



Office of the City Clerk

# The City of Morgantown

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

## AGENDA

### MORGANTOWN CITY COUNCIL REGULAR MEETING

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

Tuesday, September 06, 2022 at 7:00 PM

1. **CALL TO ORDER:**
2. **ROLL CALL:**
3. **PLEDGE:**
4. **APPROVAL OF MINUTES:**
  - A. August 16, 2022, Regular Meeting Minutes
  - B.** August 30, 2022, Special Meeting Minutes
  - C. August 30, 2022, Committee of the Whole Meeting Minutes
5. **CORRESPONDENCE:**
6. **PUBLIC HEARINGS:**
  - A.** An Ordinance authorizing a Lease Agreement with EAN Holdings, LLC at the Morgantown Municipal Airport
7. **UNFINISHED BUSINESS:**
  - A.** Boards & Commissions
8. **PUBLIC PORTION WHICH SHALL BE SUBJECT TO RULES ESTABLISHED BY COUNCIL AND ADOPTED BY RESOLUTION:**
9. **SPECIAL COMMITTEE REPORTS:**
  - A. Special Committee of Unsheltered Homelessness - Members: Mayor Selin, Deputy Mayor Danielle Trumble, Councilor Vega, Councilor Harshbarger, Councilor Butcher
10. **CONSENT AGENDA:**
  - A.** Consideration of **APPROVAL** of (Second Reading) of An Ordinance authorizing a Lease Agreement with EAN Holdings, LLC at the Morgantown Municipal Airport (First reading August 16, 2022)

- B.** Consideration of **APPROVAL** of **A Resolution authorizing application for Governor's Highway Safety Program Grant**
- C.** Consideration of **APPROVAL** of **A Resolution approving agreement with Monongalia County Board of Education providing a School Resource Officer for Morgantown High School**
- D.** Consideration of **APPROVAL** of **A Resolution approving agreement with Monongalia County Board of Education providing a Prevention Resource Officer for Suncrest Middle School**

**11. NEW BUSINESS:**

- A.** Consideration of **APPROVAL** of **A Resolution amending the FY 2022-2023 Revised Budget (Revision 01) for Capital Escrow Fund**
- B.** Consideration of **APPROVAL** of **A Resolution endorsing Vision Zero, for Monongalia County, and the Morgantown area to achieve zero traffic deaths on local streets**
- C.** Consideration of **APPROVAL** of **Purchasing a new HVAC at the Metropolitan Theatre**
- D.** Consideration of **APPROVAL** of **An Agreement for Public Recreation at Flegal Reservoir**
- E.** Consideration of **APPROVAL** of **A Vacant Structure Exemption Request for 2100 Listravia Avenue**
- F.** Consideration of **APPROVAL** to set the date and time for **Trick-or-Treat.**

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

**13. REPORT FROM CITY CLERK:**

**14. REPORT FROM CITY ATTORNEY:**

**15. REPORT FROM COUNCIL MEMBERS:**

**16. EXECUTIVE SESSION:**

- A.** Pursuant to West Virginia State Code section 6-9A-4(b)(9) to discuss matters protected by attorney-client privilege or potential litigation
- B.** Pursuant to West Virginia State Code 6-9A-4(b)(2)(A) to discuss personnel matters
- C.** Pursuant to West Virginia State Code section 6-9A-4(2)(9) to discuss acquisition or development of real estate in the Sixth Ward

**17. ADJOURNMENT:**

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



# City of Morgantown

## SPECIAL MEETING August 30, 2022

**Special Meeting August 30, 2022:** The Special Meeting of the Common Council of the City of Morgantown was held in Monongalia County Commission Chambers on Tuesday, August 30, 2022, at 6:01 p.m.

**PRESENT:** Mayor Jenny Selin, Deputy Mayor Danielle Trumble, Council Members Joe Abu-Ghannam, Bill Kawecki, Ixya Vega, Dave Harshbarger, and Brian Butcher.

The meeting was called to order by Mayor Selin.

**Executive Session:** Pursuant to West Virginia Code Section 6-9a-4(b)(2)(a) to discuss matters in considering new appointments for Board and Commissions. Motion by Deputy Mayor Trumble, second by Councilor Harshbarger, to go into executive session. Motion carried by acclamation. Present: City Council. Time: 6:02 p.m.

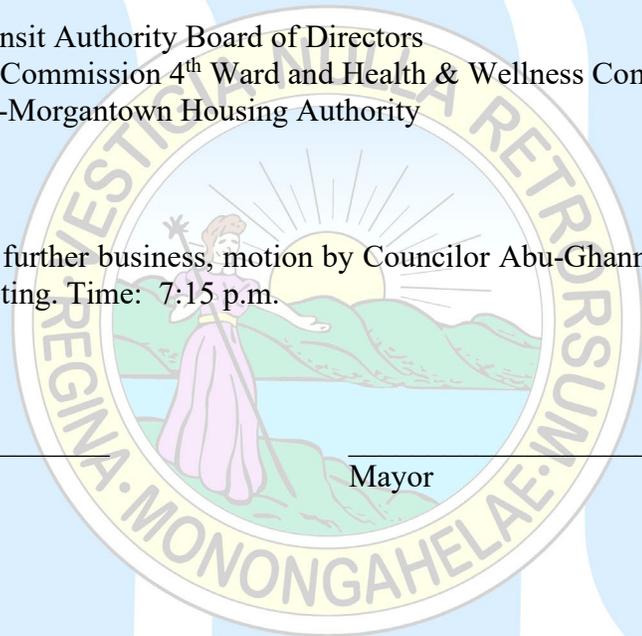
Nicholas DeMedici - Transit Authority Board of Directors  
Adriana Boyce – Traffic Commission 4<sup>th</sup> Ward and Health & Wellness Commission  
Ron Dulaney – Fairmont-Morgantown Housing Authority

**ADJOURNMENT:**

There being no further business, motion by Councilor Abu-Ghannam, second by Councilor Vega, to adjourn the meeting. Time: 7:15 p.m.

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

\_\_\_\_\_  
Mayor



Ordinance No. 2022-\_\_\_\_

**AN ORDINANCE AUTHORIZING A LEASE AGREEMENT WITH EAN HOLDINGS  
AT THE MORGANTOWN MUNICIPAL AIRPORT**

The City of Morgantown hereby ordains that the City Manager is authorized to execute the attached "Off-Airport Concession and Lease Agreement" with EAN Holdings, LLC, operating Enterprise Rent-A-Car, Alamo Rent-A-Car, and National Car Rental, for services and use of space at the Morgantown Municipal Airport, and to execute such other documents and take such other actions as necessary and helpful to accomplish the purposes of such agreement.

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

\_\_\_\_\_  
Mayor

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

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

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

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

**Boards & Commissions VACANT Positions:**

Updated: 8/30/2022

- **Board of Zoning Appeals: 2 Vacant – City Resident (Minimum 3yr City Resident)**  
 1 – 3yr – 3yr term: 1/1/2020 – 12/31/2022  
 1 – 2yr – 3yr term: 1/1/2022 – 12/31/2024
- **Civilian Police Review & Advisory Board: 9 Vacant – City Resident or Work within City boundary**  
 3 – 1yr – 3yr term: 5/18/2022 – 5/17/2025  
 3 – 2yr – 3yr term: 5/18/2021 – 5/17/2023  
 3 – 3yr – 3yr term: 5/18/2021 – 5/17/2024
- **Fire Code Board of Appeals: 2 Vacant**  
 2 – 3yr terms: 5/2/2022 – 4/30/2025 (Legal, and a Professional Engineer)
- **Health & Wellness Commission: 1 Vacant – City Resident**  
 1 – 2yr – 3yr term: 1/1/2020 – 12/31/2022
- **Human Rights Commission: 1 Vacant – City Resident**  
 1 - 1yr – 2yr term: 7/1/2021 – 6/30/2023
- **“ICC” Building Code Board of Appeals: 3 Vacant (Master Electrician or Civil Engineer)**  
 1 – 5yr – 5yr term: 5/1/2020 – 4/30/2025  
 1 – 1yr – 5yr term: 5/1/2021 – 4/30/2026  
 1 – 2yr – 5yr term: 5/1/2022 – 4/30/2027
- **Library Board of Directors: 1 Vacant – City Resident**  
 1 – 3yr – 5yr term: 7/1/2022 – 6/30/2027
- **Personnel Board: 2 Vacant – City Resident**  
 1 – 3yr – 2yr – 3yr term: 7/1/2022 – 6/30/2025  
 1 – 3yr – 1yr – 3yr term: 7/1/2021 – 6/30/2024 (Alex Hall Resigned 8/1/22)
- **Planning Commission: 1 Vacant – City Resident Ward Specific**  
 1 – 1yr – 3yr term: 7<sup>th</sup> Ward 1/1/2022 – 12/30/2024
- **Sister Cities Commission: 4 Vacant**  
 3 – 2yr – 3yr terms: 6/1/2021 – 5/31/2024  
 1 – 1yr – 3yr term: 6/1/2020 – 5/31/2023
- **Traffic Commission: 1 Vacant – City Resident Ward Specific**

1 – 3yr term: 4<sup>th</sup> Ward – 4/4/2021 – 4/3/2024

- **Transit Authority Board of Directors: 1 Vacant – City Resident**  
1 – 1yr – 3yr term: 1/1/2021 – 12/31/2023
- **Tree Board: 1 Vacant**  
1 – 3yr – 3yr term: 11/15/2020 – 11/14/2023
- **Urban Landscape Commission: 3 Vacant – City Resident**  
1 – 2yr – 3yr term: 7/1/2022 – 6/30/2025 – Landscape Design  
1 – 3yr – 3yr term: 7/1/2020 – 6/30/2023 – Horticulture  
1 – 1yr – 3yr term: 7/1/2021 – 6/30/2024 – Plant Health
- **Ward & Boundary Commission: 2 Vacant – City Resident Ward Specific**  
2 – 2yr terms: 7/1/2021 – 6/30/2023 - Wards 3, & 7
- **Woodburn Commission: 2 Vacant**  
2yr – 3yr terms: 1/1/2022 – 12/31/2024

Ordinance No. 2022-\_\_\_\_\_

**AN ORDINANCE AUTHORIZING A LEASE AGREEMENT WITH EAN HOLDINGS AT THE MORGANTOWN MUNICIPAL AIRPORT**

The City of Morgantown hereby ordains that the City Manager is authorized to execute the attached "Off-Airport Concession and Lease Agreement" with EAN Holdings, LLC, operating Enterprise Rent-A-Car, Alamo Rent-A-Car, and National Car Rental, for services and use of space at the Morgantown Municipal Airport, and to execute such other documents and take such other actions as necessary and helpful to accomplish the purposes of such agreement.

