHORIZING ACCEPTANCE OF A DEED OF RELEASE FROM THE FEDERAL AVIATION ADMINISTRATION AND CONVEYANCE OF A QUITCLAIM DEED TO WEST VIRGINIA DEPARTMENT OF TRANSPORTATION DIVISION OF HIGHWAYS FOR REAL ESTATE ALONG WEST RUN ROAD**

The City of Morgantown hereby ordains that the City Manager is authorized to accept and record the enclosed Deed of Release from the Federal Aviation Administration and to execute and deliver the enclosed Quitclaim Deed to the West Virginia Department of Transportation Division of Highways conveying two perpetual rights of way for noncontrolled access public highways and one temporary construction easement in property of the City of Morgantown along West Run Road, in connection with Division of Highways Project Number U331-67/1-1.86 00, and that the City Manager is also authorized to take such other actions as are necessary and helpful to accomplish the purpose of such property release and transfer.

This ordinance is effective upon adoption.

FIRST READING: \_\_\_\_\_

\_\_\_\_\_

Mayor

SECOND READING: \_\_\_\_\_

ADOPTED: \_\_\_\_\_

\_\_\_\_\_

City Clerk

FILED: \_\_\_\_\_

QUITCLAIM DEED

This DEED is made this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between the CITY OF MORGANTOWN, a municipal corporation and political subdivision of the State of West Virginia, as Grantor, and the WEST VIRGINIA DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAYS, a public corporation, Grantee.

WITNESSETH: That for and in consideration of the sum of ten dollars (\$10.00), cash in hand paid, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the said Grantor, CITY OF MORGANTOWN, does hereby QUITCLAIM unto the said Grantee, the following described perpetual rights of way for noncontrolled access public highways:

**PARCEL 11-1 NONCONTROLLED ACCESS RIGHT OF WAY**

**BEGINNING** at a point in the northern existing right of way line of Monongalia County Route 67/1 (West Run Road), said point being in the division line between WV Dakota, LLC and The City of Morgantown and 13 feet left of and at right angle to relocated West Run Road centerline at Station 136+25, Project U331-67/1-1.86 00, STP-0671(009)D, Monongalia County, West Virginia;

thence, northerly, with said division line 33 feet, more or less, to a point in the northern proposed noncontrolled access right of way line of relocated West Run Road, said point being 45 feet left of and at right angle to centerline at Station 136+19;

thence, easterly, with said proposed noncontrolled access right of way line 51 feet, more or less, to a point in the division line between Brian Craig, et al. and The City of Morgantown, said point being 45 feet left of and at right angle to centerline at Station 136+70;

thence, southerly, with said division line 31 feet, more or less, to a point in the existing right of way line, said point being 14 feet left of and at right angle to centerline at Station 136+76;

thence, westerly, meandering with said existing right of way line 51 feet, more or less, to the place of beginning and containing 1,581 square feet (0.036 acres), more or less.

The tract of land hereinabove described is a portion of that same real estate conveyed unto The City of Morgantown, a municipal corporation, by Donald E. Weaver and Georgia M.

Weaver, husband and wife, by deed dated December 18, 1972, of record in the Office of the Clerk of the County Commission of Monongalia County, West Virginia, in Deed Book 730, at Page 420.

**PARCEL 11-2 – TRACT 1 NON-CONTROLLED ACCESS RIGHT OF WAY**

**BEGINNING** at a point in the division line between Michael A. Vecchio, Sr. and The City of Morgantown, said point being in the southern existing right of way line of Monongalia County Route 67/1 (West Run Road) and 17 feet right of and at right angle to relocated West Run Road centerline at Station 133+93, Project U331-67/1-1.86 00, STP-0671(009)D, Monongalia County, West Virginia;

thence, easterly, meandering with said existing right of way line 341 feet, more or less, to a point in the division line between Patty F. Gray, et al., and The City of Morgantown, said point being 16 feet right of and at right angle to centerline at Station 137+34;

thence, southerly, with said division line 39 feet, more or less, to a point in the southern proposed noncontrolled access right of way line relocated West Run Road, said point being 55 feet right of and at right angle to centerline at Station 137+30;

thence, westerly, with said proposed noncontrolled access right of way line 35 feet, more or less, to a point 55 feet right of and at right angle to centerline at Station 136+95;

thence, northerly, continuing with said proposed noncontrolled access right of way line 5 feet, more or less, to a point 50 feet right of and at right angle to centerline at Station 136+95;

thence, westerly, continuing with said proposed noncontrolled access right of way line 220 feet, more or less, to a point 50 feet right of and at right angle to centerline at Station 134+75;

thence, westerly, continuing with said proposed noncontrolled access right of way line 81 feet, more or less, to a point in the division line between Michael A. Vecchio, Sr., and The City of Morgantown, said point being 48 feet right of and at right angle to centerline at Station 133+91;

thence, northerly, with said division line and continuing with said proposed noncontrolled access right of way line 19 feet, more or less, to a point 29 feet right of an at right angle to centerline at Station 133+92;

thence, northerly, continuing with said division line 13 feet, more or less, to the place of beginning and containing 11,552 square feet (0.265 acres), more or less.

