



Office of the City Clerk

The City of Morgantown

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**AGENDA
MORGANTOWN CITY COUNCIL
REGULAR MEETING
July 15, 2014
7:00 p.m.**

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **PLEDGE TO THE FLAG**
4. **APPROVAL OF MINUTES: Regular Meeting – July 1, 2014**
5. **CORRESPONDENCE:**
6. **PUBLIC HEARINGS:**
 - A. **AN ORDINANCE PROVIDING FOR THE ANNEXATION OF 13.40 ACRES, MORE OR LESS, OF ADDITIONAL TERRITORY INTO THE CITY OF MORGANTOWN PURSUANT TO SECTION 8-6-4 OF THE WEST VIRGINIA CODE.**
 - B. **AN ORDINANCE AMENDING SECTION 929.05 AND 929.06 OF THE CITY OF MORGANTOWN'S STREETS, UTILITIES AND PUBLIC SERVICES CODE BY SETTING FORTH THE RATES, FEES AND CHARGES FOR SERVICE TO CUSTOMERS OF THE MUNICIPAL SEPARATE STORMWATER SEWERAGE SYSTEM OF THE CITY OF MORGANTOWN.**
 - C. **AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTION 386.08 OF ITS TRAFFIC CODE, AS THE SAME APPLIES TO PARKING FEES.**
 - D. **AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING AND EXPANDING THE BOUNDARIES OF THE WILES HILL DESIGNATED PARKING DISTRICT, AND ALSO AMENDING THE PERMIT REQUIREMENTS AND WORDING OF THE DISTRICT'S PERMIT PARKING SIGNAGE.**

- E. AN ORDINANCE BY THE CITY OF MORGANTOWN REPEALING ARTICLE 170 OF ITS ADMINISTRATIVE CODE, AS THE SAME APPLIES TO THE GREATER MORGANTOWN METROPOLITAN AREA YOUTH COMMISSION.**
- F. AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING ARTICLE 129 OF ITS ADMINISTRATIVE CODE BY ADDING A NEW SECTION 129.16 PERTAINING TO THE CITY FINANCE DIRECTOR'S AUTHORITY TO REQUEST INFORMATION FROM THE WEST VIRGINIA STATE TAX DEPARTMENT.**
- G. AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE STORMWATER PORTION OF THE COMBINED SYSTEM OF THE CITY OF MORGANTOWN AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$850,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2014 B; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; AND AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.**

7. UNFINISHED BUSINESS:

- A. Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN ORDINANCE PROVIDING FOR THE ANNEXATION OF 13.40 ACRES, MORE OR LESS, OF ADDITIONAL TERRITORY INTO THE CITY OF MORGANTOWN PURSUANT TO SECTION 8-6-4 OF THE WEST VIRGINIA CODE. (First Reading July 1, 2014)**
- B. Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN ORDINANCE AMENDING SECTION 929.05 AND 929.06 OF THE CITY OF MORGANTOWN'S STREETS, UTILITIES AND PUBLIC SERVICES CODE BY SETTING FORTH THE RATES, FEES AND CHARGES FOR SERVICE TO CUSTOMERS OF THE MUNICIPAL SEPARATE STORMWATER SEWERAGE SYSTEM OF THE CITY OF MORGANTOWN. (First Reading July 1, 2014)**

- C. Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTION 386.08 OF ITS TRAFFIC CODE, AS THE SAME APPLIES TO PARKING FEES. (First Reading July 1, 2014)**
- D. Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING AND EXPANDING THE BOUNDARIES OF THE WILES HILL DESIGNATED PARKING DISTRICT, AND ALSO AMENDING THE PERMIT REQUIREMENTS AND WORDING OF THE DISTRICT'S PERMIT PARKING SIGNAGE. (First Reading July 1, 2014)**
- E. Consideration of APPROVAL of (SECOND READING) and (ADOPTION) AN ORDINANCE BY THE CITY OF MORGANTOWN REPEALING ARTICLE 170 OF ITS ADMINISTRATIVE CODE, AS THE SAME APPLIES TO THE GREATER MORGANTOWN METROPOLITAN AREA YOUTH COMMISSION. (First Reading July 1, 2014)**
- F. Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING ARTICLE 129 OF ITS ADMINISTRATIVE CODE BY ADDING A NEW SECTION 129.16 PERTAINING TO THE CITY FINANCE DIRECTOR'S AUTHORITY TO REQUEST INFORMATION FROM THE WEST VIRGINIA STATE TAX DEPARTMENT. (First Reading July 1, 2014)**
- G. Consideration of APPROVAL of (THIRD READING) and (ADOPTION) of AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE STORMWATER PORTION OF THE COMBINED SYSTEM OF THE CITY OF MORGANTOWN AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$850,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2014 B; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; AND AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.(First Reading June 15, 2014, Second Reading July 1, 2014).**

H. BOARDS AND COMMISSIONS

- 8. PUBLIC PORTION WHICH SHALL BE SUBJECT TO RULES ESTABLISHED BY COUNCIL AND ADOPTED BY RESOLUTION**
- 9. SPECIAL COMMITTEE REPORTS**
- 10. NEW BUSINESS:**
 - A. Consideration of APPROVAL of FIRST READING of AN ORDINANCE AUTHORIZING A LEASE AGREEMENT BY AND BETWEEN THE CITY OF MORGANTOWN, LESSOR, AND RSA FLIGHT TRAINING, LLC, LESSEE, IN WHICH OFFICE SPACE, SPECIFICALLY SUITES 235 AND 241, IS BEING LEASED AT THE MORGANTOWN MUNICIPAL AIRPORT FOR THE PURPOSE OF OPERATING A FLIGHT TRAINING CONCESSION.**
 - B. Consideration of APPROVAL of FIRST READING of AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING A LEASE AGREEMENT BY AND BETWEEN IT, AS LESSOR, AND MERKOL, INC., AS LESSEE, REGARDING SPACE WITHIN THE MORGANTOWN MUNICIPAL AIRPORT TERMINAL BUILDING, WHICH WILL BE OPERATED AS A RESTAURANT.**
 - C. Consideration of APPROVAL of FIRST READING of AN ORDINANCE AMENDING THE FY 2014-2015 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND.**
 - D. Consideration of APPROVAL of a RESOLUTION AUTHORIZING JEFF MIKORSKI, CITY MANAGER, TO APPLY TO AND EXECUTE ALL APPLICATIONS AND AGREEMENTS WITH AND FOR THE STATE OF WEST VIRGINIA HEALTH CARE AUTHORITY FOR A CERTIFICATE OF NEED FOR AN ONSITE HEALTH CLINIC.**
 - E. Consideration of APPROVAL of a RESOLUTION AUTHORIZING AND APPROVING CERTAIN PARAMETERS AS TO THE PRINCIPAL AMOUNT, DATES, MATURITY DATE, INTEREST RATES, INTEREST AND PRINCIPAL PAYMENT DATES AND OTHER TERMS OF THE COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2014 B OF THE CITY OF MORGANTOWN; AUTHORIZING AND APPROVING THE SALE AND**

DELIVERY OF SUCH BONDS; AND MAKING OTHER PROVISIONS AS TO THE SERIES 2014 B BONDS, AUTHORIZING A TAX COMPLIANCE POLICY, A CERTIFICATE OF DETERMINATIONS AND OTHER INSTRUMENTS RELATING TO THE BONDS.

F. Consideration of APPROVAL of a RESOLUTION OF THE MORGANTOWN CITY COUNCIL PROTESTING PROPOSED ELECTRIC RATE INCREASES.

11. CITY MANAGER'S REPORT:

NEW BUSINESS:

- 1. Fair and Festival Permit for United Way**

12. REPORT FROM CITY CLERK

13. REPORT FROM CITY ATTORNEY

14. REPORT FROM COUNCIL MEMBERS

15. ADJOURNMENT

If you need an accommodation contact us at (304) 284-7439

REGULAR MEETING JULY 1, 2014: The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers of City Hall on Tuesday, July 1, 2014 at 7:00 p.m.

ELECTION OF MAYOR AND DEPUTY MAYOR:

The City Clerk opened the floor for nominations among Council for the offices of Mayor and Deputy Mayor.

Nomination by Nugent, second by Bane, to elect Councilor Kawecki as Mayor. Motion to elect Councilor Kawecki as Mayor failed 2-5. Councilors Kawecki, Selin, Shamberger, Fike and Ganz voted NO.

Nomination by Shamberger, second by Ganz, to elect Councilor Selin as Mayor. Motion carried 5-2, electing Jenny Selin as the Mayor of the City of Morgantown. Councilors Bane and Nugent voted NO.

Nomination by Nugent, second by Bane, to elect Councilor Fike as Deputy Mayor. Motion to elect failed 2-5. Councilors Kawecki, Selin, Shamberger, Fike and Ganz voted NO.

Nomination by Fike, second by Selin to elect Councilor Shamberger as Deputy Mayor. Motion carried 5-2. Councilors Bane and Nugent voted NO.

OATH OF OFFICE FOR MAYOR AND DEPUTY MAYOR:

The City Clerk administered the Oath of Office to Mayor Selin and Deputy Mayor Shamberger for the term of July 1, 2014 to June 30, 2015.

Thereafter, Mayor Selin assumed the Chair of the meeting and began to conduct the regular business of Council.

PRESENT: City Manager Jeff Mikorski, City Attorney Steve Fanok, City Clerk Linda Little, Mayor Jenny Selin and Council Members: Ron Bane, Bill Kawecki, Wes Nugent, Marti Shamberger, Mike Fike, and Nancy Ganz.

The Meeting was called to order by Mayor Selin.

APPROVAL OF MINUTES: The minutes of the regular meeting of June 17, 2014 were approved as corrected.

CORRESPONDENCE:

Mayor Selin congratulated Damien Davis for his participation in the Corporate Cup Challenge and he was given a plaque as he was recognized as Corporate Cup Team Captain. Mayor Selin read the National Day of Making Proclamation issued by President Obama. She stated that this calendar year from June 18, 2014 to June 18, 2015 we will hold a Maker Fair and have public round table discussions with people who are interested from the educational and manufacturing sectors. Mayor Selin then read a letter from a Michael Sharley, concerned citizen in support of the proposed truck ordinance.

PUBLIC HEARING – AN ORDINANCE BY THE CITY OF MORGANTOWN REPEALING SECTION 155.05 OF ITS ADMINISTRATIVE CODE, AS THE SAME APPLIES TO BONDING REQUIREMENTS FOR MEMBER OF THE MORGANTOWN PARKING AUTHORITY.

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

PUBLIC HEARING – AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN IT AND WEST VIRGINIA RESEARCH CORPORATION ON BEHALF OF WEST VIRGINIA UNIVERSITY AS THE SAME APPLIES TO THE FUNDING OF THE CITY’S WEST RUN PASSIVE TREATMENT INSTALLATION PROJECT AT THE MORGANTOWN MUNICIPAL AIRPORT.

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

UNFINISHED BUSINESS:

AN ORDINANCE REPEALING SECTION 155.05 OF ITS ADMINISTRATIVE CODE:

The below entitled Ordinance was presented for second reading.

AN ORINANCE BY THE CITY OF MORGANTOWN REPEALING SECTION 155.05 OF ITS ADMINISTRATIVE CODE, AS THE SAME APPLIES TO BONDING REQUIREMENTS FOR MEMBER OF THE MORGANTOWN PARKING AUTHORITY.

After explanation from City Manager, Jeff Mikorski, motion by Shamberger, second by Nugent, to adopt the above entitled Ordinance. Motion carried 7-0

AN ORDINANCE AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT THAT APPLIES TO WEST RUN PASSIVE TREATMENT INSTALLATION PROJECT:

The below entitled Ordinance was presented for second reading.

AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN IT AND WEST VIRGINIA RESEARCH CORPORATION ON BEHALF OF WEST VIRGINIA UNIVERSITY AS THE SAME APPLIES TO THE FUNDING OF THE CITY’S WEST RUN PASSIVE TREATMENT INSTALLATION PROJECT AT THE MORGANTOWN MUNICIPAL AIRPORT.

After City Manager gave a brief description of the project, motion by Fike, second by Kawecki, to adopt the above entitled Ordinance. Motion carried 7-0.

AN ORDINANCE AUTHORIZING THE ACOUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE STORMWATER PORTION OF THE COMBINED SYSTEM OF THE CITY OF MORGANTOWN:

The below entitled Ordinance was presented for second reading.

AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE STORMWATER PORTION OF THE COMBINED SYSTEM OF THE CITY OF MORGANTOWN AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$850,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2014 B; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH

BONDS; AND AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

After explanation from City Manager, Jeff Mikorski, motion by Ganz, second by Shamberger to pass the above entitled Ordinance to third reading. Motion carried 7-0.

BOARDS AND COMMISSIONS: City Clerk, Linda Little, announced that she will be advertising for Urban Landscape positions for the fourth and seventh ward.

PUBLIC PORTION:

Tim Ball, MUB Director, stated that MUB has worked very hard on the Forest/Poplar stormwater project and now they have a dilemma which is time. Because of the petition opposing the annexation, the process is taking much longer. Mr. Ball stated that the bids for both construction and financing will expire August 1st and in order to stay on schedule and use proposed bids, the annexation needs to proceed as quickly as possible to meet August 1st deadline. He also stated that the PSC also has a deadline of September to install drains; the original deadline was May although MUB was able to get an extension to keep both projects married together, and Mr. Ball noted that he seriously doubts that the PSC will give another extension. Mr. Ball stated that he respects the democratic process and is not in opposition of it, what concerns him is that of timing and that we need to move the annexation along as quickly as possible before money is spent on a project that may or may not happen.

Dave Kelly, 503 Poplar Woods Drive, stated that he empathizes with the drainage issues in and around the Forest/Poplar areas. Mr. Kelley briefly stated his concerns with the different areas that will be affected by the annexation, city benefits, surcharges, and the petition process. He noted that he can't find a positive finding with the annexation.

Anna Lee, 121 Morgan Drive, briefly described, in her opinion, the history of the proposed annexation in her area years ago. She stated that it seems to be the only solution to an issue not of our creation, but that puts our health and homes at risk. **(Attached Exhibit A)**

Carter Kelley, 510 Poplar Woods Drive, stated that petition should go by State Code and that the City summary is not accurate.

Robert Griffith, 106 Forest Drive, stated that he is in support of the annexation and that he wanted his letter to be part of the record. He stated that all meetings of the Oakview Property Association have always been open to all property owners and that this petition was not put together by a secret club or put together in the dark like some claim so therefore I urge Council to approve the annexation as described in the meeting Agenda. **(Attached Exhibit B)**

Tamara Klemkowski, 101 Forest Drive, stated that she is opposed to the annexation and has many concerns about the petition. She stated that she was confused on all the information that was given to her.

Rena Hernandez, 457 Grove Street, she gave kudos for Richwood Avenue being paved, she supports Blue Curb parking Ordinance in Wiles Hill Area, and also supports the Heavy Truck Ordinance.

Richard Dumas, 444 Overhill Street, urges Council to support item D on the Agenda from this evening. He stated we must support our neighborhoods to be walkable and livable.

Jane LeFebre, 301 Raymond Street, noted many changes through the years of Wiles Hill and questioned why Raymond Street couldn't be grandfathered in with current 24 hr. blue curb parking.

Roger Banks, Wiles Hill Resident, stated that he supports the Ordinance and noted that the community is forced to do this because of poor development and also noted that this Ordinance is needed for our protection.

Bob Milvet, 105 Forest Drive, stated that he opposes the annexation and requested that his letter be part of the record. Mr. Milvet asked City Council what they believe they will or won't get by this annexation and also asked if it will still be a neighborhood or liability. **(Attached Exhibit C)**

Kitty Lozier, 345 Virginia Avenue, stated that she is in favor of the Blue Curb Parking Ordinance.

Matthew Held, 213 Kingwood Street, stated that he is the President of Greenmont Neighborhood Association, thanked the police Department for coming to the Greenmont block party. He also stated that he is in support of the Safe Streets Morgantown Ordinance and want the City to do everything in its' power to defend and enforce the regulation of heavy trucks through downtown. He also requested his letter to be part of the permanent record. **(Attached Exhibit D)**

Mary Davis, 106 Forest Drive, stated that she is in favor of the annexation.

Linda Morton, 436 Center Street, supports the Wiles Hill Curb Ordinance.

Zachary Mendelson, 124 Morgan Drive, President of the Oakview Annexation, stated that the numbers are correct in reference to the petition and that it is crucial that the City maintain the roads if annexed.

David Hood, 118 Morgan Drive, stated that he supports the annexation and noted that he is a pastor and dislikes seeing the division in the neighborhood and hoping this all comes to a neutral resolve.

SPECIAL COMMITTEE REPORTS: Councilor Ganz updated everybody that the pools will be open over July 4th holiday weekend and she noted at the next King Street Park Festival the movie that will be playing will be Despicable Me 2. Councilor Kawecky noted that the art cart and bounce house will also be at the Family Fun Festival.

NEW BUSINESS:

AN ORDINANCE PROVIDING FOR THE ANNEXATION OF 13.40 ACRES: The below entitled Ordinance was presented for first reading.

AN ORDINANCE PROVIDING FOR THE ANNEXATION OF 13.40 ACRES, MORE OR LESS, OF ADDITIONAL TERRITORY INTO THE CITY OF MORGANTOWN PURSUANT TO SECTION 8-6-4 OF THE WEST VIRGINIA CODE.

After explanation from City Manager, Jeff Mikorski, motion by Ganz, second by Kawecky, to pass the above titled Ordinance to second reading. Motion carried 7-0.

AN ORDINANCE AMENDING SECTION 929.05 AND 929.06 OF THE CITY OF MORGANTOWN'S STREETS, UTILITIES AND PUBLIC SERVICES CODE: The below entitled Ordinance was presented for first reading.

AN ORDINANCE AMENDING SECTION 929.05 AND 929.06 OF THE CITY OF

MORGANTOWN'S STREETS, UTILITIES AND PUBLIC SERVICES CODE BY SETTING FORTH THE RATES, FEES AND CHARGES FOR SERVICE TO CUSTOMERS OF THE MUNICIPAL SEPARATE STORMWATER SEWERAGE SYSTEM OF THE CITY OF MORGANTOWN.

After rules were suspended for Tim Ball to answer questions, and explanation and discussion from City Manager and Council, motion by Bane, second by Shamberger, to pass the above titled Ordinance to second reading. Motion carried 7-0.

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTION 386.08 OF ITS TRAFFIC CODE: The below entitled Ordinance was presented for first reading.

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTION 386.08 OF ITS TRAFFIC CODE, AS THE SAME APPLIES TO PARKING FEES.

After rules were suspended for Tom Arnold to answer questions, and explanation from City Manager, Jeff Mikorski, and motion by Nugent, second by Bane, to pass the above titled Ordinance to second reading. Motion carried 7-0.

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING AND EXPANDING THE BOUNDARIES OF THE WILES HILL DESIGNATED PARKING DISTRICT: The below entitled Ordinance was presented for first reading.

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING AND EXPANDING THE BOUNDARIES OF THE WILES HILL DESIGNATED PARKING DISTRICT, AND ALSO AMENDING THE PERMIT REQUIREMENTS AND WORDING OF THE DISTRICT'S PERMIT PARKING SIGNAGE.

After rules were suspended for Tom Arnold to answer questions, and explanation from City Manager, Jeff Mikorski, motion by Nugent, second by Bane, to pass the above titled Ordinance to second reading. Motion carried 7-0.

AN ORDINANCE BY THE CITY OF MORGANTOWN REPEALING ARTICLE 170 OF ITS ADMINISTRATIVE CODE: The below entitled Ordinance was presented for first reading.

AN ORDINANCE BY THE CITY OF MORGANTOWN REPEALING ARTICLE 170 OF ITS ADMINISTRATIVE CODE, AS THE SAME APPLIES TO THE GREATER MORGANTOWN METROPOLITAN AREA YOUTH COMMISSION.

After explanation from City Manager, Jeff Mikorski, motion by Nugent, second by Bane, to pass the above titled Ordinance to second reading. Motion carried 7-0.

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING ARTICLE 129 OF ITS ADMINISTRATIVE CODE BY ADDING A NEW SECTION 129.16: The below entitled Ordinance was presented for first reading.

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING ARTICLE 129 OF ITS ADMINISTRATIVE CODE BY ADDING A NEW SECTION 129.16 PERTAINING TO THE CITY FINANCE DIRECTOR'S AUTHORITY TO REQUEST INFORMATION FROM THE WEST VIRGINIA STATE TAX DEPARTMENT.

After explanation from City Manager, Jeff Mikorski, motion by Nugent, second by Bane, to pass

the above entitled Ordinance to second reading. Motion carried 7-0.

A RESOLUTION STATING THE REASONABLE EXPECTATION OF THE CITY COUNCIL OF THE CITY OF MORGANTOWN TO REIMBURSE THE MORGANTOWN UTILITY BOARD FOR CAPITAL EXPENDITURES: The below entitled Resolution was presented for first reading.

A RESOLUTION STATING THE REASONABLE EXPECTATION OF THE CITY COUNCIL OF THE CITY OF MORGANTOWN TO REIMBURSE THE MORGANTOWN UTILITY BOARD FOR CAPITAL EXPENDITURES IN CONNECTION WITH THE DESIGN, ACQUISITION AND CONSTRUCTION OF COMBINED UTILITY SYSTEM FACILITIES AND IMPROVEMENTS TO THE STORMWATER PORTION OF THE SYSTEM MADE PRIOR TO THE ISSUANCE OF TAX-EXEMPT REVENUE BONDS OR OTHER OBLIGATIONS.

After explanation from City Manager, Jeff Mikorski, motion by Shamberger, second by Bane, to adopt the above entitled Resolution. Motion carried 7-0.

CITY MANAGER'S REPORT:

NEW BUSINESS:

1. FY Capital Escrow Budget Revision #1

Mr. Mikorski stated that there are a number of projects that need to be modified in the Capital Escrow fund for the upcoming year, including the carryover of grant and donated funds for projects and the initiation of the purchase of additional equipment and funding for new projects. He recommended that City Council authorize the changes in the Capital Escrow budget as identified on the attached memo.

After explanation from the City Manager, Jeff Mikorski, motion by Nugent, second by Bane to authorize the changes in the Capital Escrow. Motion carried 7-0.

REPORT FROM CITY CLERK: Linda Little, City Clerk, reminded everyone that the deadline to receive applications for the Police Officer position will be July 3rd and the Police test will be conducted on August 2nd. She also wished everyone a safe and happy July 4th.

REPORT FROM CITY ATTORNEY: No report

REPORT FROM COUNCIL MEMBERS:

Councilor Bane:

Councilor Bane wished everyone a Happy 4th of July. He stated that we are doing some good things here in Morgantown and hopes we continue to try and reach out to the University although we still have some strides to accomplish with them and hope we don't put discussions with WVU on the backburner. Councilor Bane urges all of the Council members to put forth the effort to communicate

with the University this year because it's time to put our best foot forward with them to build a level of trust so we can move forward.

Councilor Kawecki:

Councilor Kawecki stated that it was a pleasure chairing the meeting at the Arts Collaborative. He stated that it was a very positive meeting and hopes that they can continue the momentum of public arts as it will help continue to improve the atmosphere here in Morgantown and to make it an even more vital community than it is now.

Councilor Nugent:

Councilor Nugent stated that we had great business tonight and he is very happy to see the City moving forward in a positive way. Councilor Nugent inquired about the Mon Power rate hike with the City Manager and wanted to try and draft a Resolution to be read at the July 15th Regular Meeting. He also inquired to the City Manager about the pedestrian signs on High St. and asked when they will be installed to insure pedestrian safety and the City Manager replied stating that the signs should be installed this week. Councilor Nugent thanked the people involved and the Bass Federation for hosting the tournament. He noted that he was able to place third and was happy to honor the City in placing. He also congratulated the first and second place contenders.

