FIRST SUPPLEMENTAL INDENTURE OF TRUST

by and between

THE CITY OF MORGANTOWN

and

THE BANK OF NEW YORK MELLON
as Trustee

Dated _____, 2013

$3,000,000
The City of Morgantown
Tax Increment Revenue Bonds
(Falling Run Project No. 1)
Series 2007 A

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FIRST SUPPLEMENTAL INDENTURE OF TRUST

This **FIRST SUPPLEMENTAL INDENTURE OF TRUST** is made _____, 2013 (this "First Supplemental Indenture of Trust") between **THE CITY OF MORGANTOWN**, a municipal corporation and political subdivision of the State of West Virginia (the "Issuer") and **THE BANK OF NEW YORK MELLON** (f/k/a as The Bank of New York, as trustee (the "Trustee").

WHEREAS, the Issuer and the Trustee entered into an Indenture of Trust dated October 5, 2007 (the "Original Indenture") under which the Issuer issued The City of Morgantown Tax Increment Revenue Bonds (Falling Run Project No. 1) Series 2007 A (the "Series 2007 A Bonds") in the aggregate principal amount of $3,000,000 the proceeds of which were used (i) to finance the costs of certain public infrastructure improvements as described therein; (ii) to deposit funds in the Reserve Fund; (iii) to pay capitalized interest on the Series 2007 A Bonds; (iv) to fund certain Administrative Expenses; and (v) to pay the costs of issuing the Series 2007 A Bonds.

WHEREAS, Section 7.02 of the Indenture provides that with the prior written consent of the Owners of all the Series 2007 A Bonds, the Issuer may enter into a Supplemental Indenture which will thereafter form a part of the Indenture, to modify any of the provisions thereof.

WHEREAS, on June 1, 2011, there were insufficient funds available under the Original Indenture to pay the full amount of interest due on the Series 2007 A Bonds on such Interest Payment Date.

WHEREAS, as of the date hereof, all interest due on the Series 2007 A Bonds has been paid, but that in order to pay the full amount of interest due on the Series 2007 A Bonds on the December 1, 2012 Interest Payment Date, funds were transferred from the Reserve Fund to the Debt Service Fund and presently, the amount on deposit in the Reserve Fund is less than the Reserve Requirement.

WHEREAS, West Virginia University Board of Governors on behalf of West Virginia University, an agency and higher education institution of the State of West Virginia (the "University") has agreed pursuant to a Contingent and Guaranteed Payment Agreement dated October 10, 2012 (the "Payment Agreement") between the University and First United Bank & Trust, in its capacity as the Owner of all the outstanding Series 2007 A Bonds (the "Original Purchaser") to make an annual payment (the "Guaranty Payment") directly to the Trustee in an aggregate amount up to $120,000, as further described in the Payment Agreement, to support the Series 2007 A Bonds and pursuant to the Payment Agreement the Original Purchaser agreed, for purposes of calculating the amounts of such Guaranty Payment and for purposes of modifying the interest rate provisions of the Series 2007 A Bonds, to modify the interest rate on the Series 2007 A Bonds.

WHEREAS, the Issuer and the Trustee have agreed to modify the Original Indenture and the terms of the Series 2007 A Bonds to lower the interest rate on the Series 2007 A Bonds for

such period of time and in a manner consistent with the Payment Agreement, to provide for the Trustee's receipt and application of the Guaranty Payment to the payment of debt service on the Series 2007 A Bonds and in connection therewith to provide for the designation of the Revenue Fund as a subaccount of the TIF Fund and the Original Purchaser, as the Owner of all the outstanding Series 2007 A Bonds has consented thereto. The Original Indenture, as supplemented by this First Supplemental Indenture, is referred to herein as the "Indenture".

NOW, THEREFORE, the Issuer and the Trustee covenant and agree as follows:

ARTICLE I

FIRST SUPPLEMENTAL INDENTURE OF TRUST

Section 1.01 First Supplemental Indenture of Trust This First Supplemental Indenture is authorized, executed and delivered by the Issuer and the Trustee pursuant to and in accordance with Section 7.02 of the Indenture. The Owner of all the outstanding Series 2007 A Bonds has consented to the terms of this First Supplemental Indenture including the amendment and restatement of the Series 2007 A Bonds in the form attached hereto as Exhibit A.

Section 1.02 Definitions

(a) All undefined capitalized terms used in this First Supplemental Indenture and not defined herein shall have the meanings set forth in Article I of the Original Indenture.

(b) The following terms set forth in the Original Indenture are hereby amended and restated as follows:

"**Series 2007 A Bonds**" means The City of Morgantown Tax Increment Revenue Bonds (Falling Run Project No. 1) Series 2007 A, originally issued on October 5, 2007 in the aggregate principal amount of $3,000,000 and as amended and restated on the Reissuance Date.

"TIF Fund" means the fund by that name created by the Issuer pursuant to the District Establishment Ordinance and provided for under the Act and includes any subaccount within the TIF Fund designated by the Issuer, including but not limited to the Revenue Fund.

(c) The following terms shall have the meanings set forth below.

"Bond Modification Resolution and Ordinance" means the Resolution and Ordinance of the Issuer enacted _____, 2013 authorizing this First Supplemental Indenture, the amended and restated Series 2007 A Bonds and the documentation related thereto and the designation of the Revenue Fund as a subaccount of the TIF Fund.

"Guaranty Payment" means the annual payment made, or to be made, by the University pursuant to the Payment Agreement to pay a portion of the Debt Service on the Series 2007 A Bonds.

"Payment Agreement" means the Contingent and Guaranteed Payment Agreement dated October 10, 2012, by and between the West Virginia University Board of Governors on

behalf of West Virginia University and First United Bank & Trust, as the Original Purchaser of the Series 2007 A Bonds.

"**Reissuance Date**" means the date of the reissuance and delivery of the Series 2007 A Bonds to the Original Purchaser in the form attached hereto as Exhibit A, in exchange for the delivery of the original Series 2007 A Bonds by the Original Purchaser to the Trustee for cancellation and destruction, such date being _____, 2013.

Section 1.03 Rules of Construction. Unless the context clearly indicates to the contrary, the rules of construction set forth in Section 1.02 of the Original Indenture shall apply to the construction of this First Supplemental Indenture.

ARTICLE II

AUTHORIZATION AND DETAILS OF THE BONDS

Section 2.01 Amended and Restated Series 2007 A Bonds Authorized.

There is hereby authorized to be issued the amended and restated Series 2007 A Bonds in the aggregate principal amount of $3,000,000.

Section 2.02 Details of Series 2007 A Bonds; Form of Series 2007 A Bonds.

Upon the Reissuance Date, the Series 2007 A Bonds shall be issuable as fully registered bonds in the denominations of $5,000 and any integral multiples of $5,000 in excess thereof in the form of the amended and restated Series 2007 A Bond attached hereto as Exhibit A. The Series 2007 A Bonds shall be numbered separately and lettered, if at all, in such manner as the Trustee may determine.

The Series 2007 A Bonds shall be dated the date of initial delivery thereof to the Original Purchaser. The Series 2007 A Bonds shall bear interest at the rates designated below from their dates (computed on the basis of a year of 360 days consisting of 12 months of 30 days each) until payment of principal has been made or provided for, payable on each Interest Payment Date commencing June 1, 2013, except that Series 2007 A Bonds which are reissued upon transfer, exchange or other replacement shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, or if no interest has been paid, from the Reissuance Date of the Series 2007 A Bonds. The Series 2007 A Bonds shall bear interest at the rate of (i) 2.5% per annum from December 2, 2012 until June 1, 2014; (ii) 3.5% per annum from June 2, 2014 until June 1, 2017; and (iii) 5.69% per annum thereafter. The Series 2007 A Bonds shall mature on June 1, 2033.

The Series 2007 A Bonds shall be reissued as a single bond in the principal amount of $3,000,000. The Trustee is authorized and directed to authenticate and deliver the reissued Series 2007 A Bonds, without further acts on the part of the Issuer, to the Original Purchaser; provide, however, that the Trustee shall receive in exchange for the reissued Series 2007 A Bonds the original Series 2007 A Bonds from the Original Purchaser, which original Series 2007 A Bonds the Trustee shall cancel in accordance with the provisions of Section 2.08 of the Original Indenture.

The principal of and interest on the Series 2007 A Bonds shall be payable in lawful money of the United States of America, by certified or bank cashier's check, or by wire transfer to an account designated by the payee at the principal corporate trust office of the Trustee in Woodland Park, New Jersey, or at the principal corporate trust office of its successor, upon presentation and surrender of the Series 2007 A Bonds in the case of principal payments only. Payment of interest on any Series 2007 A Bond shall be made on each Interest Payment Date to the Bondholder at the close of business on the Regular Record Date for such Interest Payment Date, and in the case of a payment of interest by certified or bank cashier's check, such check shall be mailed by first class mail to such Bondholder at its address as it appears on such registration books.

Any such interest not so timely paid or duly provided for because funds are not available to pay any portion thereof shall cease to be payable to the Bondholder thereof at the close of business on the Regular Record Date and shall be payable to the Bondholder thereof at the close of business on a Special Record Date for the payment of any such defaulted interest. Interest shall accrue on such unpaid interest from the close of business on the applicable Regular Record Date to the Special Record Date set for payment thereof at the rate of interest per annum then applicable to the Series 2007 A Bonds. In the event funds for the payment of interest are not available as of the close of business on the Record Date, the Trustee shall notify the Bondholders of such fact by the close of business on such Record Date or as soon as practicable thereafter. Such Special Record Date shall be fixed by the Trustee whenever monies become available for payment of the defaulted interest, and notice of such Special Record Date shall be given to the Bondholder of the Series 2007 A Bonds not fewer than ten days prior thereto by first-class mail to each such Bondholder as shown on the Trustee's registration books on the date selected by the Trustee, stating the date of the Special Record Date and the date fixed for the payment of such defaulted interest.