The said Grantor, CITY OF MORGANTOWN, does also hereby QUITCLAIM unto the said Grantee, the following described temporary construction easement:

**PARCEL 11-2 TRACT 2 – TEMPORARY CONSTRUCTION EASEMENT**

**BEGINNING** at a point in the southern proposed temporary construction easement line of relocated Monongalia County Route 67/1 (West Run Road), said point being in the southern proposed noncontrolled access right of way line of relocated West Run Road and 50 feet right of and at right angle to relocated West Run Road centerline at station 136+20, Project U331-67/1-1.86 00, STP-0671(009)D, Monongalia County, West Virginia;

thence, easterly, with said proposed noncontrolled access right of way line 75 feet, more or less, to a point 50 feet right of and at right angle to centerline at Station 136+95;

thence, southerly, continuing with said proposed noncontrolled access right of way line 5 feet, more or less, to a point 55 feet right of and at right angle to centerline at Station 136+95;

thence, easterly, continuing with said proposed noncontrolled access right of way line 35 feet, more or less, to a point in the division line between Patty F. Gray, et al., and The City of Morgantown and in the proposed temporary construction easement line, said point being 55 feet right of and at right angle to centerline at Station 137+30;

thence, southerly, with said division line and with said proposed temporary construction easement line 30 feet, more or less, to a point 85 feet right of and at right angle to centerline at Station 137+26;

thence, westerly, continuing with said proposed temporary construction easement line 106 feet, more or less, to a point 85 feet right of and at right angle to centerline at Station 136+20;

thence, northerly, continuing with said proposed temporary construction easement line 35 feet, more or less, to the place of beginning and containing 3,615 square feet (0.083 acres), more or less.

The tracts of land hereinabove described are a portion of that same real estate conveyed unto The City of Morgantown, a municipal corporation, by Joseph A. Marshall and Phyllis A. Marshall, husband and wife, by deed dated December 18, 1972, of record in the Office of the Clerk of the County Commission of Monongalia County, West Virginia, in Deed Book 730, at Page 425.

The Grantor further acknowledges that this quitclaim and release of non-controlled access right of way for state road purposes includes such width and depth provided in Chapter 17, Article 2A, Section 17 of the Official Code of West Virginia of 1931, as amended, together with all materials therein; provided that the extent of the property quitclaimed and released shall not, in any event, exceed the area described in the legal description(s) recited in this Quitclaim Deed.

It is understood and agreed between the parties hereto that the aforesaid temporary construction easement shall be limited to purposes incidental to construction of public highway and shall be subject to the conditions stated in this Quitclaim Deed, including without limitation those conditions prohibiting interference with airport operations, and shall cease and terminate upon completion and acceptance of said project by the West Virginia Department of Transportation, Division of Highways.

This conveyance is made subject to all exceptions, reservations, easements, restrictions, rights-of-way, covenants, and conditions as contained in prior instruments of record and capable of observation.

This conveyance is further made subject to the following conditions, as required by that certain Deed of Release executed February 27, 2023, by Matthew D. DiGiulian, on behalf of the United States of America, Acting by and through the Beckley Airports Field Office, Eastern Region, Federal Aviation Administration, Airports Division Grantor:

1. the City of Morgantown (hereafter also referred to as “Airport Sponsor”) reserves unto itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the said real property. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from, or operating on the Morgantown Municipal Airport;
2. the Airport Sponsor expressly agrees for itself, its successors and assigns, and Grantee hereby agrees on behalf of itself, its successors, and assigns, to restrict the erection,

- and/or height, of structures, objects of natural growth and other obstructions on the hereinafter described real property to heights that would not constitute an obstruction to air navigation as determined by the FAA;
3. the Airport Sponsor expressly agrees for itself, its successors and assigns, and Grantee hereby agrees on behalf of itself, its successors, and assigns, to prevent any use of the said real property which would interfere with, a landing or taking off of aircraft at Morgantown Municipal Airport, or interfere with air navigation and communications serving Morgantown Municipal Airport that would otherwise constitute an airport hazard;
  4. the Airport Sponsor expressly agrees for itself, its successors and assigns, and Grantee hereby agrees on behalf of itself, its successors, and assigns, that it will retain or reserve necessary interests or rights to ensure that the said property will only be used for purposes, which are compatible with the noise levels, generated by aircraft using the Morgantown Municipal Airport;
  5. the Airport Sponsor expressly agrees for itself, its successors and assigns that its share of the sale proceeds of the subject property will be utilized exclusively for the capital or operating costs of Morgantown Municipal Airport; the local airport system; or other local facilities owned or operated by the Airport Sponsor or operator and directly or substantially related to the air transportation of passengers or property pursuant to 49 U.S.C 47107(b) and/or 49 U.S.C 47133(a);
  6. the Airport Sponsor expressly agrees for itself, its successors and assigns to perform the following tasks and to provide the Beckley Airports Field Office with documentation evidencing the performance of such tasks, and Grantee acknowledges that such tasks have been performed and that it takes the property conveyed by this Quitclaim Deed subject to the conditions, restrictions, and encumbrances identified in the following referenced documents:
    - a. recording this Deed of Release with the local register of deeds, prior to or concurrent with the recording of the deed transfer documents to the new owner, so as to permanently bind the subject property to the terms, conditions, and encumbrances contained herein,
    - b. recording the Deed of Sale and/or Transfer documentation to the new owner or owners, for each parcel or parcels described in Attachment 1, with the local register of deeds,
    - c. receipt of funds, from the sale of the parcel or parcels described in Attachment 1, totaling no less than the appraised Fair Market Value of such parcel or parcels;
    - d. deposit of the federal share of sales proceeds of the appraised FMV in an interest-bearing account currently paying the highest interest rate, where it shall remain until utilized for either AIP eligible development or payment back to the Airport and Airway Trust Fund pursuant to 49 USC§ 47107(c).

