AGENDA
MORGANTOWN CITY COUNCIL
REGULAR MEETING
August 6, 2019
7:00 p.m.

1. CALL TO ORDER:

2. ROLL CALL:

3. PLEDGE TO THE FLAG:

4. APPROVAL OF MINUTES: 7/16/2019, Regular Meeting minutes, 7/30/2019, Special Meeting minutes, and 7/30/2019 Committee of the Whole Meeting minutes.

5. CORRESPONDENCE:

6. PUBLIC HEARINGS:
   

7. UNFINISHED BUSINESS:
   
   
   C. BOARDS & COMMISSIONS:

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

9. SPECIAL COMMITTEE REPORTS:

10. CONSENT AGENDA:

11. NEW BUSINESS:
   A. Consideration of APPROVAL of (FIRST READING) of AN ORDINANCE DESIGNATING AND DECLARING SECOND STREET RESTRICTED TO ONE-WAY TRAFFIC FROM UNIVERSITY TO GRANT AVENUE
B. Consideration of **APPROVAL** of (FIRST READING) of *AN ORDINANCE AUTHORIZING AND APPROVING THE ACQUISITION, EQUIPPING AND IMPROVEMENT BY THE MORGANTOWN LAND REUSE AND PRESERVATION AGENCY OF REAL PROPERTY LOCATED AT 430 SPRUCE STREET*

C. Consideration of **APPROVAL** of *A RESOLUTION APPROVING TERMS OF THE LEASE REVENUE BONDS, SERIES 2019 OF THE CITY OF MORGANTOWN LAND REUSE AND PRESERVATION AGENCY*

D. Consideration of **APPROVAL** of *RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT WITH WVDOT DOH FOR ESTABLISHMENT AND MAINTENANCE OF A TRAFFIC SIGNAL SYSTEM WITHIN THE MUNICIPAL LIMITS OF THE CITY OF MORGANTOWN*

E. Consideration of **APPROVAL** of *RESOLUTION AUTHORIZING THE FY 2019-2020 GRANT APPLICATION FOR THE PREVENTION RESOURCE OFFICERS THROUGH THE WEST VIRGINIA JUSTICE ASSISTANCE GRANT PROGRAM*

12. **CITY MANAGER’S REPORT:**

**INFORMATION:**

1. **PROPOSED ANNEXATION PLAN**

**NEW BUSINESS**

1. **COMPLIANCE WITH WV CODE 8-22-27A. – CORRECTION OF ERRORS; UNDERPAYMENTS; OVERPAYMENTS**

2. **MORGANTOWN MUNICIPAL AIRPORT MISCELLANEOUS AIRFIELD UPGRADES – BID CALL 2019-13**

3. **URBAN DEER ARCHERY HUNT**

13. **REPORT FROM CITY CLERK:**

14. **REPORT FROM CITY ATTORNEY:**

15. **REPORT FROM COUNCIL MEMBERS:**

16. **EXECUTIVE SESSION:** Pursuant to West Virginia Code Section 6-9(A)4 (2)(B) (12) to discuss litigation for Giuliani vs. City of Morgantown.

17. **EXECUTIVE SESSION:** Pursuant to West Virginia Code Section 6-9(A)4 (2)(B) (12) to discuss litigation for DBI, Inc. vs. City of Morgantown.

18. **ADJOURNMENT:**

*If you need an accommodation contact us at (304) 284-7439*
SPECIAL MEETING July 30, 2019

The Special Meeting of the Common Council of the City of Morgantown was held in the Council Chambers on Tuesday, July 30, 2019 at 5:03 p.m.

PRESENT: Mayor William Kawecki, Council Members, Zackery Cruze, Jenny Selin, Dave Harshbarger, and Barry Wendell. Deputy Mayor Rachel Fetty arrived 5:45 p.m. and Ron Dulaney arrived in time for the Regular Session.

The meeting was called to order by the Mayor.

EXECUTIVE SESSION: Pursuant to WV State Code Section 6-9A-4(b) (2) (A) motion by, second by, to go into Executive Session to discuss personnel matters in considering appointments for Boards and Commissions. Motion carried by acclamation. Mayor, and City Council Members present. Time: 5:04 p.m.

INTERVIEWS FOR:

Ward & Boundary Commission

5:00 p.m. – Sarah Barnes
5:20 p.m. – William Ryan
5:40 p.m. – Don Spencer
6:00 p.m. – Roger Banks
6:20 p.m. – Roy Nutter

Roger Banks did not show up for his scheduled interview.

REGULAR SESSION: Motion by Wendell, second by Deputy Mayor Fetty, to come out of executive session to appoint those that were interviewed this evening to the Ward & Boundary Commission. Present: City Council Time: 7:04

Motion by Councilor Cruze, second by Councilor Harshbarger, to appoint, by consensus, Sarah Barnes, to the Ward & Boundary Commission.

Motion by Councilor Cruze, second by Councilor Harshbarger, to appoint, by consensus, William Ryan, to the Ward & Boundary Commission.

Motion by Councilor Cruze, second by Councilor Harshbarger, to appoint, by consensus, Don Spencer, to the Ward & Boundary Commission.

Motion by Councilor Cruze, second by Councilor Harshbarger, to appoint, by consensus, Roy Nutter, to the Ward & Boundary Commission.

ADJOURNMENT:

There being no further business, motion by Dulaney, second by Wendell, to adjourn the Special Meeting at 7:11 p.m.

City Clerk

Mayor

1
COMMITTEE OF THE WHOLE MEETING July 30, 2019: The Committee of the Whole meeting of the Common Council of the City of Morgantown was held in the Council Chambers on Tuesday, July 30, 2019 at 7:13 p.m.

PRESENT: City Manager Paul Brake, City Attorney Ryan Simonton, Mayor Bill Kawecki, Council Members, Deputy Mayor Rachel Fetty, Zackery Cruze, Jenny Selin, Ron Dulaney, Dave Harshbarger, and Barry Wendell. Assistant City Manager Emily Muzzarelli was absent.

Deputy Mayor Fetty called the meeting to order.

PRESENTATIONS: None

PUBLIC PORTION:

Deputy Mayor opened the public portion and asked if there was anyone wishing to speak.

Karen Giuliani, 256 Prairie Avenue, expressed her disapproval of City Council.

James Giuliani, 256 Prairie Avenue, expressed his concerns with the Code Enforcement Department.

There being no one else wishing to speak, Deputy Mayor Fetty closed the Public Portion.

ITEMS FOR DISCUSSION:

1. An Ordinance designating and declaring Second Street restricted to One-Way Traffic from University to Grant Avenue

After discussion, by consensus, council referred to the next regular meeting agenda, August 6, 2019.

2. An Ordinance authorizing and approving the acquisition, equipping and improvement by the Morgantown Land Reuse and Preservation Agency of Real Property located at 430 Spruce Street

After discussion, by consensus, council referred to the next regular meeting agenda, August 6, 2019.

3. A Supplemental Resolution approving terms of the lease revenue bonds, series 2019, of the Morgantown Land Reuse and Preservation Agency, approving the sale and delivery of such bonds, and approving other matters with respect to other bonds

After discussion, by consensus, council referred to the next regular meeting agenda, August 6, 2019.

4. Home Rule Plan Amendment – Change Required Audit Date for the Morgantown Land Reuse and Preservation Agency

After discussion, by consensus, council referred, by consensus, to the next regular meeting agenda, August 6, 2019.
5. A Resolution authorizing execution of an agreement with WVDOT DOH for establishment and maintenance of a traffic signal system with the Municipal Limits of the City of Morgantown

After discussion, by consensus, council referred, by consensus, to the next regular meeting agenda, August 6, 2019.

6. A Resolution authorizing the FY 2019-2020 Grant Application for the Prevention Resource Officers through the West Virginia Justice Assistance Grant Program

After discussion, by consensus, council referred, by consensus, to the next regular meeting agenda, August 6, 2019.

**ADJOURNMENT:**

There being no further business, council adjourned the committee of the whole meeting at 8:40 pm.

____________________________________  ______________________________________
City Clerk                                    Mayor

The City of Morgantown hereby ordains:

That the FY 2019-2020 Annual Budget of the General Fund of the City of Morgantown is amended as shown in the revised budget (Revision 01) attached hereto and made a part of this ordinance.

First Reading: ________________________________

Adopted: Mayor

Filed: ________________________________

Recorded: City Clerk
### CITY OF MORGANTOWN
GENERAL FUND - REVISION 01
FY 2019-2020

<table>
<thead>
<tr>
<th>ACCT NO</th>
<th>REVENUES</th>
<th>ADOPTED BUDGET FY20</th>
<th>PROPOSED REV 01</th>
<th>PROPOSED AMENDED BUDGET</th>
<th>EXPLANATION OF PROPOSED ADJUSTMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>299</td>
<td>Fund Balance Unassigned</td>
<td>2,000,000</td>
<td>1,400,000</td>
<td>3,400,000</td>
<td>Adjust to actual estimate as of 7/10/19</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>ACCT NO</th>
<th>EXPENDITURES</th>
<th>ADOPTED BUDGET FY20</th>
<th>PROPOSED REV 01</th>
<th>PROPOSED AMENDED BUDGET</th>
<th>EXPLANATION OF PROPOSED ADJUSTMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>699</td>
<td>Contingency</td>
<td>280,445</td>
<td>545,900</td>
<td>826,345</td>
<td>Excess of total revenues to total expenses, up to 10% of General Fund budget allowed to be carried as Contingency amount</td>
</tr>
<tr>
<td>412</td>
<td>City Manager</td>
<td>915,428</td>
<td>27,500</td>
<td>942,928</td>
<td>To fund an earlier hire date for the IT Manager for on-going Police and City Hall projects (see police officer FTE vacancies below)</td>
</tr>
<tr>
<td>414</td>
<td>Finance</td>
<td>1,077,586</td>
<td>15,000</td>
<td>1,092,586</td>
<td>Training for new software modules and lease payments for office equipment</td>
</tr>
<tr>
<td>417</td>
<td>City Attorney</td>
<td>460,000</td>
<td>525,000</td>
<td>985,000</td>
<td>2019 budgeted amount for the Forest Avenue lawsuit settlement. Approved by Council on 2/19/2019 and unpaid as of the end of budget year 6/30/2019.</td>
</tr>
<tr>
<td>422</td>
<td>Human Resources</td>
<td>378,710</td>
<td>20,000</td>
<td>398,710</td>
<td>2019 unused budget amount for employee healthy living week and wellness screenings</td>
</tr>
<tr>
<td>439</td>
<td>IT</td>
<td>345,010</td>
<td>20,000</td>
<td>365,010</td>
<td>IT consulting for on-going project support for Police Dept and City Hall projects</td>
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<tr>
<td>444</td>
<td>Contribution to Other Funds</td>
<td>5,410,440</td>
<td>250,000</td>
<td>5,660,440</td>
<td>Other Post Employment Benefit Fund contribution for retiree health insurance costs</td>
</tr>
<tr>
<td>706</td>
<td>Police</td>
<td>8,984,181</td>
<td>(18,400)</td>
<td>8,965,781</td>
<td>Replacement cost for totaled vehicle $29,100 (insurance claim payment of $21,528 was received on 5/21/2019) and reduction to salaries and wages for current vacant positions -$47,500 to fund the earlier start date for IT Manager and for IT consulting</td>
</tr>
<tr>
<td>900</td>
<td>BOPARC</td>
<td>1,640,900</td>
<td>15,000</td>
<td>1,655,900</td>
<td>To cover amount not funded by the County for the Sounds of Summer 2020 entertainment series</td>
</tr>
</tbody>
</table>

| Total | 1,400,000 | | | | |


**REQUEST FOR REVISION TO APPROVED BUDGET**

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

City of Morgantown
GOVERNMENT ENTITY

<table>
<thead>
<tr>
<th>Municipal City</th>
<th>Zip Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Morgantown</td>
<td>26508</td>
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</table>

**REVENUES: (net each acct.)**

<table>
<thead>
<tr>
<th>ACCOUNT NUMBER</th>
<th>ACCOUNT DESCRIPTION</th>
<th>PREVIOUSLY APPROVED AMOUNT</th>
<th>(INCREASE)</th>
<th>(DECREASE)</th>
<th>REVISED AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>299</td>
<td>Unassigned Fund Balance</td>
<td>2,000,000</td>
<td>1,400,000</td>
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<td>3,400,000</td>
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**NET INCREASE/(DECREASE) Revenues (ALL PAGES)**

1,400,000

**EXPLANATION FOR ACCOUNT # 376, MUNICIPAL SPECIFIC:**

**EXPLANATION FOR ACCOUNT # 369, CONTRIBUTIONS FROM OTHER FUNDS:**

**EXPENDITURES: (net each account category)**

(WV CODE 7-1-9)

<table>
<thead>
<tr>
<th>ACCOUNT NUMBER</th>
<th>ACCOUNT DESCRIPTION</th>
<th>PREVIOUSLY APPROVED AMOUNT</th>
<th>(INCREASE)</th>
<th>(DECREASE)</th>
<th>REVISED AMOUNT</th>
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</thead>
<tbody>
<tr>
<td>412</td>
<td>City Manager's Office</td>
<td>915,428</td>
<td>27,500</td>
<td></td>
<td>942,928</td>
</tr>
<tr>
<td>414</td>
<td>Finance Office</td>
<td>1,077,586</td>
<td>15,000</td>
<td></td>
<td>1,092,586</td>
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<tr>
<td>417</td>
<td>City Attorney</td>
<td>480,000</td>
<td>525,000</td>
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<td>985,000</td>
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<tr>
<td>422</td>
<td>Personnel Office</td>
<td>378,710</td>
<td>20,000</td>
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<td>398,710</td>
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<td>439</td>
<td>Data Processing</td>
<td>345,010</td>
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<tr>
<td>444</td>
<td>Contributions / Transfers to Other Funds</td>
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<td>250,000</td>
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<td>5,660,440</td>
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<tr>
<td>699</td>
<td>Contingencies*</td>
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<td>700</td>
<td>Police Department</td>
<td>8,984,181</td>
<td>18,400</td>
<td></td>
<td>8,995,781</td>
</tr>
<tr>
<td>900</td>
<td>Parks &amp; Recreation</td>
<td>1,640,900</td>
<td>15,000</td>
<td></td>
<td>1,655,900</td>
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**NET INCREASE/(DECREASE) Expenditures**

1,400,000

**APPROVED BY THE STATE AUDITOR**

BY: Deputy State Auditor, Local Government Services Division  
AUTHORIZED SIGNATURE OF ENTITY  
APPROVAL DATE

The City of Morgantown hereby ordains:

That the FY 2019-2020 Annual Budget of the Coal Severance Fund of the City of Morgantown is amended as shown in the revised budget (Revision 01) attached hereto and made a part of this ordinance.

First Reading:

Adopted: Mayor

Filed:

Recorded: City Clerk
# REQUEST FOR REVISION TO APPROVED BUDGET

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

City of Morgantown
GOVERNMENT ENTITY

369 Spruce Street
Morgantown 26508

<table>
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<tr>
<th>REVENUES: (net each acct.)</th>
<th>controls number</th>
<th>fund code</th>
<th>citizen name</th>
<th>phone number</th>
<th>phone number</th>
<th>date</th>
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<tr>
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<th>(DECREASE)</th>
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<tbody>
<tr>
<td>299</td>
<td>Unassigned Fund Balance</td>
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<td>5,315</td>
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NET INCREASE/(DECREASE) Revenues (ALL PAGES) -5,315

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

<table>
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<tr>
<th>EXPENDITURES: (net each account category)</th>
<th>controls number</th>
<th>fund code</th>
<th>citizen name</th>
<th>phone number</th>
<th>phone number</th>
<th>date</th>
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<tr>
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<tbody>
<tr>
<td>699</td>
<td>Contingencies*</td>
<td>7,075</td>
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NET INCREASE/(DECREASE) Expenditures -5,315

APPROVED BY THE STATE AUDITOR

BY: Deputy State Auditor, Local Government Services Division  Date

AUTHORIZED SIGNATURE: OF ENTITY

APPROVAL: DATE
305.04 ONE-WAY STREETS DESIGNATED.

(a) The following streets or portions thereof are hereby designated as and declared to be one-way streets and vehicular traffic on such streets shall move only in the direction specified in this section:

Brockway Avenue, from Walnut Street to Maryland Avenue.
Carson Street, from University Avenue to Grant Avenue.
Chestnut Street, from Kirk Street to Willey Street.
Clark Street, from Cherry Street to Kingwood Street.
Clay Street, from Wharf Street to Hurley Street.
Court Street, from Spruce Street to University Avenue.
Decker Avenue, from Spruce Street to Elk Street.
Edgewood Street, from Cobun Avenue to Wilson Avenue.
Elmina Street from Dewey Street to Lyndhurst Street.
Fayette Street, from University Avenue to Spruce Street.
First Street, from Grant Avenue to University Avenue.
Forest Avenue, from High Street to Spruce Street.
Forest Avenue, from High Street to Chestnut Street.
Fortney Street, from Charles Avenue to Richwood Avenue.
Gem Street, from Locust Avenue to Richwood Avenue.
High Street, from Prospect Street to Kirk Street.
Hough Street, from University Avenue to Beechurst Avenue.
Jones Avenue, from Stewart Street to Overhill Street.
Kirk Street, from High Street to Spruce Street.
Manville Street, from Winsley Avenue to Winsley Avenue in an easterly direction.
Maryland Avenue, from Brockway Avenue to Cobun Avenue.
McClain Avenue, from Third Street to Eighth Street.
Moore Street, from University Avenue to B. & O. Railroad Station.
Moreland Street, from Spruce Street to University Avenue.
Pearl Avenue, from Richwood Avenue to Cass Street. Parking on the east side of Pearl Avenue only.
Pleasant Street, between Spruce Street and Cobun Avenue.
Pleasant Street, from University Avenue to Spruce Street.
Prairie Avenue, from Wilson Avenue to Wagner Road.
Prospect Street, from Willey Street to University Avenue.
Reid Street, from Chestnut Street to University Avenue.
Rotary Street, from Collins Ferry Road to Rebecca Street.
Second Street, from University Avenue to Grant Avenue.
Spruce Street, from Kirk Street to Prospect Street.
Walnut Street, from Spruce Street to University Avenue.
Walnut Street, between Cobun Avenue and Spruce Street.
Wharf Street, from Hurley Street to Clay Street.
Winsley Street, from Overdale Street to Green Street.

This ordinance shall be effective upon adoption.

First Reading:  
Adopted:  
Filed:  
Recorded:

__________________________________________
Mayor

__________________________________________
City Clerk
MEMORANDUM

TO: Mayor and City Council

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

DATE: August 2, 2019

RE: Proposed Property Acquisition – 430 Spruce Street

RECOMMENDATION:

Staff recommends authorizing the Land Reuse and Preservation Agency to issue financing for the acquisition, equipping and improving of the office building at 430 Spruce Street at the agreed upon price of $1,250,000. The discussion of the property acquisition began at the February 25 and March 19, 2019, Regular City Council meetings. As discussed at the Committee of the Whole meeting, the purchase is now going through the Land Reuse and Preservation Agency for the authorization of funding, and the acquisition will be completed through lease agreement ordinance adoption following two readings at public meetings and a public hearing.

BACKGROUND DISCUSSION:

As described six months ago, the City has an immediate and long-term need for additional office space. The immediate problem is to accommodate employees being displaced during the renovations in the Public Safety Building. Secondarily, the City organization is growing, and meeting the service demands is hampered by an inadequate amount of office space in either City Hall or the Public Safety Building.

The current structure is in close proximity to City Hall - immediately adjacent to the Farmers Market Pavilion. It is located on Spruce Street between Fayette and Forrest Avenue. The building offers a total of 12,000 (+/-) square feet of gross building area. The building has two floors above grade that measure 4,000 (+/-) square feet per floor. Additionally, there is 4,000 (+/-) square feet of basement/storage area. The first floor is occupied through a lease entered into with the City. The second floor is currently vacant.
Attached you will find a copy of the pertinent pages of the real estate appraisal. As you will note, the market value of the property is $1,335,000. I have included copies of the comparable sales that were used by the appraiser. This includes comparable commercial office sales that have occurred recently.

The Public Safety Building is slated for renovations over the next two years. Originally, the project entailed mainly exterior repairs (e.g. roof, HVAC and Generator), however, the scope includes extensive work in the interior of the building as well. This has already displaced about 15 to 20 office workers, and this area of the Police Department has several employees who use workstations and conduct meetings. The total impact includes 53 sworn and civilian personnel working in the department.

Beyond the need for a two-year temporary office location, we are adding staff to Engineering, Information Technology, Development Services, Human Resources, and Finance. Depending on the outcome of the annexation petition, they could necessitate increasing support services (IT, Finance and Human Resources) beyond the current workforce. The proposed building also includes conference room space currently not available in our buildings.

The intent of the proposed funding is to accomplish the purchase through the City’s Building Commission. This entity can issue debt for facilities (beyond the City’s legally authorized ability). A few key assumptions supporting this include:

- This acquisition would be financed for twenty-years and leased to the City at a cost of approximately $150,000 annually. The building lease is already included in the proposed FY 2019-2020 budget. Please turn to page 11-24 (444-Transfers) and you will find the payment of the building through the Land Reuse and Preservation Agency, included in this budget line-item.

- The current budget made the last lease payment for the Public Safety Building in the amount of $275,000. A discussion of other debt payments will be covered further in this document.

- Potential leases at 430 Spruce Street would be used to fund the Land Reuse and Preservation Agency in future endeavors. Initially, we projected $72K would be returned to the General Fund through the revenue line-item 345 Rents & Other General. I am now recommending that a subsequent budget amendment cover this loss of revenue. Further, we should create a new revenue line-item for the Land Reuse and Preservation Agency in a Special Revenue Fund.

Additional financing is also recommended to be secured for cosmetic interior remodeling. Exterior landscaping and an urban pocket park are also recommended to improve the overall appearance of this facility. Lastly, the rental amount to pre-occupy the building is included in the project budget.
The preliminary project fund consists of the following:

<table>
<thead>
<tr>
<th>Preliminary Project Fund:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property Purchase Price</td>
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<tr>
<td>Pre-occupancy Rent</td>
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<tr>
<td>Personality / Furniture</td>
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<tr>
<td>Interior Renovation Costs</td>
</tr>
<tr>
<td>Passive Public Space Improvements</td>
</tr>
<tr>
<td>Survey Work</td>
</tr>
<tr>
<td>Appraisal Work</td>
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<tr>
<td>Title Examination</td>
</tr>
<tr>
<td>Title Insurance</td>
</tr>
<tr>
<td><strong>Running Total</strong></td>
</tr>
</tbody>
</table>

The City currently carries some debts and leases on other buildings and equipment. It is important to understand what other financial obligations are currently encumbering our fiscal plan.

**City of Morgantown**

**Key Bond and Lease Terms**

1. **PAID OFF** Public Safety Building – Series 2012
   - $0 Outstanding Principal as of January 1, 2019
   - 1/1/2019 final payment
   - General Fund average annual payment – $264,000
   - Parking average annual payment – $365,000

2. Northside Fire Station – Series 2013
   - $2,325,000 Outstanding Principal as of March 14, 2019
   - 10/1/2027 final payment
   - General Fund average annual payment - $320,000

   - $1,425,000 Outstanding Principal as of March 14, 2019 – MPA, Library, BOPARC, City, Airport
     - $765,083 Outstanding Principal for City & Airport portion
   - 7/15/2024 final payment
   - General Fund average annual payment – $106,000
   - Airport average annual payment – $49,000
   - BOPARC average annual payment – $105,000
   - Parking average annual payment – $24,000
   - Library average annual payment – $4,700
4. BB&T Equipment Lease
   - 6/30/2020 final payment
   - General Fund annual payment – $154,000

5. Parking Authority Municipal Bonds – Series 2012
   - $1,264,900 Outstanding Principal as of March 14, 2019
   - 12/1/2021 final payment
   - Parking average annual payment – $442,000

We have analyzed alternatives to purchasing the building and these are the findings:

**Alternative 1 - Build Addition Immediately Adjacent to City Hall**

We have been approached by the building owner of the property immediately behind City Hall – 374 High Street. The owner is interested in constructing an upper floor that could be connected the City Hall building through an enclosed walkway bridge. This space consists of 10,300 square feet for an additional 23 offices and a large open foyer. Mills Group has put together preliminary drawings of the space. According to our calculations, the cost of construction to the upper floor, bridge structure and elevator at this location would cost approximately $3.5 million.

This would be more spacious than the 8,000 square feet of the above grade space at 430 Spruce Street. However, this does not address the immediate need for the Public Safety Building personnel.

**Alternative 2 – Lease Office Space in the Former County Magistrate Building**

The Monongalia County Development Authority has space available on the Third Floor of the Former Magistrate Building. This is an area that includes up to 10,000 square feet. The pricing for the office space is negotiable and is up to $18 per square foot / per year. This will resolve the immediate issue for the Public Safety Building, however, it is much more costly from a long-term perspective as a permanent office location.

The Police Chief has indicated a need of 5,000 square feet which equates to $90,000 in annual costs, plus a one-time buildout of $25,000 (estimate) for the IT needs. As the Police Chief relayed in a memorandum, the location is near the Police Department, and all downtown resources, which would allow the department to continue to utilize the parking garage. The Chief admitted, “computer access would be problematic and would also need the I.T. department to identify the needs in order to establish connectivity with the computer system.”
Alternative 3 – Move Municipal Court to City Hall and Relocate Police Department

The Municipal Court could relocate to the City Hall building and Council Chambers is one possible suggestion offered by Chief Preston. This was the arrangement utilized prior to the construction of the current Public Safety Building. The court clerks could be assigned within the Finance Department in order to process and accept payments.

The Detective Unit of the Police Department would relocate into the training room and community meetings would have to be held elsewhere. The operational supervisors would relocate into the Municipal Court offices. Shift briefings would be held in the Public Safety Building conference room and, furthermore, this same room would have to be converted to a report writing room.

This alternative would have the largest negative impact to many operations. First and foremost, we would be eliminating two frequently used meeting rooms – City Council Chambers and the Public Safety Building Conference Room. I am concerned about the Finance Department’s configuration as this would create overcrowding in an already tight work area. We have experienced staff turnover in this department, and creating a new unpleasant working environment is a possible downside of this option.

Although this is the least expensive alternative, this has the biggest impact on creating lost productivity in several City departments.

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 the aging infrastructure and equipment needs in the community, as well as in the City operations. During the budget processes (current and future) staff will continue to compile comprehensive needs of the City, and a systematic process of funding those priority items will be identified. The purchase of the property will not diminish allocation of future proceeds to these improvements, repairs and acquisitions.

By acquiring this new facility, the City Council has the opportunity of being pro-active regarding office spacing needs. As demonstrated in the alternatives, new construction is much more costly, and the proposed facility is located within the municipal campus.
July 10, 2019

Mr. Paul Brake
City Manager
The City of Morgantown
389 Spruce Street
Morgantown, West Virginia 26505

RE: Real Estate Appraisal
    Appraisal Report
    430 Spruce Street
    Morgantown, West Virginia 26505

Dear Mr. Brake:

Pursuant to the request of Mr. Randy Neal I have personally inspected the herein described real estate for the purpose of estimating its market value as of June 26, 2019 as that was the last day I physically inspected the subject property.

This Appraisal Report is prepared under Standards Rule 2-2 (a) and is a Complete Appraisal Analysis. It is intended to comply with the Uniform Standards of Professional Appraisal Practice (USPAP) of the Appraisal Foundation. This appraisal conforms to the provisions of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Title XI (FIRREA).

The client should be aware that there is information held in my files that is not included or made part of this report and that this information was utilized for the value conclusions stated in this appraisal. This appraisal is made as of an effective date and the appraiser has relied upon data as of that date to formulate the conclusions reported in this analysis. The value estimate reported in this appraisal is an objective opinion made by the appraiser based on the experience of the appraiser; the data collected; known economic, governmental, and social forces examined in this market; and the absence of material or competitive changes in the market after the effective date of this report.

It should be understood that the definition of market value for this report is defined by the United States Treasury Department, Comptroller of the currency 12 CFR part 34 & 34.42 (f) as:
The most probable sales price which a property should bring in a competitive and open market under all condition’s requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sales as of a specified date and the passing of title from seller to buyer under conditions whereby: 1) buyer and seller are typically motivated, 2) both parties are well informed or well advised and each acting in what he considers his own best interest; 3) a reasonable time allowed for exposure in the open market; 4) payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and 5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

Value-influencing conditions are reported, whatever their nature and whenever they are found, because of their explained impact on the property’s value.

Explanations are given for each of the steps taken in the different techniques used to estimate the value reported along with comments on the reasoning employed in each case.

The property in question is appraised in a fee estate on the assumption that the presence of oil, gas, coal, or any other materials, if any, is such that its (or their) recovery is uneconomic.

Upon analyzing all available information, it is my opinion the market value estimate of the property herein described in a fee simple estate, as of June 26, 2019 was:

$ 1,335,000.00

ONE MILLION THREE HUNDRED THIRTY FIVE THOUSAND DOLLARS

Respectfully Submitted,

[Signature]

Douglas C. Wise
Certified General Real Estate Appraiser
West Virginia CG053
Senior Appraiser
Professional Appraisal Corporation
## EXECUTIVE SUMMARY

**LOCATION**

430 Spruce Street  
Morgantown, West Virginia  
26505

**TYPE PROPERTY**

The subject property is a two-story office building offering a three stop elevator. It has a single suite on the main level and has two suites on the second floor. At the time of inspection the building was vacant. The building was constructed in 1996 and is in good condition.

**AREA**

Gross building area totals 8,110 square feet with 4,055 square feet on each floor. There is also a full, unfinished basement totaling 4,055 square feet.

**ZONING**

B-4; permits existing use.

**OBJECTIVE OF THE APPRAISAL**

The objective of this appraisal is to estimate the market value of the herein described real property in fee simple as of June 26, 2019.

**FEE OWNER**

Michael A. Vecchio, Sr., Charles L. Badger and Janet S. Sal.

**SITE SIZE**

The site totals 19,751 square feet or 0.45 acres, more or less.

**DEED BOOK REFERENCE**

1115, page 29

**REAL ESTATE TAXES**

$13,178.44

**TAX MAP**

Third Ward (11)  
Map 26, Parcel 0254.0000, 0255.0000, 0257.0000, 0258.000 and 0.261.000.

**ESTIMATED SITE VALUE**

Not Processed

**APPROACHES TO VALUE**

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<tr>
<td>Sales Comparison Approach</td>
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<tr>
<td>Income Approach</td>
<td>$1,300,000.00</td>
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</table>
FINAL VALUE ESTIMATE
$1,335,000.00

VALUE OF THE PERSONAL PROPERTY
None

DATE OF APPRAISAL
June 26, 2019
(Effective Date)

DATE REPORT SIGNED
July 10, 2019

MARKETING TIME
3-6 months

EXPOSURE TIME
3-6 months

HIGHEST AND BEST USE
The highest and best use of the subject has been determined to be for an office building.

INTENDED USER
The City of Morgantown
(Client)

EXTRAORDINARY ASSUMPTIONS
None

HYPOTHETICAL CONDITIONS
None
The adjusted value indications range from $1,326,870 to $1,416,151 with the average adjusted value indication calculated at $1,371,172.41 and the median adjusted value indication calculated at $1,368,982.

