



MORGANTOWN
CITY CLERK

304-284-7439
Morgantownwv.gov
389 Spruce St.
Morgantown, WV 26505

AGENDA

CITY COUNCIL REGULAR MEETING

City Hall Council Chambers, 389 Spruce Street, 2nd Floor, Morgantown, WV 26505

Tuesday, December 02, 2025, at 7:00 PM

This meeting will be broadcast live via YouTube at City of Morgantown - YouTube

<https://www.youtube.com/@CityofMorgantown/streams>

1. **PLEDGE:**
2. **CALL TO ORDER:**
3. **ROLL CALL:**
4. **APPROVAL OF MINUTES:**
5. **CORRESPONDENCE:**
 - A.** Municipal Government Week Coloring Contest Winners & Photo
 - B.** Presentation – Introduction of Chance, the City of Morgantown’s New Arson Canine. Fire Chief Gary Freshour and Fire Marshal William Lyons, Canine Handler
 - C.** Presentation – WVU Department of Geology and Geography students and GIS Manager Marvin Davis, Kevin Harter, “From Classroom to Field – Mapping Trail Accessibility in Northwestern Minnesota”, and Samuel Bayne, "Waterlink: A tool for assessing water security and vulnerability in West Virginia"
 - D.** Presentation - Bryan Cole and Ethan Enterline, WVU SGA (Student Government Association) - WVU Safety Walk findings
 - E.** International Human Rights Day Proclamation
6. **PUBLIC HEARINGS:**
7. **UNFINISHED BUSINESS:**
 - A.** Boards and Commissions
8. **PUBLIC PORTION WHICH SHALL BE SUBJECT TO RULES ESTABLISHED BY COUNCIL AND ADOPTED BY RESOLUTION:**
9. **SPECIAL COMMITTEE REPORTS:**
10. **CONSENT AGENDA:**

- A.** Consideration of **APPROVAL** of **A Resolution Amending the FY 2025-2026 Budget Revision for the Morgantown General Fund (Revision #3)**
- B.** Consideration of **APPROVAL** of **A Resolution Amending the FY 2025-2026 Budget Revision for the Morgantown Capital Escrow Fund (Revision #4)**
- C.** Consideration of **APPROVAL** of **(First Reading) of An Ordinance Authorizing an Office Space Lease at the Morgantown Airport with Paul Koontz**
- D.** Consideration of **APPROVAL** of **(First Reading) of An Ordinance Authorizing an Office Lease at the Morgantown Airport with Gregg Murray**
- E.** Consideration of **APPROVAL** of **(First Reading) of An Ordinance authorizing a lease agreement between the City and the Historic Post Office (HPO) for the Morgantown History Museum**

11. NEW BUSINESS:

- A.** Consideration of **APPROVAL** of **A Resolution Authorizing Investment in WV Board of Treasury Investments Consolidated Fund**

12. CITY MANAGER'S REPORT:

13. REPORT FROM CITY CLERK:

14. REPORT FROM CITY ATTORNEY:

15. REPORT FROM COUNCIL MEMBERS:

A. Report of Proclamations Issued Outside a Council Meeting

October - Domestic Violence Awareness Month

November - Extra Mile Day; Small Business Saturday

16. EXECUTIVE SESSION:

- A.** Discussion of matters protected by attorney-client privilege (W. Va. Code 6-9A-4(b)(12))

17. ADJOURNMENT:

For accommodations please call or text 304-288-7072



City Council Agenda Item Summary

Council Meeting Date: 12/02/2025

Item: Municipal Government Week Coloring Contest Winners & Photo Contest Winner
Department: Communications
Requested By: Brad Riffie, Communications Director
Strategic Goal: Compassionate and Engaged

Recommended Motion: No motion required

Item Summary:

The City is pleased to announce the winners of the Municipal Government Week Coloring Contest. After reviewing numerous creative submissions, the following students were selected for their outstanding artwork:

- 1st Grade: Cameron Smith – Eastwood Elementary
- 3rd Grade: Adaline Sickles, Jessa Ammons – Ridgedale Elementary
- 4th Grade: Addie Wise, Emma Corder, Natalie Bowman – Ridgedale Elementary
- 5th Grade: Ximena Titolo de Miguel – Homeschooled

Their artwork will be displayed in City Hall.

Also, the following members of the community were selected as our photo contest winners and will be acknowledged at the meeting as well.

Reese Moreland - WVU Photography Major
Dante Dionisio – 7th Grade, Mountaineer Middle School
Nancy Parshall – WVU Student

Thank you and congratulations to everyone who participated!

Fiscal Impact: N/A



City Council Agenda Item Summary

Council Meeting Date: December 02, 2025

Item: City Council meet and greet with MFD's newest member Chance
Department: Fire / Fire Marshal
Requested By: Gary Freshour, Fire Chief
Strategic Goal: Introduce the arson detection canine to the community

Recommended Motion: None

Item Summary: On September 16, 2025, City Council approved a motion allowing the Morgantown Fire Department's Fire Marshal Division to participate in the ATF's Arson Detection Canine program. Two weeks later, deputy fire marshal Billy Lyons attended the 155th Arson Detection Canine Course in Front Royal, Virginia. For six grueling weeks, FFC Lyons lived in a hotel room, away from his wife, training daily in the classroom and the field. On Friday November 7, 2025, Billy graduated with his new partner Chance, thus securing the City of Morgantown's position in this prestigious fraternity that originated 1986.

On the behalf of the Morgantown Fire Department, the Chief and Fire Marshal would like to officially introduce Chance to City Council, and recognize FFC Lyons for his momentous achievement.

Fiscal Impact: None



City Council Agenda Item Summary

Item 5C.

Council Meeting Date: 12/02/25

Item: Correspondence – Kevin Harter and Samuel Bayne GIS Day Presentations

Department: Geospatial Services Division

Requested By: Marvin Davis

Strategic Goal: N/A

Recommended Motion: No Action.

Item Summary: Kevin Harter and Samuel Bayne were invited to present their GIS Day Lightning Talks to City Council due to existing scheduling conflicts happening on November 19th. They are doing very interesting work in GIS and are excited to show you in two quick presentations. Their topics are listed below.

- *Sam Bayne - Waterlink: A tool for assessing water security and vulnerability in West Virginia*
 - *Kevin Harter - From Classroom to Field: Mapping Trail Accessibility in Northwestern Minnesota*
-

Fiscal Impact: None



City Council Agenda Item Summary

Council Meeting Date: December 2, 2025

Item: WVU Safety Walk
Department: WVU Student Government Association
Requested By: WVU Student Government Association
Strategic Goal: Safe and Welcoming

Recommended Motion: N/A

Item Summary:

WVU's Student Government Association hosted their annual safety walk Mid-October. Bryan Cole and Ethan Enterline, representatives from SGA, will be present to discuss the findings.

Fiscal Impact: N/A



CITY OF MORGANTOWN
OFFICE OF THE MAYOR

PROCLAMATION

Whereas on December 10th, 1948, the United Nations General Assembly adopted the *Universal Declaration of Human Rights*, which all member nations annually commemorate as *International Human Rights Day*, with this year, 2025, marking the 77th anniversary of this significant milestone; *and*

Whereas the *Universal Declaration* affirms that all human beings are born *free and equal in dignity and rights*, without distinction based on race, color, sex, language, religion or any other status, and further emphasizes the responsibility of every person to uphold and safeguard the human rights of others; *and*

Whereas the *Universal Declaration* profoundly impacted the protection of human rights by establishing the foundation of common international law, with its provisions forming the basis of numerous international treaties that oblige the ratifying nations to uphold the equal rights of every human; *and*

Whereas Morgantown was established on Native lands by generations of colonists, immigrants, and others who chose it as their home, and through collective efforts, united to create a diverse community where all people can live and work harmoniously, free from the fear of discrimination; *and*

Whereas the City of Morgantown dedicates itself to upholding laws, policies, and practices that ensure equal participation in local government, employment, housing, and public accommodations for its residents, regardless of race, sex, religion, color, national origin, ancestry, blindness, disability, gender identify, sexual orientation, familial status, or veteran status, *with Liberty and Justice for All*.

Now therefore, I, Danielle Trumble, Mayor of the City of Morgantown, West Virginia, on behalf of the *City Council* and the *Human Rights Commission*, proclaim

Wednesday, December 10th, 2025 as

International Human Rights Day

in the City of Morgantown, West Virginia, and encourage all residents to collaborate in the coming year to nurture, respect, and safeguard the human rights of everyone, as outlined in the *Universal Declaration of Human Rights*.

Seal:



Danielle Trumble, Mayor
December 2, 2025

Boards & Commissions Vacant Position List

Updated 11/25/2025

- **Board of Parks and Recreation Commissioners: 1 Vacant** – (City Resident, Resident of City for at Least 3 Years)
1– 6yr term: 7/1/2021 – 6/30/2027
- **Board of Zoning Appeals: 1 Vacant** – (City Resident, Resident of City for at Least 3 Years)
1– 3yr term: (Alternate)
- **Civilian Police Review & Advisory Board: 1 Vacant** – (City Resident or Work within City)
1– 3yr term: 7/5/2023 – 7/4/2026
- **Cultural Arts Commission: 1 Vacant**
1– 3yr term: 4/1/2023 – 3/31/2027
- **Fairmont Morgantown Housing Authority: 1 Vacant** – (City Resident of Morgantown or Fairmont or Receiving Services)
1– 5yr term: 8/4/2024 – 8/3/2029 (Resident of Public Housing or Voucher User-City of Fairmont)
- **Fire Code Board of Appeals: 3 Vacant** – City Resident (Legal, Building Contractor, Engineering/Architectural Design, Fire)
1– 3yr term: 5/1/2025 – 4/30/2028 (Legal)
1– 3yr term: 5/1/2025 – 4/30/2028 (Alternate)
1– 3yr term: 5/1/2025 – 4/30/2028 (Alternate)
- **Health & Wellness Commission: 2 Vacant** – (City Resident or Work within City)
1 – 3yr term: 1/1/2023 – 12/31/2025
1-3 yr term: 1/12026-12/31/2029
- **Historic Landmarks Commission: 1 Vacant** – City Resident
1 – 4yr term: 11/5/2022 – 11/4/2026
- **Housing Advisory Commission: 2 Vacant** - (City Resident or Work/Business within City)
1 — 3yr term: 11/1/2023 – 10/31/2026
1 — 3yr term: 11/1/2023 – 10/31/2026 (College Student Living Within City Limits)
- **Human Rights Commission: 3 Vacant** – City Resident
2 – 2yr term: 7/1/2024 – 6/30/2026
1 – 2yr term: 7/1/2025 – 6/30/2027
- **“ICC” Building Code Board of Appeals: 1 Vacant** (Architect/Engineer or Bldg. Contractor)
1 – 5yr term: 5/1/2021 – 4/30/2026 (Civil Engineer)
- **Morgantown Utility Board (MUB): 1 Vacant**– City Resident
1 – 5yr term: 11/1/2025 – 10/31/2030
-
- **Parking Authority: 3 Vacant** – City Resident
3 – 3yr term: 7/1/2025 – 6/30/2028
- **Personnel Board: 2 Vacant** – City Resident
1 – 3yr term: 7/1/2024 – 6/30/2027
1 – 3yr term: 7/1/2025 – 6/30/2028
- **Planning Commission: 2 Vacant** – City Resident (Ward Specific)
1 – 3yr term: 3rd Ward 1/1/2023 – 12/31/2025
1 – 3yr term: 7th Ward 1/1/2025 – 12/31/2027
- **Sister Cities Commission: 2 Vacant**
2 – 3yr term: 6/1/2025 – 5/31/2028
- **Traffic Commission: 3 Vacant** – City Resident (Ward Specific)
3 – 3yr term: 4/4/2024 – 4/3/2027 – 2nd Ward, 4th Ward, and 7th Ward
- **Tree Board: 4 Vacant**
1 – 3yr term: 11/15/2023 – 11/14/2026
1 – 3yr term: 11/15/2024 – 11/14/2027
2 – 3yr term: 11/15/2025 – 11/14/2028

Boards & Commissions Vacant Position List

- **Urban Landscape Commission: 3 Vacant – City Resident** (Landscape Design – Horticulture - Plant Health)
 - 1 – 3yr term: 7/1/2023 – 6/30/2026 (*Horticulture*)
 - 1 – 3yr term: 7/1/2024 – 6/30/2027 (*Plant Health*)
 - 1 – 3yr term: 7/1/2025 – 6/30/2028 (*Landscape Arch/Design*)

- **Ward & Boundary Commission: 3 Vacant – City Resident (Ward Specific)**
 - 3 – 2yr terms: 7/1/2025 – 6/30/2027 – 2nd, 4th, 7th Wards

- **Woodburn Commission: 1 Vacant**
 - 1 – 2yr term: 1/1/2025 – 12/31/2027



City Council Agenda Item Summary

Council Meeting Date: 12/02/2025

Item: Consideration of (APPROVAL) of A Resolution Amending the FY 2025-2026 Budget Revision for the Morgantown General Fund (Revision #3)

Department: Finance Department

Requested By: Jonathan Furgison, Finance Director

Strategic Goal: Excellent and Responsible – Fiscal Sustainability

Recommended Motion: Move to approve the resolution amending the FY2025-2026 Budget Revision for the Morgantown General Fund (Revision #3)

Item Summary:

Attached is a narrative and proposed amendment to the FY26 General Fund Budget (Revision #3) as follows:

1. **Reallocation of Workforce Expenditures:** The purpose of FY26 Budget is to realign workforce expenditures within the General Fund to reflect organizational changes across three departments: Planning & Zoning, City Manager’s Office, and Urban Landscaping. This revision ensures that budget allocations accurately support operational responsibilities and reporting structures, while maintaining fiscal neutrality. Importantly, this reallocation represents a net zero dollar impact to the overall FY26 General Fund Budget.
2. **National Night Out:** The purpose of FY26 Budget is to formally record the anticipated revenues and expenditures associated with the City of Morgantown’s National Night Out event, scheduled for Wednesday, August 5, 2026, from 6:00–8:00 PM at Krepps Park. This annual community-building initiative is nationally recognized and serves as a cornerstone for fostering public trust, enhancing neighborhood relationships, and celebrating the collaborative efforts of law enforcement, first responders, city departments, and community organizations.



City Council Agenda Item Summary

As the only officially recognized National Night Out celebration in Monongalia County, this event represents a significant opportunity for the City to lead in community engagement and public safety awareness.

3. **Animal Control Expenditures:** This proposed FY26 General Fund Budget Revision addresses the financial requirements associated with the renewal of the Animal Control Services agreement. The adjustment ensures continued delivery of essential animal control services within the City of Morgantown, in alignment with the terms of the updated agreement.

Fiscal Impact: A net increase of \$5,000.00 to the overall FY26 General Fund Budget appropriations.

Resolution No. 2025-__

A RESOLUTION OF THE CITY OF MORGANTOWN

Amending the 2025-2026 Budget for the Morgantown General Fund Budget Revision No. 3

The City of Morgantown hereby resolve as follows:

Section 1. Findings and Purpose.

The City Council finds and determines that the Fiscal Year 2025-2026 General Fund budget should be amended as stated in this Resolution.

Section 2. Adoption of Revision to Fiscal Year 2025-2026 General Fund budget.

The City of Morgantown Fiscal Year 2025-2026 General Fund budget is hereby amended as shown in the attached schedule, which is incorporated in this Resolution by reference.

Section 3. Repeal, Savings, Severability.

Any section of this Code repealed or modified by a subsequent Resolution will continue in force until the effective date of the repealing Resolution.

The repeal or modification of any part of this Code does not affect any existing right acquired, or liability or obligation incurred, under the code sections amended or repealed unless the modifying Resolution expressly so provides. Any repealed or modified part of this Code will remain in force for the purpose of sustaining any proper legal proceedings and prosecutions related to the enforcement of such right or liability brought prior to the repeal or modification.

The repeal of any repealing Resolution, clause, or provision does not revive any former Resolution, clause, or provision unless expressly provided by Resolution.

If any provision of this Resolution, or the application of this Resolution to any person or circumstance, is held invalid by a court of competent jurisdiction or other entity or agency having jurisdiction to make such determination, the remainder of this Resolution and the application to other persons or circumstances remain in effect.

Section 4. Effective date; application. This Resolution shall be effective upon adoption, subject to any approval or other action required by the office of the West Virginia State Auditor. This Resolution does not affect rights, duties, or liabilities that matured, penalties that were incurred, and proceedings that were begun, before its effective date. The law remains in force for the purpose of sustaining any proper action or prosecution for the enforcement of the right, penalty, forfeiture or liability.

Section 5. Recording of Resolution. The City Clerk is directed to obtain all signatures required by the form of Resolution adopted and maintain an executed original Resolution with the official records of the City of Morgantown, to be maintained, preserved, and accessed in accordance with the laws of the State of West Virginia and the City of Morgantown, and to take the following additional actions: Deliver an executed copy of the Resolution to the Director of Finance and Support Services.

Adopted this ____ day of _____, _____:

Mayor

City Clerk

Record of Roll Call Vote

The following votes were recorded for the foregoing ordinance or resolution:

- Councilor M. Joeseeph Abu-Ghannam, First Ward: Yes No Absent

- Councilor Jodi Hollingshead, Second Ward: Yes No Absent

- Councilor Louise Michael, Third Ward: Yes No Absent

- Councilor Jennifer Selin, Fourth Ward: Yes No Absent

- Mayor Danielle Trumble, Fifth Ward: Yes No Absent

- Councilor Mark Downs, Sixth Ward: Yes No Absent

- Deputy Mayor Brian Butcher, Seventh Ward: Yes No Absent

Attest:

City Clerk



P: 304-284-7412
Morgantownwv.gov
389 Spruce St.
Morgantown, WV 26505

Proposed Budget Revision Fiscal Year Ended June 30, 2026

General Fund – Revision #3

This Budget Revision includes:

- 1. Reallocation of Workforce Expenditures**
- 2. National Night Out**
- 3. Animal Control Expenditures**

1. Reallocation of Workforce Expenditures

Purpose:

The purpose of FY26 Budget Revision is to realign workforce expenditures within the General Fund to reflect organizational changes across three departments: Planning & Zoning, City Manager’s Office, and Urban Landscaping. This revision ensures that budget allocations accurately support operational responsibilities and reporting structures, while maintaining fiscal neutrality. **Importantly, this reallocation represents a net zero dollar impact to the overall FY26 General Fund Budget.**

Departmental Adjustments:

- **Planning & Zoning Department:**

The Planning & Zoning Department will assume expanded responsibilities through the reclassification of the Community Development Service Coordinator position to Community Development Manager. This change reflects a strategic enhancement of community engagement functions.

- **City Ambassadors Program:** The City Ambassadors, previously budgeted under the City Manager’s Department, will now report directly to the Community Development Manager. Accordingly, all workforce expenditures associated with the Ambassadors will be transferred to Planning & Zoning.
- **Urban Landscaping Reallocation:** A portion of available workforce budget from the Urban Landscaping Department will be reallocated to Planning & Zoning to support expanded community development initiatives.

These adjustments strengthen the department’s capacity to deliver on strategic planning, and public engagement.

- **City Manager’s Department**

To align with the updated reporting structure:

- **City Ambassadors Workforce Expenditures:** These expenditures will be removed from the City Manager’s Department and reassigned to Planning & Zoning. This reflects the operational shift of oversight responsibilities to the Community Development Manager.

This change streamlines departmental functions and supports a more focused management structure.

- **Urban Landscaping Department**

- **Workforce Budget Reallocation:** A portion of the Urban Landscaping Department’s workforce budget will be transferred to Planning & Zoning. This adjustment supports the integration of beautification and community development efforts under a unified management framework.

This reallocation does not reduce service levels but rather enhances coordination across departments.

Budget Revision Details:

1. Increase in Budgeted Expenditures:

- **Account 437 – Planning & Zoning:** Increase of \$105,676 to the Planning & Zoning Workforce budget.

2. Decrease in Budgeted Expenditures:

- **Account 412 – City Manager:** A decrease of \$93,616 to the City Manager’s Workforce budget.
- **Account 950 – Beautification:** A decrease of \$12,060 to the Urban Landscaping Department’s Workforce budget.

Conclusion:

This revision is strictly administrative in nature and does not alter the total appropriations within the General Fund. It ensures that budgetary resources are aligned with current organizational responsibilities and reporting structures.

2. National Night Out

Purpose

The following budget revision is proposed to formally record the anticipated revenues and expenditures associated with the City of Morgantown's National Night Out event, scheduled for Wednesday, August 5, 2026, from 6:00–8:00 PM at Krepps Park. This annual community-building initiative is nationally recognized and serves as a cornerstone for fostering public trust, enhancing neighborhood relationships, and celebrating the collaborative efforts of law enforcement, first responders, city departments, and community organizations.

As the only officially recognized National Night Out celebration in Monongalia County, this event represents a significant opportunity for the City to lead in community engagement and public safety awareness.

Budgetary Adjustments

To support the successful execution of this event, the following adjustments are proposed within the General Fund:

1. Increase in Budgeted Revenues

- **Account 399 – Miscellaneous Revenue:** An increase of \$5,000 is proposed to reflect anticipated donations and sponsorships received in support of the National Night Out event. These contributions are expected from community partners and local organizations committed to enhancing public safety and civic engagement.

2. Increase in Budgeted Expenditures

- **Account 412 – City Manager:** A corresponding increase of \$5,000 in expenditures is proposed to cover event-related costs, including logistics, outreach materials, public safety demonstrations, and community engagement activities. These funds will be managed by the City Manager’s Office to ensure alignment with citywide strategic goals and operational standards.

Conclusion

The proposed adjustments reflect the City’s proactive approach to community engagement and fiscal stewardship. By aligning resources with strategic priorities, Morgantown continues to demonstrate leadership in public safety, civic participation, and neighborhood development. The National Night Out event is expected to deliver meaningful outcomes for residents and stakeholders, reinforcing the City’s commitment to building a safer, stronger, and more connected community.

3. Animal Control Expenditures

Overview:

This proposed FY26 General Fund Budget Revision addresses the financial requirements associated with the renewal of the Animal Control Services agreement. The adjustment ensures continued delivery of essential animal control services within the City of Morgantown, in alignment with the terms of the updated agreement.

Background:

The revision is prompted by the renewal of the Animal Control Services agreement between the City of Morgantown and the Monongalia County Commission. The agreement, effective October 1, 2025 through September 30, 2026, was formally adopted by City Council on September 16, 2025.

To reflect the actual cost of the renewed agreement, the FY26 budget requires an increase of \$5,285 over the originally budgeted amount.

Budgetary Adjustments

To accommodate the updated agreement, the following adjustments are proposed within the General Fund:

1. Increase in Budgeted Expenditures

- **Account 707 – Dog Warden / Humane Society:** An increase of \$5,285 is proposed to align the FY26 budget with the actual agreement amount, which exceeds the original budget allocation.

2. Decrease in Budgeted Expenditures

- **Account 699 – Contingency:** A corresponding decrease of \$5,285 is proposed from the FY26 contingency line item to offset the increased cost of the Animal Control Services agreement.

Conclusion:

This budget revision is a proactive and fiscally responsible measure that ensures the City's continued ability to provide effective and uninterrupted animal control services. The adjustment maintains the integrity of the General Fund by reallocating existing resources without increasing total expenditures.

LGSD BR (Ver. 2023)

REQUEST FOR REVISION TO APPROVED BUDGET

Ora Ash, Deputy State Auditor
 West Virginia State Auditor's Office
 200 West Main Street
 Clarksburg, WV 26301
 Phone: 304-627-2415 ext. 5101 or ext. 5119
 Fax: 304-340-5090
 Email: lgs@wvsao.gov

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

CONTROL NUMBER
 Fiscal Year Ending: **2025-2026**
 Fund: **001**
 Revision Number: **3**
 Pages: **1 of 1**

CITY OF MORGANTOWN
 GOVERNMENT ENTITY

Person To Contact Regarding Request:
 Name: **Jonathan Furgison**
 Phone: **304-284-7407**
 Fax: **304-284-7418**
 Email: **jfurgison@morgantownwv.gov**

389 SPRUCE STREET
 STREET OR PO BOX
MORGANTOWN **26505**
 CITY ZIP CODE

Municipality
 Government Type

REVENUES: (net each acct.)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	INCREASE	(DECREASE)	REVISED AMOUNT
399	Miscellaneous Revenue	20,000	5,000	-	25,000
		-	-	-	-
		-	-	-	-
		-	-	-	-
		-	-	-	-
		-	-	-	-
NET INCREASE/(DECREASE) Revenues (ALL PAGES)			5,000		

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

EXPENDITURES: (net each acct.)

(WV CODE 7-1-9)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	INCREASE	(DECREASE)	REVISED AMOUNT
412	City Manager's Office	1,101,492	-	(88,616)	1,012,876
437	Planning & Zoning	482,876	105,676	-	588,552
699	Contingencies	145,673	-	(5,285)	140,388
707	Dog Warden / Humane Society	36,426	5,285	-	41,711
950	Beautification	338,731	-	(12,060)	326,671
		-	-	-	-
		-	-	-	-
		-	-	-	-
		-	-	-	-
		-	-	-	-
		-	-	-	-
		-	-	-	-
		-	-	-	-
NET INCREASE/(DECREASE) Expenditures (ALL PAGES)			5,000		

APPROVED BY THE STATE AUDITOR
 BY: _____
 Deputy State Auditor, Local Government Services Division Date

 AUTHORIZED SIGNATURE OF ENTITY APPROVAL DATE



City Council Agenda Item Summary

Council Meeting Date: 12/02/2025

Item: Consideration of (APPROVAL) of A Resolution Amending the FY 2025-2026 Budget Revision for the Morgantown Capital Escrow Fund (Revision #4)

Department: Finance Department

Requested By: Jonathan Furgison, Finance Director

Strategic Goal: Excellent and Responsible – Fiscal Sustainability

Recommended Motion: Move to approve the resolution amending the FY2025-2026 Budget Revision for the Morgantown Capital Escrow Fund (Revision #4)

Item Summary:

Attached is a narrative and proposed amendment to the FY26 Capital Escrow Fund Budget (Revision #4) as follows:

- 1. MET Theatre Lighting Capital Project:** The purpose of this revision is to ensure the City's financial records accurately reflect the Cultural Facilities and Capital Resources (CFCR) Grant awarded by the West Virginia Division of Culture and History to support improvements at the MET Theatre.