7. the Airport Sponsor expressly agrees for itself, its sponsors and assigns to update the Proposed Airport Layout Plan, to reflect the proposed new boundaries of airport property, by forwarding three copies of this document to the Beckley Airports Field Office for review and approval within 30 days of executing this Deed of Release,
8. after each of the tasks described in paragraph 6 above have been completed the Airport Sponsor expressly agrees for itself, its successors and assigns, to update the Existing and Proposed Airport Layout Plans and revise the Exhibit A, and/or the Airport Property Map, to reflect the new boundaries of airport property by forwarding three copies of these documents to the Beckley Airports Field Office for review and approval within 30 days of completion of the last of the aforementioned tasks that has been performed,
9. the parties expressly agree the Deed of Release is to be considered null and void if the Airport Sponsor, has not completed the tasks specified in paragraph 6 above within 3 years of the date of the FAA's execution of this Deed of Release,
10. the Airport Sponsor expressly agrees for itself, its successors and assigns that if it is unable to complete the tasks specified in paragraph 6 above within 3 years of the date of the FAA's execution of the Deed of Release the Airport Sponsor will notify the FAA in writing,
11. the action of releasing Morgantown Municipal Airport property for sale requires an environmental determination under the Nation Environmental Policy Act (NEPA). The FAA issued an Environmental Decision dated December 27, 2022, in accordance with NEPA;
12. the Airport Sponsor expressly agrees for itself, its successors and assigns, and Grantee hereby agrees on behalf of itself, its successors, and assigns, that the new owner of the subject property has been, or will be, expressly notified of the terms, conditions, and encumbrances placed on the subject property herein.
13. the Airport Sponsor will have, and Grantee hereby agrees on behalf of itself, its successors, and assigns, that Airport Sponsor will have the right of first refusal with respect to reacquiring the subject property should the new owner wish to sell it.

Grantor quitclaims and releases, and FAA hereby releases, the said real property subject of this Quitclaim Deed, from the conditions, reservations and restrictions as contained in any and all grant agreements reached with the FAA including but not limited to the above-mentioned AIP Project #3-54-001-049-2022. By its acceptance of this Deed of Release Airport Sponsor, and Grantee, covenant and agree for themselves, their successors, and assigns, to comply with and observe all of the conditions and limitations hereof, which are expressly limited to the above-described real property.

DECLARATION OF CONSIDERATION OR VALUE:

In accordance with the provisions of Article 22 of Chapter 11 of the West Virginia Code, GRANTOR declares that the transfer made and effected by this QUITCLAIM DEED is exempt from the applicable excise taxes on the basis that City is a political subdivision of the State of West Virginia but that the consideration paid for the property transferred by this QUITCLAIM DEED is Fifteen Thousand One Hundred Dollars and Zero Cents (\$15,100.00).

WITNESS the following signature and seal:

THE CITY OF MORGANTOWN  
a municipal corporation and political  
subdivision of the State of West Virginia

By: \_\_\_\_\_  
A. Kim Haws  
Its: City Manager

STATE OF WEST VIRGINIA  
COUNTY OF MONONGALIA, to wit:

I, \_\_\_\_\_, a Notary Public in and for the County and State aforesaid do certify that \_\_\_\_\_, who signed the foregoing writing bearing date the \_\_\_\_ day of \_\_\_\_\_ 2023, for THE CITY OF MORGANTOWN, a municipal corporation and political subdivision of the State of West Virginia, has this day in my said County before me acknowledged the said writing to be the act and deed of said corporation.

Given under my hand and notarial seal this \_\_\_\_ day of \_\_\_\_\_ 2023.

{seal}

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

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

Prepared without benefit of title examination by, and return to:  
KAY CASTO & CHANEY, PLLC, Ryan P. Simonton (WVSB #11152), 150 Clay Street, Suite 100, Morgantown, WV 26501.



U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

Airports Division  
Eastern Region  
West Virginia

Beckley Airports Field Office  
176 Airport Circle Room 101  
Beaver, WV 25813

February 27, 2023

Mr. Jonathan Vrabel  
Airport Director  
100 Hart Field Road  
Morgantown, WV 26505

**Subject: Letter of Approval Releasing AIP Acquired Airport Land for Sale**

We refer to your written letter dated October 4, 2022 requesting that the 0.301 acres of Morgantown Municipal Airport be approved for the purpose of permitting the City of Morgantown hereafter (Airport Sponsor) to release this parcel of airport land for sale to be used for the West Run Road widening project. The subject parcels, as described in Attachment No. 1 to this letter, consists of 0.301 acres of land.

We have concluded that this property, as described below, is no longer needed for aeronautical purposes and that the release for sale and use of such land for the stated purpose will not interfere with the operation, maintenance or future development of the airport. In accordance with Section 47107(h) of Title 49 U.S.C. a Federal Register notice was published on January 13, 2023 for 30 days comment period regarding the FAA's intent to release airport property.

Based on the terms and conditions in the attached Deed of Release, the FAA agrees to release the subject parcel of the identified property for sale. FAA hereby releases the said real property from the conditions, reservations and restrictions contained in ADAP Grant #8-54-0015-02 and all other FAA grant agreements.

