AGENDA
MORGANTOWN CITY COUNCIL
REGULAR MEETING
June 19, 2018
7:00 p.m.

1. CALL TO ORDER:

2. ROLL CALL:

3. PLEDGE TO THE FLAG:

4. APPROVAL OF MINUTES: June 5, 2018 Regular Meeting minutes (Pg. 3)

5. CORRESPONDENCE:

6. PUBLIC HEARINGS:

   A. AN ORDINANCE SETTING FORTH THE RATES, FEES AND CHARGES FOR SERVICE TO CUSTOMERS OF THE WATERWORKS SYSTEM OF THE CITY OF MORGANTOWN (Pg. 25)

   B. AN ORDINANCE APPROVING THE CURRENT REPLACEMENT PAGES TO THE CITY CODE (Pg. 32)

   C. AN ORDINANCE ADOPTING A RIGHT-OF-WAY AND EASEMENT AGREEMENT WITH LUMOS NETWORKS OF WEST VIRGINIA, INC. ON A PORTION OF PROPERTY IDENTIFIED ON MORGANTOWN 6TH WARD DISTRICT TAX MAP 32A, PARCEL 9 (Pg. 33)

   D. AN ORDINANCE AUTHORIZING ACQUISITION OF PROPERTY PARTIALLY IN MORGAN DISTRICT, MONONGALIA COUNTY, WEST VIRGINIA, AND PARTIALLY IN THE SECOND WARD OF THE CITY OF MORGANTOWN (Pg. 40)

   E. AN ORDINANCE REGULATING THE PAYMENT OF EMPLOYEE COMPENSATION (Pg. 93)

7. UNFINISHED BUSINESS:

   A. Consideration of APPROVAL of (SECOND READING) of AN ORDINANCE SETTING FORTH THE RATES, FEES AND CHARGES FOR SERVICE TO CUSTOMERS OF THE WATERWORKS SYSTEM OF THE CITY OF MORGANTOWN (First reading 6/5/2018) (Pg. 25)

   B. Consideration of APPROVAL of (SECOND READING) of AN ORDINANCE APPROVING THE CURRENT REPLACEMENT PAGES TO THE CITY CODE (First reading 6/5/2018) (Pg. 32)

   C. Consideration of APPROVAL of (SECOND READING) of AN ORDINANCE ADOPTING A RIGHT-OF-WAY AND EASEMENT AGREEMENT WITH LUMOS NETWORKS OF WEST VIRGINIA, INC. ON A PORTION OF PROPERTY IDENTIFIED ON MORGANTOWN 6TH WARD DISTRICT TAX MAP 32A, PARCEL 9 (First reading 6/5/2018) (Pg. 33)

   D. Consideration of APPROVAL of (SECOND READING) of AN ORDINANCE AUTHORIZING ACQUISITION OF PROPERTY PARTIALLY IN MORGAN DISTRICT, MONONGALIA COUNTY, WEST VIRGINIA, AND PARTIALLY IN THE SECOND WARD OF THE CITY OF MORGANTOWN (First reading 6/5/2018) (Pg. 40)
E. Consideration of **APPROVAL of (SECOND READING) of AN ORDINANCE REGULATING THE PAYMENT OF EMPLOYEE COMPENSATION** (First reading 6/5/2018) (Pg. 93)

F. **BOARDS & COMMISSIONS:** (Pg. 94)

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

9. SPECIAL COMMITTEE REPORTS:

10. NEW BUSINESS:

   A. Consideration of **APPROVAL of A SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITY DATES, REDEMPTION PROVISIONS, INTEREST RATES, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICES AND OTHER TERMS OF THE COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2018 A-2** (Pg. 123)

   B. Consideration of **APPROVAL of A RESOLUTION APPROVING AND AUTHORIZING TO SUBMIT TO THE US DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) THE FY 2018 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ANNUAL ACTION PLAN** (Pg. 131)

   C. Consideration of **APPROVAL of A RESOLUTION APPROVING AND AUTHORIZING TO SUBMIT TO THE US DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) THE SUBSTANTIAL AMENDMENT TO THE FY 2016 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ANNUAL ACTION PLAN** (Pg. 158)

11. CITY MANAGER'S REPORT:

12. REPORT FROM CITY CLERK:

13. REPORT FROM CITY ATTORNEY:

14. REPORT FROM COUNCIL MEMBERS:

15 ADJOURNMENT:

   *If you need an accommodation contact us at (304) 284-7439*
REGULAR MEETING June 5, 2018: The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers of City Hall on Tuesday, June 5, 2018 at 7:04 p.m.

PRESENT: City Manager Paul Brake, City Clerk Linda Tucker, City Attorney Ryan Simonton, Mayor William Kawecki, and Council Members: Rachel Fetty, Ryan Wallace, Jenny Selin, Ron Dulaney, Deputy Mayor Mark Brazaitis and Barry Wendell.

The meeting was called to order by Mayor Kawecki.

Mayor Kawecki announced that there is an adjustment to the agenda under Item #10-B New Business is on the agenda for reference only.

APPROVAL OF MINUTES: May 15, 2018 Regular Meeting minutes, May 29, 2018 Special Meeting minutes and May 29, 2018 Committee of the Whole Meeting minutes were approved as printed.

CORRESPONDENCE: Mayor Kawecki read a proclamation noting the week of June 11th to 17th as “Men’s Health Week” in the City of Morgantown. Councilor Fetty mentioned a letter that was dropped off at her home and social media comments on Facebook about Haymaker Forest and presented them to the City Manager. Ex. A. She requested that if citizens have comments about issues to direct them to City Council’s formal e-mails so that they can respond. She mentioned the timing of the lights on Spruce Street that needs adjusted before there is a car accident, citizen or disabled person hit. Deputy Mayor Brazaitis noted to save time he will make his remarks about Haymaker Forest during Councilor Reports.

PUBLIC HEARING: AN ORDINANCE AMENDING THE FY 2017-2018 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND:

Mayor Kawecki declared the Public Hearing open.

There being no appearances, Mayor Kawecki declared the Public Hearing closed.

PUBLIC HEARING: AN ORDINANCE AMENDING THE FY 2017-2018 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE COAL SEVERANCE FUND:

Mayor Kawecki declared the Public Hearing open.

There being no appearances, Mayor Kawecki declared the Public Hearing closed.

UNFINISHED BUSINESS:

AN ORDINANCE AMENDING FY 2017-2018 ANNUAL BUDGET AS THE SAME APPLIES TO THE GENERAL FUND: The below entitled Ordinance was presented for second reading.

AN ORDINANCE AMENDING THE FY 2017-2018 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND.

City Manager explained, motion by Wallace, second by Selin, to approve the above entitled Ordinance. Motion carried 7-0.

AN ORDINANCE AMENDING FY 2017-2018 ANNUAL BUDGET AS THE SAME APPLIES TO THE COAL SEVERANCE FUND: The below entitled Ordinance was presented for second reading.

AN ORDINANCE AMENDING THE FY 2017-2018 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE COAL SEVERANCE FUND.
City Manager explained, motion by Wallace, second by Deputy Mayor Brazaitis, to approve the above entitled Ordinance. Motion carried 7-0.

**BOARDS AND COMMISSIONS:** No appointments now. Council by acclamation requested the City Clerk to advertise for a vacancy on the Met Board.

**PUBLIC PORTION:**

Mayor Kawecki declared the Public Portion open.

Fran Toro, 366 Charleston Avenue, approves Council purchasing this 40-acre property for 5.2 million dollars to preserve the Haymaker Forest for the wellness of the community.

John Duarte, 460 Grove Street, spoke of the issue of pedestrian safety at University Avenue and North Street being a dangerous area and mentioned data that he presented to Council indicating that there more incidents at this area. Ex B. He noted that this area is not safe for pedestrians and need enforcement.

Toni Christini, 931 Southpoint Circle, approves Council purchasing Haymaker Forest for the preservation of green space which would also up the budget and help the fiscal situation of the City.

Dr. Jeanne Meade, 88 Horton Lane, Cheat Lake Animal Hospital, stated that the reason for expanding this clinic is due to cats and exotic animals.

Judy Jenkins, 102 Montrose Avenue, she has cats and did not realize the stress that cats have when going to the vet where there are dogs, and now my cats will be calm around other cats in this new location.

Brent Bailey, 901 Fairfax, supports the Haymaker Forest acquisition and all green spaces in the community and noted this one maybe expensive, but worth the purchase. He stated that he is Executive Director of WV Land trust and the Green Space Coalition has been working on connecting neighborhoods and Haymaker Forest is a key player. He encouraged the City to continue to protect green space for the future residents of Morgantown.

Penny Kostka, 895 Fairfax Drive, President of the Evansdale Neighborhood Association, gave a questionnaire to the neighborhood association members on the Haymaker Forest Issue. She noted that the responses were: protection of greenspace; rush job; real estate can be tricky; concern about not a dedicated resource for the purchase; county/city partners on issue; concern about money needed at BOPARC and other areas at the City. She noted that everyone supported Greenspace all through the community.

Elizabeth Sneathen, 179 Bluegrass Village, she feels very passionate about Haymaker Forest and walks there all the time and approve the purchase of this property.

Kristen Matak, 265 Wagner Road, noted she is for green spaces but is concerned for the city would take on debt before the levy is even passed. She asked the Council to reconsider the purchase of the Haymaker Forest now.

John Herod, 384 Spencer Street, noted that his property abuts the Haymaker Forest and he uses the property to walk every day and he supports Council on the purchase of the acquisition.

James Kotcon, 414 Tyrone Avery Road, speaking on behalf of the Green Team, noted that at the June meeting the Green Team passed a Resolution supporting the City on purchasing the Haymaker Forest. He mentioned development of Coopers Rock and what if residents would have waited then it would have never been purchased 25 years ago.

Austin Porter, 848 Riverview, he mentioned his Uncle from Clearwater, FL a Realtor that thought it was important to buy every green space and place a building on it. He stated that green space is important to have to attract new people to come and live in this community.

James Holloway, 788 Alpine Street, noted that he thinks that the price for property is too high, and thinks that there are more things in the City to be spending money on. He mentioned that Council would place this issue on the April ballot and said this would be another burden on the residents and he is against Council having this referendum on the ballot.

Mosey Hardin, 702 South Hills Drive, stated that where he wants his family to live, is somewhere that has green space.
Penny Kostka, 895 Fairfax Avenue, concerned about no identified way of paying back 52 million dollars for Haymaker Forest. She noted this issue may be difficult for citizens vote this in when they look out their front doors and see things not being done by the City that should be.

John Duarte, 460 Grove Street, noted that he loves green space but the City needs to follow the Comprehensive Plan and Haymaker Forest is not in that plan.

Fran Toro, 366 Charleston Avenue, made a correction about Penny Kostka’s statement about the Haymaker Forest and the cost amount of 5.2 million and not 52 million, which is what they are asking for the property.

There being no one else wishing to speak, Mayor Kawecki declared the Public Portion closed.

SPECIAL COMMITTEE REPORTS:

Councilor Wendell attended the WVU Student Government meeting where they were discussing pedestrian safety and student parking. Councilor Selin spoke about the pedestrian safety meetings she has been attending.

NEW BUSINESS:

AN ORDINANCE SETTING FORTH THE RATES, FEES, AND CHARGES FOR SERVICE TO CUSTOMERS OF THE WATERWORKS SYSTEM OF THE CITY OF MORGANTOWN: The below entitled Ordinance was presented for first reading.

AN ORDINANCE SETTING FORTH THE RATES, FEES, AND CHARGES FOR SERVICE TO CUSTOMERS OF THE WATERWORKS SYSTEM OF THE CITY OF MORGANTOWN.

City Manager deferred to Tim Ball, MUB Director to explain the Ordinance. Council suspended the rules to have Tim Ball answer questions for Council. After discussion, motion by Wallace, second by Wendell, to approve the Ordinance to second reading. Motion carried 7-0.

AN ORDINANCE AUTHORIZING CONSTRUCTION AND EQUIPPING OF CERTAIN ADDITIONS TO IMPROVE THE TABLE WATER PORTIONS OF THE EXISTING COMBINED UTILITY SYSTEM: The below entitled Ordinance was on the agenda for reference only:

AN ORDINANCE AUTHORIZING THE DESIGN ACQUISITION, CONSTRUCTION AND EQUIPPING OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE TABLE WATER PORTIONS OF THE EXISTING COMBINED UTILITY SYSTEM OF THE CITY OF MORGANTOWN AND FINANCING OF THE COST THEREOF, NOT MORE THAN $50,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2018 B.

No action was needed by Council.

A SUPPLEMENTAL RESOLUTION RE-DESIGNATING THE PREVIOUSLY AUTHORIZED COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2017 A (TAX EXEMPT) AS COMBINED UTILITY REVENUE BONDS, SERIES 2018 B: The below entitled Ordinance was presented for first reading.

City Manager deferred to Tim Ball, MUB Director to explain the Resolution. Council suspended the rules to have Tim Ball answer questions for Council. After discussion, motion by Wallace, second by Dulaney, to adopt the Resolution. Motion carried 7-0.

AN ORDINANCE APPROVING THE CURRENT REPLACEMENT PAGES TO THE CITY CODE: The below entitled Ordinance was presented for first reading.

AN ORDINANCE APPROVING THE CURRENT REPLACEMENT PAGES TO THE CITY CODE
City Manager explained, motion by Selin, second by Wallace, to approve the above entitled Ordinance to second reading. Motion carried 7-0.

**AN ORDINANCE ADOPTING A RIGHT-OF-WAY AND EASEMENT AGREEMENT WITH LUMOS NETWORKS OF WEST VIRGINIA, INC.:** The below entitled Ordinance was presented for first reading.

AN ORDINANCE ADOPTING A RIGHT-OF-WAY AND EASEMENT AGREEMENT WITH LUMOS NETWORKS OF WEST VIRGINIA, INC. ON A PORTION OF PROPERTY IDENTIFIED ON MORGANTOWN 6TH WARD DISTRICT TAX MAP 32 A PARCEL 9:

City Manager explained, after discussion, motion by Wallace, second by Selin, to approve the above entitled Ordinance to second reading. Motion carried 7-0.

**AN ORDINANCE AMENDING TABLE 1331.05.01 AND SECTIONS 1331.06 OF THE CITY OF MORGANTOWN PLANNING AND ZONING CODE AS THEY RELATE TO VETERINARY CLINIC USES:** The below entitled Ordinance was presented for first reading.

AN ORDINANCE AMENDING TABLE 1331.05.01 AND SECTIONS 1331.06 OF THE CITY OF MORGANTOWN PLANNING AND ZONING CODE AS THEY RELATE TO VETERINARY CLINIC USES.

City Manager deferred to Chris Fletcher, Director of Development Services. Council suspended the rules to have Chris Fletcher explain, after discussion, motion by Wallace, second by Fetty, to approve the above entitled Ordinance to second reading. Motion carried 7-0.

**AN ORDINANCE AMENDING ARTICLES OF THE PLANNING AND ZONING RELATE TO MIXED AND MULTI-USE DEVELOPMENT AND PERFORMANCE AND DESIGN STANDARDS:** The below entitled Ordinance was presented for first reading.

AN ORDINANCE AMENDING ARTICLES 1329, 1331, 1333, 1335, 1337, 1339, 1345, 1351, 1361, AND 1365 OF THE CITY OF MORGANTOWN PLANNING AND ZONING CODE AS THEY RELATE TO MIXED AND MULTI-USE DEVELOPMENT AND RELATED PERFORMANCE AND DESIGN STANDARDS.

City Manager deferred to Chris Fletcher, Director of Development Services. Council suspended the rules to have Chris Fletcher explain, after discussion, motion by Wallace, second by Dulaney, to approve the above entitled Ordinance to second reading. Motion carried 7-0.

**AN ORDINANCE AUTHORIZING ACQUISITION OF PROPERTY PARTIALLY IN MORGAN DISTRICT, IN THE SECOND WARD:** The below entitled Ordinance was presented for first reading.

AN ORDINANCE AUTHORIZING ACQUISITION OF PROPERTY PARTIALLY IN MORGAN DISTRICT, MONONGALIA COUNTY, WEST VIRGINIA, AND PARTIALLY IN THE SECOND WARD OF THE CITY OF MORGANTOWN.

City Manager explained, after discussion, motion by Deputy Mayor Brazaitis, second by Wendell, to approve the above entitled Ordinance to second reading. Motion carried 6-1. Dulaney voted No. Deputy Mayor Brazaitis comments on the Haymaker Forrest in Ex. C.

**AN ORDINANCE REGULATING THE PAYMENT OF EMPLOYEE COMPENSATION:** The below entitled Ordinance was presented for first reading.

AN ORDINANCE REGULATING THE PAYMENT OF EMPLOYEE COMPENSATION.

City Manager explained, after discussion, motion by Selin, second by Dulaney, to approve the above entitled Ordinance to second reading. Motion carried 7-0.
City Manager's Report:

New Business:

1. **Award Street Paving Project – Hot Laid Bituminous Asphalitic Cement (Bid Call No. 2018-08)**
   
   Attached is the recommended paving materials needed for the above-mentioned portion of the 2018 Paving Project. The City Engineer has tabulated the bids and recommends Greer Asphalt Co., in the amount of $560,557.10 for completeness and adherence to the Bid Call Requirements.

   City Manager explains, after discussion, motion by Wallace, second by Selin, to approve the Bid Call No. 2018-08 to Greer Asphalt Co., in the amount of $560,557.10 to complete and adhere to the Bid Call Requirements. Motion carried 7-0.

2. **Award Street Paving Project – (Bid Call No. 2018-09)**
   
   Continuing with the paving contracts, Engineering reviewed the submitted bids for paving through the selected streets in the City. Engineering recommends the award of the contract to the low bidder Parrotta Paving, Inc. in the amount of $873,555.38, for completeness and adherence to the Bid Call Requirements.

   City Manager explains, motion by Dulaney, second by Wallace to approve the Bid Call No. 2018-09 to Parrotta Paving, Inc., in the amount of $873,555.38 to complete and adhere to the Bid Call Requirements. Motion carried 7-0.

3. **Fair and Festival Permit – Jim Dunn Memorial Scholarship Twilight Run**
   
   The City has received a request from the Committee organizing the annual Jim Dunn Memorial Scholarship Twilight 5-Miler. The request is to serve alcoholic beverages at the awards ceremony and banquet, held at the Wharf Parking Garage, and catered by Olivero’s Restaurant at the Wharf. City Council approval is needed to complete the necessary for the West Virginia ABCA Commission.

   City Manager explains, after discussion, motion by Wallace, second by Dulaney, to approve the request to serve alcoholic beverages at the awards ceremony and banquet that is being held in the Wharf Parking Garage. Motion carried 7-0.

4. **Reschedule July 2018 Regular City Council Meetings**
   
   Based on an email exchange and other requests received, City Manager is recommending postponing the July 3rd City Council meeting until the following week. In doing so, the second meeting must be rescheduled as well. Any ordinance taken up during the July meetings must have 14 days between them (as per the City Charter). The proposed meetings dates are July 10 and July 24. In order to change the official calendar, City Council action is needed.

   City Manager explained, after discussion, motion by Dulaney, second by Fetty, to approve moving the City Council Meetings that are originally scheduled for July 3rd to July 10th, and July 17th to July 24th. Motion carried 5-2. Deputy Mayor Brazilitis & Wendell voted No.

Report from City Clerk: City Clerk, Linda Tucker reminded Council that the WVML Annual Conference being held at the Marriott in August will be needing Golfers and helpers to register golfers on August 8th at Lakeview.

Report from City Attorney: Ryan Simonton City Attorney, submitted a written report and will be adding to the preparation of the Land Re-Use Ordinance and Land Preservation Program.

Report from Council Members:

Councilor Fetty: Councilor Fetty thanked everyone for the kind words and that her mother-in-law is doing better. She mentions that BOPARC has been working very hard in support with the staff and administrators as they wade through many challenges. She mentions that she has been meeting with the CHAT Board (Community Housing Advocacy Program) which works to help come up with ways to provide affordable housing for people in the lower to moderate ranges. She announced that the First Ward Neighborhood Association Meeting is on 6/25/18 at Jack Roberts Park at 6:00 pm there will be Pot Luck and everyone is welcome to come.
Councilor Wallace: Councilor Wallace announces a Pool Party at Krepps Pool Saturday, June 9th from 5pm – 8pm hosted by the Family Resource Network. He thanked the residents that spoke this evening and shared their thoughts about the Haymaker Forest. He suggested Council about possibly getting a board together on Haymaker Forest and knows that there are experts at the Collage of Law that would be of help, particularly Kathy Garvey and Jessie Richardson. He thanked Mr. Duarte about his comments about University Avenue and the corner of North and Warrick Streets. He noted that he can attest to the number of incidents, accidents and close calls that occur along that stretch of road. He mentions the light/telephone poles as well that needs to be replaced. He stated that there will be a BOPARC Triathlon coming back this year and will be held on Friday, August 17th and Saturday, August 18th for all Children and Adults.

Councilor Selin: Councilor Selin she mentions that at the Suncrest Neighborhood Association meeting there was talk about trails in the back yard of Suncrest Elementary School and how they can be connected with the other trails. She mentions that the Evansdale Neighborhood Association meeting will be on 6/6/2018.

Councilor Dulaney: Councilor Dulaney stated that Saturday night he had the honor of participating in the Ribbon Cutting Ceremony at the Hazel Ruby McQuain Equestrian Education Center at J.D. Ruby Park in Reedsville. He noted that he did the early schematic design for the Center and is almost a $7 million-dollar project. He stated that the BOPARC Pools are now open and his children are thrilled about it. He complemented the young staff at Marilla Pool that maintains safety for all. He mentioned that it is wonderful about Haymaker Forest and he is in support of Green Space but is concerned about how they are going to pay for it. He gives an example, such as the Safer Grant and how after 3 years when the grant is up how is the City going to come up with that amount of money.

Deputy Mayor Brazaitis: To see Deputy Mayor Brazaitis report reference attached Ex. C

Councilor Wendell: To see Councilor Wendell’s report reference attached Ex. D

Mayor Kawecki: Mayor Kawecki made the following Announcements: Chess Club 6/6/2018 at 6pm to 8pm at the Morgantown Public Library; Floriography – The Secret Language of Flowers 6/6/2018 at 7pm at the WV Botanic Gardens; “My Uncle John is a Zombie” 6/8/2018 at 8pm at the Mon Arts Center; Farmers Market to watch a group called the “Founding” and they were phenomenal.

**ADJOURNMENT:** There being no further business, motion to adjourn by consensus at 10:35 p.m.

_____________________________  __________________________________
City Clerk  Mayor

*A FULL TRANSCRIPT OF ALL COUNCIL MEETINGS ARE AVAILABLE ON DVD IN THE CITY CLERKS OFFICE*
Dear City Council,

I am writing in opposition to the acquisition of the tract of land known as Haymaker Forest. The three reasons listed as reasons to acquire this land are: to provide storm water management, increase recreational space, add to the part of the "Southern greenbelt". All of those are admirable goals but no other options have been presented to accomplish those goals other than this significant $5.2 million dollar expenditure of community resources.

It is disingenuous at best to assert that effective and long-term storm water management is not possible in areas targeted for thoughtful development. Smart thoughtful zoning that encourages light imprint new urbanism development for tracts of land in and around Morgantown would not only add much needed desirable housing stock but it would also increase our tax rolls.

The 2013 Morgantown strategic plan in chapter 7 on page 82 specifically states that according to the National Recreation and Park Association sets a target for between 6.25 and 10.5 acres of parkland per 1000 person in urban areas. Morgantown has 11.4 acres, exceeding that top goal by 8.5%. BOPARC currently gets around $1.1M dollars per year from the city. How about we take the money we are planning on spending on this county tract of land, save ½ and spend the other half on improving our already very abundant BOPARC urban parks?

The southern greenbelt scenario is one that can be addressed by thoughtful planning of sustainable development for the property. There are countless examples across the country of towns working with developers to meet town and housing goals where the town wins with increases to the tax roles, the environment wins because of thoughtful, sustainable development, and the citizens win because of improvements to the diversity of the housing stock. There has been no discussion or exploration of these options for this tract of land. The simplest answer is to write a check and let the citizens pay for it. I am asking council to open this for discussion and debate, put together a task force to evaluate this as well as other options and report back with a recommendation. The existing plan of purchase and ask for people to pay for it later is not an appropriate solution.

Sincerely,
Richard Giersch
240 Quinn Rd
Morgantown, WV 26501
Micah Weglinski It's my understanding that it would go to the voter's as a ballot initiative.
https://www.dominionpost.com/.../morgantown-city-council.../Manage

Morgantown City Council considers acquisition of Haymaker Forest ...
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Kristen Matak Yes, that's correct. But that is going to happen in April 2019. In this interview it appears that they're going to vote to buy the land now and then ask the voters if they're for it in April.
Manage
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Micah Weglinski Kristen Matak oh, so the vote will only be on the tax levy to pay for it
Manage
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Kristen Matak Micah Weglinski that's how I understand it. The city doesn't have the money to pay for the land SO if the Levy doesn't pass - selling off other properties comes into place - like the city owned areas near the Botanical Gardens - to pay for something that is rushed through.
Manage
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Micah Weglinski You going to the meeting tomorrow?
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Kristen Matak Micah Weglinski Looks like I'll have to...
11
Manage
Doug Moore The city owns a ton of land outside the city limits. Mostly through MUB. Remember the area around the Botanic gardens used to be a city water reservoir. In a realistic sense selling land to buy "better" land is kind of what the Nature Conservancy does as well. It probably is better for Morgantown to sell of land outside the city limits if it allows them to buy land within the city limits.

Kristen Matak replied · 1 Reply

Rachel Fetty The Haymaker Forest touches three wards and would significantly expand our green space. There are certainly several sides to this discussion and I hope you will all come and hear more and add your thoughts. I do think it will help to understand the full proposal. You can read the proposed agenda and check out the maps on the agenda for tomorrow’s meeting on the City website.

Kristen Matak I read the proposal (page 178 of the agenda). I am for green spaces but that doesn't make up for the fact that the city does not have the money to pay for this. I feel like it would be fiscally irresponsible for the council to pass this and then force the voters later in April 2019 to pay for it (by threatening to sell off other already established green spaces).

Doug Moore Kristen Matak Are they threatening to sell off the Botanic Gardens? That is the only parcel they own on Tyrone as far as I can tell.
Kristen Matak Please listen to the broadcast and decide for yourself 😊:-)

Rachel Fetty Councilor Brazaitis is likely discussing a parcel near the Botanic Gardens that is NOT the Botanic Gardens or directly connected to them. No one is considering selling the Botanic Gardens! I understand some frustration related to funding various priori...See More

Richard Giersch Rachel Fetty The majority of this space is not in the city limits and a well developed "New urbanism" housing development for the space would preserve the vast majority of the green areas, add much needed revenue to the tax roles and be good stewardshi...See More

Richard Giersch Sorry. The number for recommended park land is between 6.25 and 10.5 acres. Also, my comments could have been edited for clarity and typos. Apologies for that as well.
Rachel Fetty “Disingenuous” implies a lack of sincerity or truthfulness which is certainly not at work here. Saving the Haymaker Forest has been at the heart of the Deputy Mayors campaign and nearly every speech he’s given since I’ve met him. He’s been 100% forthc...See More

Rachel Fetty Hi Richard, I just got your letter and will take it to City Council and the City Manager tonight. Thank you for putting so much time and thought into this. I agree with you re: the “smart thoughtful zoning” and “light imprint new urbanism”, but fear th...See More

Doug Moore The more I look at this piece of property as well as the 200 acre tract the city already owns near the Botanic Garden I wonder if it would make more sense for the city (via BOPARC) to work with the county to obtain the few very large tracts that surrou...See More

Kristen Matak shared a memory — with Maura McLaughlin and Rachel Fetty.
June 3 at 4:21pm

The kids are having round 2 tonight. Good luck!
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<td>1898</td>
<td>1898 University &amp; Falling Run</td>
<td>2017-09-05</td>
<td>1619</td>
<td>2</td>
</tr>
<tr>
<td>40</td>
<td>2017-117283</td>
<td>1898</td>
<td>1898 University Avenue &amp; Falling Run Road</td>
<td>2017-09-28</td>
<td>1810</td>
<td>2</td>
</tr>
<tr>
<td>41</td>
<td>2017-121639</td>
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<td>1898 University Avenue &amp; Falling Run Road</td>
<td>2017-10-07</td>
<td>1839</td>
<td>3</td>
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<tr>
<td>42</td>
<td>2017-129634</td>
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<td>1898 University Avenue &amp; Falling Run Road</td>
<td>2017-10-23</td>
<td>1823</td>
<td>2</td>
</tr>
<tr>
<td>43</td>
<td>2017-130735</td>
<td>1898</td>
<td>1898 University Avenue &amp; Falling Run Road</td>
<td>2017-10-26</td>
<td>805</td>
<td>2</td>
</tr>
<tr>
<td>44</td>
<td>2017-132176</td>
<td>1898</td>
<td>1898 University Avenue &amp; Falling Run Road</td>
<td>2017-10-28</td>
<td>2309</td>
<td>2</td>
</tr>
<tr>
<td>45</td>
<td>2017-139954</td>
<td>1898</td>
<td>1898 University Avenue &amp; Falling Run Road</td>
<td>2017-11-14</td>
<td>1737</td>
<td>1</td>
</tr>
<tr>
<td>46</td>
<td>2018-14344</td>
<td>1898</td>
<td>1898 University Avenue &amp; Falling Run Road</td>
<td>2018-02-01</td>
<td>1759</td>
<td>2</td>
</tr>
<tr>
<td>47</td>
<td>2018-14635</td>
<td>1898</td>
<td>1898 University Avenue &amp; Falling Run Road</td>
<td>2018-02-02</td>
<td>1034</td>
<td>2</td>
</tr>
<tr>
<td>48</td>
<td>2018-20781</td>
<td>1898</td>
<td>1898 University Avenue &amp; Falling Run Road</td>
<td>2018-02-15</td>
<td>2043</td>
<td>2</td>
</tr>
<tr>
<td>49</td>
<td>2018-36454</td>
<td>1898</td>
<td>1898 University Avenue &amp; Falling Run Road</td>
<td>2018-03-21</td>
<td>2033</td>
<td>2</td>
</tr>
<tr>
<td>50</td>
<td>2018-61919</td>
<td>1898</td>
<td>1898 University Avenue &amp; Falling Run Road</td>
<td>2018-05-15</td>
<td>2100</td>
<td>2</td>
</tr>
</tbody>
</table>
Benefits of the Haymaker Forest (and related points):

1. **Purchase of the Haymaker Forest would give us a calling card: an urban forest, our equivalent of Washington D.C.’s Rock Creek Park.** This doesn’t only benefit residents of the 3 wards the forest touches on, but everyone in the city and the county who wants to enjoy it. It’s a recreation area. A place of refuge in our hectic lives. It’s Coopers Rock within the city.

2. **It’s a crucial component of a green belt.** A green belt can distinguish us not only from other cities in West Virginia but other cities in the Mid-Atlantic region and across the country. Once we establish a green belt, we will capture people’s attention. People and businesses will want to come here. People and businesses will want to stay here. It will help our economy grow and prosper. It will enhance (and maybe even define) our “brand.”

3. **The Haymaker Forest is listed in both the city’s and county’s comprehensive plans as “reserve” land – not to be developed.** There is a good reason for that. It’s vital to our air and our water and our overall health. The forest is an air purifier. It’s a temperature regulator, putting the brakes on extremes of cold and heat. It’s a wind break. It’s a natural carbon-capture “machine.”

4. **To elaborate on water:** The Haymaker Forest protects the headwaters of Aaron’s Creek, a sub-basin of the Deckers Creek watershed. The forest plays a crucial role in protecting downstream property from stormwater runoff and flash-flooding events that are becoming increasingly common in our area – especially on Greenbag Road and in Sabraton. The forest intercepts the rainfall, allows the rain to penetrate the forest soil, and significantly diminishes runoff.

5. **We remember the 2016 flood in West Virginia in three counties (Greenbrier, Kanawha, and Nicholas).** A quote from July 7, 2016: “**Disasters are expensive.** Two weeks after the flood it’s difficult to get a handle on just how much the recovery will cost. However, repairing the damage will likely add up to several hundred millions of dollars. Tomblin administration officials believe the damage to public property will easily exceed $100 million.” — Hoppy Kercheval **The actual number was $300 million. 26 people died.**

6. **$5.2 million looks paltry compared to $300 million.**

7. **$5.2 million also looks small compared to the $6 million it will cost to repair the slips on River Road.** The slips! We’re talking just about the slips. $6 million! And how long are those repairs going to last?

8. **The city’s and county’s comprehensive plans say Haymaker is reserve – not to be developed – precisely to avoid those kinds of expenses.**

9. **Development of that property would mean more traffic pouring into quiet Morgantown neighborhoods—South Park, First Ward, South Hills, and beyond.** (Do we want Grand Street to be a highway? It’s busy enough as it is.) This equals more congestion and more aggravation. This means more wear and tear on our roads and bridges. This would be a loss to city residents financially and in quality of life.

10. **There are appropriate places to develop.** We’ve identified those: downtown and the waterfront. We need to grow at our core, not at our edges, where sprawl would be ruinous.

11. **The designation of “reserve” on the city’s and county’s comprehensive plan doesn’t protect the Haymaker Forest.** These are thoughtful plans without any teeth. Most of the
forest is in the county. Developers could put in basically whatever they wanted there. We could get a cement factory - the way the family out near Elizabeth’s Woods - six miles from Morgantown - a family with an asthmatic child - got a cement factory. Nothing to be done in their case. It’s in the county. We as a city could be in the same merciless and uncertain position.

12. In 2015, three Morgantown neighborhood associations (South Park, South Hills, Southpoint Circle) petitioned both the city council and the county commission to do all they could to keep the land in its current, natural state.

13. People describe the Haymaker Forest as “Morgantown’s best kept secret.” It should be everyone’s secret to know and enjoy.

14. Worst case scenario: The city buys the land, the voters don’t want to fund green-space acquisition, we need to sell some or all of it. At least it’s properly zoned. At least the B&O taxes will be paid into the city. At least there is proper control.

15. “We can’t afford to buy the Haymaker Forest.” No, we can’t afford NOT to buy the **Haymaker Forest**. This property will stay in the community’s hands FOREVER. All the benefits above—from protecting us from heat waves and floods to ensuring neighborhood integrity and quality of life—extend FOREVER (i.e. as long as Morgantown exists). $5.2 million divided by forever is a very good deal for the city.

Do we have other problems we need to address in our community? Of course.

American’s problems in the 1960s, including the Vietnam War, didn’t stop us from putting a man on the moon in 1969.

We can pursue big projects that will benefit our community as we work to solve other issues.

We need a new downtown library. We need a year-round, two-sheet ice rink. We need affordable housing. We need a vibrant, revitalized downtown, without heavy truck traffic. We need a YMCA or other recreation center that is affordable and accessible to all people in our community.

We have to work simultaneously on a number of these important issues—and we are.

Do solutions exists to help us address our needs?

Yes. Home Rule, presuming it is made permanent, is a great tool.