Based on this information, it would appear that a reasonable and likely value indication that has been supported by this technique, as of June 26, 2019 was:

**$ 1,370,000.00**

**ONE MILLION THREE HUNDRED SEVENTY THOUSAND DOLLARS**

The following pages contain a brief resume of the six sales used for this analysis.
COMPARABLE BUILDING SALE ONE

GRANTOR  METAXXA, LLC
GRANTEE  Suncrest Corporate Center, LLC
ADDRESS  Suncrest Corporate Center
          430 Drummond Street
          Morgantown, West Virginia
          26505
SALE PRICE  $2,280,000.00
SALE DATE  July 27, 2017
DEED BOOK  1595/588
TYPE BUILDING  The property is improved with a two story, masonry office building. It
               was constructed in 2001 and is considered to be in good condition. The
               building is a four tenant structure.
AREA  The building has a total of 12,361 square feet with the net rentable area
       being 12,000 square feet.
SITE SIZE  1.34 acres +/-
TAX MAP  Morgantown District
          Seventh Ward (15)
          Map 6, Parcel 0018.1000 and
          Map 6, Parcel 0017.0001
ZONING: Pro Zone
FINANCIAL: Cash Equivalent
PROPERTY RIGHTS: Fee Simple
LAND TO BUILDING RATIO: 5.66 : 1
INDICATED VALUE PER SF: $184.45
COMPARABLE BUILDING SALE TWO

GRANTOR: Glenmark Holding, LLC
GRANTEE: George Family Limited Partnership
LOCATION: 1369 Stewartstown Road
           Morgan District, Monongalia County
           Morgantown, WV
SALE PRICE: $1,700,000.00
SALE DATE: December 1, 2014
DEED-BOOK: 1510/533
BUILDING SIZE: 10,143 square feet
BUILDING TYPE: Two story professional office building with the lower level
               foundation partially below ground elevation in conformity
               with the site terrain. The structure was originally a church
               built in the mid 1970's and totally renovated, reconfigured and
               added onto as a professional office building in 1986-87.
SITE SIZE: 1.1 acres
TAX MAP: 4, P/O Parcel 42
FINANCIAL: Cash Equivalent
PROPERTY RIGHTS: Leased Fee

336-19 74

25 of 157
PRICE PER UNIT: $167.60
VERIFICATION: Court house records, appraiser files
COMPARABLE BUILDING SALE THREE

GRANTOR: Black Widow, LLC
GRANTEE: Motown Realty, LLC
LOCATION: Coombs Farm Professional Office Building Park
5000 and 6000 Buildings
Unit E-2; Part of Units F-1 & F-2
Union District, Monongalia County
Morgantown, WV

SALE PRICE: $ 820,000.00
SALE DATE: January 5, 2016
DEED-BOOK: 1541/1
BUILDING SIZE: Unit E-2 3,024 square feet
                 Units F-1 & F-2 2,838 square feet
                 Total 5,862 square feet

BUILDING TYPE: Two story office building being divided into four suites in
condominium style construction with common areas. Unit E-2
was a two story section having 2 units being in the 5000
building. F-1 and F-2 consisted of the first floor area of the
6000 building.

SITE SIZE: 0.5236 acres-Shared
TAX MAP: 20M, Parcel 6.2
FINANCIAL: Cash Equivalent
PROPERTY RIGHTS: Fee Simple
PRICE PER UNIT: $ 139.88
## COMPARABLE BUILDING SALE FOUR

**GRANTOR:** Bridgeport Medical Development Company, Inc.

**GRANTEE:** ARM, LLC

**LOCATION:**

1511 Johnson Avenue  
Bridgeport, West Virginia

**SALE PRICE:** $2,250,000.00

**SALE DATE:** January 1, 2017

**DEED-BOOK:** 1586, page 1173

**SITE SIZE:** 0.85 acres

**BUILDING SIZE:** Gross building area of 10,906 square feet on two levels.

**BUILDING TYPE:** Freestanding, two story brick office building having two tenants. Owner occupied second level; lower level has NLA of 4,896 square feet. Building is serviced by a two stop elevator.

**BUILDING AGE:** Constructed in 2012

**FINANCIAL:** Cash Equivalent

**PROPERTY RIGHTS:** Leased Fee

**UNIT PRICE:** $206.31

**CAP RATE** Based on leased data at time of sale purchaser was tenant of second
floor and lower level leased by United Hospitals. Reconstructed operating statement suggest cap rate with reserves at 7.4%.
| **GRANTOR:** | Patrick Bonasso |
| **GRANTEE:** | Unknown (Deed not yet recorded) |
| **LOCATION:** | 700 Genesis Boulevard  
Bridgeport, West Virginia |
| **SALE PRICE:** | $725,000.00 |
| **SALE DATE:** | June 20, 2019 |
| **VERIFICATION:** | MLS 10120581 |
| **SITE SIZE:** | 0.5 acres |
| **BUILDING SIZE:** | Gross building area of 4,868 square feet on one level. |
| **BUILDING TYPE:** | Primarily medical related office building. |
| **BUILDING AGE:** | Constructed in 2006 |
| **FINANCIAL:** | Cash Equivalent |
| **PROPERTY RIGHTS:** | Fee Simple |
| **UNIT PRICE:** | $148.93 |
COMPARABLE BUILDING SALE SIX

GRANTOR: The United Federal Credit Union
GRANTEE: Citynet Properties, LLC
LOCATION: 3600 University Avenue
Monongalia County
Morgantown, West Virginia
SALE PRICE: $1,182,500.00
SALE DATE: March 8, 2011
DEED-BOOK: 1430, page 197
TAX MAP: 3, Parcels 2 & 17;
2, Parcel 8
SITE SIZE: 0.7757 acres or 33,792 square feet.
BUILDING SIZE: 6,581 square feet on the main level and a partial basement with 1,712
square feet of finished space for a total of 8,293 square feet.
BUILDING TYPE: Masonry and block structure. Building had a Dryvit and painted block
exterior and a rubberized roof.
BUILDING AGE: 19 years old
FINANCIAL: Cash Equivalent
PROPERTY RIGHTS: Fee Simple

336-19  81
TERM SHEET*
Morgantown Land Reuse and Preservation Agency (WV)
Lease Revenue Bonds, Series 2019

(City Hall Annex Project)

Issuer: Morgantown Land Reuse and Preservation Agency (the “Issuer”)
Par Amount*: $1,661,507.13
Borrower: The City of Morgantown, West Virginia (the “City”)
Bond Description: Lease Revenue Bonds, Series 2019 (City Hall Annex Project) (the “Bonds”)
Purchaser: The purchaser of the Bonds from the Issuer (the “Purchaser”)
Placement Agent: The Borrower’s Bond Placement Agent, which is Crews & Associates, Inc.
Closing Date: On or about September 5, 2019

The Project: The Bond proceeds will finance the Issuer’s purchase of the building, real property, personal property, fixtures and improvements located at 430 Spruce Street, Morgantown, West Virginia (the “Project”). The Project will be leased and used by the City as a City Hall Annex and for other related purposes. The Issuer will retain the right to lease portions of the Project facilities not needed by the City for purposes of a City Hall Annex as more particularly described in the Lease (hereinafter defined) and summarized herein.

The Property: The Project consists of an existing 19,751 square foot (.45 acres) site containing a two story brick commercial office building (the “Building”), unfinished basement, a three stop elevator and ample parking (19 space surplus over City Code requirements) located at 430 Spruce Street in the Morgantown Downtown Business District. The estimated remaining economic life of the Building is 50 years. The Building is in good condition, has no deferred maintenance and provides quality office space in a growing market area with limited comparable commercial office space. The total appraised value of the Project is $1,335,000.00. The Issuer’s real estate purchase price is $1,263,500.00. (Real Estate Appraisal Report available upon request to Placement Agent) A portion of Bond proceeds will be used to make renovations and refurbishments to the interior of the Building, as well as passive public space improvements on the exterior of the Project.

*Preliminary, subject to change.
TERM SHEET*
Morgantown Land Reuse and Preservation Agency (WV)
Lease Revenue Bonds, Series 2019

(City Hall Annex Project)

Uses of Funds*:

<table>
<thead>
<tr>
<th>Uses of Funds</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deposit to Project Fund</td>
<td>$1,574,600.00</td>
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<tr>
<td>Costs of Issuance (1)</td>
<td>$86,907.13</td>
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<tr>
<td>Total Uses</td>
<td>$1,661,507.13</td>
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</tbody>
</table>

(1) Includes Bond Counsel Fee, Placement Agent’s Counsel Fee, Placement Agent’s Fee, Registrar and Paying Agent Fee and any other Costs of Issuance for the Bonds.

Method of Offering:
Private placement with the Purchaser pursuant to an executed Bond Purchase Agreement and Investor Letter. There will be no secondary market for the Bonds.

DTC/CUSIP:
At the request of the Purchaser, the Bonds will not be registered with DTC and a CUSIP identifier will not be obtained for the Bonds.

Tax Status:
The interest on the Bonds shall be includable in the gross income of the owner thereof for federal income tax purposes but shall be exempt from taxation by the State of West Virginia (the “State”) and any political subdivision thereof.

Denominations:
$100,000 denominations and $.01 increments in excess thereof

Rating:
Non-rated

Source of Repayment:
The City will lease a portion of the Project facilities from the Issuer pursuant to an Agreement and Lease, by and between the Issuer and the City (the “Lease”), pursuant to which the City will pay lease rentals directly to the Purchaser as paying agent for the Bonds (the “Paying Agent”) for the account of the Issuer at such times and in such amounts as will provide for the payment of debt service and other costs associated with the Bonds as the same become due and payable (the “Lease Rentals”). The Lease Rentals payable pursuant to the Lease shall be subject to annual appropriation by the City and the Lease shall be subject to cancellation at the conclusion of each fiscal year of the City as more particularly described in the Lease. The Issuer may lease the portions of the Facilities that are not subject to the Lease to third parties, and the
rents received therefrom shall not be pledged to repayment of the Bonds.

Security:

The Bonds will be special, limited obligations of the Issuer payable from the Lease Rentals payable by the City to the Paying Agent for the account of the Issuer pursuant to the Lease. A portion of the Property (Premises, Personal Property and Fixtures as defined and described in the Deed of Trust) financed with the proceeds of the Bonds and located on the Premises or used in connection therewith will be leased from the Issuer by the City pursuant to the Lease contemporaneously with the issuance of the Bonds. The Bonds will be secured by (i) a Credit Line Deed of Trust, Fixture Filing and Security Agreement on the Property (the “Deed of Trust”), including the Project facilities and any improvements, renovations, furnishings and equipment associated therewith, (ii) a Lease Assignment by the Issuer to the Purchaser (the “Assignment”) pursuant to which the Issuer will collaterally assign certain of its rights in and to the Lease and Lease Rentals thereunder to the Purchaser and (iii) an Assignment of Funds and Accounts by the Issuer to the Purchaser (the “Funds Assignment”) pursuant to which the Issuer will assign the monies on deposit in the funds and accounts established under the Lease, with respect to the Bonds, to the Purchaser. The Bonds do not constitute an indebtedness of the State, Monongalia County (the “County”), the City or the Issuer for purposes of the Constitution and laws of the State and the principal, interest and other costs associated with the Bonds shall be payable solely from the Lease Rentals payable by the City pursuant to the Lease and any proceeds of the security provided for repayment of the Bonds pursuant to the Deed of Trust, the Lease Assignment and the Funds Assignment. The Lease Rentals payable pursuant to the Lease shall be subject to annual appropriation by the City and the Lease shall be subject to cancellation at the conclusion of each fiscal year of the City as more particularly described in the Lease. The Issuer will retain the right to lease portions of the Project facilities not needed by the City for its governmental purposes as more particularly described in the Lease, and rentals received therefrom shall not be pledged to repayment of the Bonds.
TERMSHEET*
Morgantown Land Reuse and Preservation Agency (WV)
Lease Revenue Bonds, Series 2019

(City Hall Annex Project)

Principal*: Principal is payable on the 15th day of each month, beginning October 15, 2019, and ending on the Maturity Date.

Interest*: _____% fixed annual percentage rate for the term of the Bonds. Interest is payable on the 15th day of each month, beginning October 15, 2019, and ending on the Maturity Date. The interest on the Bonds shall be includable in the gross income of the owner thereof for federal income tax purposes but shall be exempt from taxation by the State and any political subdivision thereof.

The City requests an interest rate quote and anticipates a closing date on or about September 5, 2019. If your bid is not firm and binding through the closing date above, please provide the method of calculating the interest rate in your proposal, as well as when the interest rate can be locked in firm.

Expenses: The City does not anticipate that origination fees or expenses will be required for this transaction. However, if there are any origination fees or expenses, please disclose them in addition to your interest rate quote.

Maturity Date*: The scheduled date on which all principal of the Bonds not theretofore repaid pursuant to scheduled monthly payments or optional prepayment, together with all interest accrued thereon and not theretofore repaid shall be due and payable, which date shall be October 15, ____.

Prepayment*: The City expects that the Bonds will be pre-payable, in full or in part, at any time at par in inverse order of maturity without penalty or premium.

*Preliminary, subject to change.
TERM SHEET*

Morgantown Land Reuse and Preservation Agency (WV)
Lease Revenue Bonds, Series 2019

(City Hall Annex Project)

Principal Amortization**: Table 1 below provides a preliminary principal amortization schedule for a 15-Year Term ("Scenario A") and a 20-Year Term ("Scenario B") on an annual basis. The schedule is preliminary and subject to change depending on the interest rate quote provided by prospective purchasers. The Bonds will have level monthly debt service and a fixed interest rate.

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<thead>
<tr>
<th>Bond Year</th>
<th>Scenario A</th>
<th>Scenario B</th>
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<tr>
<td>10/15/2019</td>
<td>4,668.45</td>
<td>1,955.35</td>
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<tr>
<td>10/15/2020</td>
<td>81,026.58</td>
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<tr>
<td>10/15/2021</td>
<td>84,495.99</td>
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<tr>
<td>10/15/2022</td>
<td>88,113.92</td>
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<td>10/15/2023</td>
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<td>$1,661,507.13</td>
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<tr>
<td>Average Life (Yrs)</td>
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<td>11.696</td>
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</tbody>
</table>

*Preliminary, subject to change.

Crews Morgantown, WV Office
69 Clay Street, Suite 202 | Morgantown, WV 26501
304.276.5273 | rsteptoe@crewsfs.com
The Issuer:

The Morgantown Land Reuse and Preservation Agency was created pursuant to an ordinance enacted on August 7, 2018 by the Morgantown City Council. The Agency's purpose is to promote the productive use of property by identifying available properties suitable for public space, conservation, affordable housing, and commercial uses and pursuing the acquisition, management, and disposition of those properties. (Source: City of Morgantown Website). The Agency has the power to (i) enter into contracts and other instruments necessary, incidental or convenient to the performance of its duties and the exercise of its powers; (ii) acquire real property or interests in real property by any means on terms and conditions and in a manner the Agency considers proper, (iii) fix, charge and collect rents, fees and charges for the use of its real property; (v) design, develop, construct, demolish, reconstruct, deconstruct, rehabilitate, renovate, relocate and otherwise improve real property or interests in real property; and (vi) issue negotiable revenue bonds and notes for any of its authorized corporate purposes.

The City:

Morgantown is the County seat of Monongalia County located along the Monongahela River in north central West Virginia 10 miles south of the Pennsylvania border. Morgantown is home to West Virginia University, which is the largest institution of higher education in the State with an annual enrollment of approximately 28,776 students. Morgantown is also the medical, cultural, and commercial hub of the north central West Virginia region. The year-round residential population in Morgantown is approximately 30,000 (See the population table on the following page).

Additionally, Morgantown and Monongalia County are recognized as one of the major economic growth and business development areas in the State. From 2010 to 2016, population in Monongalia County grew 10.9% compared with a national average of 4.8% (ACS 5-year average). Major employers in or adjacent to Morgantown include West Virginia University (WVU), West Virginia University Hospitals, Inc. (WVU Medicine), Monongalia General Hospital, the National Institute of Occupational Safety and Health (NIOSH), the National Energy Technology Laboratory (NETL), and Mylan Pharmaceuticals, which is one of the world’s largest manufacturers of generic pharmaceuticals. Mylan Pharmaceuticals is currently in merger talks with Upjohn, a subsidiary of Pfizer Incorporated. In addition to major employers, there are eleven separate and distinct retail and commercial developments in or adjacent to Morgantown that
also help contribute to a strong local economy and high levels of employment. These developments include West Ridge Retail and Business Park, University Town Centre, Suncrest Town Centre, The Gateway, Ridgeview Business Park, Morgantown Industrial Park, West Run Business Park, Pierpont Landing, Chaplin Hill Business Park, I-68 Commerce Park and River Landing at Star City.

Overall, one-half of the population of the United States and one-third of the population of Canada are located with 500 miles of Morgantown. The City is also within a one day drive of 6 of the 8 largest U.S. metropolitan areas, 20 metropolitan areas with populations of 1 million people or more, and 22 of the nation’s top 35 industrial markets.

Population:

The table below shows the historical trend of the City’s total population from 2007 through 2018 as provided by the U.S. Census Bureau.

<table>
<thead>
<tr>
<th>Year</th>
<th>Population</th>
<th>Year</th>
<th>Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007</td>
<td>29,308</td>
<td>2012</td>
<td>30,273</td>
</tr>
<tr>
<td>2008</td>
<td>29,639</td>
<td>2013</td>
<td>30,666</td>
</tr>
<tr>
<td>2009</td>
<td>30,333</td>
<td>2014</td>
<td>31,073</td>
</tr>
<tr>
<td>2010</td>
<td>28,984</td>
<td>2015</td>
<td>30,708</td>
</tr>
<tr>
<td>2011</td>
<td>29,860</td>
<td>2018</td>
<td>30,955</td>
</tr>
</tbody>
</table>

Source: U.S. Census Bureau

Top Employers:

The Top Employers for Monongalia County are in the table below:

<table>
<thead>
<tr>
<th>Top Employers in The City of Morgantown and Monongalia County:</th>
</tr>
</thead>
<tbody>
<tr>
<td>WVU Medicine</td>
</tr>
<tr>
<td>West Virginia University</td>
</tr>
<tr>
<td>Mylan Pharmaceuticals, Inc.</td>
</tr>
<tr>
<td>Monongalia County Board of Education</td>
</tr>
<tr>
<td>Monongalia General Hospital</td>
</tr>
<tr>
<td>Wal-Mart Stores, Inc.</td>
</tr>
<tr>
<td>Gabriel Brothers, Inc.</td>
</tr>
<tr>
<td>The Kroger Company</td>
</tr>
<tr>
<td>Teletech Customer Care Management (WV Inc.)</td>
</tr>
<tr>
<td>West Virginia University Research Corporation</td>
</tr>
</tbody>
</table>

Source: Workforce WV (March 2018)
TERM SHEET*  
Morgantown Land Reuse and Preservation Agency (WV)  
Lease Revenue Bonds, Series 2019  
(City Hall Annex Project)  

Unemployment:  
The average annual percentage rate of unemployment is as follows:  

<table>
<thead>
<tr>
<th>Year</th>
<th>Morgantown, WV MSA</th>
<th>Monongalia County</th>
<th>West Virginia</th>
<th>United States</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>6.2</td>
<td>5.6</td>
<td>8.7</td>
<td>9.6</td>
</tr>
<tr>
<td>2011</td>
<td>6.0</td>
<td>5.6</td>
<td>8.1</td>
<td>8.9</td>
</tr>
<tr>
<td>2012</td>
<td>5.6</td>
<td>5.2</td>
<td>7.5</td>
<td>8.1</td>
</tr>
<tr>
<td>2013</td>
<td>5.0</td>
<td>4.5</td>
<td>6.8</td>
<td>7.4</td>
</tr>
<tr>
<td>2014</td>
<td>4.8</td>
<td>4.4</td>
<td>6.6</td>
<td>6.2</td>
</tr>
<tr>
<td>2015</td>
<td>5.1</td>
<td>4.7</td>
<td>6.7</td>
<td>5.3</td>
</tr>
<tr>
<td>2016</td>
<td>4.6</td>
<td>4.3</td>
<td>6.1</td>
<td>4.9</td>
</tr>
<tr>
<td>2017</td>
<td>4.0</td>
<td>3.7</td>
<td>5.2</td>
<td>4.4</td>
</tr>
<tr>
<td>2018</td>
<td>4.3</td>
<td>4.1</td>
<td>5.3</td>
<td>3.9</td>
</tr>
</tbody>
</table>

(1) Source: Workforce WV  
(2) Source: U.S. Bureau of Labor Statistics, Employment of the Civilian Noninstitutional Population 16 Years and Over, 1984 to Date  

Bid Solicitation Period:  
The schedule for the bid solicitation period is as follows:  
July 31: Begin Bank Solicitation Period  
August 7: Transaction Questions due to Placement Agent  
August 9: Circulate Responses to Transaction Questions  
August 14: Bid proposals due to Borrower and Placement Agent at 12:00 PM EST  

Purchaser's Bid Proposal:  
The RFP provides a Form of Commitment Letter for prospective bank purchasers to utilize in submitting their bid proposals.  

No Contact Period:  
Any communications related to the City Hall Annex Project financing during the solicitation period described above are to occur solely through the City’s Placement Agent, which is Crews & Associates, Inc.  

Bid Proposal Submission:  
Please submit one electronic copy of the bid proposal to both the City and the City’s Placement Agent at the following addresses:  

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Contact Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jim Goff</td>
<td>Finance Director</td>
<td>City of Morgantown, WV (P) 304.284.7407 (E) <a href="mailto:jgoff@morgantownwv.gov">jgoff@morgantownwv.gov</a></td>
</tr>
<tr>
<td>Rob Steptoe</td>
<td>Director</td>
<td>Crews &amp; Associates, Inc. (P) 304.276.5273 (E) <a href="mailto:rstptoe@crewsfs.com">rstptoe@crewsfs.com</a></td>
</tr>
</tbody>
</table>

*Preliminary, subject to change.  
Crews Morgantown, WV Office  
69 Clay Street, Suite 202 | Morgantown, WV 26501  
304.276.5273 | rstptoe@crewsfs.com  
Page 8
APPENDIX A
City of Morgantown, WV
Financial Summary – General Fund
## BALANCE SHEET – GENERAL FUND

<table>
<thead>
<tr>
<th>Balance Sheet - General Fund</th>
<th>Fiscal Year Ended June 30,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
</tr>
<tr>
<td><strong>ASSETS:</strong></td>
<td></td>
</tr>
<tr>
<td>Cash</td>
<td>4,328,815</td>
</tr>
<tr>
<td>Investments</td>
<td>2,055,033</td>
</tr>
<tr>
<td>Receivables, net of allowances:</td>
<td></td>
</tr>
<tr>
<td>Taxes</td>
<td>4,318,484</td>
</tr>
<tr>
<td>Accounts</td>
<td>511,119</td>
</tr>
<tr>
<td>Other</td>
<td>31,569</td>
</tr>
<tr>
<td>Grants</td>
<td>142,129</td>
</tr>
<tr>
<td>Due from (to) other funds</td>
<td>(159,565)</td>
</tr>
<tr>
<td>Inventory</td>
<td>17,240</td>
</tr>
<tr>
<td>Restricted assets</td>
<td>-</td>
</tr>
<tr>
<td>Prepaid expenses</td>
<td>6,566</td>
</tr>
<tr>
<td><strong>Total Assets</strong></td>
<td>$11,251,390</td>
</tr>
<tr>
<td><strong>LIABILITIES:</strong></td>
<td></td>
</tr>
<tr>
<td>Accounts Payable</td>
<td>536,759</td>
</tr>
<tr>
<td>Accrued Interest Payable</td>
<td>-</td>
</tr>
<tr>
<td>Accrued Expenses</td>
<td>-</td>
</tr>
<tr>
<td>Accrued Payroll and Compensated Absences</td>
<td>530,388</td>
</tr>
<tr>
<td><strong>Total Liabilities</strong></td>
<td>$1,067,147</td>
</tr>
<tr>
<td><strong>Total Deferred Inflows of Resources:</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>$386,063</td>
</tr>
<tr>
<td><strong>Fund Balances:</strong></td>
<td></td>
</tr>
<tr>
<td>Restricted</td>
<td>142,129</td>
</tr>
<tr>
<td>Nonspendable</td>
<td>6,566</td>
</tr>
<tr>
<td>Assigned</td>
<td>-</td>
</tr>
<tr>
<td>Unassigned</td>
<td>9,649,485</td>
</tr>
<tr>
<td><strong>Total Fund Balances</strong></td>
<td>$9,798,180</td>
</tr>
<tr>
<td><strong>Total Liabilities, Deferred Inflows of Resources and Net Position</strong></td>
<td>$11,251,390</td>
</tr>
</tbody>
</table>

*Preliminary, subject to change.*
**TERM SHEET**

Morgantown Land Reuse and Preservation Agency (WV)
Lease Revenue Bonds, Series 2019

(City Hall Annex Project)

---

**STATEMENT OF REVENUES, EXPENDITURES, AND CHANGE IN FUND BALANCES – GENERAL FUND**

<p>| Statement of Revenues, Expenditures, and Change in Fund Balances - General Fund | Fiscal Year Ended June 30, |</p>
<table>
<thead>
<tr>
<th>-</th>
<th>2018</th>
<th>2017</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>REVENUES:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Taxes:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ad valorem</td>
<td>4,854,561</td>
<td>4,348,475</td>
<td>4,283,942</td>
</tr>
<tr>
<td>Gas and oil severance</td>
<td>38,919</td>
<td>41,186</td>
<td>63,677</td>
</tr>
<tr>
<td>Utility</td>
<td>1,228,054</td>
<td>1,134,694</td>
<td>966,534</td>
</tr>
<tr>
<td>Business and occupation</td>
<td>15,108,765</td>
<td>18,158,152</td>
<td>18,911,025</td>
</tr>
<tr>
<td>Wine and liquor</td>
<td>822,098</td>
<td>872,222</td>
<td>975,14C</td>
</tr>
<tr>
<td>Animal control</td>
<td>3,621</td>
<td>4,037</td>
<td>4,35C</td>
</tr>
<tr>
<td>Hotel and motel</td>
<td>897,712</td>
<td>777,816</td>
<td>891,864</td>
</tr>
<tr>
<td>Amusement</td>
<td>4,841</td>
<td>15,364</td>
<td>13,075</td>
</tr>
<tr>
<td>Licenses and permits</td>
<td>529,318</td>
<td>504,943</td>
<td>560,385</td>
</tr>
<tr>
<td>Charges for services</td>
<td>8,302,366</td>
<td>7,862,383</td>
<td>4,874,776</td>
</tr>
<tr>
<td>Fines and forfeits</td>
<td>663,618</td>
<td>708,347</td>
<td>727,210</td>
</tr>
<tr>
<td>Franchise fees</td>
<td>363,989</td>
<td>396,193</td>
<td>396,576</td>
</tr>
<tr>
<td>Investment income (loss)</td>
<td>61,866</td>
<td>42,542</td>
<td>25,528</td>
</tr>
<tr>
<td>Donations</td>
<td>13,573</td>
<td>14,530</td>
<td>14,515</td>
</tr>
<tr>
<td>Video lottery and gaming Income</td>
<td>115,002</td>
<td>108,124</td>
<td>112,767</td>
</tr>
<tr>
<td>Intergovernmental</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Federal</td>
<td>350,829</td>
<td>168,616</td>
<td>117,291</td>
</tr>
<tr>
<td>State</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Local</td>
<td>32,760</td>
<td>14,240</td>
<td>24,126</td>
</tr>
<tr>
<td>Other</td>
<td>257,425</td>
<td>371,218</td>
<td>151,434</td>
</tr>
<tr>
<td><strong>Total Revenues</strong></td>
<td>$33,649,317</td>
<td>$35,543,082</td>
<td>$33,114,215</td>
</tr>
<tr>
<td><strong>EXPENDITURES:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General government</td>
<td>6,888,357</td>
<td>5,638,542</td>
<td>5,531,940</td>
</tr>
<tr>
<td>Public safety</td>
<td>14,582,746</td>
<td>13,731,716</td>
<td>11,919,798</td>
</tr>
<tr>
<td>Highways and streets</td>
<td>4,389,529</td>
<td>4,521,846</td>
<td>4,086,071</td>
</tr>
<tr>
<td>Culture and recreation</td>
<td>1,122,420</td>
<td>1,376,041</td>
<td>1,197,629</td>
</tr>
<tr>
<td>Social Services</td>
<td></td>
<td>168,062</td>
<td>156,749</td>
</tr>
<tr>
<td>Community development</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total Expenditures</strong></td>
<td>$26,983,052</td>
<td>$25,436,207</td>
<td>$22,892,187</td>
</tr>
<tr>
<td><strong>Excess (deficiency) of Revenues over (under) Expenditures</strong></td>
<td>$6,666,265</td>
<td>$10,106,875</td>
<td>$10,222,028</td>
</tr>
<tr>
<td><strong>Other Financing Sources (Uses)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proceeds from bond issuance</td>
<td></td>
<td>12,469</td>
<td>367,500</td>
</tr>
<tr>
<td>Operating transfers in</td>
<td></td>
<td></td>
<td>363,035</td>
</tr>
<tr>
<td>Operating transfers out</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(8,223,999)</td>
<td>(9,963,309)</td>
<td>(6,154,745)</td>
</tr>
<tr>
<td>Total other financing sources (uses)</td>
<td></td>
<td>(8,211,530)</td>
<td>(9,595,809)</td>
</tr>
<tr>
<td><strong>Net Change in Fund Balances</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>$1,545,265</td>
<td>$511,066</td>
<td>$4,430,318</td>
</tr>
<tr>
<td><strong>Fund Balances, Beginning (as Restated)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>$11,343,445</td>
<td>$10,837,822</td>
<td>$6,407,504</td>
</tr>
<tr>
<td><strong>Fund Balances, Ending</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>$9,798,180</td>
<td>$11,348,888</td>
<td>$10,837,222</td>
</tr>
</tbody>
</table>

*Preliminary, subject to change.*

Crews & Associates
69 Clay Street, Suite 202 | Morgantown, WV 26501
304.276.5273 | rstepoe@crewsfs.com

As of July 31, 2019

Page 11
THE CITY OF MORGANTOWN

Tuesday, August 6, 2019
Regular Meeting

AGENDA ITEM

To consider for adoption on first reading an Ordinance of City Council which would authorize and approve (i) the acquisition, equipping and improvement by the City, working in conjunction with the Morgantown Land Reuse and Preservation Agency (the "Issuer") of real property located at 430 Spruce Street to be used as a City Hall Annex and related purposes and all real estate, rights of way, improvements, fixtures, equipment, personal property and appurtenances associated therewith (the "Annex Property"); (ii) the leasing of such Annex Property by the City of Morgantown from the Issuer; (iii) the sale and issuance by the Issuer of its not to exceed $2,000,000 principal amount of Lease Revenue Bonds to finance the costs of the acquisition, equipping and improvement of the Annex Property; and (iv) the execution and delivery by the City of an Agreement and Lease and other documents in connection with such financing.
ORDINANCE OF
THE CITY OF MORGANTOWN

AN ORDINANCE AUTHORIZING AND APPROVING THE ACQUISITION, EQUIPPING AND IMPROVEMENT BY THE MORGANTOWN LAND REUSE AND PRESERVATION AGENCY (THE “ISSUER”) OF REAL PROPERTY LOCATED AT 430 SPRUCE STREET IN THE CITY OF MORGANTOWN TO BE USED BY THE CITY OF MORGANTOWN AS A CITY HALL ANNEX AND RELATED PURPOSES AND ALL REAL ESTATE, RIGHTS OF WAY, IMPROVEMENTS, FIXTURES, EQUIPMENT, PERSONAL PROPERTY AND APPURTENANCES ASSOCIATED THEREWITH (THE “ANNEX PROPERTY”); THE LEASING OF SUCH ANNEX PROPERTY BY THE CITY OF MORGANTOWN FROM THE ISSUER; THE SALE AND ISSUANCE BY THE ISSUER OF ITS NOT TO EXCEED $2,000,000 PRINCIPAL AMOUNT OF LEASE REVENUE BONDS, IN ONE OR MORE SERIES; PRESCRIBING THE FORMS AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGREEMENT AND LEASE AND OTHER INSTRUMENTS AND AUTHORIZING AND APPROVING OTHER DOCUMENTS AND MATTERS RELATING TO THE TERMS AND SECURITY OF SUCH BONDS; AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH.

