

**ORDINANCE
OF
THE COUNTY COMMISSION OF MORGAN COUNTY**

AN ORDINANCE AUTHORIZING THE DESIGN, ACQUISITION AND CONSTRUCTION AND EQUIPPING OF A WELLNESS CENTER FOR MORGAN COUNTY; AUTHORIZING THE LEASING OF SUCH FACILITIES BY THE COUNTY COMMISSION FROM THE MORGAN COUNTY BUILDING COMMISSION; APPROVING THE SALE, ISSUANCE AND DELIVERY OF NOT TO EXCEED \$2,700,000 LEASE REVENUE BONDS, SERIES 2024 A BY THE MORGAN COUNTY BUILDING COMMISSION TO PROVIDE FUNDS TO FINANCE A PORTION OF THE COSTS OF SUCH DESIGN, ACQUISITION AND EQUIPPING OF THE WELLNESS CENTER AND RELATED COSTS AND EXPENSES; 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 CERTAIN OTHER MATTERS IN CONNECTION THEREWITH.

WHEREAS, pursuant to the authority of Chapter 8, Article 33 of the West Virginia Code of 1931, as amended (the "Act"), The County Commission of Morgan County (the "County Commission") created the Morgan County Building Commission (the "Issuer"), a public corporation with perpetual existence and a county building commission within the meaning of the Act;

WHEREAS, the Issuer under the Act has plenary power and authority to contract and be contracted with, acquire, purchase, own and hold any property, real or personal, and acquire, construct, equip, maintain and operate public buildings, structures, projects and appurtenant facilities of any type or types for which the County Commission is permitted by law to expend public funds, sell, encumber or dispose of any property, real or personal, and lease its property or any part thereof, for public purposes, to such persons and upon such terms as the Issuer deems proper;

WHEREAS, the County Commission is permitted under Chapter 7 of the Code of West Virginia, 1931, as amended, to expend public funds for the acquisition, construction, and equipping of recreational facilities; therefore, the Issuer may acquire, construct, and equip a wellness center in order to provide necessary facilities to house public offices and public officials;

WHEREAS, the Issuer under the Act has plenary power and authority to issue negotiable bonds, notes, debentures or other evidences of indebtedness and provide for the rights of the holders thereof, incur any proper indebtedness and issue any obligations and give any security therefor which it may deem necessary or advisable in connection with exercising powers as provided in the Act;

WHEREAS, the Issuer proposes to use the proceeds of the Bonds, hereinafter defined and described, (i) to pay a portion of the costs of acquisition and equipping of a wellness center for Morgan County, together with all necessary appurtenances (the "Project"); and (ii) to pay certain costs of issuance and related costs (the real property constituting the site of the Project, together with the Project improvements thereto and all real and personal property in connection therewith, and all appurtenances thereto and all additions and improvements thereto, of every kind and nature, now or hereafter acquired or constructed, herein collectively called the "Facilities");

WHEREAS, in order to provide funds for payment of a portion of the costs of said acquisition and equipping of the Project, as well as costs relating to the issuance of the Bonds, the Issuer will issue, sell and deliver its Lease Revenue Bonds, Series 2024 A, in the aggregate principal amount of not to exceed \$2,700,000 (the "Bonds"), under and pursuant to the Ordinance of the Issuer (the "Issuer Ordinance"), and the provisions of the Act;

WHEREAS, the remaining costs of the Project shall be paid with funds of the County Commission which are legally available for such purpose;

WHEREAS, the Issuer will lease the Facilities to the County Commission pursuant to an Agreement and Lease dated the date of the Bonds, by and between the Issuer, as lessor, and the County Commission, as lessee (the "Lease");

WHEREAS, the Issuer will enter into: (i) a Credit Line Deed of Trust, Fixture Filing and Security Agreement dated the date of the Bonds, by and between the Issuer and the trustee named therein (the "Deed of Trust"), and (ii) a Lease Assignment dated the date of the Bonds, by and between the Issuer and the United States of America, acting through the United States Department of Agriculture (the "Lease Assignment") to further secure the payment of the principal of and interest on the Bonds;

WHEREAS, the County Commission hereby approves the issuance of the Bonds, the acquisition and equipping of the Project and the leasing of the Project by the County Commission from the Issuer;

WHEREAS, there have been presented to this meeting the following documents executed or to be executed in connection with the issuance and sale of the Bonds and the design, acquisition, construction and equipping of the Project and incorporated by reference as a part hereof in substantially the forms presented to this meeting:

- (1) The proposed form of the Lease;
- (2) The proposed form of the Assignment;
- (3) The proposed form of the Deed of Trust; and

(4) The proposed form of the Bonds (as set forth in the bond ordinance of the Morgan County Building Commission)

WHEREAS, it appears that each of the instruments referred to above is in appropriate form and is an appropriate instrument for the purposes intended, including, without limitation, the financing of the Project through the issuance of the Bonds at the lowest cost possible;

WHEREAS, the County Commission hereby finds and determines that the acquisition by the Building Commission of the site of the Project, together with all existing improvements and personal property in connection therewith, the design, acquisition, construction, equipping and financing of the Project by the Issuer and the leasing thereof and the other Facilities to the County Commission from the Issuer is desirable and needed and will benefit the inhabitants of Morgan County and will promote the general health and welfare of the citizens and residents of Morgan County and that the Project is for a public purpose of the Issuer under the Act; and

WHEREAS, the County Commission desires to take all steps necessary for the prompt design, acquisition, construction and equipping of the Project and the financing and leasing thereof and such other Facilities to permit operation thereof as soon as feasible;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE COUNTY COMMISSION OF MORGAN COUNTY AS FOLLOWS:

Section 1. All capitalized terms used in this Ordinance and not otherwise defined shall have the same meanings set forth in the Lease.