We will, very soon, be making a convincing case for annexation—extending our borders by 3 square miles. Annexation will allow businesses and people at our borders to support what they already enjoy, including BOPARC, our improving roads, the Met Theater, and, soon, the Haymaker Forest.

Our city’s budget is very low in relation to what our community both wants and needs. We need to expand our city’s budget in fair, commonsense ways such as annexation.
Thanks, first to Councilor Brazaitis for taking me on a tour of Haymaker Forest last week. The wildflowers, the stands of trees, the creeks and even the odd things people have built amazed me.

Councilor Selin spoke about the Suncrest Association meeting. Vaike Haas spoke about building trails on city property to connect the Seventh Ward to the rail trail, and how to make it safer for students to walk and bicycle to the new Suncrest Elementary. We discussed the possibility that the school would be annexed to Morgantown.

A gentleman tonight spoke about how dangerous University Avenue is. I know. I walk, bicycle, and drive through there at the speed limit while cars are tailgating me. A disability activist I know (who has since moved away) complained to me about the poles that block use of the sidewalk by wheelchairs. Councilor Wallace spoke about this tonight also, as he lives on one of the dangerous corners of University.

I bicycled down University Avenue to downtown Saturday morning to the rail trail, where I saw the end of "Trail Mix" the half-marathon foot race from Masontown to Morgantown on Deckers Creek Trail. Congratulations to City Attorney Ryan Simonton for placing third overall in this race.

Joe and I attended the dinner party for Empty Bowls at an event center off Goshen Road Saturday night. It was a great affair, and for a good cause. Growing up in Baltimore, we had kosher caterers who handled Jewish events, and I suppose there were caterers for other people. African-Americans were excluded from all of this. Until I was an adult, I only attended Jewish events. We were not welcome anywhere else. So I had a moment of disconnect when I realized there were only four Jewish people at this event.

At our next meeting, I will probably have a bandage on my head. A few weeks ago, two suspicious spots were biopsied on my head. One turned out to be a basal cell carcinoma, and it will be removed the day before our next meeting. At the surgeon's office, where I was interviewed last week, the nurse had questions for me, one of which was "Did you spend a lot of time in the sun as a child?" My answer was "I was in the sun all the time growing up. My grandparents lived on Long Island in New York, walking distance to the ocean, and we spent much of the summer with them in my childhood. I also spent more than thirty years of my life in Miami, Florida and Los Angeles, California, and yes, I was in the sun all the time, and frequently at the beach." She asked, "Did you wear sunscreen?" "Not usually." My feeling about this is that I am now 68, in a family with a history of heart disease and more serious cancer. Of course, I would rather not have this, but if I had to live my life over, I would still spend as much time as I did in the sun, knowing the price would be bad skin in my late sixties. I have no regrets.
CITY OF MORGANTOWN

AN ORDINANCE SETTING FORTH THE RATES, FEES AND CHARGES FOR SERVICE TO CUSTOMERS OF THE WATERWORKS SYSTEM OF THE CITY OF MORGANTOWN.

THE COUNCIL OF THE CITY OF MORGANTOWN HEREBY ORDAINS: The following rules, rates and charges are hereby fixed, determined and established for municipal water services provided to all general domestic, commercial, and industrial users of the City of Morgantown’s Municipal Waterworks System, commencing upon the effective date as hereinafter provided, and in accordance with the following Rates and Schedules:

SECTION 1 – TARIFF

927.01 RATE SCHEDULES

The following schedules of rates, fees, charges, delayed payment penalty charges, service connection charges, reconnection charges and opening or transferring account charges are hereby fixed and determined as the rates, fees, charges, delayed payment penalty charges, service connection charges, reconnection charges and opening or transferring account charges to be charged to consumers of the waterworks system of the City throughout the entire territory served.

SCHEDULE NO. 1

APPLICABILITY
Applicable in entire territory served. Effective for bills rendered on or after 2018, November 5, 2018.

AVAILABILITY OF SERVICE
Available for general, domestic, commercial and industrial service.

RATE

<table>
<thead>
<tr>
<th>Gallons Used Per Month</th>
<th>Rate Per 1,000 Gallons</th>
</tr>
</thead>
<tbody>
<tr>
<td>First 60,000</td>
<td>$5.15</td>
</tr>
<tr>
<td>All Over 60,000</td>
<td>$3.37</td>
</tr>
</tbody>
</table>
MINIMUM CHARGE
No bill will be rendered for less than the following amounts, according to the size of the meter installed, to wit:

<table>
<thead>
<tr>
<th>Meter (inches)</th>
<th>Rate Per Month</th>
</tr>
</thead>
<tbody>
<tr>
<td>5/8 inch or less</td>
<td>$5.15</td>
</tr>
<tr>
<td>3/4 inch</td>
<td>$7.76</td>
</tr>
<tr>
<td>1 inch</td>
<td>$12.88</td>
</tr>
<tr>
<td>1 1/2 inch</td>
<td>$25.74</td>
</tr>
<tr>
<td>2 inch</td>
<td>$41.18</td>
</tr>
<tr>
<td>3 inch</td>
<td>$77.21</td>
</tr>
<tr>
<td>4 inch</td>
<td>$128.68</td>
</tr>
<tr>
<td>6 inch</td>
<td>$257.36</td>
</tr>
<tr>
<td>8 inch</td>
<td>$411.77</td>
</tr>
</tbody>
</table>

DELAYED PAYMENT PENALTY
The above tariff is net. On all current usage billings not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is only to be collected once for each month where it is appropriate.

TAP FEE
The following charges are to be made whenever the utility installs a new tap to serve an applicant:

<table>
<thead>
<tr>
<th>Meter (inches)</th>
<th>Tap Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>5/8 inch or less</td>
<td>$700.00</td>
</tr>
<tr>
<td>3/4 inch</td>
<td>$700.00</td>
</tr>
<tr>
<td>1 inch</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>1 1/2 inch</td>
<td>$1,500.00</td>
</tr>
<tr>
<td>2 inch</td>
<td>$2,000.00</td>
</tr>
<tr>
<td>&gt;2 inch</td>
<td>Actual Cost</td>
</tr>
</tbody>
</table>

RECONNECTION CHARGE
A fee of fifteen dollars ($15.00) during Utility Board regular working hours and twenty-five dollars ($25.00) after hours shall be charged whenever the supply of water is turned off for violation of rules, nonpayment of bills, or fraudulent use of water.

LEAK ADJUSTMENT
$0.615 per 1,000 gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible water leakage on the customer’s side of the meter. This rate shall be applied to all such unusual consumption above the customer’s historical average usage.

RETURNED CHECK CHARGE
A service charge of $20.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.
QUARRY RUN DEBT SERVICE SURCHARGE
Applicable only to customers in the Quarry Run area: $40.00 per month, per customer. This surcharge will be evaluated annually and in the event that a change in the number of customers results in a five percent (5%) change in the rate, the rate will be adjusted.

ROCKLEY ROAD DEBT SERVICE SURCHARGE
Applicable only to customers in the Rockley Road area: $57.25 $77.69 per month, per customer. This surcharge will be evaluated annually and in the event that a change in the number of customers results in a five percent (5%) change in the rate, the rate will be adjusted.

SCHEDULE NO. 2

APPLICABILITY
Applicable in entire territory served. Effective for bills rendered on or after May 21, 2018, November 5, 2018.

AVAILABILITY OF SERVICE
Available for general, domestic, commercial and industrial service.

RATE

<table>
<thead>
<tr>
<th>Gallons Used Bi-Monthly</th>
<th>Rate Per 1,000 Gallons</th>
</tr>
</thead>
<tbody>
<tr>
<td>First 120,000</td>
<td>$5.15</td>
</tr>
<tr>
<td>All Over 120,000</td>
<td>$3.37</td>
</tr>
</tbody>
</table>

MINIMUM CHARGE
No bill will be rendered for less than the following amounts, according to the size of the meter installed, to wit:

<table>
<thead>
<tr>
<th>Meter (inches)</th>
<th>Rate Per (Bi-Monthly)</th>
</tr>
</thead>
<tbody>
<tr>
<td>5/8 inch or less</td>
<td>$10.30</td>
</tr>
<tr>
<td>3/4 inch</td>
<td>$15.52</td>
</tr>
<tr>
<td>1 inch</td>
<td>$25.76</td>
</tr>
<tr>
<td>1 1/2 inch</td>
<td>$51.48</td>
</tr>
<tr>
<td>2 inch</td>
<td>$82.36</td>
</tr>
<tr>
<td>3 inch</td>
<td>$154.42</td>
</tr>
<tr>
<td>4 inch</td>
<td>$257.36</td>
</tr>
<tr>
<td>6 inch</td>
<td>$514.72</td>
</tr>
<tr>
<td>8 inch</td>
<td>$823.54</td>
</tr>
</tbody>
</table>
DELAYED PAYMENT PENALTY
The above tariff is net. On all current usage billings not paid in full when due, ten percent (10%) will be added to the net amount unpaid. This delayed payment penalty is not interest and is only to be collected once for each month where it is appropriate.

TAP FEE
The following charges are to be made whenever the utility installs a new tap to serve an applicant:

<table>
<thead>
<tr>
<th>Meter (inches)</th>
<th>Tap Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>5/8 inch or less</td>
<td>$700.00</td>
</tr>
<tr>
<td>3/4 inch</td>
<td>$700.00</td>
</tr>
<tr>
<td>1 inch</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>1 1/2 inch</td>
<td>$1,500.00</td>
</tr>
<tr>
<td>2 inch</td>
<td>$2,000.00</td>
</tr>
<tr>
<td>&gt;2 inch</td>
<td>Actual Cost</td>
</tr>
</tbody>
</table>

RECONNECTION CHARGE
A fee of fifteen dollars ($15.00) during Utility Board regular working hours and twenty-five dollars ($25.00) after hours shall be charged whenever the supply of water is turned off for violation of rules, nonpayment of bills, or fraudulent use of water.

LEAK ADJUSTMENT
$0.615 per 1,000 gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible water leakage on the customer’s side of the meter. This rate shall be applied to all such unusual consumption above the customer’s historical average usage.

RETURNED CHECK CHARGE
A service charge of $20.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

QUARRY RUN DEBT SERVICE SURCHARGE
Applicable only to customers in the Quarry Run area: $80.00 bi-monthly, per customer. This surcharge will be evaluated annually and in the event that a change in the number of customers results in a five percent (5%) change in the rate, the rate will be adjusted.

ROCKLEY ROAD DEBT SERVICE SURCHARGE
Applicable only to customers in the Rockley Road area: $144.50 $155.38 bi-monthly, per customer. This surcharge will be evaluated annually and in the event that a change in the number of customers results in a five percent (5%) change in the rate, the rate will be adjusted.
SCHEDULE NO. 3

APPLICABILITY
Applicable in the City of Morgantown.

AVAILABILITY OF SERVICE
Available for service to public fire hydrants.

RATE
The City of Morgantown shall pay as a public fire charge at the rate of $133.00 per hydrant per annum, payable in twelve equal monthly installments. This charge covers all water system facilities existing at Morgantown, West Virginia which are used in whole or in part for public fire service.

SCHEDULE NO. 4

APPLICABILITY
Applicable in the municipalities served by the Board excluding the City of Morgantown.

AVAILABILITY OF SERVICE
Available for service to public fire hydrants.

RATE
Any municipality shall pay as a public fire charge at the rate of $133.00 per hydrant per annum, payable in twelve equal monthly installments. This charge covers all water system facilities existing in any municipality which are used in whole or in part for public fire service.
SCHEDULE NO. 5

APPLICABILITY
Applicable in entire territory served (except municipalities).

AVAILABILITY OF SERVICE
Available for service to private fire protection facilities.

RATE

<table>
<thead>
<tr>
<th>Description</th>
<th>Per Annum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fire Hydrants, each</td>
<td>$192.85</td>
</tr>
<tr>
<td>Sprinkler Heads, 312 or less</td>
<td>$192.85</td>
</tr>
<tr>
<td>Sprinkler Heads, each additional</td>
<td>$0.692</td>
</tr>
</tbody>
</table>

Hose Connections, for fire use only:

<table>
<thead>
<tr>
<th>Size</th>
<th>Per Annum</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 1/2 inch openings, each</td>
<td>$112.39</td>
</tr>
<tr>
<td>2 inch openings, each</td>
<td>$58.79</td>
</tr>
<tr>
<td>1 1/2 inch openings, each</td>
<td>$32.25</td>
</tr>
<tr>
<td>1 1/4 inch openings, each</td>
<td>$21.28</td>
</tr>
<tr>
<td>1 inch openings, each</td>
<td>$13.30</td>
</tr>
</tbody>
</table>

MINIMUM CHARGE
One hundred ninety two dollars and eighty five cents ($192.85) per annum.

DELAYED PAYMENT PENALTY
The above tariff is net. On all current usage billings not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is only to be collected once for each month where it is appropriate.

TERMS AND CONDITIONS OF SERVICE
Charges for service rendered under this schedule are billed bi-monthly in arrears, and bills are payable on or before the twentieth (20th) day following the date rendered.

RETURNED CHECK CHARGE
A service charge of $20.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.
SECTION 2 – EFFECTIVE DATE


SECTION 3 – SEVERABILITY; REPEAL OF CONFLICTING ORDINANCES

The provisions of this Ordinance are severable, and if any clause, provision or section hereof shall be held void or unenforceable by the Public Service Commission of West Virginia or any court of competent jurisdiction, such holding shall not affect the remainder of this Ordinance. Upon the effective date hereof, all ordinances, resolutions, orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflicts, hereby repealed, and to the extent that the provisions of this Ordinance do not touch upon the provisions of prior ordinances, resolutions, orders or parts thereof, the same shall remain in full force and effect.

SECTION 4 – STATUTORY NOTICE AND PUBLIC HEARING

Upon introduction hereof, the City Clerk shall cause to be published a copy of this Ordinance in the Dominion Post, a qualified newspaper of general circulation in the City of Morgantown, and said notice shall state that this Ordinance has been introduced, and that any person interested may appear before the City Council on Tuesday, January 23, 2018, June 19, 2018, at 7:00 p.m., which date is not less than five (5) days after the date of the publication of the Ordinance and notice, and present any comment or protest thereto, following which hearing, Council shall take such action as it shall deem proper. Copies of this Ordinance shall be available to the public for inspection at the office of the City Clerk, City of Morgantown, Morgantown, West Virginia.

First Reading: June 5, 2018
Second Reading and Public Hearing: June 19, 2018

CITY OF MORGANTOWN, a municipal corporation

Mayor: ______________________________
Clerk: ______________________________
AN ORDINANCE TO APPROVE CURRENT REPLACEMENT PAGES TO THE CITY CODE.

WHEREAS, various ordinances of a general and permanent nature have been passed by Council which should be included in the City Code;

WHEREAS, certain provisions in the Traffic and General Offenses Codes should be revised to comply with current State law;

WHEREAS, the City has heretofore entered into a contract with the Walter H. Drane Company to prepare and publish such revision which is before Council; now, therefore,

THE CITY OF MORGANTOWN HEREBY ORDAINS:

Section 1. That the ordinances of the City of Morgantown, West Virginia, of a general and permanent nature, as revised, recodified, rearranged and consolidated into component codes, chapters, articles and sections within the 2018 Replacement Pages to the City Code are hereby approved and adopted.

Section 2. That this Ordinance shall be effective from the date of its adoption.

FIRST READING:

ADOPTED:

FILED: ____________________________

MAYOR

RECORDED: _______________________

CITY CLERK
AN ORDINANCE ADOPTING A RIGHT-OF-WAY AND EASEMENT AGREEMENT WITH LUMOS NETWORKS OF WEST VIRGINIA, INC. ON A PORTION OF PROPERTY IDENTIFIED ON MORGANTOWN 6TH WARD DISTRICT TAX MAP 32A, PARCEL 9.

The City of Morgantown hereby ordains that the City Manager is authorized to execute, the Right-of-Way and Easement Agreement attached to, and made a part of, this ordinance, together with such additional documents as are necessary in connection with the Agreement.

This Ordinance shall be effective from the date of its adoption.

First Reading:

Adopted:____________________________________

Mayor

Filed:____________________________________

City Clerk

Recorded:____________________________________
RIGHT-OF-WAY AND EASEMENT AGREEMENT

THIS RIGHT-OF-WAY AND EASEMENT AGREEMENT, made and executed this ____ day of __________, 2018, by and between THE CITY OF MORGANTOWN, West Virginia, a municipal corporation, party of the first party, GRANTOR, and LUMOS NETWORKS OF WEST VIRGINIA, INC., a foreign corporation duly organized and doing business under the laws of the Commonwealth of Virginia, with its principal office located in Waynesboro, Virginia and authorized to do business in the State of West Virginia, party of the second part, GRANTEE.

WITNESSETH: That for and in consideration of the payment of One Dollar ($1.00), cash in hand paid, the receipt of which is hereby acknowledged, and other good and valuable consideration hereinafter detailed, GRANTOR does now hereby grant and convey unto the GRANTEE, its contractors, licensees, lessees, sublessees, successors and/or assigns, a non-exclusive right-of-way and easement for the laying, relaying, constructing, reconstructing, placing, replacing, repairing, maintaining, and removing approximately Six Hundred Eighty feet (680’) of 1.5 inch high-density polyethylene conduit housing a subsurface fiber optic service location, lying and being within the Sixth Ward of the City of Morgantown, Monongalia County, West Virginia., and shown on Tax Map 32A, Parcel 9.

The location of said right-of-way and easement is more particularly shown upon the drawing attached as Exhibit 1 to this Agreement.

For the consideration aforesaid, GRANTOR does now also hereby grant and convey unto the GRANTEE, its contractors, licensees, lessees, sublessees, successors and/or assigns, the right of ingress, egress, and regress to and from the easement area.

The structure(s) shall be constructed, maintained and repaired at GRANTEE’s, or its contractors, licensees, lessees, sublessees, successors and/or assigns, sole cost and expense. All
work to construct, install, maintain and/or repair the facility (the “Work”) shall be subject to the following additional conditions:

(a) all Work shall be performed by GRANTEE, or its contractors, licensees, lessees, sublessees, successors and/or assigns, as expeditiously as possible in accordance with good construction practices and so as to minimize interference with the use of the GRANTOR’s property, including the flow of pedestrian and vehicular traffic;

(b) any surface or subsurface damage to paved areas or other improvements in the GRANTOR’s property caused by GRANTEE, or its contractors, licensees, lessees, sublessees, successors and/or assigns, in connection with the Work shall be promptly repaired by Grantee to a condition equal to that existing before any such Work or actions were undertaken, or as directed by the City Engineer; and

(c) Whenever entry onto GRANTOR’s property is required for construction, maintenance, or repairs, GRANTEE, or its contractors, licensees, lessees, sublessees, successors and/or assigns, shall obtain approval from an authorized representative of GRANTOR prior to entry, and shall conduct such entry only at such times as permitted by Grantor. In the event of an unscheduled event, such as emergency repairs or maintenance to GRANTEE’s facilities, GRANTOR shall make all reasonable efforts to grant and or approve GRANTEE’s entry onto GRANTOR’s property;

Contact for routine events:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________
Emergency contact: 

(d) GRANTOR will not be responsible for repair or replacement of any item or material placed in the property pursuant to this Agreement, or of any item relying upon materials or items placed in the property, regardless of the cause requiring such repair or replacement, including Grantor’s own operations. Notwithstanding the foregoing, nothing in this section shall require either Party hereto to indemnify the other Party against such other Party’s willful misconduct or gross negligence; and

(f) In the event the structure(s) would compromise the safety of life or property upon or adjacent to GRANTOR’s property, at the direction of the City Engineer, GRANTEE shall promptly repair the condition compromising safety and restore the surface or subsurface damage to paved areas or other improvements of GRANTOR’s property to a condition equal to that existing before any such Work or actions were undertaken.

The GRANTOR does grant and convey said right-of-way and easement unto the GRANTEE, its contractors, licensees, lessees, sublessees, successors and/or assigns, upon the following terms and conditions:

(a) GRANTEE shall pay to GRANTOR the sum of Six Thousand One Hundred Twenty dollars and zero cents ($6,120.00) as consideration for the easement granted herein.
(b) GRANTEE shall name GRANTOR as an additional insured on its insurance policy covering the Work and shall provide evidence of the same upon demand by Grantor.

(c) GRANTEE and its successor and assigns do hereby agree to defend, indemnify, hold harmless, and release the City from any and all claims, demands, lawsuits, or liability in any way related to the use of the easement granted in this Agreement, including without limitation the conduct of the Work and the function of any structure(s) placed in the easement area, except for claims based only upon the sole negligence of GRANTOR.

(d) Upon either the removal of the subsurface structure(s) placed in the easement area or the cessation of use of such structure(s), the easement to GRANTEE and its successors and assigns shall terminate, and no additional or other use of the easement area will be permitted; provided, however, that the defense and indemnity obligations of GRANTEE and its successors and assigns shall survive the termination of the easement.

This Agreement shall be binding upon the parties and their respective successors and/or assigns. The rights of way and easements granted herein shall be appurtenant to and run with the land thereby benefited and burdened.

This Agreement may be executed in multiple counterparts, each of which shall, for all purposes, be deemed an original and all of which, taken together, shall constitute one and the same agreement.

**DECLARATION OF CONSIDERATION**

Under the penalties of fine and imprisonment as provided by law, the undersigned hereby declares that the transfer involved in the document to which this Declaration is appended is a transfer to or from the State of West Virginia, or to or from any of its instrumentalities, agencies or political subdivisions, and therefore is not subject to West Virginia excise tax and is exempt
under the provisions of Chapter 11, Article 22, Section 1 of the West Virginia Code, 1931, as amended.

WITNESS the following signature and seal:

THE CITY OF MORGANTOWN, West Virginia, a municipal corporation

By: ____________________________
Paul Brake
 Its: City Manager

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

The undersigned, a Notary Public in and for the County and State aforesaid, does hereby CERTIFY that Paul Brake, The City Manager of City of Morgantown, West Virginia, a municipal corporation, whose name is signed to the foregoing agreement, has this day sworn to, affirmed, subscribed and acknowledged the same before me in said County, as the free act and deed of said corporation, upon authority duly granted.

Given under my hand this _____ day of ______, 2018.

My commission expires: ________________________.

{SEAL}

__________________________
Notary Public

Prepared without title examination jointly on behalf of the parties by Ryan Simonton, 389 Spruce Street, Morgantown, WV 26505 and Steve Hamula, 1200 Greenbrier St, Charleston, WV 25311.

Return to: Lumos Networks of West Virginia, Inc., OSP Engineering, 524 W. Broad St, Waynesboro, VA 22980
MEMORANDUM

TO: Mayor and City Council

FROM: Paul J. Brake, ICMA-CM, CEcD
City Manager

DATE: June 15, 2018

RE: An Ordinance Authorizing Acquisition of Property Partially in Morgan District, Monongalia County, West Virginia, and Partially in the Second Ward of the City of Morgantown

Presented for City Council’s consideration is the ordinance to approve the acquisition of the Haymaker Forest tract of land located partially in Second Ward and immediately adjacent to the City’s southern boundary. The property is within or adjacent to the 1st, 2nd and 6th Wards of Morgantown.

Based on the possible interest in acquiring the property areas in question, staff has worked on possible financial scenario to make the acquisition. Ryan Simonton has confirmed a price through the legal counsel representing the Haymaker Forest property owner. The agreed upon price is $5,200,000 (subject to fulfillment of the terms of a purchase agreement and approval by Council). The appraisal will be sent through separate correspondence early next week prior to Tuesday night’s meeting.

The City is making the last bond payment for the construction of the Public Safety Building at an annual payment of $263,268 (to be paid off during FY 2018-2019). These funds would then be available to pay toward the Haymaker Forest purchase price. The additional annual funds needed to cover the payments (on an annual basis) would be over $200K.

Proposed Land Preservation Program

As a related issue, if the City Council will entertain the process of acquiring property, a proposed Land Preservation Program is presented for your consideration. The program would be established to acquire, preserve, and protect natural areas throughout the City (and those properties close to the City boundaries). Properties with unique and special natural features should be given the highest consideration.
An ordinance could create such a program, and this would also entail setting up a Land Preservation Advisory Board (this board could be operated through a Land Reuse Agency authorized by state law). The Board would be charged with stewardship and land management programs for each individual parcel proposed to be developed. This management plan outlines the stewardship activities necessary to protect or restore the site.

The potential of creating such a program has greater community-wide benefit. Once established, the Land Preservation Board could seek other similar purchases of additional properties adjacent to residential areas. Those acquisitions could be completed through donations, grants through state and federal government and funds from private foundations. Leveraging funds, through City dollars, would enable this effectiveness of this program within a reasonable amount of time.

In creating this ordinance, I would also recommend a taxation ballot question be presented to the voters (at the next regular election – April 2019) to have a dedicated tax levy to offset a portion of this bond issuance and other funds to secure additional properties (and provide for care and maintenance of the properties). For purposes of the discussion, I am proposing the following:

<table>
<thead>
<tr>
<th>Class II – Residential</th>
<th>Taxable Values</th>
<th>Levy Rate/$100</th>
<th>Tax Revenues</th>
</tr>
</thead>
<tbody>
<tr>
<td>Real Estate</td>
<td>459,136,360</td>
<td>2.00</td>
<td>91,827.28</td>
</tr>
<tr>
<td>Personal Property</td>
<td>1,663,504</td>
<td></td>
<td>332.72</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Class IV – Commercial/Industrial</th>
</tr>
</thead>
<tbody>
<tr>
<td>Real Estate</td>
</tr>
<tr>
<td>Personal Property</td>
</tr>
<tr>
<td>Public Utility</td>
</tr>
<tr>
<td>TOTAL</td>
</tr>
</tbody>
</table>

As this chart demonstrates, the proposed 2.00 Levy Rate for Residential and 4.00 Levy Rate for Commercial/Industrial would generate a total tax amount of $414,519.21. This would be sufficient to close the $200K per year funding gap mentioned previously (the difference between what was paid for the Public Safety Building and the newly proposed bond payment).

For a homeowner who owns a home worth $200,000 (market value), the annual cost of such a program would be $24 annually. The current ad-valorem tax rate is 25 Levy Rate / $100 (total tax bill of $400 for this same example). As you can see, this is nominal cost added to the annual tax bill for the average tax payer. Again, this is a possible scenario and I would advise fully vetting the program to determine the scope and services. In doing so, the tax levy could be a higher amount.
Why consider the Haymaker Forest Property?

Attached you will find documents that are important to give background information. First, I am including a short document entitled, “Green Infrastructure” by the International City Management Association (ICMA) and ESRI. This provides checklist framework that has been addressed by the Planning Commission’s comprehensive plan and the Greenspace Coalition.

Second, I am providing again a document/report (titled ‘Haymaker Forest’) prepared by Rick Landenberger, Ph.D. of the West Virginia Land Trust. This report describes the qualities and unique features of the property. He details the dollar value of the pollution stormwater runoff filtration system and the carbon value removed from the air. The purchase price of the property leverages a significant ecological benefit to the community in a special dollar amount.

Third, you will find a Greenspace Connections map identifying connecting routes between areas identified as existing parks or designated green space through the ‘Preserve,’ ‘Reserve,’ or ‘Limited Growth’ areas in our 2013 Comprehensive Plan. A portion of the property is found in an area labeled ‘Reserve’. As part of the Comprehensive Plan, the document suggests that the area may be subject to development and should be considered for preservation.

Lastly, I am including the results of survey circulated by the Mon Valley Greenspace Coalition. Although this is not a scientific survey, it includes information that is interesting nevertheless. The Coalition asked survey takers about priorities, interests and potential monetary support for such a program.

Why should this acquisition matter to taxpayers who do not live near Haymaker?

Smart Growth Principles. This demonstrates the City Council’s commitment to real estate development in infill areas and identified growth areas of the City. The Haymaker Forest is identified as a preserve (as the 2013 Comp Plan) and it is a slippery slope to allow development in designated green areas. If this happens in Haymaker, this sends the signal that other greenbelt areas should be deforested/timbered, making way for urban sprawl.

Implementation of a Program City Wide. As mentioned previously, a Land Preservation/Reuse Board can look at other potential acquisitions through a partnership with WV Land Trust, grants and donations. From my professional experience, I can give tangible examples of other communities who have made this work.

Neighborhood Preservation. Careful consideration should be given to new housing/residential development putting a strain on existing neighborhood streets. As areas adjacent to the City are proposed for development, entrances to those areas are sometimes proposed through existing neighborhoods. This will result in increased traffic in quiet residential neighborhoods.
**Stormwater Management.** The forested or greenspace areas act a natural interceptor for private property, as well as protecting the streams, rivers and aquifers. Those areas can filter pollution and erosion that commonly occurs.

**Public space.** The formal preservation of the Haymaker Forest area would ensure continued public access to a community asset that already contains well-used trails for walking and biking. The preservation and addition of these amenities contributes to a pleasant community with quality recreational offerings for residents.

**Transportation.** As noted above, the Haymaker Forest area contains an essential connector between White Park, the South Hills and South Park neighborhoods, and Marilla Park. Preserving or adding pedestrian and bike trails through the area will promote alternative transportation, decrease automobile traffic demand, and create better pathways for travelers and residents alike.

Why should we consider this acquisition when the City has so many other needs?

City staff has compiled a five-year capital improvement plan addressing our aging infrastructure and equipment needs of the community, as well as the City operations. During future budget processes, staff will continue to compile comprehensive needs of the City and a systematic process of funding those priority items identified. The purchase of the property will not diminish allocation of future proceeds to these improvements, repairs and acquisitions.

Melissa Wiles, Executive Director of BOPARC, will be at the June 26th Committee of the Whole meeting to discuss the maintenance, repairs and capital improvement needs of the parks system. Each of these are equally important and will be addressed through upcoming budget processes.

In conclusion, in order to execute the land purchase, you will find a copy of the ordinance to facilitate the purchase. The purchase agreement spells out a payment plan, which will work as an interim arrangement. The ordinance for the bank financing will follow at a future meeting. Lastly, as a reminder, we will have presentations from the West Virginia University College of Law Land Use and Sustainable Development program as background information to set up the Land Reuse Agency / Land Preservation program at the June 26th Committee of the Whole meeting.

By establishing the land preservation program, the City Council has the opportunity to create a community gift of permanence and the knowledge that the properties featured will always be available for current and future generations to visit, appreciate, and enjoy.

Attach.
We all pretty much recognize “gray” infrastructure—as in, interstates, highways, roads, and streets; water and wastewater systems; stoplights and street signs—and why it’s important to our daily lives.

Now it’s time to recognize “green infrastructure”: the planned and managed network of open spaces, natural lands, wildlife habitats, parks, and other assets that enrich the quality of life in our communities.

Learn what it means to implement a green infrastructure plan!

**OPEN SPACES**
The natural environment provides vistas and open space that can be enjoyed by all.

**WATERSHEDS**
Maintaining water quality requires protecting rivers, streams, and aquifers from pollution and erosion.

**WILDLIFE HABITATS**
Wildlife habitat provides animals with the space they need to live and reproduce. Without the right habitat, many species may not be able to survive.

**SENSITIVE SHORELINES**
Beaches are subject to daily tides and coastal erosion. If too much sand is pulled away from our beaches, flooding and other destruction can occur especially during violent storms.
IMPLEMENTING A GREEN INFRASTRUCTURE PLAN

Green infrastructure planning has become a well-accepted and increasingly adopted best management practice for protecting and promoting the sustainable use of environmental resources; improving economics; reducing construction costs; mitigating environmental hazards; achieving water, air, and biodiversity regulatory compliance; and numerous other benefits related to improving public health.

Green infrastructure planning is a systematic process that seeks to situate land development and land conservation together in a way that leverages natural environmental patterns. In so doing, green infrastructure planning simultaneously promotes both conservation and smart growth.

THE GREEN INFRASTRUCTURE CENTER HAS PIONEERED A SIX-STEP PROCESS FOR IMPLEMENTING A GREEN INFRASTRUCTURE PLAN:

01 SET YOUR GREEN INFRASTRUCTURE GOALS.
   All green infrastructure planning efforts must start with the establishment of goals. These goals should articulate what green infrastructure assets your community values the most and what you’d like to achieve with these assets.

02 REVIEW YOUR GREEN INFRASTRUCTURE DATA.
   Once you have established your goals, it is time to assemble and review all the existing relevant data for your local area. The data should be directly relatable to achieving your goals in some way, such as by identifying where your assets are located and where they are lacking, and by providing additional context.

03 MAP YOUR GREEN INFRASTRUCTURE ASSETS.
   All green infrastructure is location-based within a community. Start by mapping your community’s highest-valued natural assets that contribute to a healthy ecology and also support cultural and economic values—based on the goals established in Step 1 and data from Step 2. Creating your assets map identifies where different elements of your green infrastructure system are located, allowing local government to monitor, maintain, and enhance those assets.

04 ASSESS YOUR GREEN INFRASTRUCTURE ASSET RISKS.
   Once you have created your assets map, it is time to identify any vulnerabilities related to those assets. This involves assessments that identify which green infrastructure assets are most at risk, and what could be lost, if no action is taken.

05 RANK YOUR GREEN INFRASTRUCTURE ASSETS AND DEVELOP OPPORTUNITIES.
   Based on the assets and the risks you’ve identified, you’ll next identify which assets could or should be protected, restored, or improved. By identifying which assets contribute the most to your goals and require the most immediate attention, you’ll be well positioned to prioritize and initiate relevant planning efforts around these assets.

06 IMPLEMENT YOUR GREEN INFRASTRUCTURE VISION.
   Based on how you’ve ranked your key assets, assessed risks, and planned for opportunities, you may need to implement projects, policies, or changes in local laws, zoning, and comprehensive plans to ensure that your goals are achieved.
Haymaker Forest

The ‘Haymaker Forest’ tract contains numerous small and one large parcel of private land in the Morgan District of Monongalia County on and immediately adjacent to the city’s southern boundary, totaling approximately 40 acres. Lying immediately north of Oak Grove Cemetery East, south and east of Rosemarie Drive and Dorsey Ave., and west of the South Hills neighborhood (Figure 1), the tract is currently undeveloped and in a natural state commonly referred to by ecologists as ‘early forest succession’. Extensively forested by a mix of 40 to 60 year-old deciduous trees (yellow poplar, maple, black cherry, locust, oak, and hickory, among others), the property stands in stark contrast to the surrounding residential areas on the backside of South Park. Because of its location and ecological characteristics, it is extremely well-suited for public acquisition and management as a high-quality greenspace.

![Map of Monongalia Parcel Viewer](image)

**Figure 1.** The *approximate* boundary of the ‘Haymaker Forest’ tract in light green, showing the large parcel (‘8’), and the numerous small lots to the west of ‘8’ and ‘41’. The property touches on the 1st, 2nd, and 6th Wards of Morgantown.

The forest itself represents one of the last large, intact, unfragmented forest stands near the City of Morgantown’s southern boundary, in an area containing medium to high density residential development of mixed demographics. It is thus easily accessible to a diverse population of the City.