The Series 2007 A Bonds shall be subject to redemption prior to maturity in accordance with Section 3.01, and shall otherwise have the terms, tenor, denominations, details and specifications as set forth in the form of Series 2007 A Bond attached hereto as **Exhibit A - Form of Series 2007 A Bonds.**

The Series 2007 A Bonds shall be substantially in the form set forth in **Exhibit A** attached hereto and made a part hereof which is in substitution for the form of Bond attached to the Original Indenture, with such insertions, omissions and variations as may be deemed necessary or appropriate by an Authorized Officer of the Issuer executing the same and as shall be permitted by the Act. The covenants and conditions set forth in such form are incorporated into this Indenture by reference and shall be binding upon the Issuer as though set forth in full herein.

The Series 2007 A Bonds may contain, or have endorsed thereon, any notations, legends or endorsements not inconsistent with the provisions of this Indenture or of any Supplemental Indenture authorizing the same as may be necessary or desirable and as may be determined by the Authorized Officers of the Issuer executing the Bonds prior to the authentication and delivery of such Bonds. The execution and delivery of the Bonds by the Authorized Officers of the Issuer in accordance with this Indenture shall be conclusive evidence of the approval of the form of

such Bonds by the Issuer, including any insertions, omissions, variations, notations, legends or endorsements authorized by this Indenture.

The Series 2007 A Bonds shall be numbered in the manner determined by the Trustee. Before authenticating and delivering any Bond, the Registrar shall complete the form of such Bond to show the registered owner, principal amount, interest rate, maturity date, number and authentication date of such Bond.

Section 2.03 Conditions Precedent to Delivery of Series 2007 A Bonds.

The amended and restated Series 2007 A Bonds shall be executed by the Issuer and delivered to the Trustee on the Reissuance Date, whereupon the Trustee, as Registrar, shall authenticate the amended and restated Series 2007 A Bonds and deliver the amended and restated Series 2007 A Bonds upon the order of the Issuer, but only upon delivery to the Trustee of:

(a) A copy of the Original Indenture and an original executed counterpart of this First Supplemental Indenture;

(b) A request and authorization to the Trustee on behalf of the Issuer, executed by an Authorized Officer, to authenticate the amended and restated Series 2007 A Bonds and deliver said amended and restated Series 2007 A Bonds to the Original Purchaser in exchange for the original Series 2007 A Bonds. The Trustee shall be entitled to rely conclusively upon such request and authorization as to the names of the purchasers and the amounts of such purchase price;

(c) An Opinion of Bond Counsel to the effect that the First Supplemental Indenture is authorized and permitted and in compliance with the terms of the Original Indenture and the Act and that the execution and delivery thereof will not adversely affect the exclusion of the interest on the Series 2007 A Bonds from gross income for federal income tax purposes; and

(d) An Opinion of Counsel to the effect that the Issuer is duly authorized to enter into this First Supplemental Indenture and will, upon the execution and delivery thereof, be valid binding and enforceable upon and against the Issuer in accordance with its terms; and

(e) Such other certificates, statements, opinions, receipts and documents as the Trustee shall reasonably require for the delivery of the amended and restated Series 2007 A Bonds.

When the documents specified above have been filed with the Trustee, and when the amended and restated Series 2007 A Bonds shall have been executed and authenticated as required by this First Supplemental Indenture, the Trustee shall deliver the amended and restated Series 2007 A Bonds to the Original Purchaser thereof in exchange for the original Series 2007 A Bonds. Upon its receipt of such original Series 2007 A Bonds, the Trustee shall cancel the same in accordance with Section 2.08 of the Indenture.

Section 2.04 Additional Bonds. No Additional Bonds may be issued under the Indenture without the prior written consent of the Bondholder.

ARTICLE III

FUNDS AND ACCOUNTS

Section 3.01 Revenue Fund. Section 4.07 of the Original Indenture is hereby amended and restated as follows:

Section 4.07 - Revenue Fund.

(a) The Issuer hereby designates the Revenue Fund to be a subaccount of the TIF Fund. All Tax Increment Revenues generated in the Redevelopment District shall be deposited upon receipt by the Sheriff of Monongalia County into the TIF Fund. All Tax Increment Revenues received by the Sheriff of Monongalia County and deposited into the TIF Fund shall be transferred on or before the first day of each month to the Issuer. As soon as practicable following receipt thereof from the Sheriff of Monongalia County, West Virginia, the Issuer shall deposit or cause to be deposited with the Trustee all to the credit of the Revenue Fund, all Tax Increment Revenues received by the Issuer. All payments received by the Trustee pursuant to the Payment Agreement shall be deposited to the credit of the Revenue Fund. On or before September 1 of each year, the Bondholder shall provide the Trustee and the Issuer with a copy of the invoice and all supporting calculations and documentation provided to the University stating the amount of the Guaranty Payment, if any, due and payable under the Payment Agreement. If such Guaranty Payment is not paid in full by November 15th of such year, the Trustee shall notify the Bondholder and the Issuer.

(b) On or before each Interest Payment Date, on each date on which the principal or Redemption Price of any Bonds becomes due, and on any other date required for the payment of any other obligations relating to the Redevelopment District, the Trustee shall withdraw from the Revenue Fund and transfer the following amounts to the following funds in the following order of priority; (i) to the Rebate Fund, any amounts required to be transferred thereto pursuant to Section 4.09 of the Original Indenture, (ii) to the Administrative Expense Fund, such amounts as are estimated by an Authorized Officer to be necessary to pay Administrative Expenses during the ensuing six-month period, (iii) to the Debt Service Fund, the amount necessary, taking into account any available amounts then on deposit in the Debt Service Fund and amounts on deposit in the Project Fund available for transfer to the Debt Service Fund, to make the amount in the Debt Service Fund equal to the interest coming due on the Bonds on the next succeeding Interest Payment Date, (iv) to the Debt Service Fund, on the Maturity Date, the amount necessary, taking into account any available amounts then on deposit in the Debt Service Fund and amounts on deposit in the Project Fund available for transfer to the Debt Service Fund, to make the amount in the Debt Service Fund equal to the principal and Redemption Price, if any, due on the Bonds on such Maturity Date, and (v) to the Reserve Fund such amount, if any, necessary to fund the Reserve Fund at the Reserve Requirement.

(c) On June 1 of each Bond Year, if following the transfers required by subparagraph (b) above, funds in excess of $5,000 remain in the Revenue Fund, the Trustee shall transfer said funds in increments of $5,000 to the Redemption Account within the Debt Service Fund for redemption of the principal of Series 2007 A Bonds pursuant to Section 3.01(b) of the Original Indenture.

ARTICLE IV

COVENANTS OF THE ISSUER; DEFAULT AND REMEDIES

Section 4.01 Authority to Issue Bonds; Bonds Constitute Special Obligations. The Issuer covenants that it is duly authorized under its City Charter and the Constitution and laws of the State of West Virginia to execute this First Supplemental Indenture, to amend and restate the Series 2007 A Bonds; that all action on its part for the execution and delivery of this First Supplemental Indenture and the amendment and restatement of the Series 2007 A Bonds has been duly and effectively taken; and that the Series 2007 A Bonds in the hands of the owners thereof are and will be valid and enforceable obligations of the Issuer according to the import thereof, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights to the extent applicable and their enforcement may be subject to the exercise of judicial discretion in appropriate cases.

Section 4.02 Pledge of the TIF Fund. The Issuer hereby confirms that the pledge of the TIF Fund to secure repayment or payment of the principal of and premium, if any, on the Bonds, includes the pledge of all of its right, title and interest in any subaccount of the TIF Fund, including but not limited to the Revenue Fund.

Section 4.03 Trustee's Responsibility with Respect to Payment Agreement. The Trustee's sole responsibility with respect to the Payment Agreement and the Guaranty Payments received by the Trustee pursuant thereto is set forth in Section 4.07(a) and (b) of the Original Indenture, as provided in Section 3.01 of this First Supplemental Indenture of Trust. The Trustee is not a party to the Payment Agreement and shall have no responsibility to enforce the provisions of the Payment Agreement against any party thereto. Notwithstanding the foregoing, the Trustee is a third party beneficiary under the Payment Agreement and, if properly indemnified as provided in Section 6.02 of the Original Indenture, may upon the request of not less than 10% of the principal amount of the Bonds Outstanding elect to pursue an enforcement action on behalf of the Bondholders.

ARTICLE V

MISCELLANEOUS

Section 5.01 Severability.

The parties hereto agree that the provisions contained in each Section of this First Supplemental Indenture, and within the subsections of such Sections are intended to be separate and divisible and if, for any reason, any one or more of them shall be held to be illegal, invalid or unenforceable, in whole or in part, by a court of competent jurisdiction, then (a) the same shall not be held to affect the validity of any other provision contained in this First Supplemental Indenture and (b) the same shall be deemed to be modified to the minimum extent necessary for it to be legally enforceable. The parties hereto hereby expressly request and authorize any court of competent jurisdiction to enforce any such provision or to modify any such term thereof so that it shall be enforced by such court to the fullest extent permitted by applicable law. The Issuer hereby declares that, in the event a court of competent jurisdiction declares any Section,

paragraph, sentence, clause or phrase of this First Supplemental Indenture to be illegal, invalid or unenforceable but is unable to modify it as authorized herein, it would have nevertheless adopted this First Supplemental Indenture and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the amendment and restatement of the Series 2007 A Bonds pursuant thereto irrespective of the illegality, invalidity or unenforceability of any such Section, paragraph, sentence, clause or phrase.

Section 5.02 Applicable Law.