Councilor Shamberger:

Councilor Shamberger stated that she was honored to be nominated for another year as Deputy Mayor. She also thanked Terry Hough for her years of service and also congratulated the Service League for using CDBG funds for updating exterior lighting at the Old Stone House and recommended that other businesses in the downtown area take a look of how attractive it looks and also ensures safety. Councilor Shamberger noted that she enjoyed attending events with the Mayor at Eastwood and the ribbon cutting at Shoney's with Councilor Fike.

Councilor Fike:

Councilor Fike stated that he is thrilled to see the introduction of I-RIDE-79, a public transportation line connecting Morgantown and Charleston with stops at various cities in between. He noted that this initiative by the state Department of Transportation will be a valuable contribution to our efforts to move people from

place to place. He also noted that he didn't see it as another opportunity for Morgantown citizens to utilize mass transportation which, hopefully, will provide more incentives for projects of this nature. Councilor Fike stated that he attended the latest Habitat for Humanity home dedication in Jerome Park on June 21 and he again expressed thanks to Habitat for contributing to the availability of quality housing for families who might otherwise never enjoy the thrill and security of owning a home and who devoted hours of their own labor to build them. Councilor Fike announced that the Norwood Neighborhood Association picnic will be held Saturday, July 12, at 6:00 p.m. at the Norwood Fire Station. Councilor Fike stated that he continues to hope for progress toward our intention to get the proposed truck ordinance on our agenda as soon as possible.

Councilor Ganz:

Councilor Ganz announced that the Suncrest Neighborhood picnic will be held on July 15th in conjunction with BOPARC at Krepps Park prior to Concert in the Park and there will be a potluck picnic and other activities. Councilor Ganz noted that a neighbor of hers complained to the state about a sign at the intersection of Burroughs and 705 saying that it was too small and that it was unsafe for pedestrians to cross there due to the small sign so within a week after the complaint was made, the small sign was replaced with a large pedestrian sign and she noted that she was happy to see how quickly it was taken care of to ensure the safety of pedestrians.

Mayor Selin:

Mayor Selin stated that she would like to celebrate our successes on High Street by having a ceremony and would like to set a date and time. Mayor Selin announced that the Softball Team USA will be in Morgantown holding a clinic for girls on Wednesday, July 2nd, and on Thursday, July 3rd of this week and they will be hosting a Softball game with an All-Star Team from the surrounding area. Mayor Selin noted that she appreciated the Bass tournament and everyone's efforts. The Celebration of America events are as follows: 11 a.m., the Morgantown Municipal Band will be playing at Hazel Ruby McQuain Amphitheater, 5 p.m., High Street Parade, 6 p.m., Weed Rags Band, 7 p.m.,

Awards Ceremony followed by the Mon River Big Band and then Fire Works. Mayor Selin announced that the Mountain Lion Transit Authority will have no local bus service on July 4th and will resume regular service on July 5th. She also announced that there will be a Blood Drive in honor of Morgantown City Police Officer Chris Dalton at the WVU Recreation Center from 12 p.m. to 6 p.m. on July 3rd. Mayor Selin announced that the Mon River Town Meeting will be held on July 9th at the Hazel Ruby McQuain bus depot and that the Farmers Market will be held on Saturday as usual. She also announced that Bill Kawecki was nominated by Main Street Morgantown for 2013 Volunteer of the Year, Steve Bennett was nominated Public Official of the year, and Terry Cutright was honored for 25 years of service with Main Street Morgantown. Mayor Selin stated that she is looking forward to another year of service.

EXECUTIVE SESSION:

Motion by Councilor Bane, second by Councilor Nugent, to go into executive session pursuant to Section 6-9A-4 of the West Virginia Code in order to discuss attorney client privileges with the following persons present; Mayor Selin, Council Members, Jeff Mikorski, Glen Kelly and Steve Fanok. Time 9:40 p.m.

ADJOURNMENT: There being no further items of business or discussion, the meeting adjourned by unanimous consent at 10: 40 p.m.

City Clerk

Mayor

*A FULL TRANSCRIPT OF ALL COUNCIL MEETINGS IS AVAILABLE ON DVD AT THE MORGANTOWN CITY LIBRARY.

Morgantown City Council Meeting – July 1, 2014

My name is Anna Lee and I have lived at 121 Morgan Drive for 6 years. I request that my comments be entered into the public record. I live in the area that is requesting annexation and I support annexation.

The requested annexation has become controversial with a minority in our community, some that will be affected by annexation, and **some that will not**. In an ideal world all affected by the annexation would be in favor of it before proceeding, but rarely does life provide us with the ideal circumstance. Some of the objections that have been raised are probably not in City Council's purview to address. Others points, such as whether our neighborhood association will survive, cannot be determined until after annexation.

What I **do** want to **make certain is clear** is that a majority of the neighbors in the area affected have signed an annexation petition **not just once, but twice**, in response to concerns that it may have been too long since the initial signatures were gathered. At the time they signed the petition the second time they had already had a chance to hear and/or read about the arguments against annexation put forth by a minority of our neighborhood and still thought that annexation offers the best recourse to our problem and the overall circumstance for our community.

Annexation is not the first option we explored. We started searching for ways to solve a water drainage issue several years ago. Construction in the water shed above us resulted in drainage into our neighborhood that flooded property, including my own. It has been confirmed that flood maps consulted prior to purchase of one of the impacted homes showed the area to be in a 500-year flood plain. The absence of flooding risk was confirmed by my home-owner's insurance company when I purchased my house in 2008. Thus, the frequent flooding we now experience was not expected or predictable. The drainage has been such that sewer lines were exposed and raw sewage was mixed in the flood water requiring on-going monitoring as well as past and future repairs by MUB. These instances of flooding posed not only a risk to our property, but also to our health.

We approached every governmental body we could think of to try to find a solution to our problem, which was not of our making and beyond our ability to solve. Neighbors attended County Health Department meetings, the first more than a year ago. The Health Board members were sympathetic and encouraging, but could do nothing and referred us to the County Commission. We approached the County Commission. They, too, were sympathetic and suggested, among other possibilities, that we form a Public Service District. We (and they) later learned that a PSD was not permissible under existing State Code. The Commission did recently use their bonding authority to provide funding to help solve the problem and we very much appreciate that. We also approached the Department of Environmental Protection, the Public Service Commission, and other local and state agencies, **as well as retaining legal counsel for advice on possible litigation avenues**. None of these resources **or the litigation prospects** provided any recourse for a resolution.

The common advice from all of the governmental units we approached kept pointing to MUB. While MUB can and will be solving the sewer problem, we learned that they cannot solve the storm water issue unless we are within the City of Morgantown. That is what first led us to annexation. It seems to be the only solution to an issue **not of our creation**, but that puts our health and homes at risk.

Many of the neighbors supporting annexation want to be annexed **for a variety of reasons BEYOND obtaining MUB's support for the storm water issues**. As the annexation petition was re-circulated, neighbors identified a range of advantages that they thought annexation would bring. It is important to note that **a majority of those signing the petition do not live in houses directly impacted by the flooding**.

In conclusion, **it must be recognized above all else** that in a transparent and democratic process consistent with City Code, **a majority of those in the affected area NOT ONLY ONCE, but TWICE**, signed a petition requesting **and reaffirming** their support of annexation. We know **(and I, personally, regret)** that not all to be affected by annexation agree with that majority, but we hope that you will honor the requested action of the majority and approve annexation. Thank you.

July 1, 2014

Morgantown City Council
389 Spruce Street
Morgantown, WV 26505

Concerning: Oakview Subdivision Partial Annexation

Members of the Council,

Before beginning, I would like to request that these comments be entered into the public record.

My name is Robert K. Griffith and I live at 106 Forest Drive, one of the streets being considered for annexation into the City of Morgantown. I am speaking in support of this annexation proposal. I will summarize my view of how the petition came about.

My partner Mary Davis and I moved to 106 Forest Drive in the early Fall of 2001, almost fourteen years ago. There have been drainage issues the entire time we've lived there. When various homeowners approached MUB about these issues, we were told that annexation to the City of Morgantown was the only way MUB would have jurisdiction over the problems. About seven years ago, (the exact year is irrelevant), the Oakview Property Owners Association invited the then Morgantown City Manager to discuss how we might be annexed. At that time, a few of the homeowners on Forest Drive vehemently objected to annexation, and since the issues at that time were more annoyance than crisis, those of us who were in favor of annexation dropped the issue. This was before the Windsor Estates development was built and the sanitation and drainage issues became a true crisis.

After Windsor Estates was built, greatly increased storm water runoff led to exposure and rupture of sanitation sewers and significant flooding at the bottom of Forest Drive flowing over to the bottom of Morgan Drive, as has been well publicized and noted. This is more than an annoyance, it is a crisis. It has also been made abundantly clear to us that the only way the storm water flooding issue will be fixed, is if we are annexed to the city. For that reason the petition for annexation was formed and in accordance with state law, a majority of property owners in the proposed area support annexation.

While it is true that MUB will bury the sanitation sewers, they will not fix the flooding issue without annexation. The flooding directly affects the houses at the bottom of Forest and Morgan Drives, but the stream erosion also affects the property of houses along Poplar Woods Drive and in Windsor Estates. I have a strong sense of community values, and am more than willing to be annexed and pay a rather nominal supplement to my MUB bill so that my neighbors will get relief from this problem so severely affecting their property and their well being. I am also somewhat disappointed at the "every man for himself and the Devil take the hindmost" attitude of some of my neighbors. Even from a crassly economic point of view, while my house at 106 Forest Drive is not directly affected by flooding, if the value of the houses directly affected drops, my property value will drop also.

All meetings of the Oakview Property Association have been open and more than sufficient notification given to all property owners on Forest, Morgan and Poplar. This petition was not put together by some secretive club that deliberately kept people in the dark as some have claimed. Furthermore, I have no confidence whatsoever that if we put off annexation at this time, that a majority of the homeowners on Oakview, Poplar, Morgan and Forest would ever support annexation even if it involved some more comprehensive plan to fix all of the drainage issues. Therefore I urge the Morgantown City Council to approve the annexation as described in the meeting agenda.

Sincerely,



Robert K. Griffith
106 Forest Drive
Morgantown, WV

"I am Bob Milvet from 105 Forest Drive, and I stand here again in opposition to the Morgan/Poplar/Forest proposed annexation. I was here a few weeks ago to submit my detailed reasons behind my opposition, but have more concerns today. To start, I moved into this neighborhood in 2008 only to learn that a few neighbors were wanting to sue me for being in a home that was allegedly the cause of their flooding problems. I learned from others I was merely a scapegoat because all other options of lawsuits or attempts to fix their supposed problems had failed. I just moved into the home – I didn't build it! I thought I was moving into a good, family friendly neighborhood...It is a good neighborhood; however, I remain chagrined by my first encounter with these neighbors regarding the threats to sue me. In fact, no one in this neighborhood really came around to get to know my family except for my neighbors across the street, to my immediate left, and up the street on the right. Now though several people gather in my driveway, and I don't mind that, but it's all because we are talking about nothing more than this annexation and storm water issue.

In addition, a major concern I have now is that many in the neighborhood who are voicing concerns or opposing this annexation process are now being ridiculed by supporting neighbors and even this council. Recently I have been called out in a homeowner's meeting as being "narrow minded" or "lacking wisdom" because I oppose this process. I oppose the process and the project because it will cost my family more money, and with 4 daughters I think it is wise and NOT narrow to put money away for their future instead of paying growing HOA dues, new city taxes, AND a surcharge for a project that is not comprehensive. Then I learned through the grapevine that a member of this council in a recent meeting indicated those who oppose this are nothing but millionaires sitting on their money hiring lawyers who don't care about the poo. This is insulting, and far from the truth. And people in this neighborhood want my support? They should have treated me and my family differently, as well as others who are wanting a better project for this community.

I remind this council the importance of opposition. Back in May 2013, 5 of 7 seats on this council were replaced mainly because voters supported the candidates now at the table, but also because voters opposed the incumbents. It was opposition that helped get you elected and seated here tonight, so instead of slandering the opposition to this issue, you should listen to us.

Here is a brief summary of what we will get and won't get from this proposed annexation:

Will get:

1. New city taxes
2. Continued HOA fees (at \$25 increase per year)
3. Increased fire service fees
4. New storm water surcharge

Won't get:

1. Comprehensive storm water management project
2. Improved home sale values (selling point HOA)
3. “Extravagantly” lower homeowner insurance rates (selling point of HOA)
4. Better police protection (selling point of HOA)
5. Better fire service coverage (selling point of HOA)

Now enough of what we as homeowner’s will or won’t get. Instead, I would like to ask the City Council what they believe they will or won’t get, so I leave you with this question to consider: by annexation will you be getting a neighborhood that is an asset, one that provides future economic benefit to the City of Morgantown, or will you be getting a liability that is a nuisance for this council for years to come? That’s all I have. I am finished. Thanks again for your time this evening.”

Robert W. Milvet Jr.
VP and Chief Financial Officer

Preston Memorial Hospital | 300 South Price Street, Kingwood, WV 26537

Direct: (304) 329-4700 | Fax- 304-329-2812



Matthew V. Held
213 Kingwood St.
Morgantown, WV 26501
wwubassoon@hotmail.com
304-210-7606

Morgantown City Council
389 Spruce Street
Morgantown, WV 26505

July 1, 2014

Dear Ladies and Gentleman of City Council,

As you know the people of Greenmont have been asking for relief from the relentless parade of heavy trucks through their neighborhood. This request has been made repeatedly over many decades and has to date never resulted in any action to mitigate the drag this creates on the daily lives of residents. On Monday, June 30, 2014, at its regular meeting, The Greenmont Neighborhood Association was presented with an ordinance drafted by Safe Streets Morgantown that seeks to regulate the passage of heavy trucks through the downtown business district. The presentation was very detailed and all in attendance were able to ask questions and gain a complete understanding of the proposal. Members then deliberated among themselves and decided by unanimous consent to formally declare their support of the proposed ordinance. Furthermore, residents wish to convey that they believe this proposal is fair and that the time is well overdue to bring them relief; and, therefore, request that the city council move swiftly without delay to adopt the language set forth in the Safe Streets Morgantown ordinance and that the City Manager do everything in his power to defend and enforce the ordinance once it is passed into law.

Sincerely,



Matthew V. Held

President of The Greenmont Neighborhood Association



Office of the City Manager

The City of Morgantown

City Manager
Jeff Mikorski, ICMA-CM
389 SPRUCE STREET
MORGANTOWN, WEST VIRGINIA 26505
(304) 284-7405 FAX: (304) 284-7430
www.morgantownwv.gov

City Manager's Report for City Council July 15, 2014

New Business

1. Fair and Festival Permit for United Way

The City has received the attached request for a Fair and Festival permit to allow the United Way Motown Mac N' Cheese Cook off to be held at the Morgantown Market Place Pavilion, this event can bring a variety of people and interest to the downtown at our new facility. With proper safety requirements adhered to, I recommend the approval of the festival permit for August 9th from 2:00 pm to 5:00 pm.

Jeff Mikorski ICMA-CM,
Morgantown City Manager

WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION

APPLICATION FOR SPECIAL EVENTS
FAIR AND FESTIVAL LICENSE
Consumption "On Premise"
CLASS A

SPECIAL EVENTS
[X] BEER.....\$250
[X] WINE.....\$250

County: Monongalia

Tax ID#: 55-0462065

1. Name of Event: 1st Annual Motown Mac N' Cheese Cook-off

2. Name of Applicant(s): United Way of Monongalia and Preston Counties

3. Applicant's Mailing Address:

278C Spruce Street Morgantown WV 26505
(Street/Route) (City) (State) (Zip Code)

4. Applicant's Telephone Number: (304) 296 7525 Fax: (304) 296 6370 Other: ()

5. Email address: Unitedway@unitedwaympc.org

6. Description of the location of the event (street, reference landmark, etc.):

Market Place Pavilion. 411 Spruce Street Morgantown WV 26505

7. Dates of event (month /day/year) Start: Aug 9th 2:00pm End: Aug 9th 5:00pm
(Event cannot exceed ten (10) days)

Operation days and times must be listed below (if all times are the same as the first day write same on following lines)

Table with 2 columns and 5 rows for listing operation days and times.

8. Supply the Following Information About Owner(s) and/or Officer(s) and Manager(s):

US Citizen*

Executive Director Brandi Helms 1012 Laurelwood Dr, Morgantown 26508 N/A % ownership Y/N

Date of Birth Social Security # Telephone Number

Title Name Residence Address % ownership Yrs. Resident of WV Y/N

Date of Birth Social Security # Telephone Number

Title Name Residence Address % ownership Yrs. Resident of WV Y/N

Date of Birth Social Security # Telephone Number

Title Name Residence Address % ownership Yrs. Resident of WV Y/N

Date of Birth Social Security # Telephone Number

Title Name Residence Address % ownership Yrs. Resident of WV Y/N

Date of Birth Social Security # Telephone Number

*IF A NATURALIZED US CITIZEN, PLEASE ATTACH A WRITTEN EXPLANATION OF WHEN AND WHERE NATURALIZED.

The undersigned agree, if a license is issued as herein applied for, to comply at all times and observe all the provisions of West Virginia Code §§ Chapter 11, Article 16 et seq., and Chapter 60, Articles 1 through 8 et seq., and all Federal and State Statutes and all other laws of this State and the rules and regulations promulgated by the Alcohol Beverage Control Administration. I or we certify under penalty of law and disqualification of licensure that all statements are true and complete. I or we release the State of West Virginia and any agent acting on its behalf from any and all liability by reason of the request for such information.

The undersigned hereby verify that we are all officers and all members of the board of directors on the application and that the statements and answers made in the foregoing application are true and the said writing is the act and deed of said Corporation, Limited Liability Company, Association, Individual, Partnership, Limited Partnership. **PRESIDENT, INDIVIDUAL, OR CONTROLLING MEMBER(S) SIGNATURES MUST BE NOTARIZED! MUST MATCH OFFICERS LISTED WITH THE SECRETARY OF STATE. MANAGERS MUST ALSO SIGN.**

PRINT CLEARLY/WITTEN SIGNATURES REQUIRED

NAME: Brandi Helms TITLE: Executive Director
SIGNATURE: _____ DATE OF SIGNATURE: 6/19/14
NAME: _____ TITLE: _____
SIGNATURE: _____ DATE OF SIGNATURE: _____
NAME: _____ TITLE: _____
SIGNATURE: _____ DATE OF SIGNATURE: _____
NAME: _____ TITLE: _____
SIGNATURE: _____ DATE OF SIGNATURE: _____
NAME: _____ TITLE: _____
SIGNATURE: _____ DATE OF SIGNATURE: _____

State of West Virginia, Monongalia County, To-Wit:
Brandi Helms Being first duly sworn
according to law, deposes and says that he/she is Executive Director of the
President, Individual, or controlling Member(s)

United Way of Monongalia + Preston Co., authorized by law to do business in the State of West Virginia, and that the
Business Entity

statements and answers made in the foregoing application are true and acknowledged the said writing to be the act and deed of said corporation.

(Applicant Signature) Brandi Helms

STATE OF WEST VIRGINIA
COUNTY OF Monongalia, to wit:
Sworn to before me and subscribed in my presence this 27 day of June, 2014

[Signature]
NOTARY PUBLIC
My Commission Expires 11-27-2023



SEAL OF NOTARY

BOARDS AND COMMISSIONS - TERMS EXPIRED AND CURRENT VACANCIES

PERSONNEL BOARD:

Dianne Rogers and Sarah Stevenson's term expire on 8/11/2014. Checking to see if they wish to continue to serve.
Charter Section 4.05; Residents and qualified voters to serve at large.

URBAN LANDSCAPE:

Nicole Panaccione, Fourth Ward and Jerry Steketee, Seventh Ward are resigning terms expired on 7/1/2014.
Advertising for applicants. Deadline 8-1-14. Nominated by CM, one from each wd, 13 members with staggered terms and 1 Councilor.

***POLICE & FIRE CIVIL SERVICE COMMISSIONS:** NEW PRESIDENTS APPOINTED IN JANUARY.

**Information for Boards and Commissions vacancies are placed in the Dominion Post, are advertised on the City's Government Station Channel 15, and are posted at the Library and also information is on the City's Web Page.*

**Council decided on 3-21-06 by unanimous consent that if there is only one candidate for Boards & Commissions, that they will not interview; the City Clerk will check with Council before scheduling a Special Meeting.*

**BZA and Planning Commission term expirations are advertised in October and interviews must be completed by December per State Law.*

7/8/14

AN ORDINANCE PROVIDING FOR THE ANNEXATION OF 13.40 ACRES, MORE OR LESS, OF ADDITIONAL TERRITORY INTO THE CITY OF MORGANTOWN PURSUANT TO SECTION 8-6-4 OF THE WEST VIRGINIA CODE.

WHEREAS, petitions have been filed with the City of Morgantown pursuant to Section 8-6-4 of the West Virginia Code requesting the annexation of 13.40 acres, more or less, more specifically shown and described on the exhibit and metes and bounds description hereto attached and made a part of this ordinance;

WHEREAS, Morgantown City Council is of the opinion that the petitions, exhibit, and metes and bounds description conform to the requirements of Section 8-6-4 and all other applicable sections of the West Virginia Code; and

WHEREAS, Morgantown City Council is of the opinion that the City of Morgantown should annex said 13.40 acres, more or less, into its corporate limits.

NOW, THEREFORE, THE CITY OF MORGANTOWN HEREBY ORDAINS that the 13.40 acres, more or less, as more particularly shown and described on the exhibit and metes and bounds description hereto attached are annexed into the corporate limits of the City of Morgantown; that the minutes of City Council shall indicate the same; that the Mayor and City Manager are hereby authorized to execute and forward the attached certificate to the Monongalia County Commission.

This Ordinance shall be effective upon adoption.