Lying in the headwaters of a tributary to Aaron’s Creek, a sub-basin of the larger Deckers Creek watershed (which is being improved dramatically through the efforts of The Friends of Deckers Creek), the forest plays an important role in protecting downstream property from stormwater runoff and flash-
flooding events that are becoming increasingly common in our area (particularly in the lower Deckers Creek flood zone). Undeveloped closed-canopy forests intercept rainfall and allow precipitation to slowly infiltrate into underlying forest soils, greatly reducing the rate of surface runoff and subsequent sedimentation during heavy rainfall events. Not only does the intercepted water infiltrate the soil, allowing uptake by vegetation and more consistent in-stream flows, but it also recharges the subsoil and groundwater that eventually feed the springs and streams with pure, clean, cool water lower in the watershed. Once protected, the property will forever function as an effective pollution and runoff filter (Figure 2) for lower Aaron's Creek and the growing communities along its lower reaches and in Sabraton, saving millions of dollars over time in stormwater damages.

![Monongalia Parcel Viewer](image)

**Figure 2.** The property currently act as a natural water filter, slowing stormwater runoff in the Aaron’s Creek watershed. If developed, this situation will essentially reverse, increasing the rate of runoff and taxing MUB’s stormwater treatment system.

In a study published by the U.S. Forest Service (Nowak et al. 2004), seven researchers, including a WVU faculty member, calculated specific economic benefits of Morgantown’s forested areas. Although the study focused on the entire city, the monetary benefits it highlighted apply to Haymaker Forest. Morgantown’s forests, the study’s abstract concludes, store “about 93,000 tons of carbon valued at $1.9 million. In addition, these trees remove about 2,900 tons of carbon per year ($60,000 per year), with trees and shrubs removing about 104 tons of air pollution per year ($711,000 per year). Trees in Morgantown are estimated to reduce annual residential energy costs by $380,000 per year. The structural, or compensatory, value is estimated at $488 million.”
The study cites the benefits of Morgantown’s urban forests as the following: air pollution removal; air temperature reduction; reduced building energy use; absorption of ultraviolet radiation; improved water quality; reduced noise; improved human comfort; increased property values; improved physiological and psychological wellbeing; aesthetics; and community cohesion.

Beyond its obvious ecosystem services and natural values, one could argue that the most valuable contribution an undeveloped Haymaker Forest would bring to the Morgantown and Monongalia County area is ‘recreational’. The property is well-suited to a stand-alone park, with a trail system accessible to the South Park, South Hills, and Dorsey Ave neighborhoods. Recreation, by itself, is sufficient to justify public acquisition and protection as a park, yet it only captures a fraction of the property’s total recreation, leisure, and alternative transportation values. Given its location on the border of the City and proximity to White Park (and the Mon River Rail-Trail), Oak Grove East Cemetery, Greenbag Road, and north to Marilla Park and the Deckers Creek Rail-Trail, Haymaker Forest is a critical component of a larger southern greenbelt for Morgantown, a concept that has gained significant public interest in the past several years. A southern greenbelt, with Marilla Park, Haymaker Forest, and White Park as core components, all linked by a non-motorized multi-module route linked to the City’s southern neighborhoods, would accomplish several extremely important goals of the City and its residents. Reduced traffic, better scenery, alternative transportation options, ecosystem services, more diverse recreational opportunities, and improved health and wellness are the most obvious community benefits of a greenbelt. Others include a more attractive area for relocation, better air quality, and higher home values and associated community benefits all stem from the development of a southern greenbelt.

In summary, the total value to the Morgantown and Monongalia County community of an undeveloped, protected Haymaker Forest greatly outweighs the value of development. Not only is this clear today, when Morgantown is growing rapidly and losing much of its natural qualities, but it will be even more obvious in coming years, when population and environmental pressures will be magnified due to climate change and human migration to water-rich areas. Securing the Haymaker Forest for public use and protection makes both short-term and long-term economic sense. Likewise, Morgantown and Mon County residents and visitors will enjoy its incalculable benefits—as a recreation area, as a place of refuge within a busy city—today, tomorrow, and forever.

References:

2013 Comprehensive Plan General Land Management Conservation Concept Areas

**Preserve**: Land that is permanently protected by regulations or ownership such as nature preserves, recreational open space and public parks.

**Reserve**: Undeveloped land with significant environmental constraints (steep slopes, floodplain, mature forest) or farmland that is likely to remain as open space or an agricultural use. These areas may be subject to development and should be considered for preservation.

**Neighborhood Conservation**: Preservation of existing neighborhood character and maintenance of buildings and infrastructure.

**Limited Growth / Conservation Development**: Primarily rural areas that have value as open space but are subject to development. To the extent that development occurs, it should be clustered to retain open space and protect significant environmental features.
MVGSC Planning Survey 2018

Q1 Are you a resident of Monongalia County?

Answered: 197  
Skipped: 0

Q2 From the choices below, rank what do you think the greenspace plan’s priorities should be ('1' is highest priority, etc.)

Answered: 195  
Skipped: 2
Q3 What are your specific interests in GS? (check all that apply)

Answered: 137   Skipped: 60

- I want to meet others...
- I want to help with planning
- I want to get involved in...
- I want to volunteer to...
- I want to work on a specific...
- I want to work on public land...
- I want to help raise funding...
- I want to become a MVG...

I want to meet others interested in greenspace protection and expansion
I want to help with planning
I want to get involved in environmental restoration
I want to volunteer to build trails
I want to work on a specific greenspace project
I want to work on public land / greenspace acquisition in the area
I want to help raise funding for additional greenspace
I want to become a MVGSC Board of Directors member (and get seriously involved in all aspects of local greenspace management)
Q4 What type of outdoor rec / leisure activities do you currently participate in? (check all that apply)

Answered: 198  Skipped: 1

- Walking
- To experience nature
- Exercise for health and...
- Simple relaxation /...
- Hiking
- Biking
- To get away from everyday...
- Change of pace
- Nature study
- No reason in particular...
- Paddling
- Trail running
- XC skiing / snowshoeing
- Inline skating
Q5 Would you be willing to support additional public funding that went directly to local greenspace?

Answered: 194  Skipped: 3

Q6 Would you be willing to contribute to the plan in some way?

Answered: 161  Skipped: 36

- Implementation (volunteer to build and maintain trails, do clean-ups, organize supporting events, etc.)
- Do something else that isn't listed but is important (come to meetings, get involved)
- Planning process (meetings, writing, mapping, outreach/marketing/PR, etc.)
- Fundraising (grant-writing, events, etc.)
AN ORDINANCE AUTHORIZING ACQUISITION OF PROPERTY PARTIALLY IN
MORGAN DISTRICT, MONONGALIA COUNTY, WEST VIRGINIA, AND
PARTIALLY IN THE SECOND WARD OF THE CITY OF MORGANTOWN

The City of Morgantown hereby ordains:

That the City Manager is authorized to accept, on behalf of the City of Morgantown, the
Deed attached to, and made a part of, this ordinance, and to execute any and all other documents
necessary to accomplish the transfer of the property as provided in the Deed.

This Ordinance shall be effective from the date of its adoption.

First Reading:

Adopted: ________________________________

Mayor

Filed: ________________________________

Recorded: ________________________________

City Clerk
MEMORANDUM

TO: Mayor and City Council

FROM: Paul J. Brake, ICMA-CM, CEcD
City Manager

DATE: May 31, 2018

RE: An Ordinance Authorizing Acquisition of Property Partially in Morgan District, Monongalia County, West Virginia, and Partially in the Second Ward of the City of Morgantown

Presented for City Council’s consideration is the ordinance to approve the acquisition of the Haymaker Forest tract of land located partially in Second Ward and immediately adjacent to the City’s southern boundary. The property is within or adjacent to the 1st, 2nd and 6th Wards of Morgantown. As discussed previously, this property was suggested being considered, by private land developer, as recent development activity was occurring at this site.

Based on the possible interest in acquiring the property areas in question, staff has worked on possible financial scenario to make the acquisition. Ryan Simonton has confirmed a price through the legal counsel representing the Haymaker Forest property owner. The agreed upon price is $5,200,000 (subject to fulfillment of the terms of a purchase agreement and approval by Council).

The City is making the last bond payment for the construction of the Public Safety Building at an annual payment of $263,268 (to be paid off during FY 2018-2019). These funds would then be available to pay toward the Haymaker Forest purchase price. The additional annual funds needed to cover the payments (on an annual basis) would be over $200K.

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An ordinance could create such a program, and this would also entail setting up a Land Preservation Advisory Board (this board could be operated through a Land Reuse Agency authorized by state law). The Board would be charged with stewardship and land management programs for each individual parcel proposed to be developed. This management plan outlines the stewardship activities necessary to protect or restore the site.

In creating this ordinance, I would also recommend a taxation ballot question be presented to the voters (at the next regular election – April 2019) to have a dedicated tax levy to offset a portion of this bond issuance and other funds to secure additional properties (and provide for care and maintenance of the properties). For purposes of the discussion, I am proposing the following:

<table>
<thead>
<tr>
<th>Special Levy for Land Preservation Program</th>
<th>Levy Rate/$100</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class II – Residential</td>
<td></td>
</tr>
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<td>459,136,360</td>
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<tr>
<td>Class IV – Commercial/Industrial</td>
<td></td>
</tr>
<tr>
<td>Real Estate</td>
<td>536,500,830</td>
</tr>
<tr>
<td>Personal Property</td>
<td>169,110,185</td>
</tr>
<tr>
<td>Public Utility</td>
<td>73,286,996</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>1,266,697,875</strong></td>
</tr>
</tbody>
</table>

As this chart demonstrates, the proposed 2.00 Levy Rate for Residential and 4.00 Levy Rate for Commercial/Industrial would generate a total tax amount of $414,519.81. This would be sufficient to close the $200K per year funding gap mentioned previously (the difference between what was paid for the Public Safety Building and the newly proposed bond payment).

For a homeowner who owns a home worth $200,000 (market value), the annual cost of such a program would be $24 annually. The current ad-valorem tax rate is 25 Levy Rate / $100 (total tax bill of $400 for this same example). As you can see, this is nominal cost added to the annual tax bill for the average tax payer. Again, this is a possible scenario and I would advise fully vetting the program to determine the scope and services. In doing so, the tax levy could be a higher amount.

**Why consider the Haymaker Forest Property?**

Attached you will find a couple documents that are important to give background information. First, you will find a document/report (titled ‘Haymaker Forest’) prepared by Rick Landenberger, Ph.D. of the West Virginia Land Trust. This report describes the qualities and unique features of the property. He details the dollar value of the pollution stormwater runoff filtration system and the carbon value removed from the air. The purchase price of the property leverages a significant ecological benefit to the community in a special dollar amount.
Next, you will find a page of the 2013 Comprehensive Plan of the City of Morgantown (see document labeled ‘Greenspace Connections’). A portion of the property is found in an area labeled ‘Reserve’. As part of the Comprehensive Plan, the document suggests that the area may be subject development and should be considered for preservation.

Lastly, you will find a copy of the ordinance to facilitate the purchase. The purchase agreement spells out a payment plan, which will work as an interim arrangement. The ordinance for the bank financing will follow at a future meeting. Lastly, at the June Committee of the Whole, we will have presentations from the West Virginia University College of Law Land Use and Sustainable Development program as background information to set up the Land Reuse Agency / Land Preservation program.

By establishing the land preservation program, the City Council has the opportunity to create a community gift of permanence and the knowledge that the properties featured will always be available for current and future generations to visit, appreciate, and enjoy.

Attach.
Haymaker Forest

The ‘Haymaker Forest’ tract contains numerous small and one large parcel of private land in the Morgan District of Monongalia County on and immediately adjacent to the city’s southern boundary, totaling approximately 40 acres. Lying immediately north of Oak Grove Cemetery East, south and east of Rosemarie Drive and Dorsey Ave., and west of the South Hills neighborhood (Figure 1), the tract is currently undeveloped and in a natural state commonly referred to by ecologists as ‘early forest succession’. Extensively forested by a mix of 40 to 60 year-old deciduous trees (yellow poplar, maple, black cherry, locust, oak, and hickory, among others), the property stands in stark contrast to the surrounding residential areas on the backside of South Park. Because of its location and ecological characteristics, it is extremely well-suited for public acquisition and management as a high-quality greenspace.

![Monongalia Parcel Viewer](image)

**Figure 1.** The *approximate* boundary of the ‘Haymaker Forest’ tract in light green, showing the large parcel (‘8’), and the numerous small lots to the west of ‘8’ and ‘41’. The property touches on the 1st, 2nd, and 6th Wards of Morgantown.

The forest itself represents one of the last large, intact, unfragmented forest stands near the City of Morgantown’s southern boundary, in an area containing medium to high density residential development of mixed demographics. It is thus easily accessible to a diverse population of the City.

Lying in the headwaters of a tributary to Aaron’s Creek, a sub-basin of the larger Deckers Creek watershed (which is being improved dramatically through the efforts of The Friends of Deckers Creek), the forest plays an important role in protecting downstream property from stormwater runoff and flash-
flooding events that are becoming increasingly common in our area (particularly in the lower Deckers Creek flood zone). Undeveloped closed-canopy forests intercept rainfall and allow precipitation to slowly infiltrate into underlying forest soils, greatly reducing the rate of surface runoff and subsequent sedimentation during heavy rainfall events. Not only does the intercepted water infiltrate the soil, allowing uptake by vegetation and more consistent in-stream flows, but it also recharges the subsoil and groundwater that eventually feed the springs and streams with pure, clean, cool water lower in the watershed. Once protected, the property will forever function as an effective pollution and runoff filter (Figure 2) for lower Aaron’s Creek and the growing communities along its lower reaches and in Sabraton, saving millions of dollars over time in stormwater damages.

Figure 2. The property currently act as a natural water filter, slowing stormwater runoff in the Aaron’s Creek watershed. If developed, this situation will essentially reverse, increasing the rate of runoff and taxing MUB’s stormwater treatment system.

In a study published by the U.S. Forest Service (Nowak et al. 2004), seven researchers, including a WVU faculty member, calculated specific economic benefits of Morgantown’s forested areas. Although the study focused on the entire city, the monetary benefits it highlighted apply to Haymaker Forest. Morgantown’s forests, the study’s abstract concludes, store “about 93,000 tons of carbon valued at $1.9 million. In addition, these trees remove about 2,900 tons of carbon per year ($60,000 per year), with trees and shrubs removing about 104 tons of air pollution per year ($711,000 per year). Trees in Morgantown are estimated to reduce annual residential energy costs by $380,000 per year. The structural, or compensatory, value is estimated at $488 million.”
The study cites the benefits of Morgantown’s urban forests as the following: air pollution removal; air temperature reduction; reduced building energy use; absorption of ultraviolet radiation; improved water quality; reduced noise; improved human comfort; increased property values; improved physiological and psychological wellbeing; aesthetics; and community cohesion.

Beyond its obvious ecosystem services and natural values, one could argue that the most valuable contribution an undeveloped Haymaker Forest would bring to the Morgantown and Monongalia County area is ‘recreational’. The property is well-suited to a stand-alone park, with a trail system accessible to the South Park, South Hills, and Dorsey Ave neighborhoods. Recreation, by itself, is sufficient to justify public acquisition and protection as a park, yet it only captures a fraction of the property’s total recreation, leisure, and alternative transportation values. Given its location on the border of the City and proximity to White Park (and the Mon River Rail-Trail), Oak Grove East Cemetery, Greenbag Road, and north to Marilla Park and the Deckers Creek Rail-Trail, Haymaker Forest is a critical component of a larger southern greenbelt for Morgantown, a concept that has gained significant public interest in the past several years. A southern greenbelt, with Marilla Park, Haymaker Forest, and White Park as core components, all linked by a non-motorized multi-module route linked to the City’s southern neighborhoods, would accomplish several extremely important goals of the City and its residents. Reduced traffic, better scenery, alternative transportation options, ecosystem services, more diverse recreational opportunities, and improved health and wellness are the most obvious community benefits of a greenbelt. Others include a more attractive area for relocation, better air quality, and higher home values and associated community benefits all stem from the development of a southern greenbelt.

In summary, the total value to the Morgantown and Monongalia County community of an undeveloped, protected Haymaker Forest greatly outweighs the value of development. Not only is this clear today, when Morgantown is growing rapidly and losing much of its natural qualities, but it will be even more obvious in coming years, when population and environmental pressures will be magnified due to climate change and human migration to water-rich areas. Securing the Haymaker Forest for public use and protection makes both short-term and long-term economic sense. Likewise, Morgantown and Mon County residents and visitors will enjoy its incalculable benefits—as a recreation area, as a place of refuge within a busy city—today, tomorrow, and forever.

References:

Purchase and Sale Agreement

This Purchase and Sale Agreement (as amended, modified, restated, and/or supplemented, "Agreement") is made and entered into as of June __________, 2018 ("Execution Date"), by and between ALP, Inc., a West Virginia corporation ("Seller"), and The City of Morgantown, West Virginia, a municipal corporation of the State of West Virginia, party of the second part ("Purchaser").

For and in consideration of Purchaser’s agreement and covenant to deliver and pay the Deposit to Escrow Agent within two (2) calendar days of the Execution Date, the mutual agreements, covenants, and obligations of Parties contained in this Agreement, and other good and valuable consideration, the adequacy, receipt, and sufficiency of all of which are acknowledged by Parties, intending to be legally bound by and obligated under and/or pursuant to this Agreement, Parties affirm, agree, covenant, represent, stipulate, and/or warrant, as applicable, as follows:

1) Definitions: In and for the purposes of this Agreement:

(a) "Adverse Title Exception" means a Title Exception that shall not be a Permitted Title Exception.

(b) "Agreement" means the same as contained in the introductory paragraph of this Agreement.

(c) "Applicable Laws" means any and all federal, state, regional, county, municipal, and local codes, guidelines, laws, ordinances, regulations, requirements, rules, standards, and/or statutes in effect as of the Execution Date and/or subsequently prior to the earlier of (i) the occurrence of the Closing or (ii) the termination of this Agreement.

(d) "Attempt to Cure Title" means the same as contained in Paragraph (16).

(e) "Balance" means the outstanding and unpaid balance and remainder of the Purchase Price on any day subsequent to the Closing Date.

(f) "Broker" means an agent, broker, finder, middleman, negotiator, and/or representative employed, engaged, hired, and/or retained, directly or indirectly, expressly or by implication, by a Party to arrange, facilitate, negotiate, procure, and/or put together the Transaction.

(g) "Clerk’s Office" means the Office of the Clerk of the County Commission of Monongalia County, West Virginia.

(h) "Closing" means the closing, consummation, and settlement of the Transaction by way of the execution and delivery of the Transaction Documents by Parties and the delivery and payment of the Initial Payment by Purchaser to Seller.

(i) "Closing Date" means the date that the Closing shall occur.

(j) "Commitment" means an irrevocable commitment to Purchaser from the Title Company to issue an owner’s policy of title insurance in relation to the Property, using the 2006 ALTA form owner’s policy of title insurance, in the amount of the Purchase Price, showing title to the Property (i) as being good, record, and marketable subject only to Permitted Title Exceptions and (ii) as indefeasibly vested in Seller.

(k) "Condemnation" means any taking of title to, use of, and/or any other interest in, of, and/or to any part or portion of the Property under and/or pursuant to any Applicable Laws and/or the exercise of the power of condemnation and/or eminent domain by any Governmental Authority and/or by any other party acting under and/or for the benefit of any Governmental Authority.
“Condemnation Awards” means any and all awards of damages, including, without limitation, consequential damages, incidental damages, and residual damages, judgment amounts, payments, proceeds, settlements, amounts paid for a taking in lieu of Condemnation, and/or other compensation awarded, made, and/or paid, including interest thereon, as a result of and/or in connection with a Condemnation or a threatened Condemnation.

“Court” means the Circuit Court of Monongalia County, West Virginia.

“Deposit” means the amount of Two Hundred Fifty Thousand and 00/100 Dollars ($250,000.00) to be delivered and paid to Escrow Agent by Purchaser within two (2) calendar days of the Execution Date.

“Escrow Agent” means Robert Louis Shuman, Seller’s legal counsel, in his capacity as escrow agent under and/or pursuant to this Agreement.

“Execution Date” means the same as contained in the introductory paragraph of this Agreement.

“Expenses” means any and all costs and expenses accrued, expended, incurred, paid, suffered, and/or sustained by Seller, including, without limitation, legal fees of internal and external counsel and court costs, directly or indirectly, in any character, manner, nature, or way arising out of, concerning, growing out of, pertaining to, and/or relating to (i) the collection of the Purchase Price and/or the enforcement of this Agreement or any Transaction Documents, (ii) the negotiation or documentation of any forbearance as to and/or rearrangement, restructuring, and/or workout of the payment of the Purchase Price, (iii) the enforcement of the vendor’s lien to be reserved and retained by Seller against the Property, and (iv) the exercise, preservation, or protection of any right or remedy of Seller under and/or pursuant to this Agreement or any Transaction Documents.

“Governmental Authority” means any federal, state, regional, county, municipal, or local government, or any agency, authority, board, bureau, commission, department, division, or other political instrumentality or subdivision of any of the foregoing, whether exercising administrative, executive, judicial, legislative, regulatory, taxing, or other functions.

“Initial Payment” means the amount of Five Hundred Thousand and 00/100 Dollars ($500,000.00) to be delivered and paid to Seller by Purchaser as of the occurrence of the Closing.

“Inspection Period” means the period of time commencing as of the Execution Date and expiring as of 5:00 p.m. on June 27, 2018, except as extended or postponed as contained in this Agreement.

“Late Charge” means the same as contained in Paragraph (7).

“Losses” means any and all actions, assessments, causes of action, charges, claims, costs, demands, damages (compensatory, consequential, incidental, foreseeable, unforeseeable, liquidated, unliquidated, or otherwise), expenses, fines, impositions, injuries, judgments, liabilities, liens, losses, and penalties, including, without limitation, charges, costs, expenses, and fees of internal and external counsel, paralegals, accountants, consultants, and experts, of any and every character, description, kind, manner, and nature, known or unknown, matured or unmatured, developed or undeveloped, foreseeable or unforeseeable, contingent or noncontingent, liquidated or unliquidated, whenever expended, incurred, suffered, and/or sustained by a Party.

“Minerals” means the same as contained in Paragraph (14).

“Parties” means Purchaser and Seller.

“Party” means either of Parties independent and separate of the other.

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Seller’s Initials: _________ Purchaser’s Initials: _________

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(z) "Permitted Title Exceptions" means (i) statutory lien(s) encumbering the Property for the purpose of securing real property and other ad valorem taxes attributable to the Property which shall not be due and payable as of the Closing Date, (ii) Title Exceptions that Purchaser shall expressly and specifically accept or be deemed to have accepted under and/or pursuant to this Agreement, (iii) Title Exceptions that shall arise or be created subsequent to the Execution Date with the consent of Purchaser, (iv) Title Exceptions that shall be created by Purchaser subsequent to the Execution Date, (v) Title Exceptions that shall arise or be created subsequent to the Execution Date as a result of an act or omission of Purchaser, (vi) Title Exceptions in the form or nature of liens and encumbrances as to which the obligations secured thereby shall be paid and satisfied by Seller as of the occurrence of the Closing utilizing a part or portion of the Initial Payment, and (vii) the reservation and retention of the Minerals by Seller.

(aa) "Prevailing Party" means (i) in the case of a Party that shall commence and/or initiate any action, arbitration, or other legal or equitable proceeding, that such Party shall be awarded and/or recover substantially all of such Party's claims and (ii) in the case of a Party that shall defend against any such action, arbitration, or other legal or equitable proceeding, that such Party shall successfully defend substantially all of the claims made against such Party; provided, however, that (i) in the event that a Party shall not prevail within the meaning of the foregoing, then a Party shall not be entitled to be awarded or recover such Party's fees and costs from the other Party and (ii) notwithstanding the foregoing, in the event that a written offer of compromise made by a Party shall not be accepted by the opposing Party within thirty (30) calendar days after receipt and the Party not accepting such offer shall fail to obtain a more favorable judgment, then the non-accepting Party shall not be deemed to have prevailed or entitled to be awarded and/or recover such Party's costs and fees and shall instead be obligated to pay the costs and fees incurred by the Party that made the offer of compromise.

(bb) "Property" means the lots, parcels, and/or tracts located and situate partially in Morgan District, Monongalia County, West Virginia, and partially in the Second Ward of The City of Morgantown, Morgan District, Monongalia County, West Virginia, described in Exhibit One appended to this Agreement.

(cc) "Purchase Price" means the amount of Five Million Two Hundred Thousand and 00/100 Dollars ($5,200,000.00).

(dd) "Purchaser" means the same as contained in the introductory paragraph of this Agreement.

(ee) "Purchaser's Address" means 389 Spruce Street, Morgantown, West Virginia 26505.

(ff) "Seller" means the same as contained in the introductory paragraph of this Agreement.

(gg) "Seller's Address" means 274 Spruce Street, Morgantown, West Virginia 26505.

(hh) "Survival Obligation" means an obligation of a Party under and/or pursuant to this Agreement which shall expressly and specifically survive any amendment, cancellation, expiration, extension, modification, renewal, restatement, supplementation, and/or termination of this Agreement.

(ii) "Terminate" means the termination of this Agreement and the rights and obligations of Parties under and/or pursuant to this Agreement, except for and excluding Survival Obligations.

(jj) "Title Company" means Old Republic National Title Insurance Company, a Florida corporation.

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Seller's Initials: __________ Purchaser's Initials: __________
“Title Exception” means (a) a condition, covenant, easement, exception, lien, limitation, mineral severance, reservation, restriction, right of way, or other encumbrance upon the title to the Property, and (b) a failure or refusal by the Title Company to cause an owner’s policy of title insurance issued in relation to the Commitment to contain any affirmative assurances and/or coverages as Purchaser shall reasonably require.

“Title Objection Notice” means the same as contained in Paragraph (16).

“Transaction” means the purchase and sale transaction concerning the Property contemplated by and provided for in this Agreement.

“Transaction Documents” means any and all affidavits, agreements, assignments, certificates, contracts, deeds, documents, instruments, partial releases, and releases required to be executed, acknowledged, and/or delivered by Parties to close, consummate, and settle the Transaction, or as may be reasonably advisable, necessary, prudent, and/or requisite to close, consummate, and settle the Transaction, even though not specifically contained, enumerated, and/or provided for in this Agreement.

The foregoing defined terms are not and shall not be deemed an exhaustive list of the defined terms employed and used in this Agreement.

(2) **Conditional Agreement to Sell and Purchase**: Subject to the conditions and terms contained in this Agreement, (a) Seller agrees and covenants to sell and transfer the Property to Purchaser and (b) Purchaser agrees and covenants to purchase and accept the Property from Seller.

(3) **Payment of the Purchase Price**: In the event that the Closing shall occur:

(a) as of the occurrence of the Closing, Purchaser shall deliver and pay the Initial Payment, as adjusted as of the occurrence of the Closing as contemplated by and provided for in this Agreement, and less the application of the Deposit, to Seller in cash, by confirmed wire transfer, or by certified or cashier’s check collectible in same day funds and

(b) the Balance shall be delivered and paid to Seller by Purchaser, in cash, by confirmed wire transfer, or by certified or cashier’s check collectible in same day funds, as follows:

(i) On or prior to October 1, 2018, the amount of Five Hundred Thousand and 00/100 Dollars ($500,000.00),

(ii) On or prior to January 1, 2019, the amount of Five Hundred Thousand and 00/100 Dollars ($500,000.00),

(iii) On or prior to April 1, 2019, the amount of Five Hundred Thousand and 00/100 Dollars ($500,000.00),

(iv) On or prior to July 1, 2019, the amount of Five Hundred Thousand and 00/100 Dollars ($500,000.00), and

(v) On or prior to December 15, 2019, the Balance, which, assuming that Purchaser shall not anticipate or prepay any part or portion of the Purchase Price prior thereto, shall be Two Million Seven Hundred Thousand and 00/100 Dollars ($2,700,000.00).

In the event that the Closing shall occur, the obligation of Purchaser to deliver and pay the entirety of the Purchase Price shall survive the Closing and shall not merge with or into the Transaction Documents.

(4) **Anticipation or Prepayment**: The Balance may be anticipated or prepaid in whole or in part at any time by Purchaser without penalty or premium.

Seller’s Initials: ___________ Purchaser’s Initials: ___________
(5) **Application of Payments:** Each payment made under and/or pursuant to this Agreement by Purchaser with respect to the Purchase Price shall be applied (a) first to the then unpaid interest accrued, (b) second to the then unpaid Late Charges, if any, (c) third to the then unpaid Expenses, if any, and (d) fourth to the Balance.

(6) **Interest on the Deferred Purchase Price:** Interest shall accrue on the Balance at the per annum rate of six hundred fifty (650) basis points or six and one-half percent (6.50%) and be calculated on the basis of a year containing three hundred sixty (360) calendar days and payable for the actual number of calendar days elapsed; provided, however, that in the event that Purchaser shall decline, fail, neglect, and/or refuse to deliver and make any partial payment of the Purchase Price as and when due and payable under and/or pursuant to this Agreement, then, in such event, commencing upon the occurrence of such breach or default by Purchaser, interest shall accrue on the Balance at the per annum rate of one thousand (1,000) basis points or ten percent (10.00%) and be calculated on the basis of a year containing three hundred sixty (360) calendar days and payable for the actual number of calendar days elapsed.

(7) **Late Charge:** In the event that any partial payment of the Purchase Price shall not be made within five (5) calendar days of the date that such payment shall be due and payable under and/or pursuant to this Agreement, a late charge equal to five percent (5.00%) of the amount of such payment shall be due and payable with such payment ("Late Charge"). Such five (5) calendar day period shall in no character, manner, nature, or way be construed or deemed to extend the date that such payment shall be due and payable. The Late Charge shall be imposed as and deemed to be liquidated damages for the purpose of defraying Seller's costs and expenses incident to the handling of delinquent payments, and in addition to, and not in lieu of, Seller's right to exercise any rights and remedies under and/or pursuant to this Agreement or any Applicable Laws. Purchaser agrees that the Late Charge is a reasonable estimation and forecast of just compensation for the anticipated and actual harm incurred and to be incurred by Seller in relation to delinquent payments and that the actual harm incurred and to be incurred by Seller in relation thereto cannot be estimated or forecast with certainty and without difficulty.

(8) **Expenses:** Purchaser shall pay all Expenses to Seller upon Seller's written demand.

(9) **Accord and Satisfaction:** Seller shall not be obligated to accept any check, money order, or other payment instrument marked "payment in full" on any disputed amount due in relation to the Balance, and Seller expressly reserves the right to reject all such payment instruments. Tender of any check or other payment instrument so marked shall not discharge or satisfy Purchaser's obligations under and/or pursuant to this Agreement, disputed or otherwise, even if such check or payment instrument shall be inadvertently processed by Seller unless in fact such payment shall be in fact sufficient to pay the amount due.

(10) **Vendor's Lien and Acceleration:** The Balance, unpaid interest accrued, unpaid Late Charges, and unpaid Expenses shall be secured by a vendor's lien to be reserved and retained by Seller in the deed conveying, granting, and transferring the Property to Purchaser and in the event that Purchaser shall decline, fail, neglect, and/or refuse to deliver and make any partial payment of the Purchase Price as and when due and payable under and/or pursuant to this Agreement, then, in such event, the then Balance, then unpaid interest accrued, then unpaid Late Charges, and then unpaid Expenses shall, at the election of Seller, in Seller's absolute and sole discretion, without demand or notice, be and become accelerated and immediately due and payable, and Seller shall have the right, but not the obligation, to enforce such vendor's lien and exercise and pursue all of Lender's other remedies and rights under and/or pursuant to Agreement, Applicable Laws, and/or in equity.

(11) **Deposit:**

(a) **Delivery of the Deposit:** Within two (2) calendar days of the Execution Date, Purchaser shall deliver and pay the Deposit to Escrow Agent in cash, by confirmed wire transfer, or by certified or cashier's check collectible in same day funds.

(b) **Return of the Deposit:** Except as otherwise provided in this Agreement, the Deposit shall be fully returnable to Purchaser in the event that Purchaser shall Terminate prior to the expiration of the
Inspection Period and notify Seller of the exercise of such right in writing prior to the expiration of
the Inspection Period. In the event that Purchaser shall not Terminate prior to the expiration of
the Inspection Period, the Deposit shall subsequently be non-returnable to Purchaser except as
otherwise contained in Paragraph (16), Paragraph (19), and Paragraph (21).

(c) **Application of the Deposit:** Subject to the provisions of this Agreement, in the event that the
Closing (i) shall occur, the Deposit shall be fully credited to and applied against the Purchase Price
or (ii) shall not occur, the Deposit shall be returned and/or released as provided for in this
Agreement.

(12) **Escrow Agent:**

(a) Until returned, released, and/or applied as provided for in this Agreement, Escrow Agent shall hold,
maintain, and retain the Deposit in Escrow Agent’s general escrow account, where the Deposit shall
not accrue interest and shall be commingled with other escrow funds held by Escrow Agent.

(b) Escrow Agent shall only return, release, and/or apply the Deposit as provided for in this Agreement
and, subject to the other provisions of this Agreement, under and/or pursuant to a written directive
received from a Party. Any Party directing a return or release of the Deposit under any circumstances
shall copy the other Party with any directive related to the Deposit. In the event that no other Party
shall object, in a written objection delivered to Escrow Agent and the other Party (i) within forty-
eight (48) hours of such Party’s receipt of the directive directing a return or release of the Deposit
in the event that such directive shall be delivered on a Sunday, Monday, Tuesday, or Wednesday,
or (ii) by 5:00 p.m. on the Monday following such Party’s receipt of the directive directing a return
or release of the Deposit in the event that such directive shall be delivered on a Thursday, Friday,
or Saturday, Escrow Agent shall return or release the Deposit as directed. In the event that an
objection to a directive directing a return or release of the Deposit shall be received by Escrow Agent
within the applicable timeframe, then, in such event, Escrow Agent shall continue to hold and retain
the Deposit until (i) Parties shall agree in writing on the return or release of the Deposit, (ii) the
Court shall order the return or release of the Deposit, or (iii) Escrow Agent shall deposit the Deposit
with the Court under and/or pursuant to the provisions of this Agreement.

(c) Parties authorize and direct Escrow Agent, at Escrow Agent’s election, without liability to any Party,
to commence or initiate a declaratory judgment or other action before the Court, to name and identify
Parties as defendants in such proceeding, and to deposit the Deposit with the Court to ascertain and
determine the respective rights of Parties as to the Deposit in the event that any conflicting demand,
directive, and/or request shall be made to and/or upon Escrow Agent concerning the Deposit or in
the event that Escrow Agent shall in good faith be in doubt as to what action Escrow Agent should
take with respect to the Deposit. Escrow Agent’s deposit of the Deposit with the Court shall relieve
and release Escrow Agent of and from any and all further liabilities, obligations, and responsibilities
with respect to the Deposit and Escrow Agent’s acts occurring subsequent to the date of such
deposit.

(d) In addition to the foregoing, in the event that any conflicting demand, directive, and/or request shall
be made to and/or upon Escrow Agent concerning the Deposit or in the event that Escrow Agent
shall in good faith be in doubt as to what action Escrow Agent should take with respect to the
Deposit, Escrow Agent shall have the right to hold and retain the Deposit until Escrow Agent shall
receive an order of the Court ordering the return or release of the Deposit or a written agreement
executed by Parties directing the return or release of the Deposit.