WHEREAS, The City of Morgantown (the “City”) has, pursuant to an ordinance enacted August 7, 2018, created and established the Morgantown Land Reuse and Preservation Agency (the “Issuer”), a public corporation and municipal land reuse agency of the State of West Virginia, pursuant to the authority granted to it in Chapter 31, Article 18E of the West Virginia Code of 1931, as amended (the “Act”);

WHEREAS, the Issuer, under the Act, has plenary power and authority to enter into contracts and other instruments necessary, incidental or convenient to the performance of its duties and the exercise of its powers, to acquire real property or interests in real property by any means on terms and conditions and in a manner the Issuer considers proper, to fix, charge and collect rents, fees and charges for the use of real property of the Issuer and to design, develop, construct, demolish, reconstruct, deconstruct, rehabilitate, renovate, relocate and otherwise improve real property or rights or interests in real property;

WHEREAS, the City is empowered and authorized by Chapter 8, Article 12, Section 5(36) of the West Virginia Code of 1931, as amended, to expend public funds to establish,
construct, acquire, maintain and operate public buildings, municipal buildings or city halls, motor vehicle parking lots or any other public works;

WHEREAS, the Issuer desires to acquire pursuant to such deed or deeds, bills of sale and other instruments of transfer as may be necessary and appropriate under the circumstances (collectively, the “Conveyance Documents”) the real property, rights of way, improvements, fixtures, equipment, personal property and appurtenances associated therewith, consisting of the building located at 430 Spruce Street within the City (the “Annex Property”), a portion of which is to be leased to the City for use as a City Hall Annex and related purposes, which real property and appurtenances shall be more particularly described in EXHIBIT A – REAL ESTATE DESCRIPTION, attached to the hereinafter described Lease and made a part thereof (the “Annex Real Property”; such Annex Real Property, together with the Annex Property, including, but not limited to, all additions and improvements thereto now or hereafter acquired, created or constructed, of every kind and nature, herein called the “Facilities”);

WHEREAS, the City desires to lease a portion of the Facilities from the Issuer, consisting of the basement and first floor levels of the structure located on the Annex Property and five (5) parking spaces in the parking lot located on the Annex Property to be designated by the Issuer and the City (collectively, the “Leased City Premises”), pursuant to an Agreement and Lease (the “Lease”) to be dated the Closing Date (as hereinafter defined), by and between the Issuer, as lessor, and the City, as lessee;

WHEREAS, the Issuer, under the Act, has plenary power and authority to issue negotiable revenue bonds and notes for any of its corporate purposes as provided in the Act;

WHEREAS, the Issuer desires, pursuant to a Resolution adopted on _______, 2019 (the “Issuer Resolution”), to issue its Lease Revenue Bonds, in one or more series, in an aggregate principal amount not to exceed $2,000,000 (the “Bonds”) to (i) pay costs of acquiring, equipping and improving the Annex Property, (ii) pay costs of issuance of the Bonds and related costs, (iii) fund a reserve account, if any, for the Bonds, and (iv) pay capitalized interest, if any, on the Bonds;

WHEREAS, the purchaser of the Bonds (the “Purchaser”) and the terms, conditions and provisions of the Bonds shall be approved by the Issuer pursuant to a resolution of the Issuer which is supplemental to the Issuer Resolution (the “Issuer Supplemental Resolution”);

WHEREAS, the Purchaser shall be approved by the City pursuant to a resolution of the City which is supplemental to this Ordinance (the “City Supplemental Resolution”);

WHEREAS, the Issuer, pursuant to the Issuer Resolution, has provided the City with such authority as may be necessary to facilitate the acquisition, equipping and improvement of the Annex Property including, but not limited to, being a party to all construction contracts that may be necessary in connection with the acquisition, equipping and improvement of the Annex Property, the handling of the administration of such contracts, the requisitioning and applying the proceeds of the Bonds to the payment of the costs of the acquisition of the Annex Property and the costs associated with equipping and improving the same, for and on behalf of the Issuer as
herein described and the City desires to authorize such actions on its part pursuant to this Ordinance; and

WHEREAS, the City desires to take all steps necessary to authorize the acquisition of the Annex Property by the Issuer, the improvement and equipping of the Annex Property by the City, the issuance of the Bonds by the Issuer to finance the costs of such acquisition and the payment of the costs of issuance thereof and related costs, the requisitioning by the City of the Bond proceeds and application thereof to the payment of the costs of the acquisition, improvement and equipping of the Annex Property and the costs of issuance of the Bonds and its leasing of the Leased City Premises from the Issuer pursuant to the terms of the Lease.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF MORGANTOWN, AS FOLLOWS:

Section 1. Pursuant to the Act, this Ordinance is adopted and enacted and it is hereby found and determined that, to accomplish the purposes of the Act and the findings set forth in the preambles hereof, the following is hereby authorized and approved: (i) the acquisition of the Annex Property by the Issuer pursuant to such Conveyance Documents or other instruments of transfer as may be necessary and appropriate under the circumstances; (ii) the leasing of the Leased City Premises by the City from the Issuer; and (iii) the issuance and delivery of the Bonds by the Issuer in the aggregate principal amount of not to exceed $2,000,000 for the purpose of financing costs of the acquisition, equipping and improvement of the Annex Property and the payment of costs of issuance of the Bonds and related costs, are hereby authorized, approved, ratified and confirmed. The Bonds shall be issued in accordance with, and shall have the terms provided in, the Issuer Resolution authorizing the issuance of the Bonds, which Issuer Resolution is hereby approved.

Section 2. The City hereby agrees to undertake all actions necessary for the acquisition, equipping and improvement of the Annex Property, including but not limited to, entering into and performing all construction contracts that may be necessary in connection with the same, the requisitioning of the proceeds of the Bonds for the purposes of financing the costs of such acquisition, equipping and improvement of the Annex Property and paying costs of issuance of the Bonds and related costs, and to execute all requisitions, certificates or other documents necessary in connection therewith, and to give any and all authorizations as may be necessitated thereby.

Section 3. The Lease, pursuant to which the City will lease the Leased City Premises from the Issuer and will agree to pay as Lease Rentals (but only from the sources set forth therein), amounts sufficient to pay the principal of and interest on the Bonds and any other amounts payable thereunder, substantially in the form as submitted to this meeting and made a part of this Ordinance as though set forth in full herein, shall be and the same is hereby approved, with such changes, variations, insertions and omissions as may be approved by the City. The Mayor and City Manager of the City are hereby authorized to execute, acknowledge, as necessary, and deliver the Lease and the City Clerk of the City is hereby authorized and directed to affix the seal of the City thereto and to attest the seal. The execution of the Lease by the Mayor and City Manager shall be conclusive evidence of any approval required by this Section.
Section 4. The Lease Assignment (the "Assignment"), by the Issuer to the Purchaser, pursuant to which the Issuer shall assign certain of its rights under the Lease and rentals thereunder unto the Purchaser as security for repayment of the Bonds, to be dated or effective as of the Closing Date, substantially in the form as submitted to this meeting and made a part of this Ordinance as though set forth in full herein, shall be and the same is hereby approved, with such changes, variations, insertions and omissions as may be approved by the City and the Issuer. The execution of the Assignment by the Chairman of the Issuer shall be conclusive evidence of any such approval.

Section 5. The Assignment of Funds and Accounts (the "Funds Assignment"), by the Issuer to the Purchaser, pursuant to which the Issuer shall assign its rights in and to certain funds and accounts established in connection with the Bonds pursuant to the Lease, to be dated or effective as of the Closing Date, substantially in the form as submitted to this meeting and made a part of this Ordinance as though set forth in full herein, shall be and the same is hereby approved, with such changes, variations, insertions and omissions as may be approved by the City and the Issuer. The execution of the Assignment by the Chairman of the Issuer shall be conclusive evidence of any such approval.

Section 6. The Credit Line Deed of Trust, Fixture Filing and Security Agreement (the "Deed of Trust") by the Issuer to the trustees named therein, pursuant to which the Issuer shall convey the Facilities unto such trustees, in trust, for the benefit and security of the Purchaser in the repayment of the Bonds (the "Deed of Trust"), substantially in the form as submitted to this meeting and made a part of this Ordinance as though set forth in full herein, shall be and the same is hereby approved, with such changes, variations, insertions and omissions as may be approved by the City and the Issuer. The execution of the Deed of Trust by the Chairman of the Issuer shall be conclusive evidence of any such approval.

Section 7. The Bond Purchase Agreement (the "Bond Purchase Agreement"), among the Issuer, the City and the Purchaser, pursuant to which the Issuer will sell the Bonds to the Purchaser, substantially in the form as submitted to this meeting and made a part of this Ordinance as though set forth in full herein, shall be and the same is hereby approved, with such changes, variations, insertions and omissions as may be approved by the City and the Issuer. The execution of the Bond Purchase Agreement by the Mayor and the City Manager shall be conclusive evidence of any approval required by this Section.

Section 8. The Bonds, substantially in the form submitted to this meeting, shall be and the same are hereby approved in all respects, with such changes, variations, insertions and omissions as may be approved by the City and the Issuer. Such approval shall constitute the approval of the issuance of the Bonds by an "applicable elected official" to the extent such approval may be required by any State or federal law. The execution of the Bonds by the Chairman of the Issuer shall be conclusive evidence of any such approval.

Section 9. The City hereby approves the sale of the Bonds to the Purchaser, as shall be designated by the Bond Purchase Agreement. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon. The Bonds shall be dated the date of delivery thereof (the "Closing Date").
Section 10. The Memorandum of Understanding (the "MOU") regarding certain planned improvements to the exterior portions of the Facilities by the City, to be dated on or prior to the date of delivery of the Bonds, by and between the City and the Issuer, substantially in the form submitted to this meeting and made part of this Ordinance as though set forth in full herein, shall be and the same is hereby approved in all respects, with such changes, variations, insertions and omissions as may be approved by the City. The Mayor and City Manager of the City are hereby authorized to execute and deliver the MOU. The execution of the MOU by the Mayor and City Manager shall be conclusive evidence of any approval required by this Section.

Section 11. All covenants, stipulations, obligations and agreements of the City contained herein and contained in the Lease and all other instruments and documents relating thereto shall be deemed to be the special and limited covenants, stipulations, obligations and agreements of the City to the full extent permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the City and its successors from time to time and upon any board or body to which any powers or duties, affecting such covenants, stipulations, obligations and agreements, shall be transferred by or in accordance with law. Except as otherwise provided herein, all rights, powers and privileges conferred and duties and liabilities imposed upon the City or the officials thereof by the provisions hereof and by the Lease and all other instruments and documents relating thereto shall be exercised or performed by the City or by such officers, board or body as may be required or permitted by law to exercise such powers and to perform such duties.

No covenant, stipulation, obligation or agreement herein contained or contained in the Lease and all other instruments and documents relating thereto shall be deemed to be a covenant, stipulation, obligation or agreement of any officer, agent or employee of the City in his or her individual capacity and neither the City nor any officer, agent or employee thereof shall be liable personally on the Lease or the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 12. The City hereby ratifies all actions necessary to authorize and approve the acquisition, equipping and improvement of the Annex Property.

Section 13. The firm of Steptoe & Johnson PLLC, Bridgeport, West Virginia, is hereby designated as bond counsel in connection with the issuance of the Bonds and the firm of Crews & Associates, Inc. is hereby designated as Placement Agent and/or Underwriter in connection with the issuance of the Bonds, as applicable, and the Mayor and City Manager are hereby authorized to execute and deliver such engagement letters as may be necessary to retain such firms for these services.

Section 14. The execution, delivery and due performance of the Lease are hereby in all respects approved, authorized, ratified and confirmed, including, without limitation, all acts heretofore taken in connection with the acquisition, equipping and improvement by the Issuer of the Annex Property; the issuance of the Bonds by the Issuer and the leasing of the Leased City Premises, and it is hereby ordered that the Mayor, the City Manager, the City Clerk, the council members and other employees and officers of the City execute and deliver such other documents, certificates, agreements and instruments and take such other action as may be required or
desirable to carry out the purposes of this Ordinance, the Bonds and the aforesaid documents, certificates, agreements and instruments.

Section 15. All ordinances, orders, resolutions or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

Section 16. This Ordinance shall take effect immediately following the public hearing hereon and approval on second and final reading.

Section 17. Upon adoption hereof on first reading, an abstract of this Ordinance, determined by the City to contain sufficient information as to give notice of the contents hereof, shall be published once a week for two successive weeks within a period of fourteen consecutive days, with at least six full days intervening between each publication, in The Dominion Post, a newspaper published and of general circulation in the City, together with a notice stating that this Ordinance has been adopted and that the City contemplates the leasing of the Leased City Premises and the issuance of the Bonds by the Issuer, and that any person interested may appear before the City upon a date certain, not less than ten days subsequent to the date of the first publication of the said abstract and notice, and present protests, and that a certified copy of the Ordinance is on file in the office of the City Clerk of the City for review by interested parties during regular office hours. At such hearing, all objections and suggestions shall be heard and the Council of the City shall take such action as they shall deem proper in the premises.

First Reading: ________, 2019

Enacted on Second Reading
Following Public Hearing: ________, 2019

THE CITY OF MORGANTOWN

By: ____________________________
    Its Mayor

By: ____________________________
    Its City Manager
CERTIFICATION

The undersigned, being the duly qualified, elected and acting City Clerk of The City of Morgantown does hereby certify that the foregoing Ordinance was duly adopted and enacted by the council of The City of Morgantown at regular or special meetings duly held, pursuant to proper notice thereof, on __________, 2019 and __________, 2019, quorums being present and acting throughout, and which Ordinance has not been repealed, rescinded, modified, amended or revoked and is a true, correct and complete copy thereof as witness my hand and the seal of The City of Morgantown this __________, 2019.

By: __________________________
   City Clerk, The City of Morgantown
AGREEMENT AND LEASE

Between

MORGANTOWN LAND REUSE AND PRESERVATION AGENCY, Lessor

and

THE CITY OF MORGANTOWN, Lessee

Dated as of _______, 2019

MORGANTOWN LAND REUSE AND PRESERVATION AGENCY

$_______

Lease Revenue Bonds, Series 2019

(City Hall Annex)
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AGREEMENT AND LEASE

THIS AGREEMENT AND LEASE (hereinafter called the “Lease”) dated as of __________, 2019, by and between the MORGANTOWN LAND REUSE AND PRESERVATION AGENCY, a public corporation and municipal land reuse agency, organized and existing under and by virtue of the provisions of the Constitution and laws of the State of West Virginia, as lessor (hereinafter called the “Issuer” or the “Lessor”), and THE CITY OF MORGANTOWN, a municipal corporation and political subdivision of the State of West Virginia, as lessee (hereinafter called the “City” or the “Lessee”).

WITNESSETH:

WHEREAS, pursuant to the authority of Chapter 31, Article 18E, of the West Virginia Code of 1931, as amended (the “Act”), the City enacted an ordinance on August 7, 2018, creating the Issuer;

WHEREAS, the Issuer, under the Act, has plenary power and authority to enter into contracts and other instruments necessary, incidental or convenient to the performance of its duties and the exercise of its powers, to acquire real property or interests in real property by any means on terms and conditions and in a manner the Issuer considers proper, to fix, charge and collect rents, fees and charges for the use of real property of the Issuer and to design, develop, construct, demolish, reconstruct, deconstruct, rehabilitate, renovate, relocate and otherwise improve real property or rights or interests in real property;

WHEREAS, the Issuer desires to acquire pursuant to such deed or deeds, bills of sale and other instruments of transfer as may be necessary and appropriate under the circumstances (collectively, the “Conveyance Documents”) the real property, rights of way, improvements, fixtures, equipment, personal property and appurtenances associated therewith, consisting of the building located at 430 Spruce Street within the City (the “Annex Property”), a portion of which is to be leased to the City for use as a City Hall Annex and related purposes, which real property and appurtenances shall be more particularly described in EXHIBIT A – REAL ESTATE DESCRIPTION, attached hereto (the “Annex Real Property”; such Annex Real Property, together with the Annex Property, including, but not limited to, all additions and improvements thereto now or hereafter acquired, created or constructed, of every kind and nature, herein called the “Facilities”);

WHEREAS, pursuant to the terms of this Lease, the City will lease a portion of the Facilities from the Issuer, consisting of the basement and first floor levels of the structure located on the Annex Property and five (5) parking spaces in the parking lot located on the Annex Property to be designated by the Issuer and the City (collectively, the “Leased City Premises”);

WHEREAS, the Issuer, under the Act, has plenary power and authority to issue negotiable revenue bonds and notes for any of its corporate purposes as provided in the Act;

WHEREAS, pursuant to a Bond Authorizing Resolution adopted by the Issuer on __________, 2019, as supplemented by a Supplemental Resolution dated __________, 2019
(collectively, the "Issuer Resolution") the Issuer has authorized and issued its Lease Revenue Bonds, Series 2019 (City Hall Annex), in an aggregate principal amount of $________ (the "Bonds") to (i) pay the costs of acquiring, improving and equipping the Annex Property, [and] (ii) pay costs of issuance of the Bonds and related costs[, (iii) fund a reserve account, if any, for the Bonds, and (iv) pay capitalized interest, if any, on the Bonds];

WHEREAS, the Bonds will be purchased by ________ (the "Purchaser") on the date hereof;

WHEREAS, pursuant to the Issuer Resolution, the Issuer has provided the City with such authority as may be necessary to facilitate the acquisition, equipping and improvement of the Annex Property including, but not limited to, being a party to all construction contracts that may be necessary in connection with the acquisition, improvement and equipping of the Annex Property, the handling of the administration of such contracts, the requisitioning and applying the proceeds of the Bonds to the payment of the costs of the acquisition, improvement and equipping of the Annex Property, for and on behalf of the Issuer;

WHEREAS, the City will lease the Leased City Premises from the Issuer pursuant to the terms of this Lease, which provides that the Issuer shall lease the Leased City Premises unto the City and the City will pay lease rentals in exchange therefor in amounts and at such times as to permit the Issuer to pay all debt service and other costs in connection with the Bonds; and

WHEREAS, the City and the Issuer have, through their respective governing bodies, duly authorized the execution and delivery of this Lease pursuant to the Issuer Resolution and that certain Ordinance enacted by the City on ________, 2019, as supplemented by a Supplemental Resolution dated ________, 2019 (collectively, the "City Ordinance").

NOW THEREFORE, in consideration of the premises and other good and valuable consideration and of the mutual benefits, covenants and agreements herein expressed, the receipt and sufficiency of all of which are hereby acknowledged, the Issuer and the City hereby agree as follows:

ARTICLE I
DEFINITIONS, ETC.

Section 1.01. Terms Defined. In addition to terms defined elsewhere herein and in the City Ordinance and Issuer Resolution (including the recitals hereto and the recitals in the City Ordinance and Issuer Resolution), which shall have the same meanings when used herein, the following terms shall have the following meanings herein, unless the context requires otherwise:

"Act" means Chapter 31, Article 18E of the West Virginia Code of 1931, as amended and in effect on the date of delivery of the Bonds.

"Assignment" means the Lease Assignment of even date herewith, by the Issuer to the Purchaser, as from time to time amended or supplemented.
“Authorized Representative” or “Authorized Officer” means, with reference to the Issuer, the Chairman or such other officer or officers designated in writing by the Issuer to execute those documents or perform those acts to which are then being referred and, with reference to the City, the City Manager, or such other officer or officers designated by resolution of the City to execute those documents or perform those acts to which are then being referred.

“Bond” or “Bonds” means the Issuer’s Lease Revenue Bonds, Series 2019 (City Hall Annex) issued on the date hereof in the aggregate principal amount of $_______.

“Bondholder,” “Holders of the Bonds,” “Registered Owner” or any similar term means any person who shall be the registered owner of the Bonds and initially means the Purchaser, and any successors and assigns.

“Business Day” means any day other than a Saturday, Sunday or a day on which national banking associations or West Virginia banking corporations are authorized by law to remain closed.

“Chairman” means the Chairman of the Issuer.

“City” or “Lessee” means The City of Morgantown, West Virginia.

“Closing Date” means the date upon which there is an exchange of the Bonds for the principal amount thereof, being ________, 2019.

“Costs” or “Project Costs” means all costs permitted to be financed under the provisions of the Act and incident to the acquisition, equipping and improvement of the Annex Property by the Issuer including, but not limited to (i) the requisitioning and applying the proceeds of the Bonds to the payment of the costs of the acquisition, equipping and improvement of the Annex Property; (ii) all land, rights, easements, rights-of-way, franchises and other property, real or personal, deemed necessary, appropriate, useful, convenient or incidental therefor or thereto; (iii) any reserve or similar account funded from the proceeds of Bonds; (iv) administrative, legal and fiscal expenses; (v) any sums required to reimburse the Issuer or the City for advances made for any of the above items, and repayment of any borrowings and the interest thereon incurred by the Issuer for such purposes; and (vi) such other expenses as may be necessary or incident to the financing herein authorized and the performance of the things herein required or permitted in connection with any thereof.

“Costs of Issuance Fund” means the fund by that name established for the Bonds pursuant to Section 4.04 hereof.

“Deed of Trust” means the Credit Line Deed of Trust, Fixture Filing and Security Agreement of even date herewith by and among the Issuer, the trustee named therein and the Purchaser, for the benefit and security of the Purchaser in the repayment of the Bonds.

“Depository Bank” means ________, ________, ________, or its successor.

“Event of Default” means any of the events described as an Event of Default in Section 10.01 hereof.
“Facilities” has the meaning set forth in the preambles hereof.

“FDIC” means the Federal Deposit Insurance Corporation or any successor to the functions of the FDIC.

“Fiscal Year” means the fiscal year of the Issuer which, at the time of execution and delivery of this Lease begins on July 1 and ends on the next succeeding June 30, or such other 12-month period as may be designated by the Issuer in writing to the Bondholders.

“Issuer” or “Lessor” means the Morgantown Land Reuse and Preservation Agency, a public corporation and municipal land reuse agency, organized and existing under and by virtue of the provisions of the Constitution and laws of the State, created by the City pursuant to the Act, and any successor in function.

“Lease” means this Agreement and Lease, all amendments thereof and supplements thereto and where applicable, also means any subsequent lease or leases of all or any portion of the Leased City Premises.

“Lease Rentals” means all receipts, revenues, income and other moneys received by or on behalf of the Issuer from the leasing, operation, management, sale or other disposition of the Leased City Premises, or any part thereof, and all rights to receive the same, determined in accordance with generally accepted accounting principles.

“Lease Term” has the meaning assigned to such term under Section 5.01 hereof.

“Leased City Premises” means the basement and first floor levels of the structure located on the Annex Property, together with five (5) parking spaces in the parking lot located on the Annex Property to be designated by the Issuer and the City.

“Leased Third Party Premises” means any portion of the second floor of the structure located on the Annex Property leased by the Issuer to a Third Party Tenant.

“Net Proceeds” means, when used with respect to any insurance or condemnation award, the gross proceeds from the insurance or condemnation award with respect to which that term is used remaining after payment of all expenses (including attorneys’ fees and other expenses) incurred in the collection of such gross proceeds.

“Operating and Maintenance Expenses” means, with respect to the Facilities and with respect to the period of determination, the costs and expenses of normal operation and maintenance of the Facilities, including, without limitation, the costs and expenses of salaries and fringe benefits, utility service, insurance, taxes, fees, licenses, permits, administrative expenses, normal maintenance and repairs but excluding, however, depreciation and charges for renewal and replacement.

“Paying Agent” means _________, _________, _________, which will receive and disburse the principal of and interest on the Bonds, and any paying agent which may, from time to time, be appointed and any successor of either.
“Permitted Encumbrances,” subject to the terms hereof, means the Deed of Trust, this Lease, the Assignment and, as of any particular time:

(1) Liens for taxes and special assessments which are not then delinquent or, if then delinquent, are being contested by the Issuer in good faith;

(2) Utility, access and other easements and rights-of-way, restrictions and exceptions that the Issuer certifies will not interfere with or impair the operation of the Facilities;

(3) Any mechanics', laborers' or materialmen's lien if payment is not yet due; provided, however, such a lien may not be of record for in excess of 30 days unless contested in good faith by the Issuer;

(4) Such minor defects and irregularities of title as normally exist with respect to properties similar in character to the Facilities and which do not materially adversely affect the value of the Facilities or impair the property affected thereby for the purpose for which it was acquired or is held or used by the Issuer;

(5) Zoning laws and similar restrictions;

(6) Subleases of a portion or portions of the Leased City Premises bearing a term less than or equal to the then remaining term of the Lease, which subleases shall be subject to the lien and pledge of the Deed of Trust, this Lease and the Assignment;

(7) Such subsequent leases of the Leased City Premises or portions thereof in accordance with the terms of this Lease and which shall be subject to the lien and pledge of the Deed of Trust, this Lease and the Assignment;

(8) Liens, security interests and other encumbrances which are expressly subject and subordinate to the Deed of Trust, this Lease and the Assignment.

“Project Fund” means the fund by that name established for the Bonds pursuant to Section 4.05 hereof.

“Purchaser” means ________, a _________ banking corporation, as the original purchaser of the Bonds directly from the Issuer.

“Sinking Fund” means the fund by that name established for the Bonds pursuant to Section 4.04 hereof.

“State” means the State of West Virginia.

“Title” means good and marketable fee simple absolute title as to the Facilities, subject only to Permitted Encumbrances.

“Third Party Tenant” means any individual or entity which leases any portion of the second floor of the structure located on the Annex Property from the Issuer.
All references in this instrument to designated “Articles,” “Sections” and other subdivisions are to the designated Articles, Sections and other subdivisions of this instrument as originally executed. The words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Lease as a whole and not to any particular Article, Section or other subdivision unless the context indicates otherwise.

Any requirement for execution of this Lease, the Bonds or any Certificate or other document by a Mayor, City Manager, Chairman, Secretary or Clerk or other officer shall mean that this Lease, such Bonds, Certificate or other document may be executed by the Vice Mayor, Assistant City Manager, Vice Chairman, Assistant Secretary, Assistant Clerk or Assistant to such other officer.

The terms defined in this Section have the meanings assigned to them in this Section, words importing the singular shall include the plural as well as the singular and vice versa, words importing persons shall include firms, associations and corporations, and words importing the masculine, feminine and neuter gender shall be deemed to include all such genders.

All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles.

Section 1.02. Exhibits. The following Exhibits are attached to and by reference are hereby made a part of this Lease:

EXHIBIT A – REAL ESTATE DESCRIPTION
ARTICLE II
REPRESENTATIONS

Section 2.01. Representations, Findings, Determinations and Warranties by the Issuer. The Issuer makes the following representations, findings, determinations, and warranties as the basis for the undertakings and covenants on its part and on the part of the Lessee contained herein, all such representations and warranties to be maintained until termination of this Lease:

(A) The Issuer is a public corporation and municipal land reuse agency validly created and existing under the Act and the other laws of the State, is authorized to enter into the transactions contemplated by the Deed of Trust, this Lease, the Issuer Resolution, the Assignment and all other documents, agreements, instruments and certificates in connection herewith and therewith and to carry out its obligations hereunder and thereunder, has been duly authorized to execute and deliver the Deed of Trust, this Lease, the Assignment and all other documents, agreements, instruments and certificates in connection herewith and therewith, and agrees that it will do or cause to be done all things necessary to preserve and keep in full force and effect its existence.

(B) The acquisition, equipping and improvement of the Annex Property, the repayment of any prior loans temporarily incurred for such purpose, the issuance and sale of the Bonds, the execution and delivery of the Deed of Trust, this Lease, the Assignment and all other agreements, documents, instruments and certificates in connection herewith and therewith and the performance of all covenants and agreements of the Issuer contained in the Deed of Trust, this Lease, the Issuer Resolution, the Assignment and all other documents, agreements, instruments and certificates in connection herewith and therewith and of all other acts and things required under the Constitution and laws of the State, or any other document, agreement or instrument by which the Issuer is bound, to make the Deed of Trust, this Lease, the Issuer Resolution, the Assignment and all other documents, agreements and certificates in connection herewith and therewith valid and binding obligations of the Issuer in accordance with the terms thereof, are authorized by the Act and have been duly authorized by proceedings of the Issuer enacted or adopted at meetings thereof duly called and held.

(C) The Issuer has not made, done, executed or suffered, and warrants that it will not make, do, execute or suffer any act or thing whereby its Title to and interest in the Facilities shall or may be impaired, charged or encumbered in any manner whatsoever except by Permitted Encumbrances.

(D) The Issuer, pursuant to the Issuer Resolution, has authorized the City and has appointed the City, subject to the terms and conditions set forth in this Lease to provide for the acquisition, equipping and improvement of the Annex Property by such means as shall be available to the City and in the manner determined by the City.

(E) The Issuer has approved the terms and conditions set forth in this Lease, which terms and conditions the Issuer determines to be necessary, desirable and proper, to provide for the acquisition, equipping and improvement of the Annex Property.
(F) To finance the acquisition, equipping and improvement of the Annex Property and costs of issuance of the Bonds and related costs, the Issuer has authorized issuance of the Bonds in the aggregate principal amount of not to exceed $2,000,000 to be issued upon the terms set forth in the Issuer Resolution, and in order to secure the payment of the principal of and interest on the Bonds, certain of the rights and interests of the Issuer in and to this Lease and the rentals and revenues to be received hereunder are pledged and assigned to Purchaser, pursuant to the Assignment.

(G) The Issuer has found and determined, and does hereby find and determine, that: (i) the acquisition of the Annex Property by the Issuer pursuant to such Conveyance Documents or other instruments of transfer as may be necessary and appropriate under the circumstances, together with the equipping and improvement of the Annex Property; (ii) the leasing of the Leased City Premises by the City from the Issuer; (iii) the issuance and delivery of the Bonds by the Issuer in the aggregate principal amount of not to exceed $2,000,000 for the purpose of financing costs of the acquisition, equipping and improvement of the Annex Property and the payment of costs of issuance of the Bonds and related costs; and (iv) all other things contemplated by or contained in the Deed of Trust, this Lease and the Assignment are necessary, proper and appropriate to accomplish the public purpose of better serving the citizens of the City.

Section 2.02. Representations and Warranties by the City. The City makes the following representations and warranties, all such representations and warranties to be applicable upon and following issuance of the Bonds and to be maintained until termination of this Lease:

(A) The City is a municipal corporation and political subdivision of the State, duly and validly created and existing under the Constitution and the other laws of the State, has been duly authorized to execute and deliver this Lease and all other agreements, documents, instruments and certificates in connection herewith and therewith, and agrees that it will do or cause to be done all things necessary to preserve and keep in full force and effect its existence.

(B) The acquisition, equipping and improvement of the Annex Property and payment of costs of issuance of the Bonds and related costs, the execution and delivery of this Lease and all other agreements, documents, instruments and certificates in connection herewith, and the performance of all covenants and agreements of the City contained in this Lease and all other agreements, documents, instruments and certificates in connection herewith, and of all other acts and things required under the Constitution and laws of the State, or any other document, agreement or instrument by which the City is bound, to acquire, equip and improve the Annex Property and to make this Lease and all agreements, documents and instruments in connection herewith, valid and binding obligations of the City in accordance with the terms thereof, are duly authorized under the Constitution and other laws of the State and have been duly authorized by proceedings of the City adopted at meetings thereof duly called and held. No authority or proceedings for the execution and delivery of this Lease and the performance of the obligations hereunder has or have been repealed, revoked or rescinded.

(C) The acquisition, equipping and improvement of the Annex Property and payment of costs of issuance of the Bonds and related costs and the financing thereof by the Issuer, as provided under the Deed of Trust, this Lease, the City Ordinance, the Issuer Resolution and the Assignment, is a public purpose under the Act.
(D) There is no action, suit, proceeding, inquiry, order, claim, counterclaim, arbitration, demand or investigation at law or in equity or before or by any court, public board, authority or body, pending or threatened, or any order, judgment or decree in progress, nor is there any basis therefor, which would adversely affect the City, the Facilities or the transactions contemplated by the Deed of Trust, this Lease or any of the documents, agreements, instruments or certificates in connection therewith or the consummation of the transactions contemplated thereby, the payment of Lease Rentals hereunder from the funds of the City specified in Section 5.02 hereof, the application of any money or security granted by the City that may be used for payment of the Bonds or the operation of the Leased City Premises, or which in any way would adversely affect the validity or enforceability of the Deed of Trust, this Lease, the City Ordinance, the Assignment, or the Bonds or the payment of Lease Rentals hereunder from the funds of the City specified in Section 5.02 hereof, or which in any way would adversely affect the ability of the City to perform its obligations under this Lease or any agreement, document or instrument in connection herewith and therewith, the creation, organization or existence of the City, the title to office of any officer thereof or the power of the City to lease, use and operate the Leased City Premises.

(E) Substantially all of the proceeds of the Bonds will be used to pay Project Costs, pay costs of issuance of the Bonds or reimburse the Issuer or the City for payment of such costs.

(F) The execution and delivery of this Lease and all documents, agreements, instruments and certificates in connection therewith, the consummation of the transactions contemplated hereby and thereby, and the compliance with, fulfillment of and carrying out of the provisions and terms hereof and thereof, including, without limitation, the use and operation of the Leased City Premises, do not and will not, with or without the giving of notice or passage of time, or both, conflict with or constitute on the part of the City a violation or breach of or constitute or result in a default or loss of rights (or give rise to any right of termination, cancellation or acceleration) under or result in the creation of any lien, charge or encumbrance pursuant to and are not materially adversely affected by any mortgage, indenture, note agreement, bond, contract, lease, document, resolution, deed of trust or other agreement, obligation or instrument to which the City is a party or by which the City or its properties are bound or affected by any charter provision, judgment, statute, ordinance, order, rule, law, court decision, decree or regulation by which the City or its properties are subject or affected, and will not cause any forfeiture or impairment of any license, authorization or permit.