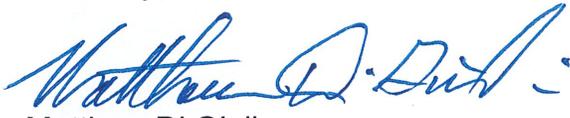
By its acceptance of the attached Deed of Release, the Airport Sponsor covenants and agrees for itself, its successors and assigns, to comply with and observe all of the conditions and limitations therein, which are expressly limited to the hereinafter described real property. Please indicate your acceptance of these conditions by executing the Deed of Release and its enclosed duplicate, and returning one copy to our office. Please note that FAA approval of this release will be considered null and void unless the FAA is provided documentation, within 3 years of the date of the FAA's execution of the attached Deed of Release, evidencing the following:

- a) an executed copy of the attached Deed of Release has been recorded with the local register of deeds as a permanent encumbrance on the subject property.
- b) an executed Deed of Sale and/or Transfer for each parcel or parcels described in attachment 1 has been recorded with the local register of deeds.

- c) the Airport Sponsor is in receipt of funds, from the sale of the parcel or parcels described in attachment 1, totaling no less than the appraised Fair Market Value of such parcel or parcels;
- d) the Airport Sponsor has deposited the federal share of sales proceeds of the appraised FMV, of the parcel or parcels described in attachment 1, in an interest bearing account currently paying the highest interest rate, where it shall remain until utilized for either AIP eligible development or payment back to the Airport and Airway Trust Fund pursuant to 49 USC § 47107(c).

Thank you, and please contact me with any questions.

Sincerely,



Matthew Di Giulian  
Manager

Enclosure

cc: David Cohen, AEA-620

## DEED OF RELEASE

This instrument, a Deed of Release, made by the United States of America, acting by and through the Beckley Airports Field Office, Federal Aviation Administration (FAA), under and pursuant to the powers and authority contained in the provisions of 49 U.S.C. 47101 et seq., as amended, to the City of Morgantown (hereafter "Airport Sponsor") of the State of West Virginia,

### **Witnesseth**

WHEREAS, Airport Sponsor owns and operates Morgantown Municipal Airport, Morgantown, West Virginia,

WHEREAS, the FAA has provided federal financial assistance to Airport Sponsor with respect to the planning and development of Morgantown Municipal Airport through Grant Agreements including but not limited to AIP Grant #3-54-0015-049-2022;

WHEREAS, via letter dated October 4, 2022 Airport Sponsor requested that the FAA release the real property totaling 0.301 acres (said real property), as identified in Attachment 1, from all of the assurances, conditions, and restrictions contained in said Grant Agreements,

WHEREAS, the Airport Sponsor holds full fee title to said real property, as identified by metes and bounds description in Attachment 1,

WHEREAS, it has been determined by the Airport Sponsor and the FAA Beckley Airports Field Office that said real property is no longer needed for aeronautical and/or other airport purposes,

WHEREAS, it is understood, and Airport Sponsor agrees, to sell said real property for no less than its Fair Market Value as determined by an appraisal report where the findings of which have been found acceptable by the FAA;

### **Now, Therefore,**

For and in consideration of the above-expressed recitals and of the benefits to accrue to the United States and to civil aviation, the FAA, consistent with the terms as hereinafter provided, does with respect to the aforementioned said real property hereby release the Airport Sponsor, its successors and assigns, from all federal obligations as specified in Section 2 below; provided, however that:

- 1) the Airport Sponsor reserves unto itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the said real property. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any

aircraft used for navigation or flight through the said airspace or landing at, taking off from, or operation on the Morgantown Municipal Airport;

- 2) the Airport Sponsor expressly agrees for itself, its successors and assigns to restrict the erection, and/or height, of structures, objects of natural growth and other obstructions on the hereinafter described real property to heights that would not constitute an obstruction to air navigation as determined by the FAA;
- 3) the Airport Sponsor expressly agrees for itself, its successors and assigns to prevent any use of the said real property which would interfere with, a landing or taking off of aircraft at Morgantown Municipal Airport, or interfere with air navigation and communications serving Morgantown Municipal Airport that would otherwise constitute an airport hazard;
- 4) the Airport Sponsor expressly agrees for itself, its successors and assigns that it will retain or reserve necessary interests or rights to ensure that the said property will only be used for purposes, which are compatible with the noise levels, generated by aircraft using the Morgantown Municipal Airport;
- 5) the Airport Sponsor expressly agrees for itself, its successors and assigns that its share of the sale proceeds of the subject property will be utilized exclusively for the capital or operating costs of Morgantown Municipal Airport; the local airport system; or other local facilities owned or operated by the Airport Sponsor or operator and directly or substantially related to the air transportation of passengers or property pursuant to 49 U.S.C. 47107(b) and/or 49 U.S.C. 47133(a);
- 6) the Airport Sponsor expressly agrees for itself, its successors and assigns to perform the following tasks and to provide the Beckley Airports Field Office with documentation evidencing the performance of such tasks:
  - a) recording this Deed of Release with the local register of deeds, prior to or concurrent with the recording of the deed transfer documents to the new owner, so as to permanently bind the subject property to the terms, conditions, and encumbrances contained herein,
  - b) recording the Deed of Sale and/or Transfer documentation to the new owner or owners, for each parcel or parcels described in attachment 1, with the local register of deeds,
  - c) receipt of funds, from the sale of the parcel or parcels described in attachment 1, totaling no less than the appraised Fair Market Value of such parcel or parcels;
  - d) deposit of the federal share of sales proceeds of the appraised FMV in an interest bearing account currently paying the highest interest rate, where it shall remain until utilized for either AIP eligible development or payment back to the Airport and Airway Trust Fund pursuant to 49 USC§ 47107(c).