Section 2. Pursuant to the Act, this Ordinance is enacted and the County Commission hereby approves the leasing by the County Commission of the Project from the Issuer.

Section 3. The County Commission also hereby approves the design, acquisition, construction and equipping of the Project by the Issuer at an estimated cost of not to exceed \$2,700,000 which shall be payable from proceeds of the Bonds and funds of the County Commission. The County Commission approves the use of County Commission funds in an amount not to exceed \$1,250,000 for purposes of application and disbursement to pay a portion of the costs of the design, acquisition, construction and equipping of the Project (the "County's Equity Contribution"). The County's Equity Contribution shall not be a loan but rather an equity contribution or grant of the County Commission to the Project.

Section 4. The County Commission hereby also approves the issuance and delivery of the Bonds by the Issuer in the maximum aggregate principal amount of \$2,700,000, with such terms as are set forth in the Lease and the Issuer Ordinance and hereby further approves enactment of the Issuer Ordinance and all such other actions of the Issuer as may be deemed necessary or advisable in authorizing the issuance of the Bonds and the design, acquisition, construction and equipping of the Project.

Section 5. The Lease, pursuant to which the County Commission will lease the Facilities from the Issuer and will agree to pay as rentals (but only from the sources set forth therein) certain amounts sufficient to pay the principal of and interest on the Bonds and other amounts payable thereunder, substantially in the form submitted to this meeting, shall be and the same is hereby approved in all respects. The President shall execute, acknowledge as necessary and deliver the Lease with such changes, insertions and omissions as may be approved by the President, and the County Clerk is hereby authorized and directed to affix the seal of the County Commission thereto and to attest the same. The execution of the Lease by the President shall be conclusive evidence of any approval required by this Section.

Section 6. The Assignment, pursuant to which the Issuer will assign unto the Purchaser (hereinafter defined) of the Bonds, the lease rentals and profits due under the Lease, substantially in the form submitted to this meeting, shall be and the same is hereby approved in all respects, with such changes, variations, insertions and omissions as may be approved by the Issuer. The execution of the Lease Assignment by the Chairman of the Issuer shall be conclusive evidence of any such approval.

Section 7. The Deed of Trust substantially in the form presented to this meeting, shall be and the same is hereby approved in all respects, with such changes, variations, insertions and omissions as may be approved by the Issuer. The execution of the Deed of Trust by the Chairman of the Issuer shall be conclusive evidence of any such approval.

Section 8. The Bonds, substantially in the form presented 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 Issuer. The execution of the Bonds by the Chairman of the Issuer shall be conclusive evidence of any such approval.

Section 9. The County Commission hereby approves the sale of the Bonds to the United States of America, acting through the United States Department of Agriculture, or such other entity as may be approved by Supplemental Resolution of the County Commission (the "Purchaser").

Section 10. The County Commission hereby approves the appointment and designation by the Issuer of the State Director of the United States Department of Agriculture, Rural Development, Morgantown, West Virginia, or such other designee or agent as may be appointed for such purpose by the Purchaser, for the purpose of serving in the capacity of Trustee under the Deed of Trust.

Section 11. All covenants, stipulations, obligations and agreements of the County Commission contained herein and contained in the Lease shall be deemed to be the special and limited covenants, stipulations, obligations and agreements of the County Commission to the full extent permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the County Commission 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 County Commission or the

officials thereof by the provisions hereof and by the Lease shall be exercised or performed by the County Commission 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 shall be deemed to be a covenant, stipulation, obligation or agreement of any officer, agent or employee of the County Commission in his or her individual capacity and neither the members of the County Commission nor any officer or employee thereof shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 12. The execution, delivery and due performance of the Bonds, the Lease, the Lease Assignment, and the Deed of Trust are hereby in all respects approved, authorized, ratified and confirmed, including all acts heretofore taken in connection with the design, acquisition, construction and equipping of the Project, the financing thereof and the leasing of the same, and it is hereby ordered that the President, County Clerk and other members and officers of the County Commission 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 instruments.

Section 13. 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 14. Upon adoption hereof, an abstract of this Ordinance, determined by the County Commission 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 *Morgan Messenger*, a newspaper of general circulation in Morgan County, West Virginia, together with a notice stating that this Ordinance has been adopted, and that any person interested may appear before the County Commission 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 Clerk of the County Commission for review by interested parties during regular office hours. At such hearing, all objections and suggestions shall be heard and the members of the County Commission shall take such action as they shall deem proper in the premises.

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Section 15. This Ordinance shall become effective following public hearing.

Passed on First Reading: July 17, 2024

Passed on Second and Final Reading
Following Public Hearing
Held and Effective on: August 7, 2024

President

CERTIFICATION

The undersigned, being the duly appointed, qualified and acting Clerk of The County Commission of Morgan County (the "County Commission"), does hereby certify that the foregoing is a true, correct and complete copy of an Ordinance duly enacted by the County Commission at regular meetings duly held on July 17, 2024, and August 7, 2024 following a public hearing thereon, pursuant to proper notice, at which a quorum was present and acting throughout, and which Ordinance has not been amended, modified, rescinded, repealed, annulled, revoked or otherwise altered as witness my hand on this _____ day of _____, 2024.

Clerk

ATTACHMENTS

Form of Agreement and Lease

Form of Lease Assignment

Form of Credit Line Deed of Trust

[Included in Bond Transcript as Document Nos. 2, 3 and 4]