This First Supplemental Indenture shall be governed by and enforced in accordance with the laws of the State of West Virginia applicable to contracts made and performed in the State of West Virginia. THE PARTIES HEREBY WAIVE TRIAL BY JURY IN ANY ACTION ARISING UNDER THIS FIRST SUPPLEMENTAL INDENTURE. Any judicial proceeding arising out of or relating to this First Supplemental Indenture (including any declaratory judgments) shall be filed exclusively in the State and Federal courts located in West Virginia, and each party hereby consents to, and will submit to, the personal and subject matter jurisdiction of such courts in any proceeding to enforce any of its obligations under this First Supplemental Indenture and shall not contend that any such court is an improper or inconvenient venue. The foregoing shall not limit the right of any party to obtain execution of judgment in any other jurisdiction.

Section 5.03 Conflict with Act.

In the event of a conflict between any provision of this First Supplemental Indenture with any provision of the Act as in effect on the date hereof, the provision of the Act shall prevail over the conflicting provision of this First Supplemental Indenture.

Section 5.04 Intention as to Seal and Contract.

It is intended that this First Supplemental Indenture, when signed on behalf of the Issuer and the Trustee and duly delivered between them, shall constitute a contractual obligation under seal under the laws of the State of West Virginia with force and effect as an agreement and indenture of trust.

Section 5.05 Counterparts.

This First Supplemental Indenture may be executed in counterparts, each of which shall be deemed an original.

[Signatures Follow]

IN WITNESS WHEREOF, the Issuer and the Trustee have caused this First Supplemental Indenture of Trust to be executed all as of _____, 2013

THE CITY OF MORGANTOWN

[SEAL]

By: _____
Its Mayor

By: _____
Its Interim City Manager

Attest:

By: _____
Its City Clerk

THE BANK OF NEW YORK MELLON

By: _____
Its Authorized Officer

Consented to by FIRST UNITED BANK & TRUST,
as Registered Owner of 100% of the Series 2007 A Bonds

By:_____
Name: Carissa L. Rodeheaver
Title: President and Chief Financial Officer

EXHIBIT A
FORM OF AMENDED AND RESTATED SERIES 2007 A BOND

THIS BOND IS REGISTERED WITH THE TRUSTEE, THE BANK OF NEW YORK MELLON, AND IS NOT REGISTERED WITH THE DEPOSITORY TRUST COMPANY, AND ANY REGISTRATION OF TRANSFER, EXCHANGE, OR PAYMENT SHOULD BE SUBMITTED TO THE TRUSTEE, THE BANK OF NEW YORK MELLON.

THIS BOND HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS OR ANY OTHER APPLICABLE SECURITIES LAWS. NEITHER THIS BOND NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE REOFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT. THE HOLDER OF THIS BOND BY ITS ACCEPTANCE HEREOF AGREES TO OFFER, SELL OR OTHERWISE TRANSFER SUCH SECURITY ONLY (A) TO THE ISSUER, (B) PURSUANT TO RULE 144A UNDER THE SECURITIES ACT ("RULE 144A"), TO A PERSON THE HOLDER REASONABLY BELIEVES IS A "QUALIFIED INSTITUTIONAL BUYER" AS DEFINED IN RULE 144A THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, (C) TO A "NON U.S. PERSON" IN AN "OFFSHORE TRANSACTION" PURSUANT TO REGULATION S UNDER THE SECURITIES ACT, (D) PURSUANT TO AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT TO AN "ACCREDITED INVESTOR" WITHIN THE MEANING OF RULE 501 UNDER THE SECURITIES ACT THAT IS ACQUIRING THE BOND FOR ITS OWN ACCOUNT, OR FOR THE ACCOUNT OF SUCH AN "ACCREDITED INVESTOR," FOR INVESTMENT PURPOSES AND NOT WITH A VIEW TO, OR FOR OFFER OR SALE IN CONNECTION WITH, ANY DISTRIBUTION IN VIOLATION OF THE SECURITIES ACT, OR (E) PURSUANT TO ANOTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, SUBJECT TO THE ISSUER'S RIGHT PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER PURSUANT TO CLAUSES (D) OR (E) TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATION AND/OR OTHER INFORMATION SATISFACTORY TO IT IN ACCORDANCE WITH THE INDENTURE, A COPY OF WHICH MAY BE OBTAINED FROM THE TRUSTEE. THE HOLDER OF THIS SECURITY BY ITS ACCEPTANCE HEREOF AGREES THAT IT WILL COMPLY WITH THE FOREGOING RESTRICTIONS.

NO. R-2

UNITED STATES OF AMERICA

THE CITY OF MORGANTOWN
TAX INCREMENT REVENUE BOND
(FALLING RUN PROJECT NO. 1)
SERIES 2007 A

Original Dated Date	Reissuance Date	Interest Rate (Per Annum)	Maturity Date
October 5, 2007	_____, 2013	2.5% per annum from December 2, 2012 until June 1, 2014; 3.5% per annum from June 2, 2014 until June 1, 2017; and 5.69% per annum thereafter.	June 1, 2033

Registered Owner: FIRST UNITED BANK & TRUST

Principal Sum: THREE MILLION AND 00/100 DOLLARS ($3,000,000)

The City of Morgantown, West Virginia, a municipal corporation and political subdivision of the State of West Virginia (the "Issuer"), for value received, hereby promises to pay, but only from the Tax Increment Revenues (defined herein) and other amounts pledged to such payment under the Indenture (defined herein), to the Registered Owner shown above or registered assigns or legal representatives upon the presentation and surrender hereof at the designated office of the Trustee (defined herein), by certified or bank cashier's check, or by wire transfer to an account designated by the payee, the Principal Sum shown above (or such lesser amount as shall be outstanding hereunder from time to time in accordance with Section 4 hereof) on the Maturity Date shown above (or earlier as hereinafter referred to), with interest thereon from the most recent date to which interest has been paid, at the Interest Rate shown above until said Principal Sum is paid, and the first Interest Payment Date after the Reissuance Date shall be June 1, 2013, and semiannually thereafter on June 1 and December 1 of each year.

All interest due on this Bond shall be payable to the person in whose name this Bond is registered on the Bond Register maintained by The Bank of New York Mellon, Woodland Park, New Jersey, as Trustee and registrar (such entity and any successor in such capacity being referred to herein as the "Trustee"), as of the close of business on the fifteenth day of the calendar month immediately preceding the interest payment date upon which such interest is due and payable and shall be made by certified or bank cashier's check, or by wire transfer to an

account designated by the payee, and if by certified or bank cashier's check, such check shall be mailed to the address of such owner as it appears on the Bond Register maintained by the Trustee; provided, that if there is a default in the payment of interest due hereon, such defaulted interest shall be payable to the person in whose name this Bond is registered as of the close of business on a subsequent date fixed by the Trustee (the "Special Record Date") that is at least 10 and not more than 15 days before the date set for the payment of such defaulted interest.

The principal or redemption price of and interest on this Bond is payable in lawful money of the United States of America or by wire transfer or check payable in such money. If any payment of the principal or redemption price of or interest on this Bond shall be due on a day other than a Business Day (as defined in the Indenture), such payment shall be made on the next Business Day with like effect as if made on the originally scheduled date. As provided in the Act (defined herein) and the Ordinance (defined herein), this Bond is a special, limited obligation of the Issuer payable solely from the Tax Increment Revenues and other revenues pledged for its repayment as provided in the Indenture and shall not constitute a general obligation debt of the Issuer or pledge of the Issuer's full faith and credit or taxing power.

1. Indenture. This Bond is one of a duly authorized series of bonds of the Issuer designated "The City of Morgantown Tax Increment Revenue Bond (Falling Run Project No. 1), Series 2007 A" (the "Series 2007 A Bonds"), in the aggregate principal amount of Three Million Dollars ($3,000,000), duly issued by the Issuer under and pursuant to (i) the West Virginia Tax Increment Financing Act, Chapter 7, Article 11B of the Code of West Virginia, 1931, as amended (the "Act"), (ii) certain proceedings of the Issuer, including a Resolution and Ordinance enacted by the Issuer on September 18, 2007 and a Resolution and Ordinance enacted by the Issuer on _____, 2013 in connection with the amendment and restatement of the Series 2007 A Bonds (collectively, the "Ordinance"), and (iii) the Indenture of Trust dated October 5, 2007, as amended by the First Supplemental Indenture of Trust dated _____, 2013 (collectively, the "Indenture"), by and between the Issuer and the Trustee. The terms of the Series 2007 A Bonds include those stated in the Indenture, and the Series 2007 A Bonds are subject to all such terms. Reference is made hereby to the Indenture for a description of the funds and accounts, revenues and property pledged thereunder, the nature and extent of the security created or to be created, and the rights, limitations of rights, obligations, duties and immunities of the Issuer, the Trustee and the owners of the Series 2007 A Bonds. By the acceptance of this Bond, the owner hereof assents to all of the provisions of the Indenture. Certified copies of the Indenture are on file at the office of the Trustee in West Paterson, New Jersey, and the office of the Issuer in Morgantown, West Virginia.

2. Tax Increment Revenues. In the Indenture, the Issuer has covenanted to pay the principal of, and interest on, the Series 2007 A Bonds solely from the Tax Increment Revenues and other amounts pledged therefor under the Indenture.

3. The Series 2007 A Bonds. All of the Series 2007 A Bonds are of like tenor except as to number, principal amount, maturity, interest rates and certain redemption provisions.

4. Redemption.

(a) The Series 2007 A Bonds at the time outstanding may be redeemed prior to their stated maturity at the times and in the amounts provided in the Indenture.

(b) The Trustee shall give notice of any redemption of the Series 2007 A Bonds not less than 30 or more than 60 days before the redemption date to the registered owners of the Series 2007 A Bonds to be redeemed. The failure so to give any such notice to any of such registered owners shall not affect the validity of the proceedings for the redemption.