(G) The City has complied and will comply in all material respects with the applicable provisions of law with respect to the acquisition, improvement and equipping of the Facilities or which would affect its ability to enter into this Lease and consummate the transactions set forth herein and therein and has full legal right, power and authority to enter into, execute and deliver this Lease, and all other documents, agreements, instruments and certificates in connection herewith and perform its obligations hereunder, to enter into all construction contracts and other agreements necessary to the acquisition, equipping and improvement of the Facilities and the administration and performance of its obligations under such contracts or agreements and thereunder, to lease, operate and use the Leased City Premises, to conduct its business as contemplated in this Lease, and to carry out and consummate all transactions contemplated by the foregoing, including, without limitation, the payment of Lease Rentals hereunder from funds of the City specified in Section 5.02 hereof.
(H) The funds specified in Section 5.02 hereof have been appropriated by the City or are available in an amount sufficient to make all Lease Rentals, if any, during the current Fiscal Year of the City (July 1, 2019, through June 30, 2020), and the City reasonably believes that such funds can be obtained in an amount sufficient to make all Lease Rentals during the entire Lease Term. It is the City’s intent to pay the Lease Rentals for the full Lease Term if such funds are legally available therefor and in that regard the City represents that: (a) the use of the Leased City Premises is essential to its proper, efficient and economic functioning or to the services that it provides to its citizens; (b) the City has an immediate and continuing need for the use of substantially all of the Leased City Premises, which is not temporary or expected to diminish in the foreseeable future; (c) the Leased City Premises are and will be used by the City only for the purpose of performing one or more of its governmental or proprietary functions consistent with the permissible scope of its authority and will not be used in a trade or business of any person or entity other than the City; and (d) the functions performed by the Leased City Premises will not be transferred to other facilities available to the City or which may be subsequently acquired for use by the City.
ARTICLE III
ACQUISITION, EQUIPPING AND IMPROVEMENT
OF THE ANNEX PROPERTY

Section 3.01. Ratification of all actions necessary to authorize and approve the acquisition, equipping and improvement of the Annex Property. The Issuer and the City hereby authorize, approve and ratify all actions necessary for the acquisition, equipping and improvement of the Annex Property and the acquisition of such existing real property, rights of way, equipment, fixtures, personal property and appurtenances from the entities or individuals as may be the owners thereof. The Issuer hereby covenants and agrees to pay the Project Costs in accordance with the provisions hereof, to the extent, but only to the extent of moneys available therefor in the Project Fund or from other moneys of the City previously expended or made available for such purpose. In the event that such moneys are insufficient to pay all of the Project Costs, the City hereby covenants that it will appropriate such moneys as may be necessary to pay the remaining Project Costs. The Issuer and the City hereby agree that payment of Project Costs shall be made in the manner and subject to the conditions specified in the Issuer Resolution and herein, without further authorization of the Issuer.

The Issuer agrees that it will enter into, or accept the assignment of, such construction contracts, agreements and other documents as the City may request in order to effectuate the purposes of this Section 3.01, and that it will not execute any other contracts, agreements or documents, or give any order for such execution unless and until the City shall have approved the same in writing or pursuant to official action. Unless required by one of the other parties to the construction contracts, the Issuer and the City contemplates that the City shall be the party to all such construction contracts and other agreements and arrangements that may be necessary to undertake the acquisition, equipping and improvement of the Annex Property. Pursuant to the Issuer Resolution, the Issuer shall undertake (i) the acquisition of the Annex Property pursuant to such Conveyance Documents or other instruments of transfer as may be necessary and appropriate under the circumstances; (ii) the leasing of the Leased City Premises by the Issuer to the City; and (iii) the issuance and delivery of the Bonds by the Issuer in the aggregate principal amount of $_______ for the purpose of financing costs of the acquisition, equipping and improvement of the Annex Property and the payment of costs of issuance of the Bonds and related costs. The City shall undertake all requisitioning and application of the proceeds of the Bonds to the payment of the costs necessary to acquire, equip and improve the Annex Property and pay costs of issuance of the Bonds and related costs. Nothing contained in this Lease shall relieve the City from its obligation to pay rent pursuant to Article V hereof.

Section 3.02. Disbursements from Project Fund. Disbursements shall be made from the Project Fund to pay Costs of the acquisition, equipping and improvement of the Annex Property in accordance with the procedures described in Section 4.09 hereof.

Section 3.03. Cooperation of Parties. The Issuer and the City shall cooperate to the fullest extent practicable with a view to the acquisition, equipping and improvement of the Annex Property with all reasonable promptness, but no delay in the undertaking or completion of the acquisition, equipping and improvement of the Annex Property, however caused, shall alter, affect, diminish or impair the obligations of the City to pay rent as provided herein or any other obligations of the City under this Lease.
ARTICLE IV
ISSUANCE AND PAYMENT OF BONDS BY THE ISSUER;
Funds and Accounts

Section 4.01. Sale of Bonds. If the Issuer and the City shall have determined that the Bonds can be issued and sold upon fair and reasonable terms, the Issuer shall issue, sell and deliver the Bonds in an aggregate principal amount of $_________ pursuant to and in conformity with the Issuer Resolution. The proceeds of the Bonds shall be deposited and applied as provided in this Lease.

Section 4.02. Payment of Bonds. The principal of and interest on the Bonds shall be payable in accordance with the provisions of the Issuer Resolution, the Assignment and the Bonds, and the Lease Rentals paid by the City hereunder are hereby pledged and a security interest therein granted and/or assigned to the Purchaser in order to secure the repayment of the Bonds, all as provided herein, in the Assignment, the Issuer Resolution and the Supplemental Resolution.

Section 4.03. Assignment of Rights Under Lease and Priority of Assignment. This Lease and the rights, interests, powers, privileges and benefits accruing to or vested in the Issuer hereunder shall be protected and enforced in conformity with the Assignment and are hereby and by the Assignment assigned by the Issuer to the Purchaser as security for the Bonds and shall be exercised and enforced for or on behalf of the Purchaser in conformity with the provisions hereof and of the Assignment. Notwithstanding anything herein or in the Assignment to the contrary, this Lease is and shall be expressly subject to the Assignment. THE ISSUER SHALL RETAIN NO RIGHTS HEREUNDER, EXCEPT THOSE RIGHTS SET FORTH IN SECTION 8.07, AND NOTWITHSTANDING ANY PROVISION HEREIN TO THE CONTRARY, ONLY THE PURCHASER OR SUBSEQUENT OWNERS OF THE BONDS SHALL HAVE THE RIGHT TO PURSUE ANY REMEDIES HEREUNDER.

Section 4.04. Establishment of Funds and Accounts with Paying Agent. Pursuant to this Article IV, the Sinking Fund and the Costs of Issuance Fund are created with, and shall be held by, the Paying Agent, segregated from all other funds and accounts of the Paying Agent, the Issuer and the City and from each other, (except as set forth in this Article IV) and used solely for the purposes provided herein.

Section 4.05. Establishment of Funds and Accounts with Depository Bank. Pursuant to this Article IV, the Project Fund is created with, and shall be held by, the Depository Bank, segregated from all other funds and accounts of the Depository Bank, the issuer and the City and used solely for the purposes provided herein.

Section 4.06. [Reserved].

Section 4.07. Sinking Fund. The Issuer shall deposit into the Sinking Fund the Lease Rentals received by the Issuer from the City which is necessary to pay the principal of and interest on the Bonds as the same becomes due and payable and all costs associated with the Bonds. The City is authorized and directed to pay and shall pay all Lease Rentals associated with the Bonds directly to the Paying Agent for deposit by the Paying Agent into the Sinking
Fund. Moneys in the Sinking Fund shall be applied by the Paying Agent, on or before the due date thereof, to the payment of the monthly installments of principal of and interest on the Bonds as the same become due and payable. The Paying Agent shall, on or before ______ of each year, commencing _______, 2020, from the balance of moneys or investments held in the Sinking Fund following the monthly payment of principal of and interest on the Bonds, (i) pay to the Registrar, Depository Bank and Paying Agent any fees and expenses thereof, and (ii) following such payment, transfer the balance of moneys, if any, in the Sinking Fund to the City. Except as provided in the foregoing sentence, moneys in the Sinking Fund shall be applied by the Paying Agent solely to payment of the principal of and interest on the Bonds, when due.

Section 4.08. Costs of Issuance Fund. A portion of the proceeds of the Bonds in the amount of $_______ will be transferred by the Purchaser to the Paying Agent on the Closing Date for deposit by the Paying Agent into the Costs of Issuance Fund maintained by the Paying Agent and will thereupon be applied by the City, along with other funds of the City, to the payment of the Costs of Issuance of the Bonds. The City shall execute and deliver to the Paying Agent from time to time as may be necessary a Requisition for Payment of Costs of Issuance for the payment of the Costs of Issuance of the Bonds. The Paying Agent shall thereupon, within two (2) business days following its receipt of such a Requisition, disburse the amounts indicated in such Requisition to the payees referenced therein. Any funds remaining in the Costs of Issuance Fund 90 days following the Closing Date shall be transferred by the Paying Agent to the Sinking Fund and applied to the payment of principal and interest on the Bonds.

Section 4.09. Project Fund. A portion of the proceeds of the sale of the Bonds in the amount of $_______ shall, on the Closing Date for the Bonds, be deposited in the Project Fund established with the Depository Bank.

The Project Fund shall be an account of the Issuer but the Issuer hereby authorizes and directs the City to requisition the proceeds of the Bonds from the Depository Bank from time to time as necessary to pay Project Costs. Money on deposit in the Project Fund may be used by the City solely to pay Project Costs. The City shall periodically, but not more frequently than on a monthly basis absent the prior consent of the Depository Bank, submit a requisition for the payment of Project Costs, with all supporting invoices attached thereto, to the Depository Bank. Upon receiving a requisition for the Project Costs which has been duly completed by the City, with all supporting invoices attached thereto, and executed and delivered by the City to the Depository Bank as set forth herein, the Depository Bank shall, following a reasonable period for the Purchaser to complete any necessary construction inspections in accordance with its standard procedures for construction projects of similar type, disburse the requisitioned amounts which have been approved by the Purchaser to the City for reimbursement to the City of Project Costs previously paid by the City or payment to the third party payees identified in the requisition.

The moneys in the Project Fund in excess of the amount insured by FDIC shall be secured at all times by the Depository Bank by securities or in a manner lawful for the securing of deposits of State and municipal funds under West Virginia law. Moneys in the Project Fund shall be expended by the City solely for the payment of Project Costs.

Until completion of acquisition, equipping and improvement of the Annex Property, the Issuer will additionally transfer from the Project Fund and pay to the Holder or Holders of Bonds
on or before the due date, such sums as shall be from time to time required to make the
installments on the Bonds if there are not sufficient Lease Rentals to make such payments. In the
event moneys remain in the Project Fund following the final disbursement for Project Costs,
such moneys shall be transferred to the Sinking Fund and applied to the next periodic installment
of principal of and interest on the Bonds.

Section 4.10. [Reserved.]

Section 4.11. Investments. Moneys in the Sinking Fund, the Costs of Issuance Fund
and the Project Fund shall be invested by the Paying Agent and the Depository Bank in
investments as set forth in written instructions of the Issuer or the City. In the absence of such
written instructions from the Issuer or the City, the Paying Agent and the Depository Bank shall
invest such excess funds in market priced money market investments, certificates of deposit or
instruments of deposit (in each case, insured at all times by the Federal Deposit Insurance
Corporation or otherwise collateralized with direct obligations of the Department of the Treasury
of the United States of America).
ARTICLE V
DEMISING CLAUSES AND RENT

Section 5.01. Leasing of the Leased City Premises - Term of Lease; Option to Terminate. In consideration of the Lease Rentals to be paid by the City directly to the Paying Agent hereunder for the account of the Issuer, and of the covenants, agreements and promises herein contained to be kept and performed by the City, and in consideration of the issuance of the Bonds by the Issuer and other good and valuable consideration, the Issuer hereby demises and leases the Leased City Premises to the City and the City hereby hires, takes and leases the Leased City Premises from the Issuer, for the Lease Term, at the Lease Rentals and on the conditions herein set forth.

The term of the demise and leasing of the Leased City Premises by the Issuer to the City, subject to the provisions hereof (the “Lease Term”), shall commence immediately upon the Closing Date, and shall extend, unless sooner terminated in accordance with the provisions hereof, to January 15, 2040, provided, however, that the Lease Term shall expire on such earlier or later date as the principal of and interest on all the Bonds and all other expenses or amounts payable by the City hereunder or under the Issuer Resolution or the Assignment shall have been paid or provisions for their payment shall have been made in accordance with this Lease, the Issuer Resolution and the Assignment.

Notwithstanding the foregoing or anything herein or in the Issuer Resolution or the Assignment to the contrary, the Issuer hereby grants to the City the option to terminate this Lease during any Fiscal Year covered hereby, in accordance with the constitution and laws of the State, and in the event of the exercise of such option to terminate this Lease, the payments of Lease Rentals hereunder shall be canceled without penalty to the City at the end of the then current Fiscal Year, whereupon the City shall surrender the Leased City Premises to the Issuer at the end of the then current Fiscal Year. Unless otherwise limited by law, the City covenants to provide the Issuer and each Bondholder with written notice, in accordance with Section 11.01 hereof, of its intention to exercise such option to terminate this Lease not less than 90 days prior to the end of the Fiscal Year in which the City elects to exercise such option.

Section 5.02. Rent. The City hereby pledges to pay the Lease Rentals due under this Section 5.02 from moneys received by the City to the extent such moneys are permitted by law to be used for such purposes and to the extent such moneys are legally available therefor. Until payment in full of the Bonds and the interest thereon, and any fees, charges and other amounts due under the Issuer Resolution, the Assignment or hereunder, the City shall pay directly to the Paying Agent, on or before the first (1st) day of each month, commencing January 1, 2020, from the funds specified in this Section 5.02, Lease Rentals in an amount equal to the monthly installments of principal of and interest on the Bonds.

In any event, the City shall pay sufficient Lease Rentals to promptly pay the principal of and interest on the Bonds, as the same become due and payable and to pay all other amounts payable by the City or the Issuer pursuant to this Lease, the Issuer Resolution or the Assignment.
All payments of Lease Rentals shall be made by the City directly to the Paying Agent for deposit by the Paying Agent into the Sinking Fund and application to the payment of the principal and interest due and owing on the Bonds and otherwise as set forth in Section 4.07 and this Section 5.02 and, thereafter, to any other parties entitled to payment. This Lease is a net lease, and the Issuer shall be under no obligation to operate, maintain, replace or improve the Leased City Premises or pay the cost thereof so long as this Lease remains in force and effect, but shall be entitled to have the Lease Rentals paid as required herein on an absolute net basis, and, except as provided otherwise in Section 5.01, such Lease Rentals shall not be subject to abatement before retirement of all Bonds as contemplated in Section 5.04 hereof, and payment of all amounts due hereunder, provided, however, that in the event of any partial prepayment of Bonds as provided in Section 5.06 hereof, then the Lease Rentals payable hereunder shall be adjusted accordingly.

Section 5.03. City's Obligations - Limited Obligations. The Issuer and the City covenant and agree that, during the term of this Lease, the City shall bear all risk of damage or destruction in whole or in part to the Facilities or any part thereof, including, without limitation, any loss, complete or partial, or interruption in the use, occupancy or operation of the Facilities, or any manner or thing which for any reason interferes with, prevents or renders burdensome the use or occupancy of the Facilities or the compliance by the City with any of the terms hereof. Notwithstanding the foregoing or anything herein to the contrary, the City's obligations to pay the Lease Rentals from the funds specified in Section 5.02 hereof, and the City's obligations to perform and observe the other covenants and agreements contained herein, shall be special and limited obligations of the City payable solely from the funds specified in Section 5.02 hereof and other sources provided for herein, in the Assignment and in the Issuer Resolution and shall not, in any event, be or constitute an indebtedness of the City within the meaning of any constitutional or statutory provision or limitation or constitute or give rise to a pecuniary liability of the City, except that the City may pay such Lease Rentals and any other sums provided hereunder from any lawful source notwithstanding the foregoing. Neither the Issuer nor any holder of any Bond shall ever have the right to compel the exercise of the taxing power of the City to pay the Lease Rentals and any other sums provided hereunder or to pay the principal of the Bonds or the interest thereon. The obligations of the City hereunder shall never be a charge against or pledge of the property, faith and credit or taxing power of the City.

Section 5.04. City's Remedies. Nothing contained in this Article shall be construed to release the Issuer from the performance of any of its agreements herein, and if the Issuer should fail to perform any such agreement, the City may institute such action against the Issuer as the City may deem necessary to compel the performance or to recover damages for nonperformance, subject to Section 8.07 hereof, so long as such action shall not violate the City's agreements in Section 5.03. The City may at its own cost and expense, and in its own name or in the name of the Issuer, prosecute or defend any action or proceeding against third parties or take any other action which the City deems reasonably necessary in order to secure or protect its right of possession, occupancy and use of the Leased City Premises under this Lease, subject to the terms hereof. In that event the Issuer agrees to cooperate fully with the City, and to take all action necessary to effect the substitution of the City for the Issuer in any such action or proceeding if the City shall so request.
Section 5.05. Non-appropriation. The City hereby warrants that the funds specified in Section 5.02 hereof have been appropriated or are available in an amount sufficient to make all Lease Rentals, if any, during the Fiscal Year ending June 30, 2020, and reasonably believes that such funds can be obtained in the amount necessary to make all Lease Rentals during the Lease Term and hereby covenants that it will do all things lawfully within its power to properly request and pursue such funds from which the Lease Rentals may be made, including the consideration of such Lease Rentals for appropriation in the annual budget process for the City. During the Lease Term, the City shall not give priority in the application of such funds to any facilities functionally similar to the Leased City Premises. During the Lease Term, the City will furnish to each Bondholder, no later than 30 days following adoption of the budget for each Fiscal Year, a certificate as to whether or not the Lease Rentals due in that Fiscal Year have been included in the budget approved by the City for such Fiscal Year.

Section 5.06. Prepayment of Rent. There is hereby reserved to the City the right, and the City is hereby authorized and permitted, at any time and as often as it may choose, to prepay all or any part of the Lease Rentals payable under Section 5.02 hereof, together with such other amounts as shall be sufficient to prepay all or a portion of the Bonds in accordance with the Issuer Resolution and the Bonds, and the Issuer agrees that the Paying Agent and the Bondholders may accept such prepayments of Lease Rentals and other sums when the same are tendered by the City or the Issuer. All Lease Rentals and other sums prepaid pursuant to this Section 5.06 shall be applied to the prepayment or purchase of outstanding Bonds in the manner and to the extent provided for in the Issuer Resolution and the Bonds. Any partial prepayment of Lease Rentals hereunder for the purpose of making a partial prepayment of the Bonds shall be applied to shorten the maturity date of the Bonds and not to the reduction of monthly Lease Rental payments or monthly debt service payments on the Bonds. The City shall provide at least thirty (30) days prior written notice to the Issuer and the Holder or Holders of Bonds prior to making any full prepayment of all Lease Rentals. Any sums received by the Paying Agent for the pre-payment of Lease Rentals and the pre-payment of the Bonds shall be deposited upon receipt by the Paying Agent into the Sinking Fund and thereupon applied by the Paying Agent to the pre-payment of the Bonds to the Bondholder.

The City may prepay the Lease Rentals and the Bonds may be redeemed in whole or in part at a price of 100% of the principal amount prepaid, with no prepayment premium or penalty, plus accrued interest to the date of redemption.

In the event of all or any portion of the Bonds becoming due and payable pursuant to the provisions of Article X hereof, Lease Rentals hereunder sufficient to pay the interest and principal thereon shall be and become at once due and payable.

Section 5.07. Termination of Lease upon Payment of All Rent. Upon payment of all Lease Rentals required hereunder and upon payment by the Issuer of the principal of and interest on the Bonds (including, if applicable, any prepayment premium), the Deed of Trust, this Lease and the Assignment shall be terminated and released. The Issuer and the City shall cause to be executed and recorded such releases or other documents as shall be necessary or appropriate to effectuate and properly record such termination and release. In addition, upon the payment by the City to the Issuer of the sum of one dollar ($1.00), the Issuer shall execute and deliver a deed
which conveys the Facilities, with covenants of general warranty, to the City upon the payment of all Lease Rentals and the repayment or defeasance of the Bonds in full.

Section 5.08. Right to Purchase. The Issuer hereby grants unto the City the right to purchase its interest in the Facilities at any time for a sum equal to (i) the remaining principal amount of the Bonds, together with any prepayment premium which would be due and owing to the Holder or Holders of Bonds as set forth in Section 5.06; and (ii) interest accrued to the date of such purchase and payment therefor which date shall be a prepayment date for the Bonds, plus any other amounts due from the City hereunder. The City may also purchase the Issuer’s interest in the Facilities at any time if the Bonds are defeased in their entirety as set forth in Section 5.09 hereof. Upon exercise of such right by the City, the Deed of Trust, this Lease and the Lease Assignment shall be terminated and released. The Issuer and the City shall cause to be executed and recorded such releases or other documents as shall be necessary or appropriate to effectuate and properly record such termination and release.

Section 5.09. Defeasance of Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the registered owners of all Bonds, the principal of and interest due or to become due thereon, plus the applicable prepayment premium on such series of Bonds, then the Issuer Resolution, this Lease and the pledges of Lease Rentals and other moneys and securities pledged hereunder, and all covenants, agreements and other obligations of the Issuer on behalf of the registered owners of such series of Bonds made hereunder, shall thereupon cease, terminate and become void and be discharged and satisfied with respect to such series of Bonds.

Any Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agent at the same or earlier time, shall be sufficient, to pay as and when due the respective principal of and interest on such series of Bonds, plus the applicable prepayment premium on such series of Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. The Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Paying Agent or an escrow trustee either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agent or said escrow trustee at the same or earlier time shall be sufficient, to pay when due the principal of, any redemption premium on and interest due and to become due on said Bonds on and prior to the maturity date thereof, plus the applicable prepayment premium on such series of Bonds or if the Issuer irrevocably determines to redeem any of said Bonds prior to the maturity thereof, on and prior to said redemption date. Neither securities nor moneys deposited with the Paying Agent or an escrow trustee pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of and interest on said Bonds; provided, that any cash received from such principal, prepayment premium, if any, and interest payments on such securities deposited with the Paying Agent or said escrow trustee, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal of and prepayment premium, if any, and
interest to become due on said series of Bonds on and prior to such maturity or redemption dates thereof, and interest earned from such reinvestments shall be paid over to the Issuer as received by the Paying Agent or said escrow trustee, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only United States Treasury Obligations.
ARTICLE VI
COVENANTS RELATING TO THE USE
AND OPERATION OF THE FACILITIES

Section 6.01. Taxes and Assessments. Subject to the provisions of Section 6.04 hereof, the City shall pay any and all lawfully assessed taxes, charges, fees, fines, impositions, liens and assessments, general and specific, ordinary and extraordinary, if any, levied, taxed, imposed or assessed upon or on account of the use or operation of the Facilities or any part or portion thereof, or the interest of the Issuer and of the City or either of them in or to the Facilities, or upon the Issuer's and City's interest, or the interest of either of them, in this Lease or the Lease Rentals payable hereunder during the term of this Lease, and all water and sewer charges, assessments, and other legally enforceable governmental charges and impositions whatsoever; provided, however, that Third Party Tenants shall pay any such taxes, assessments and charges with respect to Leased Third Party Premises. The City will furnish to the Issuer and all Bondholders all notices of amounts due under this Section when requested to do so.

If, under applicable law, any such tax, charge, fee, fine, imposition, lien, rate, imposition or assessment may, at the option of the taxpayer, be paid in installments, the City may exercise such option, except to the extent otherwise provided. The City covenants and agrees that it will, at its own cost and expense, obtain exemption from all taxes and other charges referred to in this Section 6.01 to the extent permitted under applicable law.

As between the parties hereto, the City shall have the duty of making and filing all statements or reports which may be required under applicable law in connection with any such tax, charge, fee, rate, imposition or assessment, or otherwise related to the Facilities, and the Issuer agrees promptly to forward to the City any and all notice of or bills in connection with any such charge, fee, rate, fine, imposition, lien or assessment; provided, however, that an Authorized Officer of the Issuer shall execute and file, or execute and cause to be filed, in a timely fashion, all statements and filings relating to the Facilities which it is required by law to file, notwithstanding the foregoing or anything herein to the contrary. The Issuer hereby grants to the City the right to use the name of the Issuer, to the extent the use of the name of the Issuer is permitted by or necessary under applicable law, in connection with any contest of the amount or validity of any tax, charge, fee, rate, imposition or assessment. If the provisions of any law, rule or regulation at the time in effect shall require such statements or reports to be executed and filed by the Issuer or such proceedings to be brought by the Issuer, the Issuer shall, at the request and expense of the City, execute and file such statements or reports or, as the case may be, shall join in such proceedings, but the Issuer shall not be subject to any liability for the payment of any costs or expenses in connection therewith and, to the extent permissible under State law, the City covenants to indemnify and save the Issuer harmless from such costs and expenses. The City covenants and agrees that all statements, reports and other documents prepared for execution by the Issuer solely or by the Issuer jointly with the City, shall be true, accurate and complete.

Nothing contained herein shall be deemed to constitute an admission by either the Issuer or the City to any third party other than the Bondholders that either the Issuer or the City is liable
for any tax, charge, fee, rate, lien, imposition or assessment.

Section 6.02. Liens. Subject to the provisions of Section 6.04 hereof relating to permitted contests, the City and the Issuer will not create or permit to be created or remain and will, at its cost and expense, promptly discharge all liens, encumbrances and charges on the Facilities or any part thereof, other than Permitted Encumbrances.

Section 6.03. Compliance with Orders, Ordinances, Etc. Subject to the provisions of Section 6.04 hereof relating to permitted contests, the City shall, throughout the term of this Lease, at its sole cost and expense, promptly comply in all material respects with all laws, codes, ordinances, orders, decrees, rules, regulations and requirements of duly constituted authorities which may be applicable to the Facilities or to the repair and alteration thereof, or to the use, manner of use or leasing of the Facilities. This Lease shall be amended by the parties hereto to the full extent necessary to ensure compliance with all such laws, codes, ordinances, orders, decrees, rules, regulations and requirements to enable the continued operation of the Facilities by the City but not in any manner which would materially adversely affect or impair the obligations of the Issuer under the Issuer Resolution or the Assignment or materially adversely affect or impair the Issuer Resolution or the Assignment or the lien of the Deed of Trust, based upon an opinion of counsel.

Section 6.04. Permitted Contests. Except as otherwise expressly provided herein, the City shall not be required to pay any tax, charge, fee, rate, imposition or assessment referred to in Section 6.01 hereof, nor to remove any lien, charge or encumbrance required to be removed under Section 6.02 hereof, nor to comply with any law, code, ordinance, order, decree, rule, regulation or requirement referred to in Section 6.03 hereof, so long as the City shall contest, in good faith and at its cost and expense, in its own name and behalf or in the name and behalf of the Issuer, the amount or validity thereof, in an appropriate manner or by appropriate proceedings which shall operate during the pendency thereof to prevent the collection of, or other realization upon, the tax, charge, fee, rate, imposition, assessment, lien or encumbrance so contested, and the sale, forfeiture, or loss of the Facilities or any part or portion thereof, or of the rent or any portion thereof, to satisfy the same; provided, that no such contest shall subject the Issuer or any Bondholder to the risk of any liability. While any such matters are pending, except as otherwise required herein, the City shall not pay, remove or cause to be discharged the tax, charge, fee, rate, imposition, assessment, lien or encumbrance being contested unless the City agrees to settle such contest. Each such contest shall be promptly prosecuted to final conclusion (subject to the right of the City to settle any such contest), and in any event, to the extent permitted under State law, the City will save the Issuer and the Bondholders harmless against all losses, judgments, decrees and costs (including attorney’s fees and expenses in connection therewith) and will, promptly after the final determination of such contest or settlement thereof, pay and discharge the amounts which shall be levied, assessed, imposed or determined to be payable therein, together with all penalties, fines, interest, costs and expenses thereon or in connection therewith. The City shall give the Issuer prompt written notice of any such contest and the Issuer agrees to cooperate with the City, at the City’s cost and expense, in any such contest.

Notwithstanding any rights granted to the City under the preceding paragraph of this Section 6.04, if the Issuer or any Bondholder shall notify the City that, in the opinion of
independent counsel, by nonpayment of any of the foregoing items, the Deed of Trust, Issuer Resolution or the Assignment or the lien as to any substantial part of the Facilities will be materially endangered or the Facilities or any part thereof will be subject to imminent loss or forfeiture or the rights or obligations of the Issuer under the Deed of Trust, the Issuer Resolution or the Assignment shall in any way be materially adversely affected or impaired or the lien, pledge and security interest of this Lease, the Deed of Trust, the Issuer Resolution or the Assignment shall be materially or adversely affected or impaired, then the City shall promptly, but in any event in not more than 5 days from receipt by the City of such notification, pay all such unpaid items or cause them to be stayed, satisfied and discharged.

Section 6.05. Acquisition, Equipping, Improvement and Use of the Facilities.

(A) The City will carry on (or cause to be carried on) with reasonable dispatch, and will not abandon, the acquisition, equipping and improvement of the Annex Property.

(B) Except as otherwise required herein, the City may sublease the Leased City Premises or agree or contract for the performance by others of management or operations on or in connection with the Leased City Premises or any part or portion thereof, for any lawful purpose, provided that (i) each such sublease, agreement or contract shall not be inconsistent with the provisions of this Lease, the City Ordinance, the Issuer Resolution or the Assignment; and (ii) any such sublease, agreement or contract shall have been approved in writing by the Issuer and all the Bondholders.

(C) The Issuer may lease Leased Third Party Premises to Third Party Tenants, provided that (i) each such lease shall have been consented to and approved in writing by the City; and (ii) each such lease shall require that Third Party Tenants shall be responsible for the following with respect to the Leased Third Party Premises: Operating and Maintenance Expenses, any required structural repairs and capital improvements, provision of utilities if they are metered separately and connection to telecommunication, cable and internet service. The Leased Third Party Premises shall be subject to the lien and pledge of the Deed of Trust. However, except as otherwise specifically provided herein and therein, such Leased Third Party Premises shall not be subject to the terms of this Lease and the Assignment. Any rental payments associated with the Leased Third Party Premises shall not be considered a part of the Lease Rentals payable hereunder, and shall be payable by Third Party Tenants directly to the Issuer or its designee or assignee free and clear of the lien and pledge of the Deed of Trust, this Lease and the Assignment.

(D) Except for the five (5) parking spaces included in the Leased City Premises, the Issuer may lease parking spaces in the parking lot located on the Annex Property to any party. Notwithstanding any such lease of parking spaces, the City shall be responsible for the maintenance of the parking lot, including but not limited to plowing, shoveling, cleaning and paving.

Section 6.06. Repairs, Maintenance and Alterations. The City will, throughout the Lease Term, at its own cost and expense, keep and maintain the Facilities, except with respect to Leased Third Party Premises, in good condition and repair and not abandon the same, or any part or portion thereof, nor commit or permit the commission of waste on or in the Facilities, or any
part or portion thereof, or permit any building, structure or improvement to be removed, destroyed, demolished or structurally altered in whole or in part except as permitted herein and shall cause any person in possession of the Facilities or any portion thereof, except with respect to Leased Third Party Premises, to comply with all laws, ordinances, rules and regulations relating to the use, leasing or maintenance of the Facilities and with all requirements, directions and orders and notices of violations thereof issued by any governmental agency, body or officer, and will make all necessary repairs thereto, structural and non-structural, ordinary as well as extraordinary and foreseen as well as unforeseen, and all necessary replacements or renewals.

The City shall have the right from time to time at its sole cost and expense to make additions, alterations and changes (hereinafter collectively referred to as "alterations") in or to the Leased City Premises, provided, however, that no alteration of any kind shall be made which would result in a violation of the provisions of Section 6.05 hereof.

With respect to any repairs, construction, renovation, restoration, replacement or alterations performed upon the Facilities by the City during the Lease Term, in accordance with or as required by any provisions hereof, the City agrees that:

(1) No work in connection therewith shall be undertaken until the City shall have procured and paid for, so far as the same may be required, from time to time, all municipal and other governmental permits and authorizations of the various municipal departments and governmental subdivisions having jurisdiction, and the Issuer agrees to join in the application for such permits or authorizations whenever such action is necessary;

(2) All work in connection therewith shall be done promptly and in good workmanlike manner and in compliance with the building and zoning laws of the municipality or other governmental subdivision wherein the Facilities are situate, and with all laws, ordinance, orders, rules, regulations and requirements of all federal, state and municipal governments and the appropriate departments, commissions, boards and officers thereof, and shall not violate the provisions of any policy of insurance covering the Facilities, and the work shall be prosecuted with reasonable dispatch, unavoidable delays excepted; and

(3) It shall carry or cause to be carried workers' compensation coverage for all persons employed in connection with the work and with respect to whom death or bodily injury claims could be asserted against the Issuer or the City, and general liability insurance (specifically covering this class of risk) for the mutual benefit of the Issuer and the City in such amounts as is customarily carried by like organizations engaged in like activities of comparable size and liability exposure and as otherwise required or permitted by applicable law. The general liability insurance provided for in this paragraph may be effected by an appropriate endorsement, if obtainable, upon the insurance referred to in Section 6.09 hereof. All such insurance shall be effected with financially sound and reputable insurance companies qualified to do business in the State.