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

\_\_\_\_\_

Mayor

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

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

\_\_\_\_\_

City Clerk

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

**RESOLUTION 2022-\_\_\_\_**

**RESOLUTION AUTHORIZING APPLICATION FOR  
GOVERNOR’S HIGHWAY SAFETY PROGRAM GRANT**

The City of Morgantown hereby resolves that the City Manager, or a designee, is authorized to execute the attached grant application seeking funding from the Governor’s Highway Safety Program, together with any other documents necessary to accept and administer the grant funds described in the attached documents.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2022

\_\_\_\_\_  
Mayor

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

GOVERNOR'S HIGHWAY SAFETY PROGRAM  
STATE OF WEST VIRGINIA  
DIVISION OF MOTOR VEHICLES

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For GHSP Use Only

Item 10B.

DATE RECEIVED: \_\_\_\_\_

FEDERAL FUNDS AWARDED: \_\_\_\_\_

NAME OF APPLICANT: City of Morgantown  
(Must be a government agency)

PROJECT TITLE: Morgantown Highway Safety Project

F.E.I.N. NUMBER: 555-00-215

**AUTHORIZED OFFICIAL:**

NAME: Mr. A. Kim Haws  
TITLE: City Manager  
MAILING ADDRESS: 430 Spruce Street, Morgantown, Wv  
ZIP CODE: 26505  
PHONE: 304-284-7404  
FAX: 304-284-7520  
E-MAIL: ahaws@morgantownwv.gov

**PROJECT DIRECTOR:**

NAME: Robert Gilmore  
TITLE: Retired Lieutenant  
MAILING ADDRESS: 300 Spruce Street, Morgantown, Wv  
ZIP CODE: 26505  
PHONE: 304-284-7446  
FAX: 304-284-7520  
E-MAIL: rgilmore@morgantownwv.gov

**FINANCIAL OFFICER:**

NAME: Mr. Kevin Tennant  
TITLE: Finance Director  
MAILING ADDRESS: 430 Spruce Street, Morgantown, Wv  
ZIP CODE: 26505  
PHONE: 304-284-7407  
FAX: 304-284-7418  
E-MAIL: kevin.tennant@morgantownwv.gov

## PROBLEM IDENTIFICATION

Clearly identify the problem(s) impacted by this project. Once you have identified the problem, show statistical evidence supporting your case that this is truly a problem. Please identify the source(s) of your data. NOTE: If you cannot clearly identify a problem which can be impacted by this project, proceed no further with this proposal. Use additional pages as necessary.

**Proper Problem Identification does the following:**

- Identifies the problem your project seeks to address.
- Provides both data and data analysis describing the problem.
- Reports the results of the analysis.
- Prioritizes the problems.

Monongalia County is the third most populated county in the state; its county seat is Morgantown. Two major interstates meet in Monongalia County, 68 and 79, and several other major highways and routes extend through the county, including routes 19 and 119. The City of Morgantown estimates a daily population of 80,000 people, which contributes to a high traffic volume during working hours within the city limits. Between CY 2009 through 2020, out of 55 counties in West Virginia, Monongalia County is number three for the most crashes. They rank number five for injury crashes, total injuries, and rank number 6 for total fatalities (2012 - 2020, WVDOH).

Morgantown and Monongalia County are home to West Virginia University, the state's largest university. With the state's largest university comes the largest population of college students, as well as the largest concentration of persons under the legal drinking age. Monongalia County has the 2<sup>nd</sup> highest number of crashes and fatalities involving drivers under 20 (2012 - 2020, WVDOH). Monongalia County falls within Region 5 of the highway safety regional programs. Effective enforcement and education in Monongalia County is essential to assisting GHSP in reaching its overall highway safety goals and objectives.

**Target Red (Red Light and Stop Sign Running):** Monongalia County ranks number six for pedestrian fatalities (2012 - 2020), which many times can be attributed to vehicles running red lights or stop signs, speed/aggressive driving, or distracted driving. During the Spring 2014, Fall 2014 and Spring 2015 semesters, a WVU professor had students conduct surveys in WVU Hospital ER and WVU Urgent Care, to gather pedestrian data - whether they had been hit by a vehicle or nearly hit, which parts of the city felt safe or unsafe to walk, etc. Of 500 respondents, 13 (2.6%) reported having been hit by a vehicle while walking, but only four reported the incident to the police. Of 495 respondents, 188 (38%) reported ALMOST having been hit while walking in Morgantown. Of those 188, 76.8% reported being in a crosswalk when almost hit and 20.4% reported being on a sidewalk when almost hit (Abildso, WVU).

Between 2016 and 2020, an intersection-related contributing factor was listed for 18% of roadway crashes statewide, while 6.5% listed a pedestrian-related contributing factor, and 1% listed a bicycle-related contributing factor (WVDOH). From FY 2019 - 2021, there were 94 red light violations and 265 stop sign violations cited on grant-funded OT in Monongalia County (GHSP)

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**Speed/Aggressive Driving:** Monongalia County ranks number six for pedestrian fatalities (2012 - 2020), which many times can be attributed to vehicles running red lights or stop signs, speed/aggressive driving, or distracted driving. Monongalia County has 19 roadway segments in the top 225 speed-related crash roadway segments (2015 - 2019) (WVDOH), which is the 3<sup>rd</sup> highest number of roadway segments in the top 225. On these 19 roadway segments, there were 2,172 speed-related crashes, the 4<sup>th</sup> highest number of crashes on these top speed roadway segments. Between 2016 and 2020, speeding and aggressive driving was listed as a contributing factor for 57.2% of roadway crashes statewide, while listed speed as a contributing factor (WVDOH). From FY 2019 - 2021, there were 2,443 speed citations written on grant-funded OT in Monongalia County (GHSP).

**School Bus Safety:** Oftentimes, school bus safety revolves around other drivers speeding through a school zone and/or not stopping for the bus's flashing lights or stop sign, endangering students, parents, and school personnel as they walk near schools, bus stops, or enter/depart a school bus. Between FY 2019 - 2021, there were 6 bus arm violations written in Monongalia County on highway safety grant-funded OT (GHSP). Many agencies also work school bus/zone enforcement on agency time, although that data is not required to be reported. Monongalia County is the 5<sup>th</sup> worst county for roadway injuries for children under 8 (2012 - 2020, WVDOH).

**Occupant Protection:** From CY 2012 - 2020, in WV, 843 of 2,606 fatalities were unrestrained drivers (32.25%). In Monongalia County, 28 of 101 fatalities (27.72%) were unrestrained (WVDOH). Monongalia County ranks number five for most total ejections (partial and full) and number 10 for fatal ejections (2009-2020, WVDOH). Monongalia County's official seat belt usage rate average (2015-2017) (GHSP) was 82.2%, with the previous seat belt survey site selection cycle, which is well below the state average for the same time frame (88.5%), of all the official seat belt survey locations. During the current seat belt survey site selection cycle (2018 - 2021), Monongalia County's current seat belt usage rate average is 96%, compared to the state's average usage rate of 89.6% for the same time period. From FY 2019 - 2021, there were 810 seat belt citations and 3 child restraint citations written on grant-funded OT in Monongalia County (GHSP). Between 2016 and 2020, improper/no safety equipment was listed as a contributing factor for 32.2% of roadway crashes statewide (WVDOH).

**Impaired Driving:** From CY 2012 to CY 2020, in WV, 580 of 2,606 (22.26%) fatalities were alcohol-related. In Monongalia County, 20 of 101 (19.80%) fatalities were alcohol-related (WVDOH). Monongalia County ranks number three for most alcohol-related crashes, number four for alcohol-related injuries (2010 - 2020), and number seven for alcohol-related fatalities (2012 - 2020, WVDOH). Monongalia County has 10 roadway segments in the top 116 alcohol crash roadways (2015 - 2019), which is the 3<sup>rd</sup> highest amount of road segments in the top 116. On these road segments, Monongalia County had 208 alcohol crashes, the 5<sup>th</sup> highest number of crashes on the top 116 roadway segments.

On all roadways in Monongalia County, between 2010 and 2020, there were 1,166 alcohol-related crashes (WVDOH). Between 2016 and 2020, impaired driving was listed as a contributing factor for 21.5% of roadway crashes statewide (WVDOH). In CY 2021 there were 274 DUI arrests made in Monongalia County. Of those, 61 (22.27%) were drug-related or a combination of drugs and alcohol (GHSP). Region 5 has three certified DREs, with one of those being in Monongalia County.

**Underage Alcohol Consumption/Sales:** According to the WV Alcohol Beverage Control Administration, in CY 2021, the average on-premise buy rate in Monongalia County was 31.03%, while the average off-premise buy rate was 5.77%

## Application Page – 2b

The state's largest university and largest student population is located in Monongalia County. WVU is an active member of the WVCIA, which is a statewide organization partially funded through the Region 5 GHSP grant. The organization proactively addresses collegiate use of alcohol and other drugs, and associated violence and mental health issues. Through the use of evidence-based strategies, the program promotes healthy campus environments through self-regulatory initiatives, information dissemination, public policy influence, cooperation with prevention partners, and technical assistance. With cooperation from various law enforcement agencies and local colleges and universities, as well as the WV Alcohol Beverage Control Administration and the WVCIA, Monongalia County will be able to effectively address underage drinking issues.