(c) On the date designated for redemption, notice having been given as provided in the Indenture and any conditions to such redemption having been satisfied, the Series 2007 A Bonds or portions of Series 2007 A Bonds so called for redemption shall become and be due and payable at the redemption price provided for redemption of such Series 2007 A Bonds or such portions thereof on such date and, if moneys for the payment of the redemption price and accrued interest are held by the Trustee as provided in the Indenture, interest on such Series 2007 A Bonds or such portions thereof so called for redemption shall cease to accrue, such Series 2007 A Bonds or such portions thereof so called for redemption shall cease to be entitled to any benefit or security under the Indenture, and the registered owners thereof shall have no rights in respect of such Series 2007 A Bonds or such portions thereof so called for redemption except to receive payment of the redemption price thereof and the accrued interest thereon so held by the Trustee. If a portion of this Series 2007 A Bond shall be called for redemption, a new Series 2007 A Bond or Series 2007 A Bonds in aggregate principal amount equal to the unredeemed portion hereof, of the same series and maturity and bearing interest at the same rate, shall be issued to the registered owner upon the surrender hereof.

5. Defeasance. The Indenture prescribes the manner in which it may be discharged and provides that the Series 2007 A Bonds shall be deemed to be paid if moneys or certain Defeasance Obligations (as defined in the Indenture), the principal of and interest on such Bonds which, when due, will be sufficient to pay the principal or redemption price of and interest on such Series 2007 A Bonds to the date of maturity or redemption thereof, shall have been deposited with the Trustee.

6. Persons Deemed Owners: Restrictions upon Actions by Individual Holders. The Issuer and the Trustee may deem and treat the person in whose name this Bond is registered as the absolute owner hereof (whether or not this Bond shall be overdue and notwithstanding any notation of ownership or other writing hereon made by anyone other than the Issuer or the Trustee) for the purpose of receiving payment of or on account of the principal or redemption price of this Bond, and for all other purposes except as otherwise provided herein with respect to the payment of interest on this Bond, and neither the Issuer nor the Trustee shall be affected by any notice to the contrary. All such payments so made to any such registered owner, or upon his order, shall be valid and, to the extent of the sum or sums so paid, effectual to satisfy and discharge the liability for moneys payable under this Bond.

The registered owner of this Bond shall have no right to enforce the provisions of the Indenture, or to institute action to enforce the covenants therein, or to take any action with

respect to any event of default under the Indenture, or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Indenture.

7. Transfer and Exchange. This Bond may be exchanged for an equal aggregate principal amount of Series 2007 A Bonds of other authorized denominations, and the transfer of this Bond may be registered, upon presentation and surrender of this Bond at the designated office of the Trustee, duly endorsed for transfer or accompanied by an assignment duly executed by the registered owner hereof or such owner's attorney or legal representative. The Issuer and the Trustee may require the person requesting any such exchange or transfer to reimburse them for any tax or other governmental charge payable in connection therewith and for their reasonable expenses.

8. Modifications. Modifications or alterations of the Indenture may be made only to the extent and in the circumstances permitted by the Indenture.

9. Negotiability. As declared by the Act, this Bond shall be and be deemed to be for all purposes a negotiable instrument subject only to the provisions for registration and registration of transfer stated herein.

10. Governing Law. This Bond shall be governed by and construed in accordance with the laws of the State of West Virginia.

11. Notices. Except as otherwise provided in the Indenture and this Bond, when the Trustee is required to give notice to the owner of this Bond, such notice shall be mailed by first-class mail to the registered owner of this Bond at such owner's address as it appears on the registration books maintained by the Trustee. Any notice mailed as provided herein will be conclusively presumed to have been given, whether or not actually received by the addressee.

All acts, conditions and things required by the Constitution and laws of the State of West Virginia and the rules and regulations of the Issuer to happen, exist and be performed precedent to and in the issuance of this Bond and the execution and delivery of the Indenture have happened, exist and have been performed as so required.

No recourse shall be had for the payment of the principal or redemption price of and interest on this Bond or for any claims based thereon or on the Indenture against any member or other officer of the Issuer or any person executing this Bond, all such liability, if any, being expressly waived and released by the registered owner of this Bond by the acceptance of this Bond.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Indenture until it shall have been authenticated by the execution by the Trustee of the certificate of authentication endorsed hereon.

IN WITNESS WHEREOF, THE CITY OF MORGANTOWN, WEST VIRGINIA, has caused this Bond to be executed in its name by the manual or facsimile signature of its Interim City Manager and Mayor and its corporate seal (or a facsimile thereof) to be hereunto affixed, imprinted, engraved or otherwise reproduced, and attested by the manual or facsimile signature of its City Clerk.

THE CITY OF MORGANTOWN

[SEAL]

By: _____
Its Mayor

By: _____
Its Interim City Manager

Attest:

By: _____
Its City Clerk

Certificate of Authentication and Registration

This Bond is one of the Bonds of the Series designated herein and issued under the provisions of the within-mentioned Indenture.

Date of Authentication and Registration: _____, 2013

THE BANK OF NEW YORK MELLON, as Trustee

By: _____
Its: Vice President

$3,000,000
The City of Morgantown
Tax Increment Revenue Bonds
(Falling Run Project No. 1)
Series 2007 A

TAX AND NON-ARBITRAGE CERTIFICATE

The undersigned, **JIM MANILLA** and **JEFF MIKORSKI,** the Mayor and Interim City Manager respectively of **THE CITY OF MORGANTOWN** (the "Issuer"), being the officials of the Issuer duly charged with the responsibility for the $3,000,000 The City of Morgantown Tax Increment Revenue Bonds (Falling Run Project No. 1) Series 2007 A, of the Issuer, dated October 5, 2007, issued October 5, 2007 (the "Original Bonds") and reissued through significant modifications on _____, 20__ (the "Reissued Bonds" and together with the Original Bonds, the "Bonds"), hereby certifies as follows, jointly unless otherwise stated, that all capitalized terms used herein and not otherwise defined are to have the meanings ascribed thereto in the Bond Authorizing Resolution and Ordinance of The City of Morgantown enacted by the Issuer in connection with the issuance of the Original Bonds on September 18, 2007 (the "Initial Bond Ordinance"), in the Bond Authorizing Resolution and Ordinance of the City of Morgantown enacted by the Issuer in connection with the issuance of the Reissued Bonds (the "Reissuance Ordinance" and collectively with the Initial Bond Ordinance, the "Bond Ordinance"), the Indenture of Trust dated as of October 5, 2007, by and between the Issuer and The Bank of New York Mellon (f/k/a The Bank of New York, as Trustee (the "Original Indenture"), pursuant to which the Bonds were issued, and the First Supplemental Indenture of Trust dated as of _____, 2013, by and between the Issuer and The Bank of New York Mellon, as Trustee (the "First Supplemental Indenture" and, together with the Original Indenture, the "Indenture") modifying the terms of the Bonds and causing them to be considered reissued for Federal tax purposes:

A. DEFINITIONS

In addition to the terms defined in the Bond Ordinance, the Indenture, and the Regulations, the following words and phrases shall have the following meanings:

"IRS" means the Internal Revenue Service.

"Payment Agreement" means the Contingent and Guaranteed Payment Agreement dated October 10, 2012, between West Virginia University, an agency and higher education institution of the State of West Virginia, and First United Bank & Trust, in its capacity as the owner of all the outstanding Bonds.

"Project" means the design, acquisition, construction and equipping of storm water management system facilities, water distribution system facilities, sanitary sewer system facilities, public utility relocations, road improvements, streetscape systems, and

pedestrian systems, together with other improvements described in the Project Plan and engineering fees, legal fees, and other professional fees and costs incurred in connection therewith and in connection with the establishment of the Redevelopment District and the approval of the Project Plan, and the reimbursement of all costs and expenses previously incurred for such purposes.

"Project Plan" means the project plan approved for the Redevelopment District pursuant to an ordinance enacted by the Council of the Issuer on August 21, 2007.

"Purchaser" means First United Bank & Trust as the initial purchaser of the Bonds directly from the Issuer.

"Rebate Analyst" means the entity or person chosen by the Issuer in accordance with Section E(2) hereof to determine the Rebate Amounts.

"Redevelopment District" means the City of Morgantown Falling Run Redevelopment District No. I, established pursuant to an ordinance enacted by the Council of the Issuer on December 16, 2003.

"Regulation" or **"Regulations"** means the temporary, proposed or final Income Tax Regulations promulgated by the Department of the Treasury that are applicable to the Bonds.

"Tax Increment Revenues" shall mean, subject to the exceptions and qualifications set forth in the Act, all incremental real and personal property taxes that would normally be paid to the Sheriff of Monongalia County, based upon the regular levy on all such applicable properties within the Redevelopment District.

B. GENERAL

1. This certificate is being executed and delivered pursuant to Section 148 of the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder (the "Code"). The undersigned officer and elected official respectively of the Issuer are officers or officials of the Issuer charged with the responsibility of reissuing the Bonds. We are familiar with the facts, circumstances, and estimates herein certified and are duly authorized to execute and deliver this certificate on behalf of the Issuer.

2. This certificate may be relied upon as the certificate of the Issuer.

3. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on the date of reissuance and to the best of our knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

4. The Issuer has covenanted in the Indenture that it will not permit at any time or times any of the proceeds of the Bonds or any funds of the Issuer to be used directly or indirectly

to acquire any securities or obligations, the acquisition of which would cause any of the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code.

5. The Bonds were sold on October 5, 2007 (the "Sale Date") and delivered on that date to the Purchaser for a purchase price of $3,000,000 (the par amount thereof).

6. The Original Bonds were issued for the purposes of providing moneys necessary (i) to pay Costs of the Project, (ii) to fund a Reserve Fund for the Bonds, (iii) to pay capitalized interest on the Bonds, and (iv) to pay Costs of issuance of the Bonds and related costs. The Reissued Bonds are issued to replace the Original Bonds with a new obligation having changes in interest rate and the addition of the Payment Agreement as security for the payments on the Reissued Bonds.