- 7) the Airport Sponsor expressly agrees for itself, its successors and assigns to update the Proposed Airport Layout Plan, to reflect the proposed new boundaries of airport property, by forwarding three copies of this document to the Beckley Airports Field Office for review and approval within 30 days of executing this Deed of Release,
- 8) after each of the tasks described in paragraph 6 above have been completed the Airport Sponsor expressly agrees for itself, its successors and assigns, to update the Existing and Proposed Airport Layout Plans and revise the Exhibit A, and/or the Airport Property Map, to reflect the new boundaries of airport property by forwarding three copies of these documents to the Beckley Airports Field Office for review and approval within 30 days of completion of the last of the aforementioned tasks that has been performed,
- 9) the parties expressly agree this release is to be considered null and void if the Airport Sponsor, has not completed the tasks specified in paragraph 6 above within 3 years of the date of the FAA's execution of this Deed of Release,
- 10) the Airport Sponsor expressly agrees for itself, its successors and assigns that if it is unable to complete the tasks specified in paragraph 6 above within 3 years of the date of the FAA's execution of this Deed of Release the Airport Sponsor will notify the FAA in writing,
- 11) the action of releasing Morgantown Municipal Airport property for sale requires an environmental determination under the National Environmental Policy Act (NEPA). The FAA issued an Environmental Decision dated December 27, 2022, in accordance with NEPA;
- 12) the Airport Sponsor expressly agrees for itself, its successors and assigns that the new owner of the subject property has been, or will be, expressly notified of the terms, conditions, and encumbrances placed on the subject property herein.
- 13) the Airport Sponsor will have the right of first refusal with respect to reacquiring the subject property should the new owner wish to sell it.

## Section 2

FAA hereby releases the said real property from the conditions, reservations and restrictions as contained in any and all grant agreements reached with the FAA including but not limited to the above mentioned AIP Project #3-54-0015-049-2022. By its acceptance of this Deed of Release Airport Sponsor covenants and agrees for itself, its successors and assigns, to comply with and observe all of the conditions and limitations hereof, which are expressly limited to the above-described real property.



**ACKNOWLEDGEMENT**

STATE OF \_\_\_\_\_ )  
 )ss  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me a Notary Public in and for the County of \_\_\_\_\_, State of \_\_\_\_\_, personally appeared \_\_\_\_\_, known to me to be the City Manager of Morgantown, West Virginia, who being by me dully sworn according to law on this oath, and known to me to be the person whose name is subscribed to the within instrument and acknowledge that he executed the same on behalf of the \_\_\_\_\_ Airport.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public in and for said County and State

(SEAL)

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

### **PARCEL 11-1 NONCONTROLLED ACCESS RIGHT OF WAY**

BEGINNING at a point in the northern existing right of way line of Monongalia County Route 67/1 (West Run Road), said point being in the division line between WV Dakota, LLC and The City of Morgantown and 13 feet left of and at right angle to relocated West Run Road centerline at Station 136+25, Project U331-67/1-1.86 00, STP-0671(009)D, Monongalia County, West Virginia; thence, northerly, with said division line 33 feet, more or less, to a point in the northern proposed noncontrolled access right of way line of relocated West Run Road, said point being 45 feet left of and at right angle to centerline at Station 136+19; thence, easterly, with said proposed noncontrolled access right of way line 51 feet, more or less, to a point in the division line between Brian Craig, et al. and The City of Morgantown, said point being 45 feet left of and at right angle to centerline at Station 136+70; thence, southerly, with said division line 31 feet, more or less, to a point in the existing right of way line, said point being 14 feet left of and at right angle to centerline at Station 136+76; thence, westerly, meandering with said existing right of way line 51 feet, more or less, to the place of beginning and containing 1,581 square feet (0.036 acres), more or less.

### **PARCEL 11-2 -TRACT 1 NON-CONTROLLED ACCESS RIGHT OF WAY**

BEGINNING at a point in the division line between Michael A. Vecchio, Sr. and The City of Morgantown, said point being in the southern existing right of way line of Monongalia County Route 67 /1 (West Run Road) and 17 feet right of and at right angle to relocated West Run Road centerline at Station 133+93, Project U331-67/1-1.86 00, STP-0671(009)D, Monongalia County, West Virginia; thence, easterly, meandering with said existing right of way line 341 feet, more or less, to a point in the division line between Patty F. Gray, et al., and The City of Morgantown, said point being 16 feet right of and at right angle to centerline at Station 137+34; thence, southerly, with said division line 39 feet, more or less, to a point in the southern proposed noncontrolled access right of way line of relocated West Run Road, said point being 55 feet right of and at right angle to centerline at Station 137+30; thence, westerly, with said proposed noncontrolled access right of way line 35 feet, more or less, to a point 55 feet right of and at right angle to centerline at Station 136+95; thence, northerly, continuing with said proposed noncontrolled access right of way line feet, more or less, to a point 50 feet right of and at right angle to centerline at Station 136+95; thence, westerly, continuing with said proposed noncontrolled access right of way line 220 feet, more or less, to a point 50 feet right of and at right angle to centerline at Station 134+75; thence, westerly, continuing with said proposed noncontrolled access right of way line 81 feet, more or less, to a point in the division line between Michael A. Vecchio, Sr., and The City of Morgantown, said point being 48 feet right of and at right angle to centerline at Station 133+91; thence, northerly, with said division line and continuing with said proposed noncontrolled access right of way line 19 feet, more or less, to a point 29 feet right of and at right angle to centerline at Station 133+92; thence, northerly, continuing with said division line 13 feet, more or less, to the place of beginning and containing 11,552 square feet (0.265 acres), more or less.