**Distracted Driving:** Monongalia County ranks number six for pedestrian fatalities (2012 - 2020), which many times can be attributed to vehicles running red lights or stop signs, speed/aggressive driving, or distracted driving. From FY 2019 - 2021, there were 67 texting citations and 972 cell phone citations written on grant-funded OT in Monongalia County (GHSP). Distracted driving-related crashes across the nation are generally severely under-reported, so it is difficult to get a good indication from data whether distraction is a significant factor in crashes. With that being said, there is still some data listing distraction as a contributing factor in crashes in WV. Between 2016 and 2020, distracted driving was listed as a contributing factor for 6.4% of roadway crashes statewide (WVDOH). Nationwide, 3,142 people were killed in 2019 due to distracted driving, and an estimated 424,000 people were injured in distracted driving crashes (NHTSA).

*Training* may also be requested, if highway safety-relevant and approved beforehand by the GHSP office, for law enforcement officers in Monongalia County become more effective in enforcing laws and in other situations related to highway safety enforcement and education. Training may include, but not be limited to, DRE training, DUI enforcement training, occupant protection training, etc. The better trained and more comfortable LEOs are with enforcing the laws, the better they can be of assistance in reaching this project's goals.

Electronic citation-related *equipment* may be requested based on the need of the agencies in this grant.

GOVERNOR'S HIGHWAY SAFETY PROGRAM  
STATE OF WEST VIRGINIA  
DIVISION OF MOTOR VEHICLES

Item 10B.

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PROJECT OBJECTIVE(S)

**Objectives must be specific, recognizable, clearly qualified, time framed, with measurable terms of the impact to be achieved. Please use additional pages as necessary (i.e., number 3a, 3b, 3c, etc.)**

**Through highway safety funds for enforcement and education, this project's goals are:**

1. To reduce crashes in Monongalia County by 10% from a 3-year average (2018 - 2020) of 2,064 to 1,858 by September 30, 2023.
2. To reduce total injuries in Monongalia County by 15% from a 3-year average (2018 - 2020) of 646 to 549 by September 30, 2023.
3. To reduce fatalities in Monongalia County by 20% from a 3-year average (2018 - 2020) of 11 to 9 by September 30, 2023.
4. To reduce unrestrained driver fatalities in Monongalia County by 50% from a 3-year average (2018 - 2020) of 2 to 1 by September 30, 2023.
5. To reduce alcohol-related crashes in Monongalia County by 15% from a 3-year average (2018 - 2020) of 92 to 78 by September 30, 2023.
6. To reduce alcohol-related injuries in Monongalia County by 15% from a 3-year average (2018 - 2020) of 62 to 53 by September 30, 2023.
7. To reduce alcohol-related fatalities in Monongalia County by 67% from a 3-year average (2018 - 2020) of 3 to 1 by September 30, 2023.
8. To reduce pedestrian fatalities in Monongalia County by 100% from a 3-year average (2018 - 2020) of 1 to 0 by September 30, 2023.
9. To reduce total ejections in Monongalia County by 15% from a 3-year average (2018 - 2020) of 15 to 13 by September 30, 2023.
10. To reduce fatal ejections in Monongalia County by 67% from a 3-year average (2018 - 2020) of 3 to 1 by September 30, 2023.
11. To reduce crashes involving drivers 20 and younger in Monongalia County by 10% from a 3-year average (2018 - 2020) of 523 to 471 by September 30, 2023.
12. To maintain fatalities of drivers 20 and younger in Monongalia County at the 3-year average (2018 - 2020) of 0 through September 30, 2023.

PROJECT ACTIVITIES

**Specific statements of activities that will directly impact the identified problem. Please use additional pages as necessary (i.e., number 3a, 3b, 3c, etc.)**

This project will fund enforcement (patrols and checkpoints) and education within Monongalia County, specifically through Monongalia County Sheriff's Office and WVU PD, to **assist this overall project effectively and meaningfully** with the goals of reducing roadway crashes, injuries, and fatalities in the county. Activities will include:

**Target Red Enforcement patrols:**

- Enforcement will be conducted August 1-15, 2023, with locations determined by Monongalia County Sheriff's Office and WVU PD using county data. See Special Conditions for additional information.

## Application Page – 3a

**Speed/Aggressive Driving Enforcement patrols:**

- Enforcement should be conducted primarily along the target locations listed below (based on crash data). Enforcement may be worked adjacent or parallel to these segments, but enforcement is preferred along the listed segments. The entirety of these segments falling within the counties listed may be worked; smaller agencies may work these target locations if the road segments fall within their agency's jurisdiction, or if adjacent or parallel roadways to the target locations fall within their jurisdiction. The following 19 roadway segments are in order from most crashes to least within the county.

<b>US 019</b>	<b>CR 081</b>	<b>CR 045</b>
<b>US 119</b>	<b>CR 059</b>	<b>CR 073</b>
<b>CR 857</b>	<b>CR 016/01</b>	<b>CR 073/12</b>
<b>WV 705</b>	<b>CR 077</b>	<b>CR 007/22</b>
<b>CR 067</b>	<b>CR 055</b>	<b>CR 060</b>
<b>CR 019/24</b>	<b>CR 075</b>	<b>CR 065</b>
<b>CR 067/01</b>		

**School Bus/Zone Safety Enforcement:**

- Enforcement and locations will be determined by Monongalia County Sheriff's Office using county data.

**Seat Belt enforcement patrols and checkpoints:**

- Enforcement should be conducted during the following designated enforcement periods:
  - National CIOT May Mobilization: May 15-29, 2023
  - CIOT October Mini Mobilization: October 7-23, 2022
  - CIOT March Mini Mobilization: March 3-19, 2023
  - CIOT August Mini Mobilization: August 4-20, 2023

**Impaired Driving Enforcement patrols and checkpoints:**

- Impaired Driving Enforcement patrols and checkpoints should be conducted primarily along the target locations listed below (based on crash data). Enforcement may be worked adjacent or parallel to these segments and the mile markers listed; smaller agencies may work these target locations if the road segments fall within their agency's jurisdiction, or if adjacent or parallel roadways to the target locations fall within their jurisdiction. The 10 roadway segments below are listed from most crashes to least crashes. As can be seen by the roadway segments under the Speed Enforcement section, many of the same roadways are both speed and alcohol-related crash problem areas.

<b>US 119</b>	<b>US 019</b>
<b>CR 857</b>	<b>CR 045</b>
<b>CR 067</b>	<b>CR 075</b>
<b>CR 081</b>	<b>CR 077/22</b>
<b>CR 059</b>	<b>CR 067/01</b>

- The primary focus should be during the following enforcement periods:
  - National Drive Sober or Get Pulled Over (DSOGPO) Enforcement Periods:
    - December 14, 2022 - January 1, 2023
    - August 18 - September 4, 2023

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- State Mobilizations:
  - Thanksgiving (Nov. 23-27, 2022)
  - West Virginia Day (June 16-20, 2023)
  - Fourth of July weekend (June 30 - July 4, 2023)

**Underage Alcohol Consumption/Sales:**

- Enforcement and locations will be determined by Monongalia County Sheriff's Office and WVU PD using county data and ABCA buy rate data.

**Distracted Driving Enforcement patrols:**

- Enforcement should be primarily conducted during Distracted Driving Awareness Month in April 2023 but can also be used strategically throughout the grant year.

Electronic citation-related equipment may be requested based on the need of the agencies in this grant.

Funds are also requested for Project Director travel, as the Project Director is required to attend GHSP meetings and trainings, as approved, as part of the grant agreement.

<b>GOVERNOR'S HIGHWAY SAFETY PROGRAM</b> <b>West Virginia Division of Motor Vehicles</b> <b>STATE OF WEST VIRGINIA</b>		<b>FISCAL SUMMARY</b> <b>Page 4</b>		
<b>SAFE COMMUNITIES 402</b> <b>Grantee: City of Morgantown</b> <b>Budget Categories: F22-HS-18-402</b>	<b>Estimated Project Costs</b>	<b>Local Funds [Match]</b>	<b>Federal Funds Approved</b>	<b>Highway Safety Account #:</b>
<b>Travel &amp; Conferences</b> Project Director Travel *GHSP meetings and pre-approved training	\$ 500.00		\$ 500.00	SA23-18-18
<b>Enforcement</b> Target Red (August 1-15, 2023) *See Special Conditions	\$ 2,000.00		\$ 12,500.00	SE23-21-18
Speed Enforcement/Aggressive Driving - Year Round *see page 3 Project Activities for specific roadways to be worked	\$ 8,000.00			SE23-21-18
Speed Enforcement Mobilization July Kickoff - July 14, 2023 4pm - 8pm -- September Kickoff - September 1, 2023 4pm - 8pm *see page 3 Project Objectives & Activities for details of mobilization	\$ 2,000.00			
School Bus Safety Enforcement *To be used during National School Bus Safety Week, October 17-21, 2022 *To be used during Back to School in August/September 2023	\$ 500.00			SB23-19-18
<b>TOTAL PROJECT COSTS:</b>	\$ 13,000.00			
<b>TOTAL LOCAL FUNDS:</b>		\$ -	\$ -	
<b>TOTAL FEDERAL FUNDS:</b>			\$ 13,000.00	
<b>TOTAL APPROVED PROJECT:</b>			\$ 13,000.00	