FIRST READING:

MAYOR

ADOPTED:

FILED:

CITY CLERK

RECORDED:

WILLIAMS ENGINEERING COMPANY

ENGINEERS & SURVEYORS

211 FAYETTE STREET, SUITE 11
MORGANTOWN, WV 26505
304-292-8794

Re: AREA OF PROPOSED ANNEXATION BY PETITION
Preliminary Parcel Description
About 13.4 Acres, More Or Less
Morgan District, Monongalia County, West Virginia

Beginning at a point on the present Corporation Line of the City Of Morgantown (Miscellaneous Orders, Book 14 Page 464), at a corner common to Oakview Subdivision (Deed Book 669 Page 472) and Wedgewood Addition (Map Cabinet 1 Envelopes 92-B, 243-A, 243-B, 282-A, and 282-B) and on line of lands now or formerly of Mr. and Mrs. Oscar E. Schubert (Deed Book 611 Page 338 and Map Cabinet 1 Envelope 57-B); thence with the present Corporation Line of the City Of Morgantown, lands now or formerly of Mr. and Mrs. Oscar E. Schubert, N74°35'W, 544.7', more or less, to a point on the eastern right-of-way line of Poplar Drive; thence through Oakview Subdivision (Deed Book 669 Page 472) with the eastern right-of-way line of Poplar Drive, N40°19'E, 45.2', more or less, to a point; thence crossing Oakview Drive with the northern right-of-way line of Poplar Drive, S74°35'E, 155.8', more or less, to a point, corner common to Lot 18 and Lot 19 of Oakview Subdivision; thence with the rear line common to Lot 13 through Lot 24 of said Oakview Subdivision, N5°45'E, 659', more or less, to a point on line of Lot 12; thence with Lot 12, N84°15'W, 100', more or less, to a point on the eastern right-of-way line of Oakview Drive; thence leaving Oakview Drive and running with an arbitrary line through Lot 10 of Oakview Subdivision, with the lands of Tony Rainer (Deed Book 1395 Page 333), N28°23'37"E, 222.67', more or less, to a point on the southern right-of-way line of Oakview Drive; thence with said Oakview Drive right-of-way line, N58°25'W, 102.55', more or less, to a point, corner to Lot 9 of said Oakview Subdivision; thence with same, S73°05'W, 84.44', more or less, to a point; thence crossing Oakview Drive, N63°48'W, 59.9', more or less, to a point on line of lands of, Greenbrier Village Townhouses (Map Cabinet 1 Envelopes 127-B, 132-A, 132-B, and 137-B), corner to Lot 8 of said Oakview Subdivision; thence the lands of said Greenbrier Village Townhouses, N5°45'E, 120', more or less, to a point, corner Lot 8a, lands of Ariel Agmon (Deed Book 1127 Page 228, Plat Deed Book 865 Page 308); thence with Lot 8a, N73°05'E, 50', more or less, to a point; thence with same, S40°56'E, 124.63', more or less, to a point on the northern right-of-way line of Oakview Drive, corner common to Lot 8 and Lot 8a; thence with the northern right-of-way line of Oakview Drive, lands of Greenbrier Village (Map Cabinet 1 Envelopes 127-B, 132-A, and 132-B), S58°25'E, 237.4', more or less, to a point at the intersection of the northern right-of-way line Oakview Drive with the western right-of-way line of Morgan Drive; thence through Oakview

Subdivision, with the western right-of-way line of Morgan Drive (with three lines scaled from the Oakview Subdivision drawing), with a curve to the left, radius = about 37.1', arc length = about 64.6', chord = about, N71°38'E, 56.8', more or less, to a point; thence by same, with a curve to the left, radius = about 30.6', arc length = about 36.7', chord = about, N12°42'W, 34.6', more or less, to a point; thence by same, about N47°05'W, 34.0', more or less, to a point on line of lands of Greenbrier Village; thence with the lands of Greenbrier Village, N15°55'E, 260.46', more or less, to a point, corner to lands of M&A WV Ridge JV LP (Deed Book 1444 Page 272, Part Two); thence with the lands of M&A WV Ridge JV LP, S75°35'E, 435.60', more or less, to a point, corner to Wedgewood Addition; thence with Wedgewood Addition, S17°30'W, 1242.94', more or less, to the point of beginning. Containing about 13.4 acres, more or less.

OAKVIEW 140528.DOC

M&A WY RIDGE JV LP
D.B. 1444 PG. 572, PART TWO
T.M. 1 PAR. 22.1

MORNING SIDE
MAP CAB. 2 ENV. 480-A
MAP CAB. 2 ENV. 484-A
MAP CAB. 2 ENV. 493-A
MAP CAB. 2 ENV. 493-B
MAP CAB. 2 ENV. 494-A
MAP CAB. 2 ENV. 505-A
MAP CAB. 2 ENV. 505-B
MORGAN DISTRICT, MAP 1A



NOTE: 1. ALL OF THE BEARINGS AND DISTANCES SHOWN HEREON SHOULD BE CONSIDERED APPROX. AND ARE FOR REFERENCE ONLY.
2. THIS DRAWING WAS DEVELOPED FROM RECORDED INFORMATION, NO FIELD SURVEY WAS PERFORMED.

TAX MAP NO. 3B PARCEL NOS. 8 AND 10 - 51.2
AREA = 13.4 ACRES, MORE OR LESS
TITLE REF.: OAKVIEW, SUBDIVISION OF THE MORGAN DEVELOPMENT CORP.
D.B. 654 PG. 37
D.B. 659 PG. 316
D.B. 669 PG. 472

MAP SHOWING PROPERTY OF MR. AND MRS. OSCAR E. SCHUBERT
MAP CABINET 1 ENV. 97 B
DEED BOOK 611 PAGE 338
MORGANTOWN CORPORATION
MAP 54 PAR. 135 - 135.13

LINE TABLE

- ① N58°26' W 102.55'
 - ② S73°05' W 84.44'
 - ③ N63°48' W 59.9'
 - ④ N73°05' E 50'
 - ⑤ S40°56' E 124.63'
 - ⑥ R=37.1' L=84.8'
CHORD N71°38' E 56.8'
 - ⑦ R=30.6' L=36.7'
CHORD N12°42' W 34.6'
 - ⑧ N47°05' W 34.0'
- Lines 6, 7, and 8 were scaled from the Oakview Subdivision drawing.



DRAWING OF
AREA OF PROPOSED ANNEXATION BY PETITION
MORGAN DISTRICT, MONONGALIA COUNTY, WV
SCALE: 1" = 200' MAY 13, 2014

WILLIAMS ENGINEERING COMPANY
MORGANTOWN, WV





Office of the City Clerk

The City of Morgantown

Linda L. Little, CMC
389 Spruce Street, Room 10
Morgantown, West Virginia 26505
Direct: (304) 284-7439 Fax: (304) 284-7525
llittle@cityofmorgantown.org
www.morgantownwv.gov

July 10, 2014

City of Morgantown
Attn: Mr. Jeff Mikorski
389 Spruce Street
Morgantown, WV 26505

Dear Mr. Mikorski,

The City Clerk's office has researched the Annexation petitions presented to this office by Ms. Barbara Linn. I talked with Barbara on 6-23-14 and made her aware of the fact that I was re-checking the Petition, just for accuracy. There were 50 voters in the proposed annexation who were eligible to sign the petition of which 29 or, 58.00% were **for** the annexation.

As to the freeholder's petition, there were 18 voters in the proposed annexation area who were eligible to sign the petition of which 11 or, 61.11% signed the petition were **for** the annexation

Attached for reference is the Oakview Petition, map of proposed area and excel spreadsheet of the City Clerk's verification of voters and freeholders and some things found after researching data explained below:

102 Morgan Drive: Carter, Kevin, Stevin and Deniz Grocott Registered to vote in Monongalia County no longer live in WV.

108 Morgan Drive: Christine Byrd Registered voter lives at this address and is being added.

110 Forest Drive: Charles, Christina, Courtney, Mackenzie and Tamela as Registered Voters at this address no longer live in Morgantown. Property was sold to the Smothers.

113 Forest Drive: Erin Ponzurick a Registered Voter no longer lives at that address.

116 Forest Drive: Helen McCafferty a Registered Voter is deceased.

119 Forest Drive: Fredica Meitzen a Registered Voter lives in Virginia.

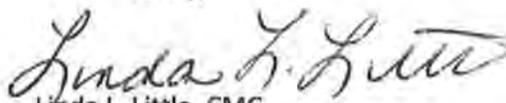
Address corrected on 7-1-14 per Rao Ramakrishna typed in wrong address.

510 Poplar Drive: Carter Kelly was cancelled as a registered voter per Mon County Voter Registration.

Barbara Linn talked with Carolyn Moses and asked her to get another Affidavit notarized for the most recent petition. She e-mailed Carolyn and the information will come to me by mail.

Please let me know if there is any further information or questions you may have in reference to this annexation matter as it pertains to the verification process.

Sincerely,



Linda L. Little, CMC

City Clerk

JM/lll

Cc: File

CITY OF MORGANTOWN

AN ORDINANCE AMENDING SECTION 929.05 AND 929.06 OF THE CITY OF MORGANTOWN'S STREETS, UTILITIES AND PUBLIC SERVICES CODE BY SETTING FORTH THE RATES, FEES AND CHARGES FOR SERVICE TO CUSTOMERS OF THE MUNICIPAL SEPARATE STORM WATER SEWERAGE SYSTEM OF THE CITY OF MORGANTOWN.

THE COUNCIL OF THE CITY OF MORGANTOWN HEREBY ORDAINS: The following rules, rates and charges are hereby fixed, determined and established for services provided to all users and customers of the City of Morgantown's Municipal Separate Storm Sewer System, commencing upon the effective date as hereinafter provided, and in accordance with the following Rates and Schedules:

929.05 FLAT RATE CHARGES

The monthly service charge for users occupying a single family residential dwelling, as defined by the Director, shall ~~be five dollars and thirty cents (\$5.30). After April 1, 2012, the monthly service charge for single family residential dwelling shall be five dollars and eighty eight cents (\$5.88).~~ City Council may, from time to time, by ordinance, change these service charges. Residential dwellings in the Forest-Poplar watershed, as defined by the Director, shall monthly pay, in addition to the monthly service charge, a debt service surcharge of \$ 13.28, which amount shall be solely dedicated to the cost of capital improvements for stormwater management completed in this watershed under and/or related to MUB Contract 1-2014 A. The debt service surcharge will be evaluated annually and in the event that a change in the number of customers results in a five percent (5%) change in the rate, the rate will be adjusted. Ten (10) years following the effective date of this surcharge, and/or upon full funding of the debt service reserve, the surcharge shall be reduced by ten per cent (10%). Upon full satisfaction of the debt, this surcharge shall expire.

926.06 CHARGES BASED ON LAND AREA

The monthly service charge for properties other than described in Section 929.05 shall be computed in the following manner: ~~Two dollars and twelve cents (\$2.12) per 1,000 square feet of impervious area upon the property, as determined by the Director. After April 1, 2012, the monthly service charges for properties other than described in 929.05 shall be computed in the following manner: Two dollars and thirty five cents (\$2.35) per 1,000 square feet of impervious area upon the property, as determined by the Director. Properties in the Forest-Poplar watershed, as defined by the Director, shall monthly pay, in addition to the monthly service charge, an additional debt service surcharge of \$ 5.31, per 1,000 square feet of impervious area upon the property, which amount shall be solely dedicated to the cost of capital improvements for stormwater management completed in this watershed under and/or related to MUB Contract 1-2014 A. The debt service surcharge will be evaluated annually and in the event that a change in the number of customers results in a five percent (5%) change in the rate, the rate will be adjusted. Ten (10) years following the effective date of this~~

surcharge, and/or upon full funding of the debt service reserve, the surcharge shall be reduced by ten per cent (10%). Upon full satisfaction of the debt, this surcharge shall expire.

First Reading:

MAYOR

Second Reading
and Public Hearing:

CITY CLERK

Filed:

Recorded:



OAKVIEW / FOREST / MORGAN

1	PETER KLEMKOWSKY	101	FOREST DR
2	BERNARD COOPER	102	FOREST DR
3	MAXIM SOKOLOV	103	FOREST DR
4	ROBERT MILVET	105	FOREST DR
5	ROBERT GRIFFITH	106	FOREST DR
6	ALAN POFFENBERGER	107	FOREST DR
7	ANGEL SMOTHERS	110	FOREST DR
8	JOHN FISHER II	111	FOREST DR
9	RICH BROOKS	112	FOREST DR
10	ELLISON PONZURICK	113	FOREST DR
11	DAVID HANNA	115	FOREST DR
12	KATHY MARION	116	FOREST DR
13	BILL POFFENBERGER	117	FOREST DR
14	JEFFREY KREITZER	118	FOREST DR
15	DAVID LINN	119	FOREST DR
16	JUDITH MC DONNELL	120	FOREST DR
17	ALDO ROMERO	122	FOREST DR
18	KARA SAMAJ	124	FOREST DR
19	CARTER GROCOTT	102	MORGAN DR
20	H. ILKIN BILGESU	104	MORGAN DR
21	KNOX VAN DYKE	106	MORGAN DR
22	LELAND BYRD	108	MORGAN DR
23	CHRISTINE WANG	110	MORGAN DR
24	ROGER LOHMANN	112	MORGAN DR
25	RAZI GASKARI	114	MORGAN DR
26	DAVID HOOD	118	MORGAN DR
27	ANNA LEE	121	MORGAN DR
28	ZACH MENDELSON	124	MORGAN DR
29	JAMIE MANGOLD	101	OAKVIEW DR
30	CHALLENGE ICE	102	OAKVIEW DR
31	KEITH ZULLIG	103	OAKVIEW DR
32	AMANDA GRIFFITH	104	OAKVIEW DR
33	MARTHA POWER	105	OAKVIEW DR
34	XUEFANG REN	106	OAKVIEW DR
35	LUN-YI ZANG	107	OAKVIEW DR
36	KENNTEH JABBOUR	108	OAKVIEW DR
37	ANNA HARVEY	109	OAKVIEW DR
38	MARK ROHANNA	110	OAKVIEW DR
39	KATIE WIGGIN	111	OAKVIEW DR
40	ALBERT SCUDIERE JR	112	OAKVIEW DR
41	MAURO SPINA	113	OAKVIEW DR
42	LEO SHAY	114	OAKVIEW DR
43	TONY RAINER	117	OAKVIEW DR
44	CARTER KELLY	510	POPLAR WOODS DR
45	GEORGE PETITTE	530	POPLAR WOODS DR

Doesn't drain to Morgan / Forest Intersection

1	REGAN BRUNI	126	MORGAN DR
2	ARIEL AGMON	116	OAKVIEW DR

Doesn't drain to Morgan / Forest Intersection

1	NATHAN HUANG	100	OAKVIEW DR
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POPLAR WOODS

1	GAIL VANVOORHIS	606	POPLAR WOODS DR
2	SAMUEL MAZZA	612	POPLAR WOODS DR
3	LAURA BONSALE	615	POPLAR WOODS DR
4	BRANDON BYRON	624	POPLAR WOODS DR
5	TAMMY FAMOURI	627	POPLAR WOODS DR
6	ONDA JENKS	639	POPLAR WOODS DR
7	DANIEL TAYLOR	642	POPLAR WOODS DR
8	WILLIAM WELTON	656	POPLAR WOODS DR
9	JENNIFER STOLL-JOHNS	657	POPLAR WOODS DR
10	HEATHER CYPHERT	659	POPLAR WOODS DR
11	HAROLD REED	671	POPLAR WOODS DR
12	HONG LI	672	POPLAR WOODS DR
13	ABDULLAH KASSAR	680	POPLAR WOODS DR
14	FONDA HOLEHOUSE	681	POPLAR WOODS DR
15	PATRICE ANDERSEN	691	POPLAR WOODS DR
16	KAY KELLY	703	POPLAR WOODS DR
17	JACK FULLER	710	POPLAR WOODS DR
18	LOC NGUYEN	714	POPLAR WOODS DR
19	RANDY TALERICO	715	POPLAR WOODS DR
20	GUS HASBANI	722	POPLAR WOODS DR
21	DEBRA MOORE	723	POPLAR WOODS DR
22	JAIYOUNG RYU	746	POPLAR WOODS DR
23	ELAINE D'ALESSANDRI	756	POPLAR WOODS DR
24	PATRICIA FORD	758	POPLAR WOODS DR
25	HOTA GANGARAO	760	POPLAR WOODS DR
26	DAVID BURTNER	762	POPLAR WOODS DR

WINDSOR ESTATES

EXISTING	1	JONATHAN SOCHA	102	IDACORE LN
	2	SONAL BHATT	100	IDACORE LN
	3	KEITH WEBER	104	IDACORE LN
	4	ANDREW SMITH	112	IDACORE LN
	5	HUI SU	12	MADORA DR
	6	AMY KOSINSKI	14	MADORA DR
	7	MELISSA HANCOX	22	MADORA DR
	8	JOSE SOLIS	24	MADORA DR
	9	JASON TURAK	26	MADORA DR
	10	DAWN DILLON	28	MADORA DR
	11	SOUMYA PRASAD	30	MADORA DR
	12	HODJAT GHADIMI	300	VILLA VIEW DR
	13	WENDELL CHRISTOPHER	301	VILLA VIEW DR
	14	YONGLAK PARK	302	VILLA VIEW DR
	15	DARLENE BERES	303	VILLA VIEW DR
	16	JENNY LICCIARDI	304	VILLA VIEW DR
	17	SCOTT SHAFFER	305	VILLA VIEW DR
	18	MARC HYRE	306	VILLA VIEW DR
	19	MEGAN CASEY	307	VILLA VIEW DR
	20	BETHANY HONCE	308	VILLA VIEW DR
	21	PETER NGAN	310	VILLA VIEW DR
	22	DANELLE CUTRIGHT	311	VILLA VIEW DR
	23	GUODONG GUO	312	VILLA VIEW DR
	24	ADEEM AKBAR	314	VILLA VIEW DR
	25	SCOTT PROPERTIES LLC	316	VILLA VIEW DR
	26	HO PARK	317	VILLA VIEW DR
	27	UMA SALIGRAM	318	VILLA VIEW DR
	28	SCOTT PROPERTIES LLC	320	VILLA VIEW DR
	29	MARC HYRE	321	VILLA VIEW DR
	30	GLENN BOYLES	322	VILLA VIEW DR
	31	SCOTT PROPERTIES LLC	324	VILLA VIEW DR
	32	NIANQUIANG WU	325	VILLA VIEW DR
	33	MUGE KESEN	326	VILLA VIEW DR
	34	MATTHEW HARRIS	328	VILLA VIEW DR
	35	BARIS POLAT	329	VILLA VIEW DR
	36	KATHLEEN WOLFLEY	330	VILLA VIEW DR
	37	SCOTT PROPERTIES LLC	332	VILLA VIEW DR
	38	TARA SCATTERDAY	333	VILLA VIEW DR

UNDEVELOPED	1	UNDEVELOPED LOT 9	???	MADORA DR
	2	UNDEVELOPED LOT 10	???	IDACORE LN
	3	UNDEVELOPED LOT 17	???	IDACORE LN
	4	UNDEVELOPED LOT 19	???	IDACORE LN
	5	UNDEVELOPED LOT 20	???	IDACORE LN
	6	UNDEVELOPED LOT 36	???	VILLA VIEW DR
	7	UNDEVELOPED LOT 37	???	VILLA VIEW DR
	8	UNDEVELOPED LOT 38	???	VILLA VIEW DR
	9	UNDEVELOPED LOT 39	???	VILLA VIEW DR
	10	UNDEVELOPED LOT 40	???	VILLA VIEW DR
	11	UNDEVELOPED LOT 41	???	VILLA VIEW DR
	12	UNDEVELOPED TOWNHOME 1 - LOTS PT 33, 34, 35	???	VILLA VIEW DR
	13	UNDEVELOPED TOWNHOME 2 - LOTS PT 33, 34, 35	???	VILLA VIEW DR
	14	UNDEVELOPED TOWNHOME 3 - LOTS PT 33, 34, 35	???	VILLA VIEW DR
	15	UNDEVELOPED TOWNHOME 4 - LOTS PT 33, 34, 35	???	VILLA VIEW DR
	16	UNDEVELOPED TOWNHOME 5 - LOTS PT 33, 34, 35	???	VILLA VIEW DR

WINDSOR APARTMENTS

EXISTING	1	ROD FERRUSO	101	TREYSON LN
	2	CORINNE AKOUN	102	TREYSON LN
	3	BRIAN WHITING	103	TREYSON LN
	4	JONATHAN KIMBLE	104	TREYSON LN
	5	TRAVIS BRITTON	105	TREYSON LN
	6	JOSH DURHAM	106	TREYSON LN
	7	SCOTT PROPERTIES LLC	107	TREYSON LN
	8	ROBERT OLDHAM	108	TREYSON LN
	9	NINA BRATHWAITE	201	TREYSON LN
	10	SCOTT PROPERTIES LLC	202	TREYSON LN
	11	AMY SARDONE	203	TREYSON LN
	12	DAMON COGDELL	204	TREYSON LN
	13	MICHAEL MCKENZIE	206	TREYSON LN
	14	CAITLIN PHILYAW	206	TREYSON LN
	15	SCOTT PROPERTIES LLC	207	TREYSON LN
	16	BETHANY NEWMAN	208	TREYSON LN
	17	JENNIE JAMES	301	TREYSON LN
	18	CHRISTOPHER ROBERTSON	302	TREYSON LN
	19	SAMUEL MCLAUGHLIN	303	TREYSON LN
	20	TAMI ALLEN	304	TREYSON LN
	21	SARA KHOURY	305	TREYSON LN
	22	ROSE LAIGNEL	306	TREYSON LN
	23	DONNA ALLEY	307	TREYSON LN
	24	WEDGEWOOD LOFTS	308	TREYSON LN
	25	MARC SANKO	401	TREYSON LN
	26	XINFENG XIE	402	TREYSON LN
	27	BRIEANNA HARKEY	403	TREYSON LN
	28	DAVID WHITTAKER	404	TREYSON LN
	29	MADINA ALI	405	TREYSON LN
	30	DAVID KANIOS	406	TREYSON LN
	31	MATT CUMMINGS	407	TREYSON LN
	32	MISHAL ALSAMEA	408	TREYSON LN
	33	CANDACE MCGOWAN	501	TREYSON LN
	34	LANNY MEADOWS	502	TREYSON LN
	35	LYLE LEONG	503	TREYSON LN
	36	PAMELA WILLIAMS	504	TREYSON LN
	37	KRIS MOODY	505	TREYSON LN
	38	RUCHI SINGLA	506	TREYSON LN
	39	HASSAN NAGEM	507	TREYSON LN
	40	LAUREN JOHNSON	508	TREYSON LN

51,364 Ft² / 2,500 Ft² = 20.55 Equiv.

UNDER CONSTRUCTION	1		201	WEDGEWOOD FLATTS
	2		202	WEDGEWOOD FLATTS
	3		203	WEDGEWOOD FLATTS
	4		204	WEDGEWOOD FLATTS
	5		205	WEDGEWOOD FLATTS
	6		206	WEDGEWOOD FLATTS
	7		207	WEDGEWOOD FLATTS
	8		208	WEDGEWOOD FLATTS
	9		209	WEDGEWOOD FLATTS
	10		210	WEDGEWOOD FLATTS
	11		211	WEDGEWOOD FLATTS
	12		101	WEDGEWOOD FLATTS
	13		102	WEDGEWOOD FLATTS
	14		103	WEDGEWOOD FLATTS
	15		104	WEDGEWOOD FLATTS
	16		105	WEDGEWOOD FLATTS
	17		106	WEDGEWOOD FLATTS
	18		107	WEDGEWOOD FLATTS
	19		108	WEDGEWOOD FLATTS
	20		109	WEDGEWOOD FLATTS
	21		110	WEDGEWOOD FLATTS
	22		111	WEDGEWOOD FLATTS
	23		112	WEDGEWOOD FLATTS

11,496 Ft² / 2,500 Ft² = 4.60 Equiv.