Ordinance 2023-\_\_\_\_

**AN ORDINANCE ANNULING A PORTION OF FIRST STREET AND PROVIDING FOR DEDICATION OF ADDITIONAL PUBLIC RIGHT-OF-WAY TO FIRST STREET**

**WHEREAS,** It appears to the Common Council of The City of Morgantown, West Virginia, that a portion of the public right-of-way known as First Street between Beechurst Avenue and Hall Street in 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 shown on, and with the legal description provided in, the attached **Exhibit 1**, (the “Annulment Area”) is not necessary for public purposes if annulled in accordance with the terms of this Ordinance; and

**WHEREAS,** It appears to the Common Council that it is in the interests of the City of Morgantown and the public generally that the Annulment Area be annulled as a public street in accordance with the terms of this Ordinance; and

**WHEREAS,** It appears to the Common Council that no property of any person, firm, or corporation will be injured or damaged by annulment pursuant to the conditions of this Ordinance, and that the owners of all property adjoining the Annulment Area have consented to annul the Annulment Area;

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

Section 1. The Annulment Area is hereby vacated, abandoned and annulled and from and after the date this ordinance becomes effective 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 and any and all other public uses or purposes is hereby vacated, abandoned, and annulled, and all right, title, and interest of the City of Morgantown therein as an easement for street purposes and any and all other public uses or purposes is hereby expressly released and relinquished from and after the date this ordinance becomes effective; provided that the City of Morgantown retains for itself, its assigns, and licensees or franchisees, an easement for public utility purposes to allow construction, maintenance, repair, replacement, improvement, and extension of such public utilities below the surface of such Annulment Area or aboveground in such Annulment Area, together with the right of ingress and egress thereto for any and all purposes associated with such public utilities, but excluding the right to install or maintain any poles or other facilities protruding from the surface of the Annulment Area or interfering with use of the Annulment Area as a parking lot; provided further, that upon any such access, ingress, and egress for public utility purposes the property shall be promptly restored to a condition equal to that existing prior to such access, ingress, and/or egress.

Section 2. That the City accepts the “Easement Declaration” attached hereto as **Exhibit 2** and incorporated herein by reference, providing for the dedication of additional area as a public right-of-way, all as shown in Exhibit 2.

Section 3. That following the date this ordinance becomes effective the City Clerk of the City of Morgantown shall cause a duly certified copy of the ordinance 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 the Annulment Area, together with an exhibit showing the location of the public right-of-way annulled.

This Ordinance shall be effective only upon the occurrence of the following conditions:

(1) Grantor’s execution and delivery of the Easement Declaration attached hereto as Exhibit 2 and incorporated in this Ordinance by reference, providing for dedication of public right-of-way to the City of Morgantown; and

(2) The determination by the City Manager, reduced to writing and filed with the City Clerk, that all preconditions necessary to relocation of the First Street right-of-way, as described in this Ordinance and the Easement Declaration, have occurred.

If the foregoing conditions are not fulfilled within seven hundred thirty days of adoption of this Ordinance, this Ordinance shall expire.

FIRST READING:

\_\_\_\_\_  
MAYOR

ADOPTED:

FILED:

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

RECORDED:

This document prepared without benefit of title examination by:  
Ryan P. Simonton, Esq.  
KAY CASTO & CHANEY, PLLC  
150 Clay Street, Suite 100  
Morgantown, WV 26501

STATE OF WEST VIRGINIA  
COUNTY OF MONONALIA, to wit:

I, \_\_\_\_\_, a Notary Public of said County, do hereby certify that  
\_\_\_\_\_, Clerk, and \_\_\_\_\_, on  
behalf of the City of Morgantown, whose names are signed to the foregoing document dated as  
of the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, have this day  
acknowledged the same before me in my said County.

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

My Commission expires \_\_\_\_\_, \_\_\_\_\_.

{SEAL}

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

**EXHIBIT 1**  
Annulment Area

BEGINNING at a point at the intersection of the western right-of-way line of First Street and the southern right-of-way line of West Virginia Route 7 (Beechurst Avenue); thence, along the southern right-of-way line of West Virginia Route 7 S 29°34'18" E a distance of 25.37' to a point; thence, along the eastern right-of-way line of First Street S 70°15'33" W a distance of 110.31' to a point; thence, along the southern right-of-way line of First Street N 33°00'07" W a distance of 25.68' to a point; thence, along the western right-of-way line of First Street N 70°15'33" E a distance of 111.87' to a point, the place of BEGINNING.

Containing: 2,777 square feet (0.06 acres)

All as shown on that certain plat of survey prepared by StahlSheaffer Engineering and of record at Map Cabinet \_\_\_ page \_\_\_ in the office of the Clerk of the County Commission of Monongalia County, West Virginia.