<b>GOVERNOR'S HIGHWAY SAFETY PROGRAM</b> West Virginia Division of Motor Vehicles STATE OF WEST VIRGINIA		<b>FISCAL SUMMARY</b> Page 4		
<b>OCCUPANT PROTECTION 405b</b> Grantee: City of Morgantown Budget Categories: F23-HS-18-405b	Estimated Project Costs	Local Funds [Match]	Federal Funds Approved	Highway Safety Account #:
<b>Enforcement</b> National CIOT May Mobilization (May 15- 29, 2023) October CIOT Mini Mobilization (October 7-23, 2022) March CIOT Mini Mobilization (March 3-19, 2023) August CIOT Mini Mobilization (August 4-20, 2023) Seat Belt Checkpoints *Checkpoints during CIOT enforcement, during nighttime hours, starting at 6pm *Must participate in all mini mobilizations and May Mobilization. *Cannot use leftover funds from one mobilization for another mobilization without GHSP approval.	\$ 3,000.00 \$ 2,000.00 \$ 2,000.00 \$ 2,000.00 \$ 2,000.00		\$ 11,000.00	HV23-01-18
<b>TOTAL PROJECT COSTS:</b>	<b>\$ 11,000.00</b>			
<b>TOTAL LOCAL FUNDS:</b>		\$ -	\$ -	
<b>TOTAL FEDERAL FUNDS:</b>			\$ 11,000.00	
<b>TOTAL APPROVED PROJECT:</b>			\$ 11,000.00	

<b>GOVERNOR'S HIGHWAY SAFETY PROGRAM</b> West Virginia Division of Motor Vehicles STATE OF WEST VIRGINIA		<b>FISCAL SUMMARY</b> Page 4		
<b>IMPAIRED DRIVING 405d</b> Grantee: City of Morgantown Budget Categories: F23-HS-18-405d	Estimated Project Costs	Local Funds [Match]	Federal Funds Approved	Highway Safety Account #:
<b>Enforcement</b> DUI Enforcement* DUI Checkpoints* <small>*see Page 2 Problem Identification for specific roadways to be worked</small> <small>*Enforcement from 8pm to 4am only, unless pre-approved by GHSP</small> <small>*Emphasis on state and national mobilizations listed below</small> Underage Alcohol Enforcement DRE Enforcement	\$ 5,000.00 \$ 2,000.00  \$ 20,000.00 \$ 2,000.00		\$ 29,000.00	HV23-01-18
December 14, 2022 - January 1, 2023 - DSOGPO National Enforcement Mobilization August 18 - September 4, 2023 - DSOGPO National Enforcement Mobilization Thanksgiving (Nov. 23-27, 2022), West Virginia Day (June 16-20, 2023) and the Fourth of July weekend (June 30 - July 4, 2023) - State Mobilizations				
<b>TOTAL PROJECT COSTS:</b>				
<b>TOTAL LOCAL FUNDS:</b>		\$ -	\$ -	
<b>TOTAL FEDERAL FUNDS:</b>			\$ 29,000.00	
<b>TOTAL APPROVED PROJECT:</b>			\$ 29,000.00	

**GOVERNOR'S HIGHWAY SAFETY PROGRAM**  
**West Virginia Division of Motor Vehicles**  
**STATE OF WEST VIRGINIA**

**FISCAL SUMMARY**  
**Page 4**

<b>DISTRACTED DRIVING 405e</b> <b>Grantee: City of Morgantown</b> <b>Budget Categories: F223-HS-18-405e</b>	<b>Estimated Project Costs</b>	<b>Local Funds [Match]</b>	<b>Federal Funds Approved</b>	<b>Highway Safety Account #:</b>
<b>Enforcement</b>			<b>\$ 10,000.00</b>	<b>DD23-30-18</b>
Distracted Driving - Year Round	\$ 7,000.00			
Distracted Driving Enforcement - April 2023	\$ 3,000.00			
*Distracted Driving Month is April 2023				
<b>TOTAL PROJECT COSTS:</b>	<b>\$ 10,000.00</b>			
<b>TOTAL LOCAL FUNDS:</b>		<b>\$ -</b>	<b>\$ -</b>	
<b>TOTAL FEDERAL FUNDS:</b>			<b>\$ 10,000.00</b>	
<b>TOTAL APPROVED PROJECT:</b>			<b>\$ 10,000.00</b>	

**GOVERNOR'S HIGHWAY SAFETY PROGRAM**  
**West Virginia Division of Motor Vehicles**  
**STATE OF WEST VIRGINIA**

**FISCAL SUMMARY**  
**Page 4**

<b>DIV OF HIGHWAYS-WORK ZONE</b> <b>Grantee: City of Morgantown</b> <b>Budget Categories: F23-HS-18-DOHWZ</b>	<b>Estimated Project Costs</b>	<b>Local Funds [Match]</b>	<b>Federal Funds Approved</b>	<b>Highway Safety Account #:</b>
<b>Enforcement</b> Work Zone Enforcement <small>*pre-approved by GHSP; see Special Conditions</small>	\$ 10,000.00		\$ 10,000.00	WZ23-01-18
<b>TOTAL PROJECT COSTS:</b>	<b>\$ 10,000.00</b>			
<b>TOTAL LOCAL FUNDS:</b>		<b>\$ -</b>	<b>\$ -</b>	
<b>TOTAL FEDERAL FUNDS:</b>			<b>\$ 10,000.00</b>	
<b>TOTAL APPROVED PROJECT:</b>			<b>\$ 10,000.00</b>	

Morgantown-18

402	\$	13,000.00
405b	\$	11,000.00
405c	\$	-
405d	\$	29,000.00
405e	\$	10,000.00
405f	\$	-
DOHWZ	\$	10,000.00
	\$	73,000.00

**RESOLUTION APPROVING AGREEMENT WITH THE MONONGLAIA COUNTY  
BOARD OF EDUCATION PROVIDING A SCHOOL RESOURCE OFFICER AT  
MORGANTOWN HIGH SCHOOL**

The City of Morgantown hereby resolves that the City Manager is authorized to execute the attached “Agreement” providing for a School Resource Officer at Morgantown High School on behalf of the City.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_ 2022.

\_\_\_\_\_  
Mayor

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



## AGREEMENT

This Agreement, made and entered into this \_\_\_ day of \_\_\_\_\_, 2022 by and between the City of Morgantown, West Virginia (hereafter referred to as "City") and the Monongalia County Board of Education, West Virginia (hereafter referred to as "Board").

**WITNESSETH:**

**WHEREAS**, the Board has established a School Resources Officer Program (hereafter referred to as "SRO Program"); and

**WHEREAS**, the Board agrees that the City have one police Officer serve as a School Resources Officer in the Monongalia County School System; and

**WHEREAS**, the City and the Board understand that the program is established for the purpose of assistance in the prevention of juvenile delinquency through programs specifically developed to respond to those factors and conditions which rise to delinquency; and

**WHEREAS**, the City and the Board realize, the SRO Program is a great benefit to school administration, students and the community as a whole.

**NOW THEREFORE**, in consideration of the mutual promises contained herein, the parties agree as follows:

### SECTION 1: DUTIES AND RESPONSIBILITIES OF CITY

- 1.01 The City will provide one (1) police officer as a School Resource Officer, to the Board for assignment at Morgantown High School.
- 1.02 The SRO will abide by County School Board Policies and Laws, as they relate to the SRO. The SRO will consult and coordinate instructional activities through the Principal. Educational activities conducted by the SRO, which are part of the regular instruction program of the school, will be at the direction of and supervised by the Principal or his/her designated representative. On-site supervision of the daily activities of the SRO will be performed by the Principal. Professional supervision, evaluation and discipline of the SRO will at all times be performed by the Chief of Police of the City, with input from the Principal as may be requested by the Chief.
- 1.03 The SRO will provide to students' instruction in various aspects of law enforcement, public safety, and education as directed and supervised by the Principal.
- 1.04 On-site supervision of the police officer assigned to the SRO Programs will be performed by the Principal. City, through the Chief of Police, will be responsible for the control, direction, and professional supervision of the police officer assigned to the SRO Programs. City's Chief of Police will be granted site access to perform supervisory requirements as necessary.

- 1.05 The City will ensure that the exercise of the law enforcement powers by the SRO is in compliance with the authority granted by the law.
- 1.06 The SRO will not function as a school disciplinarian or safety officer. It is not the responsibility of the SRO to intervene with the normal disciplinary procedures in the school. The SRO will perform the following duties:
- To perform law enforcement functions within the school setting.
  - To identify and prevent, through counseling and referral, delinquent behavior, including substance abuse.
  - To foster a better understanding of the law enforcement function.
  - To develop a better appreciation of citizens' rights, obligations and responsibilities.
  - To provide information about crime prevention.
  - To provide assistance and support for crime victims identified within the school setting.
  - To promote positive relations between the students and the law enforcement officer.
  - To enhance knowledge of the fundamental concepts and structure of the law.
  - To be familiar with confidentiality requirements.
  - Any records generated by the Officer as part of his/her SRO Program duties shall be considered a school record subject to the Family Educational Rights and Privacy Act and related regulations (34 CFR 99.30 and 99.31).
- 1.07 The SRO will be on duty at the school during regular school hours when students are required to attend and when the required SRO Training Programs are conducted, unless police department emergency needs or law enforcement requirements prohibit.
- 1.08 The SRO will not be required to attend extracurricular activities which are held beyond his/her regular workday or require the SRO to leave his/her jurisdiction, but the SRO will have the option to attend if they choose to do so.

## SECTION 2: DUTIES AND RESPONSIBILITIES OF THE BOARD

- 2.01 The Principal at Morgantown High will be the on-site contact person for the SRO. The Superintendent of the Board will designate the School Resource Officer Coordinator to serve as the county liaison for the program.
- 2.02 A performance review will be performed at the end of the school year by the Principal and submitted in writing to the Police Chief.
- 2.03 The Board will furnish the City funds in the total sum of \$47,423.00 (2/3<sup>rd</sup> total cost) to offset the cost of salary and related benefits for the employee of the City, who will provide the contracted service and act as SRO to the schools pursuant to the terms expressed in this Agreement.

- 2.04 In the event that students are not physically in school due to a pandemic, for a period exceeding two weeks, the Board will not be required to furnish funds to the City for the SRO services during the term of that closure.

### SECTION 3: TERMS OF AGREEMENT

- 3.01 This Agreement is made for a Ten month term beginning the 18<sup>th</sup> day of August, 2022 and ending the 18<sup>th</sup> day of June, 2023.
- 3.02 This Agreement will continue in effect until the expiration of the term described in paragraph 3.01 or until terminated by either of the parties in accordance with the terms listed in Section four (4) below.