OTHERS BEYOND SUBDIVISIONS

	MGTN MEDICAL ARTS BLD	200	WEDGEWOOD DR	111,000 Ft² / 2,500 Ft² = 44.4 Equiv.
	CARDIAC AND VASCULAR ASSOC OF MGH	300	WEDGEWOOD DR	61,000 Ft² / 2,500 Ft² = 24.4 Equiv.
BARRINGTON NORTH	JOSEPH CERNELLI	104-APT 1	WEDGEWOOD DR	
	STEPHEN GRISWOLD	104-APT 2	WEDGEWOOD DR	
	SEAN HEALY	104-APT 3	WEDGEWOOD DR	
	BARRINGTON NORTH LLC	104-APT 4	WEDGEWOOD DR	
	VISHAL YADAV	104-APT 5	WEDGEWOOD DR	
	KARA HAUGHT	104-APT 6	WEDGEWOOD DR	
	BAQIYYAH CONWAY	104-APT 7	WEDGEWOOD DR	
	JASON CLARK	104-APT 8	WEDGEWOOD DR	
	BARRINGTON NORTH LLC	104-APT 9	WEDGEWOOD DR	
	EVAN ABELE	104-APT 10	WEDGEWOOD DR	
	BARRINGTON NORTH LLC	104-APT 11	WEDGEWOOD DR	
	JOSE SOTO	104-APT 12	WEDGEWOOD DR	
	DOUGLAS HENNEN	106-APT 1	WEDGEWOOD DR	
	DAVID SMITH	106-APT 2	WEDGEWOOD DR	
	CHRISTOPHER FRIEND	106-APT 3	WEDGEWOOD DR	
	BARRINGTON NORTH LLC	106-APT 4	WEDGEWOOD DR	
	ADRIANA HANSEN	106-APT 5	WEDGEWOOD DR	
	BARRINGTON NORTH LLC	106-APT 6	WEDGEWOOD DR	
	WENDELL HOFER	106-APT 7	WEDGEWOOD DR	
	MELANIE VUNJAK	106-APT 8	WEDGEWOOD DR	
	HICHAN LAEAVI	106-APT 9	WEDGEWOOD DR	
	CHRIS SCARPINITI	106-APT 10	WEDGEWOOD DR	
	ERIN DIBBERN	106-APT 11	WEDGEWOOD DR	
	BARRINGTON NORTH LLC	106-APT 12	WEDGEWOOD DR	
	BARRINGTON NORTH LLC	108-APT 1	WEDGEWOOD DR	
	ALLISON BOOTHBY	108-APT 2	WEDGEWOOD DR	
	RACHEL DELEVETT	108-APT 3	WEDGEWOOD DR	
	ASHLEY ONUFRAK	108-APT 4	WEDGEWOOD DR	
	FRANCIS CURRAN III	108-APT 5	WEDGEWOOD DR	
	BARRINGTON NORTH LLC	108-APT 5	WEDGEWOOD DR	
	BARRINGTON NORTH LLC	108-APT 6	WEDGEWOOD DR	
	CORD SCOTT	108-APT 8	WEDGEWOOD DR	
	BARRINGTON NORTH LLC	108-APT 9	WEDGEWOOD DR	
	JOHN SINSEL	108-APT 10	WEDGEWOOD DR	
	RACHEL BALDRIGE	108-APT 11	WEDGEWOOD DR	
	JUSTIN PAULEY	108-APT 12	WEDGEWOOD DR	
	SARAH PERCONTE	110-APT 1	WEDGEWOOD DR	
	GBEMINIYI SAMUEL	110-APT 2	WEDGEWOOD DR	
	TYLER BRUMLEY	110-APT 3	WEDGEWOOD DR	
	BARRINGTON NORTH LLC	110-APT 4	WEDGEWOOD DR	
	MANAL ALNATOUR	110-APT 5	WEDGEWOOD DR	
	KALA GOLDEN	110-APT 6	WEDGEWOOD DR	
	NAGA SRINIVAS SIRIKONDA	110-APT 7	WEDGEWOOD DR	
	JAMES TOLLEY	110-APT 8	WEDGEWOOD DR	
	MICHAEL COMER	110-APT 9	WEDGEWOOD DR	
	DIANA BLACK	110-APT 10	WEDGEWOOD DR	
	BARRINGTON NORTH LLC	110-APT 11	WEDGEWOOD DR	
	BEACON RECOVERY COMPANY	110-APT 12	WEDGEWOOD DR	
MOHAMEAD BAKIR	112-APT 1	WEDGEWOOD DR		
JOSEPH RODRIGUEZ	112-APT 2	WEDGEWOOD DR		
CHENG-HSIEN WU	112-APT 3	WEDGEWOOD DR		
BARRINGTON NORTH LLC	112-APT 4	WEDGEWOOD DR		
PO-SHEG LIN	112-APT 5	WEDGEWOOD DR		
BELACHEW AMAROE	112-APT 6	WEDGEWOOD DR		
ELVONNA ATKINS	112-APT 7	WEDGEWOOD DR		
LDS CHURCH-WVC MISSION	112-APT 8	WEDGEWOOD DR		
RJTA DANIELS	112-APT 9	WEDGEWOOD DR		
BARRINGTON NORTH LLC	112-APT 10	WEDGEWOOD DR		
ROBERT MNATSAKANOV	112-APT 11	WEDGEWOOD DR		
ANTHONY VENUSOV	112-APT 12	WEDGEWOOD DR		

48,000 Ft² / 2,500 Ft² = 19.2 Equiv.

OTHERS INSIDE CITY, PAYING STORM FEE - MUB TO PAY SURCHARGE

JAN FORD	659	KENWOOD PL
KIMBERLY DEEVERS	663	KENWOOD PL
DORSEY JACOBS	667	KENWOOD PL
CHRISTINE WANG	668	KENWOOD PL
GEORGE HARPER	671	KENWOOD PL
EVER BARBERO	672	KENWOOD PL
ROGER BARCLAY	675	KENWOOD PL
MARK REASOR	676	KENWOOD PL
OSCAR SCHUBERT	1428	ANDERSON AVENUE
TINA BLAND	603	SCHUBERT PLACE
JOHN DEMPSEY	609	SCHUBERT PLACE
ROBERT GRAVES	617	SCHUBERT PLACE
BETSY ELSWICK	649	NUEVA DRIVE



June 26, 2014

Dear Resident and/or Property Owner:

As you probably know, the residents of Oakview continue to work to have the portions of their sub-division suffering surface water drainage problems annexed into the City of Morgantown. Although their success is not yet certain, they appear to be making significant progress.

If approved, this annexation will allow MUB to construct a 48" storm culvert in Forest Drive and Morgan Street. That construction is proposed in order to reduce the significant and frequent flooding of the low lying areas of the Oakview subdivision. The estimated cost of the project is \$655,421, based upon bids that were received by MUB on February 5, 2014.

The attachments to this letter describe how the cost of the project will be funded. Please note that the funding plan will implement both standard MUB stormwater fees and a project specific surcharge applicable to your address. Only properties served by the new stormwater infrastructure will pay the surcharge that funds those improvements.

The current terms of the financing of the project are 3.16% interest, for 20 years. The surcharge is meant only to cover the debt service on the loan, and will end upon retirement of the debt.

The standard stormwater fee is currently \$5.88 per month for single family residences, or \$2.35 per month per 1000 sq ft (of impervious area) for all other properties. The proposed surcharge will be \$13.28 per month for single family residences, or \$5.31 per month per 1000 sq ft (of impervious area) for all other properties. The surcharge will apply in addition to the standard fee. A copy of the proposed Stormwater Ordinance establishing these charges is attached.

The fees and surcharge will be charged to all residents / property owners whose stormwater discharges flow to the intersection of Forest and Morgan (see the red star on the attached address map). Those areas include Poplar Woods, Windsor Estates (homes, townhomes and apartments), and the commercial / non-residential properties along Wedgewood Dr. Please note that the red boundary shown on the map is a watershed boundary, and is not the proposed annexation boundary. Properties that are annexed, but are located outside of the watershed boundary will be charged only the standard stormwater fee.

Reviewing the address map, several items deserve clarification:

1. Although they are located within the Oakview subdivision, and may or may not be within the area to be annexed, three properties do not discharge stormwater to the intersection of Forest / Morgan. The applicable charges for these properties will be:
 - a. 126 Morgan – will be annexed, standard fee: yes, surcharge: no
 - b. 116 Oakview - will be annexed, standard fee: yes, surcharge: no
 - c. 100 Oakview - will not be annexed, already pays standard fee, surcharge: no
2. Townhomes and apartments currently under construction at Treyson Lane and Wedgewood Flatts (both near Windsor Estates) have already been included in the customer count and the related calculation of the proposed surcharge. Future construction at currently vacant lots (indicated in blue font labels) have not been included; they will be included, and the surcharge will be re-calculated as provided by the Ordinance, if / when construction occurs.
3. Existing apartment buildings at Barrington North along Wedgewood Drive (104-112) discharge part of their stormwater to the subject area, and part of their stormwater to a different drainage area that is beyond the scope of this project. Accordingly, we have included only the areas that discharge into the problematic watershed in the calculation of stormwater charges for this customer group.
4. Eight homes along Kenwood Place, and five others at Anderson, Nueva, and Schubert Place are already in the City. They have been included in the customer count for the purpose of calculating the stormwater surcharge. Because they are already in the City and discharge into the problematic watershed, MUB will pay the stormwater surcharge on their behalf. The standard stormwater fee will continue to apply to these residents.

Upon completion of the proposed annexation, the stormwater collection systems of the respective areas (Oakview, Poplar Woods, Windsor Estates, and Wedgewood Dr) within the served watershed will become eligible to be acquired by MUB. However, these acquisitions will not occur automatically. Each acquisition will need to be documented by a Bill of Sale and a Right of Way and Easement, to be executed separately by each of the HOA's / POA's. MUB will agree to accept the systems "as is", but we will not accept liability for any damages sustained prior to the conveyance. We expect such conveyances to move forward smoothly; the only likely complication being if the HOA fails to possess adequate land rights for its system as it runs through or upon the property of private lots within the HOA.

MUB will operate and maintain any facilities that it acquires. MUB will not acquire any ponds, or other detention / retention structures; such facilities will remain the private property of the HOA / POA.

Unrelated to the annexation and the storm water project, MUB will perform a sanitary sewer replacement along the open stream from Forest Drive, upstream to a point approaching the dead end cul-de-sac of Poplar Woods Drive. For the purposes of maximizing construction efficiency and minimizing disruption of the neighborhoods, we have postponed the sanitary sewer construction so that it may be performed at the same time as the proposed storm work. The sanitary sewer work will be performed completely at MUB's expense. The proposed stormwater surcharge will not be used to fund any part of the sanitary sewer work.

The attached information will be provided to City Council at its meeting on July 1, 2014. It is expected that City Council will act at that time upon all matters related to the proposed annexation and the related stormwater project.

If the annexation and related Ordinances are not approved by City Council by July 15, 2014, it is nearly certain that both the construction bids and the funding interest rate quotes will expire before the delayed annexation can be completed. In that case, renewal of those items may increase the project cost, and in turn, cause the surcharge to be re-calculated and increased.

In addition, if the annexation is delayed until September or beyond, MUB will be required to begin the sanitary sewer replacement regardless of the status of the stormwater project. In that case, the inefficiencies of doing the two projects separately would likely add even more to the cost of the delayed stormwater project.

While it is assumed that you and your neighbors will support the limited annexation and related improvement plans, it is certainly your prerogative to disagree. In either case, I encourage your group to voice its support or opposition as City Council considers these matters.

I will be happy to answer any questions that you might have. Please feel free to call me at (304) 292-8443, or email at tball@mub.org.

Respectfully

MORGANTOWN UTILITY BOARD



Timothy L. Ball, P.E.
General Manager

Encl: Address map
Mailing list
Stormwater surcharge ordinance
Surcharge calculation

X:\Eng\Projects\Work Orders\H_WORK ORDERS\H-806 - Oakview Drive Homeowners Assoc - Forest Drive\Estimate\Alternatives - Surcharge\Mailing\Letter to Residents 6-26- FINAL.doc

Funding Plan

Forest / Poplar 48" Stormwater Culvert as MUB project with only Oakview annexed.

Residential equivalents based on impervious square feet	652,068.05
Bid Extension	3,353.00
Estimated Project Cost	655,421.05

Location Number of Homes

Oakview	45
Poplar Woods	26
Morningside	
Greenbrier	
Windsor Ests	38
Windsor Ests Apts	25 res equiv Sq ft
Others Beyond 5 Subdiv's	88 res equiv Sq ft
Kenwood Place	8
Schubert Place	3
Anderson / Nueva	2
Total	235

County pays:	Residents pay:
\$150,000	\$505,421
Financing Terms	
Years	20
Interest	3.16%

SURCHARGE CALCULATION: Monthly

Financing Terms

Interest rate Years	Residential Flat fee		Non Residential Per 1000 Sq Ft	
After 10 years *		\$12.07		\$4.83
First 10 years *		\$13.28		\$5.31

* Payments 10% higher in first 10 years to build debt service reserve (DSR) over time, rather than borrowing to pre-fund the DSR account.

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTION 386.08 OF ITS TRAFFIC CODE, AS THE SAME APPLIES TO PARKING FEES.

The City of Morgantown hereby ordains that Section 363.08 of its Traffic Code is amended as follows (new matter underlined, deleted matter struck through):

363.08 PARKING TIME LIMITS AND FEES.

The hereinafter designated parking fees, regulations and fines shall become effective upon entry and recordation in the journal of the City, pursuant to Section 363.09:

- (a) Rate - \$0.50/hour - Two hour limit.
Court Street - High to Chestnut
~~Walnut Street - High to University~~
Foundry Street - High to University
Chestnut Street - Foundry to Willey
Brockway Avenue - Walnut to Kingwood
~~High Street - Willey to Foundry~~
~~Fayette Street - High to Spruce~~
~~Walnut Street - Spruce to Chestnut~~
Donley Street - Don Knotts Blvd. to Clay Street

- (b) Rate - \$0.75/hour - Ten hour limit.
North Spruce Street - Willey to Fife
North High Street - Willey to Fife
Prospect Street - Willey to University
University Avenue - Willey to Fayette
Reid Street - Chestnut to University
Fife Street - North High to Price

- (c) Rate - \$1.00/hour - Two hour limit.
High Street - Willey to Foundry
Walnut Street - Spruce to Chestnut
Fayette Street - High to Spruce

- (c) (d) Off-Street Parking.
"J" Lot (Wesley Methodist Church)
Rate: \$0.75/hr.
"G" Lot (Trinity Episcopal Church)
Rate: \$0.75/hr.
"K" Lot (University Avenue Garage)
Rate: \$0.75/hr.
"A" Lot (Spruce Street Pavilion)
Rate: \$1.25/hr 6:00 p.m. - 6:00 a.m.
Permit Lot Only 6:00 a.m. - 6:00 p.m.

- “B” Lot (Behind Daniels)
 Rate: \$0.75/hr. 6:00 a.m. - 6:00 p.m.
 \$1.25/hr. 6:00 p.m. - 6:00 a.m.
- “E” Lot (Across from Bent Willeys)
 Rate: \$0.75/hr. 6:00 a.m. - 6:00 p.m.
 1.25/hr. 6:00 p.m. - 6:00 a.m.
- “C” Lot (Next to Hastings Funeral Home)
Rate: \$0.75/hr.
- “D” Lot (Corner of Pleasant and Chestnut)
Rate: \$0.75/hr.
- “F” Lot (Spruce Street Methodist Church)
Rate: \$0.75/hr.
- “H” Lot (Spruce Street Garage)
Rate: \$0.75/hr.
- “O” Lot (First Baptist Church)
Rate: \$0.75/hr.

(†) (e) Overtime.

1. Long-term spaces (10 hr.) and short term spaces (2 hr.) at the following locations:

Foundry Street - High to University
 Brockway Avenue - Walnut to Kingwood
 North Spruce Street - Willey to Fife
 North High Street - Willey to Fife
 Prospect Street - Willey to University
 University Avenue - Willey to Fayette
 Reid Street - Chestnut to University
 Fife Street - North High to Price

First violation - \$5.00

Each subsequent violation - \$5.00

If any of the above fines are not paid within ten days from date of issue, then in such an event the fines will be increased to \$10.00, plus municipal court costs, if any.

2. Short-term spaces (2 hr.) at the following locations between the hours of 11:00 p.m. through 6:00 p.m.:

Court Street - High to Chestnut
 Walnut Street - High to University
 Chestnut Street - Foundry to Willey
 High Street - Willey to Foundry
 Fayette Street - High to Spruce
 Walnut Street - Spruce to Chestnut
 First violation - \$5.00

Second violation for same incident for which first violation was issued - \$10.00.
Third violation for same incident for which first and second violations were issued - \$25.00

If any of the above fines are not paid within ten (10) days from date of issue, then in such an event the fines will be increased by \$5.00, plus municipal court costs, if any.

There shall not be a 2 hour parking time limit upon the streets listed in this subparagraph (d) (2) between the hours of 6:00 p.m. through 11:00 p.m.

This Ordinance shall be effective August 1, 2014.

FIRST READING:

MAYOR

ADOPTED:

FILED:

CITY CLERK

RECORDED:

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING AND EXPANDING THE BOUNDARIES OF THE WILES HILL DESIGNATED PARKING DISTRICT, AND ALSO AMENDING THE PERMIT REQUIREMENTS AND WORDING OF THE DISTRICT'S PERMIT PARKING SIGNAGE.

WHEREAS, the City of Morgantown, by ordinance adopted October 1, 1991, pursuant to authority set forth in Article 367 of the Morgantown City Code, established the Wiles Hill Designated Parking District;

WHEREAS, City Administration has recently recommended to Morgantown City Council that the boundaries of the Parking District be expanded, and that modifications be made not only to the parking permit requirements, but also the parking permit signage within the Parking District;

WHEREAS, Morgantown City Council is of the opinion that the Parking District's ordinance should be amended to incorporate the foregoing, recommended changes; and

NOW, THEREFORE, the City of Morgantown hereby ordains that the Wiles Hill Designated Parking District ordinance is amended as follows (new matter underline, deleted matter struck through):

WILES HILL DESIGNATED PARKING DISTRICT

ESTABLISHMENT OF DISTRICT:

There is hereby established within the City of Morgantown a Designated Parking District to be bounded as described below, and to be identified as the "Wiles Hill Designated Parking District".

~~This ordinance shall be immediately evaluated by Morgantown City Council six (6) months after the date of its adoption, and if as a result it is Council's opinion that it should be amended or repealed, that will be done immediately.~~

BOUNDARIES OF DISTRICT:

The District shall be bounded as follows:

~~Beginning at the Southwest corner of the intersection of Morgan Street and Highland Avenue (adjacent to Assessor's Parcel 301); extending Southwesterly to the intersection of Morgan Street and Duquesne Avenue, then in an Easterly direction to the intersection of Duquesne Avenue and Raymond Street, then in a Northeasterly direction to the intersection of Raymond Street and Highland Avenue, then in a Westerly direction along Highland Avenue to the point of beginning.~~

Beginning at the southeast corner of the intersection of University Avenue and North Street (adjacent to Assessor's tax map 14 parcel 35) extending East along North Street to the intersection of North Street and Grove Street, then in an south easterly direction along Grove Street to the intersection with Afton Street, then in an easterly direction to the intersection of Grove Street and Willowdale Road, following Willowdale Road south to the intersection of Willowdale Road and Stewart Street, then following Stewart Street south to the intersection of

Stewart Street and Lorentz Avenue, then along Lorentz Avenue to a point adjacent to Tax Map 20, Parcel 253, then along Lorentz Avenue including only parcels along the right side to the intersection of Lorentz Avenue and Sharon Avenue, along Sharon Avenue (excluding Tax Map 20, Parcel 274) to the intersection with Jones Avenue, then in a northwesterly direction to the intersection of Jones Avenue and Highview Place, then in a westerly direction along Highview Place to the dead end at Tax Map 14, Parcel 51, then following the parcel boundary in a westerly direction of parcel 51 to the intersection with parcel 48, then following the parcel boundary in a westerly direction of parcel 51 to the intersection with parcel 48, then following the parcel boundary of parcel 48 in a northerly direction along the rear parcel boundaries of parcels 49, 50, 46, 45,44,43 to the intersection with the right-of-way of Beaver Street, then along the northern property line of Tax Map 14, Parcel 55.1 to a point on Warrick Street adjacent to Tax Map 14, Parcel 62, then in a northerly direction along Warrick Street to the intersection of Warrick Street and University Avenue, then in a northerly direction along University Avenue to the point of beginning. The boundaries are shown on the Exhibit hereto attached.

PERMITS AVAILABLE:

Not more than two (2) residential occupant parking permits and one (1) visitor parking permit per individual property residential structure will be issued..

SIGNING OF STREETS:

The City Manager shall cause all streets within the above Designated Parking District to be signed as follows:

~~TWO HOUR PARKING, EXCEPT BY PERMIT~~
~~8:00 a.m. - 6:00 p.m., MONDAY THRU SATURDAY~~
PARKING BY PERMIT ONLY
MONDAY THRU SATURDAY
7:00 a.m. - 7:00 p.m.

APPLICABILITY OF OTHER PARKING RESTRICTIONS:

Nothing contained herein shall be construed as permitting the parking of any vehicle in any property marked “no parking” or restricted parking area or in violation of any other City ordinance or law.

This Ordinance shall be effective August 1, 2014.

FIRST READING:

MAYOR

ADOPTED:

FILED:

CITY CLERK

RECORDED:

Legend

EXHIBIT A



Proposed Wiles Hill Parking District Boundary



Included Parcels



Legend

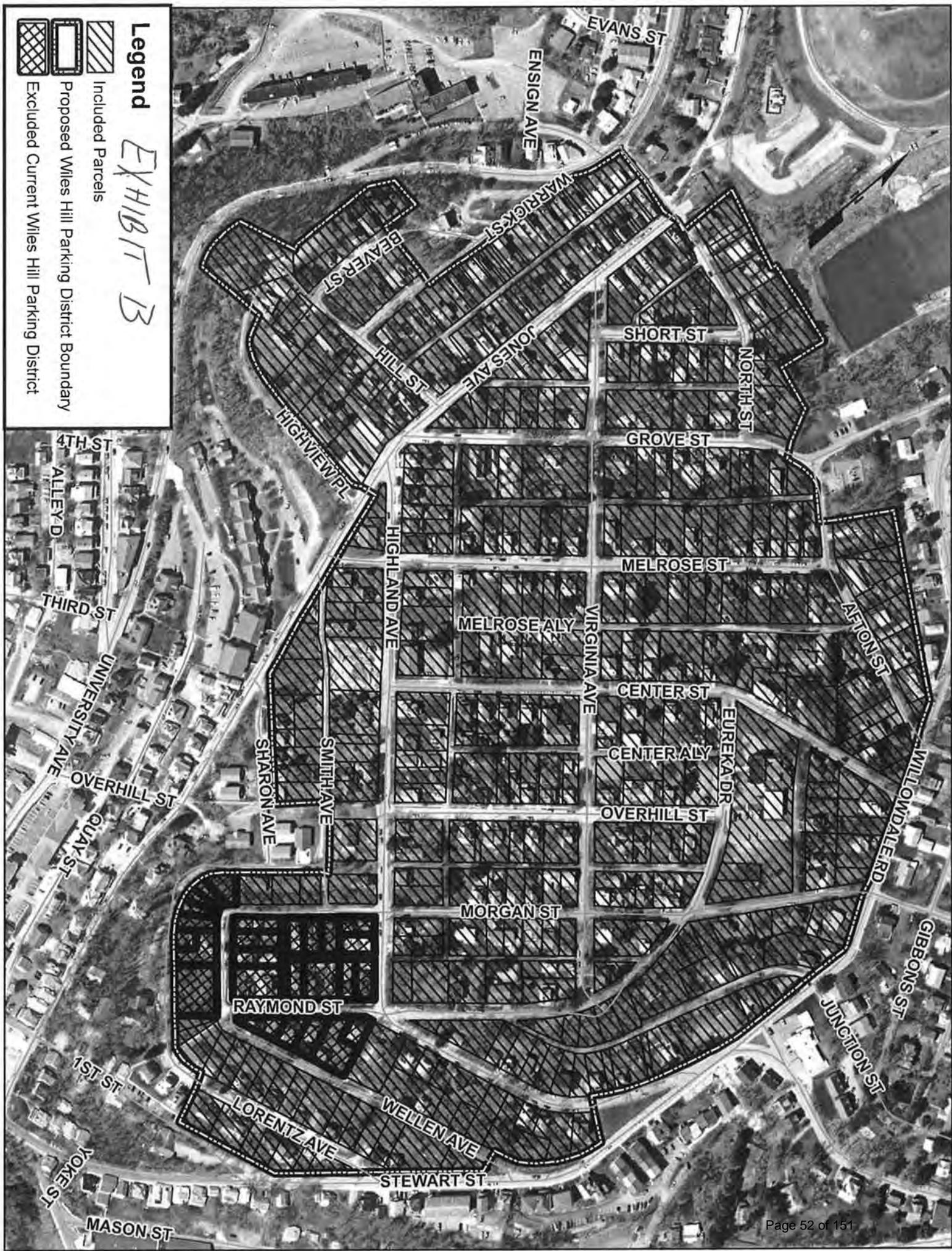
EXHIBIT B



Included Parcels

Proposed Wiles Hill Parking District Boundary

Excluded Current Wiles Hill Parking District



AN ORDINANCE BY THE CITY OF MORGANTOWN REPEALING ARTICLE 170 OF ITS ADMINISTRATIVE CODE, AS THE SAME APPLIES TO THE GREATER MORGANTOWN METROPOLITAN AREA YOUTH COMMISSION.