In September 2025, the City received a \$50,000 CFCR Grant, which is designated for projects that enhance arts venues, improve accessibility, and fund durable equipment purchases. This funding strengthens our commitment to cultural development and ensures the MET Theatre remains a vibrant community asset.

- 2. Equipment & Vehicle Auction Proceeds:** The purpose of this revision is to accurately record the net auction proceeds from the sale of surplus equipment and vehicles conducted in October 2025. This adjustment ensures that the City's financial statements reflect actual transactions and that funds are properly allocated to the respective departments' capital outlay for equipment.



City Council Agenda Item Summary

3. Downpayment Assistance Program Repayment: The purpose of this revision is to accurately record the repayment of the non-forgivable portion of a loan issued under the City's Downpayment Assistance Program. This adjustment ensures that the program's financial records remain complete and transparent, and that funds are properly reallocated to support future housing assistance initiatives for City employees.

Fiscal Impact: A net increase of \$99,151.50 to the overall FY26 Capital Escrow Fund Budget appropriations.

RESOLUTION

WHEREAS, City Administration has presented to Morgantown City Council a 2025-2026 budget revision for the Morgantown Capital Escrow Fund (Revision 04) and has requested that City Council review and approve the same;

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

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

NOW, THEREFORE, BE IT RESOLVED by the City of Morgantown this _____ day of _____, 2025, that the 2025-2026 Budget Revision for the Morgantown Capital Escrow Fund Budget (Revision 04) hereto attached is approved.

Mayor

City Clerk



P: 304-284-7412
Morgantownwv.gov
389 Spruce St.
Morgantown, WV 26505

Proposed Budget Revision Fiscal Year Ended June 30, 2026

Capital Escrow Fund – Revision #4

This Budget Revision includes:

- 1. MET Theatre Lighting Project**
- 2. Equipment & Vehicle Auction Proceeds**
- 3. Downpayment Assistance Program Repayment**

Jonathan Furgison, CPA
Finance Director
Tel: 304-284-7407
Email: jfurgison@morgantownwv.gov

Proposed FY26 Capital Escrow Fund Budget Revision #4

1. MET Theatre Lighting Capital Project

Purpose:

This revision ensures the City's financial records accurately reflect the Cultural Facilities and Capital Resources (CFCR) Grant awarded by the West Virginia Division of Culture and History to support improvements at the MET Theatre.

In September 2025, the City received a \$50,000 CFCR Grant, which is designated for projects that enhance arts venues, improve accessibility, and fund durable equipment purchases. This funding strengthens our commitment to cultural development and ensures the MET Theatre remains a vibrant community asset.

Budget Revisions:

The following budget revisions are proposed:

- **Increase in Budgeted Revenues:**

- **Account Number 366-00 "State Grants":** An increase in budgeted revenues to reflect the \$50,000 CFCR Grant awarded for cultural facility improvements.

- **Increase in Budgeted Expenditures:**

- **Account Number 906-458-056 "Arts & Culture – Capital Outlay- MET Theatre":** A corresponding increase of \$50,000 in budgeted expenditures MET Theatre lighting capital project, aligning with grant objectives for venue enhancement and accessibility.

Conclusion:

This proposed revision ensures compliance with grant requirements and positions the MET Theatre for critical upgrades that enhance audience experience and operational efficiency. By incorporating this funding into the Capital Escrow Fund, we maintain transparency and accuracy in financial reporting while advancing the City's cultural infrastructure.

Proposed FY26 Capital Escrow Fund Budget Revision #4

2. Equipment & Vehicle Auction Proceeds

Purpose:

The purpose of this revision is to accurately record the net auction proceeds from the sale of surplus equipment and vehicles conducted in October 2025. This adjustment ensures that the City's financial statements reflect actual transactions and that funds are properly allocated to the respective departments' capital outlay for equipment.

Overview

The City of Morgantown proposes an amendment to the FY26 Capital Escrow Fund budget to incorporate revenues generated from the recent surplus auction. These proceeds represent a strategic reinvestment into departmental capital needs, supporting operational efficiency and asset replacement planning. By aligning these funds with the appropriate capital accounts, the City maintains transparency and compliance with established financial practices.

Auction Transaction Details

Department	Description	Net Proceeds
Police	2006 Ford Explorer SUV	\$ 105.00
Police	2015 Ford Explorer SUV	\$ 1,530.00
Police	2016 Ford Explorer SUV	\$ 717.50
Police	2017 Ford Explorer SUV	\$ 1,910.00
Police	2005 Triton Enforcer 22' Boat	\$ 7,540.00
Police	EZ Loader Custom Boat Trailer	\$ 1,995.00
	Police Dept - Total Net Proceeds	\$ 13,797.50
Streets	2008 GMC 5500 Dump Truck	\$ 9,232.00
Streets	2006 International 4200 Dump Truck	\$ 955.00
Streets	2011 GMC Sierra 3500HD Dump Truck	\$ 18,167.00
	Streets Dept - Total Net Proceeds	\$ 28,354.00
	Total Combined Net Proceeds	\$ 42,151.50

Proposed FY26 Capital Escrow Fund Budget Revision #4

Budget Adjustments

To accurately reflect these transactions, the following adjustments are proposed:

- **Increase in Budgeted Revenues:**
 - **Account Number 383-00 “Sale of Fixed Assets”:** An increase in budgeted revenues by \$42,151.50 to record the net proceeds from the auction of surplus equipment and vehicles.

- **Increase in Budgeted Expenditures:**
 - **Account Number 700-569-021 “Police Dept – Capital Outlay Equip - MSF”:** A corresponding increase of \$13,797.50 to allocate the Police Department’s share of auction proceeds for future equipment needs.
 - **Account Number 750-569-022 “Street Dept – Capital Outlay Equip - MSF”:** A corresponding increase of \$28,354.00 to allocate the Streets Department’s share of auction proceeds for future equipment needs.

Conclusion

This revision strengthens the City’s commitment to responsible asset management by reinvesting proceeds from surplus sales into essential capital needs. It supports operational readiness, promotes fiscal accountability, and ensures that departmental budgets accurately reflect available resources.

Proposed FY26 Capital Escrow Fund Budget Revision #4

3. Downpayment Assistance Program Repayment

Purpose

The purpose of this revision is to accurately record the repayment of the non-forgivable portion of a loan issued under the City's Downpayment Assistance Program. This adjustment ensures that the program's financial records remain complete and transparent, and that funds are properly reallocated to support future housing assistance initiatives for City employees.

Overview

As part of the Downpayment Assistance Program, eligible City employees receive financial support for home purchases, with the loan balance reduced by one-tenth for each full year the residence is occupied and the employee remains employed by the City. The remaining balance becomes due upon sale of the property or violation of program policy.

In this case, an employee received \$10,000 in assistance in 2022. Following the sale of the residence, the employee repaid the non-forgivable portion of \$7,000 in accordance with program requirements. This repayment will be reflected in the FY26 Capital Escrow Fund to maintain accurate accounting and ensure funds are available for future program participants.

Budget Adjustments

To accurately reflect this transaction, the following adjustments are proposed:

- **Increase in Budgeted Revenues:**
 - **Account Number 281-027 "Reimbursements – Downpayment Assistance Program":** An increase in budgeted revenues by \$7,000 to record the repayment received.

Proposed FY26 Capital Escrow Fund Budget Revision #4

- **Increase in Budgeted Expenditures:**
 - **Account Number 424-568-027 “Downpayment Assistance Program”:**
A corresponding increase by \$7,000 to restore funding for future program use.

Conclusion

This revision reinforces the City’s commitment to fiscal accountability and housing support for employees. By accurately recording repayments and reallocating funds to the Downpayment Assistance Program, the City ensures continued access to this valuable benefit while maintaining compliance with financial policies and program guidelines.

LGSD BR (Ver. 2023)

REQUEST FOR REVISION TO APPROVED BUDGET

Ora Ash, Deputy State Auditor
 West Virginia State Auditor's Office
200 West Main Street
 Clarksburg, WV 26301
 Phone: 304-627-2415 ext. 5101 or ext. 5119
 Fax: 304-340-5090
 Email: lgs@wvsao.gov

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

CONTROL NUMBER
 Fiscal Year Ending: **2025-2026**
 Fund: **254**
 Revision Number: **4**
 Pages: **1 of 1**

CITY OF MORGANTOWN
 GOVERNMENT ENTITY

Person To Contact Regarding Request:
 Name: **Jonathan Furgison**
 Phone: **304-284-7407**
 Fax: **304-284-7418**
 Email: **jfurgison@morgantownwv.gov**

389 SPRUCE STREET
 STREET OR PO BOX
MORGANTOWN
 CITY
26505
 ZIP CODE

Municipality
 Government Type

REVENUES: (net each acct.)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	INCREASE	(DECREASE)	REVISED AMOUNT
254-000-000-281-027	Reimbursements - Downpayment Assistance Program	-	7,000.00	-	7,000.00
254-000-000-366-000	State Grants	-	50,000.00	-	50,000.00
254-000-000-383-000	Sale of Fixed Assets	-	42,151.50	-	42,151.50
		-	-	-	-
		-	-	-	-
		-	-	-	-
NET INCREASE/(DECREASE) Revenues (ALL PAGES)			99,151.50		

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

EXPENDITURES: (net each acct.)

(WV CODE 7-1-9)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	INCREASE	(DECREASE)	REVISED AMOUNT
254-424-000-568-027	Downpayment Assistance Program	35,000.00	7,000.00	-	42,000.00
254-700-000-459-021	Police Dept: Capital Outlay Equip - MSF	270,000.00	13,797.50	-	283,797.50
254-750-000-459-022	Streets Dept: Capital Outlay Equip - MSF	480,374.37	28,354.00	-	508,728.37
254-906-000-458-056	Arts & Culture: Capital Outlay - MET Theatre	295,322.57	50,000.00	-	345,322.57
		-	-	-	-
		-	-	-	-
		-	-	-	-
		-	-	-	-
		-	-	-	-
		-	-	-	-
		-	-	-	-
		-	-	-	-
NET INCREASE/(DECREASE) Expenditures (ALL PAGES)			99,151.50		

APPROVED BY THE STATE AUDITOR
 BY: _____
 Deputy State Auditor, Local Government Services Division Date

 AUTHORIZED SIGNATURE OF ENTITY APPROVAL DATE



City Council Agenda Item Summary

Council Meeting Date: 12/02/2025

Item: Approval of Ordinance for a Lease Agreement with Paul Koontz for office space at the Morgantown Municipal Airport (MGW)
Department: Airport
Requested By: Jon Vrabel
Strategic Goal: Vibrant and Prosperous

Recommended Motion: I move to approve the ordinance for a lease agreement with Paul Koontz for office space at the Morgantown Municipal Airport (MGW).

Item Summary:

This agreement is for an initial one (1) year term, with three (3) additional one year options. The office space is located in terminal in the area next to the TSA office on the first floor that was previously empty. Paul Currently leases Suite 241 on the second floor adjacent to the FBO and needs to downsize his office due to slow business in the life insurance industry. He is at the end of his first option year for the lease on Suite 241.

Fiscal Impact: The fiscal impact of this agreement is \$2,550 in annual revenue.

Ordinance No. 2025-____

**AN ORDINANCE OF THE CITY OF MORGANTOWN
AUTHORIZING AN OFFICE LEASE AGREEMENT WITH PAUL KOONTZ**

The City of Morgantown hereby ordains as follows:

Section 1. Findings and Purpose.

The City Council finds and determines that the real estate or portions thereof described in this Ordinance should be leased to, and a commercial operating agreement should be authorized with, Paul Koontz at the Morgantown Municipal Airport.

Section 2. Authorization of Agreement and Lease.

The City Manager is authorized to enter into a commercial operating agreement and lease with Paul Koontz substantially on the terms shown in the enclosed Office Lease Agreement, and to take such other actions and execute such other documents as necessary and helpful to accomplishing the purposes thereof.

Section 3. Repeal, Savings, Severability.

Any section of this Code repealed or modified by a subsequent ordinance will continue in force until the effective date of the repealing ordinance.

The repeal or modification of any part of this Code does not affect any existing right acquired, or liability or obligation incurred, under the code sections amended or repealed unless the modifying ordinance expressly so provides. Any repealed or modified part of this Code will remain in force for the purpose of sustaining any proper legal proceedings and prosecutions related to the enforcement of such right or liability brought prior to the repeal or modification.

The repeal of any repealing ordinance, clause, or provision does not revive any former ordinance, clause, or provision unless expressly provided by ordinance.

If any provision of this Ordinance, or the application of this Ordinance to any person or circumstance, is held invalid by a court of competent jurisdiction or other entity or agency having jurisdiction to make such determination, the remainder of this Ordinance and the application to other persons or circumstances remain in effect.

Section 4. Effective date; application. This ordinance shall be effective upon adoption. This Ordinance does not affect rights, duties, or liabilities that matured, penalties that were incurred, and proceedings that were begun, before its effective date. The law remains in force for the purpose of sustaining any proper action or prosecution for the enforcement of the right, penalty, forfeiture or liability.

Section 5. Recording of ordinance. The City Clerk is directed to obtain all signatures required by the form of Ordinance adopted and maintain an executed original ordinance with the official records of the City of Morgantown, to be maintained, preserved, and accessed in accordance with the laws of the State of West Virginia and the City of Morgantown, and to take the following additional actions: Deliver an executed copy of this Ordinance to the Airport Director.

FIRST READING: _____

Mayor

SECOND READING: _____

ADOPTED: _____

City Clerk

FILED: _____

City of Morgantown

AND

Paul Koontz

Office Lease Agreement

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**City of Morgantown
and
Paul Koontz**

Office Lease Summary

TYPE OF AGREEMENT	Office Space
TENANT	Paul Koontz
REPRESENTATIVE(S)	Paul Koontz
NOTICE ADDRESS	714 Venture Drive #134 Morgantown, WV 26508 Paul.Koontz@coloniallifesales.com
COMMENCEMENT DATE	January 1, 2026
TERM	One (1) year
RENEWAL OPTIONS	Three (3) – One (1) year options
TERMINATION DATE	December 31, 2027
LEASEHOLD/ASSIGNED PREMISES	Suite 105C, South end of Terminal (See Exhibit A)
INITIAL RENTAL RATE	\$2,550 annually or \$212.50 monthly for 170ft ² @ \$15/ft ²
RENTAL ADJUSTMENT	CPI-U
OTHER FEES, RATES AND CHARGES	None
AUTHORIZED USE(S)	Office Space

Note: This summary is presented as a reference of the agreement information at the time of execution. If there is a discrepancy between the information contained in this summary and the requirements contained in the remainder of the Lease, the requirements as stated in the remainder of the Lease will prevail.

**City of Morgantown
Morgantown Municipal Airport**

AND

Paul Koontz

Office Space Lease Agreement

THIS LEASE AGREEMENT for office space (hereinafter referred to as the "Lease", is entered into this **1st day of January , A.D., 2026** , by and between the **CITY OF MORGANTOWN**, c/o Morgantown Municipal Airport, Morgantown, West Virginia (hereinafter referred to as the "**City**"), and **Paul Koontz** (hereinafter referred to as the "Tenant").

WITNESSETH:

In consideration of the lease of certain real property and the covenants and agreements contained herein, the parties agree as follows:

**ARTICLE 1
PREMISES**

The City hereby leases to Tenant, for its exclusive use as specifically authorized herein, and for no other use except as agreed to, and authorized herein, that space in the building commonly known as the Morgantown Municipal Airport Terminal Building [hereinafter the "**Terminal**"], described below and as shown on **Exhibit A** attached hereto and incorporated herein by reference [hereinafter the "**demised premises**"].

Section 1.01 Demised Premises

1. **Office Space:** Office Space of Approximately 170 square feet of space.

Section 1.02 Acceptance of Demised Premises

Tenant accepts the office space "AS IS" in its present condition. Tenant has had the right to inspect the space for suitability for the purposes it intends. Tenant acknowledges that neither the City nor its agents have made any representation or warranty as to the condition and/or suitability of the premises.

Section 1.03 Use of Demised Premises

1. The Tenant's use of the demised premises, is limited to the general operation of a professional insurance firm. Any future expansion, or change in use, of the demised premises will require the prior written approval of the City.
2. The Tenant, in addition to the use of the demised premises, shall be entitled to the general use, in common with others, of all non-aviation airport facilities made available for use to the general public except as otherwise hereinafter provided.
3. For the purpose of this Agreement, "airport facilities" available to the Tenant and its employees shall include automobile parking areas, roadways, sidewalks, or other areas of the Airport, that have been constructed at City expense for the benefit of Airport tenants and the general public.
4. The use of the above-mentioned airport facilities by Tenant shall be subject to their full compliance with such rules and regulations as now exist or may hereafter be enacted by the City. Approved uses of airport facilities are also subject to the payment of such fees and charges, as may be non-discriminatorily established from time to time by the City for the maintenance, operation or replacement of these facilities.

Section 1.04 Prohibited Uses

The following activities are expressly prohibited.

1. The Tenant may not use any part of the demised premises for any activity or purpose, other than as expressly set forth and authorized in Section 1.03, unless such use is approved, in writing, by the City.
2. The Tenant, and its employees, is prohibited access to, or use of, areas and facilities in the Air Operations Areas of the Airport.
3. Tenant is prohibited from using or permitting the demised premises to be used for the sale to its employees, or to the public, of any goods or services not directly related to those activities authorized in this Agreement.

ARTICLE 2 GENERAL REQUIREMENTS

Section 2.01 Conduct of Operations on Demised Premises

In its exercise and carrying out of the rights, privileges, duties, and obligations granted herein, and in its use of the demised premises, Tenant hereby obligates itself, and agrees to obligate all of its sub-lessees and/or occupants, to the following requirements and regulations:

1. Tenant shall not consent to any unlawful use of the demised premises, nor permit any such unlawful use thereof.
2. Tenant agrees that all local, federal, and state ordinances and laws will be observed in its use and occupancy of the demised premises, including the rules and regulations of the federal and state aeronautical authorities and the local governing authorities.
3. Tenant shall comply with all City rules, regulations, and ordinances as they now exist or may hereafter be amended or adopted.
4. The operations of Tenant, its sub-lessees, employees, invitees, and those doing business with it, shall conduct all activities in an orderly and proper manner so as not to annoy, disturb or to be offensive to others at the Morgantown Municipal Airport. The City shall have the right to complain to Tenant as to the demeanor, conduct and appearance of Tenant's employees, sub-lessees, invitees and those doing business with it, and as to its and/or their failure to utilize said facilities at times, and in the manner, and according to the standards, mandated by the City, whereupon Tenant will take all steps reasonably necessary to remove the cause of the complaint and bring the operations and services into compliance with such standards.
5. The Tenant shall comply with all rules and regulations of the State Fire Marshall in the conduct of its operations on the demised premises.
6. Tenant shall not cause or permit the use, generation, storage, or disposal in or about the demised premises or elsewhere at the Airport of any Hazardous Materials except in strict compliance with State and Federal environmental laws and regulations.
7. Tenant agrees to return the demised premises to the City at the expiration of this Agreement in the same condition as when taken, reasonable wear and tear excepted unless other arrangements are made with the City.

The City reserves the right to further develop its building structures and to lease the same for any lawful purpose whatsoever or to provide any services it deems necessary or desirable in its sole and absolute discretion, for the public, regardless of the desires or views of Tenant, and without interference or hindrance.

ARTICLE 3 TERM AND COMPENSATION

Section 3.01 Initial Term

The initial term of this Agreement shall be for a one-year period, commencing January 1, **2026, A.D.**, (Commencement Date) and terminating on December 31, **2027, A.D.**

Section 3.02 Options to Renew

At the end of the initial one year term of this Lease, the Tenant shall have the first option to renew this Agreement for the Premises, referred to in Article 1; **Provided**, that Tenant is not then in default.

1. Tenant shall have the option to renew this Agreement for three (3) additional one (1) year periods.
2. Prior to the conclusion of the initial and all renewal terms, The Tenant and City may initiate discussions regarding a new lease. The Tenant may declare its intention to begin negotiations on a new lease Agreement, in writing, on or before, the 180th day prior to the expiration of this Agreement. Such 180-day period shall expire at midnight of the last day of the Agreement.
3. During said 180-day period, all of the terms and conditions including the amount of rent and other fees to be paid under a new Agreement shall be negotiated in good faith by both parties and reduced to writing and executed. If a written lease Agreement is not executed by the Tenant prior to the end of this negotiation period, this Agreement shall terminate in accordance with Article 11.

Section 3.03 Termination

This agreement shall be considered terminated by the Tenant on the terminating of the agreement unless the Tenant provides the City written notice of Tenant's intent to renew the lease one hundred eighty (180) days prior to the expiration of the then current term.

Section 3.04 Rent

1. **Office Rent.** The Tenant shall pay an annual office rent of **\$2,550.00**, which is equal to **\$15.00** per square foot for **170** square feet of office space. Said agreed rent shall be paid in advance monthly in twelve (12) equal installments of **\$212.50** due in advance the first day of each month.
2. **Payments:** All payments are to be made at the administrative office of the Morgantown Municipal Airport, 100 Hart Field Road, Morgantown, West Virginia 26505.
3. **Security Deposit:** N/A
4. **Lease Guarantee:** In the absence of a good business credit history of at least five (5) years prior to the commencement of this Agreement, Operator agrees to arrange for a Lease Guaranty (personal or established business) that shall remain in full force and effect until all monthly installments of rent and charges due during the first 60 months of the Term of the Agreement have been paid, without regard to the security deposit noted above, construction bonds or other collateral held by or for the City for the performance of the terms or conditions of the Agreement, or the receipt, disposition, application, or release of any security deposit, construction bonds or other collateral, now or hereafter held by or for the City.

Section 3.05 Future Adjustments of Rents and Fees

The City reserves the right to adjust, or modify existing Airport fees and charges, or to establish additional fees and charges as necessary to maintain the financial integrity of the Airport through cost recovery and to make the Airport as self-sustaining as possible. Except for CPI adjustment of the annual ground site rent as noted below, all fees, rents and charges are subject to adjustment as a part of the City's annual budget approval process. Airport Tenants and the general public are provided the opportunity to comment on proposed fees, rents and charges changes during the budget approval process.

Commencing on the first anniversary date of this agreement, and for each one (1) year period thereafter, the annual rental payment may be adjusted by dividing the initial rental rate by the U.S. City Average of the Consumer Price Index for All Urban Consumers (CPI-U) published immediately preceding the Effective Date of this Lease and multiplying the quotient thereof by the last Index (CPI-U) published immediately

preceding each such one (1) year lease period $\left(\frac{\text{initial rental rate}}{\text{initial CPI-U}}\right) \times (\text{current CPI} - U) = \text{new rental rate}$.
At no time, however, shall said rental be less than the rental paid during the previous year period of this Agreement.

For purposes of this Agreement, the Consumers Price Index means the Index for "All Goods and Services" for Urban areas for the U.S. City Average as determined by the United States Department of Labor, Bureau of Statistics.

Should the United States Government revise its price index at any time, the parties hereto will follow such suggestions as the Government may issue for making an arithmetical changeover from one Index to another. Should the price index be wholly discontinued, then its successor or the most nearly comparable successor index thereof, adjusted back to the anniversary date, shall be used.

Section 3.06 Late Charges

The Tenant shall pay to the City a late charge equal to 1.5% per month on all rent and fee charges which are 30 days past due. Said late charge shall commence on the past due amount from the date said payment was due and shall be computed to the date the past due amount is paid. This shall be in addition to, and in no way alters, any other rights reserved to the City, or existing in the City by virtue of the laws of the State of West Virginia, or by the terms of the Agreement.

Section 3.07 Surrender of Possession

At the expiration of the term of this Agreement, including any renewal term(s), whether by lapse of time or otherwise, Tenant shall promptly and peacefully surrender the demised premises to the City.

Section 3.08 Holding Over

If Tenant shall, with the written consent of the City, hold over after the expiration of the term of this Agreement, including any renewal term(s), tenancy shall be on a month-to-month basis, which may be terminated as provided for by the laws of the State of West Virginia.

Section 3.09 Chronic Late Payment

City may also terminate this Agreement for the reason that Tenant is chronically late with rental payments. Chronic late payments are defined as making a rental payment more than five (5) days after the due date on three (3) or more occasions during any consecutive 12-month period during the term of this Agreement.

Section 3.10 Returned/Dishonored Checks

If Tenant makes a payment due under this Agreement with a check that has been returned/dishonored by the bank, pursuant to West Virginia law, Tenant shall pay a \$25.00 service fee in addition to the amount of the returned/dishonored check, payable within ten (10) days of receipt of City's written demand for such payment. If not paid in full within ten (10) days, it will be sent to Magistrate Court for collection. This amount is in addition to the late fee incurred.

Section 3.11 Application of Payment

Money paid by Tenant to City for late fees and/or litigation settlements shall be applied first to interest, second to Court Costs legally chargeable to Tenant, third to attorney fees chargeable to Tenant, fourth to outstanding repair bills that are the responsibility of the Tenant, and fifth toward rent.