7. The face amount of the Original Bonds and the Reissued Bonds is $3,000,000. The sources and uses of proceeds of the Original Bonds were as follows:

Sources

Par amount of Bonds	$3,000,000.00
Total Sources	$3,000,000.00
Deposit to Administrative Expense Fund	$ 5,000.00
Deposit to Reserve Fund	120,000.00
Deposit to Costs of Issuance Fund	286,000.00
Deposit to Capitalized Interest Account	157,299.31
Funds Available to Issuer for Project Costs	2,431,700.69
Total Uses	$ 3,000,000

8. The Issuer is a governmental unit and has general taxing powers.

C. THE PROJECT AND USE OF BOND PROCEEDS

1. More than ten percent (10%) of the proceeds of the Bonds were used for private business uses within the meaning of Section 141 due to the Issuer's Development Agreement with the Developer.

2. Not more than ten percent (10%) of the payment of principal of or interest on the Original Bonds has been, or the Reissued Bonds will be, directly or indirectly, (A) secured by any interest in (1) property used or to be used for a private business use by any person other than a state or local governmental unit, or (2) payments in respect of such property,

or (B) derived from payments (whether or not to the Issuer), in respect of property, or borrowed money, used or to be used for a private business use by any person other than a state or local governmental unit.

3. Not more than five percent (5%) of the proceeds of the Bonds will be used, directly or indirectly, to make or finance loans to persons other than a state or local governmental unit. The Bond proceeds will only be used to finance improvements to public use property or to reimburse such costs. Any use of the Bond proceeds for any portion of the Project that is deemed to not constitute public use property will, when distributed to or for the benefit of the Developer constitute a grant to the Developer for purposes of Treasury Regulation Section 1.141-5. The Bonds shall be secured by generally applicable taxes attributable to property within the Redevelopment District.

4. No portion of the payments of principal or interest will be made, financed or secured by, directly or indirectly, payments or property used in any trade or business of any person other than the Issuer. The Issuer will not permit any portion of the payment of the principal or interest on the Bonds to be secured, directly or indirectly, by (i) interests in property or (ii) payments in respect of such property, which property is used or to be used in any trade or business of any person other than the Issuer. The Issuer will not permit any portion of the payment of the principal or interest on the Bonds to be derived, directly or indirectly by payments (whether or not to the Issuer) in respect of property or borrowed money, used or to be used in any trade or business of any persons other than the Issuer.

D. THE BONDS

1. The Issuer expects to make all payments on the Bonds from Tax Increment Revenues or guarantee payments of up to $120,000 per annum by West Virginia University under the Payment Agreement. The Tax Increment Revenues constitute a portion of the regular property tax revenues paid to the Sheriff of Monongalia County, West Virginia on all taxable properties within the Redevelopment District. Such property taxes are an enforced contribution exacted pursuant to legislative authority in the exercise of the taxing power of the Issuer, the State of West Virginia, Monongalia County, West Virginia and the Monongalia County Board of Education and such property taxes are imposed and collected for the purpose of raising revenue to be used for governmental purposes. The property tax is imposed at uniform tax rates and is applicable to all persons of the same classification in the Redevelopment District and is collected through a generally applicable manner of determination and collection. As a result, the property tax is a tax of general application within the meaning of Treasury Regulation Section 1.141-4(e). As a part of its compliance procedures with respect to the tax-exemption of the Bonds, the Issuer shall consult with Bond Counsel before agreeing to any future change in the nature of the security or sources for payment of the Bonds.

2. When received by the Sheriff of Monongalia County, West Virginia, the Tax Increment Revenues will be deposited into the TIF Fund and then deposited on a monthly basis into the Revenue Fund. Monies in the Revenue Fund will then be used in the following priority to (a) fund the Administrative Expense Fund, (b) fund the Rebate Fund (c) fund the Debt

Service Fund to provide an amount equal to the interest coming due on the Bonds on the next succeeding Interest Payment Date for such Bonds, (d) transfer to the Debt Service Fund on the Maturity Date of the Bonds, the amount necessary to pay the principal and interest coming due on the Bonds on such Maturity Date and (e) funding any deficiency in the Reserve Fund. Any amounts then remaining in the Revenue Fund in excess of $5,000 will be used for mandatory redemption of the principal of the Bonds in $5,000 increments in accordance with Section 3.01 of the Indenture.

3. The Issuer expects amounts received by the Sheriff of Monongalia County and deposited in the TIF Fund, the Revenue Fund and the Debt Service Fund to be used primarily to achieve a proper matching of revenues and debt service on the Bonds within each Bond Year. The TIF Fund, the Revenue Fund and the Debt Service Fund will be depleted at least once each year except for a reasonable carryover amount in the aggregate not to exceed the greater of the earnings on such funds for the immediately preceding Bond Year or 1/12th of the debt service on the Bonds for the immediately preceding Bond Year. Amounts deposited into the TIF Fund, the Revenue Fund and the Debt Service Fund are expected to be spent within 13 months after the date of receipt by or on behalf of the Issuer and any amounts received from the investment or reinvestment of moneys held in such funds will be expended within 1 year after the date of accumulation thereof in such funds. Amounts held in the TIF Fund, the Revenue Fund and the Debt Service Fund may be invested without regard to yield.

Amounts held in the Administrative Expense Fund and the Rebate Fund are neither pledged to nor expected to be used to pay debt service on the Bonds. Amounts held in the Administrative Expense Fund and the Rebate Fund may be invested without regard to yield.

4. The Debt Service Reserve Fund is established from which the Trustee may withdraw amounts from time to time solely for the purpose of making up any deficiency in the Debt Service Fund or for payment or redemption of all outstanding Bonds. The Placement Agent has advised that the Debt Service Reserve Fund is reasonably required in that it was a material factor in selling the Bonds at the lowest possible yield (given other characteristics of the Bonds) without regard to any benefit from positive net investment earnings on amounts held in the Debt Service Reserve Fund, and that it is reasonable and customary in marketing similar issues of governmental obligations. All moneys on deposit in the Debt Service Reserve Fund in excess of the Reserve Requirement shall be transferred to the Project Fund, or if the Project has been completed, to the Debt Service Fund and will be allocated to pay debt service on the Bonds. The amount deposited in the Debt Service Reserve Fund will not exceed the lesser of (i) 10% of the Sale Proceeds of the Bonds, (ii) maximum annual debt service on the Bonds, or (iii) 125% of average annual debt service on the Bonds.

5. Other than the TIF Fund, the Revenue Fund, the Debt Service Fund and the Reserve Fund, there are no other funds or accounts of the Issuer which (i) are reasonably expected to be used to pay Debt Service on the Bonds or which are pledged as collateral to secure repayment of Debt Service on the Bonds and (ii) for which there is a reasonable assurance that amounts therein will be available to pay Debt Service on the Bonds.

6. The Bonds are treated as a single issue for tax purposes. No obligations other than the Bonds are (a) being sold at substantially the same time (within 15 days) as the Bonds, (b) being sold pursuant to the same plan of financing as the Bonds, and (c) reasonably expected to be paid from substantially the same source of funds as the Bonds, determined without regard to guarantees from unrelated parties. Accordingly, no obligations other than those that comprise the Bonds are a part of the same issue with the Bonds.

7. The amortization schedule for the Reissued Bonds stated in Exhibit A to the Payment Agreement represents reasonable expectations of the Issuer.

8. The arbitrage yield on the Reissued Bonds is 4.718835%, and the weighted average maturity of the Reissued Bonds is 11.5 years.

E. REBATE OF EXCESS ARBITRAGE

1. Payment of Rebate Amounts to United States.

(a) Installment Computation Dates. Unless the Reissued Bonds are redeemed prior to such time, the Issuer shall pay to the United States, not later than sixty (60) days after each Installment Computation Date as measured from the date of reissuance, a Rebate Installment Payment which, when added to all previous Rebate Installment Payments made with respect to the Reissued Bonds, is equal to not less than ninety percent (90%) of the Rebate Amount (computed from the date of reissuance to each such Installment Computation Date). The initial Installment Computation Date shall be selected by the Issuer but shall not be later than _____, 2018, which is the fifth anniversary of the date of reissuance. Within 30 days after each Installment Computation Date, the Issuer shall advise the Trustee in writing as to whether a Rebate Installment Payment is payable to the Internal Revenue Service and the amount of any such payment.

(b) Final Computation Date. The Issuer shall pay to the United States, not later than _____, 2013, which is sixty (60) days after today, one hundred percent (100%) of the Rebate Amount for the Final Computation Date for the Original Bonds and not later than sixty (60) days after the last outstanding Reissued Bonds are paid or redeemed, one hundred percent (100%) of the Rebate Amount for the Final Computation Date for the Reissued Bonds.

(c) Mailing of Rebate Payment. Each Payment of an installment shall be mailed to the Internal Revenue Service Center, Philadelphia, Pennsylvania 19255. Each payment shall be accompanied by (i) a copy of IRS Form 8038-T, and (ii) the CUSIP number for the Bond with the latest maturity.

(d) Excess Balance in Rebate Fund; Excess Rebate Payments. If on the Rebate Payment Date the balance on deposit in the Rebate Fund is in excess of

the Rebate Amount attributable to the Bonds, such excess may be withdrawn by the Issuer from the Rebate Fund. The Issuer may direct that any overpayment of rebate may be recovered from any rebate payment previously made to the United States under any procedure that may be permitted by the Code or the Regulations.

(e) Recordkeeping. In connection with the rebate requirement, the Issuer shall maintain (or cause to be maintained) the following records:

(i) The Issuer shall record all amounts paid to the United States pursuant to Section E(2) hereof.

(ii) The Issuer shall retain records of the rebate calculations until six years after the Final Computation Date.

(iii) The Issuer shall keep and record the data described in Section E(l)(c) hereof pertaining to the investment of the proceeds of the Bonds until six years after the Final Computation Date.

2. Rebate Analyst.

(a) A Rebate Analyst shall be appointed to perform the rebate calculations, as required herein.

(b) The Issuer may rely conclusively upon and shall be fully protected from all liability in relying upon the opinions, calculations, determinations, directions and advice of the Rebate Analyst. The charges and fees for such Rebate Analyst shall be payable by the Issuer as an administrative expense of the Redevelopment District from the Tax Increment Revenues of the Redevelopment District.