The City of Morgantown hereby ordains that Article 170 of its Administrative Code, titled Greater Morgantown Metropolitan Area Youth Commission is repealed in its entirety.

This Ordinance shall be effective upon date of adoption.

FIRST READING:

MAYOR

ADOPTED:

FILED:

CITY CLERK

ARTICLE 170
Greater Morgantown Metropolitan
Area Youth Commission

- | | | | |
|--------|--|--------|-------------------------|
| 170.01 | Established. | 170.07 | Officers. |
| 170.02 | Cooperation of other local
governmental entities. | 170.08 | Meetings. |
| 170.03 | Purpose and mission. | 170.09 | Membership training. |
| 170.04 | Membership. | 170.10 | Powers and duties. |
| 170.05 | Term. | 170.11 | Appropriation of funds. |
| 170.06 | Vacancies. | | |

CROSS REFERENCES

Authority to establish - see CHTR. 4.02

170.01 ESTABLISHED.

There is hereby established a Greater Morgantown Metropolitan Area Youth Commission (hereinafter "Youth Commission").
(Ord. 05-08. Passed 4-5-05.)

170.02 COOPERATION OF OTHER LOCAL GOVERNMENTAL ENTITIES.

The City shall seek the cooperation and assistance of local governmental entities, so as to make the efforts of the Youth Commission a success.
(Ord. 05-08. Passed 4-5-05.)

170.03 PURPOSE AND MISSION.

The purpose of this article is to acknowledge this community's youth as an integral part of our society and to give youth a voice in government, thus enabling them to help shape the future of the greater Morgantown metropolitan area and thereby benefit all of its citizenry.
(Ord. 05-08. Passed 4-5-05.)

170.04 MEMBERSHIP.

The Youth Commission shall consist of twenty-two members and all shall be of high school age and reside within the greater Morgantown metropolitan area. Initial appointments to the Youth Commission shall be made by the Morgantown City Council after having received nominations.

Subsequent appointments shall be made by Morgantown City Council after having received nominations from a nominating committee comprised of five Youth Commission members and the Commission's adult advisors.
(Ord. 05-08. Passed 4-5-05.)

170.05 TERM.

Youth Commission members shall be appointed for a one-year term and may be reappointed. (Ord. 05-08. Passed 4-5-05.)

170.06 VACANCIES.

Vacancies shall be filled in the same manner as appointments, but only for the remainder of the unexpired term.
(Ord. 05-08. Passed 4-5-05.)

170.07 OFFICERS.

The Youth Commission shall select from its own membership a chairperson, vice-chairperson and secretary.
(Ord. 05-08. Passed 4-5-05.)

170.08 MEETINGS.

The Youth Commission shall have one regularly scheduled meeting each month. Special meetings may be called by the chairperson.
(Ord. 05-08. Passed 4-5-05.)

170.09 MEMBERSHIP TRAINING.

Training, which will assist the individual members of the Youth Commission in performing their Commission duties, will be provided.
(Ord. 05-08. Passed 4-5-05.)

170.10 POWERS AND DUTIES.

It shall be the duty of the Youth Commission to advise and recommend to the City, such programs or projects which, in the opinion of the Youth Commission, will improve the quality of life for youth within the greater Morgantown area.
(Ord. 05-08. Passed 4-5-05.)

170.11 APPROPRIATION OF FUNDS.

City Council may appropriate any funds that it deems necessary to carry out any of the proposals set forth by the Youth Commission.
(Ord. 05-08. Passed 4-5-05.)

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING ARTICLE 129 OF ITS ADMINISTRATIVE CODE BY ADDING A NEW SECTION 129.16 PERTAINING TO THE CITY FINANCE DIRECTOR'S AUTHORITY TO REQUEST INFORMATION FROM THE WEST VIRGINIA STATE TAX DEPARTMENT.

The City of Morgantown hereby ordains that a new Section 129.16 is created within its Administrative Code which reads as follows (all new matter is underlined):

129.16 FINANCE DIRECTOR'S AUTHORITY TO REQUEST INFORMATION.

Pursuant to Section 11-10-5d of the West Virginia Code, Morgantown City Council, as the governing body of Morgantown, West Virginia hereby appoints the Finance Director of the City as the duly authorized agent of the municipality to inspect and make copies of the State business and occupation tax returns filed by taxpayers of the municipality and any other state tax returns (includes, but not limited to, consumers sales and services tax return information and health care provider tax return information) as may be reasonably requested by the municipality. Such inspection or copying shall include disclosure to the Finance Director of the municipality for tax administration purposes of all available return information from files of the tax department relating to taxpayers who transact business within the municipality. As the City's agent in such financial matters, the Finance Director is hereby granted authority to request in writing all such information at his/her discretion, on a case by case basis, in lieu of receiving specific instructions from either the Mayor or City Council for each such case.

This Ordinance shall be effective upon date of adoption.

FIRST READING:

MAYOR

ADOPTED:

FILED:

CITY CLERK

RECORDED:

BOND ORDINANCE

THE CITY OF MORGANTOWN

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE STORMWATER PORTION OF THE COMBINED SYSTEM OF THE CITY OF MORGANTOWN AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$850,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2014 B; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; AND AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE CITY OF MORGANTOWN:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Ordinance. This Ordinance (together with any ordinance, order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is enacted pursuant to the provisions of Chapter 8, Article 20 of the West Virginia Code of 1931, as amended (collectively, the "Act"), and other applicable provisions of law.

Section 1.02. Findings. It is hereby found, determined and declared that:

A. The City of Morgantown (the "Issuer") is a municipal corporation and political subdivision of the State of West Virginia in Monongalia County of said State.

B. The Issuer presently owns and operates a public combined waterworks, sewerage and stormwater system. It is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be acquired and constructed certain additions, betterments and improvements to the stormwater portion of the existing combined system of the Issuer, consisting of installation of approximately 1012 ft of 48 inch diameter storm pipe, and approximately 317 ft of 24 inch diameter storm pipe, and associated

appurtenances; with related restoration of the affected area; for the purposes of collecting and conveying stormwater, and reducing flooding impacts in the newly annexed areas of Forest Drive, Morgan Drive, and their environs; in the general area of the Oakview sub-division, of Morgantown, Monongalia County, West Virginia (collectively, the "Project"), (the existing public combined waterworks, sewerage and stormwater system of the Issuer, the Project and any further additions, betterments and improvements thereto are herein called the "System"), in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

C. It is deemed necessary for the Issuer to issue its Combined Utility System Revenue Bonds, Series 2014 B, in the total aggregate principal amount of not more than \$850,000 (the "Series 2014 B Bonds"), initially to be represented by a single bond, to permanently finance the costs of acquisition and construction of the Project. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest upon the Series 2014 B Bonds prior to and during construction or acquisition and for a period not exceeding 6 months after completion of construction of the Project; amounts which may be deposited in the Series 2014 B Bonds Reserve Account (as hereinafter defined); engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expense; commitment fees; discount; initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2014 B Bonds and such other expenses as may be necessary or incidental to the financing herein authorized; the acquisition or construction of the Project and the placing of same in operation; and the performance of the things herein required or permitted, in connection with any thereof, provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 2014 B Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

D. The period of usefulness of the System after completion of the Project is not less than 22years.

E. It is in the best interests of the Issuer that its Series 2014 B Bonds be sold to the Purchaser (as hereinafter defined) pursuant to this Bond Legislation.

F. There are outstanding obligations of the Issuer which will rank on a parity with the Series 2014 B Bonds as to liens, pledge, source of and security for payment, being the Issuer's:

(1) Combined Utility System Revenue Bonds, Series 1995 (West Virginia SRF Program), dated April 27, 1995, issued in the original aggregate principal amount of \$1,601,477 (the "Series 1995 Bonds");

(2) Combined Utility System Revenue Bonds, Series 2000 A (West Virginia SRF Program), dated February 29, 2000, issued in the original aggregate principal amount of \$7,842,000 (the "Series 2000 A Bonds");

(3) Combined Utility System Revenue Bonds, Series 2000 B (West Virginia Infrastructure Fund), dated February 29, 2000, issued in the original aggregate principal amount of \$2,488,000 (the "Series 2000 B Bonds");

(4) Combined Utility System Revenue Bonds, Series 2001 A (West Virginia Infrastructure Fund), dated February 8, 2001, issued in the original aggregate principal amount of \$3,812,470 (the "Series 2001 A Bonds");

(5) Combined Utility System Revenue Bonds, Series 2006 A (West Virginia SRF Program), dated June 30, 2006, issued in the original aggregate principal amount of \$6,410,191 (the "Series 2006 A Bonds");

(6) Combined Utility System Revenue Bonds, Series 2007 A (West Virginia SRF Program), dated August 14, 2007, issued in the original aggregate principal amount of \$8,500,000 (the "Series 2007 A Bonds");

(7) Combined Utility System Revenue Bonds, Series 2010 A (Direct Payment Build America Bonds), dated January 28, 2010, issued in the original aggregate principal amount of \$37,950,000 (the "Series 2010 A Bonds");

(8) Combined Utility System Revenue Bonds, Series 2010 B (West Virginia SRF Program/ARRA), dated January 28, 2010, issued in the original aggregate principal amount of \$81,600 (the "Series 2010 B Bonds");

(9) Combined Utility System Revenue Bonds, Series 2010 C (West Virginia SRF Program), dated January 28, 2010, issued in the original aggregate principal amount of \$15,380,227 (the "Series 2010 C Bonds");

(10) Combined Utility System Revenue Bonds, Series 2010 D (West Virginia DWTRF Program), dated January 28, 2010, issued in the original aggregate principal amount of \$9,317,286 (the "Series 2010 D Bonds");

(11) Combined Utility System Revenue Bonds, Series 2010 E (West Virginia DWTRF Program/ARRA), dated January 28, 2010, issued in the original aggregate principal amount of \$100,000 (the "Series 2010 E Bonds");

(12) Combined Utility System Revenue Bonds, Series 2010 F (Bank Qualified), dated January 28, 2010, issued in the original aggregate amount of \$7,250,000 (the "Series 2010 F Bonds"),

(13) Combined Utility System Revenue Bonds, Series 2012 A (West Virginia DWTRF Program), dated August 24, 2012, issued in the original aggregate principal amount of \$570,000 (the "Series 2012 A Bonds");

(14) Combined Utility System Revenue Bonds, Series 2012 B (West Virginia DWTRF Program), dated August 24, 2012, issued in the original aggregate principal amount of \$444,835 (the "Series 2012 B Bonds");

(15) Combined Utility System Revenue Bonds, Series 2012 C (Bank Qualified), dated October 5, 2012, issued in the original aggregate principal amount of \$2,330,000 (the "Series 2012 C Bonds");

(16) Combined Utility System Revenue Bonds, Series 2013 A (West Virginia Infrastructure Fund), dated August 22, 2013, issued in the original aggregate principal amount of \$4,605,260 (the "Series 2013 A Bonds"), and

(17) If issued, Combined Utility System Revenue Bonds, Series 2013 A (West Virginia SRF Program), proposed to be issued in the original aggregate principal amount not to exceed \$1,250,000 to finance the Sunshine Estates sewerage project (the "Series 2014 A Bonds"), (collectively, the "Prior Bonds").

Prior to the issuance of the Series 2014 B Bonds , the Issuer will obtain (i) the certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds are met, and (ii) the written consent of the Holders of the Series 1995 Bonds, Series 2000 A Bonds, Series 2000 B Bonds, Series 2001 A Bonds, Series 2006 A Bonds, Series 2007 A Bonds, Series 2010 B Bonds, Series 2010 C Bonds, Series 2010 D Bonds, Series 2010 E Bonds, Series 2012 A Bonds, Series 2012 B Bonds, Series 2013 A Bonds and, if issued, the Series 2014 A Bonds to the issuance of the Series 2014 B Bonds on a parity with the Prior Bonds. The Series 2010 A Bonds, Series 2010 F Bonds and Series 2012 C Bonds do not require consent. Other than the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System. The Issuer is in compliance with all the covenants of the Prior Bonds and the Prior Ordinances.

G. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all costs of operation and maintenance of the System, the principal of and interest on the Bonds (as hereinafter defined) and to make all payments into all funds, accounts and other payments provided for herein.

H. The Issuer has complied with all requirements of West Virginia law relating to authorization of the acquisition and construction of the Project and the operation of the System and issuance of the Series 2014 B Bonds , or will have so complied prior to issuance of any thereof.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2014 B Bonds by those who shall be the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Registered Owners of any and all of such Series 2014 B Bonds , all which shall be of equal rank and without preference, priority or distinction between any one Bond of a series and any other Bonds of the same series, and by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

Section 1.04. Definitions. The following terms shall have the following meanings herein unless the context expressly requires otherwise:

“Act” means Chapter 8, Article 20 of the West Virginia Code of 1931, as amended and in effect on the date of enactment hereof.

“Authorized Officer” means the Mayor of the Issuer, or any other officer of the Issuer specifically designated by resolution of the Governing Body.

“Bondholder,” “Holder of the Bonds,” “Holder,” “Registered Owner” or any similar term whenever used herein with respect to an outstanding Bond or Bonds, means the person in whose name such Bond is registered.

“Bond Legislation,” “Ordinance,” “Bond Ordinance” or “Local Act” means this Bond Ordinance and all ordinances, orders and resolutions supplemental hereto or amendatory hereof.

“Bond Registrar” means the bank or other entity to be designated as such in the Supplemental Resolution and its successors and assigns.

“Bonds” means, collectively, the Series 2014 B Bonds , the Prior Bonds and, where appropriate, any bonds on a parity therewith subsequently authorized to be issued hereunder or by another ordinance of the Issuer.

“Bond Year” means the 12-month period beginning on the anniversary of the Closing Date in each year and ending on the day prior to the anniversary date of the Closing Date in the following year, except that the first Bond Year shall begin on the Closing Date.

“Closing Date” means the date upon which there is an exchange of the Series 2014 B Bonds for all or a portion of the proceeds of the Series 2014 B Bonds .

“City Clerk” means the City Clerk of the Issuer.

“Code” means the Internal Revenue Code of 1986, as amended, and the Regulations.

“Commission” means the West Virginia Municipal Bond Commission or any other agency of the State of West Virginia that succeeds to the functions of the Commission.

“Consulting Engineers” means any qualified engineer or firm of engineers, licensed by the State, that shall at any time hereafter be procured by the Issuer as Consulting Engineers for the System, or portion thereof, in accordance with Chapter 5G, Article 1 of the West Virginia Code of 1931, as amended; provided however, that the Consulting Engineers shall not be a regular, full-time employee of the State or any of its agencies, commissions, or political subdivisions.

“Costs” or “Costs of the Project” means those costs described in Section 1.02C hereof to be a part of the cost of acquisition and construction of the Project.

“Depository Bank” means the bank designated as such in the Supplemental Resolution, and its successors and assigns, which shall be a member of FDIC.

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

“Fiscal Year” means each 12-month period beginning on July 1 and ending on the succeeding June 30.

“Governing Body” means the Council of the Issuer, as it may now or hereafter be constituted.

“Government Obligations” means direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the United States of America.

“Gross Revenues” means the aggregate gross operating and non-operating revenues of the System, as hereinafter defined, determined in accordance with generally accepted accounting principles, after deduction of prompt payment discounts, if any, and reasonable provision for uncollectible accounts; provided, that “Gross Revenues” does not include any gains from the sale or other disposition of, or from any increase in the value of, capital assets (including Qualified Investments, as hereinafter defined, purchased pursuant to Article 8.01 hereof) or any Tap Fees, as hereinafter defined.

“Herein,” “hereto” and similar words shall refer to this entire Bond Legislation.

“Independent Certified Public Accountants” means any certified public accountant or firm of certified public accountants that shall at any time hereafter be retained by the Issuer to prepare an independent annual or special audit of the accounts of the System or for any other purpose except keeping the accounts of the System in the normal operation of its business and affairs.

“Investment Property” means

- (A) any security (within the meaning of Section 165(g)(2)(A) or (B) of the Code),
- (B) any obligation,
- (C) any annuity contract,
- (D) any investment-type property, or

- (E) in the case of a bond other than a private activity bond, any residential rental property for family units which is not located within the jurisdiction of the Issuer and which is not acquired to implement a court ordered or approved housing desegregation plan.

Except as provided in the following sentence, the term “Investment Property” does not include any tax-exempt bond. With respect to an issue other than an issue a part of which is a specified private activity bond (as defined in section 57(a)(5)(C) of the Code), the term “Investment Property” includes a specified private activity bond (as so defined).

“Issuer” means The City of Morgantown, a municipal corporation and political subdivision of the State of West Virginia, in Monongalia County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

“Mayor” means the Mayor of the Issuer.

“Net Proceeds” means the face amount of the Series 2014 B Bonds , plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the Series 2014 B Bonds Reserve Account. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Series 2014 B Bonds , without regard to whether or not such investment is made in tax-exempt obligations.

“Net Revenues” means the balance of the Gross Revenues, remaining after deduction of Operating Expenses, as hereinafter defined.

“Nonpurpose Investment” means any Investment Property as defined in Section 148(b) of the Code, that is not a purpose investment.

“Operating Expenses” means the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the costs, fees and expenses of the Depository Bank, the Registrar and the Paying Agent (all as herein defined), other than those capitalized as part of the costs, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that “Operating Expenses” does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

“Outstanding,” when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon being authenticated and delivered, except (i) any Bond cancelled by the Bond Registrar or the registrar for Prior Bonds at or prior to said date; (ii) any Bond for the payment of which monies, equal to its principal amount and redemption premium, if applicable, with interest to the date of maturity or redemption shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any Bond

deemed to have been paid as provided in Article X hereof; (iv) any Prior Bond deemed to have been paid in accordance with the resolution authorizing the issuance thereof; and (v) for purposes of consents or other action by a specified percentage of Bondholders, any Bonds registered to the Issuer.

“Parity Bonds” means additional Bonds issued under the provisions and within the limitations prescribed by Section 7.07 hereof.

“Paying Agent” means the Commission or other entity or authority designated as such for the Series 2014 B Bonds in the Supplemental Resolution.

“Prior Bonds” means, collectively, the Series 1995 Bonds, Series 2000 A Bonds, Series 2000 B Bonds, Series 2001 A Bonds, Series 2006 A Bonds, Series 2007 A Bonds, Series 2010 A Bonds, Series 2010 B Bonds, Series 2010 C Bonds, Series 2010 D Bonds, Series 2010 E Bonds, Series 2010 F Bonds, Series 2012 A Bonds, Series 2012 B Bonds, Series 2012 C Bonds, Series 2013 A Bonds and, if issued, the Series 2014 A Bonds.

“Prior Ordinances” means the ordinance of the Issuer, including all amendments and supplements thereto, authorizing the issuance of the Prior Bonds.

“Private Business Use” means use directly or indirectly in a trade or business carried on by a natural person, including all persons “related” to such person within the meaning of Section 144(a)(3) of the Code, or in any activity carried on by a person other than a natural person, including all persons “related” to such person within the meaning of Section 144(a)(3) of the Code, excluding, however, use by a state or local governmental unit and use as a member of the general public. All of the foregoing shall be determined in accordance with the Code, including, without limitation, giving due regard to “incidental use,” if any, of the proceeds of the issue and/or proceeds used for “qualified improvements,” if any.

“Project” means the Project as described in Section 1.02B hereof.

“Purchaser” means the purchaser or purchasers of the Series 2014 B Bonds directly from the Issuer, designated as such in the Supplemental Resolution and its successors and assigns.

“Qualified Investments” means and includes any of the following:

- (a) Government Obligations;
- (b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;
- (c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives;

Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;

(d) Any bond, debenture, note, participation certificate or other similar obligations issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any other federal agency and backed by the full faith and credit of the United States of America;

(e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC or Federal Savings and Loan Insurance Corporation, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

(f) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (a) through (e) above;

(g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e) above, with banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the holder of such repurchase agreement shall have a prior perfected security interest in the collateral therefor; must have (or its agent must have) possession of such collateral; and such collateral must be free of all claims by third parties;

(h) The West Virginia "consolidated fund" managed by the West Virginia Board of Treasury Investments pursuant to Chapter 12, Article 6C of the West Virginia Code of 1931, as amended; and

(i) Obligations of states or political subdivisions or agencies thereof, the interest on which is excluded from gross income for federal income tax purposes, and which are rated at least "A" by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

"Registered Owner," "Bondholder," "Holder" or any similar term means whenever used herein with respect to an outstanding Bond or Bonds, the person in whose name such Bond is registered.

"Registrar" means the Bond Registrar.

"Regulations" means temporary and permanent regulations promulgated under the Code, or any predecessor thereto.

"Renewal and Replacement Fund" means the Renewal and Replacement Fund created by the Prior Ordinances and continued hereby.

"Reserve Accounts" means, collectively, the respective reserve accounts established for the Series 2014 B Bonds and the Prior Bonds.

"Reserve Requirement" means, collectively, the respective amount required to be on deposit in any Reserve Account for the Prior Bonds and the Series 2014 B Bonds .

"Revenue Fund" means the Revenue Fund created by the Prior Ordinances and continued hereby.

"Series 1995 Bonds" means the Combined Utility System Revenue Bonds, Series 1995 (West Virginia SRF Program), of the Issuer, dated April 27, 1995, issued in the original aggregate principal amount of \$1,601,477.

"Series 2000 A Bonds" means the Combined Utility System Revenue Bonds, Series 2000 A (West Virginia SRF Program), of the Issuer, dated February 29, 2000, issued in the original aggregate principal amount of \$7,842,000.

"Series 2000 B Bonds" means the Combined Utility System Revenue Bonds, Series 2000 B (West Virginia Infrastructure Fund), of the Issuer, dated February 29, 2000, issued in the original aggregate principal amount of \$2,488,000.

"Series 2001 A Bonds" means the Combined Utility System Revenue Bonds, Series 2001 A (West Virginia Infrastructure Fund), of the Issuer, dated February 8, 2001, issued in the original aggregate principal amount of \$3,812,470.

"Series 2006 A Bonds" means the Combined Utility System Revenue Bonds, Series 2006 A (West Virginia SRF Program), of the Issuer, dated June 30, 2006, issued in the original aggregate principal amount of \$6,410,191.

"Series 2007 A Bonds" means the Combined Utility System Revenue Bonds, Series 2007 A (West Virginia SRF Program), of the Issuer, dated August 14, 2007, issued in the original aggregate principal amount of \$8,500,000.

"Series 2010 A Bonds" means the Combined Utility System Revenue Bonds, Series 2010 A (Direct Payment Build America Bonds), of the Issuer, dated January 28, 2010, issued in the original aggregate principal amount of \$37,950,000.

"Series 2010 B Bonds" means the Combined Utility System Revenue Bonds, Series 2010 B (West Virginia SRF Program/ARRA), of the Issuer, dated January 28, 2010, issued in the original aggregate principal amount of \$81,600.

"Series 2010 C Bonds" means the Combined Utility System Revenue Bonds, Series 2010 C (West Virginia SRF Program), of the Issuer, dated January 28, 2010, issued in the original aggregate principal amount of \$15,380,227.

"Series 2010 D Bonds" means the Combined Utility System Revenue Bonds, Series 2010 D (West Virginia DWTRF Program), of the Issuer, dated January 28, 2010, issued in the original aggregate principal amount of \$9,317,286.

"Series 2010 E Bonds" means the Combined Utility System Revenue Bonds, Series 2010 E (West Virginia DWTRF Program/ARRA), of the Issuer, dated January 28, 2010, issued in the original aggregate principal amount of \$100,000.