ARTICLE 4 TENANT'S FUTURE CONSTRUCTION REQUIREMENTS

Section 4.01 Requirements for Improvements on Demised Premises

The Tenant shall, at its sole expense, construct on the demised premises, as provided in Sections of this Article 4, additions, and improvements as necessary in furtherance of the purposes set forth in Article 2, and the Tenant shall install herein and thereon such equipment and facilities as the Tenant or the City may deem necessary or desirable. Provided, however, that no improvement of any nature shall be made or installed by the Tenant without the prior written consent of the City as herein provided. The Tenant may also be required to provide the City with proof that funds necessary to complete construction of the improvements have been irrevocably dedicated to such construction. All improvements constructed under this Agreement shall be in accordance with the Airport's Tenant Improvement Manual as well as all other applicable laws, rules, regulations and ordinance.

Section 4.02 Future Construction Dates

1. **Additional Construction:** The construction of any additional improvement, occurring during the remaining term of this agreement, shall be substantially completed within 12 months of the date of the City's written approval of the Plans therefore in accordance with the construction schedule approved by the City. In the event of a failure to complete the additional construction within the 12 month period, the City shall have the right to terminate this Agreement pursuant to Article 9 hereof, and make appropriate claims against required performance bonds to complete construction, unless it is determined at sole discretion of the City that there were delays beyond the control of the Tenant.
2. **Construction Period Extensions:** The Tenant may request an extension of the construction period for causes or conditions of delay that are beyond the control of the Tenant (hereinafter referred to as "Force Majeure"). Such conditions of delay may be, by way of example, but not limited to, strikes, acts of God, inability to obtain labor or materials, governmental restrictions, enemy action, civil commotion, fire or other casualty, or failure of the City to carry out its obligations. Accordingly, at the sole discretion of the City, the period for completion of construction shall be extended by the number of days of delay resulting from the Force Majeure.

Section 4.03 Approvals of Future Construction Plans

The Tenant covenants and agrees that prior to the preparation of detailed construction plans, specifications and architectural renderings of any such addition or improvement, it shall first submit plans showing the general site plan, design and character of improvements and their locations, to the City for approval. The City agrees to review such plans within 30 days of receipt from the Tenant. The Tenant covenants and agrees that prior to the installation or construction of any present and future addition or improvement on the demised premises, it shall first submit to the City for approval, final detailed construction plans and specifications and architectural renderings prepared by registered architects and engineers, and that all construction will be in accordance with such plans and specifications and the Tenant Improvement Manual and all other applicable rules, regulations, laws and ordinances.

Section 4.04 Future Extension of Utilities or Special Facilities

The Tenant shall contract, and extend, at its sole expense, all necessary utility, electrical, communication lines needed to service any improvements constructed in the future by the Tenant on the demised premises. All utility extensions and other construction shall be in accordance with all applicable Codes, ordinances and the Tenant Improvement Manual.

Section 4.05 Alterations or Repairs to Premises

The Tenant shall not construct, install, remove and/or modify internal, external or structural portions of the buildings constructed upon the demised premises without the prior written approval of the City. The Tenant shall submit for approval by the City, its plans and specifications for any proposed project as well as complying with all applicable code requirements and such other conditions considered by the City to be necessary.

Section 4.06 Lien Indemnification

Tenant shall keep the premises free from liens arising out of any work performed and/or materials ordered, or from any obligations incurred by Tenant. In the event any person or corporation shall, as a result of construction work being performed by or for the Tenant, attempt to assess a lien against the demised premises, the Tenant shall hold the City harmless from such claim, including the cost of defense.

Section 4.07 Cost of Construction and Alterations

Within thirty (30) days of completion of the construction or alterations, the Tenant shall present to the City for examination and approval a sworn statement of the construction and/or alteration costs. Construction and/or alteration costs for the purpose of this Section are hereby defined as all money paid by the Tenant for actual site preparation, construction or alteration, including architectural and engineering costs plus pertinent fees in connection therewith. In the event that the Tenant makes further improvements or alterations on the demised premises, the use thereof shall be enjoyed by the Tenant during the term hereof without the additional rental therefore.

Section 4.08 As-built Drawings

Within ninety (90) days following completion of any future construction by the Tenant and any subsequent additions, alterations or improvements, the Tenant shall present to the City a complete set of "as-built"

drawings including, but not limited to, architectural renderings, specifications, plumbing, and electrical plans.

Section 4.09 Security Interest on Leasehold Improvements for Construction

Tenant shall have no right to place a security interest, or "mortgage", upon demised premises, for improvements financed by the Tenant.

Section 4.10 Ownership of Improvements

The building and associated site improvements constructed and paid for by the City, as well as any approved improvements to demised premises, constructed during the term of this agreement, whether paid for by the Tenant or the City, excluding Tenant's personal property, shall remain the property of the City.

Section 4.11 Performance Bonds

Tenant shall cause a surety bond to be issued in the amount of 100% of the building(s) and site development construction costs, prior to the beginning of any construction financed by Tenant, or another form of security acceptable to the City that assures that the funds to cover the cost of the project are irrevocably set aside and available to the City to complete the improvement to City owned property should the Tenant fail to do so.

**ARTICLE 5
OBLIGATION OF TENANT**

Section 5.01 Net Lease

The use and occupancy of the demised premises by the Tenant will be without cost or expense to the City. It shall be the sole responsibility of the Tenant to maintain, repair and operate the entirety of the demised premises, and any approved improvements and facilities constructed thereon, at the Tenant's sole cost and expense.

Section 5.02 Maintenance and Operation

The Tenant shall maintain the demised premises at all times in a safe, neat and clean condition free of weeds, rubbish, or any unsightly accumulations of any nature whatsoever. The Tenant shall repair all damage to the demised premises caused by its employees, patrons, or its operation thereon.

1. The City remains responsible for the structural integrity of the building structure.
2. Upon occupancy, the Tenant shall be responsible for and perform all maintenance, including but not limited to:
 - a. Janitorial services, providing janitorial supplies, window washing, rubbish, and trash removal.
 - b. Supply and replacement of light bulbs and replacement of all glass in building, including plate glass.
 - c. Replacement of floor coverings.
 - d. Building interior maintenance, including painting, repairing and replacement.
 - e. Repair or replacement of equipment and utilities to include electrical, mechanical and plumbing. All repairs to electrical and mechanical equipment are to be made by licensed personnel. Other repairs are to be made by craftsmen skilled in work done and performing such work regularly as trade.
 - f. The Tenant shall advise the City and obtain City's consent in writing before making changes involving structural changes to the premises, modifications or additions to plumbing, electrical or other utilities
 - g. The Tenant is responsible for maintaining electric loads within the designed capacity of the system. Prior to any change desired by the Tenant in the electrical loading which would exceed such capacity, written consent shall be obtained from the City.
 - h. The Tenant shall provide and maintain hand fire extinguishers for the demised premises in accordance with applicable fire and safety codes.
3. The City's Airport Director, at his discretion, shall be the sole judge of the quality of maintenance; and the Tenant, upon written notice by the City to the Tenant, shall be required to perform whatever maintenance the City deems necessary. If said maintenance is not undertaken by the Tenant within fifteen (15) days after receipt of written notice, the City shall have the right to enter upon the

demised premises and improvements constructed thereon, and perform the necessary maintenance, the cost of which shall be borne by the Tenant as additional rent which shall be paid by the Tenant to the City in full within ten (10) days after the same has been billed.

Section 5.03 Utilities

The Tenant shall assume and pay for all costs or charges for utility services, not including electrical, gas, and water as these utilities are furnished during the term hereof. Other utilities including cable, internet, telephone, and other such utilities are required to be appropriated and paid by tenant.

Section 5.04 Signs

The Tenant shall not erect, maintain, or display upon the outside of any improvements on the demised premises any billboards or advertising signs without prior written approval by the City.

Section 5.05 Nondiscrimination

The Tenant, for itself, its personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree that (A) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the demised premises; (B) that in the construction of any improvements on, over, or under such land and the furnishing of services thereof no persons the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of or otherwise be subjected to discrimination; (C) that the Tenant shall use the demised premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and Transportation, and said Regulations may be amended, to the extent that said requirements are applicable, as a matter of law, to the Tenant.

With respect to the demised premises, the Tenant agrees to furnish services on a fair, equal, and not unjustly discriminatory basis to all users thereof, and to charge fair, reasonable, and not unjustly discriminatory prices for each unit or service; PROVIDED, that the Tenant may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

Section 5.06 Observance of Statutes and Regulations

The granting of this Agreement and its acceptance by the Tenant is conditioned upon the right to use the Airport facilities in common with others authorized to do so, provided however, that the Tenant shall observe and comply with any and all requirements of the constituted public authorities and with all federal, state, or local statutes, ordinances, regulations and standards applicable to the Tenant for its use of the demised premises, including but not limited to, rules and regulations or standards promulgated from time to time by the City for the administration of the Airport.

Section 5.07 Airport Security

The Tenant recognizes the City's required compliance with Federal Aviation Regulations concerning airport security and agrees to comply with the Airport's Security Plan as it relates to its use of the demised premises and the Airport's public facilities.

ARTICLE 6 OBLIGATIONS OF THE CITY

Section 6.01 Operation as a Public Airport

The City covenants and agrees that at all times it will operate and maintain the Airport facilities, as a public airport consistent with, and pursuant to, the "Sponsor's Assurances" given by the City to the United States Government under Federal Airport Act.

Section 6.02 Ingress and Egress

Upon paying the rental prescribed herein, and performing the covenants of this Agreement, the Tenant shall have the right of ingress to, and egress from, the demised premises for the Tenant, its officers, employees, agents, servants, customers, vendors, suppliers, patrons, and invitee over the roadway serving the area of the demised premises. Airport roadways shall be used jointly with other tenants of the Airport,

and the Tenant shall not interfere with the rights and privileges of other persons or firms using said facilities and shall be subject to such weight and type use restrictions as the City deems necessary.

ARTICLE 7 CITY'S RESERVATIONS

Section 7.01 Improvement, Relocation, or Removal of Structure

In the event the City requires the demised premises for expansion, improvements, development of the airport, the City reserves the right, on a twelve (12) month notice, at no cost to the Tenant, to relocate or replace the Tenant's improvements, in substantially similar form at another generally comparable location on the Airport. All other Agreement terms shall remain in full force and effect. In the event of such relocation or replacement, the City agrees to suspend rental during any period such improvements are unusable.

Section 7.02 Inspection of Demised Premises

The City, through its duly authorized agent, shall have at any reasonable time with prior notice, the full and unrestricted right to enter the demised premises for the purpose of periodic inspection for fire protection, maintenance and to investigate compliance with the terms of this Agreement.

ARTICLE 8 INDEMNITY AND INSURANCE

Section 8.01 Indemnification

1. The Tenant agrees to indemnify, save, hold harmless and defend the City, its agents and employees, its successors and assigns, individually or collectively, from and against all liability for any claims and actions and all reasonable expenses incidental to the investigation and defense thereof, in any way arising out of or resulting from any acts, omissions or negligence of the Tenant, its agents, employees, licensees, successors and assigns, or those under its control; in, on or about demised premises or upon demised premises; or in connection with its use and occupancy of demised premises or use of Airport; PROVIDED, HOWEVER, that the Tenant shall not be liable for any injury, damage, or loss to the extent occasioned by the negligence or willful misconduct of the City, its agents or employees. When knowledge of any action becomes known by the Tenant or the City, they shall give prompt written notice to the other party.
2. The Tenant shall indemnify, save, hold harmless, and defend the City, its agents and employees, its successors and assigns, individually or collectively, from and against all liability for any claims and actions and all expenses or fines incidental to the investigation and defense thereof, in any way arising from or based upon the violation of any federal, state, or municipal laws, statutes, ordinances or regulations by the Tenant's agents, employees, licensees, successors and assigns, or those under its control. The Tenant shall not be liable for any claims, actions and expenses or fines, incidental to the investigation and defense thereof, in any way arising from or based upon violation of any federal, state, or municipal laws, statutes, ordinances, or regulations by the City, its agents, employees, licensees, successors and assigns, or those under its control.

Section 8.02 Insurance

1. Without limiting the Tenant's obligation to indemnify the City, the Tenant shall provide, pay for, and maintain in force at all times during the term of this Agreement a policy of comprehensive general liability insurance to protect against bodily injury liability and property damage in an aggregate amount of not less than \$1,000,000.00 per occurrence; a policy of comprehensive automobile liability insurance in a combined single limit of not less than \$1,000,000.00; and statutory Workman's Compensation insurance.

The Tenant shall furnish the City, as evidence that such insurance is in force, a certified copy of the insurance Certificate including the City as an additional insured within thirty (30) days after the policy(s) is issued. Said policies shall be in a form and content satisfactory to the City and shall provide for thirty (30) days written notice to the City prior to the cancellation of or any material change in such policies.

2. Neither the City nor its agents shall be responsible for the theft of or damage to any personal property of Tenant or its guests or invitees, for damage, loss, or destruction of personal property of

Tenant or of Tenant's guests or invitees because of fire, water, acts, or omissions of third parties or any cause whatsoever unless caused by the negligent acts of City of its agents.

Tenant shall procure and maintain, at its own expense, insurance covering Tenant's personal property and to the fullest extent possible without violating any such insurance coverage, Tenant waives all claims and subrogation rights against City arising out of any loss of or damage to any personal property owned by or in the possession or control of Tenant.

Each party also releases the other party from any other liability for loss, damage or injury caused by fire or other casualty for which insurance is carried by the insured party to the extent of any recovery by the insured policy under such insurance policy, other than as set forth in Section 8.04 and 8.05 below.

Section 8.03 Environmental Impairment

The Tenant will comply with any environmental regulations affecting its operations throughout the term of this Agreement.

Section 8.04 Fire and Extended Coverage Insurance

The Tenant shall, at its expense, procure and keep in force at all times during the term of this Agreement with a company suitable to the City, insurance on the demised property, including all improvements, against loss and damage by fire, and extended coverage perils. The Tenant shall furnish evidence of insurance. Insurance shall name the City as an additional insured.

Section 8.05 Application of Insurance Proceeds

If the demised premises shall be partially or totally destroyed or damaged, the Tenant and the City, within thirty (30) days of the damage shall decide whether or not to proceed with restoration. If the City and the Tenant elect not to restore the same to their previous condition, the proceeds of insurance payable by reason of such loss the City shall be entitled to receive and apply the entire proceeds of any insurance covering such loss to the cleanup of the leased site, except those proceeds identified to cover the loss of Tenants personal property contained within demised premises. The Agreement shall then be canceled. If the damage results from an insurable cause and if the City elects to have the Tenant restore demised premises with reasonable promptness, the Tenant shall be entitled to receive and apply the entire proceeds of any insurance covering such loss to said restoration, including applicable site clean-up, in which event this Agreement shall be appropriately amended as necessary and continue in full force and effect.

Section 8.06 Performance Bonds

The Tenant shall cause a surety bond to be issued in the amount of 100% of the demised premises restoration costs, prior to the beginning of any construction financed by the Tenant or for the restoration of demised premises that is over and above insurance proceeds, in accordance with Section 8.05 above, or another form of security acceptable to the City that assures that the funds to cover the cost of the project are irrevocably set aside and available to the City to complete the improvement to City owned property should the Tenant fail to do so.

Section 8.07 Destruction of Premises (Uninsured Cause)

In the event of damage to or destruction of the demised property by an uninsured cause, Tenant and the City shall decide, within thirty (30) days of the event, whether it will repair, restore, or rebuild the demised premises. Within sixty (60) days of the event, Tenant shall initiate restoration or raising activities and complete those activities within one hundred twenty (120) days of the event unless otherwise agreed by the City. In the event Tenant fails to take action as noted above, City shall have the right to restore the premises to its original condition. Tenant shall be liable for reimbursing the City for all costs incurred.

ARTICLE 9 CANCELLATION BY THE CITY

Section 9.01 Events of Default by Tenants

Each of the following events shall constitute an "Event of Default by Tenant":

1. Tenant fails to pay rentals, fees, and charges when due, and such default continues for a period of ten (10) days after receipt of written notice from the City that such non-payment constitutes an event of default.

2. Tenant fails after receipt of written notice from the City to keep, perform or observe any term, covenant or condition of this Agreement, other than as set forth in paragraph 1 (above) and such failure continues for thirty (30) days after such receipt, or if by its nature such event of default by Tenants cannot be cured within such thirty (30) day period, Tenant fails to commence to cure or remove such event of default by the Tenant within said thirty (30) days and to cure or remove same as promptly as reasonably practicable.
3. Tenant abandons the premises. Tenant's intent not to re-occupy the premises may be presumed upon expiration of ten (10) days after receipt of written notice from the City that it believes in good faith that Tenant has abandoned the premises.
4. Tenant shall become insolvent, shall take the benefit of any present or future insolvency statute, shall make a general assignment for the benefit of creditors, shall file a voluntary petition in bankruptcy or a petition or answer seeking a reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or under and other law or statute of the United States or of any state thereof, or shall consent to the appointment of a receiver, trustee, or liquidation of all or substantially all of its property.
5. An Order for Relief shall be entered at the request of Tenant or any of its creditors under the federal bankruptcy or reorganization laws or under any law or statute of the United States or any state thereof.
6. A petition under any part of the federal bankruptcy laws or an action under any present or future insolvency law or statute shall be filed against the Tenant and shall not be dismissed within thirty (30) days after the filing thereof. Tenant shall pay to the City all reasonable costs and fees, including attorney and accounting fees and expenses, incurred by the City in the exercise of any remedy in the event of any default by the Tenant.
7. By or pursuant to, or under, any legislative act, resolution or rule, or any order of decree of any court or governmental board or agency, an officer, receiver, trustee, or liquidator shall take possession or control of all or substantially all of the property of Tenant and such possession or control shall continue in effect for a period of fifteen (15) days.
8. Tenant shall become a corporation in dissolution, or voluntarily or involuntarily forfeit their corporate charter, other than through merger with a successor corporation.
9. The rights of the Tenant hereunder shall be transferred to, pass to, or devolve upon, by operation of law or otherwise, any other person, firm, corporation or other entity, as a result of any bankruptcy, insolvency, trusteeship, liquidation or other proceedings or occurrence described in Paragraphs 3 through 7 above.

Section 9.02 Remedies for Tenants' Default

1. Upon the occurrence of an "Event of Default by the Tenant", Tenant shall remain liable to the City for all arrearages of rentals, fees or charges payable hereunder and for all preceding breach (es) of any covenant herein contained. The City, in addition to the right of termination, and to any other rights or remedies it may have at law or in equity, shall have the right of re-entry and may remove all Tenant's persons and property from the demised premises. Upon any such removal, Tenant's property may be stored in a public warehouse or elsewhere at the cost of, and for the account of, the Tenant. Should the City elect to re-enter, as herein provided, or should it take possession pursuant to legal proceedings or pursuant to any notice provided by law, it may, at any time subsequent to an "Event of Default by the Tenant", either terminate this Agreement or re-let the demised premises and any improvements thereon, or any part thereof, for such term or terms (which may be for a term extending beyond the term of this Agreement) at such rentals, fees and charges, and upon such other terms and conditions, as the City, in its sole discretion, may deem advisable, with the right to make alterations repairs or improvements on said demised premises. No re-entry or re-letting of the demised premises by the City shall be construed as an election on the City's part to terminate this Agreement, unless a written notice of such intention is given to the Tenant. In re-letting the demised premises, the City shall make a good faith effort to obtain terms and conditions no less favorable to itself than those contained herein and otherwise seek to mitigate any damage it may suffer as a result of the "Event of Default by the Tenant".

2. Unless the City elects to terminate this Agreement, the Tenant shall remain liable for and promptly pay all rentals, fees and charges accruing hereunder until termination of this Agreement at the expiration date set forth herein.
3. In the event that the City re-lets the demised premises, rentals, fees and charges received by the City from such re-letting shall be applied: first, to the payment of any indebtedness other than rentals, fees and charges due hereunder from the Tenant to the City; second, to the payment of any cost of such re-letting; third, to the payment of rentals, fees and charges due and unpaid hereunder; and, the residue, if any, shall be held by the City and applied in payment of future rentals, fees and charges as the same may become due and payable hereunder. Should that portion of such rentals, fees and charges received from such re-letting applied to the payment of rentals, fees and charges due hereunder be less than the rentals, fees and charges payable during the applicable period, Tenant shall pay such deficiency to the City. The Tenant shall also pay to the City, as soon as ascertained, any costs and expenses incurred by such re-letting not covered by the rentals, fees and charges received from such re-letting.
4. Notwithstanding anything to the contrary in this Agreement, if a dispute arises between the City and Tenant with respect to any obligation or alleged obligation of the Tenant to make payment(s) to the City, the payment(s) under protest by the Tenant of the amount claimed by the Tenant to be due shall not waive any of the Tenants' rights, and if any court or other body having jurisdiction determines all, or any part, of the protested payment was not due, then the City shall as promptly as reasonably practicable reimburse the Tenant any amount determined as not due plus interest on such amount at the highest rate allowable under West Virginia law.
5. Tenant shall pay to the City all reasonable costs, fees (including attorneys and accountants) and expenses incurred by the City in the exercise of any remedy upon an event of default by the Tenant.

**ARTICLE 10
CANCELLATION BY TENANT FOR
EVENTS OF DEFAULT BY CITY**

Section 10.01 Event of Default by City

Each of the following events shall constitute an "Event of Default by City":

1. The City fails, after receipt of written notice from Tenant, to keep, perform or observe any term, covenant or condition herein contained to be kept, performed or observed by the City and such failure continues for thirty (30) days; or, if, by its nature, such "Event of Default by City" cannot be cured within such thirty (30) day period, the City fails to commence to cure or remove such "Event of Default by City" within said thirty (30) days and to cure or remove the same as promptly as reasonably practicable.
2. The City closes the Airport to flights in general or to the flights of the Tenant, for reasons other than weather, acts of God or other reasons beyond its control, and fails to reopen the Airport to such flights within sixty (60) days of such closure, and such closure negatively affects the Tenant's use of demised premises.
3. The Airport is permanently closed by act of any federal, state or local government agency having competent jurisdiction.
4. The City is unable to use the Airport for a period of at least sixty (60) days due to any law or any order, rule or regulation of any appropriate governmental authority having jurisdiction over the operations of the airport, or any court of competent jurisdiction issues an injunction in any way preventing or restraining the use of the Airport, or any part thereof, for airport purposes, and such injunction remains in force for a period of at least sixty (60) days and such situation negatively affects the Tenant's use of demised premises.
5. The United States Government or any authorized agency of the same (by executive order or otherwise) assumes the operation, control or use of the Airport and its facilities in such a manner as to substantially restrict Tenant from conducting its operations, and such restrictions shall continue for a period of at least sixty (60) days.

Section 10.02 Remedies for City's Defaults

Upon the occurrence of an "Event of Default by City", the Tenant shall have the right to suspend or terminate this Agreement and all rentals, fees and charges payable by Tenant under this Agreement shall abate during a period of suspension or shall terminate, as the case may be. In the event that Tenant's operations at Airport should be substantially restricted by action of any governmental agency having jurisdiction thereof, then Tenant shall, in addition to the rights of termination herein granted, have the right to a suspension of this Agreement, or part thereof, and abatement of an equitable proportion of the payments due hereunder, from the time of giving written notice of such election until such restrictions shall have been remedied and normal operations restored. In addition to its remedy of termination, the Tenant shall be entitled to all other remedies available to it by law or equity.

**ARTICLE 11
RIGHTS UNDER TERMINATION**

Section 11.01 Fixed Improvements

It is the intent of this Agreement that the leasehold improvements, alterations and items affixed thereto shall be and remain the property of the City during the entire term of this Agreement. Upon termination of this Agreement, the Tenant shall have no further rights under this Agreement nor shall it have any interest in the demised premises, buildings or improvements, constructed thereon.

Section 11.02 Personal Property

Upon termination of this Agreement, the Tenant shall remove all personal property, and items not affixed, from the demised premises within sixty (60) days after said termination and restore the demised premises to its original condition. If the Tenant fails to remove said personal property, said property shall revert to City ownership and may thereafter be removed by the City at Tenant's expense.

**ARTICLE 12
ASSIGNMENT AND SUBLETTING**

The Tenant shall not assign this Agreement or sublease, or any part hereof, in any manner whatsoever, or assign any of the privileges recited herein without the prior written consent of the City. Provided however:

1. Tenant may assign privileges of this agreement, and/or sublease space, in the Demised Premises directly to a parent, subsidiary or affiliate of Tenant, in the furtherance of its approved use of City / Airport facilities as detailed in 2.01, without City approval. However, Tenant remains obligated to notify City in writing of such assignment or sublease. Under such assignment or sublease, the Tenant remains fully responsible for the payment of all rents, fees and charges in accordance with the Agreement.
2. Any assignment of the privileges in this agreement, or sublease of Demised Premises, wherein the assignee/sub-lessee is responsible for the payment of rents, fees and charges directly to the City, must receive the prior approval of the City. In such assignment or sublease, Tenant shall remain liable to the City for the remainder of the term of this Agreement to pay to the City any portion of the rental and fees provided for herein upon failure of the assignee or sub-lessee to pay the same when due.
3. Said assignee or sub-lessee in either case above, shall not further assign or sublease said Agreement or leased space except with the prior written approval of the City and the Tenant herein, and any assignment or sublease agreement initiated by the Tenant to any third party shall contain a clause to this effect.

**ARTICLE 13
QUIET ENJOYMENT**

The City covenants that the Tenant, upon payment of the rentals reserved herein and the performance of each and every one of the covenants, agreements and conditions on the part of the Tenant to be observed and performed, shall and may, peaceably and quietly, have, hold and enjoy the demised premises for the term of this Agreement, free from molestation, or disturbance.

ARTICLE 14 GENERAL PROVISIONS

Section 14.01 Non-Interference with Operations of Airport

The Tenant, by accepting this Agreement, expressly agrees for itself, its successors and assigns, that it will not make use of the demised premises in any manner which might interfere with the operations of the Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, the City reserves the right to enter upon the premises hereby leased and cause the abatement of such interference at the expense of the Tenant.