**EXHIBIT 2**  
Easement Declaration

This instrument was prepared by:

Ryan Simonton  
 KAY CASTO & CHANEY, PLLC  
 150 Clay Street, Suite 100  
 Morgantown, WV 26501

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## EASEMENT DECLARATION

This Declaration is made and entered into this the \_\_\_\_ day of \_\_\_\_\_, 2023, by West Virginia University Board of Governors on behalf of West Virginia University, a public higher education institution of the State of West Virginia ("Grantor"), in favor of and for the benefit of THE CITY OF MORGANTOWN, West Virginia, a municipal corporation ("City").

For and in consideration of the amount of Ten Dollars (\$10.00), other good and valuable consideration, the receipt, sufficiency, and adequacy of all of which are acknowledged by Grantor, and with the intent of being legally bound by and obligated under, in accordance with, and pursuant to this Declaration, Grantor declares, covenants, and agrees in favor of and for the benefit of City as follows:

Grantor grants, conveys, and transfers to City and creates, dedicates, and establishes in favor of and for the benefit of City, in, on, over, upon, under, through, and across the below-described parcel, perpetual easements and rights-of-way for the purposes of building, installing, constructing, improving, extending, maintaining, operating, inspecting, repairing, removing, replacing, rebuilding, reinstalling, reconstructing, re-improving, and re-extending a public way and street, with sidewalks and related appurtenances including utilities, and otherwise generally developing and improving the parcel for the foregoing purposes, including, without limitation, as rights appurtenant, material, essential, and integral to such easements and rights-of-way and such purposes, the rights to use and enjoy the parcel to (a) access the parcel by way of other easements, rights-of-way, and properties of City, (b) travel and traverse the parcel with persons, equipment, materials, and supplies, and (c) locate, set, stage, and operate equipment and machinery on and/or from the parcel while City shall be using or enjoying the parcel for the purposes set forth, contained, and provided for in this Declaration.

The parcel dedicated by this Declaration (the "Easement Area") is more specifically described as follows:

BEGINNING at a point on the southern right-of-way line of West Virginia Route 7 (Beechurst Avenue), said point being at the north-western corner of lands now or formerly of Giuliani Properties LLC; thence, along lands now or formerly of Giuliani Properties LLC and then lands now or formerly of West Virginia University Board of Governors S 60°25'42" W a distance of 104.80' to a point; thence, along the northern right-of-way line of Hall Street N 30°57'18" W a distance of 90.07' to a point; thence, through lands now or formerly of West Virginia University Board of Governors N 57°48'07" E a distance of 23.09' to a point; thence, by same S 30°05'55" E a distance of 5.95' to a point; thence, by same N 57°23'55" E a distance of 83.98' to a point; thence, along the southern right-of-way line of West Virginia Route 7 (Beechurst Avenue) S 29°33'36" E a distance of 89.58 to a point, the place of BEGINNING.

Containing: 9,322 square feet (0.21 acres)

All as shown on that certain plat of survey prepared by StahlSheaffer Engineering and of record at Map Cabinet \_\_\_\_ page \_\_\_\_ in the office of the Clerk of the County Commission of Monongalia County, West Virginia.

The benefits, rights, burdens, obligations, covenants and restrictions set forth in this Declaration shall inure to the benefit of and be binding upon the heirs, devisees, legatees, personal representatives, agents, employees, contractors, tenants, invitees, licensees, successors and/or assigns of each party herein, and are intended to and shall run with the land.

In the event that any one or more of the provisions set forth, contained, or provided for in this Declaration, or the application thereof, in any circumstance, shall be held invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of such provision or provisions in any other circumstance shall not be affected or impaired thereby, and the remaining provisions set forth, contained, and provided for in this Declaration shall remain of full force and effect and be construed and interpreted as if such invalid, illegal, or unenforceable provision or provisions were never included. The provisions of this Declaration shall be severable.

Declaration of Consideration or Value

In accordance with the provisions of Article 22 of Chapter 11 of the West Virginia Code, Grantor declares that the transfer made and effected by this Declaration is exempt from the applicable excise taxes on the basis that City is a political subdivision of the State of West Virginia.

{Signature page follows}

Witness the following signature:

\_\_\_\_\_  
West Virginia University Board of Governors  
on behalf of West Virginia University  
By:  
Its:

STATE OF WEST VIRGINIA

COUNTY OF MONONGALIA, to wit:

I, \_\_\_\_\_, a Notary Public in and for the County and State aforesaid do  
certify that \_\_\_\_\_, who signed the foregoing writing bearing date the \_\_\_\_ day of  
\_\_\_\_\_ 2021, as Grantor, has this day in my said County and State before me acknowledged  
the said writing to be the act and deed of said individual.

Given under my hand and notarial seal this \_\_\_\_ day of \_\_\_\_\_ 2023.