"Series 2010 F Bonds" means the Combined Utility System Revenue Bonds, Series 2010 F (Bank Qualified), of the Issuer, dated January 28, 2010, issued in the original aggregate principal amount of \$7,250,000.

"Series 2012 A Bonds" means the Combined Utility System Revenue Bonds, Series 2012 A (West Virginia DWTRF Program), dated August 24, 2012, issued in the original aggregate principal amount of \$570,000.

"Series 2012 B Bonds" means the Combined Utility System Revenue Bonds, Series 2012 B (West Virginia DWTRF Program), dated August 24, 2012, issued in the original aggregate principal amount of \$444,835.

"Series 2012 C Bonds" means the Combined Utility System Revenue Bonds, Series 2012 C (Bank Qualified), dated October 5, 2012, issued in the original aggregate principal amount of \$2,330,000.

"Series 2013 A Bonds" means the Combined Utility System Revenue Bonds, Series 2013 A (West Virginia Infrastructure Fund), dated August 22, 2013, issued in the original aggregate principal amount of \$4,605,260.

"Series 2014 A Bonds" means the Issuer's Combined Utility System Revenue Bonds, Series 2013 A (West Virginia SRF Program), proposed to be issued in the original

aggregate principal amount not to exceed \$1,250,000 to finance the Sunshine Estates sewerage project.

“Series 2014 B Bonds” means Combined Utility System Revenue Bonds, Series 2014 Bonds the Issuer, authorized by this Bond Legislation.

“Series 2014 B Bonds Construction Trust Fund” means the Series 2014 B Bonds Construction Trust Fund established by Section 5.01 hereof.

“Series 2014 B Bonds Reserve Account” means the Series 2014 B Bonds Reserve Account established by Section 5.02 hereof.

“Series 2014 B Bonds Reserve Requirement” means an amount equal to the lesser of (i) 10% of the original principal amount of the Series 2014 B Bonds, (ii) Maximum Annual Debt Service at the time of original issuance of the Series 2014 B Bonds , or (iii) 125% of average annual Debt Service at the time of original issuance of the Series 2014 B Bonds .

“Series 2014 B Bonds Sinking Fund” means the Series 2014 B Bonds Sinking Fund established by Section 5.02 hereof.

“Sinking Funds” means, collectively, the respective sinking funds established for the Series 2014 B Bonds and the Prior Bonds.

“State” means the State of West Virginia.

“Supplemental Resolution” means any resolution, ordinance or order of the Issuer supplementing or amending this Ordinance and, when preceded by the article “the,” refers specifically to the supplemental resolution authorizing the sale of the Series 2014 B Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Series 2014 B Bonds , and not so included may be included in another Supplemental Resolution.

“Surplus Revenues” means the Net Revenues not required by the Bond Legislation or the Prior Ordinances to be set aside and held for the payment of or security for the Bonds or any other obligation of the Issuer, including, without limitation, the Renewal and Replacement Fund, the Sinking Funds and the Reserve Accounts.

“System” means, collectively, the complete existing combined waterworks, sewerage and stormwater system of the Issuer, as presently existing in its entirety or any integral part thereof, and shall include the Project and any and all additions, betterments and improvements thereto hereafter acquired or constructed for the System from any sources whatsoever, both within and without the Issuer.

“Tap Fees” means the fees, if any, paid by prospective customers of the System in order to connect thereto.

Additional terms and phrases are defined in this Ordinance as they are used. Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations; and words importing the masculine, feminine or neutral gender shall include any other gender.

ARTICLE II

AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost of not to exceed \$850,000, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 2014 B Bonds hereby authorized shall be applied as provided in Article VI hereof. The Issuer will receive bids and will enter into contracts for the acquisition and construction of the Project.

The cost of the Project is estimated not to exceed \$850,000 which will be obtained from proceeds of the Series 2014 B Bonds.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS

Section 3.01. Authorization of Bonds. For the purposes of capitalizing interest, if any, on the Series 2014 B Bonds , funding a reserve account for the Series 2014 B Bonds , paying Costs of the Project not otherwise provided for and paying certain costs of issuance and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued the negotiable Series 2014 B Bonds of the Issuer. The Series 2014 B Bonds shall be issued as a single bond, designated "Combined Utility System Revenue Bonds, Series 2014 B", in the principal amount of not more than \$850,000, and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 2014 B Bonds remaining after funding of the Series 2014 B Bonds Reserve Account (if funded from Bond proceeds) and capitalizing interest on the Series 2014 B Bonds , if any, shall be deposited in or credited to the Series 2014 B Bonds Construction Trust Fund established by Section 5.01 hereof and applied as set forth in Article VI hereof.

Section 3.02. Terms of Bonds. The Series 2014 B Bonds shall be issued in such principal amounts; shall bear interest at such rate or rates, not exceeding the then legal maximum, payable on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution. The Series 2014 B Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Series 2014 B Bonds shall be paid by check or draft of the Paying Agent or its agent, mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Purchaser is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Series 2014 B Bonds shall initially be issued in the form of a single bond, fully registered to the Purchaser, with a record of advances and a debt service schedule attached, representing the aggregate principal amount of the Series 2014 B Bonds, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Series 2014 B Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond or Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Purchaser shall not be obligated to pay any expenses of such exchange.

Subsequent series of Bonds, if any, shall be issued in fully registered form and in denominations as determined by a Supplemental Resolution. Such Bonds shall be dated and shall bear interest, if any, as of the date specified in a Supplemental Resolution.

Section 3.03. Execution of Bonds. The Series 2014 B Bonds shall be executed in the name of the Issuer by the Mayor, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the City Clerk. In case any one or more of the officers who shall have signed or sealed the Series 2014 B Bonds shall cease to be such officer of the Issuer before the Series 2014 B Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Series 2014 B Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of the authorization of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Authentication and Registration. No Series 2014 B Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.10 hereof shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Bond Legislation. The Certificate of Authentication and Registration on any Series 2014 Bond shall be deemed to have been executed by the Bond Registrar if

manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 2014 B Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder, in accepting the Series 2014 B Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as the Series 2014 B Bonds remain outstanding, the Issuer, through the Bond Registrar as its agent, shall keep and maintain books for the registration and transfer of the Series 2014 B Bonds.

The registered Series 2014 B Bonds shall be transferable only upon the books of the Bond Registrar, by the registered owner thereof in person or by his attorney duly authorized in writing, upon surrender thereto together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or his duly authorized attorney.

In all cases in which the privilege of exchanging Series 2014 B Bonds or transferring the registered Series 2014 B Bonds are exercised, all Series 2014 B Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Series 2014 B Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of Series 2014 B Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of Series 2014 B Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Series 2014 B Bonds or, in the case of any proposed redemption of Series 2014 B Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.06. Series 2014 B Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2014 B Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Series 2014 B Bond of the same series and of like tenor as the Series 2014 B Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Series 2014 B Bonds, upon surrender and cancellation of such mutilated Series 2014 B Bonds, or in lieu of and substitution for the Series 2014 B Bonds destroyed, stolen or lost, and upon the Holder's furnishing satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Series 2014 B Bonds so surrendered shall be cancelled

by the Bond Registrar and held for the account of the Issuer. If any such Series 2014 B Bonds shall have matured or be about to mature, instead of issuing substitute Series 2014 B Bonds, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Series 2014 B Bonds are lost, stolen or destroyed, without surrender thereof.

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Series 2014 B Bonds shall not, in any event, be or constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Gross Revenues derived from the operation of the System as herein provided. No Holder or Holders of the Series 2014 B Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2014 B Bonds or the interest, if any, thereon.

Section 3.08. Bonds Secured by Pledge of Gross Revenues; Lien Positions with respect to Prior Bonds. The payment of the debt service of all Series 2014 B Bonds shall be secured forthwith equally and ratably by a first lien on the Gross Revenues derived from the operation of the System, on a parity with the lien on the Gross Revenues in favor of the Holders of the Prior Bonds. Such Gross Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Series 2014 B Bonds and the Prior Bonds and to make the payments into all funds and accounts and all other payments provided for in the Bond Legislation, are hereby irrevocably pledged to such payments as the same become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 2014 B Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2014 B Bonds to the original purchasers upon receipt of the documents set forth below:

- A. If other than the Purchaser, a list of the names in which the Series 2014 B Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Bond Registrar may reasonably require;
- B. A request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 2014 B Bonds to the Purchaser;
- C. An executed and certified copy of the Bond Legislation; and
- D. The unqualified approving opinion of bond counsel on the Series 2014 B Bonds.

Section 3.10. Sale of Bonds. The Series 2014 B Bonds shall be sold to the Purchaser, pursuant to this Bond Legislation.

Section 3.11. Form of Bonds. The text of the Series 2014 B Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

[Remainder of Page Intentionally Blank]

(FORM OF SERIES 2014 B BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF MORGANTOWN
COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2014 B

No. AR-1

\$ _____

KNOW ALL MEN BY THESE PRESENTS: This ____ day of _____, 2014, that The City of Morgantown, a municipal corporation and political subdivision of the State of West Virginia in Monongalia County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the sources and in the manner hereinafter set forth, to the order of:

(PURCHASER)

or registered assigns (the "Registered Owner"), the principal sum of _____ (\$ _____) or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference together with interest only payable monthly on the outstanding principal amounts beginning _____, 2014 to and including _____, 20__ and principal and interest payments of \$ _____ payable monthly beginning _____, 20__ to and including _____, 20__ at the rates per annum set forth as follows:

A. Interest on this Bond shall be payable at the rate of _____% per annum (hereinafter sometimes called the "Tax-Exempt Rate").

B. Notwithstanding any other provision herein, in the event the interest on this Bond is declared to be includible in gross income for federal income tax purposes by the Internal Revenue Service ("Determination of Taxability"), interest on this Bond shall be payable at the rate of _____% per annum (hereinafter sometimes called the "Taxable Rate"). Interest at the Taxable Rate shall commence to accrue on the date of Determination of Taxability and such interest rate shall be charged retroactively and prospectively for all periods in which interest paid on this Bond is asserted, declared or determined to be includible in gross income for federal income tax purposes, and shall continue until the entire principal of and interest on this Bond are paid, notwithstanding that the entire principal amount of this Bond may have been paid in full prior to

the Determination of Taxability. Any interest being past due on this Bond by reason of such increase shall become immediately due and payable.

C. [Redemption provisions].

The principal of and interest on this Bond are payable in any coin or currency which on the date of payment thereof is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia as Paying Agent.

This Bond is issued (i) to pay the costs of acquisition and construction of certain additions, betterments and improvements to the stormwater portion of the existing combined system of the Issuer (the "Project"); (ii) to fund the Series 2014 B Bonds Reserve Account; and (iii) to pay certain costs of issuance of the Bonds of this Series (the "Bonds") and related costs. The existing public combined system of the Issuer, the Project, and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 20 of the West Virginia Code of 1931, as amended (the "Act"), a Bond Ordinance duly enacted by the Issuer on _____, 2014, and a Supplemental Resolution duly adopted by the Issuer on _____, 2014 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S:

(1) COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 1995 (WEST VIRGINIA SRF PROGRAM), DATED APRIL 27, 1995, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,601,477 (THE "SERIES 1995 BONDS");

(2) COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2000 A (WEST VIRGINIA SRF PROGRAM), DATED FEBRUARY 29, 2000, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$7,842,000 (THE "SERIES 2000 A BONDS");

(3) COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2000 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED FEBRUARY 29, 2000, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,488,000 (THE "SERIES 2000 B BONDS");

(4) COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2001 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED FEBRUARY 8, 2001, ISSUED IN

THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$3,812,470 (THE "SERIES 2001 A BONDS");

(5) COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2006 A (WEST VIRGINIA SRF PROGRAM), DATED JUNE 30, 2006, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$6,410,191 (THE "SERIES 2006 A BONDS");

(6) COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2007 A (WEST VIRGINIA SRF PROGRAM), DATED AUGUST 14, 2007, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$8,500,000 (THE "SERIES 2007 A BONDS");

(7) COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2010 A (DIRECT PAYMENT BUILD AMERICA BONDS), DATED JANUARY 28, 2010, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$37,950,000 (THE "SERIES 2010 A BONDS");

(8) COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2010 B (WEST VIRGINIA SRF PROGRAM/ARRA), DATED JANUARY 28, 2010, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$81,600 (THE "SERIES 2010 B BONDS");

(9) COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2010 C (WEST VIRGINIA SRF PROGRAM), DATED JANUARY 28, 2010, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$15,380,227 (THE "SERIES 2010 C BONDS");

(10) COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2010 D (WEST VIRGINIA DWTRF PROGRAM), DATED JANUARY 28, 2010, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$9,317,286 (THE "SERIES 2010 D BONDS");

(11) COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2010 E (WEST VIRGINIA DWTRF PROGRAM/ARRA), DATED JANUARY 28, 2010, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$100,000 (THE "SERIES 2010 E BONDS");

(12) COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2010 F (BANK QUALIFIED), DATED JANUARY 28, 2010, ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF \$7,250,000 (THE "SERIES 2010 F BONDS");

(13) COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2012 A (WEST VIRGINIA DWTRF PROGRAM), DATED AUGUST 24, 2012, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$570,000 (THE "SERIES 2012 A BONDS");

(14) COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2012 B (WEST VIRGINIA DWTRF PROGRAM), DATED AUGUST 24, 2012, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$444,835 (THE "SERIES 2012 B BONDS");

(15) COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2012 C (BANK QUALIFIED), DATED OCTOBER 5, 2012, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,330,000 (THE "SERIES 2012 C BONDS");

(16) COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2013 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED AUGUST 22, 2013, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$4,605,260 (THE "SERIES 2013 A BONDS"), AND

(17) IF ISSUED, COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2013 A (WEST VIRGINIA SRF PROGRAM), PROPOSED TO BE ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$1,250,000 TO FINANCE THE SUNSHINE ESTATES SEWERAGE PROJECT (THE "SERIES 2014 A BONDS") (COLLECTIVELY, THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Gross Revenues in favor of the Holders of the Prior Bonds, and from monies in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 2014 B Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest, if any, hereon, except from said special fund provided from the Gross Revenues, the monies in the Series 2014 B Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, including the Prior Bonds; provided however, that so long as there exists in the Series 2014 B Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations Outstanding on a parity with, or subordinate to, the Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the Registered Owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the Registered Owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for

a detailed description thereof. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of _____, (the "Registrar") (as defined in the Bond Legislation), by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of the Project and costs of issuance hereof described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such monies, until so applied, in favor of the registered owner of this Bond.

This Bond is hereby designated a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended.

This Bond is, under the Act, exempt from all taxation by the State of West Virginia, or any county, municipality, political subdivision or agency thereof, except inheritance, estate and transfer taxes.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Gross Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal and interest on this Bond.

All provisions of the Bond Legislation, resolutions and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, THE CITY OF MORGANTOWN has caused this Bond to be signed by its Mayor, and its corporate seal to be hereunto affixed and attested by its City Clerk, and has caused this Bond to be dated the day and year first written above

[SEAL]

Mayor

ATTEST:

City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2014 B Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: _____, 2014.

as Registrar

Authorized Officer

EXHIBIT A
RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$		(19)	
(2)		(20)	
(3)		(21)	
(4)		(22)	
(5)		(23)	
(6)		(24)	
(7)		(25)	
(8)		(26)	
(9)		(27)	
(10)		(28)	
(11)		(29)	
(12)		(30)	
(13)		(31)	
(14)		(32)	
(15)		(33)	
(16)		(34)	
(17)		(35)	
(18)		(36)	

TOTAL \$ _____

(Form of)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto

the within Bond and does hereby irrevocably constitute and appoint
_____, Attorney to transfer the said Bond on
the books kept for registration of the within Bond of the said Issuer with full power of
substitution in the premises.

Dated: _____, 20__.

In the presence of:

ARTICLE IV

[RESERVED]

ARTICLE V

FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are hereby created with (or continued if previously established by the Prior Ordinances) and shall be held by the Depository Bank, separate and apart from all other funds or accounts of the Depository Bank and the Issuer and from each other:

- (1) Revenue Fund (established by the Prior Ordinances);
- (2) Depreciation Fund (established by the Prior Ordinances);
- (3) Operation and Maintenance Fund (established by the Prior Ordinances); and
- (4) Series 2014 B Bonds Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created with (or continued if previously established by the Prior Ordinances) and shall be held by the Commission, separate and apart from all other funds or accounts of the Commission and the Issuer and from each other:

- (1) Series 1995 Bonds Sinking Fund (established by Prior Ordinances);
- (2) Series 1995 Bonds Reserve Account established by Prior Ordinances);
- (3) Series 2000 A Bonds Sinking Fund (established by Prior Ordinances);
- (4) Series 2000 A Bonds Reserve Account established by Prior Ordinances);
- (5) Series 2000 B Bonds Sinking Fund (established by Prior Ordinances);
- (6) Series 2000 B Bonds Reserve Account established by Prior Ordinances);

- (7) Series 2001 A Bonds Sinking Fund (established by Prior Ordinances);
- (8) Series 2001 A Bonds Reserve Account established by Prior Ordinances);
- (9) Series 2006 A Bonds Sinking Fund (established by Prior Ordinances);
- (10) Series 2006 A Bonds Reserve Account established by Prior Ordinances);
- (11) Series 2007 A Bonds Sinking Fund (established by Prior Ordinances);
- (12) Series 2007 A Bonds Reserve Account established by Prior Ordinances);
- (13) Series 2010 A Bonds Sinking Fund (established by Prior Ordinances);
- (14) Series 2010 A Bonds Reserve Account (established by Prior Ordinances);
- (15) Series 2010 C Bonds Sinking Fund (established by Prior Ordinances);
- (16) Series 2010 C Bonds Reserve Account (established by Prior Ordinances);
- (17) Series 2010 D Bonds Sinking Fund (established by Prior Ordinances);
- (18) Series 2010 D Bonds Reserve Account (established by Prior Ordinances);
- (19) Series 2010 E Bonds Sinking Fund (established by Prior Ordinances);
- (20) Series 2010 E Bonds Reserve Account (established by Prior Ordinances);
- (21) Series 2010 F Bonds Sinking Fund (established by Prior Ordinances);
- (22) Series 2010 F Bonds Reserve Account (established by Prior Ordinances);

- (23) Series 2012 A Bonds Sinking Fund (established by Prior Ordinances);
- (24) Series 2012 A Bonds Reserve Account (established by Prior Ordinances);
- (25) Series 2012 C Bonds Sinking Fund (established by Prior Ordinances);
- (26) Series 2012 C Bonds Reserve Account (established by Prior Ordinances);
- (27) Series 2013 A Bonds Sinking Fund; (established by Prior Ordinances);
- (28) Series 2013 A Bonds Reserve Account, (established by Prior Ordinances);
- (29) Series 2014 A Bonds Sinking Fund; (established by Prior Ordinances);
- (30) Series 2014 A Bonds Reserve Account, (established by Prior Ordinances);
- (31) Series 2014 B Bonds Sinking Fund; and
- (32) Series 2014 B Bonds Reserve Account.

Section 5.03. System Revenues; Flow of Funds.A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in the Prior Ordinances and this Bond Legislation and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner provided in this Bond Legislation and in the Prior Ordinances. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following manner and order of priority:

- (1) The Issuer shall first, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission the amounts required by the Prior Ordinances to pay interest on the Series 1995 Bonds, Series 2001 A Bonds, Series 2006 A Bonds, Series 2007 A Bonds, Series 2010 A Bonds, Series 2010 C Bonds, Series 2010 D Bonds, Series 2010 E Bonds, Series 2010 F Bonds, Series 2012 A Bonds and Series 2010 C Bonds.; and (ii) commencing 1 month prior to the first date of payment of interest of the Series 2014 B Bonds , for deposit in the Series 2014 B Bonds Sinking Fund, an amount equal to

the amount of interest which will become due on the Series 2014 B Bonds on the next ensuing monthly interest payment date.

(2) The Issuer shall next, each month, transfer from the Revenue Fund and simultaneously remit to (i) the Commission the amount required by Prior Ordinances to pay principal on the Prior Bonds; and (ii) the Commission, commencing 1 month prior to the first date of payment of principal of the Series 2014 B Bonds, for deposit in the Series 2014 B Bonds Sinking Fund, an amount equal to the amount of principal which will mature and become due on the Series 2014 B Bonds on the next ensuing monthly principal payment date.

(3) The Issuer shall next, each month, transfer from the Revenue Fund and simultaneously remit to (i) the Commission, the amounts required by Prior Ordinances to be deposited in the respective Reserve Accounts for the Prior Bonds; and (ii) to the Commission commencing 4 months prior to the first date of payment of principal of the Series 2014 B Bonds, if not fully funded upon issuance of the Series 2014 B Bonds, for deposit in the Series 2014 B Bonds Reserve Account, an amount equal to 1/120th of the Series 2014 B Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 2014 B Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2014 B Bonds Reserve Requirement.

(4) The Issuer shall next, each month, transfer from the Revenue Fund and deposit in the Operation and Maintenance Fund, an amount sufficient to pay the current Operating Expenses of the System.

(5) The Issuer shall next, each month, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Renewal and Replacement Fund, an amount equal to 2.5% of the Gross Revenues each month (as previously set forth in the Prior Ordinances and not in addition thereto), exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, repairs, improvements or extensions to the System; provided, that any deficiencies in any Reserve Account (except to the extent such deficiency exists because the required payments into such accounts have not, as of the date of determination of a deficiency, funded such accounts to the maximum extent required hereof) shall be promptly eliminated with monies from the Renewal and Replacement Fund.

Monies in the Series 2014 B Bonds Sinking Fund and the Series 2014 B Bonds Reserve Account shall be used only for the purposes of paying principal of and interest, if any, on the Series 2014 B Bonds as the same shall come due and for no other purpose.

All investment earnings on monies in the Series 2014 B Bonds Sinking Fund and the Series 2014 B Bonds Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Series 2014 B Bonds Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment, if any, due on the Series 2014 B Bonds and then to the next ensuing principal payment due thereon.

Any withdrawals from the Series 2014 B Bonds Reserve Account which result in a reduction in the balance of the Series 2014 B Bonds Reserve Account to below the Series 2014 B Bonds Reserve Requirement shall be subsequently restored from the first Gross Revenues available after all required payments have been made in full in the priority as set forth above.

As and when additional Bonds ranking on a parity with the Series 2014 B Bonds are issued, provision shall be made for additional payments into the respective sinking fund sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the respective reserve account in an amount equal to the requirement therefor.

The Issuer shall not be required to make any further payments into the Series 2014 B Bonds Reserve Account therein when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 2014 B Bonds issued pursuant to this Bond Legislation then Outstanding and all interest to accrue until the maturity thereof.

Principal, interest or reserve payments, whether for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Prior Bonds and the Series 2014 B Bonds, in accordance with the respective principal amounts then Outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2014 B Bonds Sinking Fund and the Series 2014 B Bonds Reserve Account, created hereunder, and all required amounts for said accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited. The Issuer shall make the necessary arrangements whereby required payments into said accounts shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Monies in the Series 2014 B Bonds Sinking Fund and the Series 2014 B Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2014 B Bonds Sinking Fund and the Series 2014 B Bonds Reserve Account therein, shall be used solely and only for, and are hereby pledged for, the purpose of

servicing the Series 2014 B Bonds under the conditions and restrictions set forth herein.

B. The Issuer shall, on the first day of each month (if the first day is not a business day, then the first business day of each month), deposit with the Commission the required reserve account payments with respect to the Series 2014 B Bonds and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation.

C. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore provided, are current and there remains in the Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into such funds during the following month or such other period as required by law, such excess shall be considered Surplus Revenues. Surplus Revenues may be used for any lawful purpose of the System.

D. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent or the Depository Bank, on such dates as the Commission, the Registrar, the Paying Agent or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay their respective charges and fees then due. The Issuer may make the necessary arrangements whereby such required payments can be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required.