Section 6.07. Renewal and Replacement of Equipment. In any instance where the City in its sole discretion determines that any items of furnishings, fixtures or equipment have become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary, the City may remove such items from the Facilities, except with respect to the Leased Third Party Premises,
and sell, trade-in, exchange or otherwise dispose of them (as a whole or in part) without any responsibility or accountability therefor, provided that such removal or substitution shall not impair the operating utility of the Facilities.

Section 6.08. Installation of Furnishings, Fixtures and Equipment by the City. Except with respect to Leased Third Party Premises, the City may from time to time in its sole discretion and at its own cost and expense, install or place other furnishings, fixtures or equipment and tangible personal property in the Facilities. Except as otherwise expressly provided herein, and except with respect to Leased Third Party Premises, the City may remove such furnishings, fixtures or equipment and tangible personal property at any time at its own cost and expense, whether or not the same shall have been affixed or annexed to the Facilities, but any damage caused to the Facilities by any such removal shall be restored at the sole cost and expense of the City. The Issuer may install fixtures, furnishings or equipment and tangible personal property and may modify the Facilities with the prior written approval of the City.

Section 6.09. Liability and Casualty Insurance. Except with respect to Leased Third Party Premises, the City shall procure and maintain the following insurance during the Lease Term at its sole cost and expense:

(A) Commencing on or prior to the Closing Date, insurance on all insurable portions of the Facilities against loss or damage to the Facilities, including, without limitation, all improvements, buildings, structures, fixtures, machinery and equipment included thereon or therein, including in such insurance fire, lightning, flood, extended coverage, vandalism, malicious mischief, and boiler and machinery coverage with standard extended coverage and with such deductible provisions as are usual for similar properties, such insurance to be in an amount not less than 100% of the replacement value thereof, or such other amount as may from time to time be acceptable to the Purchaser or 100% of the subsequent Bondholders, provided, that in any event each such policy shall be in an amount sufficient to prevent the City, the Issuer and the Bondholders from becoming co-insurers under the applicable terms of such policy;

(B) At all times, workers’ compensation insurance, disability insurance and each other form of insurance which the City is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees; and

(C) At all times, comprehensive general liability insurance and owner’s liability insurance protecting the City, the Issuer and the Bondholders against loss or losses from liabilities imposed by law or assumed in any contract and arising from the death and/or bodily injury of persons or damage to the property of others caused by accident or occurrence (including contractual liability endorsement), with limits of not less than $1,000,000 per occurrence and not less than $1,000,000 in the aggregate for claims made in any one year on account of injury to persons or for property damage excluding liability imposed upon the City by any applicable workers’ compensation law, and insurance with the same limits to protect the Issuer, the City and the Bondholders from claims arising out of operation of or ownership of motor vehicles of or for the Facilities.

Such insurance coverage shall (i) be issued by recognized, financially sound and reputable insurers qualified to do business in the State and acceptable to the Bondholders, in
forms acceptable to the Bondholders, (ii) name the Issuer, the City and the Bondholders as insureds, as their respective interests may appear, and provide that such policy shall not be canceled without at least 30 days’ prior written notice to each insured named therein. Any policy obtained pursuant to subparagraph (A) above shall further provide that any loss thereunder shall be payable to the Bondholders notwithstanding any act of negligence of the City which might otherwise invalidate said insurance, and the Bondholders shall have the exclusive right to receive the proceeds from such insurance and to receipt for claims thereunder. The City shall have the right to receive the proceeds from any insurance maintained pursuant to subparagraphs (B) and (C) above but the City shall apply such proceeds to the payment of any judgment, settlement or liability incurred for risks covered by such insurance.

Upon the commencement of the term of this Lease and thereafter not less than 30 days after January 1 of each year, commencing January 1 of the year following the date hereof, certificates issued by the respective insurers of the policies provided for in subparagraphs (A), (B) and (C) shall be delivered by the City to the Bondholders.

Section 6.10. Bondholders’ Rights to Perform City’s Covenants; Advances; Inspection of Premises. In the event the City shall fail to (i) pay any tax, charge, assessment, imposition, fee, fine or lien pursuant to Section 6.01 hereof, (ii) remove any lien, encumbrance, or charge pursuant to Section 6.02 hereof, (iii) maintain the Facilities in repair pursuant to Section 6.05 hereof, (iv) procure the insurance required by Section 6.09 hereof, or (v) fail to make any other payment (other than rent) or perform any other act required to be performed hereunder, then and in each such case any Bondholder may (but shall not be obligated to) remedy such default for the account of the City and make advances for that purpose; provided that this clause shall not otherwise abate the obligations of the Issuer under the Issuer Resolution or the Assignment with respect thereto. No such performance or advance shall operate to release the City from any such default or constitute an acquiescence therein and any sums so advanced by any Bondholder shall be repayable by the City on demand and shall bear interest at the rate of interest on the Bonds, from the date of the advance until repaid. The Bondholders shall have the right of entry on the Facilities or any part or portion thereof at reasonable times in order to effectuate the purposes of this Section 6.10 and in order to inspect the premises.

Section 6.11. City Shall Manage, Operate and Administer Leased City Premises. This Lease is a net lease and the Issuer shall retain no rights with respect to the operation, management or administration of the Leased City Premises. The City shall have the sole right subject to the terms of the Issuer Resolution, the Assignment and this Lease, during the term of this Lease, to operate, manage and administer the Leased City Premises, including, but not limited to, all decisions with respect to hiring and discharge of employees, subleasing of all or any portion of the Leased City Premises, acquiring and selling of furnishings, fixtures or equipment or additional property, adding, improving, renovating or removing portions of the Leased City Premises and all other matters incidental to the operation, management and administration of the Leased City Premises, and the City shall further pay all Operating and Maintenance Expenses with respect to such Leased City Premises.

Section 6.12. Permits, Etc. The City hereby represents, warrants and covenants, all such representations and warranties to be applicable upon and following issuance of the Bonds and to be maintained until termination of this Lease, that the City has obtained or received and
will obtain and receive and has and will keep in full force and effect, all consents, permits, licenses, approvals, certificates, exemptions, rights, orders, franchises, privileges and authorizations, all of which have been and validly granted, issued and/or assigned, and has timely made and/or submitted and will timely make and/or submit all declarations, filings, payments, reports, notices, statements, papers and registrations, necessary to enter into and perform its obligations under and consummate the transactions contemplated in this Lease and all other documents, agreements, instruments and certificates in connection therewith, to lease, use and operate the Leased City Premises and/or the Facilities, as applicable; and the City has taken and will take all other action required in connection with this Lease, the consummation of the transactions contemplated herein and all other documents, agreements, instruments and certificates in connection herewith, the leasing, use and operation of the Leased City Premises and/or the Facilities, as applicable. The City is and will remain in compliance with all applicable laws, rules and regulations relating to the Leased City Premises and/or the Facilities, as applicable.
ARTICLE VII
DAMAGE, DESTRUCTION
AND CONDEMNATION

Section 7.01. Damage or Destruction. The City agrees to notify the Issuer and the Bondholders immediately in the case of loss or damage covered by insurance required under 6.09(A) hereof and shall remit to the Bondholders the proceeds required to be paid to the Bondholders to be held in an appropriately designated fund. Thereafter, the City shall determine and advise the Issuer and the Bondholders, in writing, within 60 days of the occurrence of such loss or damage whether it is practicable to repair, reconstruct or replace such damaged or destroyed property and the estimated time required for such repair, reconstruction or replacement. The City may elect to apply the proceeds at its discretion to the repair, reconstruction or restoration of such damaged property or to the prepayment of the Bonds. In the event of such election the City will promptly inform the Issuer and the Bondholders in writing of its decision not to rebuild and the Net Proceeds of such insurance shall be applied to prepayment of rent hereunder and such series of Bonds as shall be specified by the City and the interest thereon shall become due and payable on the first payment due date following receipt of such written notice and not more than 60 days after such event. In the event that the City elects to prepay Bonds following such damage or destruction, it shall pay, as additional rent hereunder, any amounts required to effect such prepayment and which may not be available from the proceeds of such insurance and direct the Bonds which are to be prepaid. Pursuant to the Issuer Resolution and the Bonds, in the event that the Bonds or any part thereof are prepaid pursuant to this Section 7.01, no premium or penalty shall be applicable. In the event that the City elects to repair, reconstruct or replace the damaged property, the City shall promptly proceed to repair, reconstruct and replace such part of the Facilities to its original condition as far as possible. The moneys required for such repair, reconstruction and replacement shall be paid from: (i) the Net Proceeds of insurance received by reason of such occurrence which Net Proceeds shall be deposited in a reconstruction fund held by or on behalf of the Bondholders (in escrow or otherwise as acceptable to the Bondholders) and disbursed in accordance with a requisition procedure acceptable to the Bondholders; and (ii) to the extent such insurance proceeds are not sufficient, from moneys to be provided by the City to the extent authorized by law and to the extent such moneys are lawfully available therefor. Notwithstanding the foregoing or anything herein to the contrary, the proceeds of any insurance award shall be invested, pending disbursement or use as provided in this Lease, as then permitted by applicable law (“Permitted Investments”).

Section 7.02. Condemnation.

(A) Immediately after the commencement of any condemnation or similar proceedings by a third party in the exercise of a power of eminent domain, or a power in the nature of eminent domain which in any way affects the Leased City Premises, the City shall immediately notify the Issuer and the Bondholders in writing. The Net Proceeds of any condemnation award or other compensation paid by reason of a conveyance in lieu of the exercise of such power, with respect to the Leased City Premises or any part or portion thereof shall be paid to the Bondholders to be held in an appropriately designated fund. The City may, in its discretion, within 60 days of receipt of such condemnation award or compensation, by
written notice to the Issuer and the Bondholders, elect to have such Net Proceeds or other compensation applied to prepayment of rent hereunder, in which event such proceeds shall be applied to prepayment of such Bonds as shall be designated by the City and the City shall pay any additional amount required to effect such prepayment or the City may elect to replace or restore the part or portion of the Leased City Premises affected by such taking or conveyance, in which event the City shall promptly proceed to replace or restore such part or portion of the Leased City Premises, including any fixtures, furniture, equipment and effects, to its original usefulness and condition or a condition of at least an equivalent value immediately prior to such event, insofar as possible. The moneys required for such replacement or restoration shall be paid: (i) from the Net Proceeds of such condemnation award, or other compensation, which Net Proceeds or other compensation shall be transferred to a reconstruction fund held by or on behalf of the Bondholders (in escrow or as otherwise acceptable to the Bondholders) and disbursed in accordance with a requisition procedure acceptable to the Bondholders; and (ii) to the extent that such proceeds are not sufficient, from moneys to be provided by the City, to the extent authorized by law and to the extent moneys are lawfully available therefor.

(B) Notwithstanding the foregoing, the proceeds of any condemnation award or other compensation shall be invested, pending disbursement or use as provided herein in Permitted Investments, as then permitted by applicable law.
ARTICLE VIII
ADDITIONAL COVENANTS OF THE LESSEE AND OTHERWISE

Section 8.01. Maintenance of Existence. The City agrees that it will do or cause to be done all things necessary to preserve and keep in full force and effect its existence.

Section 8.02. [Reserved].

Section 8.03. Books and Records. The City will keep books and records of account with respect to all transactions relating to the Leased City Premises, in which complete and correct entries shall be made of all transactions relating to the Leased City Premises, and any Holder of a Bond or Bonds shall have the right at all reasonable times to inspect the Leased City Premises and all parts or portions thereof and all records, accounts and data of the City relating thereto.

The accounting system for the Leased City Premises shall follow current generally accepted accounting principles and safeguards to the extent allowed and as prescribed by applicable law. Separate control accounting records shall be maintained by the City. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the City. The City shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the supervision of the City shall be reported to such agent of the City as the City shall direct.

The City shall, at least once a year, cause its books, records and accounts to be audited by the West Virginia Department of Tax and Revenue, or independent certified public accountants and upon receipt of the report of such Department or independent certified public accountants, shall immediately mail such report to any Holder or Holders of Bonds. The City shall provide a copy of such annual audit report to the Holder or Holders of Bonds within two hundred seventy (270) days following the conclusion of the City’s Fiscal Year, or if such audit report is not available at that time, the City shall provide the same to the Holder or Holders of Bonds within five (5) business days of the same being provided to the City. In addition, the City will provide Holder or Holders of Bonds with any other information about the City’s operations, financial affairs and condition within thirty (30) days following such Holder’s reasonable written request therefore.

Section 8.04. No Representation by Issuer as to Condition or Suitability. The City acknowledges (i) that the Issuer has acquired Title to the Leased City Premises in connection with this Lease and that the City has examined the Leased City Premises and knows the condition thereof and accepts the same in said condition, (ii) that the Issuer has made no warranty, either express or implied, as to the condition of the Leased City Premises or any part or portion thereof or that the Leased City Premises will be suitable for the City’s purposes or needs, and (iii) that the City in entering this Lease is relying solely upon its own knowledge of the Leased City Premises.

Section 8.05. Liens and Encumbrances. The City and the Issuer covenant that they will not, directly or indirectly, create, assume, incur or suffer to exist any mortgage, pledge,
encumbrance, lien, security interest or charge of any kind upon the Facilities or upon any income, revenues, receipts or proceeds of the Issuer or the City in respect of the Leased City Premises except Permitted Encumbrances and except as expressly allowed herein.

Section 8.06. City Authorization. The City covenants and warrants that it is duly authorized, under the Constitution and laws of the State and under all other applicable provisions of law, to execute and deliver this Lease, that all action on its part for the authorization of this Lease has been duly and effectually taken, that the Lease is and will be a valid and enforceable obligation of the City in accordance with its terms and as herein set forth, and that the City now has or will use its best efforts to obtain complete and lawful authority and privilege to maintain and operate the Leased City Premises and that no consents, certificates, orders, permits, rights, franchises, registrations, licenses, exemptions, filings, approvals, authorizations, declarations or privileges of the City, all of which are currently in full force and effect, will be allowed to lapse or be forfeited so long as the same shall be necessary for the operation and/or maintenance of the Leased City Premises and that it will procure the extension or renewal of each and every permit, consent, certificate, order, right, franchise, registration, license, exemption, filing, declaration, approval, authorization or privilege so expiring and necessary or desirable for the operation and/or maintenance of the Facilities.

Section 8.07. Indemnity. To the fullest extent allowed by law and the Constitution of the State, the City will pay, and will protect, indemnify and save the Issuer and the Bondholders harmless from and against any and all liabilities, losses, damages, costs and expenses (including attorneys fees and expenses of the Issuer and the Bondholders), causes of actions, suits, claims, demands, actions, proceedings and judgments of any nature arising from or caused by:

(1) Any injury to or death of any person or damage of property in or upon the Leased City Premises, or growing out of or connected with the use, nonuse, condition or occupancy of the Leased City Premises or a part or portion thereof; any repairs, construction or alterations and remodeling thereto or the condition of the Leased City Premises and any equipment or facilities at any time located on the Facilities or used in connection therewith;

(2) Violation of any agreement, warranty, covenant or condition hereof, except by the Issuer;

(3) Violation of any lease, contract, agreement or restriction by or upon the City relating to the Facilities, which shall have existed at the commencement of the Lease Term; and

(4) Violation of any law, ordinance, regulation, franchise or court order affecting the Leased City Premises or a part thereof or the ownership, occupancy or use thereof.

Section 8.08. Maintenance of Security Interests, Etc. The City will execute all documents, agreements and instruments, including, without limitation, financing statements provided for by the Uniform Commercial Code of the State, deemed necessary or advisable in the opinion of independent counsel for perfection of and continuance of the perfection of the liens, pledges and security interests created by this Lease, the Deed of Trust, the Assignment or the Issuer Resolution. However, all obligations of the City under this Section 8.08 are subject to the condition that the Issuer shall execute all documents, agreements and instruments, including,
without limitation, all such financing statements, required of it in the opinion of independent
counsel, and will file and record all such documents, agreements and instruments executed by the
City and the Issuer, or cause them to be filed and recorded, and shall continue the security
interests, pledges and liens of all such documents, agreements and instruments by appropriate
refiling and re-recording as specified in the opinion of independent counsel, or cause them to be
so continued, for as long as any Bonds shall remain outstanding.

Section 8.09. Granting of Easements. If no Event of Default under this Lease shall
have happened and be continuing, the City and the Issuer may at any time or times (i) grant
easements, licenses, rights of way (including the dedication of public highways) and other rights
or privileges in the nature of easements with respect to any property included in the Facilities,
free from any lien or (ii) release existing easements, licenses, rights of way and other rights or
privileges with respect to any property included in the Facilities, all with or without
consideration and upon such terms and conditions as the City and the Issuer shall determine, and
the Issuer agrees that it will execute and deliver any instrument necessary or appropriate to
confirm and grant or release any such easement, license, right-of-way or other right or privilege
or any such agreement or other arrangements, upon receipt by the Issuer and the Bondholders of:
(a) a copy of the instrument of grant or release or of the agreement or other arrangement, (b) a
written application signed by an authorized officer of the entity requesting such instrument, (c) a
certificate executed by an Authorized Representative of the City stating that such grant or release
is not detrimental to the use of the Facilities as intended, and (d) other evidence satisfactory to
the Issuer and the Bondholders that action will not materially adversely affect the value of the
Facilities. Any such easement or right and the rights of such other parties thereunder shall not be
affected by any termination of this Lease or default on the part of the City hereunder.

If no Event of Default shall have happened and be continuing, any payments or other
consideration received by the City for any such grant or with respect to or under any such
agreement or other arrangement shall be and remain the property of the City but, in the event of
the termination of this Lease or default of the City, all rights then existing of the City with
respect to or under such grant shall inure to the benefit of and be exercisable by the Issuer and
the Bondholders. No conveyance or release effected under the provisions of this Section shall
entitle the City to any abatement or diminution of the rent payable hereunder.

Section 8.10. [Reserved].

Section 8.11. Continued Operation of Leased City Premises. In the event the City
gives notice to the Issuer and all Bondholders of its election to exercise its option to terminate
this Lease at the end of the then current Fiscal Year as provided in Section 5.01 hereof, the City
covenants and agrees to use its best efforts to assign this Lease or sublease the Leased City
Premises or otherwise cause the Leased City Premises to be operated or managed as a revenue-
producing facility on substantially the same basis as provided in this Lease; provided, however,
that no such assignment, sublease or management or operating agreement or contract shall be
entered into without the prior written consent of the Issuer and all of the Bondholders.
ARTICLE IX
COVENANTS OF THE ISSUER

Section 9.01. Restriction on Sale, Etc. The Issuer and the City acknowledge and agree that the Lease Rentals payable under this Lease are assigned and pledged as security for the Bonds issued under the Issuer Resolution and that the Issuer has entered into certain covenants with the Bondholders in the Issuer Resolution and the Assignment which may affect the Leased City Premises and this Lease in the event of default hereunder. The Issuer agrees that it will not, except as contemplated herein, in the Issuer Resolution, or in the Assignment, enter into any other contract or agreement affecting this Lease, the Lease Rentals payable hereunder or the Leased City Premises in any way or assign the same as security for any other obligations of the Issuer without the prior written consent of the City.

Section 9.02. Prepayment of Bonds. If the City is not in default hereunder and if the lawfully available moneys are sufficient to effect such prepayment, the Issuer, at the request at anytime of the City, shall forthwith take all steps that may be necessary under the applicable prepayment provisions of the Issuer Resolution and the Bonds to effect prepayment of all or part of the then outstanding Bonds, as may be specified by the City on the earliest prepayment date on which prepayment may be made under such applicable provisions.

Section 9.03. Nature of Issuer's Covenants. The City acknowledges and agrees that any obligation of the Issuer created by or arising out of this Lease shall be payable solely out of the proceeds derived from the Lease, the sale of the Bonds, the proceeds of collateral pledged therefor, and any insurance and condemnation award received pursuant hereto. The foregoing limitation shall not, however, preclude the City from seeking injunctive relief in any court to compel the Issuer to perform any such obligation.
ARTICLE X
EVENTS OF DEFAULT AND REMEDIES THEREFOR

Section 10.01. Events of Default Defined. The following shall be “Events of Default” under this Lease and the terms Event of Default or Default shall mean any one or more of the following events:

(A) Failure of the City to pay the rent required to be paid under Section 5.02 hereof as when due and payable; or

(B) Failure of the City and/or the Issuer to perform any other covenant, condition or provision hereof and to remedy such failure within 30 days after notice thereof from the Issuer or any Bondholder to the City or from any Bondholder or the City to the Issuer, as the case may be; or

(C) If any representation or warranty made by the City in any statement or certificate furnished to the Issuer or the Bondholders in connection with the sale of the Bonds or furnished by the City pursuant hereto proves untrue in any material respect as of the date of the issuance or making thereof and shall not be made good within 30 days after notice thereof to the City by the Issuer; or

(D) Any judgments, writs of execution, warrants of attachment or any similar process in an aggregate amount in excess of $1,000,000 shall be entered or filed against the City or against any of its property and remains unvacated, unpaid, unbonded or unstayed for a period of 30 days; or

(E) If the City admits insolvency or bankruptcy or its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors or applies for or consents to the appointment of a trustee or receiver for the City, or for any part of its property; or

(F) If a trustee or receiver is appointed for the City or for any part of its property and is not discharged within 60 days after such appointment; or

(G) If bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings or other proceedings for relief under any bankruptcy law or similar law for the relief of debtors are instituted by or against the City, and if instituted against the City are allowed against the City or are consented to or are not dismissed, stayed or otherwise nullified within 60 days after such institution;

(H) If the City abandons substantially all of the Facilities (except as permitted by this Lease) for a period of 30 consecutive days; or

(I) If there shall occur an “Event of Default” under the Issuer Resolution or a default under the Assignment.

Section 10.02. Remedies on Default. If any Event of Default shall occur and be continuing, the Issuer may, at its option and with the consent of the Bondholders, exercise any one or more of the following remedies:
(A) The Issuer may terminate this Lease by giving to the City notice of the Issuer’s intention so to do, in which event the Lease Term shall end, and all right, title and interest of the City hereunder shall expire, on the date stated in such notice, which shall not be less than 10 days after the date of the notice by the Issuer of its intention so to terminate; or

(B) The Issuer may terminate the right of the City to possession of the Leased City Premises or any portion thereof by giving notice to the City that the City’s right of possession shall end on the date stated in such notice, which shall not be less than 10 days after the date of notice by the Issuer of its intention so to terminate; or

(C) The Issuer may enforce the provisions of this Lease and may enforce and protect the right of the Issuer hereunder by a suit or suits in equity or at law for the specific performance of any covenant or agreement contained herein or for the enforcement of any other appropriate legal or equitable remedy; or

(D) The Issuer may accelerate and declare all future rent hereunder to be immediately due and payable; provided, however, that rent payable as interest on the Bonds upon any such acceleration shall be limited to the interest due on the Bonds until payment of the Bonds and the interest thereon in full; or

(E) The Issuer may, upon written notice to the City, revoke or rescind any and all rights and options of the City hereunder.

Section 10.03. Right of Re-Entry. If an Event of Default shall occur, the Issuer may then or at any time thereafter re-enter and take complete and peaceful possession of the Leased City Premises or any portion thereof, with or without process of law, and may remove all persons therefrom, and the City covenants that, in any such event it will peacefully and quietly yield up and surrender the Leased City Premises and any part or portion thereof to the Issuer.

Section 10.04. Right to Sublet or Relet. If the Issuer terminates the City’s right of possession pursuant to subparagraph (B) of Section 10.02, the Issuer may re-enter the Leased City Premises or any part or portion thereof and take possession of all or any part or portion thereof (including any and all equipment and apparatus thereon), may remove any portion of the equipment, machinery or apparatus thereon not subject to a conditional sale agreement, equipment lease, or lease purchase agreement in favor of third parties, which the Issuer elects so to do, and may, except as otherwise expressly provided herein, sublet or relet the Leased City Premises or any part or portion thereof from time to time for all or any part of the unexpired part of the then Lease Term or for a longer period, and the Issuer may collect the rents from such reletting or subletting and apply the same, first, to the payment of the expense of re-entry and reletting, and second, to the payment of the rents payable hereunder and in the event that the proceeds from such reletting and subletting are not sufficient to pay in full the foregoing, the City shall, subject to the City’s option to terminate this Lease at the end of the then current Fiscal Year pursuant to Section 5.01 hereof, remain and be liable therefor, and the City promises and agrees to pay the amount of any such deficiency from time to time and the Issuer may at any time and from time to time sue and recover judgment for any such deficiency or deficiencies.
Section 10.05. Damages in the Event of Termination. In the event of the termination of this Lease by the Issuer pursuant to Section 10.02 hereof, the Issuer shall be entitled to recover immediately from the City, to the fullest extent allowed by law: (i) the aggregate principal amount of all Bonds then outstanding, together with any prepayment premium due thereon, if any; (ii) the total amount of all unpaid interest accrued or to accrue until payment of all Bonds; and (iii) such amounts as will be sufficient to pay all costs and expenses, including attorneys’ fees, which the Issuer, the Trustee and the Bondholders shall have sustained by reason of the breach of any of the covenants of this Lease other than for the payment of rent.

Section 10.06. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Issuer is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

Section 10.07. Agreement to Pay Attorneys’ Fees and Expenses. In the event the City should default under any of the provisions of this Lease and the Issuer or the Bondholders should employ attorneys or incur other expenses for the collection of rent or the enforcement of performance or observance of any obligation or agreement on the part of the City herein contained, the City agrees that it will on demand therefor pay from lawfully available funds to the Issuer, the trustee under the Deed of Trust, or the Bondholders the reasonable fees of such attorneys and such other expenses so incurred by the Issuer, the trustee under the Deed of Trust or the Bondholders.

Section 10.08. No Additional Waiver Implied by One Waiver. In the event the breach of any agreement contained herein should be waived by either party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 10.09. Waiver of Stay or Extension Laws. The City covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Lease, the Issuer Resolution or the Assignment; and the City (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Issuer or the Bondholders, but will suffer and permit the execution of every such power as though no such law had been enacted.

Section 10.10. Remedies to be Performed by the Bondholders. Notwithstanding any provision in this Article X to the contrary, to the extent provided in the Assignment, the Bondholders shall have the right to effect any remedy hereunder. The Issuer shall cooperate fully with the Bondholders in performing or effecting any such remedy.
ARTICLE XI
GENERAL

Section 11.01. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by registered or certified mail, return receipt requested, postage prepaid, with proper address as indicated below. The Issuer, the City, the Paying Agent and the original Purchaser may, by written notice given by each to the others, designate any address or addresses to which notices, certificates or other communications to them shall be sent when required as contemplated hereby. Until otherwise provided by the respective parties, all notices, certificates and communications to each of them shall be addressed as follows:

ISSUER:

Morgantown Land Reuse and Preservation Agency
c/o City of Morgantown
389 Spruce Street
Morgantown, West Virginia 26505
Attention: Chairman

CITY:

City of Morgantown
389 Spruce Street
Morgantown, West Virginia 26505
Attention: City Manager

REGISTRAR/PAYING AGENT/DEPOSITORY BANK:

__________________
__________________
__________________
Attention: __________

PURCHASER:

__________________
__________________
__________________
Attention: __________

Section 11.02. Assignment of Lease. The City shall not, without the prior written consent of the Issuer and all of the Bondholders, assign this Lease or any portion hereof, subject to the provisions of Section 6.05 hereof. Any such assignment shall be for a public purpose. Simultaneously with the delivery hereof, this Lease has been conditionally assigned by the Issuer pursuant to and by the Assignment to the Purchaser, and the City consents to such conditional assignment by the Issuer to the Purchaser.
Section 11.03. Binding Effect. This Lease shall inure to the benefit of and shall be binding upon the Issuer and the City and their respective successors and permitted assigns.

Section 11.04. Severability. If any provision of this Lease, including, without limitation, the remedies granted hereunder, shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or Sections in this Lease contained, shall not affect the remaining portions of this Lease, or any part thereof.

Section 11.05. Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State.

Section 11.06. Amendments, Changes and Modifications. Except as otherwise provided in this Lease, but only with the written consent of all the Bondholders subsequent to the issuance of the Bonds and before the Issuer Resolution and the Assignment are satisfied and discharged in accordance with their terms, this Lease may not be effectively amended, changed, modified, altered or terminated nor may any provision be waived hereunder.

Section 11.07. Survival. All covenants, representations or warranties contained herein or in any certificates delivered pursuant hereto, shall survive delivery and termination of this Lease and payment of the Bonds.

Section 11.08. Execution Counterparts. This Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.
IN WITNESS WHEREOF, the MORGANTOWN LAND REUSE AND PRESERVATION AGENCY and the CITY OF MORGANTOWN have caused this Lease to be executed in their respective corporate names, and have caused their corporate seals to be hereunto affixed and attested by their respective officers thereunto duly authorized, all as of the date first above written.

MORGANTOWN LAND REUSE AND PRESERVATION AGENCY

By: ____________________________
   Its Chairman

ATTEST:

By: ____________________________
   Its Secretary

CITY OF MORGANTOWN

By: ____________________________
   Its Mayor

ATTEST:

By: ____________________________
   Its City Manager

THE FOREGOING INSTRUMENT WAS PREPARED BY:
Steptoe & Johnson PLLC
Thomas L. Aman, Jr.
400 White Oaks Boulevard
Bridgeport, WV 26330

S-1 Agreement and Lease
STATE OF WEST VIRGINIA,

COUNTY OF MONONGALIA, To-Wit:

The foregoing instrument was acknowledged before me this ______________, 2019, by David Satterfield, CHAIRMAN of the Morgantown Land Reuse and Preservation Agency, a public corporation and municipal land reuse agency, on behalf of said public corporation.

My commission expires: _______________________________

[NOTARIAL SEAL]

__________ Notary Public

STATE OF WEST VIRGINIA,

COUNTY OF MONONGALIA, To-Wit:

The foregoing instrument was acknowledged before me this ______________, 2019, by William Kawecki, MAYOR of the CITY OF MORGANTOWN, a municipal corporation and political subdivision of the State of West Virginia, on behalf of said municipal corporation.

My commission expires: _______________________________

[NOTARIAL SEAL]

__________ Notary Public
STATE OF WEST VIRGINIA,

COUNTY OF MONONGALIA, To-Wit:

The foregoing instrument was acknowledged before me this _____________, 2019, by Paul Brake, CITY MANAGER of the CITY OF MORGANTOWN, a municipal corporation and political subdivision of the State of West Virginia, on behalf of said municipal corporation.

My commission expires: ________________________________

[NOTARIAL SEAL]

__________________________
Notary Public
EXHIBIT A - REAL ESTATE DESCRIPTION
LEASE ASSIGNMENT

THIS LEASE ASSIGNMENT, dated as of _________, 2019 ("Assignment"), by and between the MORGANTOWN LAND REUSE AND PRESERVATION AGENCY, a public corporation and municipal land reuse agency, organized and existing under and by virtue of the provisions of the Constitution and laws of the State of West Virginia (the "Issuer" or "Lessor"), and ________________, a ____________ banking corporation (the "Purchaser").