(e) In the event that Escrow Agent shall be made a party to any action, proceeding, mediation, or
arbitration by Parties or any other party, or, in the event that Escrow Agent shall commence or
initiate a declaratory judgment or other action before the Court, and deposit the Deposit with the
Court, then, in any such event, Escrow Agent shall have the right to deduct and/or retain from the

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Seller’s Initials: __________ Purchaser’s Initials: __________
Deposit any and all reasonable costs, expenses, and fees expended, incurred, suffered, and/or sustained by Escrow Agent in relation thereto, including, without limitation, legal fees and court costs. In the event that the Court shall decree or order that the Deposit be returned to Purchaser, Seller shall reimburse any deduction from the Deposit by Escrow Agent to Purchaser. In the event that the Court shall decree or order that the Deposit be released to Seller, Purchaser shall reimburse any deduction from the Deposit by Escrow Agent to Seller. The reimbursement provisions of this subparagraph shall be Survival Obligations of Parties.

(f) Escrow Agent may resign at any time by written notice to Parties. In the event of the resignation of Escrow Agent or the death or disability of Escrow Agent, Purchaser shall designate a new Escrow Agent by a written instrument executed by Purchaser that shall be delivered to the former Escrow Agent that resigned or to the personal representative of the former Escrow Agent that died or became disabled. Upon receipt of such written instrument, the former Escrow Agent that resigned or the personal representative of the former Escrow Agent that died or became disabled, as the case may be, shall deliver the Deposit, or the part or portion thereof that was in the possession and control of the former Escrow Agent that resigned, died, or became disabled, as the case may be, as of the occurrence thereof, to the party designated in such written instrument as the new Escrow Agent.

(g) No implied duties or obligations shall be read into this Agreement against Escrow Agent and Escrow Agent shall not be bound or obligated by the provision of any other agreement by, between, or among Parties.

(h) Escrow Agent shall have the right to rely and act upon any notice, request, consent, demand, statement, note, order, judgment, certificate, or other instrument or document believed by Escrow Agent to be genuine and to have been executed by the party or parties purporting to have executed the same, without being required to determine the authenticity or correctness of any fact stated therein or the propriety or validity or service thereof. Escrow Agent shall have the right to assume that any person purporting to give notice or receipt or advice or make any statement or execute any instrument in connection with the Deposit has been duly authorized to do so.

(i) The provisions of this paragraph shall survive termination of this Agreement and the rights and obligations of Parties under and/or pursuant to this Agreement.

(13) **Deed:** In the event that the Closing shall occur, as of the occurrence of the Closing, Seller shall convey, grant, and transfer good, record, and marketable title to the Property, encumbered by and subject only to Permitted Title Exceptions, to Purchaser by a deed which shall contain (a) a covenant of special warranty, (b) a vendor’s lien to secure the Balance, unpaid interest accrued, unpaid Late Charges, and unpaid Expenses, and (c) the reservation and retention of the Minerals. Such deed shall be prepared by Seller’s legal counsel at the cost and expense of Seller.

(14) **Minerals:** To the extent that Seller owns and/or holds title thereto, Seller shall reserve and retain to Seller from the Property, and not convey, grant, or otherwise transfer to Purchaser, any and all minerals, mineral estates, mineral formations, mineral interests, mineral rights, mineral strata, mineral substances, and mineral zones, liquid, gaseous, and/or solid, including, without limitation, any and all (a) coal, (b) rock and other substances and materials located above and below any coal, (c) space(s) which contain coal and/or from which coal shall be excavated, extracted, mined, operated, produced, and/or removed, (d) space(s) which shall be caused by and/or result from the excavation, extraction, mining, operation, production, and/or removal of coal, (e) ore, (f) oil, (g) gas, (h) coalbed methane gas, (i) coal seam methane gas, (j) petroleum gas, (k) casing head gas, (l) drip gas, (m) kerosene, (n) hydrocarbons, (o) gas and other substances and materials contained in any coal and/or found in association with any coal, (p) gas and other substances and materials which shall escape to and/or exist in any space(s) which contain coal and/or from which coal shall be excavated, extracted, mined, operated, produced, and/or removed, (q) space(s) which contain oil and/or gas and/or from which oil and/or gas shall be extracted, operated, produced, and/or removed, (r) space(s) which shall be caused by and/or result from the extraction, operation, production, and/or removal of oil and/or
gas, (s) limestone, (t) sandstone, (u) sand, (v) sulfur, (w) lignite, (x) uranium, (y) thorium, (z) iron, (aa) space(s) which contain any other minerals and/or from which any other minerals shall be excavated, extracted, mined, operated, produced, and/or removed, (bb) space(s) which shall be caused by and/or result from the excavation, extraction, operation, production, and/or removal of any other minerals, and (cc) geothermal steam, in, on, within, beneath, underlying, constituting, and/or comprising the Property and/or produced or to be produced from the Property ("Minerals"), together with, except as otherwise expressly provided for below, all of the privileges and rights, expressed, implied, necessary, convenient, and/or useful to develop, drill for, explore for, excavate, extract, lease, mine, operate, produce, remove, and/or transport, by any method whatsoever, whether by currently existing technology or subsequently developed technology, any and/or all of the Minerals, including, without limitation, the privilege and right to (a) conduct analyses, assessments, evaluations, studies, and/or tests of the Minerals, (b) develop, drill for, explore for, excavate, extract, mine, operate, produce, remove, and/or transport, by any method whatsoever, whether by currently existing technology or subsequently developed technology, through the Minerals any minerals, mineral estates, mineral formations, mineral interests, mineral rights, mineral strata, mineral substances, and mineral zones, liquid, gaseous, and/or solid, in, on, within, beneath, underlying, constituting, and/or comprising any property or properties adjacent to, contiguous with, neighboring, and/or surrounding, directly or indirectly, the Property, (c) develop, drill for, explore for, excavate, extract, mine, operate, produce, remove, and/or transport, by any method whatsoever, whether by currently existing technology or subsequently developed technology, the Minerals to, from, and/or between any property or properties adjacent to, contiguous with, neighboring, and/or surrounding, directly or indirectly, the Property, and (d) utilize in perpetuity any space(s) which contain any Minerals and/or from which any Minerals shall be excavated, extracted, mined, operated, produced, and/or removed and any space(s) which shall be caused by and/or result from the excavation, extraction, operation, production, and/or removal of any Minerals, and all profits, proceeds, royalties, overriding royalties, bonuses, rentals, and payments, cash and non-cash, however characterized, described, named, and/or termed, resulting from, yielding from, and/or relating to, in any way, nature, manner, or character, the development of, drilling for, excavation for, exploration for, extraction of, leasing of, mining of, operation of, production of, removal of, and/or transportation of any and/or all of the Minerals; provided, however, that to the extent that Seller owns and/or holds title to any of the Minerals, Seller, for itself and its successors in interest as to the Property, shall (a) agree and covenant, with the intent that such agreement and covenant shall run with the Minerals, that no such development, drilling, excavation, exploration, extraction, mining, operation, production, removal, and/or transportation shall occur on or from the surface of the Property, (b) irrevocably and unconditionally release and waive any and all express and implied rights to enter on the surface of the Property with respect to and/or in connection with the development of, drilling for, excavation for, exploration for, extraction of, leasing of, mining of, operation of, production of, removal of, and/or transportation of the Minerals, and (c) agree and covenant that the excavation for and construction and/or installation of footers, foundations, utility lines, and other similar sub-surface improvements on the Property shall not be in contrast to or violation of the reservation and retention of the Minerals or constitute a trespass into the Minerals.

(15) **Possession:** In the event that the Closing shall occur, as of the occurrence of the Closing, possession of the Property, encumbered by and subject only to Permitted Title Exceptions, shall be delivered by Seller to Purchaser free and clear of any and all rights of occupancy and/or possession by Seller and all third-parties.

(16) **Title:** Seller's legal counsel, at the cost and expense of Purchaser, shall prepare and deliver the Commitment to Purchaser as of the Execution Date. Purchaser shall have until the expiration of the Inspection Period during which to examine and review the Commitment and the photocopies of the instruments and documents related to the Title Exceptions denoted in the Commitment, and notify Seller in writing of the existence of any Adverse Title Exceptions. In the event that Purchaser shall neglect or fail to notify Seller of the existence of any Adverse Title Exceptions prior to the expiration of the Inspection Period, Purchaser shall be conclusively deemed to have approved the title to the Property as set forth in the Commitment and all Title Exceptions and other items and matters referenced and/or set forth in the Commitment shall conclusively be deemed to be Permitted Title Exceptions. In the event that Purchaser shall notify Seller of the existence of any Adverse Title Exceptions prior to the expiration of the Inspection Period ("Title Objection Notice"), Seller shall have twenty (20) calendar days subsequent to Seller's receipt of the Title Objection Notice within

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**Seller's Initials:** __________  **Purchaser's Initials:** __________
which to make a good faith, commercially reasonable effort to cause the Adverse Title Exceptions identified in the Title Objection Notice to be removed, cured, and/or remedied or obtain appropriate endorsements, to the extent available, to be issued with the title policy ("Attempt to Cure Title"). Upon Seller's receipt of the Title Objection Notice, the expiration of the Inspection Period shall be automatically extended and postponed for twenty (20) calendar days from the date of Seller's receipt of the Title Objection Notice. In the event that Seller shall Attempt to Cure Title and fail to do so by the expiration of the Inspection Period, the Inspection Period shall be further automatically extended and postponed as long as reasonably necessary, but no longer or later than sixty (60) calendar days, to provide Seller with additional time to Attempt to Cure Title. In the event that Seller shall further Attempt to Cure Title and shall further fail to do so by the expiration of the Inspection Period, Purchaser shall have ten (10) business days from the expiration of the Inspection Period, to elect to either (i) proceed with the Transaction and acquire the Property encumbered by and subject to the Adverse Title Exceptions identified in the Title Objection Notice, without a reduction in the Purchase Price, or (ii) Terminate. In the event that Purchaser elect to Terminate, the Deposit shall be returned by Escrow Agent to Purchaser. In the event that Purchaser shall not notify Seller of Purchaser's election within such ten (10) business day period, then, in such event, Purchaser shall be conclusively deemed to have approved the title to the Property as set forth in the Commitment and all Title Exceptions and other items and matters referenced and/or set forth in the Commitment, including, without limitation, the Adverse Title Exceptions identified in the Title Objection Notice, shall conclusively be deemed to be Permitted Title Exceptions and this Agreement and the rights and obligations of Parties under and/or pursuant to this Agreement shall continue of full force and effect, and the Closing shall occur.

(17) **Seller's Pre-Closing Covenants:** Commencing as of the Execution Date and continuing until the earlier of the occurrence of the Closing or the termination of this Agreement, Seller shall not (a) sell, grant, convey, or otherwise transfer any right, title, or interest of Seller in, of, and/or to the Property, or any part or portion thereof, to any party or parties other than Purchaser, (b) encumber, pledge, or otherwise grant a lien on or security interest in the Property, or any part or portion thereof, (c) grant or transfer an option, right of first refusal, right of first offer, or other right, legal or equitable, in, of, or to the Property, or any part or portion thereof, to any party or parties other than Purchaser, (d) enter into any memorandum of understanding, letter of intent, contract, agreement, lease agreement, or occupancy agreement pertaining to the Property, or any part or portion thereof, with any party or parties other than Purchaser, (e) grant or transfer any easement, right of way, and/or license on, under, over, across, or through the Property, or any part or portion thereof, to any party or parties other than Purchaser (f) neglect, fail, decline, or refuse to make any payments required to be made to any creditors of Seller secured by the Property, or any part or portion thereof, (g) neglect, fail, decline, or refuse to pay any real property or ad valorem taxes payable in relation to the Property, or any part or portion thereof, (h) otherwise perform or permit any act or conduct which shall diminish or otherwise affect Purchaser's interest in, of, or to the Property as a result of and/or arising under and/or pursuant to this Agreement or which shall prevent Seller's full and complete performance of Seller's obligations under and/or pursuant to this Agreement, or (i) directly or indirectly, through any representatives or otherwise, solicit, entertain, or encourage offers from, negotiate with, or in any manner encourage, discuss, accept, or consider any proposals of any party or parties other than Purchaser relating to the sale, lease, or transfer of the Property, in whole or in part, in whatever form.

(18) **As-Is Purchase and Sale:**

(a) In the event that the Closing shall occur, Purchaser shall accept the Property in its then current and present condition, as-is, with all defects and faults.

(b) Seller has not made, does not make, and shall not be deemed to have made any affirmation, guarantee, representation, or warranty, express, implied, or otherwise, of any kind, nature, manner, or character whatsoever, of, as to, with respect to, and/or concerning the Property.

(c) Seller specifically and expressly negates and disclaims any and all affirmations, covenants, guarantees, representations, and warranties, of any and every character, kind, manner, and nature whatsoever, of, as to, with respect to, and/or concerning the Property.

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Seller's Initials: ___________ Purchaser's Initials: ___________
(d) Purchaser acknowledges and agrees and covenants that any information or data provided or made available or to be provided or made available with respect to the Property by or on behalf of Seller was and/or will be obtained from a variety of sources without any independent investigation or verification of such information or data by Seller and that Seller makes no and shall not be deemed to have made any affirmations, covenants, guarantees, representations, and/or warranties, express, implied, or otherwise, of any character, kind, manner, or nature whatsoever, of, as to, with respect to, and/or concerning such information and data, including, without limitation, the accuracy or completeness of the same. Any such information or data provided or made available or to be provided or made available by or on behalf Seller has been provided or made available or shall be provided or made available solely as a courtesy between Parties and without any intent on the part of Purchaser to rely on such information or data as a representation by Seller.

(19) Conditions Precedent to Purchaser’s Obligation to Close and Remedies: The obligation of Purchaser to close, consummate, and settle the Transaction shall be subject to the condition precedent that all agreements, covenants, obligations, and requirements of Seller which are to be met, performed, or satisfied on or before the Closing Date shall have been timely and duly met, performed, and satisfied. If any such agreement, covenant, obligation, or requirement of Seller shall not have been met, performed, or satisfied on or before the Closing Date, and such default shall not be cured within ten (10) business days after Seller’s receipt of written notice from Purchaser specifying such default, then Purchaser shall have the right, but not the obligation, to exercise and pursue all remedies available to Purchaser at law and in equity, including, without limitation, (a) Terminate and have the Deposit returned by Escrow Agent to Purchaser or (b) commence, initiate, and prosecute an action seeking Seller’s performance of Seller’s obligations under and/or pursuant to this Agreement.

(20) Conditions Precedent to Seller’s Obligation to Close and Remedies: The obligation of Seller to close, consummate, and settle the Transaction shall be subject to the condition precedent that all agreements, covenants, obligations, and requirements of Purchaser which are to be met, performed, or satisfied on or before the Closing Date shall have been timely and duly met, performed, and satisfied. If any such agreement, covenant, obligation, or requirement of Purchaser shall not have been met, performed, or satisfied on or before the Closing Date, and such default shall not be cured within ten (10) business days after Purchaser’s receipt of written notice from Seller specifying such default, then Seller shall have the right, but not the obligation, to exercise and pursue all remedies available to Seller at law and in equity, including, without limitation, (a) Terminate and have the Deposit released by Escrow Agent to Seller or (b) commence, initiate, and prosecute an action seeking Purchaser’s performance of Purchaser’s obligations under and/or pursuant to this Agreement.

(21) Condemnation: In the event, prior to the occurrence of the Closing, any proceeding, whether judicial, administrative, or otherwise, which shall relate to a Condemnation shall be instituted or commenced, then within five (5) calendar days of the institution or commencement of the same, Seller shall give Purchaser written notice of such occurrence. In the event that Purchaser’s receipt of such notice from Seller shall be prior to the expiration of the Inspection Period then upon Purchaser’s receipt of such notice from Seller, the expiration of the Inspection Period shall be automatically extended and postponed for an additional five (5) calendar days from the date that the Inspection Period would have otherwise expired under and/or pursuant to this Agreement. In the event that Purchaser’s receipt of such notice from Seller shall be subsequent to the expiration of the Inspection Period, then upon Purchaser’s receipt of such notice, the occurrence of the Closing shall be automatically delayed and postponed for an additional five (5) calendar days from the date that the same would have otherwise occurred under and/or pursuant to this Agreement. Within five (5) calendar days of Purchaser’s receipt of such notice from Seller, Purchaser shall notify Seller, in writing, of Purchaser’s election to either (a) continue and proceed with the Transaction and acquire the Property, without a reduction in the Purchase Price, in which event Purchaser shall have the right to participate in all proceedings involving the Condemnation to the limited extent and only to the limited extent that they concern and/or involve the Property and all of Seller’s right, title, interest, and claim in, of, and to all Condemnation Awards to the limited extent and only to the limited extent that they concern and/or involve the Property shall be irrevocably and unconditionally assigned and transferred to Purchaser as of the occurrence of the Closing.

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Seller’s Initials: __________ Purchaser’s Initials: __________

14-0053: City Transaction: Purchase and Sale Agreement.
or (b) Terminate. In the event that Purchaser shall not make or notify Seller of Purchaser’s election within such five (5) calendar day period, Purchaser shall be deemed to have elected to continue and proceed with the Transaction and acquire the Property, without a reduction in the Purchase Price, and all of Seller’s right, title, interest, and claim in, of, and to all Condemnation Awards to the limited extent and only to the limited extent that they concern and/or involve the Property shall be irrevocably and unconditionally assigned and transferred to Purchaser as of the occurrence of the Closing. In the event that Purchaser shall elect to Terminate, the Deposit shall be returned by Escrow Agent to Purchaser.

(22) **Brokers:**

(a) **Seller’s Broker:** Seller represents and warrants to Purchaser that no Broker has been engaged, retained, and/or employed by Seller in connection with the Transaction.

(b) **Purchaser’s Broker:** Purchaser represents and warrants to Seller that no Broker has been engaged, retained, and/or employed by Purchaser in connection with the Transaction.

(c) **Seller’s Indemnification:** Seller shall defend, indemnify, protect, and hold Purchaser harmless of, from, and against any and all Losses accruing from, arising out of, concerning, in connection with, pertaining to, or resulting from any claim for any commission or compensation made by any party claiming to have been retained or contacted by Seller as a Broker in connection with the Transaction.

(d) **Purchaser’s Indemnification:** Purchaser shall defend, indemnify, protect, and hold Seller harmless of, from, and against any and all Losses accruing from, arising out of, concerning, in connection with, pertaining to, or resulting from any claim for any commission or compensation made by any party claiming to have been retained or contacted by Purchaser as a Broker in connection with the Transaction.

(e) **Survival Obligations:** The foregoing respective indemnity obligations of Parties shall be Survival Obligations of Parties, respectively.

(23) **Closing Date:** The Closing shall occur prior to 11:00 a.m. on June 29, 2018, at a location in Morgantown, Monongalia County, West Virginia, selected by Purchaser unless the expiration of the Inspection Period shall be continued or postponed as provided for in this Agreement and in which event the Closing shall then occur within five (5) calendar days of the expiration of the Inspection Period, at a location in Morgantown, Monongalia County, West Virginia, selected by Purchaser.

(24) **Closing Deliveries:**

(a) **Seller:** As of the occurrence of the Closing, Seller shall execute, if applicable, acknowledge, if applicable, and deliver to Purchaser the Transaction Documents, including, without limitation, (i) an owner’s affidavit relating to the Property reasonably required from the Title Company to close, consummate, and settle the Transaction, (ii) a deed granting, conveying, and transferring the Property from Seller to Purchaser containing the covenant, reservation and retention of a vendor’s lien, and reservation and retention of the Minerals provided for in this Agreement, (iii) payoff or pay down letters or statements for and releases and terminations of all liens and security interests encumbering the Property, (iv) any and all affidavits, agreements, certificates, documents, and/or instruments related to curing and/or remedying Adverse Title Exceptions, if any, (v) any and all affidavits, agreements, certificates, documents, and/or instruments related to removing, deleting, and/or affirmatively insuring against Adverse Title Exceptions, if any, (vi) a certificate of incumbency and resolutions of Seller affirming and certifying that the director(s) of Seller have duly approved and/or consented to the closing, consummation, and settlement of the Transaction, (vii) a certificate of existence concerning Seller issued by the Secretary of State of the State of West Virginia within thirty (30) calendar days of the Closing Date, (viii) a certificate that Seller is not a

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Seller’s Initials: __________ Purchaser’s Initials: __________

14-0053: City Transaction Purchase and Sale Agreement
foreign person within the meaning of the Foreign Investment in Real Property Act of 1980, as amended, modified, or restated as of the Execution Date, and (ix) a settlement statement.

(b) **Purchaser:** As of the occurrence of the Closing, Purchaser shall deliver and pay to Seller the Initial Payment, less the Deposit, which shall be disbursed by Escrow Agent to Seller as of the occurrence of the Closing, and Purchaser shall execute, if applicable, acknowledge, if applicable, and deliver to Seller the Transaction Documents, including, without limitation, (i) a deed granting, conveying, and transferring the Property from Seller to Purchaser containing the covenant, reservation and retention of a vendor's lien, and reservation and retention of the Minerals provided for in this Agreement and (ii) a settlement statement.

(25) **Closing Costs:**

(a) **Seller:** As of the occurrence of the Closing, Seller shall pay (i) for the preparation, filing, and recording of any and all affidavits, agreements, certificates, documents, and/or instruments related to curing and/or remedying Adverse Title Exceptions, if any, (ii) for the preparation, filing, and recording of any and all affidavits, agreements, certificates, documents, and/or instruments related to removing, deleting, and/or affirmatively insuring against Adverse Title Exceptions, if any, (iii) all real property and other ad valorem taxes payable in relation to the Property for all calendar years that shall have concluded prior to the occurrence of the Closing, (iv) all real property and other ad valorem taxes payable in relation to the Property for the calendar year in which the Closing shall occur, prorated on a calendar-year basis for the period commencing as of January 1 and ending as of the day preceding the occurrence of the Closing, inclusive, (v) all amounts and obligations secured by the Property and the filing and recording fees for releasing the liens and security instruments evidencing such security, (vi) all excise and/or transfer taxes imposed upon the transfer of the title to the Property, if any, and (vii) all of Seller's legal fees, which shall include Seller’s legal counsel’s preparation of the deed.

(b) **Purchaser:** As of the occurrence of the Closing, Purchaser shall pay (i) for the preparation, filing, and recording of any and all Transaction Documents not otherwise the obligation of Seller, (ii) all real property and other ad valorem taxes payable in relation to the Property for the calendar year in which the Closing shall occur, prorated on a calendar-year basis for the period commencing as of the occurrence of the Closing and ending as of December 31, (iii) all owner's and lender’s title insurance commitment and policy premiums, binder fees, and endorsement fees, (iv) all of Purchaser’s legal fees, and (v) all legal fees and costs associated with the title examination required to prepare the Commitment.

(26) **2018 and 2019 Ad Valorem Taxes:** Subject to the adjustment and proration contained in Paragraph (25), Seller shall have no obligation to pay or satisfy any ad valorem taxes assessed and/or imposed against and/or on the Property subsequent to the Closing Date and all such taxes shall be the liability, obligation, and responsibility of Purchaser, irrespective of whether any such taxes shall be precluded or prohibited from being assessed and/or imposed on property held and/or owned by Purchaser.

(27) **Prohibition Against Recording:** Neither this Agreement nor any memorandum or other instrument or document relating to this Agreement shall be recorded in the Clerk’s Office without the prior written consent of all Parties.

(28) **Survival and Non-Merger:** All agreements, conditions, covenants, obligations, and provisions contained in this Agreement which by their terms shall not arise until after the occurrence of the Closing and/or which by their terms shall survive the occurrence of the Closing, including, without limitation, Purchaser’s obligation to deliver and pay the Balance, shall in fact survive the occurrence of the Closing and the execution and delivery of the Transaction Documents and continue to be agreements, conditions, covenants, obligations, and provisions of the respective Parties subsequent to the occurrence of the Closing which shall not merge with or into the Transaction Documents unless the Transaction Documents expressly provide otherwise.

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Seller’s Initials: ___________ Purchaser’s Initials: ___________
(29) **Risk of Loss:** All risk of damage, destruction, and/or loss of any and every character, description, kind, manner, nature, and sort, with respect to the Property shall remain with and be borne by Seller until the occurrence of the Closing.

(30) **Assignment by Seller:** Seller shall have the right to assign this Agreement and Seller’s rights under and/or pursuant to this Agreement to an exchange intermediary to effect a like-kind exchange of the Property under and/or pursuant to Section 1031 of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, at no additional expense to Purchaser. In the event of the assignment of this Agreement and the rights of Seller under and/or pursuant to this Agreement to an exchange intermediary, Purchaser shall execute a notice of assignment as of the occurrence of the Closing confirming that Purchaser received such notice of assignment and consented to the same.

(31) **Entire Agreement:** This Agreement comprises, constitutes, and contains the entire agreement of and between Parties relating to the Transaction, cancelling, negating, superseding, and terminating any and all prior written or oral agreements between them with respect to the Transaction, and is and shall be deemed to be a complete and final expression and integration of their agreement.

(32) **Modification:** This Agreement shall not be altered, amended, changed, modified, restated, and/or supplemented, in any character, manner, nature, or way, by acquiescence, course of conduct, performance, or otherwise, except by a written instrument executed by Parties.

(33) **Absence of Third-Party Beneficiaries:** This Agreement is for the exclusive benefit of Parties, their respective assigns and successors, and Escrow Agent, and except as expressly contained in this Agreement, no party other than Parties, their respective assigns and successors, and Escrow Agent shall, under any circumstances, be deemed to be a beneficiary of this Agreement.

(34) **Relationship of Parties:** The legal relationship of Parties is and shall remain that of seller and purchaser, and any relationship to the contrary is expressly denied. Nothing contained or provided for in this Agreement shall be construed, deemed, or interpreted as creating or establishing a relationship among and between Parties of joint venturers, partners, or any other relationship except as contained in this paragraph.

(35) **Singular, Plural, and Gender:** Words employed and used in this Agreement, regardless of the number and gender specifically employed and used, shall be construed, deemed, and interpreted to include any other number, singular or plural, and any other gender, masculine, feminine, or neuter, as the context shall require.

(36) **Headings:** The headings contained in this Agreement are inserted only as a matter of convenience and for reference purposes only and shall not in any character, manner, nature, or way define, extend, limit, or prescribe the intent or scope of any provision of this Agreement.

(37) **Rules of Construction:** Rules of construction requiring that ambiguities are to be resolved against a particular Party shall not be applicable in the construction and interpretation of this Agreement.

(38) **Days:** All references in this Agreement to “days” shall mean calendar days unless otherwise expressly and specifically indicated. Whenever the time for performance of a condition, covenant, or obligation shall fall upon a Saturday, Sunday, or legal holiday, such time for performance shall be extended to the next business day.

(39) **Location of Execution, Delivery, and Performance:** This Agreement has been made and entered into in, executed, delivered, and accepted in, and shall be performed in Monongalia County, West Virginia.

(40) **Governing Law:** The laws of the State of West Virginia, without resort to its conflicts of laws principles, shall govern the construction, interpretation, and validity of this Agreement.

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Seller’s Initials: __________ Purchaser’s Initials: __________
(41) **Jurisdiction and Venue:** Parties agree and consent to the exclusive jurisdiction of and to venue in the Court concerning, for, in relation to, and/or with respect to any action or other legal or equitable proceeding pertaining to or in any character, manner, nature, or way accruing from, arising out of, growing from, and/or relating to this Agreement, the Transaction Documents, the Property, and/or the Transaction.

(42) **Time is of the Essence:** Time is of the essence with respect to and in connection with all matters, both material and non-material, contained and provided for in this Agreement.

(43) **Waiver:** No consent or waiver, expressed or implied, by any Party of any breach or default by any other Party in the performance by that other Party of any of its obligations under and/or pursuant to this Agreement shall be construed or deemed to be a consent or waiver to any other breach or default in the performance by such other Party of the same or any other obligation of such other Party under and/or pursuant to this Agreement. Failure on the part of any Party to complain of any act or failure to act of another Party or to declare that other Party in breach or default, irrespective of how long such breach or default shall continue, shall not constitute a waiver by such Party of its rights under and/or pursuant to this Agreement.

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

(45) **Inclusion of Successors:** Except as otherwise provided for in this Agreement, a reference to a Party in this Agreement shall be deemed to include the heirs, devisees, legatees, personal representatives, successors, and/or assigns of such Party.

(46) **Binding Effect:** All affirmations, agreements, covenants, obligations, representations, and warranties made by and/or undertaken by Parties in this Agreement and/or under and/or pursuant to this Agreement shall inure to the benefit of and be binding upon the respective assigns and successors of Parties.

(47) **Prevailing Party:** In the event of any action, arbitration, or other legal or equitable proceeding pertaining to or in any character, manner, nature, or way accruing from, arising out of, concerning, growing from, and/or relating to this Agreement and/or the Transaction, whether commenced or instituted by Purchaser or Seller, the Prevailing Party shall have the right to be awarded and recover from the non-prevailing Party any and all legal fees, paralegal fees, legal assistant fees, and other costs and expenses expended, incurred, paid, suffered and/or sustained by the Prevailing Party in and over the entire course of preparing for, participating in, prosecuting, and/or defending such action, arbitration, or other legal or equitable proceeding, including, without limitation, filing fees and costs, fees and costs for serving summons, fees and costs of court reporters, and fees and costs of lay and expert witnesses. It is the express intent of Parties that, under all circumstances, the Prevailing Party shall be awarded and recover all such fees and costs expended, incurred, paid, suffered and/or sustained in preparing for, participating in, prosecuting, and/or defending any such action, arbitration, or other legal or equitable proceeding and in enforcing any judgment or award granted therein, all of which shall be deemed to have accrued upon the commencement of such action, arbitration, or other legal or equitable proceeding.

(48) **Further Assurances:** Parties shall execute, acknowledge, and deliver or cause to be executed, acknowledged, and delivered, prior to the occurrence of the Closing and subsequent to the occurrence of the Closing, such further affidavits, agreements, certificates, consents, documents, and instruments and shall take such further actions as may be reasonably necessary or required to give effect to the provisions of this Agreement and close, settle, consummate, and effect the Transaction.

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Seller's Initials: __________ Purchaser's Initials: __________
(49) **Counterparts and Facsimile Signature Pages:** This Agreement may be executed in two (2) or more counterparts, each and all of which counterparts shall be deemed to be an original and one (1) and the same instrument. This Agreement may also be executed and delivered by facsimile signatures, including, without limitation, by .pdf signature pages, each of which shall be conclusively deemed an original.

(50) **Notices:** All notices or other communications permitted or required under and/or pursuant to this Agreement shall be in writing and shall be either (a) personally delivered to the following applicable addresses or (b) sent by certified mail, postage prepaid, return receipt requested, to the following applicable addresses. A notice or other communication to (a) Seller shall be addressed and delivered to Seller’s Address and (b) Purchaser shall be addressed and delivered to Purchaser’s Address.

(51) **Incorporation of Exhibits:** Each and all of the exhibits appended to this Agreement, if any, are incorporated and integrated into this Agreement by this reference.

Signature Page Follows
Witness the following signatures.

ALP, Inc., a West Virginia corporation

By: ____________________________
Name: John R. Angotti
Title: Vice-president

The City of Morgantown, West Virginia, a municipal corporation of the State of West Virginia

By: ____________________________
Name: __________________________
Title: __________________________

Seller’s Initials: __________  Purchaser’s Initials: __________
Exhibit One to Purchase and Sale Agreement

Parcel One: The lot, parcel, and/or tract located and situate partially in Morgan District, Monongalia County, West Virginia, and partially in the Second Ward of The City of Morgantown, Morgan District, Monongalia County, West Virginia, described as follows:

Beginning at an iron pin at the point of intersection of the eastern right of way line of Ross Street and the eastern right of way line of Dorsey Avenue; thence N. 83° 23' 40" E. 119.27 feet to an iron pin; thence N. 26° 25' E. 120.00 feet to an iron pin; thence N. 63° 35' W. 100 feet to an iron pin; thence N. 26° 25' E. 893.00 feet to an iron pin; thence S. 77° 33' E. 1160.00 feet to an iron pin; thence N. 17° 20' 30" E. 772.47 feet to an iron pin; thence S. 82° 48' 30" E. 197.16 feet to an iron pin; thence S. 59° 13' E. 523.52 feet to an iron pin; thence S. 4° 43' E. 802.31 feet to an iron pin in the property owned by the Oak Grove Cemetery Association; thence with said line, S. 74° 13' W. 1659.03 feet to an iron pin in said boundary line; thence continuing with said boundary line, S. 63° 28' W. 672.65 feet to an iron pin; thence N. 85° 14' W. 139.58 feet to an iron pin in the line of the property previously conveyed by Paul W. Jeffers and others to Samuel Chico Jr.; thence with two lines of Chico, N. 9° 02' W. 89.91 feet to an iron pin; thence N. 85° 14' W. 116.29 feet to an iron pin in the eastern right of way of Dorsey Avenue; thence with said right of way, N. 12° 56' W. 109.61 feet to an iron pin in said right of way; thence continuing with said right of way, N. 18° 26' 30" W. 155.24 feet to an iron pin in said right of way; thence continuing with said right of way, N. 24° 53' W. 30.00 feet to an iron pin in said right of way at its point of intersection with Ross Street, the place of beginning, containing 54.261 acres, more or less.