E. The monies in excess of the sum insured by the maximum amounts insured by FDIC in all funds and accounts shall at all times be secured, to the full extent thereof in excess of such insured sum, by Qualified Investments as shall be eligible as security for deposits of state and municipal funds under the laws of the State.

F. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made pursuant to this Section 5.03 and the relevant provisions of the Prior Ordinances, and the Gross Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

G. All remittances made by the Issuer to the Commission and the Depository Bank shall clearly identify the fund or account into which each amount is to be deposited.

H. The Gross Revenues of the System shall only be used for purposes of the System.

ARTICLE VI

BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the monies received from the sale of the Series 2014 B Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2014 B Bonds , there shall be deposited with the Commission in the Series 2014 B Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution for capitalizing interest on the Series 2014 B Bonds .

B. From the proceeds of the Series 2014 B Bonds, there shall be deposited with the Commission in the Series 2014 B Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding of the Series 2014 B Bonds Reserve Account.

C. As the Issuer receives advances from the Series 2014 B Bonds Construction Fund such monies shall be applied solely to payment of Costs of the Project as directed by the Issuer in the manner set forth in Section 6.02 hereof, and until expended, are hereby pledged as additional security for the Series 2014 B Bonds .

Section 6.02. Disbursements From the Series 2014 B Bonds Construction Trust Fund. Payments for Costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the Series 2014 B Bonds Construction Trust Fund shall be made only after submission to the Purchaser of written approval from the Issuer.

Pending such application, monies in the Series 2014 B Bonds Construction Trust Fund shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Series 2014 B Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Holders of the Series 2014 B Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Series 2014 B Bonds or the interest, if any, thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2014 B Bonds shall not be nor constitute a corporate indebtedness of the Issuer within the meaning of any

constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of any Series 2014 B Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2014 B Bonds or the interest, if any, thereon.

Section 7.03. Bonds Secured by Pledge of Gross Revenues; Lien Positions with Respect to Prior Bonds. The payment of the debt service of the Series 2014 B Bonds shall be secured forthwith equally and ratably by a first lien on the Gross Revenues derived from the System, on a parity with the lien on the Gross Revenues in favor of the Holders of the Prior Bonds. The Gross Revenues in an amount sufficient to pay the principal of and interest, if any, on the Prior Bonds and the Series 2014 B Bonds and to make the payments into all funds and accounts and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided herein, to such payments as they become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal and the Issuer shall supply an opinion of counsel to such effect. Such rates and charges shall be sufficient to comply with the requirements of the Bond Purchase Agreement and the Issuer shall supply a certificate of certified public accountant to such effect. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the water rate ordinance of the Issuer enacted April 15, 2014 the sewer rate ordinance of the Issuer enacted April 15, 2014 and the stormwater rate ordinance of the Issuer enacted **December 6, 2011**, which rates are incorporated herein by reference as a part hereof.

So long as the Series 2014 B Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Bond Legislation and in compliance with the Bond Legislation. In the event the schedule of rates and charges initially established for the System in connection with the Series 2014 B Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation.

Section 7.05. Sale of the System. So long as the Prior Bonds are outstanding, the Issuer shall not sell, mortgage, lease or otherwise dispose of or encumber the System, or any part thereof, except as provided in the Prior Ordinances. So long as the Series 2014 B Bonds are outstanding, the Issuer shall not sell or dispose of all, or substantially all, of the System without either defeasing, or paying in full, the Series 2014 B Bonds .

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided for in Section 7.06 and Section 7.07 hereof, the Issuer shall not issue any obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment

from such revenues with the Series 2014 B Bonds and the Prior Bonds. All obligations issued by the Issuer after the issuance of the Series 2014 B Bonds and payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues and in all other respects, to the Series 2014 B Bonds ; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts established by this Bond Legislation have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Series 2014 B Bonds , and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Series 2014 B Bonds and the interest, if any, thereon in this Bond Legislation, or upon the System or any part thereof.

Section 7.07. Parity Bonds. So long as the Prior Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Prior Ordinances shall be applicable.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 2014 B Bonds.

No such Parity Bonds shall be issued except for the purpose of financing the costs of design, acquisition or construction of additions, extensions, betterments or improvements to the System, refunding any or all outstanding Bonds, to pay claims which may exist against the revenues or facilities of the System, or all such purposes.

So long as the Series 2014 B Bonds are Outstanding, no Parity Bonds shall be issued at any time, however, unless and until there has been procured and filed with the City Clerk a written statement by the Independent Certified Public Accountants reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues expected to be received in each of the 3 succeeding years after the completion of the improvements to be financed by such Parity Bonds, if any, shall not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest, if any, on the following:

- (1) The Bonds then Outstanding;
- (2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Bond Legislation then Outstanding; and
- (3) The Parity Bonds then proposed to be issued.

The "estimated average increased annual Net Revenues to be received in each of the 3 succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from the additional customers to be connected to the System as a result of additions, extensions and improvements thereto, or from any increase in rates enacted by the Issuer, the time for appeal of which shall have expired (without successful appeal) prior to the date of issuance of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Consulting Engineers, which shall be filed in the office of the City Clerk prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the 12-consecutive-month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Independent Certified Public Accountants, as stated in a certificate, on account of increased rates, rentals, fees and charges for the System enacted by the Issuer, the time for appeal of which has expired (without successful appeal) prior to the issuance of such Parity Bonds. For purposes of this test, the terms "Gross Revenues" and "Net Revenues" shall not include proceeds from the sale of capital assets.

All covenants and other provisions of this Bond Legislation (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Bonds and the Holders of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this section. Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the Gross Revenues of the System and their source of and security for payment from said Gross Revenues, without preference of any Bond of one series over any other Bond of the same series. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Bond Legislation required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Bond Legislation.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior lien of the Series 2014 B Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Series 2014 B Bonds .

No Parity Bonds shall be issued at any time, however, unless all of the payments into the respective funds and accounts provided for in this Bond Legislation with respect to the Bonds then Outstanding, and any other payments provided for in this Bond Legislation, shall have been made in full as required to the date of issuance of such Parity Bonds, and the Issuer then be in full compliance with all the covenants, agreements and terms of this Bond Legislation.

No additional bonds, notes, certificates, contracts or any other obligations shall be issued by the City unless no Event of Default shall have occurred and be continuing with

respect to the Bonds.

Section 7.08. Books; Records and Audit. The Issuer shall keep complete and accurate records of the cost of acquiring the Project site and the costs of acquiring, constructing and installing the Project.

The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Holder of a Bond or Bonds issued pursuant to this Bond Legislation shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles and safeguards to the extent allowed and as prescribed by the Public Service Commission of West Virginia and the Act. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the Issuer. The Governing Body shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Issuer shall be reported to such agent of the Issuer as the Issuer shall direct.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants (and to the extent legally required, in compliance with the applicable OMB Circular, or any successor thereto, and the Single Audit Act, or any successor thereto), and shall mail and make available generally, the report of said Independent Certified Public Accountants, to any Holder or Holders of the Series 2014 B Bonds.

Subject to the terms, conditions and provisions of Act, the Issuer has acquired, or shall do all things necessary to acquire, the proposed site of the Project and shall do, is doing or has done all things necessary to construct the Project in accordance with the plans, specifications and designs prepared by the Consulting Engineers. All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Issuer.

Section 7.09. Rates. Prior to the issuance of the Series 2014 B Bonds, equitable rates or charges for the use of and service rendered by the System have been established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the City Clerk, which copies will be open to inspection by all interested parties. The schedule or schedules of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule or schedules of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule or schedules of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all Operating Expenses of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2014 B Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with or junior to the Series 2014 B Bonds, including the Prior Bonds; provided that, in the event that, an amount equal to or in excess of the Series 2014 B Bonds Reserve Requirement is on deposit in the Series 2014 B Bonds Reserve Account and any reserve accounts for obligations on a parity with, or subordinate to, the Series 2014 B Bonds are funded at least at the requirement therefor, such sum need only equal 110% of the maximum amount required in any year for payment of principal of and interest on the Series 2014 B Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with, or subordinate to, the Series 2014 B Bonds.

All such rates and charges, if not paid when due, shall constitute a lien upon the premises served by the System. For purposes of this test, the terms "Gross Revenues" and "Net Revenues" shall not include proceeds from the sale of capital assets. In any event, the Issuer shall not reduce the rates or charges for services set forth in the rate ordinance described in Section 7.04 hereof.

The Issuer hereby covenants to commence enactment of such ordinance or ordinances as shall be required to increase the rates and charges for the services and facilities of the System within 30 days following a determination of the Issuer that less than the above-required coverage, such increase to provide rates and charges sufficient to produce such required coverage.

Section 7.10. Operating Budget and Monthly Financial Report. The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year.

Section 7.11. Engineering Services and Operating Personnel. The Issuer will obtain a certificate of the Consulting Engineers stating, among other things, that the Project has been or will be constructed in accordance with the plans, specifications and designs, the Project is adequate for the purposes for which it was designed, the funding plan is sufficient to pay the costs of acquisition and construction of the Project, and all permits required by federal and state laws for construction of the Project have been obtained.

The Issuer shall provide and maintain competent and adequate engineering services covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers.

Section 7.12. No Competing Franchise. To the extent legally allowable, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation, body, agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 7.13. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules and regulations of the Public Service Commission of West Virginia and other laws of the State of West Virginia.

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 30 days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, rates, rentals and other charges, if not paid when due, shall become a lien on the premises served by the System. The Issuer further covenants and agrees that, it will, to the full extent permitted by law and the rules and regulations promulgated by the Public Service Commission of West Virginia, discontinue and shut off the services of the System to all users of the services of the System delinquent in payment of charges for the services of the System and will not restore such services of either system until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law.

Section 7.14. No Free Services. The Issuer will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and in the event the Issuer, or any department, agency, instrumentality, officer or employee of the Issuer shall avail itself or themselves of the facilities or services provided by the System, or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. The revenues so received shall be deemed to be revenues derived from the operation of the System, and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 7.15. Insurance and Construction Bonds.A. The Issuer hereby covenants and agrees that so long as the Series 2014 B Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for the Renewal and Replacement Fund. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the prime contractor and all subcontractors as their respective interests may appear, during construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Issuer, the contractors and subcontractors, as their interests may appear.

(2) PUBLIC LIABILITY INSURANCE, with limits of not less than \$1,000,000 per occurrence to protect the Issuer from claims for bodily injury and/or death and not less than \$500,000 per occurrence from claims for damage to property of others which may arise from the operation of the System, and insurance with the same limits to protect the Issuer from claims arising out of operation or ownership of motor vehicles of or for the System.

(3) WORKERS' COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT BONDS, such bonds to be in the amounts of 100% of the construction contract and to be required of each contractor contracting directly with the Issuer, and such payment bonds will be filed with the Clerk of The County Commission of the County in which such work is to be performed prior to commencement of construction of the Project in compliance with West Virginia Code, Chapter 38, Article 2, Section 39.

(4) FLOOD INSURANCE, if the facilities of the System

are or will be located in designated special flood or mudslide-prone areas and to the extent available at reasonable cost to the Issuer.

(5) BUSINESS INTERRUPTION INSURANCE, to the extent available at reasonable cost to the Issuer.

(6) FIDELITY BONDS will be provided as to every officer, member and employee of the Issuer or the Governing Body having custody of the revenues or of any other funds of the System, in an amount at least equal to the total funds in the custody of any such person at any one time.

B. The Issuer shall require all contractors engaged in the construction of the Project to furnish a performance bond and a payment bond, each in an amount equal to 100% of the contract price of the portion of the Project covered by the particular contract as security for the faithful performance of such contract. The Issuer shall verify such bonds prior to commencement of construction.

The Issuer shall also require all contractors engaged in the construction of the Project to carry such workers' compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project. The Issuer shall verify such insurance prior to commencement of construction. Such insurance shall be made payable to the order of the Issuer, the prime contractor and all subcontractors, as their interests may appear.

Section 7.16. Mandatory Connections. The mandatory use of the sewerage portion of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and water borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Department of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Department of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 20 day notice of the availability of the System, pay the rates and charges established therefor.

Any such house, dwelling or building from which emanates sewage or water borne waste matter and which is not so connected with the System is hereby declared and found to be a hazard to the health, safety, comfort and welfare of the inhabitants of the Issuer and a public nuisance which shall be abated to the extent permitted by law and as promptly as possible by

proceedings in a court of competent jurisdiction.

Section 7.17. Completion and Operation of Project; Permits and Orders. The Issuer shall complete the Project as promptly as possible and operate and maintain the System as a revenue-producing utility in good condition and in compliance with all federal and state requirements and standards.

The Issuer has obtained all permits required by State and federal laws for the acquisition and construction of the Project.

Section 7.18. Compliance with Law. The Issuer shall perform, satisfy and comply with all the terms and conditions of the Act.

The Issuer shall also comply with all applicable laws, rules and regulations issued by the State, federal or local bodies in regard to the acquisition and construction of the Project and the operation, maintenance and use of the System. The Issuer will provide the Purchaser, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base).

Section 7.19. Tax Covenants. The Issuer hereby further covenants and agrees as follows:

A. **PRIVATE BUSINESS USE LIMITATION.** The Issuer shall assure that (i) not in excess of 10% of the Net Proceeds of the Series 2014 B Bonds are used for Private Business Use if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the Series 2014 B Bonds during the term thereof is, under the terms of the Series 2014 B Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or is to be 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; and (ii) and that, in the event that both (A) in excess of 5% of the Net Proceeds of the Series 2014 B Bonds are used for a Private Business Use, and (B) an amount in excess of 5% of the principal or 5% of the interest due on the Series 2014 B Bonds during the term thereof is, under the terms of the Series 2014 B Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said 5% of Net Proceeds of the Series 2014 B Bonds used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the Project, or if the Series 2014 B Bonds are for the purpose of financing more than one project, a portion of the Project, and shall not exceed the proceeds used for the governmental use of that portion of the Project to which such Private Business Use is related, all of the foregoing to be determined in accordance with the Code.

B. **PRIVATE LOAN LIMITATION.** The Issuer shall assure that not in excess of

the lesser of 5% or \$5,000,000 of the Net Proceeds of the Series 2014 B Bonds are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

C. **FEDERAL GUARANTEE PROHIBITION.** The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Series 2014 B Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Code.

D. **INFORMATION RETURN.** The Issuer will file all statements, instruments and returns necessary to assure the tax-exempt status of the Series 2014 B Bonds and the interest thereon, including, without limitation, the information return required under Section 149(e) of the Code.

E. **FURTHER ACTIONS.** The Issuer will take any and all actions that may be required of it so that the interest on the Series 2014 B Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions, or fail to take any actions the result of which would adversely affect such exclusion.

Section 7.20 Reserved.

Section 7.21. Contracts. The Issuer shall, simultaneously with the delivery of the Series 2014 B Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

Section 7.22. Statutory Mortgage Lien. For the further protection of the Holders of the Series 2014 B Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the Series 2014 B Bonds, and shall be on a parity with the statutory mortgage lien in favor of the Holders of the Prior Bonds.

ARTICLE VIII

INVESTMENT OF FUNDS; NON ARBITRAGE

Section 8.01. Investments. Any monies held as a part of the funds and accounts created by this Bond Legislation other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank, or such other bank or national banking association holding such fund or account, as the case may be, at the written direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Bond Legislation, the need for such monies for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 8.01.

Any investment shall be held in and at all times deemed a part of the fund or account in which such monies were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account.

The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held in the "Consolidated Fund." The Commission shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Depository Bank may make any and all investments permitted by this section through its own investment or trust department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year (or more often if reasonably requested by the Issuer), a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Series 2014 B Bonds are Outstanding and as long thereafter as necessary to comply with the Code and assure the exclusion of interest on the Series 2014 B Bonds from gross income for federal income tax purposes.

Section 8.02. Arbitrage and Tax Exemption. The Issuer covenants that (i) it shall not take, or permit or suffer to be taken, any action with respect to the gross or other proceeds of the Series 2014 B Bonds which would cause the Series 2014 B Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a federal information return with respect to the Series 2014 B Bonds) so that the interest on the Series 2014 B Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 8.03. Designation of Series 2014 B Bonds as "Qualified Tax-Exempt Obligations." The Issuer hereby designates the Series 2014 B Bonds as "qualified tax-exempt obligations" for purposes of Section 265(b)(3)(B) of the Code and covenants that the Series 2014 B Bonds do not constitute private activity bonds as defined in Section 141 of the Code, and that not more than \$10,000,000 aggregate principal amount of obligations the interest on which is excludable (under Section 103(a) of the Code) from gross income for federal income tax purposes (excluding, however, obligations issued to currently refund any obligation of the Issuer to the extent the amount of the refunding obligation does not exceed the amount of the refunded obligation and private activity bonds, as defined in Section 141 of the Code, other than qualified 501(c)(3) bonds as defined in Section 145 of the Code), including the Series 2014 B Bonds , have been or shall be issued by the Issuer, including all subordinate entities of the Issuer, during the calendar year 2014, all as determined in accordance with the Code

If the Issuer is subject to the rebate requirements of Section 148(f) of the Code, and not exempted from such requirements, the Issuer covenants to calculate, annually, the rebatable arbitrage, determined in accordance with Section 148(f) of the Code. Upon completion of each such annual calculation, unless otherwise agreed by the Purchaser, the Issuer shall deposit, or cause to be deposited, in the Rebate Fund such sums as are necessary to cause the aggregate

amount on deposit in the Rebate Fund to equal the sum determined to be subject to rebate to the United States, which, notwithstanding anything herein to the contrary, shall be paid from investment earnings on the underlying fund or account established hereunder and on which such rebatable arbitrage was earned or from other lawfully available sources. Notwithstanding anything herein to the contrary, the Rebate Fund shall be held free and clear of any lien or pledge hereunder and shall be used only for payment of rebatable arbitrage to the United States. The Issuer shall pay, or cause to be paid, to the United States, from the Rebate Fund, the rebatable arbitrage in accordance with Section 148(f) of the Code and such Regulations. In the event that there are any amounts remaining in the Rebate Fund following all such payments required by the preceding sentence, the Depository Bank shall pay said amounts to the Issuer to be used for any lawful purpose of the System. The Issuer shall remit payments to the United States in the time and at the address prescribed by the Regulations as the same may be from time to time in effect with such reports and statements as may be prescribed by such Regulations. In the event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required, the Issuer shall assure that such payments are made by the Issuer to the United States, on a timely basis, from any funds lawfully available therefor. In addition, the Issuer shall cooperate with the Purchaser in preparing rebate calculations and in all other respects in connection with rebates and hereby consents to the performance of all matters in connection with such rebates by the Purchaser at the expense of the Issuer. The Issuer may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the Issuer may deem appropriate in order to assure compliance with this Section 8.03. The Issuer shall keep and retain, or cause to be kept and retained, records of the determinations made pursuant to this Section 8.03 in accordance with the requirements of Section 148(f) of the Code and such Regulations. In the event the Issuer fails to make such rebates as required, the Issuer shall pay the required rebate amount, any and all penalties and other amounts, from lawfully available sources, and obtain a waiver from the Internal Revenue Service, if necessary, and take any other actions necessary, in order to maintain the exclusion of interest on the Series 2014 B Bonds from gross income for federal income tax purposes.

The Issuer shall furnish to the Purchaser, annually, and at such time as it is required to perform its rebate calculations under the Code, a certificate with respect to its rebate calculations and, at any time, any additional information relating thereto as may be requested by the Purchaser.

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Series 2014 B Bonds:

- (1) If default occurs in the due and punctual payment of the principal of or interest, if any, on the Series 2014 B Bonds;
or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Series 2014 B Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 2014 B Bonds , and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Depository Bank, the Registrar, the Paying Agent or any other Paying Agent or a Holder of a Bond; or

(3) If the Issuer files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America; or

(4) If default occurs with respect to the Prior Bonds or the Prior Ordinances.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due; (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System; (iii) bring suit upon the Bonds; (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Bonds; and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Bonds, or the rights of such Registered Owners; provided, that all rights and remedies of the Holders of the Series 2014 B Bonds shall be on a parity with the Prior Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, the completion of the Project and after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds, any Registered Owner of a Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

The receiver so appointed shall forthwith, directly or by his or her or its agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate and maintain, manage and control such facilities, and each and every part thereof, and in the name of the Issuer exercise all the rights and powers of the Issuer with respect to said

facilities as the Issuer itself might exercise.

Whenever all that is due upon the Bonds and interest thereon and under any covenants of this Bond Legislation for reserve, sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Bond Legislation shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner of any Bonds shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him or her or it, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owners of the Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the completion of the Project and the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Registered Owners of such Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this Bond Legislation, and the title to and ownership of said System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

ARTICLE X

PAYMENT OF BONDS

Section 10.01. Payment of Bonds. If the Issuer shall pay or there shall otherwise be paid to the Holders of the Series 2014 B Bonds, the principal of and interest due or to become due thereon, if any, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Gross Revenues and other monies and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2014 B Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest, if any, on the Series 2014 B Bonds from gross income for federal income tax purposes.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 2014 B Bonds, this Ordinance may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2014 B Bonds, no material modification or amendment of this Ordinance, or of any ordinance, resolution or order amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the Series 2014 B Bonds, shall be made without the consent in writing of the Registered Owners of the Series 2014 B Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest, if any, thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein pledged therefor without the consent of the respective Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of the Series 2014 B Bonds required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the exclusion of interest, if any, on the Series 2014 B Bonds from gross income of the holders thereof.

Section 11.02. Bond Legislation Constitutes Contract. The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Series 2014 B Bonds, and no change, variation or alteration of any kind of the provisions of the Bond Legislation shall be made in any manner, except as in this Bond Legislation provided.

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance, the Supplemental Resolution or the Series 2014 B Bonds.

Section 11.04. Headings, Etc. The headings and catchlines of the articles, sections and subsections hereof are for convenience of reference only, and shall not affect in any way the meaning or interpretation of any provision hereof.

Section 11.05. Conflicting Provisions Repealed. Except for the Prior Ordinances, all ordinances, orders or resolutions and or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed; provided that, in the event of any conflict between this Ordinance and the Prior Ordinances, the Prior Ordinances shall control (unless less restrictive), so long as the Prior Bonds are Outstanding.

Section 11.06. Covenant of Due Procedure, Etc. 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 of this 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, the City Clerk and members of the Governing Body were at all times when any actions in connection with this Ordinance occurred and are duly in office and duly qualified for such office.

Section 11.07. Appointment. The Issuer does hereby appoint, designate and approve the hiring of Steptoe & Johnson, Charleston, West Virginia, as bond counsel to the Issuer in connection with the issuance by the Issuer of the Series 2014 B Bonds.

Section 11.08. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Ordinance determined by the Governing Body to contain sufficient information as to give notice of the contents hereof shall be published once a week for 2 successive weeks within a period of fourteen consecutive days, with at least 6 full days intervening between each publication, in the *Dominion Post* a qualified newspaper of general circulation in The City of Morgantown, together with a notice stating that this Ordinance has been adopted and that the Issuer contemplates the issuance of the Series 2014 B Bonds , and that any person interested may appear before the Governing Body upon a date certain, not less than ten days subsequent to the date of the first publication of such abstract of this Ordinance and notice, and present protests, and that a certified copy of this Ordinance is on file with the Governing Body for review by interested persons during office hours of the Governing Body. At such hearing, all objections and suggestions shall be heard and the Governing Body shall take such action as it shall deem proper in the premises.

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Section 11.09. Effective Date. This Ordinance shall take effect immediately following the public hearing and final reading hereof.

Passed on First Reading: - June 3, 2014

Passed on Second Reading: - June 17, 2014

Passed on Final Reading
Following Public
Hearing: - July 1, 2014

THE CITY OF MORGANTOWN

Mayor

CERTIFICATION

Certified a true copy of a Bond Ordinance adopted _____, 2014 as supplemented by Supplemental Resolution duly adopted by the Council of The City of Morgantown on _____, 2014.