### SECTION 4: TERMINATION

- 4.01 Either party may terminate this agreement by serving written notice upon the other party at least thirty (30) days in advance of such termination.,

### SECTION 5: SEVERABILITY

- 5.01 Should any part of this Agreement be declared invalid by a court of law or administrative body, such decision will not affect the remaining provisions of the Agreement and this Agreement shall be interpreted as if the invalid portion was never a part of this Agreement. If such determination of invalidity will materially affect any other rights or obligations of the parties hereunder, the parties hereto will negotiate in good faith to amend this Agreement in a manner satisfactory to the parties.

### SECTION 6: ASSIGNMENT

- 6.01 No Party to the Agreement will, directly nor indirectly, assign or purport to assign this Agreement or any of the rights or obligations provided in the Agreement in whole or in part to any third party without the prior written consent of the other party.

### SECTION 7: NO WAIVER

- 7.01 The failure of either party to exercise any of its rights herein contained will not preclude or prejudice it from exercising the same or any other right it may have under this Agreement, irrespective of any previous action or proceeding taken by it hereunder.

### SECTION 8: COMPLETE AGREEMENT

- 8.01 This Agreement is the complete Agreement of the parties; may be amended or modified only in writing; and supersedes, cancels, and terminates any and all prior agreements or understanding of the parties, whether written or oral, concerning the subject matter hereof.



Resolution 2022-\_\_

**RESOLUTION APPROVING AGREEMENT WITH THE MONONGLAIA COUNTY BOARD OF EDUCATION PROVIDING A PREVENTION RESOURCE OFFICER AT SUNCREST MIDDLE SCHOOL**

The City of Morgantown hereby resolves that the City Manager is authorized to execute the attached “Agreement” providing for a Prevention Resource Officer at Suncrest Middle School on behalf of the City.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_ 2022.

\_\_\_\_\_  
Mayor

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



## AGREEMENT

This Agreement, made and entered into this \_\_\_ day of \_\_\_\_\_, 2022 by and between the City of Morgantown, West Virginia (hereafter referred to as "City") and the Monongalia County Board of Education, West Virginia (hereafter referred to as "Board").

**WITNESSETH:**

**WHEREAS**, the Board has established a Prevention Resources Officer Program (hereafter referred to as "PRO Program"); and

**WHEREAS**, the Board agrees that the City have one police Officer serve as a Prevention Resources Officer in the Monongalia County School System; and

**WHEREAS**, the City and the Board understand that the program is established for the purpose of assistance in the prevention of juvenile delinquency through programs specifically developed to respond to those factors and conditions which rise to delinquency; and

**WHEREAS**, the City and the Board realize, the PRO Program is a great benefit to school administration, students and the community as a whole.

**NOW THEREFORE**, in consideration of the mutual promises contained herein, the parties agree as follows:

### SECTION 1: DUTIES AND RESPONSIBILITIES OF CITY

- 1.01 The City will provide one (1) police officer as a Prevention Resource Officer, to the Board for assignment at Suncrest Middle School.
- 1.02 The PRO will abide by County School Board Policies and Laws, as they relate to the PRO. The PRO will consult and coordinate instructional activities through the Principal. Educational activities conducted by the PRO, which are part of the regular instruction program of the school, will be at the direction of and supervised by the Principal or his/her designated representative. On-site supervision of the daily activities of the PRO will be performed by the Principal. Professional supervision, evaluation and discipline of the PRO will at all times be performed by the Chief of Police of the City, with input from the Principal as may be requested by the Chief.
- 1.03 The PRO will provide to students' instruction in various aspects of law enforcement, public safety, and education as directed and supervised by the Principal.
- 1.04 On-site supervision of the police officer assigned to the PRO Programs will be performed by the Principal. City, through the Chief of Police, will be responsible for the control, direction, and professional supervision of the police officer assigned to the PRO Programs. City's Chief of Police will be granted site access to perform supervisory requirements as necessary.

- 1.05 The City will ensure that the exercise of the law enforcement powers by the PRO is in compliance with the authority granted by the law.
- 1.06 The PRO will not function as a school disciplinarian or safety officer. It is not the responsibility of the PRO to intervene with the normal disciplinary procedures in the school. The PRO will perform the following duties:
- To perform law enforcement functions within the school setting.
  - To identify and prevent, through counseling and referral, delinquent behavior, including substance abuse.
  - To foster a better understanding of the law enforcement function.
  - To develop a better appreciation of citizens' rights, obligations and responsibilities.
  - To provide information about crime prevention.
  - To provide assistance and support for crime victims identified within the school setting.
  - To promote positive relations between the students and the law enforcement officer.
  - To enhance knowledge of the fundamental concepts and structure of the law.
  - To be familiar with confidentiality requirements.
  - Any records generated by the Officer as part of his/her PRO Program duties shall be considered a school record subject to the Family Educational Rights and Privacy Act and related regulations (34 CFR 99.30 and 99.31).
- 1.07 The PRO will be on duty at the school during regular school hours when students are required to attend and when the required PRO Training Programs are conducted, unless police department emergency needs or law enforcement requirements prohibit.
- 1.08 The PRO will not be required to attend extracurricular activities which are held beyond his/her regular workday or require the PRO to leave his/her jurisdiction, but the PRO will have the option to attend if they choose to do so.

## SECTION 2: DUTIES AND RESPONSIBILITIES OF THE BOARD

- 2.01 The Principal at Mountaineer Middle will be the on-site contact person for the PRO. The Superintendent of the Board will designate the Prevention Resource Officer Coordinator to serve as the county liaison for the program.
- 2.02 A performance review will be performed at the end of the school year by the Principal and submitted in writing to the Police Chief.
- 2.03 A State Grant was received by the MPD to provide funding for Prevention Resource Officers in the school. The Board will furnish the City funds in the total sum of \$22,000.00 to offset the cost of salary and related benefits for the employee of the City, who will provide the contracted service and act as PRO to the schools pursuant to the terms expressed in this Agreement.

- 2.04 In the event that students are not physically in school due to a pandemic, for a period exceeding two weeks, the Board will not be required to furnish funds to the City for the SRO services during the term of that closure.

### SECTION 3: TERMS OF AGREEMENT

- 3.01 This Agreement is made for a Ten month term beginning the 18<sup>th</sup> day of August, 2022 and ending the 18<sup>th</sup> day of June, 2023.
- 3.02 This Agreement will continue in effect until the expiration of the term described in paragraph 3.01 or until terminated by either of the parties in accordance with the terms listed in Section four (4) below.

### SECTION 4: TERMINATION

- 4.01 Either party may terminate this agreement by serving written notice upon the other party at least thirty (30) days in advance of such termination.,

### SECTION 5: SEVERABILITY

- 5.01 Should any part of this Agreement be declared invalid by a court of law or administrative body, such decision will not affect the remaining provisions of the Agreement and this Agreement shall be interpreted as if the invalid portion was never a part of this Agreement. If such determination of invalidity will materially affect any other rights or obligations of the parties hereunder, the parties hereto will negotiate in good faith to amend this Agreement in a manner satisfactory to the parties.

### SECTION 6: ASSIGNMENT

- 6.01 No Party to the Agreement will, directly nor indirectly, assign or purport to assign this Agreement or any of the rights or obligations provided in the Agreement in whole or in part to any third party without the prior written consent of the other party.

### SECTION 7: NO WAIVER

- 7.01 The failure of either party to exercise any of its rights herein contained will not preclude or prejudice it from exercising the same or any other right it may have under this Agreement, irrespective of any previous action or proceeding taken by it hereunder.

### SECTION 8: COMPLETE AGREEMENT

- 8.01 This Agreement is the complete Agreement of the parties; may be amended or modified only in writing; and supersedes, cancels, and terminates any and all prior agreements or understanding of the parties, whether written or oral, concerning the subject matter hereof.



**RESOLUTION**

*WHEREAS, City Administration has presented to Morgantown City Council a 2022-2023 budget revision for the Morgantown Capital Escrow Fund and has requested that City Council review and approve the same;*

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

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

*NOW, THEREFORE, BE IT RESOLVED by the City of Morgantown this \_\_\_\_\_ day of \_\_\_\_\_, 2022, that the 2022-2023 Budget Revision for the Morgantown Capital Escrow Fund Budget hereto attached is approved.*

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

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

**CITY OF MORGANTOWN**  
**CAPITAL ESCROW FUND - REVISION 01**  
**FY 2022-2023**

	<b>BUDGET FY23</b>	<b>PROPOSED REV 01</b>	<b>PROPOSED AMENDED BUDGET</b>	<b>EXPLANATION</b>
<b>REVENUES</b>				
Contribution from General Fund	-	549,092	549,092	General Fund Budget Revision #1 - funds for BOPARC and Arts & Culture Truck Lease
Prior Year Balance	1,000,315	10,199,685	11,200,000	FY22 carry forward
			-	
			-	
			-	
			-	
		10,748,777		
<b>EXPENDITURES</b>	<b>BUDGET FY23</b>	<b>PROPOSED REV 01</b>	<b>PROPOSED AMENDED BUDGET</b>	<b>EXPLANATION OF EXPENDITURES</b>
412 City Manager	-	14,451	14,451	FY22 carry forward
417 City Attorney	100,000	214,491	314,491	Legal Contingency FY22 carry forward; additional environmental service costs; MCDA Richwood area
420 Engineering	2,705	773,189	775,894	development
422 Human Resources	35,000	22,670	57,670	FY22 carry forward
424 Contributions	617,100	305,374	922,474	FY22 carry forward
436 Code Enforcement	130,400	172,271	302,671	FY22 carry forward
437 Planning & Zoning	95,567	161,407	256,974	FY22 carry forward
439 Information Technology	100,000	180,411	280,411	FY22 carry forward
440 City Hall	50,000	335,879	385,879	FY22 carry forward; contingency for overages from bond construction projects
441 Woodburn	250,000	425,452	675,452	FY22 carry forward - HVAC & Roof
444 Transfers	612,875	3,087	615,962	FY22 carry forward
699 Contingency	238,500	761,500	1,000,000	FY22 carry forward
700 Police	270,000	103,015	373,015	FY22 carry forward
706 Fire	1,153,600	188,530	1,342,130	FY22 carry forward
750 Streets	2,404,800	3,277,290	5,682,090	FY22 carry forward
758 Airport	1,381,110	2,182,200	3,563,310	FY22 carry forward
761 Grant Projects	-	244,178	244,178	FY22 carry forward
900 BOPARC	-	908,368	908,368	FY22 carry forward; General Fund Revision #1; increase to FY23 request
906 Arts & Culture	320,000	287,075	607,075	FY22 carry forward; General Fund Revision #1; increase for Met HVAC quote
950 Urban Landscape	76,533	92,676	169,209	FY22 carry forward
979 Hazel Ruby McQuain Park	650,000	95,263	745,263	FY22 carry forward
		10,748,777		