Less, excepting, reserving, and excluding from Parcel One the following lots, parcels, and/or tracts:

(1) The lot, parcel, and/or tract granted and conveyed to Chico Dairy Company, Inc. by (a) the deed dated May 6, 1971 of record in the Clerk’s Office in Deed Book 707 at Page 435 and (b) the corrective deed dated June 12, 1971 of record in the Clerk’s Office in Deed Book 709 at Page 70;

(2) The lots, parcels, and/or tracts described as Lots Nos. 1, 2, and 3 in Block A of Haymaker Village granted and conveyed to Lucille Fox by the deed dated September 30, 1972 of record in the Clerk’s Office in Deed Book 729 at Page 481;

(3) The lot, parcel, and/or tract granted and conveyed to Chico Dairy Company, Inc. by the deed dated May 29, 1973 of record in the Clerk’s Office in Deed Book 736 at Page 346;

(4) The lots, parcels, and/or tracts described as Lots Nos. 3, 5, and 7 in Block B of Haymaker Village granted and conveyed to Lucille Fox by the deed dated September 28, 1973 of record in the Clerk’s Office in Deed Book 741 at Page 627;

(5) The lots, parcels, and/or tracts described as Lots Nos. 4, 5, and 6 in Block A of Haymaker Village granted and conveyed to Lucille Fox by the deed dated October 3, 1974 of record in the Clerk’s Office in Deed Book 755 at Page 195;

(6) The lot, parcel, and/or tract granted and conveyed to Chico Dairy Company by the deed dated March 1, 1975 of record in the Clerk’s Office in Deed Book 768 at Page 396;

(7) The lot, parcel, and/or tract described as Lot No. 1 in Block B of Haymaker Village granted and conveyed to Lucille Fox by the deed dated January 19, 1976 of record in the Clerk’s Office in Deed Book 770 at Page 498;

(8) The lot, parcel, and/or tract described as Lot No. 9 in Block B of Haymaker Village granted and conveyed to Lucille Fox by the deed dated January 19, 1976 of record in the Clerk’s Office in Deed Book 770 at Page 500;

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Seller’s Initials: ___________ Purchaser’s Initials: ___________
(9) The lots, parcels, and/or tracts described as Lots Nos. 11 and 13 in Block B of Haymaker Village granted and conveyed to Lucille Fox by the deed dated September 28, 1976 of record in the Clerk's Office in Deed Book 781 at Page 666;

(10) The lots, parcels, and/or tracts described as Lot No. 2 in Block C and Lot No. 1 in Block D of Haymaker Village granted and conveyed to Big Bee Construction, Inc. by the deed dated October 6, 1976 of record in the Clerk's Office in Deed Book 782 at Page 689;

(11) The lot, parcel, and/or tract described as Lot No. 3 in Block D of Haymaker Village granted and conveyed to James Burlingham by the deed dated January 4, 1977 of record in the Clerk’s Office in Deed Book 785 at Page 423;

(12) The lot, parcel, and/or tract described as Lot No. 12 in Block B of Haymaker Village granted and conveyed to James Burlingham by the deed dated March 16, 1977 of record in the Clerk’s Office in Deed Book 788 at Page 581;

(13) The lots, parcels, and/or tracts described as Lots Nos. 7, 8, and 9 in Block A and Lot No. 14 in Block B of Haymaker Village granted and conveyed to Lucille Fox by the deed dated September 26, 1977 of record in the Clerk’s Office in Deed Book 797 at Page 31;

(14) The lot, parcel, and/or tract described as Lot No. 5 in Block D of Haymaker Village granted and conveyed to John Laurita by the deed dated September 13, 1977 of record in the Clerk’s Office in Deed Book 797 at Page 477;

(15) The lot, parcel, and/or tract described as Lot No. 7 in Block E of Haymaker Village granted conveyed to James P. Livengood and Josephine Livengood by the deed dated March 14, 1978 of record in the Clerk’s Office in Deed Book 803 at Page 231;

(16) The lot, parcel, and/or tract described as Lot No. 9 in Block E of Haymaker Village granted and conveyed to Frank B. Wyatt Jr. and Lind A. Wyatt by the deed dated June 27, 1978 of record in the Clerk’s Office in Deed Book 808 at Page 6;

(17) The lot, parcel, and/or tract described as Lot No. 8 in Block B of Haymaker Village granted and conveyed to Carmen T. Martin and Emma Grace Martin by the deed dated July 12, 1978 of record in the Clerk’s Office in Deed Book 809 at Page 274;

(18) The lot, parcel, and/or tract described as Lot No. 10 in Block B of Haymaker Village granted and conveyed to Galen Boyd Kiser by the deed dated April 10, 1978 of record in the Clerk’s Office in Deed Book 810 at Page 609 and Deed Book 817 at Page 383;

(19) The lot, parcel, and/or tract described as Lot No. 2 in Block D of Haymaker Village granted and conveyed to Kenneth Ryan and Deborah Ryan by the deed dated August 29, 1978 of record in the Clerk's Office in Deed Book 811 at Page 465;

(20) The lot, parcel, and/or tract described as Lot No. 5 in Block E of Haymaker Village granted and conveyed to George A. Emerson and Irma Emerson by the deed dated March 20, 1979 of record in the Clerk’s Office in Deed Book 825 at Page 217;

(21) The lot, parcel, and/or tract described as Lot No. 6 in Block B of Haymaker Village granted and conveyed to Duk-Won Park and Sun-Ja Park by the deed dated December 18, 1979 of record in the Clerk’s Office in Deed Book 834 at Page 413;

(22) The lot, parcel, and/or tract granted and conveyed to Teleprompter Corporation by the deed dated July 13, 1981 of record in the Clerk’s Office in Deed Book 855 at Page 72;

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Seller's Initials: _________ Purchaser's Initials: _________

14-G053: City Transaction: Purchase and Sale Agreement

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(23) The lot, parcel, and/or tract described as part of Lot No.1 in Block C of Haymaker Village granted and conveyed to George H. Phillips and Biddie M. Phillips by the deed dated September 9, 1987 of record in the Clerk’s Office in Deed Book 958 at Page 235 and Deed Book 970 at Page 508;

(24) The lot, parcel, and/or tract described as Lot No. 1 in Block F of Haymaker Village granted and conveyed to Frank Kuhn and Debbie Kuhn by the deed dated July 31, 1991 of record in the Clerk’s Office in Deed Book 1033 at Page 125; and

(25) The lot, parcel, and/or tract granted and conveyed to Chico Dairy Co. by the deed dated November 15, 1993 of record in the Clerk’s Office in Deed Book 1079 at Page 25.

Parcel Two: The lot, parcel, and/or tract located and situate in Morgan District, Monongalia County, West Virginia, described as follows: Beginning at a hub, corner at a point on a line in a fence, corner to the lands of the Margaret D. Jeffers heirs; thence S. 85° 14' E. 115 feet to a hub, corner to other lands of the said Margaret D. Jeffers heirs; thence S. 9° 02' E. 89.91 feet corner to a hub on the lands of the East Oak Grove Cemetery; thence with the lands of the said East Oak Grove Cemetery, N. 85° 14' W. 115 feet to a hub, corner to Dorsey Avenue; thence with the right of way line of said Dorsey Avenue, N. 5° 56' W. 40 feet to a hub, corner on said right of way line of said Dorsey Avenue; thence with another line of said right of way line, N. 11° 30' W. 50 feet to the place of beginning, being a parcel measuring approximately 90 feet by 113 feet.

Parcel Three: The lot, parcel, and/or tract located and situate in the Second Ward of the City of Morgantown, Morgan District, Monongalia County, West Virginia, described as follows: Beginning at a point at the corner of Lot No. 29 in Block No. 72 of the Smith Addition to South Park; thence along property now owned by Bucca, S. 59° 19' E. 200 feet to a stake in the property line of Mountain View Development Company and Jeffers; thence N. 83° 19' W. 199.29 feet to a stake in the property line of Lot No. 30 in Block No. 72 of said Smith Addition; thence N. 18° 12' E. 83.01 feet to the place of beginning, containing 0.186 acre, more or less, to the extent that such lot, parcel, and/or tract is adjacent to Parcel One and located and situate south of and adjoins the southern side of the easement of and for South Hills Drive.
This instrument was jointly prepared by:

Stephen G. Higgins  
Kay Casto & Chaney PLLC  
Suite 100  
1085 Van Voorhis Road  
Morgantown, West Virginia 26505

Robert Louis Shuman  
Reeder & Shuman  
256 High Street  
Post Office Box 842  
Morgantown, West Virginia 26507-0842

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Special Warranty Deed

This Special Warranty Deed ("Deed") is made and entered into this the ___ day of June, 2018, by and between ALP, Inc., a West Virginia corporation, party of the first part, as grantor ("Grantor"), and The City of Morgantown, West Virginia, a municipal corporation of the State of West Virginia, party of the second part, as grantee ("Grantee").

For and in consideration of the amount of Ten Dollars ($10.00), and other good and valuable consideration, the adequacy, receipt, and sufficiency of all of which are acknowledged by Grantor and Grantee, intending to be legally bound by and obligated under and pursuant to this Deed, Grantor and Grantee affirm, agree, covenant, represent, stipulate, and/or warrant, as applicable, as follows:

(1) **Definitions:** In addition to defined terms contained elsewhere in this Deed, in and for the purposes of this Deed:

   (a) "Balance" means the outstanding and unpaid balance and remainder of the Purchase Price on any day subsequent to the date of this Deed.

   (b) "Clerk’s Office" means the Office of the Clerk of the County Commission of Monongalia County, West Virginia.

   (c) "Expenses" means any and all costs and expenses accrued, expended, incurred, paid, suffered, and/or sustained by Grantor, including, without limitation, legal fees of internal and external counsel and court costs, directly or indirectly, in any character, manner, nature, or way arising out of, concerning, growing out of, pertaining to, and/or relating to (i) the collection of the Purchase Price and/or the enforcement of the PSA or this Deed, (ii) the negotiation or documentation of any forbearance as to and/or rearrangement, restructuring, and/or workout of the payment of the Purchase Price, (iii) the enforcement of the vendor’s lien reserved and retained by Grantor against the Property in this Deed, and (iv) the exercise, preservation, or protection of any right or remedy of Grantor under and/or pursuant to the PSA or this Deed.

   (d) "Initial Payment" means the amount of Five Hundred Thousand and 00/100 Dollars ($500,000.00).

   (e) "Purchase Price" means the amount of Five Million Two Hundred Thousand and 00/100 Dollars ($5,200,000.00).

(2) **Non-Merger:** Grantor and Grantee are parties to a purchase and sale agreement dated June ___, 2018, concerning the Property ("PSA"). As contained in the PSA, the agreements, conditions, covenants, obligations, and provisions contained in the PSA shall not merge with or into this Deed and shall survive the execution and delivery of this Deed.
(3) **Incorporation of Exhibits:** Each of the exhibits appended to this Deed are incorporated and integrated into this Deed by this reference.

(4) **Grant and Description:** Encumbered by and subject to the conditions, covenants, easements, exceptions, limitations, mineral severances, reservations, restrictions, rights of way, vendor's lien, and other encumbrances contained, referenced, reserved, and/or retained in this Deed, Grantor conveys, grants, and transfers unto Grantee the three (3) lots, parcels, and/or tracts located and situate partially in Morgan District, Monongalia County, West Virginia and partially in the Second Ward of The City of Morgantown, Morgan District, Monongalia County, West Virginia, described in Exhibit A appended to this Deed ("Property").

(5) **Derivation of Title:** The Property was acquired by Grantor by (a) the deed dated May 2, 1968, of record in the Clerk's Office in Deed Book 678 at Page 73, (2) the deed dated May 6, 1971, of record in the Clerk's Office in Deed Book 707 at Page 388, (3) the deed dated January 4, 1977, of record in the Clerk's Office in Deed Book 792 at Page 537, (4) the deed dated September 23, 1977, of record in the Clerk's Office in Deed Book 798 at Page 571, (5) the deed dated May 8, 1978, of record in the Clerk's Office in Deed Book 811 at Page 654, (6) the deed dated September 11, 2000, of record in the Clerk's Office in Deed Book 1204 at Page 672, and (7) the deed dated May 6, 2002, of record in the Clerk's Office in Deed Book 1231 at Page 259, and each of the foregoing deeds is incorporated and integrated into this Deed by this reference. Reference is also made to (a) the order of the County Commission of Monongalia County, West Virginia of record in the Clerk's Office in Deed Book 1500 at Page 71 and (b) the two (2) ordinances of Grantee of record in the Clerk's Office in Deed Book 1505 at Pages 440 and 444.

(6) **Covenant of Special Warranty:** Grantor agrees and covenants and agrees with Grantee that, except as limited and qualified below, Grantor shall specially warrant and defend the title to the Property.

(7) **Appurtenances and Related Interests:** In relation to and in connection with the Property, Grantor conveys, grants, and transfers unto Grantee (a) any and all easements, rights of way, and rights appurtenant to the Property and (b) any and all right, title, interest, estate, and/or claim of Grantor in, of, and to any and all easements and rights of way for alleys, roads, and streets, whether physically open or un-open, and/or abandoned, annulled, and/or vacated, adjoining the Property.

(8) **Retention of Minerals:** To the extent that Grantor owns and/or holds title thereto, Grantor reserves and retains to Grantor from the Property, and does not convey, grant, or otherwise transfer to Grantee, any and all minerals, mineral estates, mineral formations, mineral interests, mineral rights, mineral strata, mineral substances, and mineral zones, liquid, gaseous, and/or solid, including, without limitation, any and all (a) coal, (b) rock and other substances and materials located above and below any coal, (c) space(s) which contain coal and/or from which coal shall be excavated, extracted, mined, operated, produced, and/or removed, (d) space(s) which shall be caused by and/or result from the excavation, extraction, mining, operation, production, and/or removal of coal, (e) ore, (f) oil, (g) gas, (h) coalbed methane gas, (i) coal seam methane gas, (j) petroleum gas, (k) casing head gas, (l) drip gas, (m) kerosene, (n) hydrocarbons, (o) gas and other substances and materials contained in any coal and/or found in association with any coal, (p) gas and other substances and materials which shall escape to and/or exist in any space(s) which contain coal and/or from which coal shall be excavated, extracted, mined, operated, produced, and/or removed, (q) space(s) which contain oil and/or gas and/or from which oil and/or gas shall be extracted, operated, produced, and/or removed, (r) space(s) which shall be caused by and/or result from the extraction, operation, production, and/or removal of oil and/or gas, (s) limestone, (t) sandstone, (u) sand, (v) sulfur, (w) lignite, (x) uranium, (y) thorium, (z) iron, (aa) space(s) which contain any other minerals and/or from which any other minerals shall be excavated, extracted, mined, operated, produced, and/or removed, (bb) space(s) which shall be caused by and/or result from the extraction, operation, production, and/or removal of any other minerals, and (cc) geothermal steam, in, on, within, beneath, underlying, constituting, and/or comprising the Property and/or produced or to be produced from the Property ("Minerals"), together with, except as otherwise expressly provided for below, all of the privileges and rights, expressed, implied, necessary, convenient, and/or useful to develop, drill for, explore for, excavate, extract, lease, mine, operate, produce, remove, and/or transport, by any method whatsoever, whether by currently existing technology or subsequently developed technology, any and/or all of the Minerals, including, without
limitation, the privilege and right to (a) conduct analyses, assessments, evaluations, studies, and/or tests of the Minerals, (b) develop, drill for, explore for, excavate, extract, mine, operate, produce, remove, and/or transport, by any method whatsoever, whether by currently existing technology or subsequently developed technology, through the Minerals any minerals, mineral estates, mineral formations, mineral interests, mineral rights, mineral strata, mineral substances, and mineral zones, liquid, gaseous, and/or solid, in, on, within, beneath, underlying, constituting, and/or comprising any property or properties adjacent to, contiguous with, neighboring, and/or surrounding, directly or indirectly, the Property, (c) develop, drill for, explore for, excavate, extract, mine, operate, produce, remove, and/or transport, by any method whatsoever, whether by currently existing technology or subsequently developed technology, the Minerals to, from, and/or between any property or properties adjacent to, contiguous with, neighboring, and/or surrounding, directly or indirectly, the Property, and (d) utilize in perpetuity any space(s) which contain any Minerals and/or from which any Minerals shall be excavated, extracted, mined, produced, and/or removed and any space(s) which shall be caused by and/or result from the excavation, extraction, operation, production, and/or removal of any Minerals, and all profits, proceeds, royalties, over-riding royalties, bonuses, rentals, and payments, cash and non-cash, however characterized, described, named, and/or termed, resulting from, yielding from, and/or relating to, in any way, nature, manner, or character, the development of, drilling for, excavation for, exploration for, extraction of, leasing of, mining of, operation of, production of, removal of, and/or transportation of any and/or all of the Minerals; provided, however, that to the extent that Grantor owns and/or holds title to any of the Minerals, Grantor, for itself and Grantor's successors in interest as to the Property, (a) agrees and covenant that such agreement and covenant shall run with the Minerals, that no such development, drilling, excavation, exploration, extraction, mining, operation, production, removal, and/or transportation shall occur on or from the surface of the Property, (b) irrevocably and unconditionally releases and waives any and all express and implied rights to enter upon the surface of the Property with respect to and/or in connection with the development of, drilling for, excavation for, exploration for, extraction of, leasing of, mining of, operation of, production of, removal of, and/or transportation of the Minerals, and (c) agrees and covenants that the excavation for and construction and/or installation of footers, foundations, utility lines, and other similar sub-surface improvements on the Property shall not be in contrast to or violation of the reservation and retention of the Minerals or constitute a trespass into the Minerals.

(9) Payment of the Purchase Price:

(a) As of the execution and delivery of this Deed, Grantee has delivered and paid the Initial Payment to Grantor.

(b) Grantee agrees and covenants with Grantor that the Balance shall be delivered and paid to Grantor by Grantee, in cash, by confirmed wire transfer, or by certified or cashier's check collectible in same day funds, as follows:

(i) On or prior to October 1, 2018, the amount of Five Hundred Thousand and 00/100 Dollars ($500,000.00),

(ii) On or prior to January 1, 2019, the amount of Five Hundred Thousand and 00/100 Dollars ($500,000.00),

(iii) On or prior to April 1, 2019, the amount of Five Hundred Thousand and 00/100 Dollars ($500,000.00),

(iv) On or prior to July 1, 2019, the amount of Five Hundred Thousand and 00/100 Dollars ($500,000.00), and

(v) On or prior to December 15, 2019, the Balance, which, assuming that Grantee shall not anticipate or prepay any part or portion of the Purchase Price prior thereto, shall be Two Million Seven Hundred Thousand and 00/100 Dollars ($2,700,000.00).

(10) Anticipation or Prepayment: The Balance may be anticipated or prepaid in whole or in part at any time by Grantee without penalty or premium.
(11) **Application of Payments:** Each payment made under and/or pursuant to this Deed by Grantee with respect to the Purchase Price shall be applied (a) first to the then unpaid interest accrued, (b) second to the then unpaid Late Charges, if any, (c) third to the then unpaid Expenses, if any, and (d) fourth to the Balance.

(12) **Interest on the Deferred Purchase Price:** Interest shall accrue on the Balance at the per annum rate of six hundred fifty (650) basis points or six and one-half percent (6.50%) and be calculated on the basis of a year containing three hundred sixty (360) calendar days and payable for the actual number of calendar days elapsed; provided, however, that in the event that Grantee shall decline, fail, neglect, and/or refuse to deliver and make any partial payment of the Purchase Price as and when due and payable under and/or pursuant to the PSA and this Deed, then, in such event, commencing upon the occurrence of such breach or default by Grantee, interest shall accrue on the Balance at the per annum rate of one thousand (1,000) basis points or ten percent (10.00%) and be calculated on the basis of a year containing three hundred sixty (360) calendar days and payable for the actual number of calendar days elapsed.

(13) **Late Charge:** In the event that any partial payment of the Purchase Price shall not be made within five (5) calendar days of the date that such payment shall be due and payable under and/or pursuant to the PSA and this Deed, a late charge equal to five percent (5.00%) of the amount of such payment shall be due and payable with such payment ("Late Charge"). Such five (5) calendar day period shall in no character, manner, nature, or way be construed or deemed to extend the date that such payment shall be due and payable. The Late Charge shall be imposed as and deemed to be liquidated damages for the purpose of defraying Grantor's costs and expenses incident to the handling of delinquent payments, and in addition to, and not in lieu of, Grantor's right to exercise any rights and remedies under and/or pursuant to the PSA, this Deed, or any applicable laws. Grantee agrees that the Late Charge is a reasonable estimation and forecast of just compensation for the anticipated and actual harm incurred and to be incurred by Grantor in relation to delinquent payments and that the actual harm incurred and to be incurred by Grantor in relation thereto cannot be estimated or forecast with certainty and without difficulty.

(14) **Expenses:** Grantee shall pay all Expenses to Grantee upon Grantor's written demand.

(15) **Vendor's Lien and Acceleration:** The Balance, unpaid interest accrued, unpaid Late Charges, and unpaid Expenses are and shall be secured by a vendor's lien against and encumbering the Property which vendor's lien Grantor expressly and specifically reserves and retains in this Deed and in the event that Grantee shall decline, fail, neglect, and/or refuse to deliver and make any partial payment of the Purchase Price as and when due and payable under and/or pursuant to the PSA and this Deed, then, in such event, the then Balance, then unpaid interest accrued, then unpaid Late Charges, and then unpaid Expenses shall, at the election of Grantor, in Grantor's absolute and sole discretion, without demand or notice, be and become accelerated and immediately due and payable, and Grantor shall have the right, but not the obligation, to enforce such vendor's lien and exercise and pursue all of Grantor's other remedies and rights under and/or pursuant to the PSA, this Deed, applicable laws, and/or in equity.

(16) **Pre-existing Record Encumbrances:** The Property is conveyed and granted to Grantee and accepted by Grantee encumbered by and subject to all agreements, assessments, conditions, covenants, easements, exceptions, mineral severances, reservations, restrictions, rights of way, and other encumbrances as have been imposed upon the Property of record in the Clerk's Office by Grantor and Grantor's predecessors in title which are effective and enforceable as of the delivery of this Deed, and the covenant of special warranty contained in this Deed is limited and qualified by the same.

(17) **TMPs:** The Property is designated on the applicable tax maps of Morgan District, Monongalia County, West Virginia and the Second Ward of The City of Morgantown, Morgan District, Monongalia County, West Virginia, as contained in Exhibit B appended to this Deed.

(18) **Declaration of Consideration or Value:** Under and pursuant to the provisions of Article 22 of Chapter 11 of the West Virginia Code, Grantor declares that the transfer effected by this Deed is to a municipal corporation and political subdivision of the State of West Virginia, and therefore, not subject to the excise tax imposed under such article.
(19) **Declaration of Residency**: Under and pursuant to the provisions of Section 71b of Article 21 of Chapter 11 of the West Virginia Code, Grantor declares that Grantor is a resident entity as defined in Section 71b(a)(4)(A) of Article 21 of Chapter 11 of the West Virginia Code.

Witness the following signatures.

ALP, Inc., a West Virginia corporation

By: _______________________
Name: John R. Angotti
Title: Vice-president

The City of Morgantown, West Virginia, a municipal corporation of the State of West Virginia

By: _______________________
Name: _______________________
Title: _______________________
State of West Virginia,
County of Monongalia, to-wit:

The foregoing instrument was acknowledged and sworn to before me this the ____ day of June, 2018, by John R. Angotti, in his capacity as the incumbent vice-president of ALP, Inc., a West Virginia corporation, for and on behalf of such corporation, as the act and deed of such corporation.

{SEAL}

_________________________________________
Notary Public
My Commission expires: ____________________

State of West Virginia,
County of Monongalia, to-wit:

The foregoing instrument was acknowledged and sworn to before me this the ____ day of June, 2018, by ____________, in his/her capacity as the incumbent _______ of The City of Morgantown, West Virginia, a municipal corporation of the State of West Virginia, for and on behalf of such corporation, as the act and deed of such corporation.

{SEAL}

_________________________________________
Notary Public
My Commission expires: ____________________
Exhibit A to Deed
(Property Description)

Parcel One: The lot, parcel, and/or tract located and situate partially in Morgan District, Monongalia County, West Virginia, and partially in the Second Ward of The City of Morgantown, Morgan District, Monongalia County, West Virginia, described as follows: Beginning at an iron pin at the point of intersection of the eastern right of way line of Ross Street and the eastern right of way line of Dorsey Avenue; thence N. 83° 23' 40" E. 119.27 feet to an iron pin; thence N. 26° 25' E. 120.00 feet to an iron pin; thence N. 63° 35' W. 100 feet to an iron pin; thence N. 26° 25' E. 893.00 feet to an iron pin; thence S. 77° 33' E. 1160.00 feet to an iron pin; thence N. 17° 20' 30" W. 772.47 feet to an iron pin; thence S. 82° 48' 30" E. 197.16 feet to an iron pin; thence S. 59° 13' E. 523.52 feet to an iron pin; thence S. 48° 43' E. 802.31 feet to an iron pin in the property owned by the Oak Grove Cemetery Association; thence with said line, S. 74° 13' W. 1659.03 feet to an iron pin in said boundary line; thence continuing with said boundary line, S. 63° 28' W. 672.65 feet to an iron pin; thence N. 85° 14' W. 139.58 feet to an iron pin in the line of the property previously conveyed by Paul W. Jeffers and others to Samuel Chico Jr.; thence with two lines of Chico, N. 9° 02' W. 89.91 feet to an iron pin; thence N. 85° 14' W. 116.29 feet to an iron pin in the eastern right of way of Dorsey Avenue; thence with said right of way, N. 12° 56' W. 109.61 feet to an iron pin in said right of way; thence continuing with said right of way, N. 18° 26' 30" W. 155.24 feet to an iron pin in said right of way; thence continuing with said right of way, N. 24° 53' W. 30.00 feet to an iron pin in said right of way at its point of intersection with Ross Street, the place of beginning, containing 54.261 acres, more or less.

Less, excepting, reserving, and excluding from Parcel One the following lots, parcels, and/or tracts:

(1) The lot, parcel, and/or tract granted and conveyed to Chico Dairy Company, Inc. by (a) the deed dated May 6, 1971 of record in the Clerk’s Office in Deed Book 707 at Page 435 and (b) the corrective deed dated June 12, 1971 of record in the Clerk’s Office in Deed Book 709 at Page 70;

(2) The lots, parcels, and/or tracts described as Lots Nos. 1, 2, and 3 in Block A of Haymaker Village granted and conveyed to Lucille Fox by the deed dated September 30, 1972 of record in the Clerk’s Office in Deed Book 729 at Page 481;

(3) The lot, parcel, and/or tract granted and conveyed to Chico Dairy Company, Inc. by the deed dated May 29, 1973 of record in the Clerk’s Office in Deed Book 736 at Page 346;

(4) The lots, parcels, and/or tracts described as Lots Nos. 3, 5, and 7 in Block B of Haymaker Village granted and conveyed to Lucille Fox by the deed dated September 28, 1973 of record in the Clerk’s Office in Deed Book 741 at Page 627;

(5) The lots, parcels, and/or tracts described as Lots Nos. 4, 5, and 6 in Block A of Haymaker Village granted and conveyed to Lucille Fox by the deed dated October 3, 1974 of record in the Clerk’s Office in Deed Book 755 at Page 195;

(6) The lot, parcel, and/or tract granted and conveyed to Chico Dairy Company by the deed dated March 1, 1975 of record in the Clerk’s Office in Deed Book 768 at Page 396;

(7) The lot, parcel, and/or tract described as Lot No. 1 in Block B of Haymaker Village granted and conveyed to Lucille Fox by the deed dated January 19, 1976 of record in the Clerk’s Office in Deed Book 770 at Page 498;

(8) The lot, parcel, and/or tract described as Lot No. 9 in Block B of Haymaker Village granted and conveyed to Lucille Fox by the deed dated January 19, 1976 of record in the Clerk’s Office in Deed Book 770 at Page 500;

(9) The lots, parcels, and/or tracts described as Lots Nos. 11 and 13 in Block B of Haymaker Village granted and conveyed to Lucille Fox by the deed dated September 28, 1976 of record in the Clerk’s Office in Deed Book 781 at Page 666;
(10) The lots, parcels, and/or tracts described as Lot No. 2 in Block C and Lot No. 1 in Block D of Haymaker Village granted and conveyed to Big Bee Construction, Inc. by the deed dated October 6, 1976 of record in the Clerk’s Office in Deed Book 782 at Page 689;

(11) The lot, parcel, and/or tract described as Lot No. 3 in Block D of Haymaker Village granted and conveyed to James Burlingham by the deed dated January 4, 1977 of record in the Clerk’s Office in Deed Book 785 at Page 423;

(12) The lot, parcel, and/or tract described as Lot No. 12 in Block B of Haymaker Village granted and conveyed to James Burlingham by the deed dated March 16, 1977 of record in the Clerk’s Office in Deed Book 788 at Page 581;

(13) The lots, parcels, and/or tracts described as Lots Nos. 7, 8, and 9 in Block A and Lot No. 14 in Block B of Haymaker Village granted and conveyed to Lucille Fox by the deed dated September 26, 1977 of record in the Clerk’s Office in Deed Book 797 at Page 31;

(14) The lot, parcel, and/or tract described as Lot No. 5 in Block D of Haymaker Village granted and conveyed to John Laurita by the deed dated September 13, 1977 of record in the Clerk’s Office in Deed Book 797 at Page 477;

(15) The lot, parcel, and/or tract described as Lot No. 7 in Block E of Haymaker Village granted conveyed to James P. Livengood and Josephine Livengood by the deed dated March 14, 1978 of record in the Clerk’s Office in Deed Book 803 at Page 231;

(16) The lot, parcel, and/or tract described as Lot No. 9 in Block E of Haymaker Village granted and conveyed to Frank B. Wyatt Jr. and Lind A. Wyatt by the deed dated June 27, 1978 of record in the Clerk’s Office in Deed Book 808 at Page 6;

(17) The lot, parcel, and/or tract described as Lot No. 8 in Block B of Haymaker Village granted and conveyed to Carmen T. Martin and Emma Grace Martin by the deed dated July 12, 1978 of record in the Clerk’s Office in Deed Book 809 at Page 274;

(18) The lot, parcel, and/or tract described as Lot No. 10 in Block B of Haymaker Village granted and conveyed to Galen Boyd Kiser by the deed dated April 10, 1978 of record in the Clerk’s Office in Deed Book 810 at Page 609 and Deed Book 817 at Page 383;

(19) The lot, parcel, and/or tract described as Lot No. 2 in Block D of Haymaker Village granted and conveyed to Kenneth Ryan and Deborah Ryan by the deed dated August 29, 1978 of record in the Clerk’s Office in Deed Book 811 at Page 465;

(20) The lot, parcel, and/or tract described as Lot No. 5 in Block E of Haymaker Village granted and conveyed to George A. Emerson and Irma Emerson by the deed dated March 20, 1979 of record in the Clerk’s Office in Deed Book 825 at Page 217;

(21) The lot, parcel, and/or tract described as Lot No. 6 in Block B of Haymaker Village granted and conveyed to Duk-Won Park and Sun-Ja Park by the deed dated December 18, 1979 of record in the Clerk’s Office in Deed Book 834 at Page 413;

(22) The lot, parcel, and/or tract granted and conveyed to Teleprompter Corporation by the deed dated July 13, 1981 of record in the Clerk’s Office in Deed Book 855 at Page 72;

(23) The lot, parcel, and/or tract described as part of Lot No.1 in Block C of Haymaker Village granted and conveyed to George H. Phillips and Biddle M. Phillips by the deed dated September 9, 1987 of record in the Clerk’s Office in Deed Book 968 at Page 235 and Deed Book 970 at Page 508;
(24) The lot, parcel, and/or tract described as Lot No. 1 in Block F of Haymaker Village granted and conveyed to Frank Kuhn and Debbie Kuhn by the deed dated July 31, 1991 of record in the Clerk's Office in Deed Book 1033 at Page 125; and

(25) The lot, parcel, and/or tract granted and conveyed to Chico Dairy Co. by the deed dated November 15, 1993 of record in the Clerk's Office in Deed Book 1079 at Page 25.

Parcel Two: The lot, parcel, and/or tract located and situate in Morgan District, Monongalia County, West Virginia, described as follows: Beginning at a hub, corner at a point on a line in a fence, corner to the lands of the Margaret D. Jeffers heirs; thence S. 85° 14' E. 115 feet to a hub, corner to other lands of the said Margaret D. Jeffers heirs; thence S. 9° 02' E. 89.91 feet corner to a hub on the lands of the East Oak Grove Cemetery; thence with the lands of the said East Oak Grove Cemetery, N. 85° 14' W. 115 feet to a hub, corner to Dorsey Avenue; thence with the right of way line of said Dorsey Avenue, N. 5° 56' W. 40 feet to a hub, corner on said right of way line of said Dorsey Avenue; thence with another line of said right of way line, N. 11° 30' W. 50 feet to the place of beginning, being a parcel measuring approximately 90 feet by 115 feet.

Parcel Three: The lot, parcel, and/or tract located and situate in the Second Ward of The City of Morgantown, Morgan District, Monongalia County, West Virginia, described as follows: Beginning at a point at the corner of Lot No. 29 in Block No. 72 of the Smith Addition to South Park; thence along property now owned by Bucca, S. 59° 19' E. 200 feet to a stake in the property line of Mountain View Development Company and Jeffers; thence N. 83° 19' W. 199.29 feet to a stake in the property line of Lot No. 30 in Block No. 72 of said Smith Addition; thence N. 18° 12' E. 83.01 feet to the place of beginning, containing 0.186 acre, more or less, to the extent that such lot, parcel, and/or tract is adjacent to Parcel One and located and situate south of and adjoins the southern side of the easement of and for South Hills Drive.
## Exhibit B to Deed
### (Assessment Information)

<table>
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<th>Tax Map</th>
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**Bl B Lot 4 100x107.7x140x130 Haymaker Village (Also included with TMP 10D-40 - ENTERED TWICE - ONCE AS PART OF AN ENTRY AND ONCE AS A SEPARATE ENTRY)**

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**Bl D, Lot 8 (100x100) Haymaker Village (Also included with TMP 10D-7 - ENTERED TWICE - ONCE AS PART OF AN ENTRY AND ONCE AS A SEPARATE ENTRY)**

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AN ORDINANCE REGULATING THE PAYMENT OF EMPLOYEE COMPENSATION

The City of Morgantown hereby ordains the following:

1. The City Manager is authorized to fix the rates of compensation for employees of the City, and to cause such amounts to be paid to the employees, within the amounts allocated by City Council for such purposes in the adopted budget for the City, as it may be amended;

2. No less than once each fiscal year, the City Manager shall cause to be published on the City’s website a listing of the current pay rate for each classification or designation of employee, identified by title or position;

3. Ordinance No. 2017-41, and any other ordinance establishing rates of compensation for employees of the City, is superseded by this Ordinance in the event of any conflict between the provisions of this ordinance or the wages or rates established hereunder and the provisions of such prior ordinance.

This Ordinance shall be effective from the date of adoption.

FIRST READING:

ADOPTED:

FILED:

RECORDED:

____________________________
MAYOR

____________________________
CITY CLERK
Boards & Commissions Available Positions

<table>
<thead>
<tr>
<th>Board/Commission</th>
<th>Appt/reappt</th>
<th>Name of Applicants</th>
<th>Res./Non Res.</th>
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<th>Code Sec.</th>
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<td>Appt/reappt</td>
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<td>Appt/reappt</td>
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<td>Appt/reappt</td>
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<td>Councilor Selin looking</td>
<td>4th</td>
<td>151</td>
<td>Term exp 4-18</td>
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See attached e-mail from chair
Ed Hawkins is County selection
Oleg Smirnov Sister City or others

Council to interview new applicants.

6/11/2018

*Council decided on 3-21-06 by unanimous consent that if there is only one candidate for Boards & Commissions, that they will not interview; the City Clerk will check with Council before scheduling a Special Meeting.
*BZA and Planning Commission term expirations are advertised in October and interviews must be completed by December per State Law.
Linda, I discussed the terms lengths with the Commission. I will stay on taking a 2 year term as will Josh Williamson. Tina and Kacy volunteered to be the 1 year terms. The other members, Robyn Hess, Ken Weiss, and Ed Hawkins have the 3 year terms. That should make up the seven Commissioners. We were not sure if Ed Hawkins was a County Commission representative, or considered a Commissioner the same as the rest. If he is a Co. Comm. rep then we have an opening. If he is considered a regular Commission member, we do not have an open spot. Deputy Mayor Brazaitis is our City Council representative. Keith Reed has not attended a Met Commission meeting in over a year due to an ongoing conflict in his schedule and was replaced by Robyn.