3. Failure to Pay Rebate Amounts. In the event the Issuer fails to pay at the proper time and in the proper amounts, any Rebate Amount, it will pay the rebate amount plus interest within 180 days after discovery of such failure as set forth in Section 1.148-3(h)(3) of the Regulations. Notwithstanding the foregoing, in the event the Issuer fails to pay at the proper time and in the proper amount any Rebate Payment or correction amount, it hereby covenants and agrees to pay any penalty required by Internal Revenue Service in lieu of a declaration of taxability on the Bonds.

F. INVESTMENT AGREEMENT

1. In the event that the Issuer invests any proceeds of the Bonds in an investment agreement, repurchase agreement or other investment (the "GIC"), the Issuer hereby agrees to comply with Treasury Regulations Sections 1.148-5(d)(6)(iii) and (iv) and 1.148-S(e)(ii), or

any successor thereto, in connection with the GIC, including, but not limited to, preservation of the following records until 3 years following the final maturity of the Bonds:

(a) A copy of the GIC.

(b) The receipt for, or other record of, the amount paid by the Issuer for the GIC, together with a record of any administrative costs paid by the Issuer and the certification by the successful bidder, of the administrative costs paid.

(c) The name of each bidder, the time and date of each bid and the bid results.

(d) The bid solicitation form, together with an explanation (including reasons) of any deviation from the form or any modification of any bid (including a record of any substitutions of an investment in a winning bid and of how the price of the substitute investment as determined).

(e) For purchases other than GIC's, the cost of the most efficient SLGS portfolio determined at the time that bids were required to be submitted.

G. MISCELLANEOUS

1. The Issuer shall file Form 8038-G for the Reissued Bonds in a timely fashion with the Internal Revenue Service Center, Ogden, Utah 84201.

2. The original proceeds of the Bonds did not exceed the amount necessary for the purpose of the issue.

3. The Bonds are not, and will not be, in whole or part, directly or indirectly, federally guaranteed within the meaning of Section 149(b) of the Code.

4. The Issuer has not entered and will not enter into any transaction to reduce the Yield on an investment of the Gross Proceeds of the Bonds so as to cause the amount to be rebated to the United States Treasury to be less than it would have been had the transaction been at arm's length and the Yield on the Bonds not been relevant to either party to the transaction, and that all investments of Gross Proceeds will be made on an arm's length, Fair Market Value basis.

5. No portion of the proceeds of the Bonds will be used directly or indirectly to replace funds of the Issuer or other related governmental agency that have been used directly or indirectly to acquire securities or obligations which may reasonably be expected, on the date hereof, to produce a yield materially higher than the Yield on the Bonds.

6. The Bonds are not and will not be part of a transaction or series of transactions that (i) attempt to circumvent the provisions of Section 148 of the Code, or any

successor thereto, and the Regulations promulgated thereunder which enable the Issuer to exploit the difference between tax-exempt and taxable interest rates to gain a material financial advantage or (ii) increase the burden on the market for tax-exempt obligations in any manner, including, without limitation, by selling obligations that would not otherwise be sold or selling a larger amount of obligations, or issuing them sooner, or allowing them to remain outstanding longer, than would otherwise be necessary.

7. No other obligations are being issued by the Issuer or any related entity at substantially the same time and sold pursuant to a common plan of financing and which will be paid out of substantially the same source of funds (or which will have substantially the same claim to be paid out of substantially the same source of funds) as the Bonds or which will be paid directly or indirectly from proceeds of the sale of the Bonds.

8. The issuance of the Bonds will not involve the use of a "device" or an "abusive transaction" within the meaning of Section 149(d)(4) of the Code and the Regulations thereunder.

9. The Issuer covenants to comply with all requirements of the Code that must be satisfied subsequent to the issuance of the Bonds in order that the interest thereon be and continue to be excludable from gross income for federal income tax purposes.

10. The Issuer shall comply with all yield restrictions on Bond proceeds as set forth in the Code.

11. Under Section 1.148-2(b) of the Regulations, an officer of the Issuer must certify the Issuer's expectations as of the issue date. In accordance therewith, the undersigned Mayor and Interim City Manager of the Issuer hereby in good faith certify that the representations and covenants set forth in this Tax and Non Arbitrage Certificate constitute the reasonable expectations of the Issuer as of the reissuance date. Accordingly, the representations and covenants set forth herein are intended and may be relied upon as the certification described in Section 1.148-2(b) of the Regulations and are being delivered as part of the record of proceedings in connection with the issuance of the Bonds.

12. To the best of our knowledge, information and belief there are no other facts, estimates and circumstances which would materially change the expectations herein expressed.

13. Ballard Spahr LLP is entitled to rely upon the representations, expectations, covenants, certifications and statements contained herein in rendering its opinions regarding the tax-exempt status of interest on the Reissued Bonds.

14. At the time of the issuance of the Bonds, the Issuer reasonably expected to spend at least eighty-five percent (85%) of the spendable proceeds of the Bonds to carry out the governmental purpose for which the Bonds are being issued within three (3) years of the date of the issuance of the Bonds. Not more than fifty percent (50%) of the proceeds of the Bonds

were or will be invested in investments having a substantially guaranteed yield for four (4) years or more.

15. Notwithstanding any other provision hereof, any provision of this Tax and Arbitrage Certificate shall be amended at any time and such amendment shall be complied with, upon receipt by the Issuer of an opinion of Bond Counsel that such amendment is necessary or permissible under the then current Code and Regulations and is either necessary to or will not adversely affect the excludability of interest on the Bonds from gross income of the recipients thereof for federal income tax purposes.

16. To the best of our knowledge, information and belief, the foregoing expectations are reasonable.

17. The Issuer agrees and covenants to use the Post-Issuance Compliance Policies set forth in Exhibit A hereof to monitor its compliance with the Code and Regulations and other rules that must be complied with (the "Tax Exempt Rules") while the Bonds are outstanding to ensure that the interest on said bonds remain exempt from gross income for federal income tax purposes. The Issuer further agrees and understands that if the Tax Exempt Rules are not complied with, the parties may use the remedial actions set forth in Regulations §1.141-12, or may use the voluntary closing agreement process of the Internal Revenue Service in order to bring the Bonds into compliance with the Tax Exempt Rules.

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IN WITNESS WHEREOF, we have executed this Tax and Non-Arbitrage Certificate this _____, 2013.

THE CITY OF MORGANTOWN

By: _____
Name: Jim Manilla
Title: Mayor

By: _____
Name: Jeff Mikorski
Title: Interim City Manager

EXHIBIT A

TAX COMPLIANCE POLICIES

Purpose

Issuers of tax-exempt bonds must comply with federal tax rules pertaining to expenditure of proceeds for qualified costs, rate of expenditure, use of bond financed property, investment of proceeds in compliance with arbitrage rules, and retention of records. The following policies are intended to establish compliance by the City of Morgantown (the *"Issuer"*) with these rules in connection with the reissuance of the Issuer's Tax Increment Revenue Bonds (Falling Run Project No. 1), Series 2007 A (the "*Bonds*").

Tax Requirements Associated with Sale and Issuance of Bonds

Review and retention of tax documents related to the sale and issuance of the Bonds will be supervised by the Finance Director of the Issuer or his/her designee (the "*Oversight Officer*").

- Form 8038G (tax exempt bonds) will be reviewed and filed not later than the 15th day of the 2nd calendar month following the quarter in which the bonds were reissued. Filing of appropriate version or versions of Form 8038G will be confirmed with bond counsel.

Expenditure of Proceeds for Qualified Costs

Expenditure of bond proceeds will be reviewed by the Oversight Officer.

- Bond proceeds will be disbursed pursuant to an approved form of requisition stating the date, amount and purpose of the disbursement.

- Requisitions must identify the financed property in conformity with the Tax and Non-Arbitrage Certificate executed by the Issuer at closing, including any certifications as to the character and average economic life of the bond-financed property.

- Requisitions for costs that were paid prior to the issuance of the Bonds are, in general, limited to costs paid subsequent to, or not more than 60 days prior to, the date a "declaration of intent" to reimburse the costs was adopted by the Issuer. If proceeds are used for reimbursement, a copy of the declaration will be obtained and included in the records for the Bonds, if not already part of the bond transcript.

- Requisitions will be summarized in a "final allocation" of proceeds to uses not later than 18 months after the in-service date of the financed property (and in any event not later than 5 years and 60 days after the issuance of the Bonds).

- Expenditure of proceeds will be monitored against the Tax and Non-Arbitrage Certificate expectations to spend or commit 5% of net sale proceeds within 6 months, to spend 85% of net sale proceeds within 3 years, and to proceed with due diligence to complete the project and fully spend the net sale proceeds. Expected expenditure schedules, project timelines, and plans and specifications will be maintained to support expectations. Reasons for failure to meet the expected schedule will be documented and retained in the records for the Bonds.

- If the 18-month spending exception to rebate applies, expenditure of gross proceeds will be monitored against the following schedule for the arbitrage rebate exception for the issue, if applicable:

  15% within 6 months

  60% within 12 months

  100% within 18 months

- If the 2-year spending exception to rebate applies, expenditure of "available construction proceeds" will be monitored against the following schedule for the arbitrage rebate exception for construction issues if applicable:

  10% within 6 months

  45% within 12 months

  75% within 18 months

  100% within 24 months

Expenditure of Proceeds

In addition to the general review of expenditures described above, expenditure of proceeds of the Bonds will be reviewed by the Oversight Officer.

- Only a small portion (5%) of the proceeds of Bonds can be used for operating expenses or other "working capital" costs. Requisitions for costs of the Project will accordingly be monitored to confirm that they are for capital costs of the Project.

- Investment earnings on sale proceeds of the Bonds will be tracked and will be requisitioned only for appropriate expenditures.