RESOLUTION NO. 2022-\_\_\_\_\_

**A RESOLUTION ENDORSING VISION ZERO TO ACHIEVE ZERO TRAFFIC DEATHS IN THE CITY OF MORGANTOWN AND THE MORGANTOWN AREA**

**WHEREAS**, traffic crashes are among the leading cause of deaths and injuries in the world, the United States, and the City; and

**WHEREAS**, death and injury on our streets is unacceptable and serious crashes are preventable; and

**WHEREAS**, streets and transportation systems have traditionally been designed primarily for maximum vehicular capacity and mobility, rather than safe accommodation of all modes and users; and

**WHEREAS**, Morgantown’s Strategic Goals include protecting the safety, health and security of its residents, businesses, employees and visitors; and

**WHEREAS**, Vision Zero provides a framework for reducing traffic deaths and serious injuries to zero, while increasing safe, healthy, equitable mobility for all; and

**WHEREAS**, Vision Zero focuses on safety as a primary objective for our transportation systems; and

**WHEREAS**, successful Vision Zero programs are a result of both a complete government approach (i.e. interdepartmental, coordinated initiatives) and community support of Vision Zero objectives and action plan;

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MORGANTOWN:**

1. The *City of Morgantown* hereby endorses the Vision Zero goal of eliminating deaths and serious injuries on area streets; with an emphasis on protecting the most vulnerable users of the local transportation systems.
2. The *City of Morgantown* will work with the Morgantown Monongalia Metropolitan Planning Organization (MMMPO) to achieve Vision Zero goals.
3. The *City Council* requests staff to engage all relevant departments in supporting implementation of the Vision Zero Action Plan, with recognition that many other community stakeholders and partners will also have important roles to play.
4. This resolution shall take effect immediately upon adoption.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2022

\_\_\_\_\_  
Mayor

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



THE CITY OF  
**MORGANTOWN**  
WEST VIRGINIA

**Arts & Cultural Development**  
389 Spruce Street  
Morgantown, WV 26505  
304.284.7472

## MEMORANDUM

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Date: August 18, 2022  
To: Kim Haws – City Manager  
Through: Emily Muzzarelli – Assistant City Manager  
From: Vincent E. Kitch - Director *Vincent E. Kitch*  
RE: HVAC Purchase for Metropolitan Theatre

Bids were opened at 2:00 pm on August 17, 2022, for the HVAC system replacement at the Metropolitan Theatre.

The HVAC bid is part of a planned renovation project funded in our capital budget for this year and includes replacement of the entire system. It will also include alternates to flush the chilled water system and install new glycol and provide and install a glycol feeder to the replacement system. The Department of Arts & Cultural Development recently received a \$75,000 grant from the West Virginia Commission on the Arts to support this work and help offset costs. The bid results are as follows:

<b>CONTRACTOR</b>	<b>COST</b>	
1. CP&H	\$496,100	Base Bid
	\$28,700	Alternates 1&2
	<b><u>Total Cost \$524,800</u></b>	
2. A Durer, Inc.	\$510,070	Base Bid
	\$25,480	Alternates 1&2
	<b><u>Total Cost \$535,550</u></b>	

Arts & Cultural Development staff and Miller Engineering, our contracted project manager, has reviewed the submitted bids for completeness and adherence to the Bid Call requirements and recommends award to the CP&H.

## AGREEMENT

The City of Morgantown, West Virginia, a political subdivision and municipal corporation of the State of West Virginia (“Morgantown”); and the Morgantown Utility Board, a board established by Morgantown pursuant to West Virginia Code Chapter 8, Articles 16 and 20, for the purpose of operating a combined water, sewer, and stormwater system (“MUB”); and the Morgantown Board of Parks and Recreation Commissioners, a board established by Morgantown pursuant to West Virginia Code Chapter 8, Article 21, for the purpose of operating recreational facilities (“BOPARC”); enter into this Agreement (the “Agreement”) upon the terms and conditions contained herein.

1. Purpose: The purpose of this Agreement is to provide for the establishment, maintenance, and operation of public recreation facilities at the Flegal Reservoir and Dam property. Such facilities will be referred to herein as the “Recreation Facilities” as defined later in the Agreement.

2. Scope. The real estate subject of this Agreement (the “Property”) comprises the following parcels in Monongalia County, West Virginia:

- a. Parcel ID 05 6009300040000
- b. Parcel ID 05 6008900050000
- c. Parcel ID 05 6009400000000
- d. Parcel ID 05 6009500030000
- e. Parcel ID 05 6009500040000
- f. Parcel ID 05 6009600020000
- g. Parcel ID 05 6009600030000
- h. Parcel ID 05 6011800000000
- i. Parcel ID 05 6011900020000
- j. Parcel ID 05 6009300050000

3. Construction Conditions. The Agreement is subject to the following construction terms and conditions:

a. Morgantown and/or BOPARC and their designated contractor(s) shall be solely responsible for constructing, installing, operating and maintaining the Recreation Facilities in accordance with all applicable provisions of federal, state and local laws, and in accordance with the terms of this Agreement. Morgantown and/or BOPARC will perform all recommendations and requirements of the West Virginia Department of Environmental Protection and other governing regulatory agencies applicable to the Recreation Facilities.

b. Morgantown and/or BOPARC shall provide all plans and specifications for the construction of the Recreational Facilities to the West Virginia Department of Environmental Protection (Dam Safety) for its review and comment and, if required by law, its written approval prior to commencing any work. Morgantown and/or BOPARC also shall be responsible for any permitting necessary to construct, install, and maintain the Recreation Facilities.

c. Morgantown and/or BOPARC shall promptly repair any and all damage to the Property arising out of the construction, maintenance, and operation of the Recreation Facilities, including, but not limited to, destruction of or damage to vegetation, loss of topsoil due to grading, trenching or erosion resulting from any entry or work. Repairs shall be completed as directed by, and to the reasonable satisfaction of, MUB, in the exercise of its reasonable discretion. Intended work to construct the Recreation Facilities shall not constitute damage to the Property within the meaning of this paragraph.

d. As part of the work to construct the Recreational Facilities, Morgantown shall construct a restroom facility on the Property at a location to be approved by MUB. The restroom facility need not be a permanent structure but must be a stable structure that cannot be moved or emptied by the public users of the Property.

e. The Recreation Facilities and the Agreement shall be subject to all existing utility easements, if any, located within the Property, as well as any other easements, conditions, covenants or restrictions of record or capable of observation at the Property.

f. The Recreation Facilities shall be placed, operated, maintained and repaired in such a way as to avoid any adverse impact on continuing operation of the Flegal Reservoir and Dam for its intended purpose.

g. Morgantown and/or BOPARC shall be responsible for any and all other permitting, disposal, remediation, mitigation, penalties, damages and other measures required to address environmental contamination which arise either in the performance of the work or as a result of impacts of the work to construct the Recreation Facilities.

h. MUB and/or BOPARC may retain a third-party inspector at its cost to monitor the progress of the work and compliance with the terms of this Agreement.

i. Morgantown and/or BOPARC will provide signage in appropriate locations throughout the Property alerting users of the proper use of the Recreation Facilities. Said signage, including, without limitation, the location thereof, shall be reviewed and approved in advance by the parties, who shall not unreasonably withhold, condition, or delay approval.

4. Post-Construction Conditions. The Agreement is subject to the following post-construction terms and conditions. The parties understand and agree that this Agreement promotes public access to recreation facilities and balances that access with the maintenance of a safe drinking water supply at the Flegal Reservoir and Dam. To support those purposes, these conditions are imposed to ensure continued responsible recreational use of the Property while protecting the water supply from adverse impacts that could otherwise occur due to public use of the Property. Morgantown and/or BOPARC will not operate the Recreation Facilities in such a manner as to have a material adverse impact on the quality of the public water supply at the Flegal Reservoir and Dam, in the reasonable determination of the parties, and the parties agree that the following activities are likely to create such material adverse impact and are therefore restricted as stated in this section:

a. Fishing with live bait in the reservoir on the Property will be prohibited. Fishing from the spillway and dam crest is prohibited. Morgantown and/or BOPARC shall have the right, but not the duty, to stock the reservoir pool for fishing.

b. Motorized boating in the reservoir on the Property will be prohibited. To the extent that non-motorized boating is desired by Morgantown and/or BOPARC, Morgantown and/or BOPARC shall be responsible for the construction of a launch area, of a scope and with specifications determined in the reasonable discretion of MUB, Morgantown and BOPARC. Non-motorized boats must remain at least 100 feet from the intake tower. The parties will place appropriate signage notifying the public of the area(s) within 100 feet of the intake tower.

c. Swimming, ice skating, wind surfing and other body-contact recreation (human and pets) in the reservoir on the Property will be prohibited, within 100 feet of the intake tower and face of the dam. The parties recognize that body-contact recreation as described in this subsection may be further limited or prohibited by a state or federal agency with regulatory authority over the use of the reservoir, as may be provided by law. Morgantown and/or BOPARC shall be solely responsible for any management of the activities defined in this section and MUB shall not be liable for any claim, cause of action, demand, judgment, penalty, or other damages as a result of the activities defined in this section. Morgantown and BOPARC shall name MUB as an additional insured on the insurance policies required by Paragraph 12 hereof and shall provide signage warning that no lifeguards are on duty and that swimming is at the individual's own risk.

d. Public access to the crest of the dam on the Property will be prohibited.

e. Morgantown and/or BOPARC shall provide for timely removal of garbage throughout the Property.

f. Morgantown and/or BOPARC shall maintain and clean the restroom facility on a timely basis as conditions dictate.

g. Fires of any kind on the Premises, including, without limitation, cooking fires, are prohibited.

h. Except for events sponsored by Morgantown or BOPARC, public gatherings and social events on the Property are prohibited without the prior written consent of MUB, which consent will not be unreasonably withheld.

i. The use or lighting of fireworks on the Property will be prohibited.

j. The operation of motorized vehicles on the Property will be prohibited except in the approved parking area(s), as needed for ingress and egress to approved parking area(s), and when necessary to access the Property for maintenance, improvements, construction, or to provide emergency services.