--Rick

-----Original Message-----
From: Linda Tucker <ltucker@morgantownwv.gov>
To: Rick McEwuen <r471titus@aol.com>
Sent: Wed, May 16, 2018 10:22 am
Subject: Met Board

Rick, Rick can you tell me who the vacancy is on the board. Deputy Mayor was not sure. Does the board still want Keith Reed to stay on for it says on my sheet do not replace? Just need to know before I advertise. Everyone on the board was interviewed in 2016, do they want to be interviewed again? They do not have too 😊 Let me know your thoughts😊

Linda L. Tucker, CMC
Morgantown City Clerk
389 Spruce Street, Rm. 10
Morgantown, WV. 26505
Phone (304)284-7439
Fax (304)284-7525
morgantownwv.gov
Application to Serve on City Boards and Commissions

THE CITY OF MORGANTOWN HAS NUMEROUS COMMITTEES, BOARDS, AND COMMISSIONS COMPRISED OF CITIZENS WHO GIVE OF THEIR TIME IN EVERY IMPORTANT CAPACITIES. STATE LAWS PRESCRIBE THAT SOME THOSE BODIES RETAIN MEMBERS WHO HAVE CERTAIN EXPERIENCE, EDUCATION OR PROFESSIONAL CERTIFICATIONS. WE ASK THAT YOU PROVIDE THE FOLLOWING BASIC INFORMATION SO WE MAY EVALUATE PROSPECTIVE APPOINTEES' QUALIFICATIONS IN AN EXPEDIENT MANNER. A RESUME OR OTHER OTHER PERTINENT INFORMATION MAY BE SUBMITTED ALONG WITH THIS FORM.

MR/MS: ______________ HAROLD MAX SHAVER WORK/CELL PHONE: _304-319-1_!
ADDRESS: __________ 2025 LISTRAVIA AVE. HOME PHONE: ____________
____________ MORGANTOWN WV ZIP: _____ 26505
EMAIL ADDRESS: SWIFTYSHAVER@YAHOO.COM
CITY RESIDENT? YES ___ NO ___ YEARS OF CITY RESIDENCE 1 6th WARD
WHO IS YOUR EMPLOYER? (If Retired, answer "Retired" RETIRED
WHAT TYPE OF BUSINESS ARE (were) YOU EMPLOYED IN SCHOOL BUS DRIVER, PRINTER
JOB TITLE OR JOB DESCRIPTION: _________ BUS DRIVER
PROFESSIONAL CERTIFICATIONS/LICENSE: __ Certified tour and school bus driver

SPECIAL INTERESTS: __ GOLFING, BICYCLING, KAYAKING, MUSEUM VOLUNTEER, PART TIME BUS DRIVER

PLEASE CHECK THE COMMISSIONS YOU ARE INTERESTED IN SERVING:

__ BOCCA BOARD OF APPEALS __ yes MUSEUM COMMISSION
__ BOARD OF PARKS AND RECREATION __ PARKING AUTHORITY
__ BOARD OF ZONING APPEALS __ PERSONNEL BOARD
__ BUILDING COMMISSION __ PLANNING COMMISSION
__ FIRE CIVIL SERVICE __ POLICE CIVIL SERVICE
__ FIRE CODE BOARD OF APPEALS __ SISTER CITIES COMMISSION
__ HISTORIC LANDMARKS __ TRAFFIC COMMISSION
__ HUMAN RIGHTS __ TRANSIT AUTHORITY
__ LIBRARY BOARD __ TREE BOARD
__ MET BOARD __ URBAN LANDSCAPE COMMISSION
__ MORGANTOWN HOUSING ADVISORY COMMISSION __ WARD & BOUNDARY
__ MORGANTOWN UTILITY BOARD __ WELLNESS COMMISSION
__ WOODBURN REDEVELOPMENT COMMISSION

SUBMIT TO: CITY CLERK, 389 SPRUCE STREET, RM. 10, MORGANTOWN, WV. 26505
APPLICATIONS WILL REMAIN ON FILE IN THE CITY CLERK’S OFFICE FOR 6 MONTHS

Updated: 1/4/2018 H

Page 96 of 182
Pamela A. Ball

Pamela was born in Fairmont, West Virginia. She moved to Morgantown to attend West Virginia University in August of 1972.

Pamela has been volunteering for civic related projects for many years going back to 1982, when she and the late Dr. Phillip True established the Trinity Episcopal Church Community Kitchen, which is still in operation today. Later, she established neighborhood grass roots efforts for varying projects including R1-A for Greenmont, etc.

Pamela has served as chairperson of the Morgantown Museum Commission, since it was established in 2005. Additionally, she serves as the volunteer coordinator of the Morgantown History Museum, which was established the following year in 2006, and is part of the city of Morgantown BOPARC system.

In December of 2011, the Morgantown History Museum opened their new museum facility on Kirk Street, downtown Morgantown, with the Smithsonian exhibit *The Way We Worked*.

Previously, Ms. Ball served as a founding member and vice-president of the Board of Directors of Riverfront Museums, Inc., and also served as RMI’s second president. RMI, Inc. was established in 1994 as an initiative of the Chamber of Commerce Vision 2000 program. (The city of Morgantown Museum Commission/ Initiative evolved from the RMI, Inc. organization.)

Pamela also served on the Chamber of Commerce Vision 2000 Beautification Committee; City of Morgantown Beautification Commission and Chamber of Commerce Vision 2020 Historic
Preservation Committee.

Music has always been an important part of Pamela’s life and because of this interest she served as a volunteer book reviewer for the West Virginia Cultural Resources Department (Goldenseal magazine) book project, *Mountains of Music*.

Education: WVU, 1985, M.A, American History
WVV, 1985, Certificate/ Public History (35 hours)
WVU, 1976, B. of Science, Social Work

Recent employment:

- WVU Foundation, Inc. / 1994 – 2018 (Retired)
  Research Analyst, Special Projects
  One Waterfront Place, Morgantown, West Virginia

- Morgantown History Museum, City of Morgantown, WV, Coordinator / 2006 – Current

Pamela has worked on projects for the City of Morgantown, State of West Virginia, US federal government (U.S. Forest Service), Coopers Rock Foundation, private organizations and businesses, writing National Register Nominations; National Register Surveys; Cultural Resource Surveys, and other historical projects.
Ms. Ball has also produced a number of historical photograph and art exhibits, and has been involved with contributing to various writing projects, involving local and state history including “Morgantown: A Bicentennial History.” Additionally, Pam has also written interpretive brochures for the Job Prickett House,
Prickett’s Fort State Park, Fairmont, WV; Easton Roller/Grist Mill, Morgantown, WV, etc. during her 30+ year history career.

Updated: 2018
Application to Serve on City Boards and Commissions

Name: Oleg SSmirnov
Phone Number: 7363672928
Address: 600 N High Street
City: Morgantown
State: WV
Zip Code: 26505
Email Address: os0010@mix.wvu.edu
Fax Number: Field not completed.
City Resident?: Yes
Years of City Residency: 1
Ward: 3
Who is your employer?: WVU Student Rec Center
What type of business are (were) you employed in?: Public
Job Title or Job Description: Lifeguard
Professional Certification/License: Lifeguarding certification/CPR/AED
Special Interests: Event planning, fundraisers, working with law enforcement
Please check the Boards and Commissions you are interested in serving: [ any ]
Linda Tucker

From: Oleg Smirnov Jr. <os0010@mix.wvu.edu>
Sent: Wednesday, April 04, 2018 3:23 PM
To: Linda Tucker
Subject: Volunteer Opportunities

Good morning Ms Tucker,
I was informed that I was not selected to be in Woodburn Commission, however, the committee supported my ideas and suggested to apply for another open position upon availability. Can you please keep me updated on any new volunteer positions?

It will be greatly appreciated. Thank you.

Oleg Smirnov, Jr.

Physics Student
West Virginia University
os0010@mix.wvu.edu
Mr. Tucker,
Thank you for your email. Yes, I would definitely be interested in Sister Cities Commission :)

On Tue, Apr 24, 2018 at 11:49 AM, Linda Tucker <ltucker@morgantownwv.gov> wrote:

Oleg, there possibly will be some vacancies on the Sister Cities commission soon. Would you be interested in that😊

Linda L. Tucker, CMC

Morgantown City Clerk

389 Spruce Street, Rm. 10

Morgantown, WV. 26505

Phone (304)284-7439

Fax (304)284-7525

morgantownwv.gov

THE CITY OF MORGANTOWN
WEST VIRGINIA
1389.01 ESTABLISHMENT.

(A) The Board of Zoning Appeals is hereby established and shall consist of five (5) members to be appointed by City Council, all of whom shall be residents of the City and each of such members shall have been a resident of the City for at least three (3) years prior to the time of his or her appointment.

(B) No member of the Board of Zoning Appeals shall be a member of the Planning Commission nor shall any member hold any other elective or appointive office in the municipal government of the City of Morgantown.

(C) The members of the Board shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their official duties. If a vacancy occurs by resignation or otherwise among the members of the Board of Zoning Appeals, City Council shall appoint a member for the unexpired term.

(D) City Council may appoint up to three additional members to serve as alternate members of the Board who shall meet the same eligibility requirements as regular Board members. The term for an alternate Board member shall be three years and Council may appoint alternate members on a staggered term schedule.

(E) An alternate Board member shall serve on the Board when one of the regular members is unable to serve. The alternate Board member shall serve until a final determination is made in the matter to which the alternate member was initially called on to serve.

(F) The Board of Zoning Appeals shall establish rules and procedures for designating an alternate member who shall have the same powers and duties as a regular Board member.

(G) City Council shall provide the Board of Zoning Appeals with suitable offices for the holding of meetings and the preservation of plans, maps, documents and accounts; and appropriate money to defray the reasonable expenses of the Board.

(Ord. 16-43. Passed 9-6-16.)
ARTICLE 153
Human Rights

153.01 Declaration of policy.
153.02 Definitions.
153.03 Unlawful discriminatory practices.
153.04 City Human Rights Commission established.
153.05 Composition and membership.
153.06 Officers.
153.07 Meetings, bylaws and rules.
153.08 Commission status and objectives.
153.09 Powers; functions; services.
153.10 Complaints; procedures.
153.11 Exemptions, conflicts; savings clause.

CROSS REFERENCES
Authority to prohibit housing discrimination - see W.Va. Code 8-12-9
State Human Rights Commission - see W.Va. Code Art. 5-11
Local human relation commission - see W.Va. Code 5-11-1

153.01 DECLARATION OF POLICY.
(a) In order to build an inclusive community, the City will dedicate deliberate and continuous attention to the human relations and human rights of its residents and visitors.

(b) It is the public policy of the City to provide all of its residents and visitors equal opportunity for participation in local governance, employment, equal access to places of public accommodations and equal opportunity in the sale, purchase, lease, rental and financing of housing accommodations or real property. Equal opportunity in the areas of employment, public accommodations, housing accommodations or real property is hereby declared to be a human right or civil right of all persons without regard to race, religion, color, national origin, ancestry, sex, age, blindness, disability, sexual orientation, gender identity, familiar status, or veteran status.

(c) The denial of these rights to properly qualified persons by reason of race, religion, color, national origin, ancestry, sex, age, blindness, disability, sexual orientation, gender identity, familial status, or veteran status is contrary to the principles of freedom and equality of opportunity and is destructive to a free and democratic society.
“Familial status” means one or more individuals (who have not attained the age of eighteen years) being domiciled with:

1. A parent or another person having legal custody of such individual or individuals; or
2. The designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall also apply to any person with care and legal custody of such individual, any person who is pregnant, or any person who is in the process of securing legal custody of any individual who has not attained the age of eighteen years. Nothing in this definition restricts advertisements of dwellings which are intended or operated for occupancy by older persons and which constitute housing for older persons as defined by Title 42, United States Code, Section 3607(b)(2).

“Gender identity” means the actual or perceived gender-related identity, expression, appearance, or mannerisms, or other gender-related characteristics of an individual, regardless of the individual’s designated sex at birth.

“Housing accommodations” means any building or portion thereof which is used or intended for use as the residence or sleeping place of one or more persons.

“Inclusive City” and “Inclusive Community” as used in this article, shall mean the same thing, e.g., a city that helps people thrive by: supporting hospitality; welcoming diversity; promoting civility; promoting safe, affordable dwellings; enabling participation in community, services, and local government; supporting fairness in access to opportunities and services; reducing violence; supporting social justice; encouraging awareness and understanding of opportunities/limitations; making residents aware of the West Virginia Human Rights Commission; and working for a more sustainable community for present and future citizens.

“Labor organization” includes any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment or for other mutual aid or protection in relation to employment.

“Owner” means the owner, lessee, sub-lessee, assignee, manager, agent or other person having the right to sell, rent, lease or transfer any housing accommodation or real property within the City or any agent of any of such persons.

“Place of public accommodations” means any establishment or person, as defined herein, including the City, which offers its services, goods, facilities or accommodations to the general public or which is supported directly or indirectly by government funds, but shall not include any accommodations which are in their nature private and which are not in fact open to the public.

“Purchaser” includes any occupant, prospective occupant, lessee, prospective lessee, renter, prospective renter, buyer or prospective buyer.
(q) "Real estate broker" includes any person, firm, or corporation who, for a fee, commission or other valuable consideration, or by reason of a promise or reasonable expectation thereof, lists for sale, sells, exchanges, buys, or rents, or offers or attempts to negotiate a sale, exchange, purchase or rental of real estate or an interest therein, or collects or offers or attempts to collect rent for the use of real estate or solicits for a prospective purchaser, or assists or desists in the procuring of prospects or the negotiation or closing of any transaction which does or is contemplated to result in the sale, exchange, leasing, renting or auctioning of any real estate, or negotiates, offers, or attempts or agrees to negotiate a loan secured or to be secured by mortgage or other encumbrance upon transfer of any real estate for others, or any person who, for pecuniary gain or expectation of pecuniary gain, conducts a public or private competitive sale of lands or any interest in land. In the sale of lots, the term "real estate broker" also includes any person, partnership, association or corporation employed by or on behalf of the owner or owners of lots or other parcels of real estate at a stated salary, or upon a commission, or upon a salary and commission, or otherwise to sell such real estate, or any parts thereof, in lots or other parcels, and who shall sell or exchange, or offer or attempt or agree to negotiate the sale or exchange of any such lot or parcel of real estate. A newspaper engaged in the activity of advertising in the normal course of its business shall not be deemed to be a real estate broker.

(r) "Real estate salesman" includes any person who, for compensation, valuable consideration, or commission, or other thing of value, or by reason of a promise or reasonable expectation thereof, is employed by and operates under the supervision of real estate broker to sell, buy or offer to buy or negotiate the purchase, sale, or exchange of real estate, offers or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance upon or transfer of real estate for others, or to collect rents for the use of real estate, or to solicit for prospective or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission, or otherwise to sell real estate, or any parts thereof, in lots or other parcels.

(s) "Real property" includes real estate, lands, leaseholds, commercial or industrial buildings, and any vacant land offered for sale or for rent on which the construction of a housing accommodation, commercial or industrial building is intended, and any land operated as a trailer camp or rented or leased for the use, parking or storage of mobile homes or house trailers.

(t) "Sexual orientation" means actual or perceived homosexuality, heterosexuality, or bisexuality.

(u) "Veteran status" means a person who has served in active military, naval or air service, and who was discharged or released under conditions other than dishonorable.  (Ord. 17-40. Passed 10-17-17.)

153.03 UNLAWFUL DISCRIMINATORY PRACTICES.
It shall be an unlawful discriminatory practice, unless based upon a bona fide occupational qualifications, or except where based upon lawful and acceptable security regulations established by the United States or the State of West Virginia or its agencies or political subdivisions:
(a) For any employer to discriminate against an individual with respect to compensation, hire, tenure, terms, conditions or privileges of employment on the basis of race, religion, color, national origin, ancestry, sex, age, blindness, disability, veteran status, sexual orientation or gender identity. Provided, that it shall not be an unlawful discriminatory practice of an employer to observe the provisions of any bona fide pension, retirement, group or employee insurance or welfare benefit plan or system not adopted as a subterfuge to evade the provisions of this subsection.

(b) For any employer, employment agency, or labor organization, prior to employment or admission to membership, to:
   (1) Elicit any information or make or keep a record of or use any form of application or application blank containing questions or entries concerning the race, religion, color, national origin, ancestry, disability, sex, blindness, age, veteran status, sexual orientation, or gender identity of any applicant for employment or membership, except for such forms which shall be kept separate from the application blanks for the administration of any bona-fide affirmative action plan, that is in accordance with state and federal laws and regulations, or for the purpose of complying with any state or federal statute, or rule or regulation issued by any agency or the state or federal government, or for the purpose of making reports required by agencies of the state or federal government;
   (2) Print or publish or cause to be printed or published any notice or advertisement relating to employment or membership indicating any preference, limitation, specification or discrimination based upon race, religion, color, national origin, ancestry, disability, sex, blindness, age, veteran status, sexual orientation or gender identity; or
   (3) Deny or limit, through a quota system, employment or membership because of race, religion, color, national origin, ancestry, disability, sex, blindness, age, veteran status, sexual orientation or gender identity.

(c) For any labor organization because of race, religion, color, national origin, ancestry, disability, sex, blindness, age, veteran status, sexual orientation, or gender identity of any individual to deny full and equal membership rights to any individual or otherwise to discriminate against such individuals with respect to hire, tenure, terms, conditions or privileges of employment, or any other matter directly or indirectly related to employment.

(d) For an employee, labor organization, employment agency, or any joint labor-management committee controlling an apprentice training program to:
   (1) Select individuals for an apprentice training program on any basis other than their qualifications as determined by objective criteria which permit review;
   (2) Discriminate against any individual with respect to his right to be admitted to or participate in a guidance program, an apprenticeship training program, on-the-job training program, or other occupational training, or retaining program;
   (3) Discriminate against any individual in his pursuit of such programs or to discriminate against such a person in the terms, conditions or privileges of such programs; or
   (4) Print or circulate or cause to be printed or circulated any statement, advertisement or publication; or to use any form of application of such programs; or to make any inquiry in connection with such program which expresses, directly or indirectly, discrimination or any intent to discriminate, unless based upon a bona fide occupational qualification.
(e) For any employment agency to fail or refuse to classify properly, refer for employment, or otherwise to discriminate against any individual because of his race, religion, color, national origin, ancestry, disability, sex, blindness, age, veteran status, sexual orientation or gender identity.

(f) For any person being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodations to:
(1) Refuse, withhold from, or deny to any individual because of his race, religion, color, national origin, ancestry, disability, sex, blindness, age, veteran status, sexual orientation or gender identity, either directly or indirectly, any of the accommodations, advantages, facilities, privileges or services of such place of public accommodations; or
(2) Publish, circulate, issue, display, post, or mail, either directly or indirectly, any written or printed communication, notice, or advertisement to the effect that any of the accommodations, advantages, facilities, privileges, or services of such place shall be refused, withheld from, or denied to any individual on account of race, religion, color, national origin, ancestry, disability, sex, blindness, age, veteran status, sexual orientation, or gender identity or that the patronage or custom thereat of any individual belonging to or purporting to be of any particular race, religion, color, national origin, ancestry, sex, age, veteran status, sexual orientation, or gender identity or who is blind or disabled is unwelcome, objectionable, not acceptable, undesired, or not solicited.

(g) For any person, employer, employment agency, labor organization, owner, real estate broker, real estate salesman, or financial institution to:
(1) Engage in any form of threats or reprisal, or to engage in, or hire, or conspire with others to commit acts, or activities of any nature, the purpose of which is to harass, degrade, embarrass, or cause physical harm or economic loss or to aid, abet, incite, compel or coerce any person to engage in any of the unlawful discriminatory practices defined in this section;
(2) Willfully obstruct or prevent any person from complying with the provisions of this article, or to resist, prevent, impede, or interfere with the Commission or any of its members or representatives in the performance of a duty under this article; or
(3) Engage in any form of reprisal or otherwise discriminate against any person who has opposed any practices or acts forbidden under this article or because the person has filed a complaint, testified or assisted in any proceeding under this article.

(h) For any person to coerce, threaten, discharge, expel, blacklist or otherwise retaliate against another person for opposing any practices prohibited by this article, making a complaint under this article, or assisting in an investigation or proceeding regarding an alleged violation of this article.

(i) For any person to discriminate against another person based on the classifications identified in this article even if such discrimination is not specifically identified within this section.
(Ord. 17-40. Passed 10-17-17.)
153.04 CITY HUMAN RIGHTS COMMISSION ESTABLISHED.
There is hereby established in the City a Human Rights Commission.
(Ord. 17-40. Passed 10-17-17.)

153.05 COMPOSITION AND MEMBERSHIP.
The Human Rights Commission shall consist of seven members to be appointed by City Council. The members shall be residents of and in the City. The Commission may appoint, with the approval of City Council, ex-officio members who shall have the privilege of participation without the right to vote.
Commissioners shall serve for two-year terms beginning with the first meeting after the beginning of the municipal fiscal year. Four of the first seven members shall be appointed to serve terms of two years, while three shall be appointed to serve terms of one year. Thereafter, terms of office for all commissioners will be staggered with two-year terms. Members may be reappointed to subsequent two-year terms.
(Ord. 17-40. Passed 10-17-17.)

153.06 OFFICERS.
(a) Officers: The officers of the Human Rights Commission shall be a Chairperson, Vice Chairperson, and Secretary. The Chairperson shall serve as the liaison to the City administration.

(b) Appropriation of Funds: City Council may appropriate any funds that it deems necessary to carry out any of the proposals set forth by the Human Rights Commission. The Commission, with the approval of Council, may apply for State and Federal financial aid in grants or other forms of financial assistance through the City Administration to assist in carrying out any approved plans or projects.

(c) Fiscal Responsibilities: The Human Rights Commission shall not have the authority to maintain any independent banking or other financial account. Any such account, if requested, shall be maintained by the City Manager.
(Ord. 17-40. Passed 10-17-17.)

153.07 MEETINGS, BYLAWS AND RULES.
The Human Rights Commission shall meet as often as is deemed necessary by its members, upon call of the chairman. The Commission shall adopt its own bylaws and rules, which shall not be inconsistent with the provisions of this Code.
(Ord. 17-40. Passed 10-17-17.)

153.08 COMMISSION STATUS AND OBJECTIVES.
The Commission shall encourage and endeavor to bring about mutual understanding and respect among all racial, religious and ethnic groups within the City; and shall strive to eliminate all discrimination in employment and places of public accommodations, and in the sale, purchase, lease, rental or financing of housing and other real property, by virtue of actual or perceived race, religion, color, national origin, ancestry, sex, age, blindness, sexual orientation, disability, gender identity, familial status, or veteran status.
In addition, the purpose of the Commission shall be to:
(a) Work to make Morgantown an inclusive city.
(b) Collaborate with the National League of Cities, West Virginia University, Monongalia County Commission and other partners as appropriate to encourage leadership in helping attain inclusivity in the City and its larger community.
(c) Assess needs and identify barriers towards becoming a more inclusive community. Establish goals and objectives for sustaining welcoming environments, enhancing global awareness, and promoting optimum opportunities for supporting safe housing and thriving people.
(d) Support as well as plan, publicize, implement, and evaluate programs, services and activities which promote appreciation for all peoples and the personal worth of every individual.
(e) Enlist the cooperation of civic, community, corporate, educational, ethnic, health care, labor, racial, religious, social justice or other identifiable groups of the City in programs and services devoted to the advancement of tolerance, communication and understanding, and equal protection of the laws of all groups and people.
(f) Enforce the provisions of this article of the City Code prohibiting discrimination in employment, housing, and public accommodations on account of actual or perceived race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, age, disability, familial status or veteran status.
(Ord. 17-40. Passed 10-17-17.)

153.08 POWERS; FUNCTIONS; SERVICES.
The Commission has the right and duty to communicate with City Council and to present to Council any issues that it has investigated pursuant to this article.
The Commission is hereby authorized and empowered:
(a) To cooperate and work with federal, state and local government officers, units, activities and agencies in the promotion and attainment of more harmonious understanding and greater equality of rights between and among all racial religious and ethnic groups in this City.
(b) To enlist the cooperation of racial, religious and ethnic units, community and civic organizations, industrial and labor organizations and other identifiable groups of the City in programs and campaigns devoted to the advancement of tolerance, understanding and the equal protection of the laws of all groups and people.
(c) To hold and conduct public hearings or meetings relating to any and all types of discrimination. Except in accordance with the provisions of Section 153.10 governing complaints and investigations, these hearings shall be of a non-adjudicatory nature and shall not constitute investigations or adjudication of individual complaints regarding unlawful discrimination under the West Virginia Human Rights Act.
(d) To refer any individual or group complaint regarding alleged acts of unlawful discrimination to the West Virginia Human Rights Commission for investigation and adjudication.
(e) To recommend to Council policies, procedures, practices and legislation in matters and questions affecting human rights. Study problems and needs related to inclusivity in the City and make specific recommendations to the City Manager and to the City Council and other partners as pertinent.
To prepare a written report on its work, functions and services for each year ending on June 30 and to deliver copies thereof to Council on or before December 1 next thereafter.

To do all other acts and deeds necessary and proper to carry out and accomplish effectively the objectives, functions and services contemplated by the provisions of this article, including the promulgation of rules and regulations implementing the powers and authority hereby vested in the Commission.

To create such advisory agencies within the City as in its judgment will aid in effectuating the purpose of this article; to study the problem of discrimination in all or specific fields or instances of discrimination because of race, religion, color, national origin, ancestry, sex, age, blindness, handicap, sexual orientation, gender identity, or veteran status; to foster, through community effort or otherwise, goodwill, cooperation and conciliation among the groups and elements of the population of the City and to make the recommendations to the Commission for the development of policies and procedures, and for programs of formal and informal education, which the Commission may recommend to the appropriate City agency. Such advisory agencies shall be composed of representative residents serving without pay. The Commission may itself make the studies and perform the acts authorized by this subsection. It may, by voluntary conferences with parties in interest, endeavor to eliminate discrimination in all stated fields and to foster goodwill and cooperation among all elements of the population of the City.

To accept contributions from any person to assist in the effectuation of the purposes of this section and to see and enlist the cooperation of private, charitable, religious, labor and civic and benevolent organizations for the purposes of this section.

To issue such publications and such results of investigation and research as in its judgement will tend to promote goodwill and minimize or eliminate discrimination; however, the identity of the parties involved shall not be disclosed.

To advise, consult with, and inform the City Manager on any matter pertaining to inclusivity in the City.

To support and develop program initiatives to promote residents' awareness and knowledge of both opportunities to increase inclusivity and current barriers which limit community inclusiveness and long-term sustainability.

To learn about best practices for addressing issues.

To create and implement an inclusive community plan for the City which increases public awareness of issues; promotes education and understanding, provides, enables, or enhances services; articulates planned collaboration; and promotes public participation.

To review City plans and policies which contain matters relating to inclusivity.

To use media and the Internet to frame and convey information about issues, public programs, and service opportunities.

(Ord. 17-40. Passed 10-17-17.)
153.10 COMPLAINTS; PROCEDURES.

(a) Any individual claiming to be aggrieved by an alleged unlawful discriminatory practice may make, sign, and file with the Commission a verified complaint, which shall state the name and address of the person, employer, labor organization, employment agency, owner, real estate broker, real estate salesman, or financial institution alleged to have committed the unlawful discriminatory practice complained of, and which shall set forth the particulars thereof and contain such other information as may be required by the Commission's rules and regulations. The Commission upon its own initiative may, in like manner, make, sign and file such complaint. Any employer, whose employees, or some of them, hinder or threaten to hinder compliance with the provisions of this article, may file with the commission a verified complaint, asking for assistance by conciliation or other remedial action, and in such event no hearings, orders or other actions shall be held, made or taken by the commission against such employer on the basis of the actions set forth in the employer's complaint. Any complaint filed pursuant to this article must be filed within 365 days after the alleged act of discrimination. No provision of this section shall prohibit the Commission from accepting complaints in a manner other than a verified writing and referring such complaints without prior investigation to the West Virginia Human Rights Commission.

(b) After the filing of any complaint, or whenever there is reason to believe that an unlawful discriminatory practice has been committed, the Commission shall make a prompt investigation in connection therewith; provided, however, that the Commission may at any time elect to refer a complaint to the West Virginia Human Rights Commission and that the Commission shall, at any time the complaint or a subsequent investigation indicates that only acts prohibited by West Virginia Code Section 5-11-9 are alleged, refer such complaint to the West Virginia Human Rights Commission. Upon referral to the West Virginia Human Rights Commission, the Commission shall notify the complainant and cease its investigation. Upon a determination by the Commission in accordance with its applicable rules, any investigation may be conducted by an individual member or special committee of the Commission as authorized by the Commission.

(c) If it is determination after such investigation that no probable cause exists for substantiating the allegations of the complaint, the Commission shall, within ten days from such determination, cause to be issued to the complainant written notice of such determination; and the complainant may, within ten days after such service, file with the Commission a written request for a meeting with the Commission to show probable cause for substantiating the allegations of the complaint. If it is determined after such investigation or meeting that probable cause exists for substantiating the allegations of the complaint, the Commission shall immediately endeavor to eliminate the unlawful discriminatory practices complained of by conference, conciliation, and persuasion. Neither the members of the Commission nor any administrative personnel shall disclose what has transpired in the course of the conference, conciliation and persuasion process; provided, that the Commission may publish or release the terms of settlement or conciliation when the complaint has been conciliated or settled.

(d) In case of a failure to eliminate such practice, or in advance thereof, if in the judgment of the Commission circumstances warrant, the Commission shall cause to be issued and served a written notice, together with a copy of such complaint as the same may have been amended, in the manner provided by law for the service of summons in civil actions, directing the person, employer, labor organization, employment agency, owner, real estate broker, real estate salesman, or other institution named in such complaint, hereinafter referred to as
respondent, to answer the charges of such complaint at a public or private hearing before the Commission in the county where the respondent resides or transacts business at a time and place specified in such notice; provided, however, that such written notice shall be served at least thirty days prior to the time set for the hearing. The Commission or its chair shall delegate the power and authority to conduct the hearing to a hearing examiner, who may be an individual commissioner; a panel of commissioners; or a third-party hearing examiner, who shall be an attorney duly licensed to practice law in West Virginia, provided that funding has been allocated to the Commission for retention of such hearing commissioner.

(e) The hearing shall be conducted in accordance with this section and the rules and regulations of the Commission and shall be designed to create a sufficient record to permit review in any court of competent jurisdiction. The respondent may file a written, verified answer to the complaint and appear at such hearing in person or otherwise, with or without counsel, and submit testimony and evidence. The complainant may appear at such hearing in person or otherwise, with or without counsel, and submit testimony and evidence. In addition to any other testimony and evidence received, the hearing examiner may consider the record of the investigation of the complaint and include such record in the record of the hearing. Following the hearing, the hearing examiner shall prepare or cause to be prepared a copy of the record of the hearing and the written findings and conclusions of the hearing examiner and transmit the same to the Commission.

(f) If, after such hearing and consideration of all of the testimony, evidence and record in the case, the Commission finds that a respondent has engaged in or is engaging in any unlawful discriminatory practice as defined in this article, the Commission shall issue and cause to be served on such respondent an order to cease and desist from such unlawful discriminatory practice and to take such affirmative action, including but not limited to, hiring, reinstatement or upgrading of employees, with or without back pay, admission or restoration to membership in any respondent labor organization, or the admission to full and equal enjoyment of the services, goods, facilities, or accommodations offered by any respondent place of public accommodation, and the sale, purchase, lease, rental or financial assistance to any complaint otherwise qualified for the housing accommodation or real property denied in violation of this article, as in the judgment of the Commission will effectuate the purposes of this article, and including a requirement for reporting of the manner of compliance, payment of expenses and lost wages of any witness called by the complainant or Commission, payment to the complainant of reasonable attorney fees, expert witness fees, and legal costs, and payment to the Commission of its costs in conducting the hearing; and any other legal or equitable relief as the Commission deems appropriate. Such order shall be accompanied by findings of fact and conclusions of law sufficient to permit review by any court of competent jurisdiction.

(g) Nothing in this section shall be construed to prohibit the filing of a private lawsuit or other cause of action at any time.

(h) The Commission may adopt rules and regulations implementing the procedures set forth in this section, so long as such rules and regulations are consistent with the provisions of this article. Any such rules and regulations adopted by the Commission shall be filed with the City Clerk and made available for public inspection.

(Ord. 17-40. Passed 10-17-17.)
153.11 EXEMPTIONS; CONFLICTS; SAVINGS CLAUSE.

(a) Notwithstanding anything to the contrary set forth within this ordinance, nothing in this ordinance shall be construed to violate the rights of freedom of speech or religion guaranteed by the First Amendment to the United States Constitution or Article III, Section 7 of the West Virginia Constitution. This ordinance shall not pertain to a religious organization, association, educational institution, or society employing individuals whose primary duties consist of teaching, or spreading doctrine or belief, religious governance, supervision of a religious order, supervision of persons teaching or spreading religious doctrine or belief, or supervision or participation in religious ritual or worship. Nothing in this ordinance shall prevent a religious organization, association, educational institution, or society from restricting membership or access to any of its religious services or activities to those who are members of the same religion. These exemptions are intended, and shall be construed, to protect rights established by the United States and West Virginia Constitutions as determined by applicable judicial decisions.

(b) In the event of a conflict between the interpretation of a provision of West Virginia Code Chapter 5, Article 11, and the interpretation of a similar provision contained in any part of this article, the interpretation of the provision in West Virginia Code shall apply. Until such time as the legislation of the State provides equal or broader protections for the classifications of veteran status, sexual orientation, or gender identity, the provisions contained herein control the application of this ordinance to those classifications.

(c) If any provision of this article is finally determined to be unconstitutional or otherwise unenforceable, it is the intent of the City Council that the remaining provisions remain in force and apply without regard to the unenforceable provision, which shall be treated as though it is omitted in the application of this article.

(Ord. 17-40. Passed 10-17-17.)
ARTICLE 156
Metropolitan Theatre Commission

156.01 Established.
156.02 Purpose.
156.03 Membership.
156.04 Vacancies.
156.05 Officers.
156.06 Meetings.
156.07 Written reports.
156.08 Freedom of Information Act applies.

CROSS REFERENCES
Authority to establish - see CHTR. 4.02

156.01 ESTABLISHED.
There is hereby established a Metropolitan Theatre Commission for the City.
(Ord. 03-13. Passed 3-18-03.)

156.02 PURPOSE.
The function of the Metropolitan Theatre Commission is to over watch and advise the City Manager and City Council regarding present and future development of the theater, programming, financing of theater projects, and operations of the theater as a whole.
(Ord. 03-13. Passed 3-18-03.)

156.03 MEMBERSHIP.
The Metropolitan Theatre Commission shall consist of nine members. Seven of the members shall be residents of the City who shall be appointed by City Council from among the members comprising the Commission of the Metropolitan Theatre Preservation Foundation at the date of adoption of this article. Each of the seven members shall serve a term of four years. Upon the conclusion of that four-year period, subsequent reappointments or new appointments will be for terms as follows:
Two members for a one-year term
and
Two members for a two-year term
and
Three members for a three-year term.
City Council shall determine at the conclusion of the initial four-year term which members of the Commission shall be assigned to the terms indicated above.
Upon the expiration of the terms specified above, all subsequent appointments shall be for a term of three years each.
An eighth member of the Commission shall be a member of the governing body of the City, and shall be elected by City Council. The term of the City Council member shall be coextensive with the term of office to which he or she has been elected or appointed.