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

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

SURVEYOR: SSE  
CADD: ACG  
DESIGNER: XXX  
MANAGER: THK  
FILE: 1ST ST PARKING LOT PLATE.DWG

REVISIONS

PREPARED FOR:

**The City of Morgantown**

389 Spruce Street  
Morgantown, WV 26505

**First Street Relocations Project**

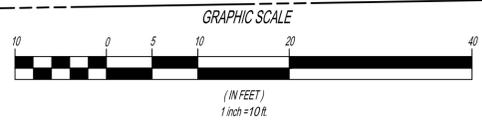
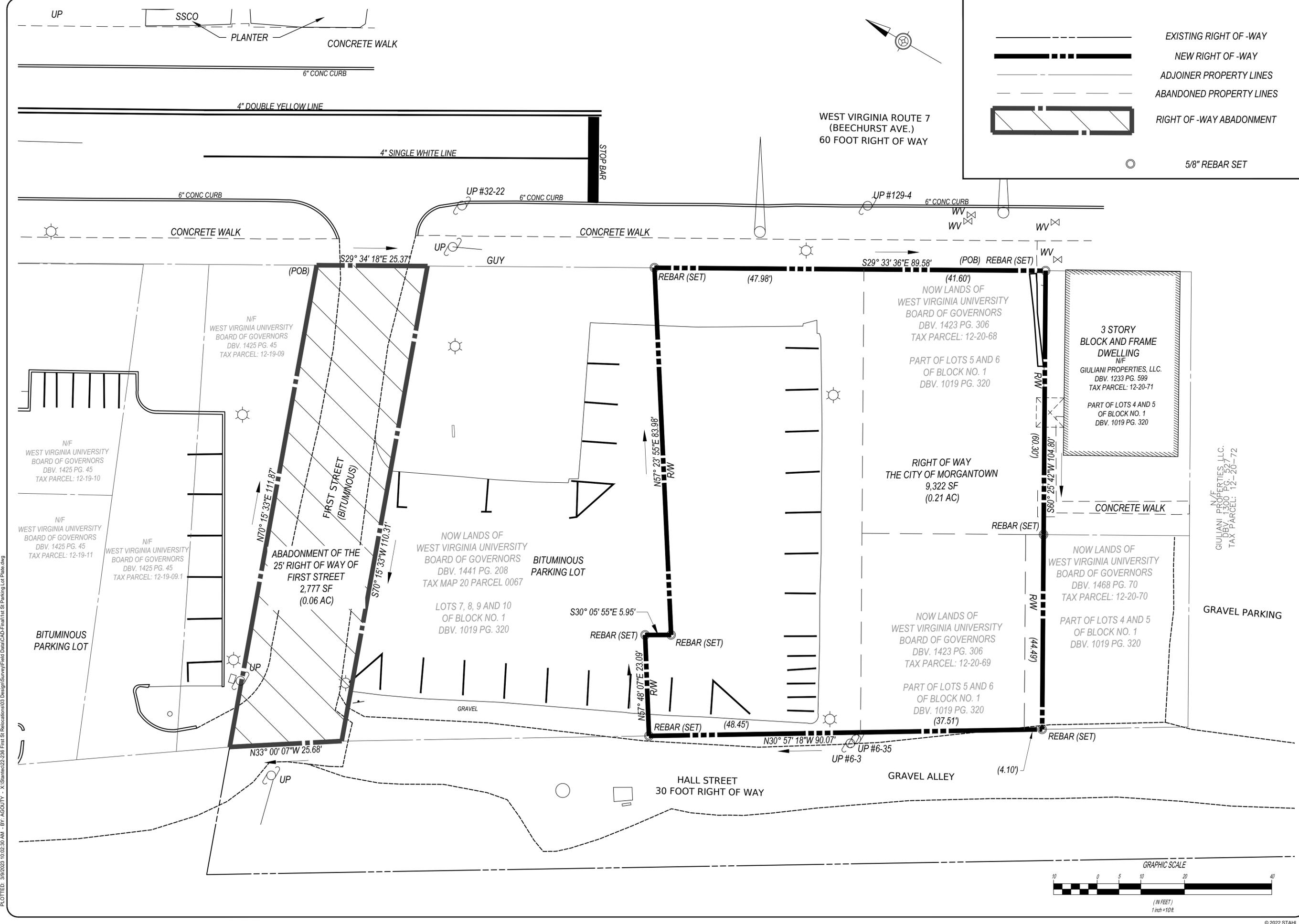
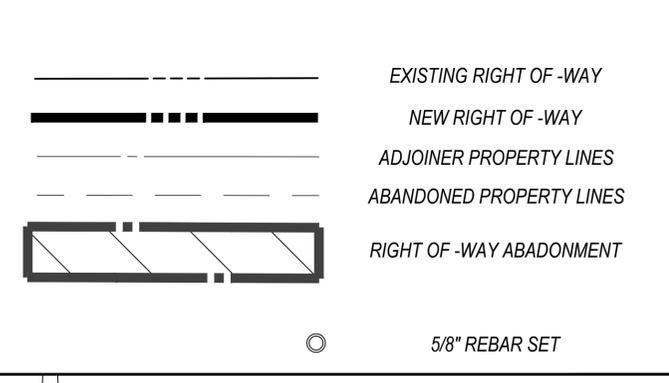
Fourth Ward  
Monongalia County  
Tax Map 20 Parcels 67,68,69,70  
SHEET NAME

**Plat of Survey**

PROJECT NO.  
**22-236**

DATE  
**03/10/2023**

SHEET NO.  
**C100**



PLOTTED: 3/9/2023 10:02:30 AM - BY: AGDUTY - X:\Stahlsheaffer\22-236 First St Relocations\03 Design\Survey\Field Detail\CAD-Final\1st St Parking Lot Plate.dwg