- k. Hunting, trapping and similar activities will be prohibited on the Property.

5. Morgantown's Role. The parties agree that Morgantown will make improvements to the Property with funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF), and the improvements and the Property shall be subject to all obligations pursuant to ARP/CSLFRF, including applicable provisions of the Uniform Administrative Guidance (2 C.F.R. Part 200, including without limitation 2 CFR 200.311 through 2 CFR 200.316 detailing property standards related to the expenditure of ARP/CLSFRF funds). Morgantown and its officers, agents, and employees will have ingress, egress, and regress to and from the Property, including access across the Property to other parcels, for the purpose of design, construction, maintenance, operation, repair, replacement, expansion, and/or removal of recreational facilities including but not limited to trails, bridges, parking areas, water access (including without limitation boat launch or dock facilities), bathrooms, benches, trash receptacles, and other similar or supporting facilities (the "Recreation Facilities"). Morgantown represents and warrants to MUB and BOPARC that ARP/CLSFRF funds may be used for the construction and/or maintenance of the Recreational Facilities. The parties jointly agree to take any and all actions necessary, and execute such additional documents as may be necessary, to remain in compliance with the continuing obligations for use of such funds.

6. BOPARC's Role. The parties agree that BOPARC will operate, manage, and maintain the Recreation Facilities after construction. BOPARC and its officers, agents, and employees will have ingress, egress, and regress to and from the Property, including access across the Property to other parcels, for the purpose of performing its functions under this Agreement. BOPARC shall manage the Recreation Facilities consistent with good park and recreation facility management practices, as determined by the professional judgment of its staff and board members, and in accordance with the terms of this Agreement.

7. MUB's Role. The parties agree that MUB will operate the Flegal Reservoir and Dam, and appurtenant facilities of the waterworks system, at the Property. MUB and its officers, agents, and employees will have ingress, egress, and regress to and from the Property, including access across the Property to other parcels, for the purpose of performing its functions under this Agreement. MUB shall not be responsible for the cost, design, construction, repair, improvement replacement, condition, maintenance, nor use of the Recreation Facilities; provided, however, that MUB will identify the location(s) one hundred feet from the intake tower of the Flegal Reservoir and Dam as needed by Morgantown and BOPARC and MUB will cooperate with Morgantown and BOPARC as needed to provide for the construction, installation, maintenance, operation, repair, and replacement of the Recreation Facilities in a manner consistent with continued use of the Flegal Reservoir and Dam for its intended purpose. MUB shall have the right to construct or install at its cost such facilities as it deems necessary as part of the combined utility system for the protection of the drinking water supply and the safety of those who use the Recreation Facilities, while ensuring continued public access to the Recreation Facilities consistent with this Agreement, including, without limitation, fencing to restrict access to the dam, security cameras, bollards to prevent motorized boating, buoys around the intake tower and lighting; provided, MUB will share its plans for security measures with Morgantown and BOPARC in advance of the installation/construction for their review and

comment. MUB may also install electronic locking gates at the Property. Closure hours for the gates will be set by mutual agreement of the Parties. MUB will be able to remotely open the gates at all times to assist any person in need of entry or exit.

8. Public facilities. The parties understand and agree that the Recreation Facilities are being constructed for the benefit of the public and will remain accessible for use by the general public for recreational purposes, subject to reasonable rules and regulations necessary to ensure the continued public enjoyment of the Recreation Facilities, the safety of the public and drinking water supply.

9. Cost of Improvements. The parties understand and agree that no provision of this Agreement obligates the expenditure of funds by MUB or BOPARC, and that the intended source of funding for the design and initial construction of Recreation Facilities provided in this Agreement is ARP/CSLFRF. The parties agree to take such reasonable measures as are necessary and helpful to facilitate expenditure of the ARP/CSLFRF for the purposes stated in this Agreement.

10. Responsibility for Recreation Facilities. The parties understand and agree that Morgantown, its officers, agents, and employees will be solely responsible for designing, constructing, and installing the Recreation Facilities and that Morgantown and BOPARC and their officers, agents, and employees will be solely responsible for operating, managing, and maintaining the Recreation Facilities, which will include responsibility for complying with applicable laws and regulations applicable to the Recreation Facilities, including without limitation any permitting, remediation, mitigation, penalties, or damages arising out of the construction or operation of the Recreation Facilities. Morgantown will provide all plans and specifications for the Recreation Facilities to the West Virginia Department of Environmental Protection (Dam Safety) for its review comment and, if required by law, its approval prior to commencing construction and Morgantown shall be responsible for obtaining any other permits as may be required for the performance of its authorities and obligations under this Agreement, including the construction of the Recreation Facilities. Morgantown will also provide all plans and specifications for the Recreation Facilities to MUB and BOPARC for their review and comment prior to commencing construction. The Recreation Facilities will be constructed, operated, maintained, and repaired in such a manner as to avoid any material adverse impact on the continuing operation of the Flegal Reservoir and Dam for its intended purpose. The parties understand and agree that the following activities would create a material adverse impact on the continuing operation of the Flegal Reservoir and Dam for its intended purpose: (i) operation of motorized watercraft for recreation purposes; (ii) recreational use of the water within 100 feet of the Flegal Reservoir Dam intake tower and face of the Dam; and (iii) operation of motorized vehicles by the public outside of approved parking areas and roadways.

11. Default. In the event of a default of the terms of this Agreement by any party, the non-defaulting party/ies shall provide the defaulting party with written notice of the default and the defaulting party shall have ten (10) days to cure the default. In the event the default is not timely cured, the party noticing the default shall have the right to seek any and all available legal remedies to cure such default.

12. Insurance. Each party shall maintain at its sole cost and expense appropriate insurance coverage for the Property with respect to its relative interest in the Property that will insure against personal injury and property damage in a sum not less than Two Million Dollars (\$2,000,000.00) per occurrence and an aggregate coverage amount of not less than Five Million Dollars (\$5,000,000.00). Such insurance coverage shall be obtained from a reputable insurer who is licensed to conduct business in the State of West Virginia and shall name the other parties to this Agreement as an additional insured party and may not be cancelled without the consent of the named additional insureds pursuant to this Agreement. Each party shall provide proof of such coverage to any other party upon request. The parties agree that, with respect to any claim arising out of the construction or operation of the Recreation Facilities, the policy/ies of Morgantown and/or BOPARC shall provide the primary coverage. The parties agree that, with respect to any claims arising out of the construction or operation of the Flegal Reservoir and Dam, the policy/ies of MUB shall provide the primary coverage.

13. Indemnification. To the fullest extent permitted by law, Morgantown and BOPARC agree to indemnify, defend and hold harmless MUB, its officers, agents, servants, employees, and board members from and against any and all actions, causes of action, suits, losses, costs, penalties, fees, liabilities, damages and expenses, incurred by MUB as the result of, or arising out of, or relating to (a) their breach of any covenant, agreement, or obligation of this Agreement; or (b) any cause of action, suit, legal or administrative proceeding or claim brought or made against MUB by any third party arising out of the construction, installation, operation, existence, and maintenance of the Recreation Facilities as well as arising out of the recreational use of the Flegal Reservoir and Dam, including, without limitation, for injury or death to person or damage or destruction to property; or (c) the construction, installation, operation, existence and maintenance of the Recreation Facilities. To the fullest extent permitted by law, MUB agrees to indemnify, defend and hold harmless Morgantown and BOPARC, their officers, agents, servants, employees, and board members from and against any and all actions, causes of action, suits, losses, costs, penalties, fees, liabilities, damages, and expenses, incurred by Morgantown and/or BOPARC as the result of, or arising out of, or relating to (a) its breach of any covenant, agreement, or obligation of this Agreement; (b) any cause of action, suit, legal or administrative proceeding or claim brought or made against Morgantown and/or BOPARC by any third party arising out of the construction, installation, operation, existence, and maintenance of the Flegal Reservoir and Dam, including, without limitation, for injury or death to person or damage or destruction to property.

14. No Interest in Land. MUB, Morgantown, and BOPARC understand, acknowledge and agree that this Agreement does not create an interest or estate in the Property.

15. Notices. All notices required or permitted by this Agreement shall be in writing and shall be deemed to have been duly given or made when delivered personally or transmitted electronically by facsimile or email, receipt acknowledged, or in the case of documented overnight delivery service or registered or certified mail, return receipt requested, delivery charge or postage prepaid, on the date shown on the receipt therefor, in each case at the address set forth below:

To the City:

City of Morgantown  
 Attn: City Manager  
 389 Spruce Street  
 Morgantown, WV 26505

To MUB:

Morgantown Utility Board  
 Attn: General Manager  
 278 Greenbag Road  
 Morgantown, WV 26501

To BOPARC:

Morgantown Board of Parks and Recreation Commissioners  
 Attention: Executive Director  
 799 E. Brockway Avenue  
 Morgantown, WV 26501

Any party may modify the notice address by delivery of notice pursuant to the provisions of this Section.