Use of Bond-Financed Property

Use of bond-financed property when completed and placed in service will be reviewed by the Oversight Officer.

- Average nonexempt use of bond-financed property over the life of the issue cannot exceed 10% of the proceeds.

- Agreements with business users or non-profit organizations for lease or management or services contracts, sponsored research, naming rights or any other potential nonexempt use of bond-financed property will be reviewed prior to execution of any contract to determine if property is bond-financed.

- Agreements with business users or other non-profit organizations for lease or management or services contracts or other private business use involving bond-financed property will be tracked and aggregated with other private business uses for compliance with the 10% limit, as set forth in the Tax and Non-Arbitrage Certificate.

- No item of bond-financed property will be sold or transferred to a nonexempt party without advance arrangement of a "remedial action" under the applicable Income Tax Regulations.

Investments and IRS Filings

Investment of bond proceeds in compliance with the arbitrage bond rules and rebate of arbitrage will be supervised by the Oversight Officer.

- Guaranteed investment contracts ("*GIC*") will be purchased only using the three-bid "safe harbor" of applicable Income Tax Regulations, in compliance with fee limitations on GIC brokers in the Income Tax Regulations.

- Other investments will be purchased only in market transactions.

- Calculations of rebate liability will be performed annually by outside consultants.

- Rebate payments will be made with Form 8038-T no later than 60 days after (a) each fifth anniversary of the date of issuance and (b) the final retirement of the issue. Compliance with rebate requirements will be reported to the bond trustee.

- Identify date for first rebate payment at time of issuance. Enter in records for the issue.

Records

Management and retention of records related to tax-exempt bond issues will be supervised by the Oversight Officer.

- Records will be retained for the life of the bonds plus any refunding bonds plus three years. Records may be in the form of documents or electronic copies of documents, appropriately indexed to specific bond issues and compliance functions.

- Retainable records pertaining to the Bonds include transcript of documents executed in connection with the issuance of the bonds (including authorizing orders, Form 8038G, and Tax and Non-Arbitrage Certificate) and any amendments, and copies of rebate calculations and records of payments, including Forms 8038-T.

- Retainable records pertaining to expenditures of bond proceeds include requisitions, trustee statements and final allocation of proceeds.

- Retainable records pertaining to use of property include all agreements reviewed for nonexempt use.

- Retainable records pertaining to investments include GIC documents under the Income Tax Regulations, records of purchase and sale of other investments, and records of investment activity sufficient to permit calculation of arbitrage rebate or demonstration that no rebate is due.

Overall Responsibility

Overall administration and coordination of this policy is the responsibility of the Oversight Officer.

THE CITY OF MORGANTOWN

By: _____
Name: Jim Manilla
Title: Mayor

By: _____
Name: Jeff Mikorski
Title: Interim City Manager

Date: _____, 2013

CITY OF MORGANTOWN

TUESDAY, MAY 7, 2013
REGULAR MEETING

AGENDA ITEM

1. Consideration for adoption on first reading of a Resolution and Ordinance of the City of Morgantown which would authorize and direct the modification of certain terms of the City's outstanding Tax Increment Revenue Bonds (Falling Run Project No. 1) Series 2007 A, approve the forms of certain documents and the execution and delivery of such documents in connection with such modifications and related matters.

RESOLUTION AND ORDINANCE OF THE CITY OF MORGANTOWN AUTHORIZING BOND TERM MODIFICATIONS

A RESOLUTION AND ORDINANCE AUTHORIZING AND DIRECTING THE MODIFICATION OF CERTAIN TERMS OF THE CITY OF MORGANTOWN'S OUTSTANDING TAX INCREMENT REVENUE BONDS (FALLING RUN PROJECT NO. 1), SERIES 2007 A, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $3,000,000 TO FINANCE COSTS OF DESIGN, ACQUISITION, CONSTRUCTION AND EQUIPPING OF INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF MORGANTOWN FALLING RUN REDEVELOPMENT DISTRICT NO. 1, AND ALL NECESSARY APPURTENANCES AND RELATED FACILITIES, AND OTHER EXPENSES AND COSTS RELATED THERETO AND TO THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A FIRST SUPPLEMENTAL INDENTURE OF TRUST, AN AMENDED SERIES 2007 A BOND, A TAX AND NON-ARBITRAGE CERTIFICATE AND OTHER DOCUMENTS FOR SUCH AMENDED BONDS; APPROVING THE TERMS OF THE AMENDED SERIES 2007 A BONDS AND AUTHORIZING AND DIRECTING THE EXECUTION AND DELIVERY OF SUCH AMENDED SERIES 2007 A BONDS; AUTHORIZING THE TAKING OF ALL ACTIONS NECESSARY TO CARRY OUT THE FOREGOING.

WHEREAS, The City of Morgantown, a municipal corporation and political subdivision of the State of West Virginia (the "Issuer"), under Chapter 7, Article 11B of the Code West Virginia, 1931, as amended (the "Act"), has plenary power and authority to issue tax increment obligations to finance the costs of acquisition, construction and equipping of a project or projects included in a development or redevelopment plan approved by the West Virginia Development Office and adopted by the governing body of the Issuer, that are located within a development or redevelopment district, which project costs may include (i) interest prior to and during the acquisition, construction and equipping of a project and for a reasonable time thereafter; (ii) such reserves as may be required; (iii) reimbursement of costs of any interim financing or cash expenditures entered on behalf of projects in the development or redevelopment district; and (iv) any and all other expenses incidental to planning, carrying out and financing the project;

WHEREAS, the Issuer has, by Ordinance enacted December 16, 2003 (the "District Establishment Ordinance"), created a redevelopment project area or district designated as the "City of Morgantown Falling Run Redevelopment District No. 1" (the "TIF District"), approved a project plan for the TIF District (the "Prior Project Plan"), and established a tax increment financing fund (the "TIF Fund") to facilitate the issuance of tax increment financing obligations by the Issuer;

WHEREAS, pursuant to an Ordinance enacted by the Issuer on August 21, 2007 (the "Project Plan Amendment Ordinance"), the Issuer approved a new project plan for the TIF District which amended and superceded the Prior Project Plan (the "Project Plan"), consisting generally of some or all of the following public improvements: the design, acquisition, construction and equipping of water lines, storm water culverts and facilities, sewer lines, road improvements, land and right-of-way acquisition, demolition and site preparation, pedestrian ways, other underground utilities, lighting and other related infrastructure and utilities improvements and all necessary appurtenances (the "Project");

WHEREAS, the Issuer has previously entered into that certain Indenture of Trust dated October 5, 2007 (the "Original Indenture"), by and between the Issuer and The Bank of New York Mellon (the "Trustee") under which the Issuer issued The City of Morgantown Tax Increment Revenue Bonds (Falling Run Project No. 1) Series 2007 A, dated October 5, 2007, issued in the original aggregate principal amount of $3,000,000 (the "Series 2007 A Bonds") the proceeds of which were used (i) to finance costs of the Project; (ii) to deposit funds in the Reserve Fund for the Series 2007 A Bonds; (iii) to pay capitalized interest on the Series 2007 A Bonds; (iv) to fund certain Administrative Expenses; and (v) to pay the costs of issuing the Series 2007 A Bonds;

WHEREAS, Section 7.02 of the Original Indenture provides that with the prior written consent of the Owners of all the Series 2007 A Bonds, the Issuer may enter into a Supplemental Indenture which will thereafter form a part of the Indenture, to modify any of the provisions thereof;

WHEREAS, all interest which has previously become due and payable on the Series 2007 A Bonds has been paid, but in order to pay the full amount of interest due on the Series 2007 A Bonds on the December 1, 2012 Interest Payment Date, funds were transferred from the Reserve Fund to the Debt Service Fund and presently, the amount on deposit in the Reserve Fund is less than the Reserve Requirement;

WHEREAS, West Virginia University Board of Governors on behalf of West Virginia University, an agency and higher education institution of the State of West Virginia (the "University") has agreed pursuant to a Contingent and Guaranteed Payment Agreement dated October 10, 2012 (the "Payment Agreement") between the University and First United Bank & Trust, in its capacity as the Owner of all the outstanding Series 2007 A Bonds (the "Original Purchaser") to make an annual payment (the "Guaranty Payment") in an aggregate amount up to $120,000, as further described in the Payment Agreement, to support the Series 2007 A Bonds and pursuant to the Payment Agreement the Original Purchaser agreed, for purposes of calculating the amounts of such Guaranty Payment and for purposes of modifying the interest

rate provisions of the Series 2007 A Bonds, to modify the interest rate on the Series 2007 A Bonds;

WHEREAS, the Issuer and the Trustee have agreed to modify the Original Indenture and the terms of the Series 2007 A Bonds to lower the interest rate on the Series 2007 A Bonds for such period of time and in a manner consistent with the Payment Agreement and to provide for the Trustee's receipt and application of the Guaranty Payment to the payment of debt service on the Series 2007 A Bonds and the Original Purchaser, as the Owner of all the outstanding Series 2007 A Bonds has consented thereto;

WHEREAS, the Issuer desires to authorize and direct pursuant to this Resolution and Ordinance the modification of the Original Indenture and the terms of the Series 2007 A Bonds to lower the interest rate on the Series 2007 A Bonds for such period of time and in a manner consistent with the Payment Agreement, to provide for the Trustee's receipt and application of the Guaranty Payment to the payment of debt service on the Series 2007 A Bonds and in connection therewith to designate the Revenue Fund established pursuant to the Original Indenture (the "Revenue Fund") as a sub-account of the Issuer's TIF Fund established for the TIF District by the District Establishment Ordinance and to authorize and direct the execution and delivery of all documents and the taking of all actions that may be necessary or desirable in connection therewith; and

WHEREAS, the modification of the Original Indenture and the terms of the Series 2007 A Bonds and other actions contemplated by this Resolution and Ordinance will benefit the inhabitants of The City of Morgantown, will increase opportunities for employment in the City and will help in establishing a balanced economy within the City, and the health, happiness, right of gainful employment and general welfare of the citizens and residents of the City will be promoted thereby and the same constitutes a public purpose of the Issuer under the Act.