Section 14.02 Attorney's Fees

In any action brought by either party for the enforcement of the obligations of the other party, the prevailing party shall be entitled to recover interest and its reasonable attorney's fees.

Section 14.03 Taxes and Special Assessments

The Tenant shall pay any and all leasehold interest tax assessed on said demised premises and all personal property taxes which may be assessed against equipment, merchandise, or other personal property belonging to the Tenant located on the demised premises, or other permitted portions of the Airport. The Tenant shall pay all real estate taxes attributed to the Tenant's leasehold interest and all other real estate taxes which may be levied and assessed which are attributed to the Tenant's leasehold interest in the demised premises. The Tenant shall pay all sales or use taxes and assessments, license fees or other charges of any kind or nature, without exception, levied or assessed, arising out of the activities conducted on, and/or the occupancy of, the demised premises.

Section 14.04 Right to Contest

The Tenant shall have the right to contest the validity or amount of any tax, assessment or charge, lien or claim of any kind in with respect to the demised premises. Tenant shall, if the City requires the same in writing and if the taxes or other assessments have not been paid under protest or otherwise escrowed or provided for, furnish reasonable security for the payment of all liability, costs and expenses at the end of the litigation, and Tenant, so long as the matter shall remain undetermined by final judgment, shall not be considered in default hereunder by the nonpayment thereof; provided however, that Tenant shall not, under these provisions, permit the premises or any buildings or improvements situated thereon, to be sold or forfeited, and failure by the Tenant to do what is necessary to prevent any such sale or forfeiture within ten (10) days from the publication or receipt of notice for sale or forfeiture, shall be deemed to be a default hereunder, and the City may, at its option, pay any such sum as may be required to avoid the sale or forfeiture and seek reimbursement for its cost from the Tenant or ownership of the buildings or improvements involved.

Section 14.05 License Fees and Permits

The Tenant shall obtain and pay for all licenses, permits, fees or other authorization or charges as required under federal, state or local laws and regulations insofar as they are necessary to comply with the requirements of this Agreement and the privileges extended hereunder.

Section 14.06 Non Exclusive Rights

It is hereby specifically understood and agreed between the parties that nothing herein contained shall be construed as granting or authorizing the granting of exclusive rights to the Tenant or others, as defined in Section 308 of the Federal Aviation Act of 1958, as amended.

Section 14.07 Paragraph Headings

The Section paragraph headings contained herein are for convenience in reference only and are not intended to define or limit the scope of any of the provision of this Agreement.

Section 14.08 Interpretations

This Agreement shall be interpreted in accordance with the laws of the State of West Virginia.

Section 14.09 Non-Waiver

No waiver by City of any agreement, condition or provision contained in this Agreement will be valid or binding unless expressed in writing and signed by the City. The waiver by City of any agreement, condition or provision contained in this Agreement will not be deemed to be a waiver of any subsequent breach of the same or any other agreement, condition or provision contained in this Agreement, nor will any custom

or practice that may grow up between the parties in the administration of the terms of this Agreement be construed to waive or to lessen the right of City to insist upon the performance by Tenant in strict accordance with the terms of this Agreement. The subsequent acceptance of rent by City will not be needed to be a waiver of any preceding breach by Tenant of any agreement, condition or provision of this Agreement, other than the failure of Tenant to pay the particular rent so accepted, regardless of City's knowledge of such preceding breach at the time of acceptance of such rent.

Section 14.10 Severability

If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each other term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

Section 14.11 Binding Effect

This Agreement, including all of its covenants, terms, provisions and conditions, shall be binding upon, and inure to the benefit of, the parties hereto and their respective heirs, successors and assigns.

Section 14.12 No Partnership

Nothing contained in this Agreement shall be deemed to create the relationship of principal and agent or of a partnership or joint venture or any relationship between the City and Tenant other than the relationship of the City and Tenant.

Section 14.13 Duty to be Reasonable

Wherever in this Agreement the City is to give its consent, approval or otherwise exercise discretion in judgment, such consent, approval or judgment discretion shall not be unreasonably exercised or unreasonably withheld. When the City is called upon to give its consent or approval, or otherwise exercise its discretion and judgment as to financial matters which affect the City and the continuing operations of the Airport, the exercise of its judgment as to any such matters shall be solely and completely within the discretion of the City.

Section 14.14 Notices

Whenever any notice or payment is required by this Agreement to be made, given or transmitted to the parties hereto, such notices or payments shall be enclosed in an envelope with sufficient postage attached to insure delivery and deposited in the United States Mail, addressed to:

**Airport Director
City of Morgantown
Morgantown Municipal Airport
100 Hart Field Road
Morgantown, West Virginia 26505**

And notices, consents and approvals to the Tenant addressed to:

Paul Koontz
714 Venture Drive #134
Morgantown, WV 26508

Or such other place as either party shall, by written directive, designate in the manner herein provided.

Section 14.15 Entire Agreement

This Office Lease Agreement constitutes the entire agreement between the parties. There are no verbal or written agreements between the parties that are to be considered a part of this Agreement unless they have been specifically enumerated herein and this Agreement supersedes all prior or other agreements, understandings, and representations. This Agreement may be amended solely by a written instrument, signed by all parties.

Section 14.16 No Construction Against Drafting Party

City and Tenant acknowledge that each of them and their counsel have had an opportunity to review this Agreement and that this Agreement will not be construed against City merely because City has prepared it.

Section 14.17 Third Party Beneficiaries

It is specifically understood and agreed that no person shall be a third party beneficiary hereunder, and that none of the provisions of this Agreement shall be for the benefit of, or be enforceable by, anyone other than the parties hereto, and that only the parties hereto and their permitted assignees shall have rights hereunder.

Section 14.18 Authorization and Execution

By its execution hereof, Tenant and the City warrant that all necessary corporate action has been taken with regard to the authorization and execution of this Agreement and that the individual(s) executing this Lease Agreement on behalf of Tenant is/are duly authorized to do so. Whoever signs this Agreement on behalf of Tenant and the City hereby confirms that they have the appropriate authority and have been so authorized to execute this Agreement on behalf of Tenant and City, respectively.

IN WITNESS WHEREOF, the parties have caused this **Office Lease Agreement** to be executed on their behalf by their duly authorized officers.

CITY OF MORGANTOWN

PAUL KOONTZ

By: _____

By: _____

Jamie Miller
City Manager

Paul Koontz

Date: _____

Date: _____

Witness:

Witness:

By: _____

By: _____

Name, Title

Name, Title

Date: _____

Date: _____



City Council Agenda Item Summary

Council Meeting Date: 12/02/2025

Item: Approval of Ordinance for a Lease Agreement with Paul Koontz for office space at the Morgantown Municipal Airport (MGW)
Department: Airport
Requested By: Jon Vrabel
Strategic Goal: Vibrant and Prosperous

Recommended Motion: I move to approve the ordinance for a lease agreement with Gregg Murray for office space at the Morgantown Municipal Airport (MGW).

Item Summary:

This agreement is for an initial one (1) year term, with three (3) additional one year options. The office space referred to as Suite 241 is located in the area next to the FBO office on the second floor of the terminal that was previously occupied by Paul Koontz. Gregg is redeveloping his digital marketing company and needs office space to conduct his business.

Fiscal Impact: The fiscal impact of this agreement is \$3,600 in annual revenue.

Ordinance No. 2025-____

**AN ORDINANCE OF THE CITY OF MORGANTOWN
AUTHORIZING AN OFFICE LEASE AGREEMENT WITH GREGG MURRAY**

The City of Morgantown hereby ordains as follows:

Section 1. Findings and Purpose.

The City Council finds and determines that the real estate or portions thereof described in this Ordinance should be leased to, and a commercial operating agreement should be authorized with, Gregg Murray at the Morgantown Municipal Airport.

Section 2. Authorization of Agreement and Lease.

The City Manager is authorized to enter into a commercial operating agreement and lease with Gregg Murray substantially on the terms shown in the enclosed Office Lease Agreement, and to take such other actions and execute such other documents as necessary and helpful to accomplishing the purposes thereof.

Section 3. Repeal, Savings, Severability.

Any section of this Code repealed or modified by a subsequent ordinance will continue in force until the effective date of the repealing ordinance.

The repeal or modification of any part of this Code does not affect any existing right acquired, or liability or obligation incurred, under the code sections amended or repealed unless the modifying ordinance expressly so provides. Any repealed or modified part of this Code will remain in force for the purpose of sustaining any proper legal proceedings and prosecutions related to the enforcement of such right or liability brought prior to the repeal or modification.

The repeal of any repealing ordinance, clause, or provision does not revive any former ordinance, clause, or provision unless expressly provided by ordinance.

If any provision of this Ordinance, or the application of this Ordinance to any person or circumstance, is held invalid by a court of competent jurisdiction or other entity or agency having jurisdiction to make such determination, the remainder of this Ordinance and the application to other persons or circumstances remain in effect.

Section 4. Effective date; application. This ordinance shall be effective upon adoption. This Ordinance does not affect rights, duties, or liabilities that matured, penalties that were incurred, and proceedings that were begun, before its effective date. The law remains in force for the purpose of sustaining any proper action or prosecution for the enforcement of the right, penalty, forfeiture or liability.

Section 5. Recording of ordinance. The City Clerk is directed to obtain all signatures required by the form of Ordinance adopted and maintain an executed original ordinance with the official records of the City of Morgantown, to be maintained, preserved, and accessed in accordance with the laws of the State of West Virginia and the City of Morgantown, and to take the following additional actions: Deliver an executed copy of this Ordinance to the Airport Director.

FIRST READING: _____

Mayor

SECOND READING: _____

ADOPTED: _____

City Clerk

FILED: _____

City of Morgantown

AND

**Gregg Murray
RELAUNCH DIGITAL**

Office Lease Agreement

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**City of Morgantown
and
Gregg Murray
RELAUNCH**

Office Lease Summary

TYPE OF AGREEMENT	Office Space
TENANT	Gregg Murray, RELAUNCH Digital/Marketing/Design
REPRESENTATIVE(S)	Gregg Murray
NOTICE ADDRESS	P.O. Box 25 Morgantown, WV 26507 Gregg@greggmurray.com 304-907-8020
COMMENCEMENT DATE	January 1, 2026
TERM	One (1) year
RENEWAL OPTIONS	Three (3) – One (1) year options
TERMINATION DATE	December 31, 2027
LEASEHOLD/ASSIGNED PREMISES	Suite 241, South end of Terminal (See Exhibit A)
INITIAL RENTAL RATE	\$3,600 annually or \$300.00 monthly for 240ft ² @ \$15/ft ²
RENTAL ADJUSTMENT	CPI-U
OTHER FEES, RATES AND CHARGES	None
AUTHORIZED USE(S)	Office Space

Note: This summary is presented as a reference of the agreement information at the time of execution. If there is a discrepancy between the information contained in this summary and the requirements contained in the remainder of the Lease, the requirements as stated in the remainder of the Lease will prevail.

**City of Morgantown
Morgantown Municipal Airport**

AND

Gregg Murray

Office Space Lease Agreement

THIS LEASE AGREEMENT for office space (hereinafter referred to as the "Lease", is entered into this 1st day of January , A.D., 2026 , by and between the **CITY OF MORGANTOWN**, c/o Morgantown Municipal Airport, Morgantown, West Virginia (hereinafter referred to as the "City"), and **Gregg Murray** (hereinafter referred to as the "Tenant").

WITNESSETH:

In consideration of the lease of certain real property and the covenants and agreements contained herein, the parties agree as follows:

**ARTICLE 1
PREMISES**

The City hereby leases to Tenant, for its exclusive use as specifically authorized herein, and for no other use except as agreed to, and authorized herein, that space in the building commonly known as the Morgantown Municipal Airport Terminal Building [hereinafter the "**Terminal**"], described below and as shown on **Exhibit A** attached hereto and incorporated herein by reference [hereinafter the "**demised premises**"].

Section 1.01 Demised Premises

1. Office Space: Office Space of Approximately 240 square feet of space.

Section 1.02 Acceptance of Demised Premises

Tenant accepts the office space "AS IS" in its present condition. Tenant has had the right to inspect the space for suitability for the purposes it intends. Tenant acknowledges that neither the City nor its agents have made any representation or warranty as to the condition and/or suitability of the premises.

Section 1.03 Use of Demised Premises

1. The Tenant's use of the demised premises, is limited to the general operation of a professional digital marketing and design firm. Any future expansion, or change in use, of the demised premises will require the prior written approval of the City.
2. The Tenant, in addition to the use of the demised premises, shall be entitled to the general use, in common with others, of all non-aviation airport facilities made available for use to the general public except as otherwise hereinafter provided.
3. For the purpose of this Agreement, "airport facilities" available to the Tenant and its employees shall include automobile parking areas, roadways, sidewalks, or other areas of the Airport, that have been constructed at City expense for the benefit of Airport tenants and the general public.
4. The use of the above-mentioned airport facilities by Tenant shall be subject to their full compliance with such rules and regulations as now exist or may hereafter be enacted by the City. Approved uses of airport facilities are also subject to the payment of such fees and charges, as may be non-discriminatorily established from time to time by the City for the maintenance, operation or replacement of these facilities.

Section 1.04 Prohibited Uses

The following activities are expressly prohibited.

1. The Tenant may not use any part of the demised premises for any activity or purpose, other than as expressly set forth and authorized in Section 1.03, unless such use is approved, in writing, by the City.
2. The Tenant, and its employees, is prohibited access to, or use of, areas and facilities in the Air Operations Areas of the Airport.
3. Tenant is prohibited from using or permitting the demised premises to be used for the sale to its employees, or to the public, of any goods or services not directly related to those activities authorized in this Agreement.

ARTICLE 2 GENERAL REQUIREMENTS

Section 2.01 Conduct of Operations on Demised Premises

In its exercise and carrying out of the rights, privileges, duties, and obligations granted herein, and in its use of the demised premises, Tenant hereby obligates itself, and agrees to obligate all of its sub-lessees and/or occupants, to the following requirements and regulations:

1. Tenant shall not consent to any unlawful use of the demised premises, nor permit any such unlawful use thereof.
2. Tenant agrees that all local, federal, and state ordinances and laws will be observed in its use and occupancy of the demised premises, including the rules and regulations of the federal and state aeronautical authorities and the local governing authorities.
3. Tenant shall comply with all City rules, regulations, and ordinances as they now exist or may hereafter be amended or adopted.
4. The operations of Tenant, its sub-lessees, employees, invitees, and those doing business with it, shall conduct all activities in an orderly and proper manner so as not to annoy, disturb or to be offensive to others at the Morgantown Municipal Airport. The City shall have the right to complain to Tenant as to the demeanor, conduct and appearance of Tenant's employees, sub-lessees, invitees and those doing business with it, and as to its and/or their failure to utilize said facilities at times, and in the manner, and according to the standards, mandated by the City, whereupon Tenant will take all steps reasonably necessary to remove the cause of the complaint and bring the operations and services into compliance with such standards.
5. The Tenant shall comply with all rules and regulations of the State Fire Marshall in the conduct of its operations on the demised premises.
6. Tenant shall not cause or permit the use, generation, storage, or disposal in or about the demised premises or elsewhere at the Airport of any Hazardous Materials except in strict compliance with State and Federal environmental laws and regulations.
7. Tenant agrees to return the demised premises to the City at the expiration of this Agreement in the same condition as when taken, reasonable wear and tear excepted unless other arrangements are made with the City.

The City reserves the right to further develop its building structures and to lease the same for any lawful purpose whatsoever or to provide any services it deems necessary or desirable in its sole and absolute discretion, for the public, regardless of the desires or views of Tenant, and without interference or hindrance.

ARTICLE 3 TERM AND COMPENSATION

Section 3.01 Initial Term

The initial term of this Agreement shall be for a one-year period, commencing January 1, **2026, A.D.**, (Commencement Date) and terminating on December 31, **2027, A.D.**

Section 3.02 Options to Renew

At the end of the initial one year term of this Lease, the Tenant shall have the first option to renew this Agreement for the Premises, referred to in Article 1; **Provided**, that Tenant is not then in default.

1. Tenant shall have the option to renew this Agreement for three (3) additional one (1) year periods.
2. Prior to the conclusion of the initial and all renewal terms, The Tenant and City may initiate discussions regarding a new lease. The Tenant may declare its intention to begin negotiations on a new lease Agreement, in writing, on or before, the 180th day prior to the expiration of this Agreement. Such 180-day period shall expire at midnight of the last day of the Agreement.
3. During said 180-day period, all of the terms and conditions including the amount of rent and other fees to be paid under a new Agreement shall be negotiated in good faith by both parties and reduced to writing and executed. If a written lease Agreement is not executed by the Tenant prior to the end of this negotiation period, this Agreement shall terminate in accordance with Article 11.

Section 3.03 Termination

This agreement shall be considered terminated by the Tenant on the terminating of the agreement unless the Tenant provides the City written notice of Tenant's intent to renew the lease one hundred eighty (180) days prior to the expiration of the then current term.

Section 3.04 Rent

1. **Office Rent.** The Tenant shall pay an annual office rent of **\$3,600.00**, which is equal to **\$15.00** per square foot for **240** square feet of office space. Said agreed rent shall be paid in advance monthly in twelve (12) equal installments of **\$300.00** due in advance the first day of each month.
2. **Payments:** All payments are to be made at the administrative office of the Morgantown Municipal Airport, 100 Hart Field Road, Morgantown, West Virginia 26505.
3. **Security Deposit:** N/A
4. **Lease Guarantee:** In the absence of a good business credit history of at least five (5) years prior to the commencement of this Agreement, Operator agrees to arrange for a Lease Guaranty (personal or established business) that shall remain in full force and effect until all monthly installments of rent and charges due during the first 60 months of the Term of the Agreement have been paid, without regard to the security deposit noted above, construction bonds or other collateral held by or for the City for the performance of the terms or conditions of the Agreement, or the receipt, disposition, application, or release of any security deposit, construction bonds or other collateral, now or hereafter held by or for the City.

Section 3.05 Future Adjustments of Rents and Fees

The City reserves the right to adjust, or modify existing Airport fees and charges, or to establish additional fees and charges as necessary to maintain the financial integrity of the Airport through cost recovery and to make the Airport as self-sustaining as possible. Except for CPI adjustment of the annual ground site rent as noted below, all fees, rents and charges are subject to adjustment as a part of the City's annual budget approval process. Airport Tenants and the general public are provided the opportunity to comment on proposed fees, rents and charges changes during the budget approval process.

Commencing on the first anniversary date of this agreement, and for each one (1) year period thereafter, the annual rental payment may be adjusted by dividing the initial rental rate by the U.S. City Average of the Consumer Price Index for All Urban Consumers (CPI-U) published immediately preceding the Effective Date of this Lease and multiplying the quotient thereof by the last Index (CPI-U) published immediately

preceding each such one (1) year lease period $\left(\frac{\text{initial rental rate}}{\text{initial CPI}-U}\right) \times (\text{current CPI} - U) = \text{new rental rate}$.
At no time, however, shall said rental be less than the rental paid during the previous year period of this Agreement.

For purposes of this Agreement, the Consumers Price Index means the Index for "All Goods and Services" for Urban areas for the U.S. City Average as determined by the United States Department of Labor, Bureau of Statistics.

Should the United States Government revise its price index at any time, the parties hereto will follow such suggestions as the Government may issue for making an arithmetical changeover from one Index to another. Should the price index be wholly discontinued, then its successor or the most nearly comparable successor index thereof, adjusted back to the anniversary date, shall be used.

Section 3.06 Late Charges

The Tenant shall pay to the City a late charge equal to 1.5% per month on all rent and fee charges which are 30 days past due. Said late charge shall commence on the past due amount from the date said payment was due and shall be computed to the date the past due amount is paid. This shall be in addition to, and in no way alters, any other rights reserved to the City, or existing in the City by virtue of the laws of the State of West Virginia, or by the terms of the Agreement.

Section 3.07 Surrender of Possession

At the expiration of the term of this Agreement, including any renewal term(s), whether by lapse of time or otherwise, Tenant shall promptly and peacefully surrender the demised premises to the City.

Section 3.08 Holding Over

If Tenant shall, with the written consent of the City, hold over after the expiration of the term of this Agreement, including any renewal term(s), tenancy shall be on a month-to-month basis, which may be terminated as provided for by the laws of the State of West Virginia.

Section 3.09 Chronic Late Payment

City may also terminate this Agreement for the reason that Tenant is chronically late with rental payments. Chronic late payments are defined as making a rental payment more than five (5) days after the due date on three (3) or more occasions during any consecutive 12-month period during the term of this Agreement.

Section 3.10 Returned/Dishonored Checks

If Tenant makes a payment due under this Agreement with a check that has been returned/dishonored by the bank, pursuant to West Virginia law, Tenant shall pay a \$25.00 service fee in addition to the amount of the returned/dishonored check, payable within ten (10) days of receipt of City's written demand for such payment. If not paid in full within ten (10) days, it will be sent to Magistrate Court for collection. This amount is in addition to the late fee incurred.

Section 3.11 Application of Payment

Money paid by Tenant to City for late fees and/or litigation settlements shall be applied first to interest, second to Court Costs legally chargeable to Tenant, third to attorney fees chargeable to Tenant, fourth to outstanding repair bills that are the responsibility of the Tenant, and fifth toward rent.

ARTICLE 4 TENANT'S FUTURE CONSTRUCTION REQUIREMENTS

Section 4.01 Requirements for Improvements on Demised Premises

The Tenant shall, at its sole expense, construct on the demised premises, as provided in Sections of this Article 4, additions, and improvements as necessary in furtherance of the purposes set forth in Article 2, and the Tenant shall install herein and thereon such equipment and facilities as the Tenant or the City may deem necessary or desirable. Provided, however, that no improvement of any nature shall be made or installed by the Tenant without the prior written consent of the City as herein provided. The Tenant may also be required to provide the City with proof that funds necessary to complete construction of the improvements have been irrevocably dedicated to such construction. All improvements constructed under this Agreement shall be in accordance with the Airport's Tenant Improvement Manual as well as all other applicable laws, rules, regulations and ordinance.

Section 4.02 Future Construction Dates

1. **Additional Construction:** The construction of any additional improvement, occurring during the remaining term of this agreement, shall be substantially completed within 12 months of the date of the City's written approval of the Plans therefore in accordance with the construction schedule approved by the City. In the event of a failure to complete the additional construction within the 12 month period, the City shall have the right to terminate this Agreement pursuant to Article 9 hereof, and make appropriate claims against required performance bonds to complete construction, unless it is determined at sole discretion of the City that there were delays beyond the control of the Tenant.
2. **Construction Period Extensions:** The Tenant may request an extension of the construction period for causes or conditions of delay that are beyond the control of the Tenant (hereinafter referred to as "Force Majeure"). Such conditions of delay may be, by way of example, but not limited to, strikes, acts of God, inability to obtain labor or materials, governmental restrictions, enemy action, civil commotion, fire or other casualty, or failure of the City to carry out its obligations. Accordingly, at the sole discretion of the City, the period for completion of construction shall be extended by the number of days of delay resulting from the Force Majeure.

Section 4.03 Approvals of Future Construction Plans

The Tenant covenants and agrees that prior to the preparation of detailed construction plans, specifications and architectural renderings of any such addition or improvement, it shall first submit plans showing the general site plan, design and character of improvements and their locations, to the City for approval. The City agrees to review such plans within 30 days of receipt from the Tenant. The Tenant covenants and agrees that prior to the installation or construction of any present and future addition or improvement on the demised premises, it shall first submit to the City for approval, final detailed construction plans and specifications and architectural renderings prepared by registered architects and engineers, and that all construction will be in accordance with such plans and specifications and the Tenant Improvement Manual and all other applicable rules, regulations, laws and ordinances.

Section 4.04 Future Extension of Utilities or Special Facilities

The Tenant shall contract, and extend, at its sole expense, all necessary utility, electrical, communication lines needed to service any improvements constructed in the future by the Tenant on the demised premises. All utility extensions and other construction shall be in accordance with all applicable Codes, ordinances and the Tenant Improvement Manual.

Section 4.05 Alterations or Repairs to Premises

The Tenant shall not construct, install, remove and/or modify internal, external or structural portions of the buildings constructed upon the demised premises without the prior written approval of the City. The Tenant shall submit for approval by the City, its plans and specifications for any proposed project as well as complying with all applicable code requirements and such other conditions considered by the City to be necessary.

Section 4.06 Lien Indemnification

Tenant shall keep the premises free from liens arising out of any work performed and/or materials ordered, or from any obligations incurred by Tenant. In the event any person or corporation shall, as a result of construction work being performed by or for the Tenant, attempt to assess a lien against the demised premises, the Tenant shall hold the City harmless from such claim, including the cost of defense.

Section 4.07 Cost of Construction and Alterations

Within thirty (30) days of completion of the construction or alterations, the Tenant shall present to the City for examination and approval a sworn statement of the construction and/or alteration costs. Construction and/or alteration costs for the purpose of this Section are hereby defined as all money paid by the Tenant for actual site preparation, construction or alteration, including architectural and engineering costs plus pertinent fees in connection therewith. In the event that the Tenant makes further improvements or alterations on the demised premises, the use thereof shall be enjoyed by the Tenant during the term hereof without the additional rental therefore.

Section 4.08 As-built Drawings

Within ninety (90) days following completion of any future construction by the Tenant and any subsequent additions, alterations or improvements, the Tenant shall present to the City a complete set of "as-built"

drawings including, but not limited to, architectural renderings, specifications, plumbing, and electrical plans.

Section 4.09 Security Interest on Leasehold Improvements for Construction

Tenant shall have no right to place a security interest, or "mortgage", upon demised premises, for improvements financed by the Tenant.