A ninth member of the Commission shall be a member of the Monongalia County Commission, and shall be appointed thereto by the County Commission. The term of the County Commission member shall be at the will and pleasure of the Monongalia County Commission.

All members shall serve without compensation.
(Ord. 03-13. Passed 3-18-03.)

156.04 VACANCIES.
Vacancies shall be filled in the same manner as for appointments to the Commission, but for the unexpired term only. The office of a member of the Metropolitan Theatre Commission shall become vacant upon his/her death, resignation, removal from office or failure to attend three consecutive regular meetings of the Commission without being excused by the Commission either before or after such absence.
(Ord. 03-13. Passed 3-18-03.)

156.05 OFFICERS.
The Metropolitan Theatre Commission shall select from its own membership a chairperson, vice-chairperson and secretary.
(Ord. 03-13. Passed 3-18-03.)

156.06 MEETINGS.
The Metropolitan Theatre Commission shall meet as often as it may deem necessary, upon call of the chairperson. All meetings will be subject to the West Virginia Open Governmental Proceedings Act.
(Ord. 03-13. Passed 3-18-03.)

156.07 WRITTEN REPORTS.
The Commission shall submit annual reports to the City Manager and Council summarizing its past year's activities and recommendations for the ensuing year.
(Ord. 03-13. Passed 3-18-03.)

156.08 FREEDOM OF INFORMATION ACT APPLIES.
As a board of the City, the Metropolitan Theatre Commission shall be subject to the West Virginia Freedom of Information Act.
(Ord. 03-13. Passed 3-18-03.)
ARTICLE 168
Museum Commission

168.01 Established.
168.02 Members.
168.03 Officers.
168.04 Meetings.
168.05 Voting.
168.06 Compensation and reimbursement for expenses.

168.07 Appropriation of funds.
168.08 Powers and duties.
168.09 Cooperation with State agencies.
168.10 Annual report.

CROSS REFERENCES
Authority to establish - see W. Va. Code 8-12-5(38)

168.01 ESTABLISHED.
There is hereby formed, created and established a municipal museum commission known as the Morgantown Museum Commission (the "Commission"). The Commission is established pursuant to authority granted to the Municipality by Sections 7-11A-1 et seq. of the West Virginia Code. (Ord. 05-06. Passed 3-15-05.)

168.02 MEMBERS.
The Commission shall consist of ten members who shall be appointed by City Council. The terms of the individual Commission members first appointed shall be as follows:
Two members - 5 years
Two members - 4 years
Two members - 3 years
Two members - 2 years
Two members - 1 year.

All vacancies shall be filled for the unexpired term only and all other appointments shall be for a term of five years, to commence on the date following the scheduled expiration date of the previous term. At all times one of the ten members of the Commission shall be a member of City Council. All members of the Commission shall be residents of the City. (Ord. 05-06. Passed 3-15-05.)

168.03 OFFICERS.
The Commission shall select from its own membership a chairperson, vice-chairperson and secretary. (Ord. 05-06. Passed 3-15-05.)
168.04 MEETINGS.
The Commission shall meet on a monthly basis. Special meetings may be held as deemed necessary by the Chairperson. Such meetings shall be subject to the requirements of the West Virginia Open Governmental Proceedings Act. A quorum of members must be present before a meeting of the Commission can be held at which any official action of the Commission is to take place.  
(Ord. 05-06. Passed 3-15-05.)

168.05 VOTING.
Every member of the Commission present, when a question is put, shall vote unless he/she is interested therein other than as a resident of the City. To be successful, an issue shall require six affirmative votes.  
(Ord. 05-06. Passed 3-15-05.)

168.06 COMPENSATION AND REIMBURSEMENT FOR EXPENSES.
The members of the Commission shall receive no compensation for their services, but shall be entitled to reimbursement for reasonable and necessary expenses actually incurred in the performance of their duties as a Commission member, if said Commission member has received approval from the City’s Finance Director to make such expenditure prior to incurring said expense.  
(Ord. 05-06. Passed 3-15-05.)

168.07 APPROPRIATION OF FUNDS.
City Council may appropriate any funds that it deems necessary to carry out any of the proposals set forth by the Commission, so long as said proposal complies with the authority granted to the Commission by this article. The Commission, on behalf of the City, may receive gifts, grants, donations, bequests or devises from sources other than public funds.  
(Ord. 05-06. Passed 3-15-05.)

168.08 POWERS AND DUTIES.
It shall be the duty of the Commission to advise and recommend to the City Manager and/or City Council museum programs or projects within the City’s corporate limits.  
The Commission shall not have the authority to contractually bind the City on any matter.

Should the Commission so desire, it has the authority to recommend to City Council that a specific admission fee be approved by Council for entrance into a designated museum of the City.  
(Ord. 05-06. Passed 3-15-05.)

168.09 COOPERATION WITH STATE AGENCIES.
The Commission shall cooperate and coordinate its activities with the West Virginia Department of Archives and History, the West Virginia Historical Society and the West Virginia Antiquities Commission.  
(Ord. 05-06. Passed 3-15-05.)

168.10 ANNUAL REPORT.
On December 1st of each calendar year, the Commission shall file an annual report with the City Manager describing its activities for the previous twelve months. The City Manager shall present the Commission’s report to City Council.  
(Ord. 05-06. Passed 3-15-05.)

2005 Replacement
ARTICLE 172
Morgantown Sister Cities Commission

172.01 Established.
172.02 Members.
172.03 Officers.
172.04 Meetings.
172.05 Voting.
172.06 Compensation and reimbursement for expenses.
172.07 Appropriation of funds.
172.08 Purpose, powers, and duties.

172.01 ESTABLISHED.
There is hereby formed, created and established a municipal Sister Cities Commission, known as the Morgantown Sister Cities Commission (the “Commission”). (Ord. 10-10. Passed 3-2-10.)

172.02 MEMBERS.
The Commission shall consist of nine members who shall be appointed by City Council. The terms of the individual Commission members first appointed shall be as follows:

Three members - 3 years
Three members - 2 years
Three members - 1 year

All vacancies shall be filled for the unexpired term only. All other appointments shall be for a term consistent with that set for the member position in question, to commence on the date following the scheduled expiration date of the previous term. At all times one of the nine members of the Commission shall be a member of City Council. Two of the members may be ex-officio, non-voting members selected from the Greater Morgantown Area as defined by the jurisdictional boundaries of the Morgantown, Monongalia Metropolitan Planning Organization. At all times, seven members of the Commission shall be residents of the City. (Ord. 13-03. Passed 2-19-13.)

172.03 OFFICERS.
The Commission shall select from its own membership a chairperson, vice-chairperson, and secretary. (Ord. 10-10. Passed 3-2-10.)
172.04 MEETINGS.
The Commission shall meet on a monthly basis. Special meetings may be held as deemed necessary by the Chairperson. Such meetings shall be subject to the requirements of the West Virginia Open Governmental Proceedings Act. A quorum of members must be present before a meeting of the Commission can be held at which any official action of the Commission is to take place.
(Ord. 10-10. Passed 3-2-10.)

172.05 VOTING.
Every member of the Commission present, when a question is put, shall vote unless he/she is interested therein other than as a resident of the City. To be successful, an issue shall require five affirmative votes.
(Ord. 10-10. Passed 3-2-10.)

172.06 COMPENSATION AND REIMBURSEMENT FOR EXPENSES.
The members of the Commission shall receive no compensation for their services, but shall be entitled to reimbursement for reasonable and necessary expenses actually incurred in the performance of their duties as a Commission member, if said Commission member has received approval from the City’s Finance Director to make such expenditure prior to incurring said expense.
(Ord. 10-10. Passed 3-2-10.)

172.07 APPROPRIATION OF FUNDS.
City Council may appropriate any funds that it deems necessary to carry out any of the proposals set forth by the Commission, so long as said proposal meets the purpose and intent of this article. (Ord. 10-10. Passed 3-2-10.)

172.08 PURPOSE, POWERS, AND DUTIES.
It shall be the duty of the Commission to advise and recommend to the City Manager and/or City Council means of creating or advancing inter-cultural, educational, social and economic exchanges between the City and the State of West Virginia with other cities with which the City of Morgantown has established not only sister cities formal relationships guided by the organization known as Sister Cities International, but also, informal friendship cities relationships formed under the guidance of the Commission.
(Ord. 11-18. Passed 5-17-11.)
ARTICLE 151
Traffic Commission

151.01 Established.
151.02 Composition and membership.
151.03 Officers and rules of procedure.
151.04 Duties.

CROSS REFERENCES
Authority to establish - see CHTR. Sec. 4.02

151.01 ESTABLISHED.
There is hereby established and created a Traffic Commission for the City, the official name of which shall be "The Morgantown Traffic Commission".
(Ord. 15-09. Passed 2-17-15.)

151.02 COMPOSITION AND MEMBERSHIP.
(a) The Traffic Commission shall be composed of: a member of Council; one resident from each of the City wards; one resident at-large to represent bicycling; one resident at-large to represent walking; and one Planning Commission member. All ward, at-large and Planning Commission members shall be appointed by Council. Ex-officio Commission members of the Traffic Commission shall include the Police Chief, or his/her designee; the City Engineer, or his/her designee; the WVU Parking Director/Planner or his/her designee; the Director of the Morgantown Board of Park and Recreation Commissioners (BOPARC) or his/her designee; the Director of the Mountain Line Transit Authority or his/her designee; and the Director of the Morgantown Monongalia Metropolitan Planning Organization (MMMPO) or his/her designee.

(b) The ex-officio members shall serve without any specific term and shall serve by virtue of their office, enjoying all rights of membership except a vote. Each Council and Planning Commission members shall serve until his or her current respective term on Council or Planning Commission expires.

(c) The members appointed by ward residency, and the at-large members shall each serve for a term of three years. (Ord. 15-09. Passed 2-17-15.)

151.03 OFFICERS AND RULES OF PROCEDURE.
(a) The City Engineer shall call the first meeting of the Traffic Commission. The Commission shall meet at least once a month, and shall select from its own membership a chairperson.

(b) The Commission shall adopt its own rules of procedure and shall keep minutes of regular and special meetings.
(Ord. 15-09. Passed 2-17-15.)
151.04 DUTIES.
The duties of the Traffic Commission shall be to receive citizen input pertaining to traffic issues and to act as an advisory to City Council on matters relating to:
(a) The movement and regulation of motor vehicles, bicycles and pedestrians within the City.
(b) The coordination of traffic activities.
(c) Educational activities in traffic matters.
(d) The ways, means and methods of improving traffic conditions within the City; and
(e) The administration and enforcement of traffic regulation. The Commission shall receive such reports and information as deemed necessary by City Administration. The Commission may request the assistance and advice of any other department or official of the City. The City Engineer shall provide primary services for agendas, minutes, studies and implementation of tasks resulting from Commission actions.
(Ord. 15-09. Passed 2-17-15.)
SECOND SUPPLEMENTAL RESOLUTION

SECOND SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITY DATES, REDEMPTION PROVISIONS, INTEREST RATES, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICES AND OTHER TERMS OF THE COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2018 A-2 (WEST VIRGINIA INFRASTRUCTURE FUND) OF THE CITY OF MORGANTOWN; APPROVING AND RATIFYING THE LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; APPROVING A CONFORMED ORDINANCE FOR THE BONDS; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the City Council (the "Governing Body") of The City of Morgantown (the "Issuer" or "Governmental Agency") has duly and officially adopted and enacted a bond ordinance, effective January 17, 2017 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE DESIGN, ACQUISITION, CONSTRUCTION AND EQUIPPING OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE POTABLE WATER PORTION OF THE EXISTING COMBINED UTILITY SYSTEM OF THE CITY OF MORGANTOWN AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN $10,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2017 B (WEST VIRGINIA INFRASTRUCTURE FUND); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING
THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, the Governing Body of the Issuer has duly and officially adopted a Supplemental Resolution, effective January 23, 2018 entitled:

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITY DATES, REDEMPTION PROVISIONS, INTEREST RATES, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICES AND OTHER TERMS OF THE COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2018 A (WEST VIRGINIA INFRASTRUCTURE FUND) OF THE CITY OF MORGANTOWN; APPROVING AND RATIFYING THE LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; APPROVING A CONFORMED ORDINANCE FOR THE BONDS; AND MAKING OTHER PROVISIONS AS TO THE BONDS.


WHEREAS, the Issuer desires to amend the Bond Ordinance and Supplemental Resolution through this Second Supplemental Resolution (collectively, the “Bond Legislation”)

WHEREAS, based on bids, the Project was budgeted to cost $864,073 of which $394,074 was obtained from the proceeds of the Series 2018 A Bonds, $394,074 was obtained from the proceeds of an Infrastructure Council grant, $50,000 was obtained as a grant from The County Commission of Monongalia County and $25,926 was obtained from proceeds of a Board contribution.

WHEREAS, due to a road slip prior to construction, the total cost of the Project has been revised to $__________ of which $394,074 was obtained from the proceeds of the Series 2018 A Bonds, $394,074 was obtained from the proceeds of an Infrastructure Council grant, $50,000 was obtained as a grant from The County Commission of Monongalia County and $25,926 was obtained from proceeds of a Board contribution, $__________ will be obtained from the proceeds of an additional Infrastructure Council grant and an additional amount not to exceed $__________ will be obtained from the proceeds of the Series 2018 A-2 Bonds.
WHEREAS, the Bond Ordinance provides for the issuance of the Combined Utility System Revenue Bonds, Series 2018 A-2 (West Virginia Infrastructure Fund) of the Issuer (the “Series 2018 A-2 Bonds”), in the aggregate principal amounts not to exceed $__________ and has authorized the execution and delivery of a Loan Agreement relating to the Series 2018 A-2 Bonds, including all schedules and exhibits attached thereto, by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council") (the "Loan Agreement"), all in accordance with Chapter 8, Article 20 and Chapter 31, Article 15A of the West Virginia Code of 1931, as amended (collectively, the "Act"); and that other matters relating to the Bonds be herein provided for;

WHEREAS, the Loan Agreement has been presented to the Issuer at this meeting;

WHEREAS, the Series 2018 A-2 Bonds are proposed to be purchased by the Authority pursuant to the Loan Agreement; and

WHEREAS, the Governing Body deems it essential and desirable that this second supplemental resolution (the "Second Supplemental Resolution") be adopted, that the Loan Agreement be approved and ratified by the Issuer, that the exact principal amounts, the dates, the maturity dates, the redemption provisions, the interest rates, the interest and principal payment dates and the sale prices of the Series 2018 A-2 Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Series 2018 A-2 Bonds be herein provided for;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF MORGANTOWN:

Section 1. The Issuer hereby approves the Conformed Bond Ordinance attached hereto as Exhibit A which re-designates the Series 2017 B Bonds as the Series 2018 A Bonds, Series 2018 A-2 Bonds and Series 2018 A-3 Bonds; updates the Prior Bonds and makes other related changes.

Section 2. The revised cost of the Rockley Road Project is estimated not to exceed $____________, of which $394,074 was obtained from proceeds of the Series 2018 A Bonds; up to $25,926 was obtained from the Board permitted to be used for such purpose; $394,073 was received from an Infrastructure Fund Grant; $50,000 was received from a grant from The County Commission of Monongalia County. Due to cost increases an amount not to exceed $____________ may be obtained from the Series 2018 A-2 Bonds and $____________ from a subsequent Infrastructure Fund Grant.

The Reservoir Project which is proposed to be funded in part with the Series 2018 A-3 Bonds has not yet bid therefore, the Series 2018 A-3 Bonds will be issued at a future date.

Section 3. Pursuant to the Bond Ordinance and the Act, this Second Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Combined Utility System Revenue Bonds, Series 2018 A-2 (West Virginia Infrastructure Fund), of the Issuer, originally represented by a single bond, numbered AR-2, in the original aggregate principal amount of $____________, (the “Series 2018 A-2 Bonds”). The Series 2018 A-2 Bonds shall be dated the date of delivery thereof, shall finally mature December 1, 2057 and shall bear interest at the rate of 1.0% per annum. The principal of and interest on the Series 2018 A-2 Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2019 to and including December 1, 2057 and in the amounts as set forth in the "Schedule Y" attached to the Loan Agreement for
the Series 2018 A-2 Bonds and incorporated in and made a part of the Series 2018 A-2 Bonds. The Series 2018 A-2 Bonds shall be subject to redemption upon the written consent of the Authority, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the registered owner of the Series 2018 A-2 Bonds.

Section 4. All other provisions relating to the Series 2018 A-2 Bonds and the text of the Series 2018 A-2 Bonds shall be in substantially the form provided in the Bond Legislation.

Section 5. The Issuer does hereby authorize, approve, ratify and accept the Loan Agreement, a copy of which is incorporated herein by reference, and the execution and delivery of the Loan Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and approved. The Issuer hereby affirms all covenants and representations made in the Loan Agreement and in the applications to the Council and the Authority. The price of the Series 2018 A-2 Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Series 2018 A-2 Bonds shall be advanced from time to time as requisitioned by the Issuer.

Section 6. The Issuer does hereby appoint and designate United Bank, Charleston, West Virginia, to serve as Registrar (the "Registrar") for the Series 2018 A-2 Bonds under the Bond Ordinance and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Series 2018 A-2 Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed.

Section 7. The Issuer does hereby appoint and designate the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Series 2018 A-2 Bonds under the Bond Legislation.

Section 8. The Issuer does hereby appoint and designate United Bank, Morgantown, West Virginia, to serve as Depository Bank under the Bond Legislation.


Section 11. The balance of the proceeds of the Series 2018 A-2 Bonds shall be deposited in or credited to the Series 2018 Bonds Construction Trust Funds for payment of the costs of the Rockley Road Project, including, without limitation, costs of issuance of the Series 2018 A-2 Bonds and related costs.

Section 12. The Mayor and the Clerk are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Series 2018 A-2 Bonds hereby and by the Bond Legislation approved and provided for, to the end that the Series 2018 A-2 Bonds may be delivered on or about ____________, 2018, to the Authority pursuant to the Loan Agreement.
Section 13. The Morgantown Utility Board is hereby authorized to review and approve all requisitions and draw resolutions for the payment of invoices for the Rockley Road Project.

Section 14. The acquisition and construction of the Rockley Road Project and the financing thereof in part with proceeds of the Series 2018 A-2 Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 15. The Issuer does hereby ratify, approve and accept all contracts relating to the financing, acquisition and construction of the Rockley Road Project.

[Remainder of Page Intentionally Blank]
Section 16. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this ____ day of __________, 2018.

THE CITY OF MORGANTOWN

____________________________
Mayor
CERTIFICATION

Certified a true copy of a Second Supplemental Resolution duly adopted by the Council of The City of Morgantown on the ____ day of __________, 2018.

Dated: __________, 2018.

[SEAL]

________________________________
Clerk
EXHIBIT A

CONFORMED BOND ORDINANCE

(see Tab 1)
Date:       WED, 13 JUN 2018
To:         Paul Brake, City Manager .............................................. via email
cc:         Linda Tucker, City Clerk ................................................ via email
RE:         Resolution Approving and Authorizing FY 2018 CDBG Annual Action Plan

Appended hereto are the following documents concerning the submission of the City’s FY 2018-
2019 CDBG Annual Action Plan to the U.S. Department of Housing and Urban Development
(HUD).

- City Council Resolution approving and authorizing to submit to HUD the FY 2018 CDBG
  Annual Action Plan.

- The FY 2018 Annual Action Plan – Executive Summary. The complete document can be

- A table identifying all projects/activities for which CDBG funding was requested, along with
  an explanation why certain requests were not included in the Draft FY 2018 Annual Action
  Plan.

- My memorandum dated 23 MAY 2018 identifying FY 2018 Annual Action Plan submission
  tasks and the related schedule.

Please include this Resolution on City Council’s 19 JUN 2018 agenda so that we can meet HUD
prescribed submission requirements.
RESOLUTION

FY2018-2019 CDBG Annual Action Plan
RESOLUTION APPROVING AND AUTHORIZING TO SUBMIT TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) THE FY 2018 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ANNUAL ACTION PLAN

WHEREAS, under Title I of the Housing and Community Development Act of 1974, as amended, the Secretary of the U.S. Department of Housing and Urban Development is authorized to extend financial assistance to communities in the prevention or elimination of slums or urban blight, or activities which will benefit low- and moderate-income persons, or which address other urgent community development needs; and

WHEREAS, the U.S. Department of Housing and Urban Development has advised the City of Morgantown that under Fiscal Year 2018, the City is eligible to apply for an entitlement grant under the Community Development Block Grant (CDBG) Program in the amount of $412,169.00; and

WHEREAS, the City of Morgantown’s Development Services Department has prepared an Annual Action Plan for Fiscal Year 2018, which proposes how the entitlement grant funds will be expended to address the housing and community development needs identified in the City’s FY 2014 – 2018 Five Year Consolidated Plan; and

WHEREAS, a draft of the FY 2018 Annual Action Plan was on public display from May 18, 2018 through June 18, 2018 and the City held a series of public hearings on said Plan and the comments of various agencies, groups, and citizens were taken into consideration in the preparation of the final document.

NOW, THEREFORE the City of Morgantown by adoption of this resolution on this 19th day of June, 2018, authorizes the execution of:

SECTION 1. That the Annual Action Plan for the Fiscal Year 2018 CDBG Program is hereby in all respects APPROVED and the City Manager is hereby directed to file a copy of said Annual Action Plan for Fiscal Year 2018 with the Official Minutes of this Meeting of this Council.

SECTION 2. That the City is cognizant of the conditions that are imposed in the undertaking and carrying out of the Community Development Block Grant Program with Federal Financial Assistance, including those relating to (a) the relocation of site occupants, (b) the prohibition of discrimination because of race, color, age, religion, sex, disability, familial status, or national origin, and other assurances as set forth under the certifications.

SECTION 3. That the City Manager, on behalf of the City of Morgantown, West Virginia, is authorized to file an Application for financial assistance with the U.S. Department of Housing and Urban Development which has indicated its willingness to make available funds to carry out the CDBG Program in the amount of $412,169; and its further authorized to act as the authorized representative of the City of Morgantown to sign any and all documents in regard to these programs.
SECTION 4. That the City Manager on behalf of the City of Morgantown, West Virginia, is authorized to provide assurances and/or certifications as required by the Housing and Community Development Act of 1974, as amended; and any other supplemental or revised data which the U.S. Department of Housing and Urban Development may request in review of the City’s Application.

ADOPTED INTO A RESOLUTION THIS 19TH DAY OF JUNE, 2018 BY THE COMMON COUNCIL OF THE CITY OF MORGANTOWN, WEST VIRGINIA.

IN WITNESS WHEREOF, I, William A. Kawecki, Mayor of the City of Morgantown, West Virginia have hereunto set my hand and caused the official seal of the City of Morgantown to be affixed this 19th day of June, 2018.

__________________________________
William A. Kawecki, Mayor

__________________________________
City Clerk
EXECUTIVE SUMMARY

FY2018-2019 CDBG Annual Action Plan
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AP-05 Executive Summary - 24 CFR 91.200(c), 91.220(b)

1. Introduction

The City of Morgantown, West Virginia is a Federal entitlement community under the U.S. Department of Housing & Urban Development’s (HUD) Community Development Block Grant (CDBG) Program. In compliance with the HUD regulations, the City of Morgantown has prepared this FY 2018 Annual Action Plan for the period of July 1, 2018 through June 30, 2019. This Annual Action Plan is a strategic plan for the implementation of the City's Federal Programs for housing, community, and economic development within the City of Morgantown. This is the fifth and final Annual Action Plan under the City's FY 2014-2018 Five-Year Consolidated Plan.

The FY 2018 Annual Action Plan is a collaborative effort of the City of Morgantown, the community at large, social service agencies, housing providers, community development agencies, and economic development groups. The planning process was accomplished through public meetings, statistical data, review of the City's Comprehensive Plan, and other community plans.

During the FY 2018 Program Year, the City of Morgantown will receive the following Federal funds:

- **CDBG**: $412,169.00
  
  Total: **$412,169.00**

The Fairmont-Morgantown Housing Authority estimates that it will receive $3,000 in CDBG Program Income during this program year. The funds will be returned to the Housing Rehab and Down Payment Assistance Program.

The City of Morgantown proposes to undertake the following activities with the FY 2018 CDBG Funds:
1. General Administration - $82,433.00
2. The Bartlett House - Housing First Model - $25,000.00
3. Morgantown Area Youth Services Project (MAYSP) - Intervention Services - $14,000.00
4. Mountaineer Boys and Girls Club - Education Services Program - $14,000.00
5. Fairmont-Morgantown Housing Authority - Housing Rehab and Down Payment Assistance Program - $50,000.00
6. City of Morgantown - ADA Improvements - Former Woodburn School - $146,736.00
7. City of Morgantown - Walnut Street Streetscape ADA Improvements - $75,000.00
8. Milan Puskar Health Right - Harm Reduction Program Office - $5,000.00

Maps:

The following maps illustrate the demographic characteristics of the City of Morgantown:

- Population Density by Block Group
- Percent White Population by Block Group
- Percent Black or African American Population by Block Group
- Percent Owner-Occupied Housing Units by Block Group
- Percent Renter-Occupied Housing Units by Block Group
- Percent Vacant Housing Units by Block Group
- Low-Income Percentage by Block Group
- Moderate-Income Percentage by Block Group
- Low/Moderate Income Percentage by Block Group
Low/Moderate Income Percentage by Block Group
2. **Summarize the objectives and outcomes identified in the Plan**

   This could be a restatement of items or a table listed elsewhere in the plan or a reference to another location. It may also contain any essential items from the housing and homeless needs assessment, the housing market analysis or the strategic plan.

   During the FY 2018 CDBG Program Year, the City of Morgantown proposes to address the following priority need categories identified in its FY 2014-2018 Five-Year Consolidated Plan:

**Housing:**

Community Development Block Grant (CDBG) will fund a program for housing to include: housing rehabilitation single owner and rental, an emergency home repair, a housing accessibility, a down payment assistance and a lead paint testing/abatement, also providing infrastructure development using CDBG funding to offset the cost of storm water retention, water, and sewer and sidewalk projects to help offset these costs for affordable housing.

The creation of a dedicated city-wide or county-wide Community Housing Development Organization (CHDO) a CHDO is a special type of non-profit organization that focuses on the development of housing for households with incomes under 80% AMI, adjusted for family size. A CHDO focused on the local needs of the community would be able to more effectively deliver services, thereby increasing the number of affordable housing units added to the community.

All rental and homeowner rehabilitation projects will be subject to the Lead Based Paint Policy, as set forth in 24 CFR Part 35, Davis-Bacon wage rates, environmental review regulations and conflict of interest regulations.

   During this program year, the City will fund the following projects:

   - **CD-18-05 Fairmont-Morgantown Housing Authority:** CDBG funds will be used to operate the Fairmont-Morgantown Housing Authority’s Home Rehabilitation Programs and Down Payment Program. The Home Rehabilitation Programs will enable low/mod income households to receive the repair or replacement of essential housing components by providing loans, forgivable loans, and grants. Grants are offered for accessibility and emergency repairs and loans are available to homeowners. Elderly or disabled homeowners can receive forgivable loans. Down Payment Assistance is also available to assist future low/mod income homeowners purchasing a home in the City of Morgantown.

**Homelessness:**

Community Development Block Grant will fund special needs services providers to affordable housing development and/or job creation for special needs populations, particularly individuals...
with substance abuse problems, individuals with severe, persistent mental illnesses, and homeless families. Prioritize activities that help individuals move toward self-sufficiency and break the cycle of poverty.

The City will focus homelessness activities on Housing First activities and removing the chronic homeless from the streets.

During this program year, the City will fund the following projects:

- **CD-18-02 The Bartlett House - Housing First Model**: CDBG funds will be used to operate the Housing First Model which aims to place people experiencing homelessness into permanent supportive housing situations and to decrease or eliminate their stay in emergency shelters. Emergency shelters will serve as a “triage” entry point to assess each individual presenting for services and efficiently and effectively refer them into a housing program. With this model, clients would only be admitted to the shelter if an appropriate housing situation was not immediately available.

**Anti-Poverty**

Community Development Block Grant will fund supporting agencies that are identifying and resolving barriers to independent living and promoting self-sufficiency for individuals and families of low- to moderate-income through job training, literacy programs, medical treatment, barrier removal and rehabilitation, out-of-school time (OST) programs, and transportation. CDBG funds may be used for a variety of activities. Activities funded in the past that have impacted extremely-low income families include the following: literacy programs, job training, housing rehabilitation, critical repair of homes, youth and day care services, crime awareness, infrastructure, and parenting programs.

During this program year, the City will fund the following projects:

- **CD-18-03 Morgantown Area Youth Services Project (MAYSP) - Intervention Services**: CDBG funds will be used to fund operating costs for the Morgantown Area Youth Services Project’s (MAYSP) Delinquency and Substance Abuse Youth Intervention Program which provides anti-poverty intervention services to low-income youth and families living in Morgantown experiencing delinquency, underage drinking, substance abuse problems, related crime, and homelessness.

- **CD-18-04 Mountaineer Boys and Girls Club - Education Services Program**: CDBG funds will be used to support the Mountaineer Boys and Girls Club. Specifically, funds will be provided to the Boys and Girls Club’s Education Program, which is an after school academic support program that includes homework help, tutoring, and individualized instruction for students in the Morgantown School System. STEM and Career Path are after-school curricula, providing programming for 3-4 hours every day.
• **CD-18-08 Milan Puskar Health Right - Harm Reduction Program Office:** Funds for the construction of handicap-accessible office space for the Harm Reduction Peer Recovery Support Specialist. A small wall with a door will constructed to enclose the area on the first floor and provide a private and accessible space for individuals who need support services.

**Infrastructure:**

Community Development Block Grant will fund sidewalk/infrastructure improvements in targeted low-income areas. Support improvements on neighborhood and downtown sidewalk and infrastructure changes that would make accessibility possible and quality of life. The City is committed to removing barriers at all public facilities in order to make all Public facilities (including all parks and recreation sites) ADA compliant.

During this program year, the City will fund the following projects:

• **CD-18-06 City of Morgantown - ADA Improvements - Former Woodburn School:** CDBG funds will be used to make accessibility improvements to the former Woodburn Elementary School. Accessibility improvements will include accessible parking space paving, accessible route improvements from accessible parking spaces to the primary entrance, accessible entrance door replacement to the Boys and Girls Club programmed space, accessible bathroom improvements to the Boys and Girls Club programming space, and/or lift or elevator serving the Boys and Girls Club programming space.

• **CD-18-07 City of Morgantown - Walnut Street Streetscape ADA Improvements:** Funds to be used for ADA infrastructure as a part of a larger streetscape improvement project on Walnut Street between Spruce Street and High Street. Specifically, stormwater inlet obstructions/barriers will be relocated and accessible curb cuts constructed at the Walnut Street and Spruce Street intersection for ADA compliance.

**Fair Housing:**

The Federal Fair Housing Act, passed in 1968 and amended in 1988, prohibits discrimination in housing on the basis of race, color, national origin, religion, sex, familial status, and disability. The Fair Housing Act covers most types of housing including rental housing, home sales, mortgage and home improvement lending, land use and zoning. Excluded from the Act are owner occupied buildings with no more than four units, single family housing sold or rented without the use of a real estate agent or broker, housing operated by organizations and private clubs that limit occupancy to members, and housing for older persons.

The West Virginia Fair Housing Act carries the same protections as the federal Fair Housing Act. In addition to prohibiting housing discrimination based on race, color, national origin, religion, sex, familial status and disability, state law also prohibits housing discrimination on the basis of
ancestry and blindness. The West Virginia Human Rights Commission investigates and resolves housing discrimination complaints as well as provides education on fair housing.

The City of Morgantown will improve the education/outreach and coordination of fair housing responsibilities in Morgantown. The city’s website, a resource for residents seeking information about housing and community development: the website should include: explanation as to what fair housing is and who is protected; direct instructions for filing a complaint; contact information to offer guidance to residents needing assistance; and Link to West Virginia Fair Housing Action Network website.

Training should also serve as an opportunity for city staff, local advocates, and members of the housing community to begin a unified and cordial working relationship towards making the city more accessible to persons with disabilities.

- The City of Morgantown will undertake Fair Housing education and outreach activities during the FY 2018 program year.

3. Evaluation of past performance

This is an evaluation of past performance that helped lead the grantee to choose its goals or projects.

Each year, the City of Morgantown prepares and submits its CAPER to HUD within ninety (90) days after the start of the new program year. The FY 2016 CAPER is the most recent CAPER to be completed by the City of Morgantown. The CAPER was approved by HUD on November 29, 2017. As reported in the FY 2016 CAPER, the City expended 100% of its CDBG funds for the benefit of low- and moderate-income persons. The City obligated $32,000.00 for public service activities, which was below the 15% public services cap at 8.73%. The City obligated $73,275.00, which met the 20% administrative cap. The City was under its 1.5 drawdown ratio with a drawdown ratio of 1.24. Morgantown is carrying out its projects in a timely manner and in accordance with all HUD activity guidelines and match requirements.

4. Summary of Citizen Participation Process and consultation process

Summary from citizen participation section of plan.

The Annual Action Plan has many components to gather citizen participation which includes: citizen participation plan; requests for proposals for funding (RFP’s) from agencies/organizations; citizen participation process; Consultation Process; and the development of the annual action plan. Each component of this plan principally serves the needs of the low- and moderate-income population in the City. The City emailed out CDBG funding applications to its list of agencies/organizations. This list is updated regularly.
The City developed the plan based on citizen input, the information obtained from agencies/organizations, and meetings with other City staff and departments. A "draft plan" and budget are annually prepared and placed on public display for a 30-day review and comment period. This is advertised in a local newspaper of general circulation in the City, with the times, dates, and locations where the plan may be examined. A public hearing on the plan was also advertised and conducted. Citizen, agency, and organization comments were either incorporated into the plan or if not included, the reason why the comments were not accepted are included in the plan.

The City of Morgantown held a mandatory Sub-Recipient Preapplication Meeting on Thursday, February 15, 2018 at 10:00 AM in the City Council Chambers at City Hall. Attendees were given an opportunity to comment on the community development, housing, economic development, and homeless needs facing the City. Additionally, information was presented on how to fill out and submit the applications for subrecipient funding for FY 2018 CDBG funds. CDBG Funding Applications were due back to the City by Monday, March 5, 2018. There was a total of thirteen (13) persons in attendance representing fifteen (15) organizations/agencies. The sign-in sheet is available at the end of this Annual Action Plan.

Once the preapplication meeting concluded, the City of Morgantown held a public needs hearing in the City Council Chambers at 11:00 AM on February 15, 2018. This hearing provided residents, agencies, and organizations with the opportunity to discuss the City’s CDBG Program and to provide suggestions for future priorities and activities. The City of Morgantown advertised the public needs hearing in the “Dominion Post” on Tuesday, January 30, 2018 and posted flyers throughout City Hall. The City also posted information about the public meetings on the City’s Channel 15 public broadcasting station.