WITNESSETH:

WHEREAS, pursuant to the authority of Chapter 31, Article 18E, of the West Virginia Code of 1931, as amended (the "Act"), The City of Morgantown (the "City") enacted an ordinance on August 7, 2018, creating the Issuer;

WHEREAS, the Issuer has acquired, pursuant to such deed or deeds, bills of sale and other instruments of transfer as may be necessary and appropriate under the circumstances (collectively, the "Conveyance Documents") the real property, rights of way, improvements, fixtures, equipment, personal property and appurtenances associated therewith, consisting of the building located at 430 Spruce Street within the City (the "Annex Property"), a portion of which are being leased to the City for use as a City Hall Annex and related purposes, which real property and appurtenances shall be more particularly described in EXHIBIT A – REAL ESTATE DESCRIPTION, attached hereto and made a part hereof (the "Annex Real Property"; such Annex Real Property, together with the Annex Property, including, but not limited to, all additions and improvements thereto now or hereafter acquired, created or constructed, of every kind and nature, herein called the "Facilities");

WHEREAS, pursuant to a Bond Authorizing Resolution adopted by the Issuer on _________, 2019, as supplemented by a Supplemental Resolution dated _________, 2019 (collectively, the "Issuer Resolution") the Issuer has authorized and issued its Lease Revenue Bonds, Series 2019 (City Hall Annex), in an aggregate principal amount of $_______ (the "Bonds") to (i) pay the costs of acquiring, improving and equipping the Annex Property, [and] (ii) pay costs of issuance of the Bonds and related costs[, (iii) fund a reserve account, if any, for the Bonds, and (iv) pay capitalized interest, if any, on the Bonds];

WHEREAS, the Bonds have been purchased by the Purchaser on the date hereof;

WHEREAS, the Issuer has leased a portion of its interest in the Facilities to the City, consisting of the basement and first floor levels of the structure located on
the Annex Property and five (5) parking spaces in the parking lot located on the Annex Property to be designated by the Issuer and the City (collectively, the “Leased City Premises”), pursuant to an Agreement and Lease of even date herewith between the Issuer, as lessor, and the City, as lessee (the “Lease”), in order to provide for and secure the payment of the principal of and interest on the Bonds and to provide for the operation, maintenance and administration of the Facilities;

WHEREAS, the Issuer deems this Assignment and the terms hereof proper, necessary and advisable in connection with exercising powers as provided in the Act;

WHEREAS, all things necessary to make the Bonds, when authenticated and issued as in the Issuer Resolution provided, the valid, binding and legal obligations of the Issuer according to the import thereof, and to constitute this Assignment a valid assignment of the Lease Rentals (as defined in the Lease), issues and profits derived from the Lease to secure the payment of the principal of and interest on the Bonds and a valid assignment of the rights of the Issuer under the Lease (with the exception of certain rights of the Issuer to indemnification and payment of costs under the Lease), all subject to the terms hereof, have been done and performed, and the creation, execution and delivery of this Assignment, and the authorization, execution, issuance and delivery of the Bonds, subject to the terms thereof, have in all respects been duly authorized;

WHEREAS, the Issuer has duly authorized the execution and delivery of this Assignment by the Issuer Resolution;

WHEREAS, the City has duly authorized the execution and delivery of this Assignment by an ordinance enacted by the City on __________, 2019, as supplemented by a Supplemental Resolution dated __________, 2019 (collectively, the “City Ordinance”);

NOW, THEREFORE, the Issuer, in consideration of the foregoing, does hereby ASSIGN, TRANSFER and SET OVER unto the Purchaser, its successors and assigns, all of the Issuer’s right, title and interest in, to and under the Lease (the Leased City Premises leased pursuant to the Lease, hereinafter the “Assigned Facilities”), and all amendments to the Lease and future leases of the Assigned Facilities, including all property described in EXHIBIT A - REAL ESTATE DESCRIPTION, attached hereto as a part hereof, or any portion thereof; the Lease Rentals, issues and profits payable or arising therefrom, together with all moneys and investments in any fund or account established under the Lease (with the exception of the rights of the Issuer to indemnification and the reimbursement of its costs as provided for in the Lease), until the principal of and interest on the Bonds and all other fees, charges and expenses in connection therewith shall have been fully paid and satisfied or until the Purchaser shall be entitled to possession by order of court, operation of law or otherwise, such assignment to be subject to the following terms and conditions:
Section 1. So long as no Event of Default (as defined in the Issuer Resolution or in the Lease) or default hereunder or under the Lease, shall have occurred, which shall not have been cured, the Purchaser will not exercise any of its rights hereunder, except as otherwise expressly provided in the Lease or in the Issuer Resolution; provided, however, that upon the occurrence of any Event of Default or default hereunder or under the Lease, then for so long as such Event of Default or default shall continue uncured, at the option of the Purchaser, the Purchaser shall have any and all of the rights hereinafter provided, including, without limitation, the right to collect such Lease Rentals, issues and profits; provided further, that if any such Event of Default or default shall be deemed to be waived, any exercise of the foregoing option shall be deemed to be rescinded and this Assignment shall be deemed to be reinstituted in the same manner and to the same extent as any such waiver under, rescission under or reinstatement of the Bonds pursuant to the Issuer Resolution.

Section 2. Subject only to the foregoing, the rights of the Purchaser hereunder in case of default shall be as follows:

(a) All sums collected and received by the Purchaser out of the Lease Rentals, issues and profits from the Lease and any other future leasing of the Assigned Facilities shall first be applied by it to the payment of: the costs of collection thereof; the costs of management, repair, upkeep and improvement of the Assigned Facilities, including all taxes, assessments, premiums for public liability insurance and other insurance premiums required to be carried, maintained and paid by the City, and under the laws of the State of West Virginia. The balance, if any, shall be applied to the repayment of the Bonds.

(b) The Purchaser may from time to time appoint such agents or employees as shall be necessary for the collection of the Lease Rentals, issues and profits and for the proper care and operation of the Assigned Facilities and dismiss the same, and the Issuer hereby grants to such agents or employees so appointed full and irrevocable authority on the Issuer's behalf to manage the Assigned Facilities and to do all acts relating to such management, including among others the making of new leases in the name of the Issuer or otherwise, the alteration, assignment, subleasing or amendment of existing leases, the authorization of repairs or replacements to maintain the building or buildings, other improvements and chattels situated upon the Assigned Facilities in good and tenantable condition, and making of such alterations or improvements as, in the judgment of the Purchaser, may be necessary to maintain or increase the income from the Assigned Facilities. The Purchaser shall have the sole control of such agents or employees whose remuneration shall be paid out of the Lease Rentals, issues and profits as hereinbefore provided, at the rate of compensation accepted in the community wherein the Assigned Facilities are situated, unless otherwise specified, and the Issuer, to the fullest extent allowed by law, hereby expressly releases the Purchaser of any liability to the Issuer for the acts of such agents and agrees that the Purchaser shall not be liable for its neglect (except for its gross negligence or reckless conduct,
to the extent allowed by law) or for monies that come into its hands unless actually received by the Purchaser at its principal banking office.

Section 3. The Issuer further agrees that nothing in this Assignment shall be construed to limit or restrict in any way the rights and powers granted to the Purchaser under or by the provisions of the Bonds, the Issuer Resolution, the Credit Line Deed of Trust, Fixture Filing and Security Agreement, dated ______, 2019, by and among the Issuer, the trustee named therein and the Purchaser, for the benefit and security of the Purchaser (the "Deed of Trust"), or any other instrument, agreement or document securing payment of, or otherwise executed and delivered in connection with the issuance of the Bonds. The application of the Lease Rentals, issues and profits derived from the leasing of the Assigned Facilities to the Bonds or other purposes above mentioned shall not operate in any way to waive any default which might hereafter exist under the Bonds, the Issuer Resolution, the Deed of Trust or any other instrument, agreement or document securing payment of, or otherwise executed and delivered in connection with the issuance of the Bonds. The Issuer expressly agrees that the collection of such rents, issues and profits hereafter to be made shall not constitute a waiver of any default and that the Purchaser, by accepting this Assignment, does not hereby release any security it may hold for the Bonds, or any part thereof or in any way extend the time for payment of the Bonds, or any part thereof.

Section 4. This Assignment is made subject to all of the terms, covenants and conditions of the Issuer Resolution, which are made a part hereof and incorporated herein by this reference, and in the event any provision of this Assignment conflicts with any provision of the Issuer Resolution, the provisions of the Issuer Resolution shall govern, notwithstanding anything herein to the contrary.

Section 5. In the event the Bonds are assigned, sold or otherwise conveyed to a registered owner other than the Purchaser, this Assignment shall be assigned by the Purchaser to such registered owner.

Section 6. This Assignment shall be binding upon the Issuer, its successors and assigns, and shall inure to the benefit of the Purchaser, and its successors and assigns.

Section 7. This Assignment is governed by and shall be construed in accordance with the laws of the State of West Virginia.

Section 8. References in this Assignment to any other document, agreement or instrument or documents, agreements or instruments are and shall be references to such other document, agreement or instrument, or documents, agreements or instruments as the same may from time to time be duly modified, amended, supplemented, renewed or extended in accordance with the terms hereof.

Section 9. If any provision of this Assignment, including, without limitation, the remedies granted hereunder, shall be held or deemed to be or shall, in
fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions or any constitution or statute or rule of public policy, or for any reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.
IN WITNESS WHEREOF, the MORGANTOWN LAND REUSE AND PRESERVATION AGENCY has caused this Lease Assignment to be executed in its name and on its behalf by its officers thereunto duly authorized, all as of the date and year first above written.

MORGANTOWN LAND REUSE AND PRESERVATION AGENCY

By: ____________________________
   Its Chairman

ATTEST:

By: ____________________________
   Its Secretary

THIS INSTRUMENT WAS PREPARED BY:
Steptoe & Johnson PLLC
Thomas L. Aman, Jr.
400 White Oaks Boulevard
Bridgeport, WV 26330

S-1 Lease Assignment
STATE OF WEST VIRGINIA,

COUNTY OF MONONGALIA, To-Wit:

The foregoing instrument was acknowledged before me this __________, 2019, by David Satterfield, CHAIRMAN of the MORGANTOWN LAND REUSE AND PRESERVATION AGENCY, a public corporation and municipal land reuse agency, on behalf of such public corporation.

My commission expires ________________________.

[NOTARIAL SEAL]

_____________________________________
Notary Public
EXHIBIT A - REAL ESTATE DESCRIPTION
ASSIGNMENT OF FUNDS AND ACCOUNTS

WHEREAS, on the date hereof the Morgantown Land Reuse and Preservation Agency, a public corporation and municipal land reuse agency of the State of West Virginia (the “Issuer”) has issued its Lease Revenue Bonds, Series 2019 (City Hall Annex), dated ________, 2019, issued in the original aggregate principal amount of $__________ (the “Bonds”);

WHEREAS, the Bonds were issued for the purposes of financing costs of: (i) acquiring, equipping and improving the real property, rights of way, improvements, fixtures, equipment, personal property and appurtenances associated with the building and related improvements located at 430 Spruce Street within the City (the “Annex Property”), a portion of which is to be leased to the City for use as a City Hall Annex and related purposes, [and] (ii) paying costs of issuance of the Bonds[, (iii) funding a reserve account, if any, for the Bonds, and (iv) paying capitalized interest, if any, on the Bonds];

WHEREAS, the Bonds have been purchased on the date hereof by _________________. __________, __________, a __________ banking corporation (the “Purchaser”);

WHEREAS, in connection with the issuance of the Bonds, the Issuer and The City of Morgantown (the “City”) have entered into a certain Agreement and Lease, dated ________, 2019 (the “Lease”), by and between the Issuer, as lessor, and the City, as lessee, pursuant to which the Issuer has established certain funds and accounts with __________, as Paying Agent and Depository Bank for the Bonds;

WHEREAS, such funds and accounts established with the Paying Agent and Depository Bank include a Project Fund (Account # _____) (the “Project Fund”), the Costs of 8478673
Issuance Fund (Account # _____) (the “Costs of Issuance Fund”) and a Sinking Fund (Account # _____) (the “Sinking Fund”).

NOW, THEREFORE, WITNESSETH:

1. For so long as the Bonds are outstanding and unpaid, the Issuer does hereby assign and grant a security interest in the funds and accounts established with the Paying Agent and Depository Bank pursuant to the Lease, including but not limited to the Project Fund, the Costs of Issuance Fund and the Sinking Fund, in and to the Purchaser and any other registered owner of the Bonds from time to time to secure repayment of the Bonds by the Issuer.

2. The Project Fund, the Costs of Issuance Fund and the Sinking Fund will not be invaded by the registered owner of the Bonds unless and until an event of default has occurred pursuant to the terms of the Lease, the Issuer’s Bond Authorizing Resolution adopted on _______, 2019, as supplemented by a Supplemental Resolution dated _______, 2019, or the Credit Line Deed of Trust, Fixture Filing and Security Agreement, dated _______, 2019, by and among the Issuer, the trustee named therein and the Purchaser for the benefit and security of the Purchaser in the repayment of the Bonds.

3. If the Purchaser shall at any time transfer an interest in the Bonds to another party the Issuer, the City and the Purchaser agree to execute and deliver any account control agreements that may then be necessary to perfect the security interests in the Project Fund, the Costs of Issuance Fund and the Sinking Fund herein conveyed.

[Remainder of Page Intentionally Blank]
IN WITNESS WHEREOF, the MORGANTOWN LAND REUSE AND
PRESERVATION AGENCY and ____________________, have caused this Assignment of
Funds and Accounts to be executed in their respective corporate names all as of this ________,
2019.

MORGANTOWN LAND REUSE AND
PRESERVATION AGENCY

By: ________________________________
   Its: Chairman

ATTEST:

By: ________________________________
   Its: Secretary

[--INSERT BOND PURCHASER--]

By: ________________________________
   Its: ________________________________
A CREDIT LINE DEED OF TRUST, FIXTURE FILING AND SECURITY AGREEMENT

“THIS INSTRUMENT SECURES AN OBLIGATION THAT MAY INCREASE AND DECREASE FROM TIME TO TIME”

“THIS INSTRUMENT CONTAINS AFTER ACQUIRED PROPERTY PROVISIONS”

“THIS CREDIT LINE DEED OF TRUST IS FILED FOR RECORD IN THE REAL ESTATE RECORDS AS A FIXTURE FILING PURSUANT TO WEST VIRGINIA CODE SECTION 46-9-502”

THIS CREDIT LINE DEED OF TRUST, FIXTURE FILING AND SECURITY AGREEMENT ("Deed of Trust and Security Agreement"), dated as of ________, 2019, by and among the MORGANTOWN LAND REUSE AND PRESERVATION AGENCY, a public corporation and municipal land reuse agency of the State of West Virginia, as Grantor hereof (hereinafter called "Grantor"), whose address is c/o City of Morgantown, 389 Spruce Street, Morgantown, West Virginia 26505, Attention: Chairman: __________, as trustee, a resident of ________ County, State of West Virginia, whose address is __________, __________, West Virginia __________ (hereinafter called the "Trustee"); and __________, __________, a __________ banking corporation and any other registered owner of the Bonds (hereinafter defined) from time to time (hereinafter called "Lender" or "Beneficiary"), and whose address is __________, __________, __________.

WITNESSETH:

That for and in consideration of the indebtedness and trusts hereinafter set forth and the sum of Ten Dollars ($10.00), cash in hand paid, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby grant and convey unto Trustee and, other than the Premises, to the Lender:

(A) All that certain real estate more particularly set forth and described in "EXHIBIT A - REAL ESTATE DESCRIPTION," attached hereto and made a part hereof, together with all buildings and improvements thereon and all rights, privileges, easements, hereditaments and appurtenances thereunto belonging or appertaining (the "Premises");

(B) A security interest under Chapter 46, Article 9 of the Code of West Virginia 1931, as amended (the "Code") in and to all personal property and equipment financed with the proceeds of the Bonds (as hereinafter defined) owned by the Grantor or in which Grantor has a leasehold interest and which is located on 8477511
the Premises or used by the City of Morgantown (the "City") or any of its lessees or assigns in connection with the operation of the Premises (the "Personal Property");

(C) A security interest pursuant to the Code in and to all monies of the Grantor from time to time on deposit in the Project Fund, the Costs of Issuance Fund, the Sinking Fund or any other fund or account established for the Bonds (hereinafter defined) pursuant to the Agreement and Lease, dated as of __________, 2019 (the "Lease"), by and between the Grantor and the City, pursuant to which the Grantor will lease a portion of the Premises unto the City in connection with the issuance of the Bonds (the "Funds");

(D) All receipts, revenues, user fees, concessions, rents, royalties, income and other moneys received by or on behalf of the Grantor from the ownership, leasing or operation of the Premises, including, but without limiting the generality of the foregoing, all payments received pursuant to the Lease, insurance and condemnation proceeds with respect to the Premises or any part or portion thereof which have not been applied to the repair or reconstruction of the Premises, and all rights to receive the same, whether in the form of accounts, accounts receivable, contract rights or other rights, and the proceeds of such rights, and whether now owned or held or hereafter coming into existence (collectively, the "Gross Receipts");

(E) Any and all fixtures of every kind financed with the proceeds of the Bonds which are or shall be attached to, or be deemed to be fixtures and a part of, the Premises, and together also with all fixtures hereafter owned by Grantor or in which it has or shall have an interest, procured for incorporation in or to be affixed to buildings or other improvements on the Premises or appurtenances thereto, and all easements and rights-of-way (collectively, the "Fixtures"); and

(F) All right, title and interest of the Grantor, as lessor or sublessor, in and to any and all leases and subleases of the Premises or portion thereof, now existing or hereafter executed by the Grantor, all of which, together with the Premises, the Personal Property, the Funds, the Gross Receipts and the Fixtures, shall secure the indebtedness herein described and covered by this Deed of Trust and Security Agreement and is sometimes herein referred to collectively as the "Secured Property."

TO HAVE AND TO HOLD the Secured Property unto the Trustee or the Lender, or both, as the case may be, and their successors in trust forever, and Grantor does hereby covenant to and with Trustee and Lender, their successors and assigns, that Grantor will warrant generally the Secured Property hereby conveyed, that Grantor has the right to grant and convey the Secured Property to Trustee or the Lender, or both, as the case may be, that the same is free from any and all liens and encumbrances other than Permitted Encumbrances as defined in the Lease; that Trustee shall have quiet possession thereof and that Grantor will execute and deliver such other and further assurances of the Secured Property as may be requisite, including, but not limited to, the execution and delivery of financing statements, continuation statements and such other instruments as Lender may require to perfect
the lien and security interest hereof more specifically upon any item or items of property, or rights or interests therein, covered by this Deed of Trust and Security Agreement, and will do such other and further reasonable acts as Lender or Trustee may require to carry out more effectually the purposes of this Deed of Trust and Security Agreement.

IN TRUST NEVERTHELESS to secure the payment of a loan to Grantor from the Lender in the maximum aggregate principal amount of $__________, the principal amount of which has been advanced by the Lender to the Grantor and thereupon deposited in the Costs of Issuance Fund maintained by the Paying Agent and in the Project Fund maintained by the Depository Bank pursuant to the terms of the Lease (the “Loan”). The Loan is evidenced by those certain Morgantown Land Reuse and Preservation Agency Lease Revenue Bonds, Series 2019 (City Hall Annex), dated the date hereof, and issued in the original aggregate principal amount of $__________ (the “Bonds”). The address of said Lender, the beneficial owner of the indebtedness secured hereby at the time of execution and delivery hereof, is __________________________, __________________________. All notices of subsequent liens shall be sent to the Lender at this address for purposes of providing notice under Code § 38-1-14(e). This Deed of Trust and Security Agreement secures repayment of the Loan, the indebtedness of which is represented by the Bonds and also secures any and all replacements, extensions, modifications and/or renewals of said Loan and Bonds, or any part thereof, however changed in form, manner or amount, and all other indebtedness of Grantor to Lender or Trustee or otherwise, at any time and from time to time arising hereunder or under the Lease or the Bonds, and any and all replacements, extensions, modifications and/or renewals of such other indebtedness (all of which indebtedness, together with the interest thereon, is sometimes hereinafter collectively referred to as the “Secured Debt”).

Grantor, for and in the consideration aforesaid, covenants, represents, warrants and agrees as follows:

1. That it will, so long as the Secured Debt, or any part thereof, remains unpaid: (a) pay as and when due and payable (or cause the City or Third Party Tenants (as defined in the Lease) to pay pursuant to the Lease) all taxes, assessments, impositions and other governmental charges, fines and fees that may be levied or assessed against the Secured Property or any part thereof, including the buildings and improvements now situate on the Premises, or that may hereafter be erected thereon, and any improvements and additions made therein or thereto from time to time, all as provided in the Lease and subject to the terms thereof; (b) have and keep (or cause the City to have and keep pursuant to the Lease) the buildings and improvements now situate on the Premises or that may hereafter be erected thereon, and all other insurable property covered by this Deed of Trust and Security Agreement, constantly insured against loss or damage by fire and such other casualties, contingencies and hazards as set forth in the Lease and subject to the terms thereof; (c) keep and maintain (or cause the City to keep and maintain pursuant to the Lease) the Secured Property in good condition and repair and not abandon the same, or any part thereof, as provided in the Lease and subject to the

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terms thereof, nor commit or permit the commission of waste on or in the Secured Property, or any part thereof, or permit any building or improvement to be removed, destroyed, demolished or structurally altered in whole or in part except as permitted by the Lease, and Grantor shall comply (and cause the City to comply) with all leases and subleases of any part of the Secured Property, including, without limitation, the payment of all leasehold payments thereunder, and shall, as provided in the Lease and subject to the terms thereof, comply, and cause all occupants of the Secured Property or those in possession thereof to comply, with all laws, ordinances, orders, rules, regulations and requirements relating to the use or maintenance of the Secured Property and with all requirements, directions and orders and notices of violations thereof issued by any governmental agency, body or officer; (d) permit Trustee or Lender, or either of them, or their agents, to enter and inspect the Secured Property at all reasonable times; (e) pay to Trustee, or to Lender, upon demand, any and all sums of money, including all costs, expenses and reasonable attorneys’ fees, which Trustee or Lender may incur or expend in any action or proceeding that may concern the Secured Property, or any part thereof or interest therein, including without limitation any eminent domain proceeding, or any action or proceeding to sustain the lien of this Deed of Trust and Security Agreement, or its priority, or in defending any party thereto, or any party secured hereby, against the liens, demands or claims of title of any person, firm or corporation, asserting priority over this Deed of Trust and Security Agreement, or asserting title adverse to the title under which Trustee holds, or in the discharge of any such liens, demands or claims, or in connection with any action to foreclose this Deed of Trust and Security Agreement, or to recover any indebtedness secured hereby or any other payments made on behalf of the Grantor pursuant to the Lease.

2. The terms “hazardous waste,” “hazardous substance,” “disposal,” “release,” and “threatened release,” as used in this Deed of Trust and Security Agreement, shall have the same meanings as set forth in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. (“CERCLA”), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 (“SARA”), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or Federal laws, rules, or regulations adopted pursuant to any of the foregoing. The terms “hazardous waste” and “hazardous substance” shall also include, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos. Grantor represents, covenants, and warrants to Lender that: (a) During the period of Grantor’s ownership of the Premises, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any hazardous waste or substance by any person on, under, about or from the Premises; (b) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (i) any use, generation, manufacture, storage, treatment, disposal, release, or threatened release of any hazardous waste or substance on, under, about or from the Premises by any prior owners or occupants of the Premises or (ii) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (c) Except as
previously disclosed to and acknowledged by Lender in writing, (i) neither Grantor nor any tenant, contractor, agent or other authorized user of the Premises shall use, generate, manufacture, store, treat, dispose of, or release any hazardous waste or substance on, under, about or from the Premises and (ii) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation those laws, regulations, and ordinances described above. Grantor authorizes Lender and its agents to enter upon the Premises to make such inspections and tests, at Grantor’s expense, as Lender may deem appropriate to determine compliance of the Premises with this Section of the Deed of Trust and Security Agreement. Any inspections or tests made by Lender shall be for Lender’s purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations, covenants, and warranties contained herein are based on Grantor’s due diligence in investigating the Premises for hazardous waste and hazardous substances. To the extent permitted by applicable law, Grantor hereby (a) releases and waives any future claims against Lender and Trustee for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws, and (b) agrees to indemnify and hold harmless Lender and Trustee against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender or Trustee may directly or indirectly sustain or suffer resulting from a breach of this Section of this Deed of Trust and Security Agreement.

The Premises, or some substratum of the Premises, does not contain an underground storage tank or tanks. To the extent that there may be some obligation under state or federal law imposed upon the Lender or the Trustee with respect to any such underground storage tank, the Grantor warrants that such tank or tanks, and all lines and connections thereto have been properly inspected and tested, and all such tanks, lines and connections are tight such that there is no leakage therefrom. To the extent permitted by applicable law, Grantor hereby (a) releases and waives any future claims against Lender and Trustee for indemnity or contribution in the event Grantor becomes liable for clean-up or other costs associated with such tanks, lines and connections, and (b) agrees to indemnify and hold harmless Lender and Trustee against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender or Trustee may directly or indirectly sustain or suffer resulting from a breach of this Section of this Deed of Trust and Security Agreement or as a consequence of any use, storage, disposal, release or threatened release from such tanks, lines and connections, whether or not the same was or should have been known to Grantor.

The provisions of this Section of this Deed of Trust and Security Agreement, including the obligations to indemnify and hold harmless, shall survive the payment of the Secured Debt and the satisfaction and reconveyance of the lien of this Deed of Trust and Security Agreement and shall not be affected by Lender’s acquisition of any interest in the property, whether by foreclosure or otherwise.

3. The loan secured by this Deed of Trust and Security Agreement is in the maximum aggregate principal amount of $__________, plus interest thereon and taxes, insurance premiums and other obligations, including interest thereon, __________. 
undertaken by the Grantor due pursuant to the Grantor’s $______ principal
amount Lease Revenue Bonds, Series 2019 (City Hall Annex) (the “Bonds”),
the proceeds of which are being provided by Lender to Grantor and to the City pursuant
to the terms of a Bond Authorizing Resolution adopted by the Issuer on ______, 2019,
as supplemented by a Supplemental Resolution dated ______, 2019
(collectively, the “Issuer Resolution”) and the Lease for the purposes of financing
costs of the acquisition, equipping and improvement of the real property, rights of
way, improvements, fixtures, equipment, personal property and appurtenances
associated therewith, located at 430 Spruce Street, City of Morgantown, Monongalia
County (collectively, the “Annex Property”). The Issuer Resolution and the Lease
are hereby incorporated into and made a part of this Deed of Trust and Security
Agreement as if set forth in full herein.

4. In the event Grantor fails (a) to make any payment required, or fails
to comply with, perform or carry out any of the provisions of paragraphs 1 or 2
hereof, or (b) to perform any of the terms, covenants or agreements by Grantor to be
performed under the Lease or this Deed of Trust and Security Agreement or is
otherwise in default under the Lease or in the repayment of the Bonds, then, and in
any such event, Lender shall have the right, without notice to or demand upon
Grantor or any other person, to make any such payment, take any such action or do
any such thing as, in the exercise of Lender’s discretion, may be determined to be
reasonably necessary to protect the lien and security hereof as fully and completely
as if Grantor made each and every such payment when due, and kept, complied with,
performed and carried out the provisions of said paragraphs 1 and 2. Without
limiting the generality of the foregoing, Lender may, in any such event, (i) obtain the
required insurance covering the Secured Property and pay the premiums thereon or
pay any unpaid premiums on any insurance procured by Grantor; (ii) pay said taxes,
assessments, impositions and other governmental charges, fines and fees together
with any penalties and interest accrued thereon, and redeem the Secured Property
from a tax sale if it has been sold, and shall be subrogated to the lien of the
governmental body to which such payment was made; (iii) make and pay for any
and all repairs which Lender deems necessary to place or keep the Secured Property
in good condition and repair; (iv) stop or mitigate waste on or in the Secured
Property or any part thereof; (v) stop or prevent the removal, destruction, demolition
or structural alteration of any building or improvement on the Secured Property; (vi)
stop or prevent the violation of any law, ordinance, rule or regulation relating to the
use or maintenance of the Secured Property or of any requirement, direction or order
or notice of violation thereof issued by any governmental agency, body or officer;
(vii) pay all or any part of any sum or sums of money that may be due or payable
under the provisions of subparagraph (e) of paragraph 1 hereof; and (viii) pay all or
any part of the leasehold payments due and payable under any leases or subleases of
any of the Secured Property; and Grantor hereby promises to pay to Lender, or to
Trustee, as the case may be, upon demand, any and all sums of money paid out or
expended by them, or either of them, for any of the purposes set out in this
paragraph 4, together with interest thereon from the date of payment at the rate
provided in the Bonds, and agrees that any sum or sums of money so paid by Lender
or by Trustee, or either of them, shall thereupon be and become a part of the Secured

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Debt, including those moneys expended on behalf of the Grantor pursuant to the Lease and the Bonds, and shall be collectible as such, all without waiver of any right arising from the breach of or default in the performance of any warranty, covenant, condition, provision or agreement herein contained or contained in the Lease, including, without limitation, the right to enter and take possession of the Secured Property, and rent and manage the same, and the right to foreclose this Deed of Trust and Security Agreement; but nothing herein contained shall be construed as imposing any duty or obligation upon Lender, or upon Trustee, to pay any such sum or sums of money herein authorized to be paid, or to take any other action authorized hereunder.

5. Upon the occurrence of an Event of Default as defined in the Lease, or default by the Grantor in the repayment of the Bonds, or default by Grantor in any of its covenants hereunder (hereinafter collectively called an “Event of Default”), the Secured Debt shall at the option of Lender immediately become due and payable without notice to or demand on Grantor or any other person.

6. If any one or more Events of Default shall occur and be continuing, any one or more of the following rights and remedies shall exist, any two or more of which may be exercised concurrently:

(A) Without notice to or demand on Grantor or any other person, Trustee or Lender may forthwith, separately or jointly: (i) enter into and upon all of the Secured Property, or any part or portion thereof, either in person or by agent, and take possession of the Secured Property, or any part or portion thereof, without process of law, and without liability to Grantor or other owner or owners of the Secured Property, and manage and rent the same, collect and receive the rents, issues and profits thereof (past due, due or to become due) and apply the same to the payment of the Secured Debt, after first deducting the costs and expenses incurred in managing the Secured Property and in collecting said rents, issues and profits (including reasonable compensation for managing the same and collecting and disbursing said rents, issues and profits accruing therefrom), and after deducting such further amount or amounts as may be necessary to pay or reimburse the Lender and Trustee for any sum or sums of money paid by them, or any of them, under the provisions hereof, together with interest at the rate provided in the Bonds to the date of payment; or (ii) have a receiver appointed by any court having jurisdiction to take charge of the Secured Property, or any part or portion thereof, and collect, receive and apply the rents, issues and profits thereof. In either case, any person or persons in possession of the Secured Property, or any part or portion thereof, shall be deemed a tenant at will and shall at once surrender such possession on demand of Lender or Trustee or a receiver. It is understood and agreed by and between the parties hereto that nothing herein contained shall be construed as a substitute for, or in derogation of, the right to foreclose this Deed of Trust and Security Agreement or as imposing any duty or obligation upon Lender or upon Trustee, or any of them, to take charge of the Secured Property, or any part or portion thereof, to collect said rents, issues or profit or to have a receiver appointed for such purposes.
(B) Without notice to or demand on Grantor or any other person, Lender may at its option declare the Secured Debt to be immediately due and payable and upon the exercise of said option, the Secured Debt may be collected by proper action, foreclosure of this Deed of Trust and Security Agreement, or any other legal or equitable proceeding.

(C) At any time after the exercise by Lender of the option to declare the Secured Debt to be immediately due and payable, Trustee, upon the written request of Lender, shall foreclose upon and sell the Secured Property, or any part or portion thereof, at one or more successive sales, as an entirety or otherwise, both as the Trustee may deem expedient, to satisfy the Secured Debt at public auction or auctions at the front door of the courthouse of the county in which the Secured Property is situate, for cash in hand on the day of sale or upon such other terms as the Trustee or Lender may establish prior to the sale, after first giving legally sufficient notice each of such sale. The Trustee shall publish a Notice of Trustee’s Sale once a week for two (2) successive weeks in a newspaper of general circulation whose publication area shall be or include the county or counties where the Secured Property is located, or by such other public advertisement as may be prescribed by applicable law. A copy of the Notice of Trustee’s Sale shall be served on the Grantor, or its agent or personal representative, by certified mail, return receipt requested, addressed in accordance with the provisions of Section 4.5 hereof. Notice of such sale shall be deemed complete when such Notice of Trustee’s Sale is sent to the Grantor in the aforesaid manner, notwithstanding the fact that such mail or courier package may be returned as refused or undeliverable. A copy of such Notice of Trustee’s Sale shall be served by certified mail, at least twenty (20) days prior to the sale, upon any subordinate lien holder who has previously notified Lender by certified mail of the existence of a subordinate lien. Notice to a subordinate lienholder shall be complete when such Notice is mailed in accordance with the provisions of this paragraph, directed to the address of the subordinate lienholder as provided by such subordinate lienholder in the notice of existence of a subordinate lien.