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

Section 1. The Original Indenture and the terms of the Series 2007 A Bonds are hereby authorized, approved and directed to be modified, amended and supplemented in order to: (i) provide that the Series 2007 A Bonds shall bear interest at the rate of 2.5% per annum from December 2, 2012 until June 1, 2014; 3.5% per annum from June 2, 2014 until June 1, 2017; and 5.69% per annum thereafter; (ii) modify the flow of funds under the terms of the Original Indenture in order to provide for the receipt of the Guaranty Payment pursuant to the Payment Agreement and the application of the same to the payment of debt service on the Bonds; (iii) designate the Revenue Fund established pursuant to the Original Indenture as a sub-account of the City's TIF Fund which has been established for the TIF District by the District Establishment Ordinance; and (iv) carry into effect the modifications to the terms of the Series 2007 A Bonds and the Original Indenture which are necessary in connection with the transactions contemplated by the Payment Agreement (collectively, the "Modifications").

Section 2. The Amended and Restated Series 2007 A Bond (the "Amended Series 2007 A Bond") of the Issuer, substantially in the form submitted to this meeting as Exhibit A to

the First Supplemental Indenture (hereinafter defined) and made a part of this Resolution and Ordinance as though set forth in full herein, shall be and the same hereby is approved in order to carry out the Modifications. The Mayor and City Manager of the Issuer are hereby authorized and directed to execute, acknowledge, if necessary, and deliver the Amended Series 2007 A Bond, with such changes, insertions, variations and omissions as may be approved by the Mayor and City Manager, and the City Clerk is hereby authorized and directed to affix the seal of the Issuer thereto and to attest the same. The execution of the Amended Series 2007 A Bond by the Mayor and City Manager shall be conclusive evidence of such approval.

Section 3. The First Supplemental Indenture of Trust (the "First Supplemental Indenture"), by and between the Issuer and the Trustee, substantially in the form submitted to this meeting and made a part of this Resolution and Ordinance as though set forth in full herein, shall be and the same is hereby approved in order to carry out the Modifications. The Mayor and City Manager of the Issuer are hereby authorized and directed to execute, acknowledge, if necessary, and deliver the First Supplemental Indenture, with such changes, insertions, variations and omissions as may be approved by the Mayor and City Manager, and the City Clerk is authorized and directed to affix the seal of the Issuer thereto and to attest the same. The execution of the First Supplemental Indenture by the Mayor and City Manager shall be conclusive evidence of such approval.

Section 4. The Tax and Non-Arbitrage Certificate (the "Tax Certificate") of the Issuer with respect to the Amended Series 2007 A Bonds, substantially in the form submitted to this meeting and made a part of this Resolution and Ordinance as though set forth in full herein, shall be and the same is hereby approved in order to carry out the Modifications and the reissuance of the Series 2007 A Bonds for federal income tax purposes. The Mayor and City Manager shall execute and deliver the Tax Certificate, with such changes, insertions, variations and omissions as may be approved by the Mayor and City Manager. The execution of the Tax Certificate by the Mayor and City Manager shall be conclusive evidence of the approval of such changes, insertions, variations and omissions.

Section 5. The Issuer recognizes and acknowledges that the execution and delivery of the Amended Series 2007 A Bonds and the First Supplemental Indenture for the purposes of carrying out the Modifications will cause a reissuance of the Series 2007 A Bonds for federal income tax purposes. The Issuer authorizes and approves the execution and delivery of such documents, including but not limited to IRS Form 8038-G, and the filing of the same with the Internal Revenue Service and other appropriate parties, and the taking of such other actions as may be necessary and appropriate under the circumstances in order to maintain the tax exempt status of the Series 2007 A Bonds, as amended, for federal income tax purposes.

Section 6. The Amended Series 2007 A Bonds, together with the interest thereon and other costs incidental thereto, shall be secured solely by the pledges effected by the Original Indenture as modified pursuant to the First Supplemental Indenture herein authorized and defined, and by the tax increment and other revenues pledged for its payment in accordance with the Act. The Amended Series 2007 A Bonds, together with the interest thereon and other costs incidental thereto, shall not be deemed to be and shall not constitute an indebtedness of the Issuer, but shall be special and limited obligations of the Issuer, payable solely from the tax

increment and other revenues pledged for its payment under the Indenture and First Supplemental Indenture. Neither the Amended Series 2007 A Bonds nor the interest thereon, nor any other cost or charge in connection therewith, shall be a charge against or pledge of the property, faith and credit or taxing power, if any, of the State of West Virginia or the Issuer, except as to such property expressly provided therefor in the Indenture and First Supplemental Indenture, nor shall the same ever constitute an indebtedness of the State of West Virginia or the Issuer within the meaning of any constitutional provision or statutory limitation or constitute or give rise to a pecuniary liability of the State of West Virginia or the Issuer. No recourse shall be had for the payment of the principal of and interest on the Amended Series 2007 A Bonds against the Issuer or any official or member of the Issuer. The holders of the Amended Series 2007 A Bonds shall have no right to have taxes levied by the legislature of the State of West Virginia or the taxing authority, if any, of the Issuer for the payment of the principal of, premium, if any, or interest on the Amended Series 2007 A Bonds, but the Amended Series 2007 A Bonds shall be payable solely from the Tax Increment Revenues, the Guaranty Payment and other revenues and funds pledged pursuant to the Original Indenture and First Supplemental Indenture.

Section 7. The Revenue Fund heretofore established with the Trustee pursuant to the Original Indenture is hereby designated by the Issuer as a sub-account of the TIF Fund for the TIF District and to the extent necessary the District Establishment Ordinance is hereby amended to provide for the designation of the Revenue Fund as a sub-account of the TIF Fund.

Section 8. The Mayor, City Manager and Clerk and any other proper officers and employees of the Issuer, together with all other members and employees thereof, are hereby authorized and directed to execute, acknowledge, if necessary, and deliver any and all papers, documents, agreements, certificates and instruments, to affix the seal of the Issuer and attest the same for and on behalf of the Issuer and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by this Resolution and Ordinance, the Amended Series 2007 A Bonds, the First Supplemental Indenture and other documents relating thereto.

Section 9. All covenants, stipulations, obligations and agreements of the Issuer contained herein and contained in the Original Indenture, the First Supplemental Indenture, the Amended Series 2007 A Bonds, the Tax and Non-Arbitrage Certificate and other documents relating thereto shall be deemed to be the special and limited covenants, stipulations, obligations and agreements of the Issuer to the full extent permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Issuer 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 Issuer or the officials thereof by the provisions hereof and by the Original Indenture, the First Supplemental Indenture and the Amended Series 2007 A Bonds shall be exercised or performed by the Issuer or by such officers, board or body as may be required or permitted by law to exercise such powers and to perform such duties.

Section 10. No covenant, stipulation, obligation or agreement herein contained or contained in the Original Indenture, the First Supplemental Indenture, the Amended Series 2007 A Bonds or other documents relating thereto shall be deemed to be a covenant, stipulation, obligation or agreement of any officer, agent or employee of the Issuer in his or her individual capacity and neither the members of the Issuer nor any officer executing the Amended Series 2007 A Bonds shall be subject to any personal liability or accountability by reason of the issuance of the Amended Series 2007 A Bonds. No member of the Issuer or officer or employee of the Issuer shall be individually or personally liable for the payment of the principal of or the interest on any Amended Series 2007 A Bond, but nothing herein contained shall relieve any such member, official or employee from the performance of any official duty provided by law or this Resolution and Ordinance.

Section 11. Steptoe & Johnson PLLC is hereby appointed as legal counsel to the Issuer in connection with the modification of certain terms of the Series 2007 A Bonds as described herein.

Section 12. The laws of the State of West Virginia shall govern the construction of this Resolution and Ordinance and all Amended Series 2007 A Bonds reissued hereunder.

Section 13. If any section, paragraph, clause or provision of this Resolution and Ordinance shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Resolution and Ordinance.

Section 14. All previous ordinances, orders, resolutions or parts thereof in conflict with the provisions of this Resolution and Ordinance are, to the extent of such conflict, hereby repealed.

Section 15. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption and entry of this Resolution and Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, City Manager, City Clerk and members of the City Council of the City of Morgantown were at all times when any actions in connection with this Resolution and Ordinance occurred and are duly in office and duly qualified for such office.

Section 16. This Resolution and Ordinance shall take effect immediately upon final enactment following a public hearing hereon.

Section 17. Following the first reading by title hereof, an abstract of this Resolution and 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*, being a newspaper published and of general circulation in The City of Morgantown, together with a notice stating that this Resolution and Ordinance has been

introduced and that the Issuer contemplates the final enactment thereof and that any person interested may appear before the Council upon a date certain, not less than 10 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 Resolution and Ordinance is on file in the office of the City Clerk for review by interested parties during the office hours of the City Clerk.

At such hearing, all objections and suggestions shall be heard and the Council shall take such action as it shall deem proper in the premises.

First Reading: May 7, 2013

Second Reading: May 21, 2013
following Public Hearing

Adopted this May 21, 2013.

THE CITY OF MORGANTOWN

By: _____
Mayor

By: _____
Interim City Manager

APPROVED AND CORRECT AS TO FORM:

By: _____
City Attorney

6230899

CERTIFICATION

The undersigned, being the duly qualified and acting City Clerk of The City of Morgantown, does hereby certify that the foregoing Resolution and Ordinance was duly adopted and enacted by the City Council of The City of Morgantown following a public hearing thereon, at regular meetings duly held, pursuant to proper notice thereof, on May 7 and May 21, 2013 quorums being present and acting throughout, and which Resolution and Ordinance has not been modified, amended or revoked and is a true, correct and complete copy thereof as of this _____, 2013.

By: _____
City Clerk