Section 4.10 Ownership of Improvements

The building and associated site improvements constructed and paid for by the City, as well as any approved improvements to demised premises, constructed during the term of this agreement, whether paid for by the Tenant or the City, excluding Tenant's personal property, shall remain the property of the City.

Section 4.11 Performance Bonds

Tenant shall cause a surety bond to be issued in the amount of 100% of the building(s) and site development construction costs, prior to the beginning of any construction financed by Tenant, or another form of security acceptable to the City that assures that the funds to cover the cost of the project are irrevocably set aside and available to the City to complete the improvement to City owned property should the Tenant fail to do so.

**ARTICLE 5
OBLIGATION OF TENANT**

Section 5.01 Net Lease

The use and occupancy of the demised premises by the Tenant will be without cost or expense to the City. It shall be the sole responsibility of the Tenant to maintain, repair and operate the entirety of the demised premises, and any approved improvements and facilities constructed thereon, at the Tenant's sole cost and expense.

Section 5.02 Maintenance and Operation

The Tenant shall maintain the demised premises at all times in a safe, neat and clean condition free of weeds, rubbish, or any unsightly accumulations of any nature whatsoever. The Tenant shall repair all damage to the demised premises caused by its employees, patrons, or its operation thereon.

1. The City remains responsible for the structural integrity of the building structure.
2. Upon occupancy, the Tenant shall be responsible for and perform all maintenance, including but not limited to:
 - a. Janitorial services, providing janitorial supplies, window washing, rubbish, and trash removal.
 - b. Supply and replacement of light bulbs and replacement of all glass in building, including plate glass.
 - c. Replacement of floor coverings.
 - d. Building interior maintenance, including painting, repairing and replacement.
 - e. Repair or replacement of equipment and utilities to include electrical, mechanical and plumbing. All repairs to electrical and mechanical equipment are to be made by licensed personnel. Other repairs are to be made by craftsmen skilled in work done and performing such work regularly as trade.
 - f. The Tenant shall advise the City and obtain City's consent in writing before making changes involving structural changes to the premises, modifications or additions to plumbing, electrical or other utilities
 - g. The Tenant is responsible for maintaining electric loads within the designed capacity of the system. Prior to any change desired by the Tenant in the electrical loading which would exceed such capacity, written consent shall be obtained from the City.
 - h. The Tenant shall provide and maintain hand fire extinguishers for the demised premises in accordance with applicable fire and safety codes.
3. The City's Airport Director, at his discretion, shall be the sole judge of the quality of maintenance; and the Tenant, upon written notice by the City to the Tenant, shall be required to perform whatever maintenance the City deems necessary. If said maintenance is not undertaken by the Tenant within fifteen (15) days after receipt of written notice, the City shall have the right to enter upon the

demised premises and improvements constructed thereon, and perform the necessary maintenance, the cost of which shall be borne by the Tenant as additional rent which shall be paid by the Tenant to the City in full within ten (10) days after the same has been billed.

Section 5.03 Utilities

The Tenant shall assume and pay for all costs or charges for utility services, not including electrical, gas, and water as these utilities are furnished during the term hereof. Other utilities including cable, internet, telephone, and other such utilities are required to be appropriated and paid by tenant.

Section 5.04 Signs

The Tenant shall not erect, maintain, or display upon the outside of any improvements on the demised premises any billboards or advertising signs without prior written approval by the City.

Section 5.05 Nondiscrimination

The Tenant, for itself, its personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree that (A) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the demised premises; (B) that in the construction of any improvements on, over, or under such land and the furnishing of services thereof no persons the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of or otherwise be subjected to discrimination; (C) that the Tenant shall use the demised premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and Transportation, and said Regulations may be amended, to the extent that said requirements are applicable, as a matter of law, to the Tenant.

With respect to the demised premises, the Tenant agrees to furnish services on a fair, equal, and not unjustly discriminatory basis to all users thereof, and to charge fair, reasonable, and not unjustly discriminatory prices for each unit or service; PROVIDED, that the Tenant may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

Section 5.06 Observance of Statutes and Regulations

The granting of this Agreement and its acceptance by the Tenant is conditioned upon the right to use the Airport facilities in common with others authorized to do so, provided however, that the Tenant shall observe and comply with any and all requirements of the constituted public authorities and with all federal, state, or local statutes, ordinances, regulations and standards applicable to the Tenant for its use of the demised premises, including but not limited to, rules and regulations or standards promulgated from time to time by the City for the administration of the Airport.

Section 5.07 Airport Security

The Tenant recognizes the City's required compliance with Federal Aviation Regulations concerning airport security and agrees to comply with the Airport's Security Plan as it relates to its use of the demised premises and the Airport's public facilities.

**ARTICLE 6
OBLIGATIONS OF THE CITY**

Section 6.01 Operation as a Public Airport

The City covenants and agrees that at all times it will operate and maintain the Airport facilities, as a public airport consistent with, and pursuant to, the "Sponsor's Assurances" given by the City to the United States Government under Federal Airport Act.

Section 6.02 Ingress and Egress

Upon paying the rental prescribed herein, and performing the covenants of this Agreement, the Tenant shall have the right of ingress to, and egress from, the demised premises for the Tenant, its officers, employees, agents, servants, customers, vendors, suppliers, patrons, and invitee over the roadway serving the area of the demised premises. Airport roadways shall be used jointly with other tenants of the Airport,

and the Tenant shall not interfere with the rights and privileges of other persons or firms using said facilities and shall be subject to such weight and type use restrictions as the City deems necessary.

ARTICLE 7 CITY'S RESERVATIONS

Section 7.01 Improvement, Relocation, or Removal of Structure

In the event the City requires the demised premises for expansion, improvements, development of the airport, the City reserves the right, on a twelve (12) month notice, at no cost to the Tenant, to relocate or replace the Tenant's improvements, in substantially similar form at another generally comparable location on the Airport. All other Agreement terms shall remain in full force and effect. In the event of such relocation or replacement, the City agrees to suspend rental during any period such improvements are unusable.

Section 7.02 Inspection of Demised Premises

The City, through its duly authorized agent, shall have at any reasonable time with prior notice, the full and unrestricted right to enter the demised premises for the purpose of periodic inspection for fire protection, maintenance and to investigate compliance with the terms of this Agreement.

ARTICLE 8 INDEMNITY AND INSURANCE

Section 8.01 Indemnification

1. The Tenant agrees to indemnify, save, hold harmless and defend the City, its agents and employees, its successors and assigns, individually or collectively, from and against all liability for any claims and actions and all reasonable expenses incidental to the investigation and defense thereof, in any way arising out of or resulting from any acts, omissions or negligence of the Tenant, its agents, employees, licensees, successors and assigns, or those under its control; in, on or about demised premises or upon demised premises; or in connection with its use and occupancy of demised premises or use of Airport; PROVIDED, HOWEVER, that the Tenant shall not be liable for any injury, damage, or loss to the extent occasioned by the negligence or willful misconduct of the City, its agents or employees. When knowledge of any action becomes known by the Tenant or the City, they shall give prompt written notice to the other party.
2. The Tenant shall indemnify, save, hold harmless, and defend the City, its agents and employees, its successors and assigns, individually or collectively, from and against all liability for any claims and actions and all expenses or fines incidental to the investigation and defense thereof, in any way arising from or based upon the violation of any federal, state, or municipal laws, statutes, ordinances or regulations by the Tenant's agents, employees, licensees, successors and assigns, or those under its control. The Tenant shall not be liable for any claims, actions and expenses or fines, incidental to the investigation and defense thereof, in any way arising from or based upon violation of any federal, state, or municipal laws, statutes, ordinances, or regulations by the City, its agents, employees, licensees, successors and assigns, or those under its control.

Section 8.02 Insurance

1. Without limiting the Tenant's obligation to indemnify the City, the Tenant shall provide, pay for, and maintain in force at all times during the term of this Agreement a policy of comprehensive general liability insurance to protect against bodily injury liability and property damage in an aggregate amount of not less than \$1,000,000.00 per occurrence; a policy of comprehensive automobile liability insurance in a combined single limit of not less than \$1,000,000.00; and statutory Workman's Compensation insurance.

The Tenant shall furnish the City, as evidence that such insurance is in force, a certified copy of the insurance Certificate including the City as an additional insured within thirty (30) days after the policy(s) is issued. Said policies shall be in a form and content satisfactory to the City and shall provide for thirty (30) days written notice to the City prior to the cancellation of or any material change in such policies.

2. Neither the City nor its agents shall be responsible for the theft of or damage to any personal property of Tenant or its guests or invitees, for damage, loss, or destruction of personal property of

Tenant or of Tenant's guests or invitees because of fire, water, acts, or omissions of third parties or any cause whatsoever unless caused by the negligent acts of City of its agents.

Tenant shall procure and maintain, at its own expense, insurance covering Tenant's personal property and to the fullest extent possible without violating any such insurance coverage, Tenant waives all claims and subrogation rights against City arising out of any loss of or damage to any personal property owned by or in the possession or control of Tenant.

Each party also releases the other party from any other liability for loss, damage or injury caused by fire or other casualty for which insurance is carried by the insured party to the extent of any recovery by the insured policy under such insurance policy, other than as set forth in Section 8.04 and 8.05 below.

Section 8.03 Environmental Impairment

The Tenant will comply with any environmental regulations affecting its operations throughout the term of this Agreement.

Section 8.04 Fire and Extended Coverage Insurance

The Tenant shall, at its expense, procure and keep in force at all times during the term of this Agreement with a company suitable to the City, insurance on the demised property, including all improvements, against loss and damage by fire, and extended coverage perils. The Tenant shall furnish evidence of insurance. Insurance shall name the City as an additional insured.

Section 8.05 Application of Insurance Proceeds

If the demised premises shall be partially or totally destroyed or damaged, the Tenant and the City, within thirty (30) days of the damage shall decide whether or not to proceed with restoration. If the City and the Tenant elect not to restore the same to their previous condition, the proceeds of insurance payable by reason of such loss the City shall be entitled to receive and apply the entire proceeds of any insurance covering such loss to the cleanup of the leased site, except those proceeds identified to cover the loss of Tenants personal property contained within demised premises. The Agreement shall then be canceled. If the damage results from an insurable cause and if the City elects to have the Tenant restore demised premises with reasonable promptness, the Tenant shall be entitled to receive and apply the entire proceeds of any insurance covering such loss to said restoration, including applicable site clean-up, in which event this Agreement shall be appropriately amended as necessary and continue in full force and effect.

Section 8.06 Performance Bonds

The Tenant shall cause a surety bond to be issued in the amount of 100% of the demised premises restoration costs, prior to the beginning of any construction financed by the Tenant or for the restoration of demised premises that is over and above insurance proceeds, in accordance with Section 8.05 above, or another form of security acceptable to the City that assures that the funds to cover the cost of the project are irrevocably set aside and available to the City to complete the improvement to City owned property should the Tenant fail to do so.

Section 8.07 Destruction of Premises (Uninsured Cause)

In the event of damage to or destruction of the demised property by an uninsured cause, Tenant and the City shall decide, within thirty (30) days of the event, whether it will repair, restore, or rebuild the demised premises. Within sixty (60) days of the event, Tenant shall initiate restoration or raising activities and complete those activities within one hundred twenty (120) days of the event unless otherwise agreed by the City. In the event Tenant fails to take action as noted above, City shall have the right to restore the premises to its original condition. Tenant shall be liable for reimbursing the City for all costs incurred.

ARTICLE 9 CANCELLATION BY THE CITY

Section 9.01 Events of Default by Tenants

Each of the following events shall constitute an "Event of Default by Tenant":

1. Tenant fails to pay rentals, fees, and charges when due, and such default continues for a period of ten (10) days after receipt of written notice from the City that such non-payment constitutes an event of default.

2. Tenant fails after receipt of written notice from the City to keep, perform or observe any term, covenant or condition of this Agreement, other than as set forth in paragraph 1 (above) and such failure continues for thirty (30) days after such receipt, or if by its nature such event of default by Tenants cannot be cured within such thirty (30) day period, Tenant fails to commence to cure or remove such event of default by the Tenant within said thirty (30) days and to cure or remove same as promptly as reasonably practicable.
3. Tenant abandons the premises. Tenant's intent not to re-occupy the premises may be presumed upon expiration of ten (10) days after receipt of written notice from the City that it believes in good faith that Tenant has abandoned the premises.
4. Tenant shall become insolvent, shall take the benefit of any present or future insolvency statute, shall make a general assignment for the benefit of creditors, shall file a voluntary petition in bankruptcy or a petition or answer seeking a reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or under and other law or statute of the United States or of any state thereof, or shall consent to the appointment of a receiver, trustee, or liquidation of all or substantially all of its property.
5. An Order for Relief shall be entered at the request of Tenant or any of its creditors under the federal bankruptcy or reorganization laws or under any law or statute of the United States or any state thereof.
6. A petition under any part of the federal bankruptcy laws or an action under any present or future insolvency law or statute shall be filed against the Tenant and shall not be dismissed within thirty (30) days after the filing thereof. Tenant shall pay to the City all reasonable costs and fees, including attorney and accounting fees and expenses, incurred by the City in the exercise of any remedy in the event of any default by the Tenant.
7. By or pursuant to, or under, any legislative act, resolution or rule, or any order of decree of any court or governmental board or agency, an officer, receiver, trustee, or liquidator shall take possession or control of all or substantially all of the property of Tenant and such possession or control shall continue in effect for a period of fifteen (15) days.
8. Tenant shall become a corporation in dissolution, or voluntarily or involuntarily forfeit their corporate charter, other than through merger with a successor corporation.
9. The rights of the Tenant hereunder shall be transferred to, pass to, or devolve upon, by operation of law or otherwise, any other person, firm, corporation or other entity, as a result of any bankruptcy, insolvency, trusteeship, liquidation or other proceedings or occurrence described in Paragraphs 3 through 7 above.

Section 9.02 Remedies for Tenants' Default

1. Upon the occurrence of an "Event of Default by the Tenant", Tenant shall remain liable to the City for all arrearages of rentals, fees or charges payable hereunder and for all preceding breach (es) of any covenant herein contained. The City, in addition to the right of termination, and to any other rights or remedies it may have at law or in equity, shall have the right of re-entry and may remove all Tenant's persons and property from the demised premises. Upon any such removal, Tenant's property may be stored in a public warehouse or elsewhere at the cost of, and for the account of, the Tenant. Should the City elect to re-enter, as herein provided, or should it take possession pursuant to legal proceedings or pursuant to any notice provided by law, it may, at any time subsequent to an "Event of Default by the Tenant", either terminate this Agreement or re-let the demised premises and any improvements thereon, or any part thereof, for such term or terms (which may be for a term extending beyond the term of this Agreement) at such rentals, fees and charges, and upon such other terms and conditions, as the City, in its sole discretion, may deem advisable, with the right to make alterations repairs or improvements on said demised premises. No re-entry or re-letting of the demised premises by the City shall be construed as an election on the City's part to terminate this Agreement, unless a written notice of such intention is given to the Tenant. In re-letting the demised premises, the City shall make a good faith effort to obtain terms and conditions no less favorable to itself than those contained herein and otherwise seek to mitigate any damage it may suffer as a result of the "Event of Default by the Tenant".

2. Unless the City elects to terminate this Agreement, the Tenant shall remain liable for and promptly pay all rentals, fees and charges accruing hereunder until termination of this Agreement at the expiration date set forth herein.
3. In the event that the City re-lets the demised premises, rentals, fees and charges received by the City from such re-letting shall be applied: first, to the payment of any indebtedness other than rentals, fees and charges due hereunder from the Tenant to the City; second, to the payment of any cost of such re-letting; third, to the payment of rentals, fees and charges due and unpaid hereunder; and, the residue, if any, shall be held by the City and applied in payment of future rentals, fees and charges as the same may become due and payable hereunder. Should that portion of such rentals, fees and charges received from such re-letting applied to the payment of rentals, fees and charges due hereunder be less than the rentals, fees and charges payable during the applicable period, Tenant shall pay such deficiency to the City. The Tenant shall also pay to the City, as soon as ascertained, any costs and expenses incurred by such re-letting not covered by the rentals, fees and charges received from such re-letting.
4. Notwithstanding anything to the contrary in this Agreement, if a dispute arises between the City and Tenant with respect to any obligation or alleged obligation of the Tenant to make payment(s) to the City, the payment(s) under protest by the Tenant of the amount claimed by the Tenant to be due shall not waive any of the Tenants' rights, and if any court or other body having jurisdiction determines all, or any part, of the protested payment was not due, then the City shall as promptly as reasonably practicable reimburse the Tenant any amount determined as not due plus interest on such amount at the highest rate allowable under West Virginia law.
5. Tenant shall pay to the City all reasonable costs, fees (including attorneys and accountants) and expenses incurred by the City in the exercise of any remedy upon an event of default by the Tenant.

**ARTICLE 10
CANCELLATION BY TENANT FOR
EVENTS OF DEFAULT BY CITY**

Section 10.01 Event of Default by City

Each of the following events shall constitute an "Event of Default by City":

1. The City fails, after receipt of written notice from Tenant, to keep, perform or observe any term, covenant or condition herein contained to be kept, performed or observed by the City and such failure continues for thirty (30) days; or, if, by its nature, such "Event of Default by City" cannot be cured within such thirty (30) day period, the City fails to commence to cure or remove such "Event of Default by City" within said thirty (30) days and to cure or remove the same as promptly as reasonably practicable.
2. The City closes the Airport to flights in general or to the flights of the Tenant, for reasons other than weather, acts of God or other reasons beyond its control, and fails to reopen the Airport to such flights within sixty (60) days of such closure, and such closure negatively affects the Tenant's use of demised premises.
3. The Airport is permanently closed by act of any federal, state or local government agency having competent jurisdiction.
4. The City is unable to use the Airport for a period of at least sixty (60) days due to any law or any order, rule or regulation of any appropriate governmental authority having jurisdiction over the operations of the airport, or any court of competent jurisdiction issues an injunction in any way preventing or restraining the use of the Airport, or any part thereof, for airport purposes, and such injunction remains in force for a period of at least sixty (60) days and such situation negatively affects the Tenant's use of demised premises.
5. The United States Government or any authorized agency of the same (by executive order or otherwise) assumes the operation, control or use of the Airport and its facilities in such a manner as to substantially restrict Tenant from conducting its operations, and such restrictions shall continue for a period of at least sixty (60) days.

Section 10.02 Remedies for City's Defaults

Upon the occurrence of an "Event of Default by City", the Tenant shall have the right to suspend or terminate this Agreement and all rentals, fees and charges payable by Tenant under this Agreement shall abate during a period of suspension or shall terminate, as the case may be. In the event that Tenant's operations at Airport should be substantially restricted by action of any governmental agency having jurisdiction thereof, then Tenant shall, in addition to the rights of termination herein granted, have the right to a suspension of this Agreement, or part thereof, and abatement of an equitable proportion of the payments due hereunder, from the time of giving written notice of such election until such restrictions shall have been remedied and normal operations restored. In addition to its remedy of termination, the Tenant shall be entitled to all other remedies available to it by law or equity.

**ARTICLE 11
RIGHTS UNDER TERMINATION**

Section 11.01 Fixed Improvements

It is the intent of this Agreement that the leasehold improvements, alterations and items affixed thereto shall be and remain the property of the City during the entire term of this Agreement. Upon termination of this Agreement, the Tenant shall have no further rights under this Agreement nor shall it have any interest in the demised premises, buildings or improvements, constructed thereon.

Section 11.02 Personal Property

Upon termination of this Agreement, the Tenant shall remove all personal property, and items not affixed, from the demised premises within sixty (60) days after said termination and restore the demised premises to its original condition. If the Tenant fails to remove said personal property, said property shall revert to City ownership and may thereafter be removed by the City at Tenant's expense.

**ARTICLE 12
ASSIGNMENT AND SUBLETTING**

The Tenant shall not assign this Agreement or sublease, or any part hereof, in any manner whatsoever, or assign any of the privileges recited herein without the prior written consent of the City. Provided however:

1. Tenant may assign privileges of this agreement, and/or sublease space, in the Demised Premises directly to a parent, subsidiary or affiliate of Tenant, in the furtherance of its approved use of City / Airport facilities as detailed in 2.01, without City approval. However, Tenant remains obligated to notify City in writing of such assignment or sublease. Under such assignment or sublease, the Tenant remains fully responsible for the payment of all rents, fees and charges in accordance with the Agreement.
2. Any assignment of the privileges in this agreement, or sublease of Demised Premises, wherein the assignee/sub-lessee is responsible for the payment of rents, fees and charges directly to the City, must receive the prior approval of the City. In such assignment or sublease, Tenant shall remain liable to the City for the remainder of the term of this Agreement to pay to the City any portion of the rental and fees provided for herein upon failure of the assignee or sub-lessee to pay the same when due.
3. Said assignee or sub-lessee in either case above, shall not further assign or sublease said Agreement or leased space except with the prior written approval of the City and the Tenant herein, and any assignment or sublease agreement initiated by the Tenant to any third party shall contain a clause to this effect.

**ARTICLE 13
QUIET ENJOYMENT**

The City covenants that the Tenant, upon payment of the rentals reserved herein and the performance of each and every one of the covenants, agreements and conditions on the part of the Tenant to be observed and performed, shall and may, peaceably and quietly, have, hold and enjoy the demised premises for the term of this Agreement, free from molestation, or disturbance.

ARTICLE 14 GENERAL PROVISIONS

Section 14.01 Non-Interference with Operations of Airport

The Tenant, by accepting this Agreement, expressly agrees for itself, its successors and assigns, that it will not make use of the demised premises in any manner which might interfere with the operations of the Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, the City reserves the right to enter upon the premises hereby leased and cause the abatement of such interference at the expense of the Tenant.

Section 14.02 Attorney's Fees

In any action brought by either party for the enforcement of the obligations of the other party, the prevailing party shall be entitled to recover interest and its reasonable attorney's fees.

Section 14.03 Taxes and Special Assessments

The Tenant shall pay any and all leasehold interest tax assessed on said demised premises and all personal property taxes which may be assessed against equipment, merchandise, or other personal property belonging to the Tenant located on the demised premises, or other permitted portions of the Airport. The Tenant shall pay all real estate taxes attributed to the Tenant's leasehold interest and all other real estate taxes which may be levied and assessed which are attributed to the Tenant's leasehold interest in the demised premises. The Tenant shall pay all sales or use taxes and assessments, license fees or other charges of any kind or nature, without exception, levied or assessed, arising out of the activities conducted on, and/or the occupancy of, the demised premises.

Section 14.04 Right to Contest

The Tenant shall have the right to contest the validity or amount of any tax, assessment or charge, lien or claim of any kind in with respect to the demised premises. Tenant shall, if the City requires the same in writing and if the taxes or other assessments have not been paid under protest or otherwise escrowed or provided for, furnish reasonable security for the payment of all liability, costs and expenses at the end of the litigation, and Tenant, so long as the matter shall remain undetermined by final judgment, shall not be considered in default hereunder by the nonpayment thereof; provided however, that Tenant shall not, under these provisions, permit the premises or any buildings or improvements situated thereon, to be sold or forfeited, and failure by the Tenant to do what is necessary to prevent any such sale or forfeiture within ten (10) days from the publication or receipt of notice for sale or forfeiture, shall be deemed to be a default hereunder, and the City may, at its option, pay any such sum as may be required to avoid the sale or forfeiture and seek reimbursement for its cost from the Tenant or ownership of the buildings or improvements involved.

Section 14.05 License Fees and Permits

The Tenant shall obtain and pay for all licenses, permits, fees or other authorization or charges as required under federal, state or local laws and regulations insofar as they are necessary to comply with the requirements of this Agreement and the privileges extended hereunder.

Section 14.06 Non Exclusive Rights

It is hereby specifically understood and agreed between the parties that nothing herein contained shall be construed as granting or authorizing the granting of exclusive rights to the Tenant or others, as defined in Section 308 of the Federal Aviation Act of 1958, as amended.

Section 14.07 Paragraph Headings

The Section paragraph headings contained herein are for convenience in reference only and are not intended to define or limit the scope of any of the provision of this Agreement.

Section 14.08 Interpretations

This Agreement shall be interpreted in accordance with the laws of the State of West Virginia.

Section 14.09 Non-Waiver

No waiver by City of any agreement, condition or provision contained in this Agreement will be valid or binding unless expressed in writing and signed by the City. The waiver by City of any agreement, condition or provision contained in this Agreement will not be deemed to be a waiver of any subsequent breach of the same or any other agreement, condition or provision contained in this Agreement, nor will any custom

or practice that may grow up between the parties in the administration of the terms of this Agreement be construed to waive or to lessen the right of City to insist upon the performance by Tenant in strict accordance with the terms of this Agreement. The subsequent acceptance of rent by City will not be needed to be a waiver of any preceding breach by Tenant of any agreement, condition or provision of this Agreement, other than the failure of Tenant to pay the particular rent so accepted, regardless of City's knowledge of such preceding breach at the time of acceptance of such rent.

Section 14.10 Severability

If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each other term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

Section 14.11 Binding Effect

This Agreement, including all of its covenants, terms, provisions and conditions, shall be binding upon, and inure to the benefit of, the parties hereto and their respective heirs, successors and assigns.

Section 14.12 No Partnership

Nothing contained in this Agreement shall be deemed to create the relationship of principal and agent or of a partnership or joint venture or any relationship between the City and Tenant other than the relationship of the City and Tenant.

Section 14.13 Duty to be Reasonable

Wherever in this Agreement the City is to give its consent, approval or otherwise exercise discretion in judgment, such consent, approval or judgment discretion shall not be unreasonably exercised or unreasonably withheld. When the City is called upon to give its consent or approval, or otherwise exercise its discretion and judgment as to financial matters which affect the City and the continuing operations of the Airport, the exercise of its judgment as to any such matters shall be solely and completely within the discretion of the City.