The Trustee, without demand on Grantor, shall sell the Secured Property at the time and place and under the terms designated in the Notice of Trustee’s Sale. The Trustee may sell the Secured Property, real and personal, at any place within any county in which any of the Secured Property is located, in one or more parcels or lots and in such order as the Trustee may determine. The sale of the Secured Property shall be by public auction, to the highest bidder, for cash, or upon such other lawful terms as the Lender or Trustee may designate. The sale of the Secured Property may be at the same time of or otherwise in conjunction with a sale of any other real or personal property serving as collateral for the indebtedness secured hereby or any other debts or obligations owed by the Grantor or others to the Lender or to other creditors, all of which may be sold in one or more parcels or lots and in such order as the Trustee may determine. The Trustee may employ such surveyors, engineers, appraisers, auctioneers, attorneys, and other persons as he may reasonably determine are necessary or desirable to assist the Trustee in execution of this trust. Trustee may postpone sale of all or any lot or parcel of the Secured
Property by public announcement at the time and place of any previously scheduled sale or at the time and place of any adjourned sale. Lender or Lender’s designee shall be entitled to bid on all or any portion of the Secured Property and to purchase all or any portion of the Secured Property at any sale.

Trustee shall deliver to the purchaser Trustee’s deed conveying the Secured Property so sold with covenants of special warranty. The recitals in the Trustee’s deed shall be prima facie evidence of the statements therein. The Trustee shall apply the proceeds of the sale in the following order: (a) to all costs and expenses of the sale, including, but not limited to, a reasonable Trustee’s fee not to exceed five percent (5%) of the gross proceeds of sale, the Trustee’s expenses, and reasonable attorneys’ fees and expenses; (b) cost of title evidence; (c) to the payment of the indebtedness secured hereby; and (d) the excess, if any, to any subordinate lienholders in their order of priority, including the Lender, and then to the Grantor or any successors or assigns of Grantor as their interests may appear. Within two months after a sale is made, the Trustee shall file a Report of Trustee’s Sale Under Deed of Trust, containing an inventory of the property sold and an account of the sale as well as such other matters as the Trustee may deem appropriate, in all offices in which this Deed of Trust and Security Agreement is recorded. The recitals in the Trustee’s report shall be prima facie evidence of the statements therein.

(D) In addition to the rights, remedies and powers hereinabove set forth, Lender and Trustee shall have as to the Secured Property which constitutes personal property covered by this Deed of Trust and Security Agreement, all rights, remedies and powers of a secured party under the Code.

7. As to any of such property as is personal property or fixtures subject to the Code, this instrument shall constitute a security agreement, and the Grantor does hereby grant a security interest therein to Lender. This instrument is to be filed for record in the real estate records of Monongalia County, West Virginia, so as to serve as a fixture filing pursuant to Code § 46-9-502.

Notwithstanding the release of any property that is deemed real property or any proceedings to have released this Deed of Trust and Security Agreement or its satisfaction of record, the terms hereof shall survive as a security agreement with respect to the security interest created hereby until the repayment or satisfaction in full of the obligation of Grantor under the Lease and the Bonds. Nothing herein shall preclude Lender or Trustee from proceeding as to both real and personal property in accordance with the Lender’s or Trustee’s rights and remedies in respect of property as provided in Chapter 46, Article 9 of the Code.

8. Grantor hereby waives personal service of notice of any sale made hereunder, but not any notice by mailing as prescribed in paragraph 6(C) hereof, upon it, its successors or assigns, and also waives the posting of notice of sale at the courthouse, and agrees that any sale made hereunder may be adjourned from time to time without notice other than oral proclamation of such adjournment at the time and place of sale, or at the time and place of any adjourned sale. The Grantor does hereby, to the full extent permitted by applicable law, waive any right to require the
Trustee and/or the Lender to post a bond or any like security in connection with the performance of the Trustee's duties pursuant to the terms of this instrument.

9. In the event that foreclosure proceedings are instituted hereunder but are not completed, Trustee shall be reimbursed for all costs and expenses incurred by them in commencing such proceedings, and, in addition, shall be entitled to, and paid, as a commission, reasonable compensation therefor; and all costs and expenses so incurred by Trustee, and such commission, together with interest thereon until paid at the rate of interest provided in the Bonds, shall be payable by Grantor on demand, and shall be and become a part of the Secured Debt and shall be collectible as such.

10. Trustee, or the successors or survivors thereof, may act in the execution of this trust, and in the event the Trustee shall act alone, the authority and power of the Trustee so acting shall be as full and complete as if the powers and authority granted to any Trustees herein jointly had been granted to such Trustee alone; and the Trustee, or any successor trustee, is hereby authorized to act by agent or attorney in the execution of this trust and need not be present in person at any foreclosure sale.

11. It is hereby expressly covenanted and agreed by all parties hereto that Lender may, at any time and from time to time hereafter, without notice and with or without cause, appoint and substitute another Trustee or Trustees, corporations or persons, in place of the Trustee herein named to execute the trust herein created. Upon such appointment, either with or without a conveyance to said substituted Trustee or Trustees by the Trustee herein named, or by any substituted Trustee in case the said right of appointment is exercised more than once, the new and substituted Trustee or Trustees in each instance shall be vested with all the rights, titles, interests, powers, duties and trusts in the premises which are vested in and conferred upon the Trustees herein named; and such new and substituted Trustee or Trustees shall be considered the successors and assigns of the Trustee who is named herein within the meaning of this instrument, and substituted in its place and stead. Each such appointment and substitution shall be evidenced by an instrument in writing which shall recite the parties to, and the book and page of record of, this Deed of Trust and Security Agreement, and the description of the Premises, which instrument, executed and acknowledged by Lender and recorded in the office of the Clerk of The County Commission of Monongalia County, West Virginia, shall be conclusive proof of the proper substitution and appointment of such successor Trustee or Trustees, and notice of such proper substitution and appointment to all parties in interest.

12. Any notice required or permitted to be given under this Deed of Trust and Security Agreement shall, except to the extent expressly otherwise required or provided herein and except as otherwise required by applicable law, be effective upon the deposit of such notice, in writing, in the regular United States mail, certified, return receipt requested, postage paid, addressed to the party or parties to receive such notice at the following addresses or at such other address as any such party may give the other parties in the manner for giving notice herein prescribed:

8477511
TO GRANTOR:

Morgantown Land Reuse and Preservation Agency  
c/o The City of Morgantown  
389 Spruce Street  
Morgantown, West Virginia 26505  
Attention: Chairman

TO LENDER:

________________________

________________________

Attention: ______________

TO TRUSTEE:

________________________

________________________

________________________

13. All rights and remedies herein contained shall be cumulative and not exclusive. No failure or delay of Lender or Trustee to exercise any option, right or power herein contained shall constitute a waiver of any right, power or privilege herein given or granted to Lender or Trustee, or an acquiescence therein, and a waiver by Lender or Trustee of the right to exercise any option, right or power as to any breach or default shall not constitute a waiver of the right to exercise the same option, right or power, or any other option, right or power herein contained, as to another or any continuing or subsequent breach or default.

Neither Grantor nor any other person now or hereafter obligated for payment of all or any part of the sums now or hereafter secured by this Deed of Trust and Security Agreement shall be relieved of such obligation by reason of the failure of Trustee to comply with any request of Lender or of any other person so obligated to take action to foreclose on this Deed of Trust and Security Agreement or otherwise enforce any provision of this Deed of Trust and Security Agreement or the Lease or by reason of the release regardless of consideration of all or any part of the security held for the indebtedness secured by this Deed of Trust and Security Agreement or by reason of any agreement or stipulation between any subsequent owner of the Secured Property and Lender extending the time of payment or modifying the terms of this Deed of Trust and Security Agreement, and Grantor and all such other persons shall continue to be liable to make payments according to the terms of any such agreement, unless expressly released and discharged in writing by Lender or otherwise in accordance with the provisions of the Lease or the Bonds.

14. If all or any part of the Secured Property or an interest therein is sold or transferred by Grantor or the City (except as may be permitted by the Lease) without the prior written consent of the Lender, the Lender may, at its option,
declare all sums secured by this Deed of Trust and Security Agreement to be immediately due and payable.

15. It is further understood and agreed between the parties hereto that if any term or provision of this Deed of Trust and Security Agreement or of the Loan, Bonds or Lease hereby secured shall contravene or be in conflict with any law of the State of West Virginia or any other applicable law or regulation, such term or provision is amended and modified to conform with such law.

16. It is further understood and agreed by and between the parties hereto that all of the representations, covenants, conditions, agreements, warranties and provisions of said parties herein contained shall extend to and bind Grantor, its successors and assigns, and shall inure to the benefit of Lender and Trustee, their successors and assigns. It is further understood and agreed by Grantor that Lender shall have the right to pledge and assign its rights, title and interests under this Deed of Trust and Security Agreement without obtaining the consent of Grantor.

17. Unless the context shall otherwise indicate, words importing the singular shall include the plural, words importing persons shall include firms, associations and corporations, and vice versa, words importing the masculine, feminine and neuter gender shall be deemed to include all such genders, and the terms “hereof,” “hereby,” “hereunder” and “herein” shall refer to this Deed of Trust and Security Agreement.

18. This Deed of Trust and Security Agreement may be executed in any number of counterparts, each of which shall be an original and constitute but one and the same.

[Remainder of Page Intentionally Blank]
WITNESS the following signature:

MORGANTOWN LAND REUSE
AND PRESERVATION AGENCY

By: ___________________
Its: Chairman

ATTEST

By: ___________________
Its Secretary

This foregoing instrument was prepared by:
Steptoe & Johnson PLLC
Thomas L. Aman, Jr.
400 White Oaks Boulevard
Bridgeport, WV 26330

8477511
STATE OF WEST VIRGINIA,  
COUNTY OF MONONGALIA, To-Wit:

The foregoing instrument was acknowledged before me this __________,  
2019, by David Satterfield, CHAIRMAN of the MORGANTOWN LAND REUSE 
AND PRESERVATION AGENCY, a West Virginia public corporation and 
municipal land reuse agency, on behalf of such public corporation.  

My commission expires: ______________________________________

[NOTARIAL 
SEAL]

__________________________  
Notary Public
MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (the “MOU”), is made and entered into as of this ________, 2019, by and between THE CITY OF MORGANTOWN, a municipal corporation and political subdivision of the State of West Virginia, (the “City”), and MORGANTOWN LAND REUSE AND PRESERVATION AGENCY, a public corporation and municipal land reuse agency, organized and existing under and by virtue of the provisions of the Constitution and laws of the State of West Virginia (the “Agency”).

WHEREAS, the Agency has acquired the real property, rights of way, improvements, fixtures, equipment, personal property and appurtenances associated therewith, consisting of the building located at 430 Spruce Street within the City (the “Annex Property”), which real property and appurtenances are more particularly described in EXHIBIT A – REAL ESTATE DESCRIPTION, attached to the hereinafter defined Lease (the “Annex Real Property”; such Annex Real Property, together with the Annex Property, including, but not limited to, all additions and improvements thereto now or hereafter acquired, created or constructed, of every kind and nature, herein called the “Facilities”);

WHEREAS, pursuant to the terms of an Agreement and Lease dated ________, 2019, by and between the Agency, as lessor, and the City, as lessee (the “Lease”), the City will lease a portion of the Facilities from the Issuer, consisting of the basement and first floor levels of the building located at 430 Spruce Street and five (5) parking spaces in the adjacent parking lot to be designated by the Issuer and the City (collectively, the “Leased City Premises”); and

WHEREAS, the City and the Agency have reached agreement regarding certain planned improvements to the exterior portions of the Facilities;

ACCORDINGLY, the City and the Agency have determined to proceed in the following manner:

1. The City will remove pavement from the portion of the parking area located on the Annex Property that is identified in Exhibit I attached hereto, with the exception of a suitable driving lane to access the remaining parking area (the “Passive Public Space”). The Passive Public Space shall be approximately 1,500 square feet and currently includes six (6) parking spaces.

2. The City, in its discretion after consultation with its Urban Landscape Commission and the Agency, will landscape and develop the Passive Public Space to include some or all of the following elements: public seating, urban-scaled trees and plants, screening features adjacent to the street, Farmer’s Market programming space and stormwater management.
3. Within one year following the acquisition of the Annex Property by the Agency, the City, in conjunction with the Agency, will develop a site improvement plan addressing stormwater management, aesthetics and public uses for the open space at the rear of the existing structure on the Annex Property.

4. The City and the Agency expect that the City’s removal of pavement and development of the Passive Public Space (the “Improvements”) will cost approximately $95,000 to $115,000, based on an expected construction cost of $65 to $75 per square foot of improved space. The cost of improvements to the open space at the rear of the existing structure on the Annex Property is undetermined.

5. The City intends to complete the Improvements within three years of the date of acquisition of the Annex Property by the Agency.

WITNESS the following signatures:

THE CITY OF MORGANTOWN

By: ________________________________
   Its Mayor

By: ________________________________
   Its City Manager

MORGANTOWN LAND REUSE AND PRESERVATION AGENCY

By: ________________________________
   Its Chairman
BOND PURCHASE AGREEMENT

September __, 2019

To: Morgantown Land Reuse and Preservation Agency
389 Spruce Street
Morgantown, WV 26505

___________ (the “Purchaser”) offers to enter into the following agreement (this “Agreement”) with the Morgantown Land Reuse and Preservation Agency (the “Issuer”) for the purchase by the Purchaser from the Issuer of certain bonds proposed to be issued by the Issuer, as described below. Upon acceptance of this offer by the Issuer, to be evidenced by the countsignature of its duly authorized officer in the signature space provided below, the following terms of agreement shall become contractual and binding, by and between the Purchaser and the Issuer. This offer is made subject to the Issuer’s written acceptance hereof on or before 5:00 p.m. Eastern Standard Time on the date hereof, and, if not so accepted, will be subject to withdrawal by the Purchaser upon notice delivered to the Issuer at any time prior to the acceptance hereof by the Issuer. Terms used but not defined herein shall have the meanings given such terms in the Agreement and Lease dated as of __________, 2019 (the “Lease”) by and between the Issuer and The City of Morgantown, West Virginia (the “City”).

In consideration of their mutual covenants and agreements, and effective upon the execution of this Agreement by the Issuer, the Purchaser and the Issuer agree as follows:

1. Description and Agreement to Purchase the Bonds. Upon and subject to the terms, conditions and provisions set forth in this Agreement, the Purchaser hereby agrees to purchase from the Issuer, and the Issuer agrees to sell to the Purchaser, all but not less than all of a certain series of lease revenue bonds proposed to be issued by the Issuer, in an aggregate principal amount of $____________, to be designated Morgantown Land Reuse and Preservation Agency Lease Revenue Bonds, Series 2019 (City Hall Annex) (the “Bonds”). The Bonds are to be issued under, for the purposes described in, and secured as provided in the Lease and the Issuer Resolution (defined below), and shall contain the various terms set forth in Exhibit A hereto.

2. Purchase Price. The aggregate purchase price of the Bonds shall be $____________.

3. Representations, Warranties and Covenants of the Issuer. The Issuer represents, warrants and covenants as follows:

(a) The Issuer is a public corporation and municipal land reuse agency validly created by the City and existing under West Virginia law, and has full power and authority pursuant to the Constitution of the State, the other laws of the State of West Virginia (the “State”), including, without limitation, Chapter 31, Article 18E of the Code of West Virginia, 1931, as amended, and any regulations promulgated thereunder, as the same may be amended or replaced from time to time (collectively, the “Laws”), to: (i) enter into this Agreement; (ii) enact the Issuer Resolution
(as defined below); (iii) enter into the Lease, the Deed of Trust, the Assignment and the Funds Assignment (all as defined in the Lease); (iv) issue, sell and deliver the Bonds as provided in this Agreement; and (v) perform its obligations under and as contemplated in this Agreement, the Issuer Resolution, the Lease, the Assignment, the Funds Assignment, the Bonds, and the Deed of Trust, and any documents or instruments required to be executed in connection with any of the foregoing (collectively, the “Transaction Documents”). The board members and other officials of the Issuer have been duly and lawfully appointed to such positions.

(b) The Issuer has, by Bond Authorizing Resolution duly enacted and effective on _______, 2019, as supplemented by a Supplemental Resolution dated _______, 2019 (collectively, the “Issuer Resolution”), which Issuer Resolution has not been amended, further supplemented, rescinded or repealed, and which remains in full force and effect, duly authorized the execution, delivery and due performance of each of the Transaction Documents and the taking of any action as may be required on the part of the Issuer to consummate the transactions contemplated by the Transaction Documents. All necessary approvals of the transactions contemplated by the Transaction Documents by the City, its officers and agencies, and of the Issuer, have been obtained; and there is no further requirement as to any other consent, approval, authorization or other order of filing with, registration with, or certification by, any regulatory authority having jurisdiction over the Issuer and no election or referendum of or by any person, organization or public body whatsoever is required in connection with any of the foregoing transactions, except the Issuer makes no such representations with respect to the Blue Sky requirements of any state. There are no provisions of the Laws which would allow, as of the date of this Agreement or any subsequent date, any public vote, referendum, or other non-judicial proceeding the results of which could invalidate any of the Transaction Documents or invalidate, limit or condition the obligations of the Issuer undertaken in any of the Transaction Documents or under any document or instrument executed in connection with the transactions contemplated by any of the Transaction Documents.

(c) The Bonds will conform to their description in the Issuer Resolution and the Lease, and when delivered to and paid for by the Purchaser, will have been duly authorized, executed, issued, and delivered by, and will constitute valid and binding special limited obligations of the Issuer, payable from the sources specified in the Issuer Resolution and Lease, enforceable in accordance with their terms and the terms of the Issuer Resolution and the Lease, except as limited by bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors’ rights and except to the extent that the enforceability may be limited by the application of general principles of equity. No event of default under the Lease, any other Transaction Documents or the Issuer Resolution has occurred and is continuing, and no event has occurred and is continuing which, with the lapse of time or the giving of notice or both, would constitute such an event of default.

(d) Upon their due execution and delivery, the Transaction Documents will constitute legal, valid and binding obligations of the Issuer, enforceable in accordance with their terms and the terms of the Issuer Resolution and the Lease, except as limited by bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors’ rights and except to the extent that the enforceability may be limited by the application of general principles of equity.
(e) The execution and delivery of the Transaction Documents, the enactment of the Issuer Resolution, and compliance with the provisions of the Transaction Documents, will not conflict with or result in a violation of the Laws or any other law to which the Transaction Documents or the transactions contemplated thereby are subject, including, without limitation, any debt limitations or other restrictions or conditions on the debt-issuing power of the Issuer, and will not conflict with or result in a violation of, or breach of, or constitute a default under, any law or administrative regulation or any of the terms, conditions or provisions of any judgment, decree, loan agreement, note, resolution, indenture, mortgage, deed of trust or other agreement or instrument to which the Issuer is a party or by which it is bound.

(f) No action, suit, inquiry, investigation or proceeding, at law or in equity, to which the Issuer is or would be a party, is pending or threatened, nor to the best of the knowledge of the Issuer, is any such matter to which the Issuer is not a party, pending or threatened, in or before any court, governmental agency, authority, body or arbitrator, which in any way: (i) affects the creation, organization or existence of the Issuer; or (ii) contests the title of the present members of the Issuer’s governing body or other officers of the Issuer to their respective offices; or (iii) seeks to restrain or enjoin the issuance, sale or delivery of the Bonds or the execution and delivery of the Transaction Documents, or the pledge of the Lease Rentals, or of any other funds or property pledged under the Transaction Documents, to secure the payment of the principal of and interest on the Bonds (the “Pledged Property”); or (iv) contests or affects, in any way, the validity or enforceability of the Transaction Documents, the pledge of the Pledged Property, the powers or authority of the Issuer with respect to the Transaction Documents; or (v) contests or affects the exemption of the Bonds or the Lease from registration with the United States Securities and Exchange Commission.

(g) Neither this Agreement nor any of the statements, materials, documents, certificates, contracts, financial information or other information relating to the Issuer or the Bonds supplied to the Purchaser by or on behalf of the Issuer contains, to the best knowledge of the Issuer following due inquiry (in each case as of its date), an untrue statement of a material fact or omits a material fact necessary to make the statements and information contained herein or therein not misleading, in light of the circumstances under which they were made. None of the statements, documents, certificates or other items, including the Transaction Documents, to be prepared or supplied by the Issuer between the date hereof and the Closing in respect of the transactions contemplated herein will contain, to the best knowledge of the Issuer, an untrue statement of a material fact or omit a material fact necessary to make the statements and information contained therein not misleading, in light of the circumstances under which they will be made. There is no fact (other than matters of a general economic or political nature which do not affect the Issuer uniquely) known to the Issuer which the Issuer has not disclosed to the Purchaser and to counsel to the Purchaser in writing and of which the Issuer is aware which materially and adversely affects or could materially and adversely affect the ability of the Issuer to timely satisfy its obligations to the Purchaser under the Transaction Documents.

(h) The covenants, representations and warranties of the Issuer contained in the Lease will, when the Lease is executed and delivered by the Issuer, be true and correct in all material respects.
(i) The Issuer will not take or omit to take any action which will in any way result in the proceeds from the sale of the Bonds being applied in a manner other than as provided in the Issuer Resolution and the Lease.

(j) Prior to the Closing Date, the Issuer shall have taken all actions necessary to be taken by it for: (i) the issuance and sale of the Bonds upon the terms set forth in this Agreement and in the Issuer Resolution and the Lease and under the Laws, and (ii) the execution and delivery by the Issuer of all such other instruments and the taking of all such other actions or the part of the Issuer as may be necessary or appropriate for the effectuation and consummation of the transactions contemplated by the Transaction Documents. Between the date of this Agreement and the Closing Date, the Issuer will take such actions as are reasonably necessary to cause the covenants, warranties and representations contained in this Agreement to be true as of the Closing Date.

(k) Any certification signed by the Chairman or other official of the Issuer, or by a duly appointed and acting deputy or assistant of said officials on his or her behalf, and delivered to the Purchaser shall be deemed a representation and warranty by the Issuer to the Purchaser as to the truth of the statements made by the Issuer in that certificate.

(l) Except for the use of Crews & Associates, Inc., as Placement Agent for the Bonds (the “Placement Agent”), the fees and expenses of which will be paid by the Issuer from the proceeds of the sale of the Bonds, the Issuer has not engaged any broker or finder in connection with the transactions contemplated herein, and no action by the Issuer will cause or support any claim to be asserted against the Purchaser by any broker, finder or intermediary in connection with such transaction.

4. **Representations of the City.** The City represents as follows:

(a) The City (i) is a public corporate body and municipal corporation duly organized and existing under the laws of the State of West Virginia, (ii) has full corporate power to own its properties and conduct its business, (iii) has full legal right, power and authority to execute and deliver the Lease and to consummate all transactions contemplated herein and therein, and (iv) by proper corporate action has duly authorized the execution and delivery of the Lease.

(b) The execution and delivery of the Lease, the fulfillment of or compliance with the terms and conditions thereof and hereof, and the consummation of the transactions contemplated hereby, will not conflict with, constitute a breach of, or default under, the Laws, the Constitution and laws of the State, or the rules of procedure of the City or any indenture, agreement or other instrument to which the City is a party or by which it is bound, or any constitutional or statutory provision, or order, rule, regulation, decree or ordinance of any court, government or governmental body to which the City, the Facilities or any of the City’s other properties are subject.

(c) The Lease has been duly authorized, executed and delivered by the City and constitutes the legal, valid and binding obligation of the City enforceable in accordance with its terms, except to the extent that the enforcement thereof may be limited by (i) bankruptcy, insolvency, reorganization, moratorium, or other laws now or hereafter in effect relating to or
affecting creditors’ rights generally, and (ii) general principles of equity (regardless of whether enforceability is considered in a proceeding at law or in equity).

(d) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, regulatory agency, public board or body pending or, to the best of the City’s knowledge, threatened, against the City, wherein an unfavorable ruling or finding would adversely affect the validity or enforceability of the Lease, or which would materially and adversely affect any of the transactions contemplated hereby or the ability of the City to perform its obligations hereunder.

(e) The Leased City Premises at all times will be used by the City for the purpose of performing governmental functions and the acquisition and leasing of the Leased City Premises by the City is necessary, useful and appropriate to one or more governmental purposes of the City, including, but not limited to providing governmental functions, and the Leased City Premises at all times will be used by the City for the purposes of performing such governmental functions, and the acquisition and financing of the Facilities and the leasing of the Leased City Premises are necessary to the operation of the City, and is consistent with the permissible scope of the City’s authority.

(f) The Leased City Premises will be used by the City at all times in accordance with the Laws.

5. **Representations of the Purchaser.** The Purchaser represents as follows:

(a) The Purchaser has full power and authority to execute and deliver this Agreement, to make the representations and warranties specified herein, and to consummate the transactions contemplated herein, and it has full right and power to subscribe for the Bonds and perform its obligations pursuant to this Agreement.

(b) No filing with, or authorization, approval, consent, license, order, registration, qualification or decree of, any governmental body, agency or court having jurisdiction over the Purchaser, other than those that have been made or obtained, is necessary or required for the performance by the Purchaser of its obligations under this Agreement or to consummate the transactions contemplated herein.

(c) This Agreement has been duly authorized, executed and delivered by the Purchaser.

(d) The Purchaser is not in violation of or default under any term of its organizational documents, of any provision of any mortgage, indenture, contract, agreement, instrument or contract to which each is a party or by which it is bound or of any judgment, decree, order, writ or, any statute, rule or regulation applicable to the Purchaser which would prevent the Purchaser from performing any material obligation set forth in this Agreement. The execution, delivery and performance of and compliance with this Agreement, and the consummation of the transactions contemplated herein, will not, with or without the passage of time or giving of notice, result in any such material violation, or be in conflict with or constitute a default under any such term, or the suspension, revocation, impairment, forfeiture or non-renewal of any permit, license,
authorization or approval applicable to the Purchaser or its business or operations which would prevent the Purchaser from performing any material obligations set forth in this Agreement.

(e) The Purchaser has full power and authority to execute and deliver an Investor Letter with respect to its purchase of the Bonds and the representations on the part of the Purchaser contained therein with respect to its qualification to purchase the Bonds shall be true and correct as of the Closing Date.

(f) The Purchaser is a bank, any entity directly or indirectly controlled by a bank, or under common control with a bank (other than a dealer registered under the Securities Exchange Act of 1934), or a consortium of such entities; and the Purchaser is purchasing the Bonds solely for its own account to evidence the making of a commercial loan in the ordinary course of its business, with a present intent to hold the Bonds until maturity, early redemption or mandatory tender (subject to the understanding that disposition of Purchaser’s property will remain at all times within its control).

6. Closing, Delivery, and Payment of the Bonds. The closing of the transactions contemplated herein (the ‘Closing’) shall be held at 10:00 a.m. Eastern Standard Time on ________, 2019 (the ‘Closing Date’). On the Closing Date, the Purchaser will accept delivery of the Bonds from the Issuer duly executed and authenticated, and of the Closing Documents as defined below, and shall advance the proceeds of the Bonds in cash by delivery of a certified or bank cashier’s check or wire transfer to an account designated by the Issuer. The acceptance of delivery and payment of the Bonds will be subject to satisfaction of any conditions precedent as set forth in this Agreement. The Issuer and the Purchaser agree that there shall be a preliminary closing held at the offices of the City, or at such other time or place as the Purchaser and the Issuer may mutually determine, commencing at ___ p.m. Eastern Standard Time on ________, 2019.

7. Closing Documents. The Closing Documents shall consist of the following, each properly executed, certified or otherwise verified, dated as of such date and in such form, as may be satisfactory to Bond Counsel and the Purchaser:

(a) An opinion of Bond Counsel addressed to the Issuer and the Purchaser, with respect to the due authorization, legality, validity and enforceability of the Bonds, the Issuer Resolution and the Lease, the validity and enforceability of the security interest in the Pledged Property, the tax-exempt status of the Bonds for state income tax purposes, and certain legal matters relating to the Issuer and its issuance, sale and delivery of the Bonds;

---

1 The term “bank” means (A) a banking institution organized under the laws of the United States or a Federal savings association, as defined in section 2(5) of the Home Owners’ Loan Act [12 USCS § 1462(5)], (B) a member bank of the Federal Reserve System, (C) any other banking institution or savings association, as defined in section 2(4) of the Home Owners’ Loan Act [12 USCS § 1462(4)], whether incorporated or not, doing business under the laws of any State or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to national banks under the authority of the Comptroller of the Currency pursuant to the first section of Public Law 87-722 (12 U.S.C. 92a), and which is supervised and examined by State or Federal authority having supervision over banks or savings associations, and which is not operated for the purpose of evading the provisions of this title, and (D) a receiver, conservator, or other liquidating agent of any institution or firm included in clauses (A), (B), or (C) of this paragraph. 15 U.S.C.S. § 78c(a)(6).
(b) A letter from the Purchaser indicating its qualifications to purchase the Bonds as an Accredited Investor pursuant to 17 CFR §230.501 and indicating the understanding of the Purchaser with respect to certain risks associated with its purchase of the Bonds;

(c) A closing certificate of the Issuer confirming, as of the Closing Date: (i) the representations and warranties made by the Issuer in this Agreement; and (ii) the adoption and present effectiveness of the Issuer Resolution;

(d) A closing certificate of the City confirming, as of the Closing Date: (i) the representations and warranties made by the City in this Agreement; and (ii) the execution and enforceability of the Lease;

(e) A certificate of the Placement Agent which confirms the purchase of the Bonds by the Purchaser, the material terms of the Bonds, certain statistics with respect to the Bonds, that the interest rate on the Bonds reflects the prevailing market rate for such obligations and other matters as may be required by the Issuer and agreed to by the Placement Agent;

(f) The Issuer Resolution, the enactment of which shall be certified by the Secretary of the Issuer;

(g) Fully executed counterpart originals of the Lease, the Deed of Trust, the Assignment, and the Funds Assignment;

(h) An opinion of the City Attorney addressed to the Issuer, the City and the Purchaser, with respect to [forthcoming]; and

(i) Such additional certificates, proceedings, opinions, instruments and other documents as the Purchaser or the Issuer may reasonably request in connection with the transactions contemplated by this Agreement.

8. **Conditions of the Obligations of the Purchaser and the Issuer.** The obligations of the Purchaser to purchase and pay for the Bonds will be subject to the completeness and correctness, on the date of this Agreement and on the Closing Date, of the representations and warranties of the Issuer made in this Agreement and in the Lease; to the performance by the Issuer of its obligations and covenants under this Agreement; and to the following additional conditions precedent: (i) the Bonds and the other Transaction Documents shall have been duly authorized and executed by the Issuer and shall constitute valid and binding obligations; (ii) the Issuer Resolution shall have been duly enacted by the Issuer; (iii) this Agreement, the Lease, the other Transaction Documents, and the Issuer Resolution shall be in full force and effect and shall not have been amended, modified or supplemented (except with the consent of the Purchaser); and (iv) there shall have been taken, in connection with the issuance of the Bonds and with the transactions contemplated by the Transaction Documents, all such actions as in the reasonable opinion of the Purchaser, are necessary and appropriate.

9. **Risks.** The Purchaser is aware that the debt service on the Bonds is secured by the Lease Rentals generated from the Lease and that under the Lease the City has the legal right to terminate the Lease annually on ninety days written notice. Additionally, the funds to make the
Lease payments are derived from the general funds of the City and there is no assurance that the City will have sufficient funds to make the Lease payments.

10. **Placement Agent Role and Responsibilities.** The Issuer and the Purchaser acknowledge and agree that: (i) Crews & Associates, Inc. is serving as the Issuer’s placement agent, serving solely as an intermediary for the Issuer with the placement of the Bonds by the Issuer directly to investors, including without limitation, the Purchaser; (ii) the Placement Agent is not underwriting the Bonds, nor acting or serving as a municipal advisor, financial advisor, or fiduciary to the Issuer and has not assumed any fiduciary responsibility to the Issuer with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto; (iii) the Issuer and the Purchaser, respectively, will consult with their own financial and/or municipal, legal, accounting, tax, and other advisors, as applicable, to the extent each deems appropriate; and (iv) the Placement Agent assumes no financial or underwriting risk in the transaction, but is only entitled to a fee from the Issuer for its services rendered as the placement agent. The Issuer further acknowledges and agrees that if it wishes to engage the services of a municipal advisor that would have a legal, fiduciary duty to the Issuer, then the Issuer is free to so engage a municipal advisor to serve in that capacity.

11. **No Third-Party Beneficiaries; Survival of Representations.** This Agreement is made solely for the benefit of the parties hereto, and no other person shall acquire or have any right under or by virtue of this Agreement. All representations, warranties and agreements of the Issuer shall remain in full force and effect regardless of any investigation made by or on behalf of the Purchaser and shall survive the delivery of the Bonds.