The Second Public Hearing Notice was published on Thursday, May 17, 2018 in the “Dominion Post” and the Second Public Hearing was held on Wednesday, June 6, 2018 at 10:00 AM in the City Council Chambers, City Hall, 389 Spruce Street. During the Second Public Hearing, the residents were given the opportunity to comment on the draft version of the FY 2018 Annual Action Plan.

The "FY 2018 Annual Action Plan" was on display for a 30-day period beginning Friday, May 18, 2018 and ending Monday, June 18, 2018. The availability for review of the "draft plan" was advertised in the local newspapers and the plan was on display at the City of Morgantown’s website http://www.morgantownwv.gov/185/Community-Development, as well as at the locations listed below:

- Development Services Office
  389 Spruce Street, Room 12
  Morgantown, WV 26505
• **Morgantown City Library**  
  373 Spruce Street  
  Morgantown, WV 26505

• **BOPARC Senior Center**  
  287 Eureka Drive  
  Morgantown, WV 26505

• **BOPARC Office**  
  Marilla Park  
  Morgantown, WV 26505

**Schedule:**

The following schedule was used in the preparation of the FY 2018 Action Plan:

- **Publish Notice of Needs Hearing** – Tuesday, January 30, 2018
- **Funding Applications Available** – Thursday, February 1, 2018
- **Pre-Application Meeting for Agencies and Organizations** – Thursday, February 15, 2018 at 10:00 AM
- **First Public Hearing** – Thursday, February 15, 2018 at 11:00 AM in City Council Chambers
- **Funding Applications Due to the City** – Monday, March 5, 2018 at 4:00 PM
- **Publish Notice of Display of Draft and Public Hearing in the Newspaper** – Thursday, May 17, 2018
- **Annual Action Plan on Display** – Friday, May 18, 2018
- **Second Public Hearing** – Wednesday, June 6, 2018 at 10:00 AM in City Council Chambers
- **End of Annual Action Plan on Display** – Monday, June 18, 2018
- **City Council Adopts FY 2018 Annual Action Plan** – Tuesday, June 19, 2018
- **Submission of Annual Action Plan to HUD** – June 16, 2018

A more detailed analysis and description of the citizen participation process is contained in Section PR-15 Citizen Participation.

5. **Summary of public comments**

*This could be a brief narrative summary or reference an attached document from the Citizen Participation section of the Con Plan.*

The City of Morgantown held a Sub-Recipient Pre-Application Meeting on Thursday, February 15, 2018 in the City Council Chambers. Attendees were given an opportunity to comment on the community development, housing, economic development, and homeless needs facing the City. Additionally, information was presented on how to fill out and submit the applications for
subrecipient funding for FY 2018 CDBG funds. There was a total of 13 persons in attendance in addition to City staff.

A public hearing was held to seek input from interested residents and community organizations for the FY 2018 funds on Thursday, February 15, 2018 at 11:00 AM at the City Hall Council Chambers. The City of Morgantown advertised in the “Dominion Post” on Tuesday, January 30, 2018. This provided the residents, agencies, and organizations with the opportunity to discuss the City's CDBG program and to provide suggestions for future CDBG Program priorities and activities. There was a total of 12 persons in attendance in addition to City staff.

The City received nine (9) CDBG funding requests and funded seven (7) requests plus funds for program administration.

The FY 2018 Annual Action Plan was placed on public display on Friday, May 18, 2018 and a Second Public Hearing was held on Wednesday, June 6, 2018 at 10:00 AM in the City Council Chambers. A newspaper notice announcing that these documents were placed on public display was published on Thursday, May 17, 2018 in the “Dominion Post,” a newspaper of general circulation in the area. Comments that were received at the Second Public Hearing are included in the Citizen Participation Section of the Annual Action Plan, which also includes the newspaper ads, sign-in sheets, agendas, and summaries of the meeting minutes.

6. **Summary of comments or views not accepted and the reasons for not accepting them**

All comments and suggestions that were received have been accepted and incorporated into the planning documents.

7. **Summary**

The FY 2018 Annual Action Plan for the City of Morgantown includes the City’s CDBG Program and outlines which activities the City will undertake during the program year beginning July 1, 2018 and ending June 30, 2019. This is the City’s fifth and final year of the FY 2014-2018 Five-Year Consolidated Plan.

During the FY 2018 Program Year, the City of Morgantown, West Virginia anticipates the following Federal financial resources:

- **CDBG:** $412,169.00
- **Total:** $412,169.00

The Fairmont-Morgantown Housing Authority estimates that it will receive $3,000 in CDBG Program Income during this program year. The funds will be returned to the Housing Rehab and Down Payment Assistance Program.
During the FY 2018 CDBG Program Year, the City of Morgantown proposes to address the following priority needs from its Five-Year Consolidated Plan:

- Housing
- Homelessness
- Anti-Poverty
- Infrastructure

A “draft” of the FY 2018 Annual Action Plan was placed on display at the Development Services Department, the Morgantown City Library, the BOPARC Senior Center, and the BOPARC Office. The display period started on Friday, May 18, 2018 through Monday, June 18, 2018 for a 30-day display period. In addition, the City put the draft Plan on its website (http://www.morgantownwv.gov/185/Community-Development). The Final Public Hearing was held on Wednesday, June 6, 2018 to discuss the proposed activities and solicit resident comments. Upon completion of the 30-day comment period, the City of Morgantown submitted the FY 2018 Annual Action Plan to the U.S. Department of Housing and Urban Development Pittsburgh Office on or before Monday, July 2, 2018.
FUNDING REQUESTS

FY2018-2019 CDBG Annual Action Plan
# City of Morgantown
## FY 2018-2019 CDBG Annual Action Plan Budget

<table>
<thead>
<tr>
<th>#</th>
<th>Organization</th>
<th>Description</th>
<th>CDBG Request</th>
<th>Project Cost</th>
<th>Last Year’s Funding</th>
<th>Accompl.</th>
<th>Observations/Concerns</th>
<th>Final Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Admin</td>
<td>Administration &amp; Planning</td>
<td></td>
<td>$82,433.00</td>
<td>-</td>
<td>-</td>
<td></td>
<td></td>
<td>$82,433.00</td>
</tr>
<tr>
<td>2</td>
<td>City of Morgantown - ADA Improvements at former Woodburn School</td>
<td>ADA improvements to areas occupied by the Boys and Girls Club, which may include entry doors, bathrooms, lift/elevator, etc.</td>
<td>$75,000.00</td>
<td>$735,000.00</td>
<td>$735,000.00</td>
<td>200 people</td>
<td>These funds, leveraged with reprogrammed FY2015 and FY2016 funds, are intended to make significant ADA accessibility facility improvements.</td>
<td>$146,736.00</td>
</tr>
<tr>
<td>3</td>
<td>Walnut Street Streetscape</td>
<td>ADA improvements and inlet relocation at the Walnut Street and Spruce Street intersection.</td>
<td>$5,000.00</td>
<td>$42,629.00</td>
<td>$42,629.00</td>
<td></td>
<td></td>
<td>$5,000.00</td>
</tr>
<tr>
<td>4</td>
<td>Milan Puskar Health Right - Harm Reduction Program Office</td>
<td>The MPHR Harm Reduction Program works with individuals who have a substance abuse issues and/or are in recovery from a substance use disorder. Funds will be used to make an accessible office for the Harm Education Peer Support Specialist (a new position).</td>
<td>$14,000.00</td>
<td>$14,000.00</td>
<td>$14,000.00</td>
<td>10 people</td>
<td>Davis-Bacon and other requirements may render project unattainable for this amount. Improvements limited to storage space may not be best use of CDBG funds.</td>
<td>-</td>
</tr>
<tr>
<td>Public Services</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Literacy Volunteers of Monongalia &amp; Preston Counties - Developing the Ruby Road Mobile Library Program</td>
<td>Allow the organization to expand the “Ruby Road Mobile Library Program” that provides essential access to fresh reading materials, critical early literacy intervention programming, and high-quality family literacy education. Locations will be chosen in low/mod areas of the City of Morgantown.</td>
<td>$15,000.00</td>
<td>$36,420.00</td>
<td>$36,420.00</td>
<td>400 people</td>
<td>Very difficult to track and report beneficiaries, to inventory resources, and to determine and justify CDBG eligibility.</td>
<td>-</td>
</tr>
<tr>
<td>7</td>
<td>Mountaineer Boys &amp; Girls Club - Education Services Program</td>
<td>Support for the education programming that is designed to provide academic support services, character education and leadership programs, STEM, and Career Path programs.</td>
<td>$18,000.00</td>
<td>$260,000.00</td>
<td>$260,000.00</td>
<td>393 people</td>
<td></td>
<td>$14,000.00</td>
</tr>
<tr>
<td>8</td>
<td>Monongalia County Commission / Morgantown Area Youth (MAYSP) - Delinquency/Substance Abuse Intervention Program</td>
<td>Funds to provide counseling intervention services to low-income youth and young adults living within the City limits of Morgantown.</td>
<td>$14,800.00</td>
<td>$29,600.00</td>
<td>$29,600.00</td>
<td>85 people</td>
<td></td>
<td>$14,000.00</td>
</tr>
<tr>
<td>9</td>
<td>The Bartlett House - Housing First initiative</td>
<td>Funds to promote the Housing First Model, helping people experiencing homelessness into permanent supportive housing situations and decreasing/eliminating their stay within emergency shelters.</td>
<td>$52,500.00</td>
<td>$671,149.00</td>
<td>$671,149.00</td>
<td>400 people</td>
<td></td>
<td>$25,000.00</td>
</tr>
<tr>
<td>Home Rehab</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Housing Authority - Housing Rehab and Down Payment Assistance Program</td>
<td>Funds for the owner-occupied rehab program, which will enable low-income households to receive the repair or replacement of essential housing components. Downpayment assistance for income eligible applicants in purchasing a home within the City of Morgantown.</td>
<td>$153,960.00</td>
<td>$176,846.00</td>
<td>$176,846.00</td>
<td>12 households</td>
<td>Funding level less than requested reflects available funds from previous FY and program income.</td>
<td>$50,000.00</td>
</tr>
</tbody>
</table>

**FY 2018 CDBG Allocation**

<table>
<thead>
<tr>
<th>Organization</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Admin Cap (20%)</td>
<td>$82,433.80</td>
</tr>
<tr>
<td>Public Service Cap (15%)</td>
<td>$61,825.35</td>
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</tbody>
</table>

**Total**

$412,169.00
SUBMISSION TASKS/TIMELINE

FY2018-2019 CDBG Annual Action Plan
Date: 23 MAY 2018
To: Paul Brake, City Manager
RE: FY 2018 CDBG Annual Action Plan | Schedule for Submission

Following up on our meeting on MON, 14 MAY 2018 concerning the FY 2018 Annual Action Plan, the following identifies submission tasks and the related schedule.

- Resident, service providers, and stakeholder consultation ....................... JAN-FEB 2018
- Publish First Public Hearing in the Dominion Post ............................... TUE, 30 JAN 2018
- Mandatory Subrecipient Pre-Application Meeting ......................... THU, 15 FEB 2018, 10 a.m.
  City Council Chambers
- First Public Hearing ........................................................................ THU, 15 FEB 2018, 11 a.m.
  City Council Chambers
- CDBG Funding Applications due to the City .................................... MON, 05 MAR 2018
- City develop the budget following allocation notice
- Legal Notice runs in the Dominion Post .......................................... THU, 17 MAY 2018
- FY 2018 Annual Action Plan goes on public display ..................... FRI, 18 MAY 2018
- Second Public Hearing ............................................................... WED, 06 JUN 2018, 10 a.m.
  Council Chambers
- FY 2018 Annual Action Plan off public display .............................. MON, 18 JUN 2018
- City Council FY 2018 Annual Action Plan Resolution ................... TUE, 19 JUN 2018
- Plan submitted electronically to HUD Pittsburgh Office .............. MON, 02 JUL 2018
- Program Year Begins ..................................................................... SUN, 01 JUL 2018

Please note the bolded date above by including this resolution item on City Council’s 19 JUN agenda. I will provide you and City Clerk Linda Little the resolution document prior to the 19 JUN meeting packet deadline.

Thank you.

Digitally signed by Christopher M. Fletcher, AICP
Date: 2018.05.23 10:13:17 -04’00’
Date: WED, 13 JUN 2018  
To: Paul Brake, City Manager ..............................................................via email  
cc: Linda Tucker, City Clerk ..............................................................via email  
RE: Resolution Approving and Authorizing Substantial Amendment to the FY 2016 CDBG Annual Action Plan

Appended hereto are the following documents concerning the submission of an FY 2016 CDBG Annual Action Plan Substantial Amendment to the U.S. Department of Housing and Urban Development (HUD).

- City Council Resolution approving and authorizing to submit to HUD the FY 2016 CDBG Annual Action Plan Substantial Amendment.


Please include this Resolution on City Council’s 19 JUN 2018 agenda so that we can meet HUD prescribed submission requirements.
RESOLUTION

FY2016 CDBG Annual Action Plan
Substantial Amendment
RESOLUTION APPROVING AND AUTHORIZING TO SUBMIT TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) THE SUBSTANTIAL AMENDMENT TO THE FY 2016 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ANNUAL ACTION PLAN

WHEREAS, under Title I of the Housing and Community Development Act of 1974, as amended, the Secretary of the U.S. Department of Housing and Urban Development is authorized to extend financial assistance to communities in the prevention or elimination of slums or urban blight, or activities which will benefit low- and moderate-income persons, or which address other urgent community development needs; and

WHEREAS, the City of Morgantown, West Virginia is a recipient of grant funds under the Community Development Block Grant (CDBG) Program administered by the U.S. Department of Housing and Urban Development; and

WHEREAS, the City of Morgantown has previously approved budgets and an Annual Action Plans for Fiscal Years 2015 and 2016, which proposed how the entitlement grant funds would be expended to address the housing and community development needs identified in the City’s FY 2014 – 2018 Five Year Consolidated Plan; and

WHEREAS, HUD permits grant recipients to revise and amend its previous budgets and Annual Action Plans; and

WHEREAS, in accordance with the Federal Regulations governing the CDBG Program, certain changes and revisions to the Annual Action Plan may be considered a substantial amendment as outlined in the City of Morgantown’s Citizen Participation Plan; and

WHEREAS, it has been determined that the proposed changes and revisions to the FY 2015 and the FY 2016 CDBG Programs are substantial amendments and the City’s Citizen Participation Plan has been followed; and

WHEREAS, a draft of the amended FY 2016 Annual Action Plan was on public display from May 18, 2018 through June 18, 2018 and the City held a public hearing on said Plan and the comments of various agencies, groups, and citizens were taken into consideration in the preparation of the final document.

NOW, THEREFORE, the City of Morgantown by adoption of this resolution on this 19th day of June, 2018, authorizes the execution of:

SECTION 1. That the amended Annual Action Plan for the Fiscal Year 2016 CDBG Program is hereby in all respects approved as presented, which include the following:
**FY 2015 Activity:**

1. IDIS # 211 CD-15-13 Homeless Housing Program – Reallocation of the remaining balance of $351.50 from this project/activity to a new FY 2016 CDBG project/activity.

**FY 2016 Activities:**

1. IDIS # 217 CD-16-05 – Community Literacy Class – Reallocation of the remaining balance of $1,328.45 from this project/activity to a new project/activity.

2. IDIS # 219 CD-16-07 – Brush with Kindness – Reallocation of the remaining balance of $5,000.00 from this project/activity to a new project/activity.

3. IDIS # 226 CD-16-08 – Homeless Housing Project – Delete this project/activity in its entirety and reallocate a total of $10,000.00 to a new project/activity.

4. IDIS # 225 CD-16-09 – Walnut Street Streetscape – Delete this project/activity in its entirety and reallocate a total of $154,187.50 to a new project/activity.

5. IDIS # 224 CD-16-10 – Public Facilities Improvement – Delete this project/activity in its entirety and reallocate a total of $29,824.84 to a new project/activity.

6. IDIS # 220 CD-16-11 – Old Stone House Windows – Reallocation of the remaining balance of $1,640.00 from this project/activity to a new project/activity.

7. CD-16-15 – ADA Improvements – Former Woodburn School – Create a new activity under Public Facilities Improvements to be used to fund ADA Improvements to the former Woodburn School. This will be funded from FY 2015 and FY 2016 CDBG funds in the amount of $202,332.29.

**SECTION 2.** That the City is cognizant of the conditions that are imposed in the undertaking and carrying out of the Community Development Block Grant Program with Federal Financial Assistance, including those relating to (a) the relocation of site occupants, (b) the prohibition of discrimination because of race, color, age, religion, sex, disability, familial status, or national origin, and other assurances as set forth under the certifications.

**SECTION 3.** That the City Manager, on behalf of the City of Morgantown, West Virginia, is authorized to sign and submit the amended FY 2016 Annual Action Plan to the U.S. Department of Housing and Urban Development. The City Clerk is hereby directed to file a copy of said amended Annual Action Plan for Fiscal Year 2016 with the Official Minutes of this Meeting of this Council.

**SECTION 4.** That the City Manager on behalf of the City of Morgantown, West Virginia, is authorized to provide assurances and/or certifications as required by the Housing and Community Development Act of 1974, as amended; and any other supplemental or revised data which the U.S. Department of Housing and Urban Development may request in review of the City’s Application.
ADOPTED INTO A RESOLUTION THIS 19TH DAY OF JUNE, 2018 BY THE COMMON COUNCIL OF THE CITY OF MORGANTOWN, WEST VIRGINIA.

IN WITNESS WHEREOF, I William A Kawecki, Mayor of the City of Morgantown, West Virginia have hereunto set my hand and caused the official seal of the City of Morgantown to be affixed this 19th day of June, 2018.

__________________________________________

William A. Kawecki, Mayor

__________________________________________

City Clerk
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)

SUBSTANTIAL AMENDMENT - FY 2016
ANNUAL ACTION PLAN

July 2, 2018

Honorable Bill A. Kawecki, Mayor

CITY OF MORGANTOWN, WV
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PART IV. APPENDIX

SF 424 Form
Certifications
Resolution
Citizen Participation
The City of Morgantown amended its FY 2015 and FY 2016 CDBG Programs by making the following amendments in the FY 2016 Annual Action Plan: CD-15-13 Homeless Housing Program: reallocate the remaining balance of $351.50 from this project/activity to a new project/activity; CD-16-05 Community Literacy Class: reallocate the remaining balance of $1,328.45 from this project/activity to a new project/activity; CD-16-07 Brush with Kindness: reallocate the remaining balance of $5,000.00 from this project/activity to a new project/activity; CD-16-08 Homeless Housing Project: delete this activity in its entirety and reallocate a total of $10,000.00 to a new project/activity; CD-16-09 Walnut Street Streetscape: Delete this activity in its entirety and reallocate a total of $29,824.84 to a new project/activity; CD-16-10 Public Facilities Improvement: delete this activity in its entirety and reallocate a total of $1,640.00 from this project/activity to a new project/activity; CD-16-11 Old Stone house Windows: reallocate the remaining balance of $1,640.00 from this project/activity to a new project/activity; CD-16-15 ADA Improvements – Former Woodburn School: create a new activity under Public Facilities Improvements to be used to fund ADA improvements to the former Woodburn School This will be funded from FY 2015 and FY 2016 CDBG funds in the amount of $202,332.29.

**Executive Summary**

**AP-05 Executive Summary - 24 CFR 91.200(c), 91.220(b)**

1. **Introduction**

   The City of Morgantown (City) Community Development Block Grant (CDBG) entitlement is $366,375.00, recaptured funding from previous years $190,012.34 bringing the 2016 fiscal year funding to $556,387.34. The Morgantown Housing Authority also anticipates $16,366 in program income. Program Income is maintained by the Fairmont Morgantown Housing Authority and reallocated into the Home Rehabilitation Program. Total available funding for 2016 is $572,753.34. The U. S. Department of Housing and Urban Development regulations require the City of Morgantown to verify that all funds are utilized within the corporate limits of the City of Morgantown.
Morgantown, or with support agencies that provide 51% of their services to City of Morgantown residents.

The planning process actively encouraged participation of the city’s housing and community service organizations, including the Fairmont Morgantown Housing Authority, affordable housing providers, service agencies that assist the low- and moderate-income clientele, advocates, and others. The City encourages citizens to provide input and participate in the planning, implementation, and assessment of the CDBG program. This Action Plan is developed through public hearings, the use of existing data from previously approved plans and studies, consultation with a wide variety of local non-profit agencies, and discussions with other City of Morgantown departments.

Community Development Office is the lead agency overseeing achievement of the Five-Year Consolidated Plan.

The City has allocated its CDBG funds based on: principally benefiting Low/Mod income persons; or an activity in which predominantly low- and moderate-income areas or which has a presumed benefit; or an activity with an income requirement of low- and moderate income persons. All allocated funding has been utilized in a timely manner and within budget. The City has never had a problem with timeliness or projects or annual funding percentages.

- Affordable/Accessible Housing is the first unmet need in Morgantown and may provide a challenge for individuals who may have limitations because of age, mental or physical disabilities, substance abuse and HIV/AIDS. Barriers to independent living are varied from affordable housing and rents, accessibility in multi-unit rental property, rehabilitation and retrofitting for those who own their homes.
- Assisted living also presents an issue for individuals who may be living independently but require assistance with daily activities or travel outside their home.
- Transportation is a challenge for many for various reasons.
- Adequate level of care for the elderly, substance addicted individuals and persons living with HIV/AIDS is another underserved need in the City.
- Employment and Job Training is an underserved need identified as many individuals dealing with limitations found in this subgroup do not have the requisite skills to obtain or maintain employment.
- The reduction in Federal CDBG funds limits the City’s financial resources to meet the underserved needs in Morgantown. Since 2004, the funding for the City of Morgantown’s Community Development Block Grant funding has decreased. As the funding levels decreased the ability to accomplish all the goals has diminished. However, the core values of the CDBG program, housing, assisting low and moderate income individuals and families have been maintained. The Housing Rehabilitation program has been one of the most needed and successful projects utilizing CDBG funding.
Maps:

The following maps illustrate the demographic characteristics of the City of Morgantown:

- Population Density by Block Group
- Percent White Population by Block Group
- Percent Black or African American Population by Block Group
- Percent Owner-Occupied Housing Units by Block Group
- Percent Renter-Occupied Housing Units by Block Group
- Percent Vacant Housing Units by Block Group
- Low-Income Percentage by Block Group
- Moderate-Income Percentage by Block Group
- Low/Moderate Income Percentage by Block Group
CITY OF MORGANTOWN, WV
POPULATION DENSITY BY BLOCK GROUP

CITY OF MORGANTOWN, WV
PERCENT WHITE POPULATION BY BLOCK GROUP
Low/Moderate Income Percentage by Block Group
Substantial Amendment:

Revised FY 2015 CDBG Program Budget:

The City of Morgantown proposes to reallocate $351.50 from the Homeless Housing Program due to the activity only requiring $11,648.50 of its $12,000.00 allocation. Funds will be moved to the FY 2016 project: ADA Improvements – Former Woodburn School.

Revised FY 2016 CDBG Program Budget:

The City of Morgantown proposes to undertake the following activities with the FY 2016 CDBG Funds:

1. Administration: $73,275.00
2. Housing First Model: $22,956.00
3. Intervention Services: $12,000.00
4. Project Learn and Smart Moves: $12,000.00
5. Community Literacy Classes: $6,671.55
6. Home Rehab Project: $102,680.00
7. A Brush with Kindness: $25,000.00
8. Old Stone House Windows: $8,360.00
9. HVAC Christian Help: $50,000.00
10. Electrical Upgrade United Way Building: $20,000.00
11. Salvation Army Commercial Kitchen: $25,464.00
12. ADA Improvements – Former Woodburn School: $202,332.29

2. Summarize the objectives and outcomes identified in the Plan

This could be a restatement of items or a table listed elsewhere in the plan or a reference to another location. It may also contain any essential items from the housing and homeless needs assessment, the housing market analysis or the strategic plan.

Goals and Objectives

During the FY 2016 CDBG Program Year, the City of Morgantown proposes to address the following priority need categories identified in its FY 2014-2018 Five-Year Consolidated Plan:

Housing:

Community Development Block Grant (CDBG) will fund a program for housing to include: housing rehabilitation single owner and rental, an emergency home repair, a housing accessibility, a down
payment assistance and a lead paint testing/abatement, also providing infrastructure development using CDBG funding to offset the cost of storm water retention, water, and sewer and sidewalk projects to help offset these costs for affordable housing.

The creation of a dedicated city-wide or county-wide Community Housing Development Organization (CHDO) a CHDO is a special type of non-profit organization that focuses on the development of housing for households with incomes under 80% AMI, adjusted for family size. A CHDO focused on the local needs of the community would be able to more effectively deliver services, thereby increasing the number of affordable housing units added to the community.

All rental and homeowner rehabilitation projects will be subject to the Lead Based Paint Policy, as set forth in 24 CFR Part 35, Davis/Bacon wage rates, environmental review regulations and conflict of interest

**Homelessness:**

Community Development Block Grant will fund special needs services providers to affordable housing development and/or job creation for special needs populations, particularly individuals with substance abuse problems, individuals with severe, persistent mental illnesses, and homeless families. Prioritize activities that help individuals move toward self-sufficiency and break the cycle of poverty.

The City will focus homelessness activities on Housing First activities and removing the chronic homeless from the streets.

**Anti-Poverty**

Community Development Block Grant will fund supporting agencies that are identifying and resolving barriers to independent living and promoting self-sufficiency for individuals and families of low- to moderate-income through job training, literacy programs, medical treatment, barrier removal and rehabilitation, out-of-school time (OST) programs, and transportation. CDBG funds may be used for a variety of activities. Activities funded in the past that have impacted extremely-low income families include the following: literacy programs, job training, housing rehabilitation, critical repair of homes, youth and day care services, crime awareness, infrastructure, and parenting programs.

**Infrastructure:**

Community Development Block Grant will fund sidewalk/infrastructure improvements in targeted low-income areas. Support improvements on neighborhood and downtown sidewalk and infrastructure changes that would make accessibility possible and quality of life. The City is
committed to removing barriers at all public facilities in order to make all Public facilities (including all parks and recreation sites) ADA compliant.

**Fair Housing:**

The Federal Fair Housing Act, passed in 1968 and amended in 1988, prohibits discrimination in housing on the basis of race, color, national origin, religion, sex, familial status, and disability. The Fair Housing Act covers most types of housing including rental housing, home sales, mortgage and home improvement lending, land use and zoning. Excluded from the Act are owner occupied buildings with no more than four units, single family housing sold or rented without the use of a real estate agent or broker, housing operated by organizations and private clubs that limit occupancy to members, and housing for older persons.

The West Virginia Fair Housing Act carries the same protections as the federal Fair Housing Act. In addition to prohibiting housing discrimination based on race, color, national origin, religion, sex, familial status and disability, state law also prohibits housing discrimination on the basis of ancestry and blindness. The West Virginia Human Rights Commission investigates and resolves housing discrimination complaints as well as provides education on fair housing.

The City of Morgantown will improve the education/outreach and coordination of fair housing responsibilities in Morgantown. The city’s website, a resource for residents seeking information about housing and community development: the website should include: explanation as to what fair housing is and who is protected; direct instructions for filing a complaint; contact information to offer guidance to residents needing assistance; and Link to West Virginia Fair Housing Action Network website.

Training should also serve as an opportunity for city staff, local advocates, and members of the housing community to begin a unified and cordial working relationship towards making the city more accessible to persons with disabilities.

3. **Evaluation of past performance**

*This is an evaluation of past performance that helped lead the grantee to choose its goals or projects.*

Housing has been a priority from the beginning of the CDBG funding providing approximately one and one half million dollars for Home Rehabilitation. Over 200 families have been served.

The City provides CDBG funding to several non-profit agencies for support of their facilities in code and physical needs of the buildings. These agencies mainly support the anti-poverty issues in the communities and the homeless population.

The second largest use of the CDBG funding is infrastructure addressing the compliance of the sidewalks around the city with the American’s with Disabilities Act.
Substantial Amendment:

The City adopted a Substantial Amendment to its FY 2015 and FY 2016 CDBG programs to help expedite the expenditure of CDBG funds. Funds were moved from projects not using all of their allocations as well as from projects that did not come to fruition to fund ADA improvements to a public facility.

4. Summary of Citizen Participation Process and consultation process

Summary from citizen participation section of plan.

The City of Morgantown shall provide citizens with an adequate opportunity for meaningful involvement and participation in the planning, implementation, and assessment of the CDBG program on a continuous basis. The City of Morgantown shall provide adequate information to citizens, hold public hearings at all stages of the planning process, obtain views and proposals of citizens on housing and community development needs, and provide citizens an opportunity to comment on the City of Morgantown proposal and community development performance. Nothing in these requirements, however, shall be construed to restrict the responsibility and authority of the governing body of the City of Morgantown for the development of the application and the execution of its Annual Action Plan.

The City of Morgantown’s Community Development Office was the lead agency overseeing the citizen participation in the planning, implementation, and assessment of the 2016 Action Plan. The City encourages citizens to share their views on housing and community development needs and comment on the proposal and community development performance. As such, the City provides adequate information to citizens and holds public hearings in the planning process.

The Community Development Administrator opens each public meeting by providing information about the Community Development Block Grant Program and the expected funding levels. The discussion then turned to the status of the program year soliciting comments. All meetings are published in local newspapers, Channel 15 (government channel), and the City Web Site.

Substantial Amendment:

The City of Morgantown’s Development Services Department was the lead agency overseeing the citizen participation in the planning, implementation, and assessment of the FY 2015 and FY 2016 Substantial Amendment. The City placed the Substantial Amendment on public display from Friday, May 18, 2018 through Monday, June 18, 2018. The City held a Public Hearing on the Substantial Amendment on Wednesday, June 6, 2018 at 10:30 AM in the Council Chambers at City Hall. The purpose of the Public Hearing was to present the Substantial Amendment to the residents for the FY 2015 and FY 2016 CDBG Program Years.
5. **Summary of public comments**

*This could be a brief narrative summary or reference an attached document from the Citizen Participation section of the Con Plan.*

Comments received at the Public Hearings and during the display period are included in the Citizen Participation section at the end of this plan. The Citizen Participation section includes the newspaper ads, sign-in sheets, agendas, and summaries of the minutes from the public hearings.

**Substantial Amendment:**

The City held a Public Hearing on the Substantial Amendment on Wednesday, June 6, 2018 at 10:30 AM. Comments received at the Public Hearing and during the display period are included in the Citizen Participation section at the end of this plan. The Citizen Participation section includes the newspaper ad, sign-in sheet, agenda, and summary of the minutes from the public hearing.

6. **Summary of comments or views not accepted and the reasons for not accepting them**

All comments and suggestions that were received have been accepted and incorporated into the planning documents.

**Substantial Amendment:**

All comments and suggestions that were received have been accepted and incorporated into the planning documents.

7. **Summary**

The FY 2016 Annual Action Plan for the City of Morgantown includes the City’s CDBG Program and outlines which activities the City will undertake during the program year beginning July 1, 2016 and ending June 30, 2017. This is the City’s third year of the FY 2014-2018 Five-Year Consolidated Plan.

A “draft” of the FY 2016 Annual Action Plan was placed on display at the Development Services Department, the Morgantown City Library, the BOPARC Senior Center, and the BOPARC Office. The display period started on April 1, 2016 and ended on April 30, 2016 for a 30-day display period. In addition, the City put the draft Plan on its website (http://www.morgantownwv.gov/185/Community-Development). The Final Public Hearing was held on Thursday, March 31, 2016 to discuss the proposed activities and solicit resident comments. Upon completion of the 30-day comment period, the City of Morgantown submitted the FY 2016 Annual Action Plan to the U.S. Department of Housing and Urban Development Pittsburgh Office on or about May 16, 2016.
Substantial Amendment:

City Council approved the Substantial Amendment on Tuesday, June 19, 2018 and the FY 2016 Annual Action Plan was re-submitted to HUD.

FY 2015 Activity:

1. **IDIS # 211 CD-15-13 Homeless Housing Program** – Reallocate the remaining balance of $351.50 from this project/activity to a new project/activity.

FY 2016 Activities:

1. **IDIS # 217 CD-16-05 – Community Literacy Class** – Reallocate the remaining balance of $1,328.45 from this project/activity to a new project/activity.

2. **IDIS # 219 CD-16-07 – Brush with Kindness** – Reallocate the remaining balance of $5,000.00 from this project/activity to a new project/activity.

3. **IDIS # 226 CD-16-08 – Homeless Housing Project** – Delete this project/activity in its entirety and reallocate a total of $10,000.00 to a new project/activity.

4. **IDIS # 225 CD-16-09 – Walnut Street Streetscape** – Delete this project/activity in its entirety and reallocate a total of $154,187.50 to a new project/activity.

5. **IDIS # 224 CD-16-10 – Public Facilities Improvement** – Delete this project/activity in its entirety and reallocate a total of $29,824.84 to a new project/activity.

6. **IDIS # 220 CD-16-11 – Old Stone House Windows** – Reallocate the remaining balance of $1,640.00 from this project/activity to a new project/activity.

7. **CD-15-15 – ADA Improvements – Former Woodburn School** – Create a new activity under Public Facilities Improvements to be used to fund ADA Improvements to the former Woodburn School. This will be funded from FY 2015 and FY 2016 CDBG funds in the amount of $202,332.29.

Copies of the Substantial Amendment were on public display for viewing by the public for a period of 30 days beginning on May 18, 2018 and ending on June 18, 2018 at the following locations:

- **Community Development Office**: 389 Spruce Street, Morgantown, WV 26505
- **Morgantown City Library**: 373 Spruce Street, Morgantown, WV 26505
- **BOPARC Senior Center**: 287 Eureka Drive, Morgantown, WV 26505
- **BOPARC Office**: Marilla Park, Morgantown, WV 26505

In addition, the City put the Substantial Amendment on its website (http://www.morgantownwv.gov/).
SUBMISSION TASKS/TIMELINE

FY2016 CDBG Annual Action Plan
Substantial Amendment
Date: 23 MAY 2018
To: Paul Brake, City Manager ................................................................. via email
RE: FYs 2015 and 2016 CDBG Substantial Amendment | Schedule for Submission

Following up on our meeting on MON, 14 MAY 2018 concerning the FYs 2015 and 2016 CDBG Substantial Amendment, the following identifies submission tasks and the related schedule.

- Legal Notice runs in the *Dominion Post*............................................ THU, 17 MAY 2018
- FYs 2015 and 2016 Substantial Amendment on public display ............... FRI, 18 MAY 2018
- Public Hearing................................................................................. WED, 06 JUN 2018, 10:30 a.m. Council Chambers
- FYs 2015 and 2016 Substantial Amendment off public display .............. MON, 18 JUN 2018
- **City Council 2015 and 2016 Substantial Amendment Resolution**...... TUE, 19 JUN 2018
- Amendment submitted electronically to HUD Pittsburgh Office ........... MON, 2 JUL 2018

Please note the bolded date above by including this resolution item on City Council’s 19 JUN agenda. I will provide you and City Clerk Linda Tucker the resolution document prior to the 19 JUN meeting packet deadline.

Thank you.