Section 14.14 Notices

Whenever any notice or payment is required by this Agreement to be made, given or transmitted to the parties hereto, such notices or payments shall be enclosed in an envelope with sufficient postage attached to insure delivery and deposited in the United States Mail, addressed to:

**Airport Director
City of Morgantown
Morgantown Municipal Airport
100 Hart Field Road
Morgantown, West Virginia 26505**

And notices, consents and approvals to the Tenant addressed to:

Gregg Murray
PO Box #25
Morgantown, WV 26507

Or such other place as either party shall, by written directive, designate in the manner herein provided.

Section 14.15 Entire Agreement

This Office Lease Agreement constitutes the entire agreement between the parties. There are no verbal or written agreements between the parties that are to be considered a part of this Agreement unless they have been specifically enumerated herein and this Agreement supersedes all prior or other agreements, understandings, and representations. This Agreement may be amended solely by a written instrument, signed by all parties.

Section 14.16 No Construction Against Drafting Party

City and Tenant acknowledge that each of them and their counsel have had an opportunity to review this Agreement and that this Agreement will not be construed against City merely because City has prepared it.

Section 14.17 Third Party Beneficiaries

It is specifically understood and agreed that no person shall be a third party beneficiary hereunder, and that none of the provisions of this Agreement shall be for the benefit of, or be enforceable by, anyone other than the parties hereto, and that only the parties hereto and their permitted assignees shall have rights hereunder.

Section 14.18 Authorization and Execution

By its execution hereof, Tenant and the City warrant that all necessary corporate action has been taken with regard to the authorization and execution of this Agreement and that the individual(s) executing this Lease Agreement on behalf of Tenant is/are duly authorized to do so. Whoever signs this Agreement on behalf of Tenant and the City hereby confirms that they have the appropriate authority and have been so authorized to execute this Agreement on behalf of Tenant and City, respectively.

IN WITNESS WHEREOF, the parties have caused this **Office Lease Agreement** to be executed on their behalf by their duly authorized officers.

CITY OF MORGANTOWN

GREGG MURRAY

By: _____

By: _____

Jamie Miller
City Manager

Gregg Murray
RELAUNCH

Date: _____

Date: _____

Witness:

Witness:

By: _____

By: _____

Name, Title

Name, Title

Date: _____

Date: _____



City Council Agenda Item Summary

Council Meeting Date: 12/02/2025

Item: Ordinance authorizing a lease agreement between the City and the Historic Post Office (HPO) for the Morgantown History Museum.

Department: Arts & Cultural Development

Requested By: Vincent E. Kitch

Strategic Goal: Vibrant and Prosperous – Enhanced Community Amenities

Recommended Motion: I move to approve the ordinance amending the lease agreement for the Morgantown History Museum between the City of Morgantown and the Historic Post Office.

Item Summary: The Morgantown History Museum located at 175 Kirk Street leases space in the annex owned by the Historic Post Office (HPO) and the term of that lease expires 12/31/25. The City and the HPO are currently finalizing an updated lease amendment to update the terms of the agreement and extend the lease for another 2 years.

Fiscal Impact:

Under the previous agreement, which is expiring, the city has paid \$10/sq ft plus a share of annual utilities. The total rent budgeted is \$33,137.00 with \$2,500 in utilities for a total of \$35,637. The HPO has proposed an increase in rent to \$11.50/sq ft inclusive of utilities for an estimated total of \$38,108, an increase of approximately \$2,500 annually overall. We believe this increase is modest and the inclusion of utilities in the rent will simplify our budget planning. Monies are available in the 2026 operating budget to cover the first 6 months of the increase and the FY 2027 budget will be updated to cover the new rental amount.

Ordinance No. 2025-____

**AN ORDINANCE AUTHORIZING AN ADDENDUM TO A LEASE
BETWEEN THE CITY OF MORGANTOWN AND THE HISTORIC MORGANTOWN
POST OFFICE BUILDING, INC. FOR THE HISTORY MUSEUM**

The City of Morgantown hereby ordains that the City Manager is authorized to execute an addendum to a real estate lease with the Historic Morgantown Post Office Building, Inc. providing for lease of space for the Morgantown History Museum and/or related uses as may be specified in the lease and addendum, substantially in the form of the document enclosed with this Ordinance, and that the City Manager is authorized to take such other actions and execute such other documents necessary to effectuate the purpose of the lease and addendum and to take all actions on behalf of the City related to the performance and enforcement of the terms of the lease and addendum.

Adopted this ____ day of _____, 2025:

FIRST READING: _____

Mayor

SECOND READING: _____

ADOPTED: _____

City Clerk

FILED: _____

**ADDENDUM
TO
REAL ESTATE LEASE**

This Addendum to Real Estate Lease (the “Addendum”) is entered by and between The Historic Morgantown Post Office Building, Inc., a West Virginia corporation (“Landlord”); and The City of Morgantown, West Virginia, a municipal corporation of the State of West Virginia (“Tenant”), upon the following terms and conditions:

1. This Addendum modifies that certain Real Estate Lease executed by and between Landlord and Tenant on May 25, 2022, and effective as of July 1, 2022, providing for the lease by Landlord to Tenant of certain space within the property described therein, generally known as the Old Post Office Building, for purposes of maintaining and operating a History Museum (the “Lease”).
2. The Lease is modified only as specifically stated herein.
3. The term of the Lease (the “Term”) is extended for an additional two-year term beginning January 1, 2026, and ending December 31, 2027. The annual rental rate during this Term shall be \$45,264.00, calculated at \$11.50 per square foot, which shall be paid in equal monthly installments.
4. Electric, water, sewer, and gas services shall be paid by Landlord during the Term.
5. Landlord may, upon reasonable prior notice to Tenant, enter upon the Demised Premises for the purpose of inspecting, and showing the Demised Premises to prospective purchasers, lenders or lessees. For purposes of the Lease, reasonable prior notice shall mean written notice indicating the anticipated time and purpose for entry at least two business days in advance of planned entry, when practicable. Landlord may also, upon reasonable prior notice to Tenant, enter upon the Demised Premises for the purpose of making repairs, replacements or alterations, provided that Tenant consents to such entry, and consent shall not be unreasonably withheld. In the event that Landlord enters to make repairs, replacements or alterations and Tenant is unable to use all or a portion of the Demised Premises, the rent due to Landlord shall be reduced proportionally to the loss of use for the time period during which Tenant is unable to use such space. For example, if Tenant is unable to use all of the Demised Premises for one calendar day, the monthly rent shall be reduced by 1/30. If Tenant is unable to use ½ of the Demised Premises for one calendar day, the monthly rent shall be reduced by 1/60. Landlord shall be provided a key to the Demised Premises for these purposes, which key shall be limited to use by authorized officers of Landlord, shall not be made accessible to any third party, and shall only be utilized for entry upon prior notice, as set forth herein, or in cases of emergency. Tenant may, but shall not be required to, install and maintain an alarm system in the Demised Premises. In the event that Tenant uses an alarm system, it will make the access code available to Landlord upon request immediately prior to Landlord’s entry. Tenant shall maintain with Landlord a phone number or other contact information acceptable to Landlord that will allow Landlord to obtain the access code when needed for entry. Except in emergency situations or upon prior written agreement of Tenant, all such entries shall be made by Landlord staff and/or with Landlord staff present, and Landlord will make its best efforts to have a representative of Tenant present.

6. Section 5.2 of the Lease, at the second sentence, is modified to state: “Unless the parties agree otherwise in writing prior to the undertaking of the changes, improvements, alterations or additions to the Demised Premises, Tenant shall be solely responsible for the cost thereof.”

Executed and effective this ____ day of _____, 2025:

The Historic Morgantown Post Office Building, Inc.

By:
Its:

The City of Morgantown, West Virginia

By: Jamie Miller
Its: City Manager

Ordinance 2022-08

**AN ORDINANCE AUTHORIZING A LEASE WITH
THE HISTORIC MORGANTOWN POST OFFICE BUILDING, INC.
FOR THE MORGANTOWN HISTORY MUSEUM**

The City of Morgantown hereby ordains that the City Manager is authorized to execute the attached Real Estate Lease with The Historic Morgantown Post Office Building, Inc., as lessor, leasing space to operate the Morgantown History Museum, and such other and additional documents as necessary and helpful to accomplish the purposes of the lease.

This ordinance is effective upon adoption.

FIRST READING: May 3, 2022
SECOND READING: May 17, 2022
ADOPTED: May 17, 2022
FILED: May 18, 2022



Mayor


City Clerk

REAL ESTATE LEASE

THIS REAL ESTATE LEASE (this "Lease"), entered into on the 25th day of May 2022, to be effective as of the 1st day of July 2022 ("Effective Date"), by and between The Historic Morgantown Post Office Building, Inc., a West Virginia corporation, ("Landlord"), and The City of Morgantown, a municipal corporation of the State of West Virginia ("Tenant").

WITNESSETH:

WHEREAS, Landlord is the owner of that certain property in the City of Morgantown, Monongalia County, West Virginia, more particularly described in Exhibit A, attached hereto and incorporated herein (the "Real Estate"); and

WHEREAS, Tenant desires to lease certain portions of the Real Estate from Landlord on the terms and conditions hereinafter set forth.

NOW, THEREFORE, for and in consideration of the sum of Ten and 00/100 Dollars (\$10.00), the premises and the respective undertakings of the parties hereinafter set forth, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant do hereby covenant and agree as follows:

ARTICLE 1 - DEFINITIONS

As used herein, the following terms and phrases shall have the meanings indicated:

1.1 "Demised Premises" shall mean certain Improvements on the Real Estate, as more particularly described on Exhibit B attached hereto and incorporated herein.

1.2 "Improvements" shall mean the buildings, structures, and improvements now on the Demised Premises, and all fixtures of every kind or nature situated thereon or pertaining thereto or used in connection therewith, excluding only the Personal Property. Landlord and Tenant agree, for themselves and all those claiming under or through them, that the Improvements are, and shall for all purposes constitute, real property.

1.3 "Personal Property" shall mean the trade fixtures and the inventory, furniture, furnishings, machines, and equipment owned by Tenant and now or hereafter located on or used in connection with the Demised Premises that are movable and not permanently attached to the Demised Premises, or any part thereof.

1.4 "Taxes" shall mean all taxes, assessments, excises, levies, license and permit fees and, without limitation, other governmental charges and costs of every kind and nature, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind or nature whatsoever (including, but not limited to, assessments for streets, sidewalks, sewers, lights and other improvements and general and special state, county and city taxes), which were incurred during the term of this Lease with respect to the Demised Premises or the Improvements on the Demised Premises.

1.5 “Pre-Revitalization Period” shall mean the period of time beginning on the Effective Date and ending with the beginning of the Post-Revitalization Period.

1.6 “Post-Revitalization Period” shall mean the period of time beginning when the interior portions of the Demised Premises become usable after a period of rehabilitation, revitalization and construction, regardless of continuing construction in areas other than the interior portions of the Demised Premises, subject to the provisions of Section 10.4 of this Agreement, and continuing through the initial Term and/or any Renewal Term.

ARTICLE 2 – DEMISE AND UTILITIES

2.1 Demise. Upon and subject to the terms and conditions set forth herein, Landlord hereby leases and grants a leasehold estate to Tenant in, and Tenant hereby leases from Landlord, the Demised Premises.

2.2 Utilities and Services. Beginning on the date that this Lease is executed by both parties and running through to the end of the term of this Lease, Tenant shall pay its proportionate percentage of the following utilities: electric, water, sewer, and gas services. Tenant’s proportionate percentage shall be determined by dividing Tenant’s useable area within the Demised Premises by the total useable area within the Real Estate. Tenant shall be solely responsible for paying for its own connection fees and monthly charges for telephone and other related communication services for the Demised Premises. Landlord shall be solely responsible for providing solid waste and recycling collection service for the Real Estate, which Tenant shall be permitted to use as a condition of this Lease.

2.3 Warranties by Landlord. Landlord warrants and represents to Tenant as follows:

(a) Authority. Landlord is a West Virginia corporation and qualified to transact business in the State of West Virginia. All requisite corporate consents necessary for Landlord to enter this Lease have been duly obtained and remain in full force and effect.

(b) Quiet Environment Warranty. Landlord and any successor in interest shall not disturb Tenant’s right to possess the Demised Premises during the term of this Lease so long as Tenant is not in Default of this Lease beyond any applicable notice and cure periods.

(c) Additional Warranties. Landlord represents, warrants, and covenants to Tenant that: (i) there are no defects in the state of title to the Real Estate that inhibit or may inhibit either: (A) the current or future use or development of the Real Estate; or (B) the use of the Demised Premises by Tenant for its permitted uses, and Landlord shall not execute any proposed instrument to be recorded against the Real Estate that creates any such defects; (ii) the Tenant’s permitted uses are in compliance with and do not conflict with and shall not conflict during the Term with any and all laws, rules, or regulations, or the certificate of occupancy for the Building; (iii) the existing improvements and the improvements to be constructed on the Real Estate are and will be sufficient and in compliance with all laws, rules, and regulations for Tenant’s permitted uses; (iv) the structural portions of the building are in good condition and working order, and are in compliance with all applicable laws, rules, and regulations including, but not limited to, the Americans with Disabilities Act; (v) the Real Estate is properly zoned for the permitted uses of the Demised Premises by Tenant; (vi) the Real Estate complies with local laws relating to loading and

parking requirements; and (vii) the work described as Revitalization, and any and all other improvements to the Real Estate, shall be completed in a good and workmanlike manner and in compliance with all applicable Laws and delivered to tenant in good condition and working order.

2.4 Warranties by Tenant. Tenant warrants and represents to Landlord as follows:

(a) Authority. Tenant is authorized and qualified to transact business in the State of West Virginia. All requisite consents necessary for Tenant to enter this Lease have been duly obtained and remain in full force and effect.

(b) Inspection and Condition of Demised Premises. Tenant has made a visual inspection of the Demised Premises and agrees that the Demised Premises are suitable for Tenant's purpose. At the commencement of the term, Tenant shall accept the Demised Premises in its existing condition and state of repair. Tenant agrees that no representations, statements, or warranties, express or implied, have been made by or on behalf of Landlord with respect to the Demised Premises except as contained in the provisions of this Lease.

2.5 Remeasurement. At any time during the Term of this Lease, Tenant shall have the right to cause the rentable square footage of the Real Estate to be re-measured by an architect of its choice using Building Owners and Managers Association International (BOMA) standards. If such re-measurement results in a change of the rentable square footage of the Real Estate or the Demised Premises, the parties shall execute an amendment to this Lease reflecting such change, and all charges and other provisions under this Lease that are based on such square footage shall be modified accordingly. Any overpayments by Tenant shall be promptly refunded by Landlord, and any underpayments by Tenant shall be paid with the next accruing monthly rent payment.

2.6 Common Areas.

(a) Tenant shall have the non-exclusive right, at no additional charge to Tenant, to use any portions of the Real Estate that are designated by Landlord for the common use of tenants and others, including, without limitation, the hallways, entryways, stairs, vending area, elevators, driveways, sidewalks, loading areas, trash facilities, and all other areas and facilities of the Real Estate provided and designated from time to time by Landlord for the general nonexclusive use and convenience of Tenant with other tenants and their respective employees, invitees, licensees or other visitors ("Common Areas"). During the Pre-Revitalization Period, Tenant shall continue to have access to five (5) parking spaces, including four (4) general parking spaces and one (1) accessible parking space for those with disabilities, to be used by Tenant's officers, employees, invitees, and licensees, in common with other tenants of the Real Estate. Tenant's access to parking during the Pre-Revitalization Period shall be limited or terminated, without reduction in rent, to the extent that the use of any parking space is reasonably needed or obstructed for or by construction efforts.

(b) Landlord shall keep, repair, operate, and maintain the Common Areas in good repair sufficient for Tenant's use consistent with the purposes of this Lease. In the event Tenant is prevented from effectively conducting its business as a result of: (i) any failure by Landlord to provide access to the Real Estate; or (ii) any disturbance or disruption of Tenant's operations as a result of any repairs, improvements, or modifications to or closure of the Real

Estate including the building thereon, the Demised Premises, or the Common Areas which continues for more than five (5) consecutive days, then Rent and all other charges and fees shall be proportionately abated on a per diem basis (based on the unusable area of the Demised Premises in proportion to the total area of the Demised Premises) until such interference is eliminated or the Premises are otherwise rendered tenantable again. Additionally, if such interference continues for a period of thirty (30) or more consecutive days, then Tenant shall have the right and option to cancel this Lease by giving written notice to Landlord within ten (10) days after the end of such 10-day period.

ARTICLE 3 - TERM

3.1 Term. The initial Term for the Demised Premises shall be 42 months commencing on July 1, 2022 and continuing to and ending on December 31, 2025, subject to earlier termination as hereinafter set forth (the "Term").

3.2 Extension of Term. The initial Term may only be extended upon written agreement of Landlord and Tenant.

ARTICLE 4 – RENT, TAXES AND DEPOSITS

4.1 Rent.

(a) Pre-Revitalization Period. The annual rental rate (the "Rent") during the Pre-Revitalization Period shall be Thirty-Nine Thousand Three Hundred Sixty and 00/100 Dollars (\$39,360.00), calculated at \$10.00 per square foot. The Rent during the Pre-Revitalization Period shall be paid in equal monthly installments of Three Thousand Two Hundred Eighty and 00/100 Dollars (\$3,280.00) beginning July 1, 2022 and continuing the first (1st) of each consecutive calendar month thereafter.

(b) Post-Revitalization Period. The Rent during the Post-Revitalization Period shall be calculated on an annual basis at \$15.00 per square foot, and shall be paid in equal monthly installments.

4.2 Other. Tenant agrees to pay during the term hereof: (a) all costs and expenses relating to normal repairs and maintenance of the Demised Premises; (b) all utility costs for the Demised Premises as provided in Section 2.2; and (c) all costs of insurance as provided in Section 8.1(a). It is further agreed that Tenant shall pay for its own trash removal, janitorial services, and miscellaneous supplies for the Demised Premises such as light bulbs, cleaning supplies, and other related items.

ARTICLE 5 - USE, COMPLIANCE AND MANAGEMENT

5.1 Use.

(a) Tenant may use and occupy the Demised Premises for all activities related to the operation of a business office and a museum open to the public, including regular entry by

members of the public and the hosting of events and other gatherings. Tenant shall comply with all laws, ordinances and regulations applicable to the use and occupancy of the Demised Premises.

(b) Tenant shall not use, improve, occupy or permit or suffer the use, improvement or occupancy of the Demised Premises, or any part thereof, or keep or allow to be kept any products, materials, machinery, equipment, substance or other thing in any manner which would be a violation of any current state or federal law.

5.2 Improvements. Subject to the prior written approval of Landlord, which approval shall not be unreasonably withheld, Tenant may make reasonable and desirable interior changes, improvements, alterations or additions to the Demised Premises. Tenant shall be solely responsible for the cost of any interior changes, improvements, alterations or additions to the Demised Premises approved under this Section. Any Improvements constructed by Tenant under the provisions hereof shall become the property of Landlord at the expiration or termination of the term of this Lease.

5.3 Signage. Landlord shall provide a directory of tenants in the entrance lobby area of the Building and a floor directory of tenants on each of the floors (if applicable), which shall include Tenant's name, or, at Tenant's election, "Morgantown History Museum."

(a) Landlord shall order and install door signage acceptable to Tenant in its reasonable discretion bearing Tenant's name, or, at Tenant's election, "Morgantown History Museum"; except that Tenant may install its own door signage graphics subject to Landlord's prior review and approval, not to be unreasonably withheld.

(b) Tenant shall have the right to install (1) an identification sign on the exterior of the Building and on any monument signage associated with the Building that is used for tenant identification, subject to Landlord's prior review and approval, not to be unreasonably withheld; and (2) directional signage to the Premises from any parking areas.

(c) Landlord shall have the right to temporarily remove any sign in order to paint, or to make repairs, alterations, or improvements in or upon the Building or Premises, at its expense, and shall thereafter reaffix same, at its expense.

ARTICLE 6 – REPAIR, MAINTENANCE AND LIENS

6.1 Maintenance. Tenant shall, at its own cost and expense, keep the Demised Premises in good repair and condition. Upon the expiration of the initial Term or any Renewal Term, as applicable, Tenant shall peacefully and quietly leave, surrender and yield up unto Landlord the Premises in such state of repair as is required herein except for reasonable wear and tear.

6.2 Landlord's Obligation. Landlord shall not be required to make any capital improvements solely for the convenience of Tenant. Landlord shall, at its own cost and expense, keep the Real Estate in good repair and condition, excluding any repairs and maintenance which are the responsibility of Tenant pursuant to Section 6.1.

6.3 Liens. Tenant shall keep the Demised Premises free of liens caused by Tenant or Tenant's agents or contractors, including the failure to pay for labor or materials supplied to the Demised Premises.

ARTICLE 7 - INDEMNIFICATION & HOLD HARMLESS

7.1 Indemnification & Hold Harmless for Landlord. To the fullest extent permitted by law, Tenant shall defend, indemnify and hold harmless Landlord, its employees, officers, directors, and shareholders from and against all claims, damages, losses and expenses, including, but not limited to, attorneys' fees, costs and expenses for bodily injury and property damage, arising out of or connected with (i) the negligent acts or omissions by, or the fault of, Tenant, its subcontractors, its employees and invited guests, or anyone employed directly or indirectly by any of them or by anyone for whose acts or omissions any of them may be liable, or (ii) Tenant's use and occupancy of the Demised Premises or any breach or default by Tenant in performance of its obligations under this Lease; provided that such claims, demands and causes of action are not caused by the negligence, intentional act or breach of contractual duty of or by Landlord.

7.2 Allocation of Risk. Each party shall name the other as an additional insured on its policy/ies of insurance covering the Real Estate, including Demised Premises and Common Areas, as applicable. Each party shall be responsible for claims, damages, losses and expenses to the extent they result from the action or inaction of the party or its licensees, invitees, agents, employees, or officers, and the responsible party's policy/ies of insurance shall provide the primary coverage for such claims, damages, losses and expenses.

ARTICLE 8 – INSURANCE

8.1 Required Coverage.

(a) Tenant Provided Insurance. Tenant, at its sole expense, shall maintain or cause to be maintained the following insurance:

(1) Public Liability Insurance. Comprehensive general public liability insurance covering loss or damage resulting from accidents or occurrences on or about or in connection with the Demised Premises, or adjacent entrances, or any work, matters or things under or in connection with or related to this Lease, with personal injury, death and property damage combined single limit liability of not less than \$1,000,000 for each accident or occurrence.

(2) Mandatory Insurance. Workers compensation and all other insurance, if any, of whatever description and in such amounts as may be required by any ordinance, law or governmental regulation to be carried or maintained by Tenant.

(b) Landlord Provided Insurance. Landlord shall maintain or cause to be maintained the following insurance:

(1) All Risk Insurance. "All risk" insurance covering all risks of physical loss or damage to the Demised Premises with liability limits of not less than the full insurable value of the same (with a reasonable allowance for depreciation). Such policy shall be

broad form and shall include, but shall not be limited to, coverage for fire, wind, and extended coverage.

(2) Public Liability Insurance. Comprehensive general public liability insurance covering loss or damage resulting from accidents or occurrences on or about or in connection with the Demised Premises, or adjacent entrances, or any work, matters or things under or in connection with or related to this Lease, with personal injury, death and property damage combined single limit liability of not less than \$1,000,000 for each accident or occurrence.

8.2 General Requirements. The policies of insurance to be maintained by Tenant or Landlord under the provisions of this Lease shall be issued by responsible insurance carriers of recognized responsibility, licensed to do business in the State of West Virginia, and shall provide the following:

(a) Named Insured. All policies (other than policies for workers compensation insurance) shall name as the insureds, Landlord and Tenant, as their respective interests may appear.

(b) Required Provisions. All policies shall contain: (1) the agreement of the insurer to give Landlord and Tenant at least 30 days' notice prior to cancellation of or material change in said policies, or any of them; (2) a waiver of subrogation rights against Landlord and Tenant; (3) an agreement that such policies are primary and noncontributing with any other insurance that may be carried by Landlord or Tenant, as applicable; and (4) a statement that the insurance shall not be invalidated should any insured waive in writing prior to a loss any or all right of recovery against any party for loss accruing to the property described in the insurance policy.

8.3 Deductibles. Any insurance policies obtained hereunder by any Insurance Provider may contain such deductibles as such Insurance Provider, in its reasonable business judgment, may deem appropriate.

ARTICLE 9 - MORTGAGES, ASSIGNMENTS AND SUBLEASES

9.1 Permitted Transfers.

(a) Landlord shall have the right to sell, assign, transfer, encumber or hypothecate its interest in the Demised Premises or in this Lease any time it wishes to do so without the need to notify Tenant nor to obtain Tenant's permission, except for any such transfer that would create a default under this Lease.

(b) Tenant shall have the right to sell, assign, transfer, encumber or hypothecate its interest in the Demised Premises or in this Lease (collectively referred to as a "Transfer") upon receipt of the prior written consent of Landlord, which shall not be unreasonably withheld, conditioned, or delayed.

9.2 Sublease by Tenant. Tenant may not enter into subleases affecting all or any portion of the Demised Premises without written consent from Landlord; provided, however, that any tenant of the Real Estate may sublet any portion of the demised premises possessed by that

tenant to another tenant while both tenants have leases in effect, without written consent from Landlord.