12. **Notice.** Except as otherwise provided herein, it shall be sufficient service of any notice, request, demand, authorization, direction, consent, waiver or other paper required or permitted by this Agreement to be made, given or furnished to or filed with the following Persons upon receipt by such Person, if the same shall be delivered in person or duly mailed by registered or certified mail, postage prepaid, return receipt requested, at the following addresses:

To the Issuer:

Morgantown Land Reuse and Preservation Agency  
c/o City of Morgantown  
389 Spruce Street  
Morgantown, WV 26505  
Attention: Chairman

To the City:

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

To the Purchaser:
13. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of West Virginia. The parties hereto acknowledge and agree that any contract claims and/or actions arising out of this transaction could be brought in West Virginia Circuit Court or any court where jurisdiction and venue are proper.

14. **Severability.** If any Section, paragraph, sentence, clause or phrase of this Agreement shall for any reason be held illegal or unenforceable, such holding shall not affect the validity of the remaining portions of this Agreement.

15. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original.

[Remainder of Page Intentionally Left Blank]
Respectfully submitted:

__________________________

By: _______________________
Name: _____________________
Title: _____________________

ACCEPTANCE BY THE ISSUER:
Accepted this _____ day of ________, 2019, for and on behalf of the Issuer, pursuant to the Issuer Resolution.

MORGANTOWN LAND REUSE AND PRESERVATION AGENCY

By: _______________________
    David Satterfield, Chairman

ACKNOWLEDGED AND AGREED TO BY THE CITY:
Acknowledged and agreed to this _____ day of ________, 2019, for and on behalf of the City, pursuant to the City Ordinance.

CITY OF MORGANTOWN, WEST VIRGINIA

By: _______________________
    Bill Kawecki, Mayor

By: _______________________
    Paul Brake, City Manager
EXHIBIT A

Terms of the Bonds

- **Issuer:** Morgantown Land Reuse and Preservation Agency, a public corporation and municipal land reuse agency (the “Issuer”).

- **Par Amount of Bonds:** $__________ Lease Revenue Bonds, Series 2019 (City Hall Annex) (the “Bonds”). The Bonds will be issued on the basis that the interest thereon is subject to federal taxation and exempt from taxation by the State of West Virginia and any political subdivision thereof.

- **Purchaser:** The Bonds will be placed directly with _________ (the “Purchaser”). The Purchaser will require a single term instrument with scheduled principal payments and without DTC registration. Unless Crews & Associates, Inc. obtains a written representation in the following form as part of the Investor Letter or otherwise, Crews & Associates, Inc. will be required under its regulatory authority to obtain a CUSIP for the Bonds:

  The Purchaser is a bank, any entity directly or indirectly controlled by a bank, or under common control with a bank (other than a dealer registered under the Exchange Act), or a consortium of such entities; and the Purchaser is purchasing the Bonds solely for its own account for investment purposes only, with a present intent to hold the securities until maturity, early redemption or mandatory tender (subject to the understanding that disposition of Purchaser’s property will remain at all times within its control).

- **Issue Date:** The date of issuance and delivery of the Bonds to the Purchaser is __________, 2019.

- **Source of Repayment:** The City of Morgantown (the “City”) will lease a portion of the building, real property, personal property and fixtures located at 430 Spruce Street, Morgantown, West Virginia (the “Leased City Premises”) from the Issuer pursuant to an Agreement and Lease, by and between the Issuer and the City (the “Lease”), pursuant to which the City will pay lease rentals directly to the Purchaser as paying agent for the Bonds (the “Paying Agent”) for the account of the Issuer at such times and in such amounts as will provide for the payment of debt service and other costs associated with the Bonds as the same become due and payable (the “Lease Rentals”). The Lease Rentals payable pursuant to the Lease shall be subject to annual appropriation by the City and the Lease shall be subject to cancellation at the conclusion of each fiscal year of the City as more particularly described in the Lease.

- **Security:** The Bonds will be special, limited obligations of the Issuer payable from the Lease Rentals payable by the City to the Paying Agent for the account of the Issuer pursuant to the Lease. The Leased City Premises financed with the proceeds of the will be leased from the Issuer by the City pursuant to the Lease contemporaneously with the issuance of the Bonds. The Bonds will be secured by, and may also be payable from the proceeds of
(i) a Credit Line Deed of Trust, Fixture Filing and Security Agreement on the Facilities (the “Deed of Trust”), including any improvements, renovations, furnishings and equipment associated therewith, (ii) a Lease Assignment by the Issuer to the Purchaser (the “Assignment”) pursuant to which the Issuer will collaterally assign certain of its rights in and to the Lease and Lease Rentals thereunder to the Purchaser, and (iii) an Assignment of Funds and Accounts by the Issuer to the Purchaser (the “Funds Assignment”) pursuant to which the Issuer will assign the monies on deposit in the funds and accounts established under the Lease with respect to the Bonds to the Purchaser. The Bonds do not constitute an indebtedness of the State of West Virginia (the “State”), Monongalia County, the City or the Issuer for purposes of the Constitution and laws of the State and the principal, interest and other costs associated with the Bonds shall be payable solely from the Lease Rentals payable by the City pursuant to the Lease and any proceeds derived from the security provided for repayment of the Bonds pursuant to the Deed of Trust and the Funds Assignment. The Lease Rentals payable pursuant to the Lease shall be subject to annual appropriation by the City and the Lease shall be subject to cancellation at the conclusion of each fiscal year of the City as more particularly described in the Lease. The Issuer will retain the right to lease portions of the Facilities not needed by the City for its governmental purposes as more particularly described in the Lease.

- **Interest Rate**: Interest on the Bonds shall accrue at a fixed interest rate equal to _______% per annum computed on a 365-day basis and the actual number of days elapsed for 20 years.

- **Final Maturity**: The date on which the principal of the Bonds, together with all interest thereon remaining unpaid at such time, becomes due and payable, is January 15, [2040].

- **Authorized Denominations**: Means $100,000 and any increment of $0.01 in excess thereof for the Bonds.

- **Interest Payments**: Semiannual interest payments each January 15 and July 15, beginning January 15, 2020. The interest on the Bonds shall be includable in the gross income of the owner thereof for federal income tax purposes but shall be exempt from taxation by the State and any political subdivision thereof.

- **Principal Payments**: Annual principal payments each January 15, beginning January 15, 2020, pursuant to the debt service schedule that shall be attached to the Bonds as Exhibit A.

- **Prepayment**: The Bonds are subject to prepayment of principal, in whole or in part, at any time, at the price of 100% of the principal amount then being repaid, plus interest accrued to the date fixed for prepayment. Partial prepayments may be made in any principal amount.

- **No CUSIP**: The Purchaser acknowledges that there will be no CUSIP identifier assigned to the Bonds.
• **Continuing Disclosure**: It is understood that, with respect to the Bonds, the Issuer will not be required to comply with the continuing disclosure requirements of SEC Rule 15c2-12(b). However, the Issuer may, in its sole discretion, voluntarily file information with the Municipal Securities Rule Making Board via the Electronic Municipal Market Access website.
SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION APPROVING TERMS OF THE LEASE REVENUE BONDS, SERIES 2019 (CITY HALL ANNEX), OF THE MORGANTOWN LAND REUSE AND PRESERVATION AGENCY (THE “ISSUER”); APPROVING THE SALE AND DELIVERY OF SUCH BONDS BY ISSUER TO ___________; AND APPROVING OTHER MATTERS WITH RESPECT TO SUCH BONDS.

WHEREAS, the City Council of The City of Morgantown (the “City”) has duly and officially adopted and enacted an authorizing Ordinance on __________, 2019 (the “City Ordinance”), entitled:

AN ORDINANCE AUTHORIZING AND APPROVING THE ACQUISITION, EQUIPPING AND IMPROVEMENT BY THE MORGANTOWN LAND REUSE AND PRESERVATION AGENCY (THE “ISSUER”) OF REAL PROPERTY LOCATED AT 430 SPRUCE STREET IN THE CITY OF MORGANTOWN TO BE USED BY THE CITY OF MORGANTOWN AS A CITY HALL ANNEX AND RELATED PURPOSES AND ALL REAL ESTATE, RIGHTS OF WAY, IMPROVEMENTS, FIXTURES, EQUIPMENT, PERSONAL PROPERTY AND APPURTENANCES ASSOCIATED THEREWITH (THE “ANNEX PROPERTY”); THE LEASING OF SUCH ANNEX PROPERTY BY THE CITY OF MORGANTOWN FROM THE ISSUER; THE SALE AND ISSUANCE BY THE ISSUER OF ITS NOT TO EXCEED $2,000,000 PRINCIPAL AMOUNT OF LEASE REVENUE BONDS, IN ONE OR MORE SERIES; PRESCRIBING THE FORMS AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGREEMENT AND LEASE AND OTHER INSTRUMENTS AND AUTHORIZING AND APPROVING OTHER DOCUMENTS AND MATTERS RELATING TO THE TERMS AND SECURITY OF SUCH BONDS; AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH.

WHEREAS, capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the City Ordinance when used herein;

WHEREAS, the City Ordinance approves the issuance by the Morgantown Land Reuse and Preservation Agency (the “Issuer”) of its Lease Revenue Bonds, Series 2019 (City Hall Annex), in the aggregate principal amount not to exceed $2,000,000 (the “Bonds”) to (i) pay...
costs of acquiring, equipping and improving the Annex Property, (ii) pay costs of issuance of the Bonds and related costs, (iii) fund a reserve account, if any, for the Bonds, and (iv) pay capitalized interest, if any, on the Bonds;

WHEREAS, the City Ordinance provided that the Purchaser of the Bonds would be approved pursuant to a Supplemental Resolution of the City;

WHEREAS, the Bonds are proposed to be purchased by __________, a __________ banking corporation (the “Purchaser”), pursuant to the terms established by the Purchaser pursuant to the Commitment Letter of the Purchaser attached hereto and made a part hereof as Exhibit A (the “Commitment Letter”); and

WHEREAS, the City deems it essential and desirable that this supplemental resolution (the “Supplemental Resolution”) be adopted, that the terms of the Bonds be approved hereby, that the sale of the Bonds to the Purchaser be approved hereby and that other matters relating to the Bonds be herein provided for;

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

Section 1. The City hereby approves the sale and delivery of the Bonds by the Issuer to the Purchaser pursuant to the terms described herein, in the Commitment Letter and in the Bond Ordinance.

Section 2. Pursuant to the Bond Authorizing Ordinance enacted by the Issuer on __________, 2019, as supplemented by a Supplemental Resolution of the Issuer adopted on __________, 2019 (collectively, the “Bond Ordinance”) and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Lease Revenue Bonds, Series 2019 (City Hall Annex), of the Issuer, originally represented by a single Bond, numbered R-1, in the principal amount of $__________. The Bonds shall be dated the date of delivery thereof and shall have a final maturity date which is approximately __________ years from their issue date. The Bonds shall bear interest at the fixed rate of __________% per annum. The Bonds shall be repayable as described in the Commitment Letter and as shall be provided in the Bonds to be executed and delivered by the Chairman of the Issuer. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon.

Section 3. The Issuer may prepay the Bonds in whole or in part at any time without prepayment premium or penalty.

Section 4. All other provisions relating to the Bonds, including the terms and security for the Bonds and the text of the Bonds shall be substantially as provided in the Bond Authorizing Ordinance.

Section 5. The Mayor, City Manager and City Clerk of the City are hereby authorized and directed to execute and deliver such documents, agreements, instruments and certificates required or desirable in connection with the Bonds hereby and by the City Ordinance
and Bond Ordinance approved and provided for, to the end that the Bonds may be executed and
delivered by the Issuer to the Purchaser at the earliest practicable date.

Section 6. This Supplemental Resolution shall be effective immediately upon adoption hereof.

Adopted this ___ day of August, 2019.

Mayor

City Manager
CERTIFICATION

The undersigned, being the duly qualified, elected and acting Clerk of The City of Morgantown, does hereby certify that the foregoing Supplemental Resolution was duly adopted and enacted by the City Council of The City of Morgantown at a regular meeting duly held, pursuant to proper notice thereof, on ________, 2019, a quorum being present and acting throughout, which Resolution has not been repealed, rescinded, modified, amended or revoked and is a true, correct and complete copy thereof as witness my hand and the seal of The City of Morgantown this ________, 2019.


______________________________
City Clerk
RESOLUTION OF THE COUNCIL OF THE CITY OF MORGANTOWN, WEST VIRGINIA,
AUTHORIZING EXECUTION OF AN AGREEMENT WITH THE WEST VIRGINIA
DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAYS, WITH REGARD TO
ESTABLISHMENT AND MAINTENANCE OF A TRAFFIC SIGNAL SYSTEM WITHIN THE
MUNICIPAL LIMITS OF THE CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST
VIRGINIA,

BE IT RESOLVED BY THE CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST
VIRGINIA, AS FOLLOWS:

1. That the Mayor of the City of Morgantown, West Virginia, a
Municipal Corporation, be and is hereby authorized to execute, to
have acknowledged, and to have delivered on behalf of said City, an
agreement, a copy of which is attached hereto and made a part hereof,
with the West Virginia Department of Transportation, Division of
Highways, with regard to the establishment and maintenance of a
traffic signal system within the Corporate Limits of said City; and

2. That the City Clerk and Recorder do properly attest the signature of
said officials and affix the seal of the City to said agreement.

On motion made by (Name) and seconded by
(Name), the City Council of Morgantown, West Virginia, does hereby
approve and authorize the adoption of said Resolution.

STATE OF WEST VIRGINIA
COUNTY OF MONONGALIA
CITY OF MORGANTOWN

I, Christine Wade, City Clerk and Recording Officer of said
Municipality, do hereby certify that the foregoing are true copies from the records of order made and
entered into by the Council of said Municipality on (date).

City Clerk and Recording Officer
AGREEMENT

THIS AGREEMENT, made ______________, by and between the WEST VIRGINIA DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAYS, a State Agency, hereinafter referred to as “Division;” ALDI INC. PENNSYLVANIA, a Pennsylvania Corporation, hereinafter referred to as “Developer;” and the CITY OF MORGANTOWN, a Municipal Corporation, hereinafter referred to as “City.”

WITNESSETH

THAT WHEREAS, Division, Developer, and City are mutually agreed with respect to the modification of an existing traffic signal at the intersection of WV 7 (Earl Core Road) with CR 857 (Hartman Run Road) and the proposed access to ALDI in Morgantown, Monongalia County, West Virginia; and

WHEREAS, by Resolution bearing date of ______________, the Council of the City of Morgantown has authorized and directed proper authorities to execute, acknowledge, and deliver an agreement on behalf of said City, setting out terms and conditions thereof, a copy of which Resolution is affixed to this agreement and made part hereof, and

WHEREAS, Division, Developer, and City are desirous of cooperating in adoption of said rules, regulations, stipulations, and conditions in order to establish their mutual responsibilities and obligations with regard to the future maintenance and operation of said traffic signal.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH, that for and in consideration of the mutual covenants herein entered into and mutual benefits to be derived by parties hereto, said Division, Developer, and City do hereby agree that the following will be the duties and responsibilities of each party, respectively.
DUTIES AND RESPONSIBILITIES OF THE DIVISION

The Division agrees:

1. To prepare plans and specifications necessary for a project for the construction of the modification of an existing traffic signal at the intersection of WV 7 (Earl Core Road) with CR 857 (Hartman Run Road) and the proposed approach to ALDI, and to let a contract for the erection thereof, and to supervise the installation of the same.

2. To pay for the installation of a communications connection and pay the continuing service cost.

3. To program all intersection controllers and the on-street master computer.

4. To perform all major maintenance of the traffic signal system, on-street master computer, and interconnecting system, excluding cleaning and/or replacement of LED signal indications at Division's sole expense and without cost or expense of any nature whatsoever to the Developer or City.

DUTIES AND RESPONSIBILITIES OF THE DEVELOPER

The Developer agrees:

1. To contribute upon being advised by the Division of the actual cost, a donation to the State Road Fund a sum of money equal to one hundred percent (100%) of the construction costs of installing the new traffic signal at the intersection WV 7 (Earl Core Road) with CR 857 (Hartman Run Road) and the proposed approach to ALDI, currently estimated to be one hundred sixty thousand dollars ($160,000).

2. That the terms of this agreement shall be binding upon successors and assigns.

DUTIES AND RESPONSIBILITIES OF THE CITY

The City agrees:

1. To perform properly all minor maintenance of the traffic signal, including cleaning and/or replacement of LED signal indications at the City's sole cost and without cost or expense of any nature to the Developer or Division.

2. To pay for the continuing power costs of the traffic signal.

3. Not to alter in any way and not to remove any part of the traffic signal without prior
approval by the Division.

4. To permit construction and maintenance on City property of any pole, foundation, signal and support or any other appurtenance necessary for completion of the project.

5. To provide transmitters for a fire priority control system on emergency vehicles selected for access to said system.

6. To enact any appropriate ordinances, resolutions, or regulations necessary to accomplish the purposes of this agreement and to enforce such ordinances, resolutions, and/or regulations.

7. That the terms of the agreement be binding upon successors and assigns.

IT IS FURTHER UNDERSTOOD AND AGREED BETWEEN DIVISION AND DEVELOPER:

1. That the work agreed to be done by the Division in connection with the overall modification of the aforesaid traffic signal shall be done in three phases, to wit:
   a. The preparation of plans and specifications for a contract letting;
   b. The advertising and acceptance of competitive bids on the contract;
   c. The awarding of a contract for said traffic signal and the supervision of the construction thereof.

2. That the construction cost shall include contract bid amount, estimated contract administration and inspection cost of Division personnel assigned to the project, and the cost of materials supplied from the Division’s inventory to expedite the completion of the contract. Division shall provide Developer with appropriate detail and/or back up information related to construction costs for which Developer is responsible under this Agreement.

3. That upon completion of the modification of the traffic signal, all equipment, poles, and all other appurtenances, are and shall remain the property of Division.

4. That the Developer has not had, does not have now, and shall not have in the future, any responsibility in respect to the planning, design, or construction of the modification of said traffic signal.

5. That the Developer grants the Division or City the right and privilege to enter upon
such portions of the Developer's property located near the intersection for the
purpose of constructing and maintaining the traffic signal and its appurtenances.

6. That In the event there is an onsite disagreement all parties shall defer to the judgement of
the Division Engineer in charge.

7. This Agreement shall be governed by and construed in accordance with the laws of the State
of West Virginia, without regard to its choice of law principles.

IN WITNESS WHEREOF the parties, hereto have caused their respective names to
be signed by their duly authorized officers:

WEST VIRGINIA DEPARTMENT OF
TRANSPORTATION
Division of Highways
A State Agency

Title:
Deputy Secretary/Acting Commissioner

ALDI INC. PENNSYLVANIA
A Pennsylvania Corporation

Title:

CITY OF MORGANTOWN
A Municipal Corporation

Title:
Mayor

APPROVED AS TO FORM ON
7/11/2019
ATTORNEY LEGAL DIVISION
WEST VIRGINIA DEPARTMENT
OF TRANSPORTATION.
DIVISION OF HIGHWAYS

WVDOT Traffic Engineering
Intersection of WV 7 (Furlong Rd) @ CR 857 (Hartman Run Rd)
Morgantown, Monongalia County
Phone 7019

NUMBER: 1907085
A RESOLUTION AUTHORIZING APPLICATION FOR A WEST VIRGINIA JUSTICE ASSISTANCE GRANT PROGRAM

The City of Morgantown hereby resolves that the City Manager is authorized to execute the attached application for grant funding under the Fiscal Year 2019 West Virginia Justice Assistance Grant Program, together with any related documents necessary to complete such application.

Adopted this ___ day of __________, 2019

______________________________
Mayor

______________________________
City Clerk
FY 2019 West Virginia Justice Assistance Grant Program Application Forms

**The JAG application has adopted a format which bases all applications on specific program types/abstracts. All units of state or local government are eligible to apply, providing that their program/application falls under one of the Abstracts included in the application packet.**
<table>
<thead>
<tr>
<th>Budget Category</th>
<th>WV JAG Requested Funds (A)</th>
<th>Local (Match) Funds (B)</th>
<th>Total Budget (A + B)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personnel/Contractual</td>
<td>$40,000.00</td>
<td>$71,072.00</td>
<td>$111,072.00</td>
</tr>
<tr>
<td>Travel/Training</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Equipment</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Other</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>$40,000.00</strong></td>
<td><strong>$71,072.00</strong></td>
<td><strong>$111,072.00</strong></td>
</tr>
</tbody>
</table>

*All funds must be rounded to the nearest whole dollar amount*

### Funding Strategy

<table>
<thead>
<tr>
<th>Funding Source(s)</th>
<th>Amount</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>WV JAG</td>
<td>$40,000.00</td>
<td>P</td>
</tr>
<tr>
<td>Local Funds (Morgantown Police Department)</td>
<td>$71,072.00</td>
<td>C</td>
</tr>
</tbody>
</table>

**Total**

- **Funding Source** - Separately list each source of funds that will be used in the program.
- **Amount** - Enter the amount received or anticipated for each
- **Status** - Indicate the status of each funding source as follows:
  - P – Projected grant, loan or donation
  - A – Application submitted and under review
  - C – Funds Committed
  - R – Funds received, appropriated or on hand
## West Virginia Justice Assistance
### Grant Program Application

**Applicant Agency:** City of Morgantown  
**Address:** 389 Spruce Street, Morgantown, Wv 26505

**Phone:** 304-284-7446  
**Fax Number:** 304-284-7526

**Project Director:** Robert Gilmore  
**PD Title:** SSC  
**Address:** 300 Spruce Street,  
Morgantown, Wv 26505

**Phone:** 304-284-7446  
**Fax:** 304-284-7526  
**Email:** rgilmore@morgantownwv.gov

**Fiscal Officer:** Jame Goff  
**FO Title:** Finance Director  
**Address:** 389 Spruce Street,  
Morgantown, Wv 26505

**Phone:** 304-284-7407  
**Fax:** 304-284-7418  
**Email:** jgoff@morgantownwv.gov

<table>
<thead>
<tr>
<th>Funds Requested:</th>
<th>40,000.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Match Proposed:</td>
<td>71,072.00</td>
</tr>
<tr>
<td>Project Period:</td>
<td>July 1, 2019 – June 30, 2020</td>
</tr>
<tr>
<td>Number of years previously funded:</td>
<td>3</td>
</tr>
<tr>
<td>Geographic Area(s) Served:</td>
<td>Monongalia County</td>
</tr>
<tr>
<td>Total Population:</td>
<td>30,547</td>
</tr>
<tr>
<td>DUNS Number:</td>
<td>152234220</td>
</tr>
<tr>
<td>FEIN Number:</td>
<td>55-6000215</td>
</tr>
<tr>
<td>Project Title:</td>
<td>MPDPRO</td>
</tr>
</tbody>
</table>

### General Administrative Information

**Type of Agency:** Municipality

**Estimated Number to be Served:** 1200

**Project Description:** The MPDPRO program will continue the presence of a PRO officer in two schools, in a cooperative effort to improve students’ knowledge of the criminal justice system and police.

**Certification:** To the best of my knowledge, the information contained in this application is true and correct. The submission thereof has been duly authorized by the governing body and the applicant will comply with the attached special conditions and assurances, if funding is provided.

**Authorized Official:** Paul Brake  
**Address:** 389 Spruce Street,  
Morgantown, Wv 26505

**Signature:**

**Date:**

**AO Title:** City Manager  
**Phone:** 304-284-7405  
**Fax:** 304-284-7430  
**E-Mail:** pbrake@morgantownwv.gov
City Manager’s Report for City Council Meeting on August 6, 2019

Information:

1. Proposed Annexation Plan

This is a brief update about the proposed annexation plan. In July, city staff and officials completed four public meetings or open houses pertaining to the draft annexation document. These were conducted at North Elementary School, BOPARC Marilla Center, Morgantown Municipal Airport and Morgantown Event Center Marriott. We estimate that over 400 +/- residents, business owners and other stakeholders attended these sessions. We are continuing to compile the comment cards (some continue to be mailed in) to formulate a “Frequently Asked Questions” section on the City’s draft annexation plan webpage.

Since that time, I attended and participated in the discussion of the plan during the last board of director’s meeting of the Morgantown Area Partnership (MAP). The Partnership is a business organization that is focused on wealth growth of all entities in the Morgantown area. It is a newly formed public/private alliance for the betterment of economic, business and community development in the area. At that board meeting, the directors did not take a position on the annexation plan, rather they created an Annexation Task Force to focus on the facts of the annexation process and provide input to its public partners from the private sector view.

Although I am a member of the Executive Committee and the Board of Directors (representing the Campus Neighborhoods Revitalization Corporation), I was not appointed to the Annexation Task Force. The group is working independently, and I have given the assurances to work diligently to answer questions and provide information to the Task Force helping them to ultimately make an informed decision. As I indicated at the last City Council meeting, this process will take a minimum of three to six months to assist the Task Force with its findings. Once a clear direction is given on the scope of the information gathered and the workplan, I will share that information with City Council.
New Business:

1. **Compliance with West Virginia Code 8-22-27A. – Correction of Errors; Underpayments; and Overpayments**

Information will be shared through separate correspondence in response to a request made by the Municipal Pensions Oversight Board. The letter was addressed to both police and fire pension boards respectively to either correct errors in pension calculations made to current pensioners or ask City Council to continue current arrangements as allowed under State Code.

2. **Morgantown Municipal Airport Miscellaneous Airfield Upgrades – Bid Call 2019-13**

In preparation for the Runway Extension construction project, various upgrades are needed at the Morgantown Municipal Airport. These upgrades need to be completed before construction of the runway extension begins - due to the lengthy construction timeframe tied to the extension and availability of FAA and state funding once the runway extension construction begins. Once the work on the extension commences, it will not be practical/possible to perform the needed maintenance and rehabilitation projects listed below.

The proposed upgrades include four projects and one alternative project: (a) repaving Taxiway C (mill and overlay of full width, including shoulders); (b) replacing three stormwater inlets along the terminal apron and one stormwater inlet on the east apron that have structurally deteriorated; (c) replace the approximately 30 year old PAPI system and foundation, which is a visual guidance tool for planes; (d) replace and relocate the current windcones, which are used as navigational aids for planes, to be compliant with current Part 139 inspections; and (alt.) crack seal and seal coat Taxiway A.

3. **Urban Deer Archery Hunt**

Included in the packet is information about the rules and regulations pertaining to the City’s urban deer archery hunt. This is a long-standing program that provides a venison donation program to deliver processed deer to City food kitchens and organizations to help those in need. According to the hunt organizers, there have been no safety accidents or issues coming from the program. The rules and guidelines are provided for information purposes.

Paul J. Brake, ICMA-CM, CEcD
City Manager, Morgantown, WV
Memorandum

To: Paul Brake, City Manager
From: Alexandra Stockdale, Interim Airport Director
Date: July 25, 2019
Re: Morgantown Municipal Airport Miscellaneous Airfield Upgrades – Bid Call 2019-13

Bids were opened at 2:00pm on July 25, 2019. The results are as follows:

<table>
<thead>
<tr>
<th>CONTRACTOR</th>
<th>COST</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mountaineer Contractors, Inc.</td>
<td>$904,058.55  Base Bid</td>
</tr>
<tr>
<td></td>
<td>$133,500.00  Add Alternate I Rehabilitate Taxiway A (Crack Seal &amp; Seal Coat)</td>
</tr>
<tr>
<td>Bear Contracting, LLC</td>
<td>$1,147,155.00  Base Bid</td>
</tr>
<tr>
<td></td>
<td>$101,952.00  Add Alternate I Rehabilitate Taxiway A (Crack Seal &amp; Seal Coat)</td>
</tr>
</tbody>
</table>

Engineering and Airport Staff have reviewed the submitted bids for completeness and adherence to the Bid Call requirements. Engineering has found that Mountaineer Contractors bid is acceptable.
MORGANTOWN CITY MANAGER’S HUNTER REQUIREMENTS
AND RULES PERTAINING TO THE CITY OF MORGANTOWN’S
URBAN DEER ARCHERY HUNT - 2019

Season Dates Established by the West Virginia Division of Natural Resources:
Saturday, September 7 through Monday, December 31, 2019 &
Monday, January 13 through Thursday, January 31, 2020

Hunter Requirements

1. Hunters must have a valid West Virginia hunting license.
2. Hunters must complete all parts of the hunt application.
3. Hunters must successfully complete the Bowhunter Education Course.
4. Hunters must successfully complete an archery proficiency test.

Rules

1. Hunters shall park only in designated parking areas.
2. Hunters shall treat everyone they meet with courtesy and respect.
3. Hunters shall not litter.
4. Hunters shall obey all West Virginia game laws.
5. Hunters will be selected and assigned locations by the City Manager or his designee. A completed application is not a guarantee that a hunter will be selected. The City Manager or his designee will attempt to assign all qualified hunters, but there may be more qualified applicants than hunting locations.
6. Locations for the hunt include, but are not exclusive to:
   a. Chafant Avenue properties
   b. Conrad Place/White Avenue adjacent properties
   c. Sheldon Avenue woodlot
   d. Green Bag Road
   e. Harner Street
   f. Koontz Avenue
   g. Lawnview Avenue
   h. Norwood neighborhood (surrounding woodlots)
   i. Penninsula Avenue
   j. Southpoint Circle
   k. West Virginia University properties
      i. Core Arboretum
      ii. Dairy Farm
      iii. Farm woodlot
      iv. Falling Run hollow
v. Monongahela Boulevard hillside  
vi. Motor Pool woodlot  
vii. Organic Farm  
viii. Van Voorhis woodlot

7. All hunters, prior to receiving a permit authorizing him or her to participate in the hunt, must agree to hold harmless the City of Morgantown, City of Morgantown employees and officials, and the owner of the realty upon which they will be hunting from any and all claims for personal injury, death, or property damage arising as a result of the hunter participating in the hunt.

8. No person, without first receiving written permission from the City Manager or his designee, may accompany a hunter while he or she is participating in this hunt.

9. Permits must be on a hunter at all times while hunting.

10. Portable, ladder or climbing stands are required for all hunters except for those who are physically disabled and have been issued a valid Class Y hunting license by the State of West Virginia or for sites where a ground blind has been approved.

11. Stalking deer on the ground is prohibited. This includes walking to and from designated hunting sites.

12. Those hunting from an elevated tree stands must use a full-body safety harness while in the tree.

13. The hunter’s name and sequential numbers must be on all arrows used while hunting, i.e. J. Miller #1, J. Miller #2, J. Miller #3.

14. Shots of 25 yards or more shall not be taken.

15. A maximum of 7 deer can be taken by each hunter on their urban season tags (5 antlerless deer, 2 bucks). Additional deer can be taken on a hunter’s regular West Virginia license providing they have the correct stamps for the corresponding seasons.

16. In pursuance of the City of Morgantown’s deer management goals and the West Virginia Division of Natural Resources’ regulations, an antlerless deer is required to be taken first. After that, 2 bucks can be taken as long as the second buck is preceded by an antlerless harvest.

17. Two deer may be taken per day and can be checked-in at the same time. While two does or a buck and a doe can be taken in the same day, two bucks cannot be taken in the same day.

18. If a wounded deer leaves the boundary of the designated hunting area, the hunter shall not pursue the deer onto another’s realty without first obtaining the permission of the owner of the realty upon which the hunter wishes to enter. The hunter shall not fire his/her bow once he/she leaves the designated hunt area assigned to him or her. If the wounded deer is located, while alive, on another’s property, the hunter must contact the Morgantown Police Department at (304) 284-7522. The hunter shall identify himself/herself as a participant in the Morgantown Urban Deer Archery Hunt, and request assistance from the Police Department in retrieving the deer.

19. If a property owner does not give the hunter permission to enter his or her property to search for a wounded deer, the hunter shall inform the property owner that he or she can call (304) 284-7522 to have the deer removed from his or her property.
20. Under no situation will entrails be left on any property. A carcass is to be removed in its entirety or have entrails placed in plastic bags, removed from the property and properly discarded. (Please provide your own bags for this purpose.)

21. All deer must be checked-in and registered by completing the following two-step process:
   1. Using West Virginia DNR’s electronic check-in system by either calling 1-844-WVCheck or by logging into your account at https://wvhunt.com/.
   2. Once the deer is checked-in, hunters must report their harvest(s) to Paul Crumrine by phone or text at 304-216-3040. This is mandatory for internal record-keeping.

22. Hunters shall be required to comply with any additional restrictions set by the hunting realty owner which do not conflict with the City Manager’s Rules, the Morgantown City Code, the general statutory laws of the State of West Virginia, and the Rules and Regulations of the West Virginia DNR.

23. Failure to comply with any of the above requirements may result in a hunter’s removal from participating in the City of Morgantown’s archery hunt.

24. Before being issued a permit to participate in the hunt, all selected hunters must agree in writing to the foregoing rules.