16. Miscellaneous Provisions:

a. Nothing contained in this Agreement shall be deemed or construed to operate for the benefit of any person or entity not a party to this Agreement.

b. This Agreement is executed in Morgantown, Monongalia County, West Virginia, and it shall be governed by the laws of the State of West Virginia without consideration of its conflict of law provisions.

c. This Agreement may be executed in any number of counterparts by the parties hereto, and all such counterparts taken together shall constitute a single instrument.

d. No party may assign its rights and obligations with respect to this Agreement without the prior written consent of all other parties, which consent may be granted or denied in the discretion of each party.

e. The parties agree that the respective obligations undertaken, and benefits received, by each of them pursuant to this Agreement constitute good and valuable consideration for this Agreement.

f. This Agreement constitutes the entire agreement between the parties hereto related to the subject matter hereof and there are no collateral agreements or understandings, oral or written, between the parties, except as specifically referenced herein. All additions, variations or modifications of this Agreement shall be void and ineffective unless they

are in writing and signed by all parties hereto. Section headings as used herein are for convenience only. Nothing in this Agreement shall be construed against or otherwise determined with respect to any party by reason of such party's preparation or drafting of this Agreement, in whole or in part.

g. Any term or provision of this Agreement may be waived in writing at any time by the party that is entitled to the benefits of it. Unless specifically waived in writing, the failure of either party at any time to require performance of any provision of this Agreement shall in no manner affect such party's right at a later time to enforce the same. No waiver by any party of a condition or the breach of any term, covenant, representation or warranty of this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or of the breach of any other term, covenant, representation or warranty of this Agreement.

h. This Agreement, and all the provisions hereof, shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

[signatures on following page]

Executed this \_\_\_ day of \_\_\_\_\_, 2022 by

The City of Morgantown

Morgantown Utility Board

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

\_\_\_\_\_  
Michael W. McNulty  
General Manager

Morgantown Board of Park and Recreation Commissioners

\_\_\_\_\_  
Melissa Wiles  
Executive Director

STATE OF WEST VIRGINIA,  
COUNTY OF MONOGALIA, to wit:

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 20\_\_\_,  
by \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ for and on  
behalf of the parties identified in the foregoing instrument.

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

\_\_\_\_\_  
Notary Public in and for the  
State of West Virginia

## **Vacant Structures Code Exemption Procedures**

1. Scope and Application. This regulation governs the process to apply for exemption from the requirement to register a structure as vacant under the City of Morgantown (“City”) Vacant Structures Code, codified at Article 1718 of the City Code, as it may be amended, supplemented, or replaced. The terms used in this regulation shall have the same meanings as those given in Article 1718 of the City Code unless another definition is specifically supplied by this regulation.
2. Purpose. Exemption from registration under the Vacant Structures Code is authorized by City Code Section 1718.07(c) and required as part of any local vacant structures code by *W. Va. Code* § 8-12-16c(b)(2), which provides that “The governing body of a municipality, on a case-by-case basis, upon request by the property owner, shall exempt a vacant building from registration upon a finding for good cause shown that the person will be unable to occupy the building for a determinat (sic)<sup>1</sup> period of time.”
3. Application for Exemption. The owner of a “vacant building,” as defined by *City Code* § 1718.03(b)(i)-(iii), may request exemption from the registration requirements of Article 1718 by filing an application on the form prescribed by the City, which is attached to this regulation as **Appendix A – Exemption Application Form**. The form shall be submitted to the City Manager either by personal delivery to the City Manager’s office during the City business hours or by mail to “The City of Morgantown, c/o City Manager, 389 Spruce Street, Morgantown, WV 26505.”
4. Determination of completeness. The City Manager will review all submitted applications to determine whether they are complete. Only a completed application by the owner of the vacant building will be considered for exemption. A representative of the City Manager’s office will take receipt of all applications and indicate the date of receipt. A determination of completeness will be made within five (5) business days, excluding the day of receipt, and notification of the determination will be delivered to the applicant by email. If the application is determined incomplete, the applicant must submit a new completed application in accordance with this regulation. If the application is determined complete, it will be submitted to City Council for determination in accordance with this regulation.
5. Delivery to City Council. Upon a determination that the application is complete, the City Manager, or a designee, will submit the application to City Council in writing and request a determination in accordance with any applicable rules of City Council to place the application on the next regular meeting for which notice of the request can be adequately provided in accordance with the law, or at a special meeting called for the purpose of hearing the application. City Council shall determine the date and time of the meeting at which the application will be heard and inform the City Manager. Upon receipt of the determination, the City Manager, or a designee, will inform the applicant by email of the date and time of the hearing and provide the applicant with a copy of this regulation or notice of the manner in which the applicant may review this regulation.

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<sup>1</sup> The Morgantown City Code implements this portion of the requirement as a “determinate” period of time, indicating that an exemption will be granted based upon a specific period of time during which the structure cannot be occupied. The term “determinant,” meaning a factor which decisively affects the nature or outcome, appears to be used erroneously in the state law.

6. Documentation or Recommendation submitted to City Council. The applicant may submit any documentation in support of the application – which is not already contained in the application – no later than 5 p.m. on the day two (2) business days prior to the hearing before City Council. The City Manager, or a designee, may, but shall not be required to, submit any recommendation on the application and any supporting material no later than 5 p.m. on the day two (2) business days prior to the hearing before City Council. When submitting material to City Council, the applicant shall deliver the material to the City Manager by email on the same day. When submitting material to City Council, the City Manager or designee shall deliver the material to the applicant by email on the same day. These requirements for submission of documentation apply to all forms of media including written and electronic materials in any form. If any participant in the hearing wishes to present material by electronic means, such as powerpoint or video presentation, the submission of documentation shall include a written request to City Council to permit the electronic presentation.
7. Hearing by City Council. On the date and time set for the hearing, the hearing will proceed as follows:
  - a. Electronic media. Prior to hearing any presentation, City Council will determine whether to permit presentations using electronic media, if a request has been submitted in accordance with this regulation. City Council may elect to permit or decline the use of electronic media in its sole discretion.
  - b. City Manager recommendation. Following a determination on the use of electronic media, if needed, City Council will allow the City Manager or a designee to present a recommendation, if any, on the application. The City Manager shall have five (5) minutes to present the recommendation, and Council may extend the time in its discretion upon request.
  - c. Applicant recommendation. Following the presentation of the City Manager, if any, the applicant or a designee may make a presentation in support of the exemption application. The applicant may make the presentation directly or by third parties – including legal counsel – or by a combination of those methods. The applicant shall have five (5) minutes to make the presentation, and Council may extend the time in its discretion upon request.
  - d. Witness testimony. City Council will not swear witnesses or take witness testimony during the hearing.
  - e. Questioning by City Council. Following the conclusion of the presentations, City Council may ask questions of any person participating in the presentations.
  - f. Standard of Review. City Council will determine whether an applicant has demonstrated (i) good cause, (ii) that the applicant will be unable to occupy the building, (iii) for a certain period of time. For purposes of these rules, good cause supporting the inability to occupy a building means a legal or practical issue that is outside the control of the property owner (as that term is defined in *City Code* § 1718.03(a)) and which would prevent occupancy of the building despite reasonably diligent efforts by the property owner to occupy the building or permit occupancy by another person. Such good cause may include, subject to the discretion of City Council in each individual case, the existence of contested claims to ownership of the property that cannot be resolved by the property owner and do not allow occupancy of the building, including claims made in probate or

other testamentary transfer proceedings; the ongoing renovation of a building necessary to make it fit for occupancy and compliant with law, so long as such renovation is diligently pursued; or the ongoing attempt to sell the building to a new owner, so long as the property is continuously listed for sale, the property owner is actively participating in marketing the property for sale, the property owner is willing to accept purchase offers reasonably approximating the market value of the property, and other occupancy of the property during the marketing period is either not permitted by law or would substantially interfere with the sale of the property. Good cause for exemption does not include disrepair of the property or violations of law at the property, unless the applicant has demonstrated an ongoing renovation identified in the preceding sentence; difficulties in sale or occupancy of the property due to market conditions when an occupant might reasonably be found at current market prices or rates; nor the property owner's absence from the property, even with intent to return, absent additional factors as may be described in the preceding sentence. If the applicant has not established all three elements supporting the exemption to the satisfaction of Council, the application for exemption will be denied. If the applicant has established all three elements supporting the exemption to the satisfaction of Council, the application for exemption will be granted.

- g. Decision on Application. Upon the conclusion of questioning by City Council, if any, the Council may (i) make a decision on the application, (ii) take the matter under advisement for future decision, or (iii) request or allow the participants to submit any additional information that may assist in the decision, including proposed findings and conclusions on the application. The decision by City Council shall be reduced to writing and delivered to the applicant by email. Any decision granting exemption must specify a certain date upon which the exemption expires. The period for which an exemption is granted shall not extend beyond the next annual registration date (July 1<sup>st</sup>) required by *City Code* § 1718.04. Applicants may seek additional exemptions for a property, when the exemption period has expired or will expire, by submitting a new application in accordance with this regulation.
- h. Application of Open Governmental Proceedings Act. When acting on an application for exemption from the Vacant Structures Code registration requirements, City Council is making an adjudicatory decision in a quasi-judicial or administrative capacity. Accordingly, the proceedings do not constitute a “meeting” within the definition provided by the Open Governmental Proceedings Act. *See W. Va. Code* § 6-9A-2(5)(A). City Council may choose to conduct all or any part of the proceedings in closed session.
- i. Effect on application of Vacant Structures Code. The pendency of an application for exemption does not abrogate the duty of the property owner to comply with the Vacant Structures Code, including any requirement to pay registration fees. A decision by City Council to grant exemption may include a determination to waive or refund registration fees due or paid. An exemption granted by City Council may be used as a defense by the property owner in any pending criminal action for failure to register the vacant building subject of the exemption.

Adopted: \_\_\_\_\_  
(Date)

\_\_\_\_\_  
Mayor

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