ARTICLE 10 – DEFAULT AND TERMINATION PROVISIONS

10.1 Events of Default by Tenant. Each of the following events shall be deemed a default and breach of this Lease by Tenant ("Tenant Default");

(a) The filing by Tenant of a voluntary petition in bankruptcy or any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief for itself under any present or future federal, state or other law or regulation relating to bankruptcy, insolvency or other relief for debtors, or Tenant's seeking or consenting to or acquiescing in the appointment of any trustee, receiver or liquidator of Tenant or of all or any substantial part of Tenant's interest in the Demised Premises or the making by Tenant of any general assignment for the benefit of creditors, or the admission in writing by Tenant of its inability to pay its debts generally as they become due;

(b) The filing of a petition against Tenant seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future federal, state or other law or regulation relating to bankruptcy, insolvency or other relief for debtors, or the appointment of any trustee, receiver or liquidator of Tenant or of all or any substantial part of Tenant's interest in the Demised Premises, unless such petition shall be dismissed within thirty (30) days after Tenant actually learns of such filing; or if the Demised Premises or Tenant's effects or interest therein should be levied upon or attached under process against Tenant, and such levy or attachment is not satisfied or dissolved within one thirty (30) days after written notice from Landlord to Tenant to obtain satisfaction or dissolution thereof;

(c) Tenant fails to pay any Rent or any other charges payable by Tenant hereunder within thirty (30) days of the due date.

10.2 Default Remedies. In the event of a default by Tenant that is not cured within thirty (30) days of delivery of notice of the default to Tenant by Landlord, or, if the nature of Tenant's obligation is such that more than thirty (30) days are required for its performance, if Tenants fails to commence such performance within such thirty (30)-day period and thereafter diligently pursue the same to completion, provided such cure shall be completed within a total of ninety (90) days, Landlord shall have the following remedies:

(a) Termination. Landlord may terminate this Lease by giving Tenant a thirty (30) day written notice of termination specifying the date of termination. Termination by Landlord hereunder shall not relieve Tenant from the payment of any sum then due to Landlord or from any claim for damages previously accrued or then accruing against Tenant.

(b) Payment of Expenses. Tenant shall pay to Landlord, on demand, such reasonable expenses as Landlord may incur, including, without limitation, court costs and reasonable attorneys' fees and disbursements, in enforcing the performance of any obligation of defaulting party.

(c) Relet. If Landlord repossesses the Demised Premises upon any Tenant Default, then Landlord shall make commercially reasonable efforts to relet the Demised Premises for such rent and upon such terms as are acceptable to Landlord, and if a sufficient sum shall not be thus realized after paying the expense of such reletting to satisfy the rent herein reserved, then Tenant agrees to satisfy and pay any such deficiency. Further, in such event, Landlord may then or thereafter re-enter and take complete and peaceful possession of the Demised Premises, and Tenant covenants to peacefully and quietly yield up and surrender the Demised Premises to Landlord.

10.3. Landlord's Default. Notwithstanding anything to the contrary set forth in this Lease, Landlord shall be in default in the performance of any obligation required to be performed by Landlord pursuant to this Lease if Landlord fails to perform such obligation within thirty (30) days after the receipt of notice from Tenant specifying in detail Landlord's failure to perform; provided, however, if the nature of Landlord's obligation is such that more than thirty (30) days are required for its performance, then Landlord shall not be in default under this Lease if it shall commence such performance within such thirty (30)-day period and thereafter diligently pursues the same to completion, provided such cure shall be completed within a total of ninety (90) days. Upon any such default by Landlord under this Lease, Tenant may, except as otherwise specifically provided in this Lease to the contrary, exercise any of its rights provided at law or in equity. Tenant shall further have the right to cure such default and, if such default involves the expenditure of money, Tenant shall have the right to deduct the cost thereof together with an administrative fee of ten percent (10%) from the Rent due or accruing hereunder. Any award from a court or arbitrator in favor of Tenant requiring payment by Landlord which is not paid by Landlord within the time period directed by such award, may be offset by Tenant from Rent next due and payable under this Lease. In addition to any other remedies under this Lease or at law, if Landlord fails to cure a default as set forth in this section, Tenant may terminate this Lease by giving Landlord a thirty (30) day written notice of termination specifying the date of termination. Termination by Tenant hereunder shall not relieve Landlord from the performance of any obligation under this Lease or from any claim for damages previously accrued or then accruing against Landlord.

10.4. Termination option of Tenant. In addition to any and all other rights of Tenant, Tenant shall have the opportunity to terminate the lease prior to the beginning of the Post-Revitalization Period as described in this section. Landlord shall notify Tenant at least sixty (60) days prior to the beginning of the Post-Revitalization Period, in writing, stating the proposed beginning date of the Post-Revitalization Period and offering Tenant an opportunity to inspect the Premises prior to resuming occupancy. Tenant shall have the opportunity to inspect the Premises and to evaluate the suitability of the renovations for its operational purposes and needs, considering the increased rental rate following the Pre-Revitalization Period. Within sixty (60) days of Landlord's notice of the anticipated beginning of the Post-Revitalization Period, Tenant may exercise its option in its sole discretion to terminate the lease by providing written notice of the election and the effective date of the termination to Landlord. Tenant shall not be in breach of this Agreement nor subject to any other fee or penalty for exercising its termination right under this section. Rents, costs, and fees, if any, owed to the parties shall be prorated as of the designated termination date if Tenant elects termination of the lease under this section.

ARTICLE 11 - MISCELLANEOUS PROVISIONS

11.1 Notices. Any notice, consent, approval, demand, request or document which either party is required or desires to give or deliver to or make upon the other hereunder shall be in writing and shall be personally delivered or sent by United States registered or certified mail, return receipt requested and postage prepaid, addressed as follows:

To Landlord: Michael Cardi, Esq.
Bowles Rice LLP
125 Granville Square, Suite 400
Morgantown, West Virginia 26501

To Tenant: The City of Morgantown
c/o Finance Director
389 Spruce Street
Morgantown, WV 26505

11.2 Brokers. Landlord and Tenant both represent and warrant that no broker or finder has been engaged by it in connection with any of the transactions contemplated by this Lease.

11.3 No Waiver. No waiver by either party hereto of any term, covenant or condition of this Lease shall be deemed to have been made unless expressed in writing and signed by such part.

11.4. Fiscal Year Funding. Performance under the agreement shall be continued in succeeding fiscal years for the term of the agreement, contingent upon funds being appropriated by Morgantown City Council or otherwise being available for this agreement. If funds are not appropriated or otherwise available for this agreement, the agreement shall terminate without penalty on the last day of the fiscal year during which the agreement was funded, or as of the date of the lapse of appropriations, whichever occurs earlier. City agrees to use its best efforts to have the amounts contemplated under the agreement appropriated for the obligations provided in the agreement. Non-appropriation or non-funding shall not be considered an event of default.

11.5. Nondiscrimination. The City requires that all parties conducting business within the City, and with which the City enters contracts, abide by its Nondiscrimination Ordinance, as codified at Article 153 of the Codified Ordinances of the City. Landlord shall not discriminate with regard to race, religion, color, national origin, ancestry, sex, age, blindness, disability, sexual orientation, gender identity, familiar status, or veteran status in the performance of its duties, and Landlord shall obligate its agents, subcontractors, and all other related parties performing work or services for the City to comply with this policy and the Nondiscrimination Ordinance.

ARTICLE 12 – CASUALTY AND CONDEMNATION

12.1 Casualty.

(a) If the Premises shall be partially or totally damaged or destroyed by fire or other casualty, the Rent payable hereunder shall be abated to the extent that the Premises shall have been rendered untenable and for the period from the date of such damage or destruction to the date it is rendered tenantable. Should Tenant reoccupy a portion of the Premises during the

period any restoration work is taking place and prior to the date same is made completely tenantable, Rent allocable to such portion shall be payable by Tenant from the date of such occupancy.

(b) If the Building or the Premises shall be damaged or destroyed by fire or other casualty (whether or not the Premises are damaged or destroyed) so as to require (determined in the Landlord's reasonable discretion) an expenditure by Landlord of more than fifty percent (50%) of the full insurable value of the Building or if the Premises are completely destroyed or so badly damaged that, in Landlord's reasonable opinion, repairs to the Premises cannot be commenced within thirty (30) days or completed within one hundred eighty (180) days from the date of the damage or destruction, then in either such case, Landlord may terminate this Lease by giving Tenant written notice within thirty (30) days after the date of the casualty, specifying the date of termination of this Lease; provided that Landlord shall not terminate the Lease unless Landlord also terminates all the other leases within the Building. In such event, Tenant shall forthwith quit, surrender and vacate the premises. In the event of termination, the Rent payable hereunder shall be abated from the date of damage or destruction.

(c) If all or any portion of the Premises are damaged by fire or other casualty and if Landlord has not elected to terminate this Lease, Landlord shall, within one hundred eighty (180) days after such occurrence, repair or rebuild the Premises or such portion to its condition immediately prior to the Lease Commencement Date. Tenant may terminate this Lease by giving written notice to Landlord, if Landlord has not commenced the required repairs thirty (30) days or has not restored and/or rebuilt the Premises as herein provided within one hundred eighty (180) days from the date of such damage or destruction.

12.2. Condemnation.

(a) As used herein, the following words have the following meanings:

(i) "Taking" shall mean the deprivation of or damage to the Premises, the Building or the Real Estate or any portion thereof, as the result of the exercise by a governmental authority of any power of eminent domain, condemnation, or purchase under threat thereof.

(ii) "Taking Date" shall mean with respect to any Taking, the date on which the condemning authority shall have the right to possession of the Premises, the Building or the Real Estate or any portion thereof.

(iii) "Award" shall mean the award for, or proceeds of, any Taking, less all expenses in connection therewith, including reasonable attorneys' fees.

(b) In the event of a Taking of the whole or a substantial part of the Building, other than a Taking for a temporary use, then as of the Taking Date, this Lease shall immediately cease and terminate, and the Rent payable hereunder shall be adjusted as of the Taking Date and Tenant shall have no claim for the value of the unexpired term hereof or to any part of the Award or any claim against Landlord relating to the Taking, except as provided in Section 12.2(g) hereof.

(c) In the event of a Taking of all or any part of the Premises, either Landlord or Tenant shall have the right to terminate this Lease with written notice thereof to the other party within thirty (30) days after the condemnation acquisition. Landlord shall be entitled to the Award and Tenant shall have no claim for the value of the unexpired term of this Lease or to any part of the Award or have any claim against Landlord relating to the Taking, except as provided in Section 12.2(g) hereof.

(d) In the event of a Taking of all of the Premises or such portion thereof as shall substantially and materially impede or impair Tenant's use and occupancy of the Premises (including a material loss of access), as reasonably determined by Tenant, then Tenant shall have the right to terminate this Lease as of the Taking Date and Landlord shall be entitled to the Award and Tenant shall have no claim for the value of the unexpired term of this Lease or to any part of the Award or have any claim against Landlord relating to the Taking, except as provided in Section 12.2(g) hereof.

(e) In the event of a Taking of less than all of the Premises and neither party shall elect to terminate this Lease the Rent payable hereunder shall be reduced in proportion to the ratio that the rentable square footage of the Premises so taken bears to the total rentable square footage of the Premises prior to the Taking. Landlord shall make such repairs and alterations as may be necessary to make the part not taken usable, at Landlord's cost and expense.

(f) If there is a Taking of the Premises for temporary use, this Lease shall continue in full force and effect, and Tenant shall continue to comply with all the provisions hereof, except as such compliance shall be rendered impossible or impracticable by reason of such Taking. Rent shall be abated during the course of such Taking to the extent and for the period of time that the Premises, or a portion thereof, shall have been rendered untenable.

(g) All Awards shall belong to Landlord without any participation by Tenant. Tenant hereby assigns to Landlord any share of any Award which may be granted to Tenant, except Tenant shall be entitled to make a separate claim with regard to the unamortized cost of any leasehold improvements paid for by Tenant, interruption of Tenant's business, depreciation of Tenant's goods and trade fixtures, and Tenant's moving and relocation expenses, provided same does not diminish Landlord's Award. If a direct payment is not allowed by applicable local law, Landlord shall pay Tenant: (i) the portion of the Landlord's Award that is attributable to the value of Tenant's interest and business, as determined by the condemning authority; and (ii) an amount equal to the unamortized portion of any expenditures by Tenant for its improvements or Alterations to the Premises plus its moving and relocation expenses.

[Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed as of the day and year first above written.

LANDLORD:
The Historic Morgantown Post Office Building, Inc.,
a West Virginia corporation

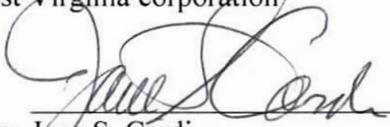
By: _____
Name: Jane S. Cardi
Its: President

TENANT:
The City of Morgantown, a West Virginia
municipality

By:  _____
Name: A. Kim Haws
Its: City Manager

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed as of the day and year first above written.

LANDLORD:
The Historic Morgantown Post Office Building, Inc.,
a West Virginia corporation

By: 
Name: Jane S. Card
Its: President

TENANT:
The City of Morgantown, a West Virginia
municipality

By: 
Name: A. Kim Haws
Its: City Manager

EXHIBIT A
TO
COMMERCIAL REAL ESTATE LEASE

Legal Description of the Real Estate

OLD POST OFFICE BUILDING, PARCEL 1:

BEGINNING at a P.K. Nail at the intersection of the western right-of-way line of High Street and the northern right-of-way line of Kirk Street; thence along Kirk Street N. 56° 40' W. 79.17 feet to an "X" in the concrete sidewalk; thence by Grantors herein and along the wall separating the Original Post Office and the Addition, N. 33° 33' E. 20.27 feet to a point; thence by the same S. 56° 40' E. 0.75 feet to a point; thence by the same 33° 33' E. 45.00 feet to a point; thence by the same N. 56° 40' W. 0.75 feet to a point; thence by the same N. 33° 33' E. 26.73 feet to a railroad spike; thence by Grantors herein S. 56° 40' E. 79.17 feet to an "X" in the concrete sidewalk the western right-of-way line of High Street; thence along High Street, S. 33° 33' W. 92.00 feet to the place of beginning, containing 7249 square feet, as more particularly shown on the plat of survey made by Fayette Engineering Company of Morgantown, West Virginia, and dated the 22nd day of May, 1976, and recorded as an Exhibit to that certain Deed recorded in Deed Book No. 776 at Page No. 250, which said map or plat is incorporated herein by reference for descriptive and all other pertinent purposes.

OLD POST OFFICE BUILDING PARCEL 2:

All of the grantors' right, title, interest and claim in and to the sidewalks on High Street and Kirk Street to the extent that the same abut Parcel A herein conveyed.

EASEMENT 1:

That certain right-of-way or easement not exceeding eight (8) feet in width adjacent to and abutting the northeast boundary of the property hereby conveyed, and also a right-of-way or easement over the area marked and designated as steps on the said plat adjacent to the rear of the property hereby conveyed for the purpose of ingress, egress and regress to and from the building, together with the right to build a pedestrian ramp on said right of way or easement first above mentioned, the design of which shall be subject to the approval of the Grantors, which approval shall not be unreasonably withheld. The elevation of the ramp shall not exceed the elevation of the existing main floor of the building hereby conveyed. The said

ramp is to be used jointly by the Grantors and the Grantee.

EASEMENT 2:

That certain right-of-way over the remainder of the tract of which this is a part for the purpose of connecting and running utility lines to the property herein conveyed.

RESERVATION 1:

There is excepted and reserved from this conveyance a right-of-way over the property hereby conveyed for the purpose of running utility lines across the same to the other property of the Grantors herein.

Being the same real estate conveyed to the Monongalia County Arts Center Association, Inc., by Deed dated June 11, 1976, and recorded in the Office of the Clerk of the County Commission of Monongalia County, West Virginia, in Deed Book 776, Page 250, and by Quitclaim Deed dated September 23, 2006, and recorded in the Office of the Clerk of the County Commission of Monongalia County, West Virginia, in Deed Book 1331, Page 516.

ANNEX:

Part of Lots No. 30 and 31 in the Third Ward of the City of Morgantown, Monongalia County, West Virginia.

Being the same real estate conveyed to Greater Morgantown Community Trust, Inc., by Deed dated September 23, 2006, and recorded in the Office of the Clerk of the County Commission of Monongalia County, West Virginia, in Deed Book 1331, Page 506.

EXHIBIT B
TO
COMMERCIAL REAL ESTATE LEASE

Description of the Demised Premises

The Demised Premises are located at 107 High Street, Morgantown, West Virginia 26505, in what is commonly referred to as the "MAC Building." During the Pre-Revitalization Period, the Demised Premises includes only the portion of the Basement of the MAC Building occupied by Tenant as of the Effective Date, with the common address of 175 Kirk Street, Morgantown, West Virginia 26505, which is approximately 3,936 square feet of commercial space, and which may be modified in space and in square footage for and during the Post-Revitalization Period.



City Council Agenda Item Summary

Council Meeting Date: 12/02/2025

Item: Consideration of (APPROVAL) of A Resolution Authorizing Investment in WV Board of Treasury Investments Consolidated Fund

Department: Finance Department

Requested By: Jonathan Furgison, Finance Director

Strategic Goal: Excellent and Responsible – Fiscal Sustainability

Recommended Motion: Move to approve the resolution authorizing investment in WV Board of Treasury Investments Consolidated Fund

Item Summary:

Background and Purpose:

The West Virginia Board of Treasury Investments (WVBTI) was established by the State Legislature to manage the short-term operating funds of the State of West Virginia. In addition to serving state agencies, WVBTI offers investment opportunities to political subdivisions, including municipalities such as the City of Morgantown.

WVBTI administers the following pooled investment options:

- **West Virginia Money Market Pool**
- **West Virginia Government Money Market Pool**
- **West Virginia Short Term Bond Pool**



City Council Agenda Item Summary

These funds are designed to provide public entities with secure, liquid, and yield-efficient investment options. Notably, the WVBTI Money Market Pools have maintained the highest possible rating of **AAAm** by Standard & Poor’s since 2006, reflecting a strong commitment to safety and stability.

Proposal:

The Finance Department recommends that the City Council approve a resolution authorizing the investment of City funds into one or more of the WVBTI money market investment pools. This action would allow the City to invest funds currently held in local bank money market accounts (currently earning an annual percentage rate (APR) of 2.472% as of 11/03/2025), into WVBTI’s pooled investment structure.

For comparison, the WVBTI money market investment pools reported the following rates of return as of 11/03/2025, as listed on the WVBTI website (<https://wvbtigov/>):

West Virginia Money Market		West Virginia Govt. Money Market	
Daily Simple MM Yield	4.1813%	Daily Simple MM Yield	4.0823%
Daily Income Factor	0.000343667	Daily Income Factor	0.000335531
7 Day Simple MM Yield	4.2136%	7 Day Simple MM Yield	4.0771%
Monthly Simple MM Yield	4.2599%	Monthly Simple MM Yield	4.1129%
Net Assets (Amortized)	8,581,743,161.83	Net Assets (Amortized)	648,377,237.67
Shadow NAV (Market)	1.00010	Shadow NAV (Market)	1.00018

[Daily MM Historical Rates >>](#)
[Daily Govt. MM Historical Rates >>](#)

[Disclosures](#) +



City Council Agenda Item Summary

The primary objectives of this investment strategy are:

- **Safety:** WVBTI pools are highly rated and professionally managed.
- **Liquidity:** Funds are accessible without withdrawal penalties.
- **Yield Optimization:** WVBTI pools offer competitive returns.
- **Cost Efficiency:** No account maintenance fees or hidden charges.

Fiscal Impact: The proposed investment is expected to generate a higher return on idle cash balances while maintaining full liquidity and security. This aligns with the City's broader financial strategy to responsibly manage public funds and maximize interest earnings for the benefit of taxpayers.

RESOLUTION AUTHORIZING INVESTMENT IN CONSOLIDATED FUND

Whereas, W. Va. Code §12-6C-6 authorizes spending units and political subdivisions of the State of West Virginia to participate and invest in the Consolidated Fund, which is administered and managed by the Board of Treasury Investments and used to purchase securities and other investments authorized by law; and

Whereas, the Morgantown City Council, the Governing Body of the City of Morgantown, a spending unit or political subdivision of the State of West Virginia, has reviewed the *Investment Policy* of the West Virginia Board of Treasury Investments and the provisions of all applicable agreements, applications, state and local laws, policies, rules or ordinances; and

Whereas, the undersigned Governing Body has made an independent determination that investment in the Consolidated Fund in accordance with the provisions of the aforesaid statute is in the best interests of the spending unit or political subdivision and is within the scope of activities and investments for which it is authorized by law; **NOW THEREFORE BE IT:**

RESOLVED: That the City of Morgantown is hereby authorized to participate in the Consolidated Fund for the purposes of investment, and its treasurer or designated financial officer is further authorized to do all things necessary in order to participate in the investment pools in the Consolidated Fund as selected below:

- WV Money Market X Yes ___ No
- WV Government Money Market X Yes ___ No
- WV Short Term Bond Pool X Yes ___ No

ADOPTED on the _____ day of _____, 2025, by the Morgantown City Council.

Signed: _____
Daniell Trumble, Mayor

Signed: _____
Christine Wade, City Clerk



P: 304-284-7412
Morgantownwv.gov
389 Spruce St.
Morgantown, WV 26505

Proposed Resolution Authorizing Investment in the WV Board of Treasury Investments (WVBTI) Consolidated Fund

Summary Statement:

The Finance Department is requesting Council approval of a resolution authorizing the City to invest a portion of its cash reserves in the West Virginia Board of Treasury Investments (WVBTI) Consolidated Fund. This action is intended to enhance the City's interest income while maintaining the safety and liquidity of public funds.

WVBTI administers several investment pools, including the West Virginia Money Market Pool, which has consistently maintained the highest possible S&P rating of AAAM since 2006. These pools are specifically designed for short-term public fund investments and are available to state agencies and political subdivisions, including municipalities.

Background and Rationale:

Currently, the City maintains seven (7) money market accounts across two authorized financial institutions - United Bank and Community Bank. The following chart discloses the details of these seven accounts:

**City of Morgantown
Summary of Money Market Accounts**

Fund / Account Description	Purpose	Bank	Average		Actual		Actual	
			Ending Balance	for the Month	Ending Balance	as of	Interest Rate (APY)	Interest Rate (APY)
			Oct 2025	10/31/2025	10/31/2025	as of	11/3/2025	as of
General Fund Money Market	Invest available General Fund cash that is not needed for working capital within the next 15 days in money market funds to maximize interest earnings	United Bank	\$ 3,616,394.36	\$ 5,148,574.10	2.716%	2.472%		
Capital Escrow Fund Money Market	Invest available Capital Escrow Fund cash that is not needed for working capital within the next 15 days in money market funds to maximize interest earnings	United Bank	\$ 10,667,909.98	\$ 10,839,227.08	2.716%	2.472%		
HRM Park Sinking Fund Money Market	Invest the HRM Park Sinking Fund cash in money market funds to maximize interest earnings	United Bank	\$ 1,002,324.34	\$ 1,004,623.04	2.716%	2.472%		
Financial Stabilization Fund Money Market	Invest the Financial Stabilization Fund cash in money market funds to maximize interest earnings	United Bank	\$ 2,757,121.39	\$ 3,447,792.12	2.716%	2.472%		
OPEB Fund Money Market	Invest the OPEB Fund cash in money market funds to maximize interest earnings	United Bank	\$ 932,923.58	\$ 1,410,465.80	2.716%	2.472%		
Building Commission Money Market	Invest the Building Commission's cash that is not needed for working capital within the next 15 days in money market funds to maximize interest earnings	Community Bank	\$ 315,005.98	\$ 315,942.37	3.56% *	2.360%		
Life & Health Fund Money Market	Invest available Self-funded Employee Health Insurance Cash Reserves that is not needed for working capital within the next 15 days in money market funds to maximize interest earnings	United Bank	\$ 1,131,875.40	\$ 993,939.74	2.716%	2.472%		

* Community Bank's six month promotional interest rate expired 10/31/25

The interest rates on these accounts are benchmarked to the Effective Federal Funds Rate (EFFR) and vary based on account balance thresholds. Typically, the rates earned are approximately 150 basis points below the EFFR. Over the past twelve months, the EFFR has been reduced on four separate occasions, resulting in a corresponding decline in the City’s interest earnings from these accounts.

In contrast, the WVBTI Money Market Pool is currently offering a more favorable yield, with no account maintenance fees or withdrawal penalties. The pool provides daily liquidity and is managed in accordance with state investment guidelines.

The worksheet below provides a comparative analysis of interest earnings in the Capital Escrow Fund over the past 12 months. It uses actual average monthly balances, the interest earned at rates provided by the local bank, and the interest that would have been earned if those same balances had been invested in the WVBTI West Virginia Money Market Pool. Based on this analysis, the City would have earned an additional \$144,063.12 in interest had the funds been invested with WVBTI instead of the local bank’s money market account.

**Capital Escrow Fund
Comparison of Potential Interest Income Earning
Twelve Trailing Months, as of September 2025**

Month	Actual Average Monthly Bank Balance	United Bank Money Market		WVDTI - WV Money Market	
		Actual Interest Rate (APR)	Estimated Interest Earned	Actual Interest Rate (APR)	Estimated Interest Earned
Sep-25	11,247,877.44	2.716%	\$ 25,457.70	4.370%	\$ 40,961.02
Aug-25	11,928,051.46	2.716%	\$ 26,997.16	4.450%	\$ 44,233.19
Jul-25	11,905,927.02	2.960%	\$ 29,367.95	4.450%	\$ 44,151.15
Jun-25	7,846,757.06	2.960%	\$ 19,355.33	4.440%	\$ 29,033.00
May-25	7,715,874.67	2.960%	\$ 19,032.49	4.460%	\$ 28,677.33
Apr-25	8,076,963.63	2.960%	\$ 19,923.18	4.470%	\$ 30,086.69
Mar-25	8,528,835.28	2.960%	\$ 21,037.79	4.480%	\$ 31,840.99
Feb-25	9,024,218.86	2.960%	\$ 22,259.74	4.530%	\$ 34,066.43
Jan-25	8,908,317.06	2.960%	\$ 21,973.85	4.560%	\$ 33,851.60
Dec-24	9,268,495.85	3.446%	\$ 26,616.03	4.730%	\$ 36,533.32
Nov-24	9,638,101.35	3.446%	\$ 27,677.41	4.850%	\$ 38,953.99
Oct-24	9,720,552.03	3.446%	\$ 27,914.19	4.850%	\$ 39,287.23
		287,612.82		431,675.94	

Difference = \$ 144,063.12

Benefits of Investing with WVBTI

Investing with the West Virginia Board of Treasury Investments (WVBTI) presents a prudent and strategically sound opportunity for municipalities seeking to enhance the performance of idle cash reserves. WVBTI's investment pools are specifically designed to meet the short-term investment needs of public entities, offering a secure and compliant framework for managing public funds.

WVBTI operates under a comprehensive Investment Policy and is governed by applicable state and local laws, policies, rules, ordinances, and formal agreements. Full documentation, including investment guidelines and program details, is publicly available on the WVBTI website: <https://wvbt.gov>.

The following benefits align with the City's core financial objectives, including fiscal stewardship, risk mitigation, and operational flexibility:

1. Safety of Principal

- The WVBTI West Virginia Money Market Pool has maintained a AAAM rating from Standard & Poor's since 2006, the highest rating available for money market funds.
- This rating reflects a strong capacity to maintain principal stability and meet liquidity demands, making it a secure investment vehicle for public funds.

2. Liquidity and Accessibility

- Funds invested in WVBTI pools are available for daily withdrawal, ensuring that the City retains full access to its resources when needed.
- This liquidity allows for seamless integration with the City's cash flow management practices, including short-term operational needs and emergency contingencies.

3. Competitive Yield Performance

- WVBTI pools consistently offer higher interest rates than traditional bank money market accounts, particularly during periods of declining federal rates.
- As illustrated in the worksheet above, had the City invested the Capital Escrow Fund's money market balance with the WVBTI West Virginia Money Market Pool over the past 12 months, it would have potentially realized \$144K more in interest earnings compared to the returns generated through the local bank's money market account.

4. Cost Efficiency

- WVBTI does not charge account maintenance fees or impose withdrawal penalties, allowing the City to retain 100% of its earned interest.

5. Flexibility and Strategic Positioning

- The City retains the ability to rebalance funds between WVBTI and local financial institutions based on prevailing interest rate environments.
- This flexibility supports a dynamic investment strategy that can adapt to market conditions while preserving core financial principles.

6. Statutory Compliance and Oversight

- WVBTI was established by the West Virginia Legislature to manage short-term public funds, ensuring that all investments are made in accordance with state law and best practices for public finance.
- Participation in WVBTI aligns with the City's fiduciary responsibilities and enhances transparency in fund management.

7. Purpose-Driven Earnings

- Interest earned through WVBTI investments remains within each respective fund and may be used to support fund-specific initiatives, such as capital improvements, contingency planning, or budgetary enhancements.
- When actual interest income exceeds budgeted projections, the Finance Department will propose a budget revision to appropriately increase appropriations, thereby maximizing the utility of earned interest.

Phased Investment Strategy

Upon approval of the proposed resolution, the Finance Department will initiate a phased investment approach, beginning with the following funds:

- Financial Stabilization Fund
- HRM Park Sinking Fund
- Capital Escrow Fund (partial investment of approx. 50–75% of current money market account balance)

This approach is designed to validate operational processes and confirm actual earnings performance before expanding participation. The funds selected for investment are not required for working capital within the next 15 days and have been identified through cash flow forecasting.

Interest earned will remain within each respective fund and be used to support fund-specific purposes. For example, excess interest in the Capital Escrow Fund may be applied toward capital project cost overruns or change orders. Should actual interest income exceed budgeted projections, a budget revision will be proposed to adjust appropriations accordingly.

Conclusion

This investment initiative reflects a prudent and strategic approach to maximizing the City's interest income while preserving liquidity and minimizing risk. The Finance Department recommends approval of the resolution to authorize participation in the WVBTI Consolidated Fund.

? What is the **BTI**?

The Board of Treasury Investments (“BTI”) was created by the Legislature to manage the short-term funds of the State of West Virginia. The five-member board consists of the State Treasurer, Governor, Auditor, and two qualified appointees. The investment pool options include the West Virginia Money Market Pool, the West Virginia Government Money Market Pool and the West Virginia Short Term Bond Pool.

\$ Transaction Limits

- » No transaction limits on Money Market Funds
- » Limited to monthly transactions on Short Term Bond Pool

📈 Types of Assets Invested

- » Operating Cash
- » Bond Proceeds
- » State Aid
- » General Funds
- » Trust Funds
- » Federal Funds

1,300+

accounts

Individual state agencies & political subdivisions

Who can invest?

State Agencies with Investment Authority

Political Subdivisions with Board Resolution:

- » Cities & Counties
- » Boards of Education
- » Municipalities
- » Economic Development Authorities
- » Public Libraries & Public Service Districts
- » Fire Departments, Emergency Authorities & Community Hospitals
- » Other Governmental Entities

Advantages

- » Safety
- » Liquidity
- » Return
- » Competitive Yields
- » AAAm Money Market Pools
- » Minimum Account Balance

Fees

- » One of the lowest in the country
- » Administrative, Manager & Custodial
- » No Account Maintenance Fees
- » Return = net of all fees
- » No withdrawal penalties

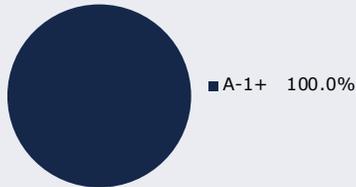
West Virginia Government Money Market Pool

Portfolio Overview as of 09/30/2025

Pool Assets

\$626 Million

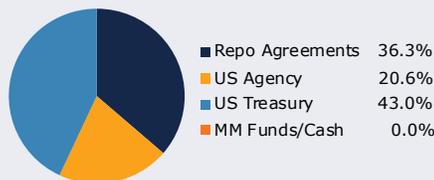
Credit Quality Composition (%)



Maturity Schedule (%)



Portfolio Composition (%)



Weighted Average Maturity

38 Days

Top Holdings (%)

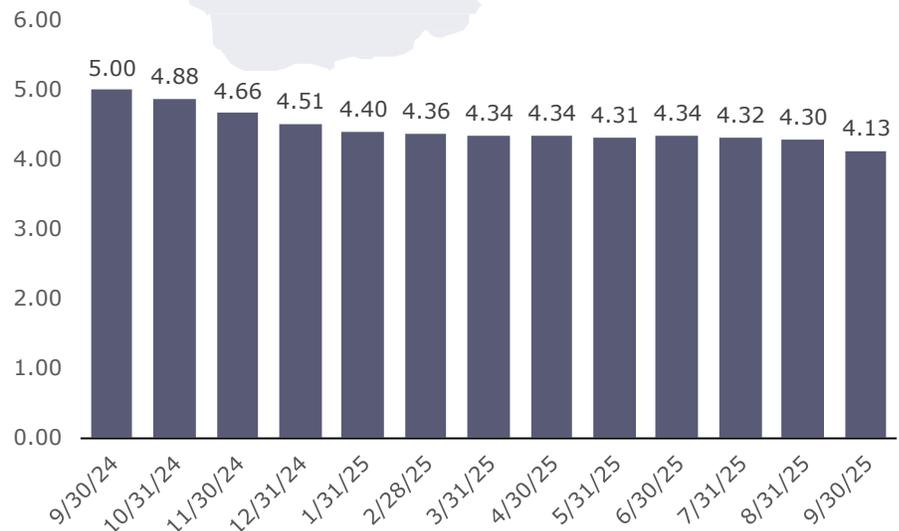
United States Treasury	43.0%
Goldman, Sachs & Co	23.9%
Federal Home Loan Bank	18.2%
Bank of America Securities	12.4%
Federal Farm Credit Bank	2.4%
Total % of Portfolio	100.0%

The West Virginia Government Money Market Pool is a money market portfolio created to invest restricted moneys of participants in US Treasury and US Government Obligations. The objective of the portfolio is to preserve capital and to maintain sufficient liquidity to meet daily disbursements, while earning a return above inflation. The risk factor is low and managed through numerous maturity restrictions, diversification, guidelines, and credit limits.

Pool Features and Benefits:

- » Professional management is provided by the West Virginia Board of Treasury investments' staff and professional investment advisors (UBS Asset Management (Americas)).
- » Rated AAAM by Standard & Poor's.
- » Seeks to maintain a net asset value (NAV) of \$1 per share.
- » Investment yields are competitive with other government money market accounts.
- » Easy access is provided through the State Treasurer's Office online system.
- » Account can be opened for as little as \$100 with no limit on the number of transactions.
- » Contributions and withdrawals are allowed daily.
- » Income is distributed on a daily basis.

7-Day Simple Money Market Yield (%)



To learn how to make the West Virginia Government Money Market Pool work for your cash investing needs call: 304-340-1564 or visit: wvbt.org

Portfolio holdings and composition are shown as of the date indicated. Since market conditions fluctuate suddenly and frequently, the portfolio holdings may change and this list is not indicative of future portfolio composition. These portfolio holdings are not intended to be and do not constitute recommendations that others buy, sell, or hold any of the securities listed.

An investment in the Pool is not insured or guaranteed by any government or government agency. Although the manager of the Pool seeks to preserve principal, it is possible to lose money by depositing money in the Pool.

An AAAM rating by Standard & Poor's is obtained after S&P evaluates a number of factors, including credit quality, market price exposure and management. Ratings are subject to change and do not remove market risk.

Commentary

Slow and Steady

Another September rate cut and another reason to consider liquidity products.

Common sense would say that when the Federal Reserve (the Fed) lowers its benchmark fed funds target range, as it did by a quarter percentage point two weeks ago, that interest rates and yields across the board would fall in concert. But finance doesn't always operate the way it seems it should (who isn't confused when first told that a bond's price falls when its yield rises).

It is true that yields of securities in the direct market, such as government auctions, overnight trading and floating-rate securities, adjust quickly to changes in the fed funds level, now in a target range of 4.00-4.25%. But that's not the case for many financial products, such as mortgages and liquidity products. Mortgage rates key off the 10-year Treasury; money market portfolios use a "laddered strategy." In a falling-rate environment, this simply means money market portfolios hold securities of different maturities bought with the higher rates available before the Fed cut. This in turn typically causes yields of these portfolios to decline slower than those found in the direct market. That can make them attractive to investors. Other factors also impact the performance of government investment pools. Among them are the seasonality of participant deposits and withdraws for tax receipts and payroll expenses, for instance. But, as with money market vehicles, the portfolio manager seeks to keep the yield as attractive as possible.

Also important is how fast the Fed lowers rates. Its latest Summary of Economic Projections indicates decent consensus for two more 25 basis-point cuts this year, which would lower the target range to 3.50-3.75%. But if the government shutdown prevents the Bureau of Labor statistics from releasing the September jobs report, it is conceivable the Fed will hold rates steady at the October meeting. That would add further uncertainty to longer-term forecasts, specifically the predictions of the level of future rates. Called the dot plot, the projections of each member of the FOMC are indicated by black circles plotted on a graph. The section of the graph representing 2026 looks like it was hit by buckshot.

Supply and demand is another important factor in the calculation of money market yields. That's especially the case with commercial paper. The amount of issuance continues to grow, largely resulting in higher yields and wider spreads above similar maturity Treasuries. And this market is becoming more diverse, with tech and manufacturing companies issuing short-term paper in addition to the bread-and-butter financial services sector. Diversification is a key element of money funds, so this is a notable development.

At the end of the month, yields on 1-, 3-, 6- and 12-month US Treasuries were 4.11%, 3.94%, 3.84% and 3.68%, respectively.

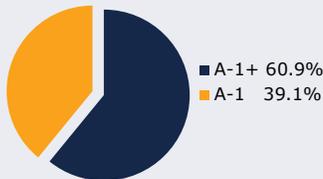
West Virginia Money Market Pool

Portfolio Overview as of 09/30/2025

Pool Assets

\$8.8 billion

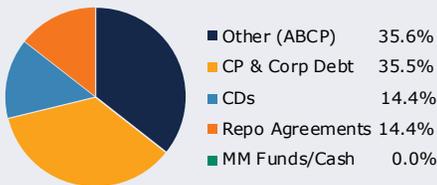
Credit Quality Composition (%)



Maturity Schedule (%)



Portfolio Composition (%)



Weighted Average Maturity

43 Days

Top Holdings (%)

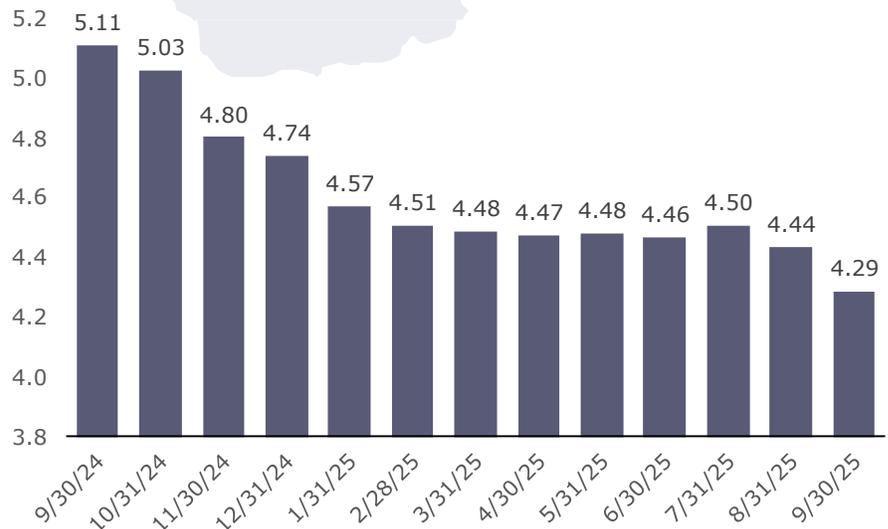
Bank of America	5.8%
BNP Paribas SA	5.4%
Mizuho Bank	4.4%
National Bank of Canada	3.5%
Natixis Financial	3.4%
Canadian Imperial Bank	2.7%
Anglesea Funding LLC	2.5%
LMA Americas LLC	2.4%
Westpac Banking Corp	2.3%
ABN Amro Bank	2.3%
Total % of Portfolio	34.5%

The West Virginia Money Market Pool is a money market portfolio created to invest the majority of the state and local government operating funds. The objective of the portfolio is to maintain sufficient liquidity to meet the needs of the participants while striving to earn a return above inflation. The risk factor is low and managed through numerous maturity restrictions, diversification, guidelines, and credit limits.

Pool Features and Benefits:

- » Professional management is provided by the West Virginia Board of Treasury investments' staff and professional investment advisors (Federated Hermes and UBS Asset Management (Americas)).
- » Rated AAAM by Standard & Poor's.
- » Seeks to maintain a net asset value (NAV) of \$1 per share.
- » Investment yields are competitive with other money market accounts.
- » Easy access is provided through the State Treasurer's Office online system.
- » Account can be opened for as little as \$100 with no limit on the number of transactions.
- » Contributions and withdrawals are allowed daily.
- » Income is distributed on a daily basis.

7-Day Simple Money Market Yield (%)



To learn how to make the West Virginia Money Market Pool work for your cash investing needs call: 304-340-1564 or visit: wvbt.org

Portfolio holdings and composition are shown as of the date indicated. Since market conditions fluctuate suddenly and frequently, the portfolio holdings may change and this list is not indicative of future portfolio composition. These portfolio holdings are not intended to be and do not constitute recommendations that others buy, sell, or hold any of the securities listed.

An investment in the Pool is not insured or guaranteed by any government or government agency. Although the manager of the Pool seeks to preserve principal, it is possible to lose money by depositing money in the Pool.

An AAAM rating by Standard & Poor's is obtained after S&P evaluates a number of factors, including credit quality, market price exposure and management. Ratings are subject to change and do not remove market risk.

Commentary

Slow and Steady

Another September rate cut and another reason to consider liquidity products.

Common sense would say that when the Federal Reserve (the Fed) lowers its benchmark fed funds target range, as it did by a quarter percentage point two weeks ago, that interest rates and yields across the board would fall in concert. But finance doesn't always operate the way it seems it should (who isn't confused when first told that a bond's price falls when its yield rises).

It is true that yields of securities in the direct market, such as government auctions, overnight trading and floating-rate securities, adjust quickly to changes in the fed funds level, now in a target range of 4.00-4.25%. But that's not the case for many financial products, such as mortgages and liquidity products. Mortgage rates key off the 10-year Treasury; money market portfolios use a "laddered strategy." In a falling-rate environment, this simply means money market portfolios hold securities of different maturities bought with the higher rates available before the Fed cut. This in turn typically causes yields of these portfolios to decline slower than those found in the direct market. That can make them attractive to investors. Other factors also impact the performance of government investment pools. Among them are the seasonality of participant deposits and withdraws for tax receipts and payroll expenses, for instance. But, as with money market vehicles, the portfolio manager seeks to keep the yield as attractive as possible.

Also important is how fast the Fed lowers rates. Its latest Summary of Economic Projections indicates decent consensus for two more 25 basis-point cuts this year, which would lower the target range to 3.50-3.75%. But if the government shutdown prevents the Bureau of Labor statistics from releasing the September jobs report, it is conceivable the Fed will hold rates steady at the October meeting. That would add further uncertainty to longer-term forecasts, specifically the predictions of the level of future rates. Called the dot plot, the projections of each member of the FOMC are indicated by black circles plotted on a graph. The section of the graph representing 2026 looks like it was hit by buckshot.

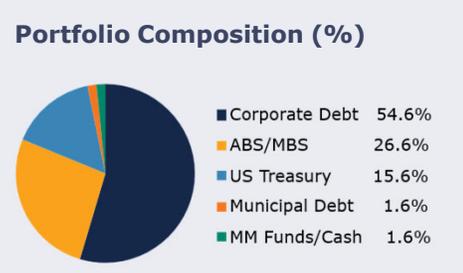
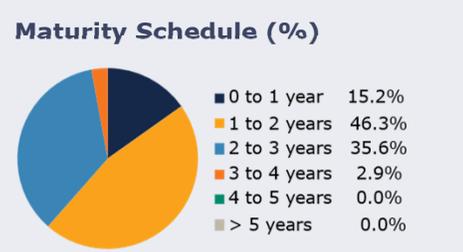
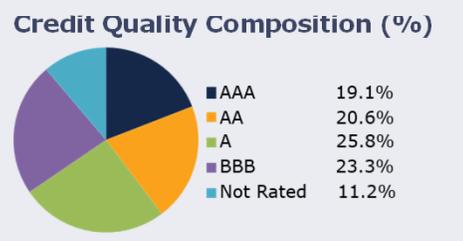
Supply and demand is another important factor in the calculation of money market yields. That's especially the case with commercial paper. The amount of issuance continues to grow, largely resulting in higher yields and wider spreads above similar maturity Treasuries. And this market is becoming more diverse, with tech and manufacturing companies issuing short-term paper in addition to the bread-and-butter financial services sector. Diversification is a key element of money funds, so this is a notable development.

At the end of the month, yields on 1-, 3-, 6- and 12-month US Treasuries were 4.11%, 3.94%, 3.84% and 3.68%, respectively.

West Virginia Short Term Bond Pool

Portfolio Overview as of 09/30/2025

Pool Assets
 \$733 million



Effective Duration
 648 Days

Top Holdings (%)

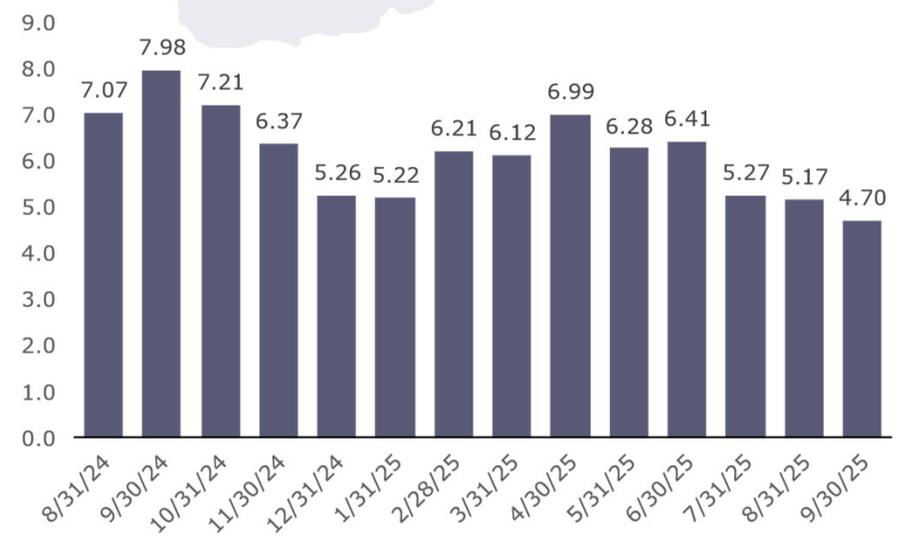
United States Treasury	15.6%
Benchmark Mortgage Trust	2.3%
Invesco Government & Agency	1.6%
Toyota Auto Loan Extended	1.4%
Blackstone Private Credit Fund	1.4%
SBL Holdings Inc	1.2%
World Omni Auto Rec	1.2%
Ares Strategic Income FU	1.1%
Sprint	1.1%
T-Mobile US Trust	1.1%
Total % of Portfolio	28.0%

The West Virginia Short Term Bond Pool was created to invest restricted moneys of participants which have a longer-term investment horizon. The objective of the portfolio is to earn an incremental return over the WV Money Market Pool with an objective of asset growth rather than current income. The risk factor is higher than the WV Money Market Pool and is managed through numerous maturity restrictions, diversification, guidelines, and credit limits.

Pool Features and Benefits:

- » Professional management is provided by the West Virginia Board of Treasury investments' staff and professional investment advisor (Sterling Capital Management).
- » Floating net asset value (NAV).
- » Investment yields are competitive with other short duration fixed income pools.
- » Easy access is provided through the State Treasurer's Office online system.
- » Account can be opened for as little as \$100 with no limit on the number of transactions.
- » Contributions and withdrawals are allowed monthly.
- » Income is distributed on a monthly basis.

Return Summary



To learn how to make the West Virginia Short Term Bond Pool work for your cash investing needs call: 304-340-1564 or visit: wvbt.org

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Commentary

The Federal Open Market Committee (FOMC) followed up Fed Chair Powell's dovish message from last month's Jackson Hole symposium by cutting the fed funds rate by 0.25% at their September meeting. The FOMC acknowledged that recent weakness in job growth contributed to their decision, which Powell termed a "risk management" move - a hedge against a more significant slowing in hiring despite still-elevated inflation. At the same time, the Fed's Summary of Economic Projections (SEP, or the "dot plot") showed that the median committee member expects two more 25bps cuts this year, but there are six members who expect no further cuts. Overall, the median committee member did not add any additional easing to their forecasts. August's disappointing nonfarm payroll report, which showed that U.S. employers added just 22,000 new jobs, seemed to cement the Fed's subsequent decision to cut rates, although other economic indicators were more encouraging. Retail sales figures significantly surprised to the upside and the Atlanta Fed's estimate for Q3 gross domestic product (GDP) rose to 3.9%. With the cut in the fed funds rate largely anticipated, yields on short-term Treasuries did not move significantly this month, although the front end of the yield curve did steepen modestly. Two-year Treasury yields closed the month very close to where they began at 3.61%.

Weakness in the labor market failed to hinder the momentum of the corporate bond market, where investors instead chose to focus on constructive company earnings (particularly for the technology sector) and attractive yields. The prospect of easier monetary policy also contributed positively to sentiment. Option-adjusted spreads (OAS) on most investment grade corporate bond indices tightened steadily throughout the month, with the widely followed Bloomberg U.S. Corporate Index hitting its tightest valuation levels in 27 years. Remarkably, this performance came in light of record September issuance of over \$200 billion. Shorter-duration bonds did not quite reach the same lofty heights, but the OAS on the ICE BofA 1-3Y U.S. Corporate Index tightened 2 bps on the month to outperform duration-matched Treasuries by 0.08%, led by banks, basic materials, media and insurance.

While the positive risk sentiment that propelled corporate bonds largely carried over to the performance of securitized products this month, most sub-sectors could not quite keep pace. Asset-backed securities (ABS) saw mostly unchanged risk premia for a modestly positive excess return. The sudden bankruptcy filing of a Texas-based subprime auto lender and ABS servicer focused on lending to underserved, lower-income consumers, sparked some minor mid-month weakness in the sector but the unique nature of the lender's business - a high concentration of loans to undocumented immigrants - appeared to limit any contagion. Short duration commercial mortgage-backed securities (CMBS) saw slightly better performance than ABS and outperformed Treasuries by 0.09%. Finally, agency mortgage-backed securities benefitted from falling longer term interest rates and generated the strongest excess returns among securitized products at 0.35%.

The views expressed represent the opinions of Sterling Capital Management. Any type of investing involves risk and there are no guarantees that these methods will be successful. Data is as of 09.30.2025 unless otherwise stated. Source: Bloomberg L.P. Fed = Federal Reserve; bps = basis points. Non-farm payroll refers to the number of jobs in the private sector and government agencies. It excludes farm workers, private household employees, proprietors, non-profit employees, and actively serving military. Yields are subject to market conditions and are therefore expected to fluctuate. The volatility of an index varies greatly. All indices are unmanaged and investments cannot be made directly in an index. The **ICE BofA 1-3Y U.S. Corporate Index** tracks the performance of publicly-issued, USD-denominated, investment-grade rated corporate debt. Each security must have a fixed coupon schedule, a minimum amount outstanding of \$250MM, and one to three years remaining till final maturity. **The Bloomberg U.S. Corporate Index** covers performance for U.S. corporate bonds. This index serves as an important benchmark for portfolios that include exposure to investment grade corporate bonds.