Dated: _____, 2014.

[SEAL]

City Clerk

**CITY OF MORGANTOWN
COMBINED UTILITY REVENUE BONDS, SERIES 2014 B**

BOND ORDINANCE

TABLE OF CONTENTS

**ARTICLE I
STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS**

- Section 1.01. Authority for this Ordinance.
- Section 1.02. Findings.
- Section 1.03. Bond Legislation Constitutes Contract.
- Section 1.04. Definitions.

**ARTICLE II
AUTHORIZATION OF ACQUISITION AND CONSTRUCTION
OF THE PROJECT**

- Section 2.01. Authorization of Acquisition and Construction of the Project.

**ARTICLE III
AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND
SALE OF BONDS**

- Section 3.01. Authorization of Bonds.
- Section 3.02. Terms of Bonds.
- Section 3.03. Execution of Bonds.
- Section 3.04. Authentication and Registration.
- Section 3.05. Negotiability, Transfer and Registration.
- Section 3.06. Series 2014 B Bonds Mutilated, Destroyed, Stolen or Lost.
- Section 3.07. Bonds not to be Indebtedness of the Issuer.
- Section 3.08. Bonds Secured by Pledge of Gross Revenues; Lien Positions with respect to Prior Bonds.
- Section 3.09. Delivery of Bonds.
- Section 3.10. Sale of Bonds.
- Section 3.11. Form of Bonds.

**ARTICLE IV
[RESERVED]**

**ARTICLE V
FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF**

- Section 5.01. Establishment of Funds and Accounts with Depository Bank.
- Section 5.02. Establishment of Funds and Accounts with Commission.

ARTICLE VI

BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

- Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds.
- Section 6.02. Disbursements From the Series 2014 B Bonds Construction Trust Fund.

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

- Section 7.01. General Covenants of the Issuer.
- Section 7.02. Bonds not to be Indebtedness of the Issuer.
- Section 7.03. Bonds Secured by Pledge of Gross Revenues; Lien Positions with Respect to Prior Bonds.
- Section 7.04. Rates and Charges.
- Section 7.05. Sale of the System.
- Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances.
- Section 7.07. Parity Bonds.
- Section 7.08. Books; Records and Audit.
- Section 7.09. Rates.
- Section 7.10. Operating Budget and Monthly Financial Report.
- Section 7.11. Engineering Services and Operating Personnel.
- Section 7.12. No Competing Franchise.
- Section 7.13. Enforcement of Collections.
- Section 7.14. No Free Services.
- Section 7.15. Insurance and Construction Bonds
- Section 7.16. Mandatory Connections.
- Section 7.17. Completion and Operation of Project; Permits and Orders.
- Section 7.18. Compliance with Law.
- Section 7.19. Tax Covenants.
- Section 7.20. Reserved.
- Section 7.21. Contracts.
- Section 7.22. Statutory Mortgage Lien.

ARTICLE VIII

INVESTMENT OF FUNDS; NON ARBITRAGE

- Section 8.01. Investments.
- Section 8.02. Arbitrage and Tax Exemption.
- Section 8.03. Designation of Series 2014 B Bonds as "Qualified Tax-Exempt Obligations."

ARTICLE IX

DEFAULT AND REMEDIES

- Section 9.01. Events of Default.
- Section 9.02. Remedies.
- Section 9.03. Appointment of Receiver.

**ARTICLE X
PAYMENT OF BONDS**

- Section 10.01. Payment of Bonds.

**ARTICLE XI
MISCELLANEOUS**

- Section 11.01. Amendment or Modification of Bond Legislation.
- Section 11.02. Bond Legislation Constitutes Contract.
- Section 11.03. Severability of Invalid Provisions.
- Section 11.04. Headings, Etc.
- Section 11.05. Conflicting Provisions Repealed.
- Section 11.06. Covenant of Due Procedure, Etc.
- Section 11.07. Appointment.
- Section 11.08. Statutory Notice and Public Hearing.
- Section 11.09. Effective Date.

AN ORDINANCE AUTHORIZING A LEASE AGREEMENT BY AND BETWEEN THE CITY OF MORGANTOWN, LESSOR, AND RSA FLIGHT TRAINING, LLC, LESSEE, IN WHICH OFFICE SPACE, SPECIFICALLY SUITES 235 AND 241, IS BEING LEASED AT THE MORGANTOWN MUNICIPAL AIRPORT FOR THE PURPOSE OF OPERATING A FLIGHT TRAINING CONCESSION.

The City of Morgantown hereby ordains that its City Manager is authorized to execute the Agreement hereto attached by and on behalf of the City of Morgantown.

This Ordinance shall be effective upon date of adoption.

FIRST READING:

MAYOR

ADOPTED:

FILED:

CITY CLERK

RECORDED

BASIC LAND AND FLIGHT TRAINING CONCESSION AGREEMENT

THIS AGREEMENT made and entered into this _____, by and between the City of Morgantown, a municipal corporation (hereinafter called “City”), and RSA FLIGHT TRAINING, LLC (hereinafter called “Lessee”).

WITNESSETH:

WHEREAS, the City owns, controls, and operates the Morgantown Municipal Airport (hereinafter called “Airport”); and

WHEREAS, the City encourages growth and development of aviation activities at the Airport, which activities include flight training for businesses and individuals from Morgantown and the surrounding area; and

WHEREAS, the Lessee is desirous of providing flight training services to businesses and individuals from Morgantown and the surrounding area.

NOW THEREFORE, for and in consideration of the mutual covenants and agreements herein contained to be kept and performed, and intending to be legally bound hereby, the parties hereto covenant and agree as follows:

Article I. DEFINITIONS

Section 1.01 The following words and phrases, wherever used in the Agreement shall for the purpose of this Agreement, have the following meanings:

- (a) “Advanced Flight Training” shall mean any ground or in-flight training received in preparation for obtaining a FAA Pilot Certificate or Rating other than Private Pilot. These Certificates or Ratings include, but are not limited to, Commercial Pilot, Air Transport Pilot, Flight Instructor and/or Instrument Rating
- (b) “Aircraft Operating Area” shall mean the area that contains the runways, taxiways, aircraft parking aprons/ramps, hold areas, and any other area used or intended to be used for surface maneuvering of aircraft, and any areas inside the perimeter fence which are adjacent to surface maneuvering areas. This may also be referred to as “airside.”
- (c) “Airport” refers to the Morgantown Municipal Airport.
- (d) “Airport Customer” shall be any person who utilizes the Airport for the purpose of receiving instruction in aircraft flight operations.
- (e) “Basic Flight Training” shall mean any ground or in-flight training, to include required solo flight time, received in preparation for obtaining a FAA Private Pilot Certificate.
- (f) “Certificate” shall mean a certificate issued by the FAA to allow a business to operate aircraft or provide an aeronautical service.
- (g) “FAA” means the Federal Aviation Administration of the United States, or any federal agencies succeeding to its jurisdiction.

- (h) "Leased Premises" shall mean an office located in the Terminal Building of the Airport located at 82 Hart Field Road, Suites 235 and 241, Morgantown, WV 26505. This space is to be used solely by the Lessee for the conduct of the Lessee's business.
- (i) "Person" shall mean an individual, corporation, government or governmental subdivision, partnership, association, or any other legal entity, or any representative thereof.
- (j) "Property" shall include anything of material value that is real, personal, tangible, or intangible.
- (k) "Rules and Regulations" shall mean those lawful and reasonable rules and regulations which are promulgated by the City for the orderly use of the Airport by both airlines and other operators and users of the Airport as the same may be amended, modified, or supplemented from time to time. It may also mean rules and regulations promulgated by the FAA or other Governmental entity governing conduct on airports in general and/or the Morgantown Municipal Airport specifically.

Article II. PREMISES

Section 2.01 The City hereby leases to the Lessee an office located in the Terminal Building of the Airport located at 82 Hart Field Road, Suites 235 and 241, Morgantown, WV 26505, consisting of two spaces – Suite 241 measuring approximately two hundred and forty (240) square feet and Suite 235 measuring approximately two hundred (200) square feet – more specifically identified in Exhibit A attached hereto. This space is to be used solely by the Lessee for the conduct of the Lessee's business.

Article III. GRANT OF CONCESSION

Section 3.01 The City hereby grants to the Lessee subject to the terms and conditions hereinafter contained the right to conduct and operate a Flight Training Concession at the Airport. This shall not be construed to be an exclusive concession, and it is stipulated, agreed, and understood that the City may grant concessions to other parties for operation of Flight Training services. It is further understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958 as amended.

Section 3.02 The City hereby agrees to allow the Lessee to use the Leased Premises as defined above for the purpose of operating a Flight Training operation.

Section 3.03 Lessee shall have the right to the non-exclusive use, in common with others, of the Airport parking areas, appurtenances and improvements; the right of ingress to and egress from the Leased Premises, which shall extend to Lessee's employees, guests and customers; and the right in common with other tenants of the Airport to use common areas of the Airport, including but not limited to the Airport Operating Area, roadways and other conveniences for the conduct of Lessee's business.

Section 3.04 Lessee is not authorized to offer other Aeronautical Services under this Agreement without prior written consent of the City and amendment of this Agreement by the Morgantown City Council.

Article IV. TERM OF AGREEMENT

Section 4.01 The Term of this agreement shall be for a period of two (2) years commencing on August 1, 2014 and ending on July 31, 2016 unless terminated at an earlier date for any reason as set forth herein.

Article V. FEES

Section 5.01 In consideration for the rights and privileges granted by this Agreement, Lessee agrees to pay the City an annual rental payment of eight thousand five hundred twenty six dollars (\$8,526.00) at the rate of seven hundred ten dollars and fifty cents (\$710.50) per month. Payment will be made in advance, on or before the first business day of each month during the terms hereto and any extension thereof.

Section 5.02 Rental payments shall increase as of the first day of each calendar year (January 1) during the entire term, by the same percentage increase (if any) in the Consumer Price Index (revised) for Urban Wage Earners and Clerical Workers in Pittsburgh, PA, as published by the Bureau of Labor Statistics of the US Department of Labor (CPI) during the prior calendar year, but no more than three percent (3%). Rents shall be fixed between annual adjustments. Each calendar year's recalculated rent shall be the basis for the adjustment for the next calendar year rent. The rent shall be recalculated as soon as the CPI is published. The increase shall be effective as of January 1 of each year. In no event shall adjustment be a negative amount. If the rental rate increases, Lessee shall, within thirty (30) days of receipt of notice from City, pay to City any additional rent caused by the increase in CPI, divided by twelve (12), multiplied by the number of rental payments made by Lessee since the effective date of rental adjustment.

Section 5.03 It is agreed that a finance charge of one and one-half percent (1.5%) per month shall be added to any balance unpaid within thirty (30) days after that balance is due.

Section 5.04 All sums due hereunder shall be made payable to the City of Morgantown. All such sums, statements, and reports shall be delivered to the Airport Director, Morgantown Municipal Airport, 100 Hart Field Road, Morgantown, WV 26505.

Article VI. INSTALLATION OF IMPROVEMENTS

Section 6.01 The Lessee shall, without cost to the City, make improvements and provide and install all trade fixtures as are necessary for the customary operation of its Flight Training business.

Section 6.02 The Lessee shall have the right, at its sole expense, to install and maintain signs advertising its business. Any signs must have prior written approval of the Airport Director, as the City's Representative, both as to size and location.

Section 6.03 Lessee shall not suffer or permit any mechanic or other liens to be levied or filed against the City. All improvements, equipment, fixtures, and interior décor constructed by the Lessee, its agents, or contractors, shall conform in all respects to all applicable statutes, ordinances, building codes, and Rules and Regulations. Lessee shall be responsible for applying for and obtaining any permits required to complete improvements. Any approval given by the City shall not constitute a representation or warranty as to conformity; responsibility therefore shall at all times remain with the Lessee.

Section 6.04 All structural improvements and alterations shall, upon termination of this Agreement, become property of the Airport. All non-structural improvements and property of the Lessee must be removed upon termination of this Agreement.

Section 6.05 The Lessee may place such furnishings, property, and equipment into the Leased Premises as is necessary for the conduct of its business. Lessee shall have the right to remove

same upon termination of this Agreement, providing the premises are repaired to the satisfaction of the City or restored to their original condition after such removal.

Section 6.06 The Lessee shall not remove or demolish, in whole or in part, any improvements within the Leased Premises without the express prior written consent of the City, which consent may be conditioned upon the obligation of the Lessee to replace the same by an improvement specified in the consent. However, City shall not withhold consent unreasonably and shall not impose unreasonable conditions upon its consent.

Article VII. MAINTENANCE OF PREMISES

Section 7.01 The City agrees to provide maintenance and custodial services in the public areas of the Terminal. Lessee is responsible for all custodial services within the Leased Premises.

Section 7.02 The City agrees to maintain, at its expense, the basic infrastructure of the Terminal to include the basic structure, heating/air conditioning systems, plumbing systems, and electrical systems provided however, such maintenance necessitated by the negligence or willful destruction of Lessee, its employees or agents, shall be at the expense of the Lessee.

Section 7.03 The City, Airport Director, or its duly appointed representative shall have the right to enter Lessee's Leased Premises to:

- (a) Inspect the Leased Premises at reasonable intervals during the Lessee's regular business hours, or at any time in case of an emergency, to determine if Lessee is in compliance with the terms and conditions of the Agreement. The City may, at its discretion, require the Lessee to effect any required maintenance or repairs at Lessee's own cost; and
- (b) Perform any and all things which the Lessee is obligated to, and has failed to do, after providing the Lessee with ten (10) days written notice to act, including maintenance, repairs, and replacements to Lessee's Leased Premises. The cost of all labor, materials, and overhead charges required for the performance of such work will be paid by Lessee to the City within ten (10) days following receipt of invoice for said charges by Lessee.

Article VIII. UTILITIES

Section 8.01 The City shall pay for all electric current, water, and natural gas that enters the Leased Premises via presently installed underground utility lines and pipes, to the Terminal, and operated by local Utility Companies. The Lessee shall be expected to exercise all practical economy in the use of such utilities and failure to do so will constitute unsatisfactory operations. The City shall have the right to insist upon and institute practices which it deems necessary, which the Lessee shall be expected to implement, to ensure no misuse or abuse of this privilege.

Section 8.02 Should the Lessee require any additional utility service other than that provided for above (such as telephone or internet lines), the Lessee agrees to bear all costs associated with installation and use of such service.

Article IX. PERFORMANCE AND SERVICE STANDARDS

Section 9.01 The Lessee hereby covenants and agrees that it will furnish prompt and efficient service adequate to meet all reasonable demands for Flight Training operations at a fair, reasonable and non-discriminatory basis, and to charge fair, reasonable and non-discriminatory prices for each unit or sale of service on a basis substantially similar to that charged by it for similar airports of comparable size within the same general area. The Lessee may make reasonable discounts, rebates and other similar types of price reductions to purchasers on a non-discriminatory basis.

- Section 9.02 Lessee shall hold a Flight School Certificate issued by the FAA under 14 CFR Part 61 or 141 and it shall be in force for the entire term of this lease. A copy of the Certificate shall be forwarded to the Airport Director within ten (10) business days after execution of this Lease. In the event the Certificate is revoked by FAA, the Airport Director must be notified within five (5) business days. Failure to hold and maintain this Certificate will be grounds for termination of this lease.
- Section 9.03 The Aircraft provided by Lessee shall be certified and licensed by the FAA for the types of flights conducted. At least two (2) FAA licensed and certified Aircraft will be provided – one (1) capable of providing Basic Flight Training and one (1) capable of providing Advanced Flight Training. At least one (1) will be a dual equipped, single engine, land, fixed wing Aircraft fully certified as airworthy by the FAA. These Aircraft will be based and housed at the Airport. Lessee is also authorized to conduct training in multi-engine aircraft and rotorcraft as long as the basic Aircraft is provided. Aircraft will be maintained in accordance with all applicable FAA Rules and Regulations at Lessee's sole expense, in good operating order, free from mechanical defects, current in all required inspections, and in clean, neat, and attractive condition, inside and out. Aircraft used for Flight Training will be owned or be under lease to Lessee.
- Section 9.04 Lessee will provide, at a minimum, one (1) FAA Licensed Flight Instructor properly certified to give both ground and in-flight instruction in single-engine, land, fixed wing Aircraft for both Basic and Advanced Flight Training.
- Section 9.05 The Lessee shall provide all necessary publications and training aids necessary to facilitate the Basic and/or Advanced Flight Training process. These may include, but are not limited to, appropriate Federal Regulations, Airman's Information Manual, navigation charts, and equipment/charts for determining Aircraft performance.
- Section 9.06 The Lessee shall provide a quiet, comfortable space, free of significant interruptions for use by the Flight Instructor and student in the course of conducting ground instruction, pre-flight briefings, post flight briefings, and self study.
- Section 9.07 Lessee is authorized to perform such maintenance activities as necessary to meet the requirements of its Certificate in a hangar provided under separate lease.
- Section 9.08 Lessee shall be authorized to use the Fixed Base Operator waiting areas for its students and instructors. However, amenities in the waiting area are for passengers and transient aircrews only and not for use by lessee, its employees, instructors, or students.
- Section 9.09 Lessee's employees shall be clean, neat in appearance, courteous and polite. The Lessee shall not employ any Person or Persons in or about the Leased Premises who shall conduct themselves in a loud, boisterous or otherwise improper manner. Upon notification by the Airport Director to the Lessee in writing that any Person employed by the Lessee is, in the Airport Director's opinion, disorderly or otherwise unsatisfactory under this paragraph, the Lessee shall conduct a full investigation and correct the problem immediately.
- Section 9.10 The City is responsible for the safety and security of the Airport premises. Access is controlled by keys and key cards. Lessee and its employees will be granted access as necessary to conduct Lessee's business. Keys and key cards are issued to individual Persons and each Person issued a key or key card is solely authorized to use same. Keys and key cards are not to be loaned or used to allow unauthorized Persons access to the Airport Aircraft Operating Area. The City reserves the right to cancel and/or revoke access for any Person deemed a safety or security risk as necessary. In the event a Person's access is terminated for any reason, all keys

and key cards must be returned to the Airport Director within five (5) business days. Keys or key cards that are lost and require replacement or are not returned when requested will result in a payment of fifty dollars (\$50.00) per key or key card by Lessee to the Airport.

Section 9.11 The Lessee shall abide by and be subject to all Rules and Regulations which are now, or may from time to time be promulgated by the City concerning management, operation or use of Airport facilities, or the safety of those using the same, and it shall abide by and be subject to all Rules and Regulations which are now, or may from time to time be promulgated by the FAA. The Lessee further agrees to maintain, use, and operate the Leased Premises in compliance with any and all present and future laws, ordinances, Rules and Regulations relating to public health, safety or welfare adopted by Federal, State, local or other governmental bodies or agencies, departments or officers thereof, and obtain all permits, at its sole expense, which may be necessary for the operation of its Concession.

Section 9.12 The Lessee covenants and agrees it will meet all expenses in connection with the use of its Leased Premises and be responsible for any taxes, permit fees, usage fees, license fees, or assessments lawfully levied or assessed by any taxing authority against the business owned and operated by the Lessee, the Leased Premises, concession receipts, or as a result of the Lessee's use and occupancy of Airport premises or its operation at the Airport.

Section 9.13 The Lessee does hereby covenant and agree that:

- (a) No person on the grounds of race, color, creed, age, sex, religion, national origin, or handicap shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said service or facilities.
- (b) In the construction of any improvements on the Leased Premises and the furnishing or services thereon, no person on the grounds of race, color, creed, age, sex, religion, national origin, or handicap shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination.
- (c) The Lessee shall use the Leased Premises in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.
- (d) In accordance with the policy of the US Department of Transportation that Minority Business Enterprises, as defined in 49 CFR Part 23, shall have the maximum opportunity to participate in the performance of contracts such as covered by this agreement, the Lessee hereby assures no Person shall be excluded from the participation in, be denied the benefits of, or otherwise be discriminated against in connection with the award of any contract covered by 49 CFR Part 23 on the grounds of race, color, national origin, sex, or handicap. The Lessee hereby assures it will include the foregoing clauses in all subcontracts and will cause subcontractors similarly to include these clauses in further subcontracts.

In the event of breach if any of the above nondiscrimination covenants, the City shall have the right to terminate this agreement. The City, State of West Virginia, or the United States, or any combination of the foregoing Government entities, shall have the right to enforce the provisions of this Article.

Section 9.14 The Lessee agrees that the City, its duly authorized representatives or agents may, at any reasonable time, enter into the Leased Premises for the purposes of making any inspection deemed necessary in order to determine whether Federal, State, County, or City Rules and Regulations and/or the covenants of this Agreement are being complied with, and to do any and all things which the City is obligated to do as set for the herein, or which may be deemed necessary for the general conduct and safe operation of the Airport.

Article X. ASSIGNMENT OR SUBLEASE

Section 10.01 The Lessee shall not have the right to assign or transfer the Agreement or any rights hereunder without the prior written consent of the City and amendment of this Agreement by the Morgantown City Council.

Section 10.02 The Lessee shall not sublet any part of the Leased Premises without prior written consent of the City and amendment of this Agreement by the Morgantown City Council.

Article XI. INSURANCE AND LIMITATION OF LIABILITY

Section 11.01 The Lessee covenants and agrees to secure and maintain during the term of this Agreement, the following insurance coverage. A Certificate of Insurance or copies of the individual policies shall be forwarded to the Airport Director within ten (10) business days after execution of this Lease. Such policies shall contain a provision requiring at least thirty (30) days notice of cancellation which notice shall be given in writing to the Airport Director. In the event these policies are revoked or cancelled, the Airport Director must be notified within five (5) business days. Failure to hold and maintain this insurance will be grounds for termination of this lease.

- (a) Comprehensive General Public Liability Insurance covering Lessee's operations at the Airport and its serving of Airport Customers with a combined single limit coverage of One Million Dollars (\$1,000,000), naming the City as an additional insured.
- (b) Passenger/Aircraft Liability Insurance for Training and Rental Aircraft in the minimum amount of One Million Dollars (\$1,000,000) per passenger and Two Million Dollars (\$2,000,000) per occurrence.

Section 11.02 The Lessee agrees to indemnify and hold the City, its agents, officers, representatives, and employees forever harmless from and against any and all claims, damages, judgments, attorneys fees, compensation, demands, or liability for injuries to Persons or Property caused by, arising from or in connection with the use or occupancy by the Lessee, its agents and employees of the Leased Premises or arising from, out of, or in connection with the Lessee's operations at the Airport or arising directly or indirectly out of any acts of the Lessee, its agents, servants, guests, or business invites, or by any reason of any act or omission of any such Person; provided, however the Lessee shall not be liable for any injury, damage or loss occasioned by the negligence of the City, its agents or employees. The Lessee shall give to the City prompt and timely notice of any claim or suit filed which in any way, directly or indirectly, contingently or otherwise, affects or might affect the City. Except for losses due to the negligent acts or omissions of the City, its agents or employees, the Lessee further covenants and agrees it will not hold the City, its agents of employees, responsible for any loss or damage occasioned by fire, theft, rain, flood, windstorm, hail, vandalism, or from any other cause whatsoever, whether said cause be direct, indirect, or merely a contributing factor in producing the loss or damage to any Property of the Lessee that may be located or stored on the Leased Premises or any other location at the Airport, and the Lessee agrees that storage of all Property on the Leased

Premises or elsewhere at the Airport shall be at the Lessee's risk. The Lessee shall be responsible for all damage to Persons or Property caused by carelessness, negligence, or neglect on the part of Lessee, its agents or employees. The City shall not be liable for any loss/damage suffered by the Lessee arising out of the interruption or cessation of the business conducted by the Lessee under this Agreement.

Article XII. TERMINATION

Section 12.01 It is mutually understood and agreed that either party may terminate this Agreement, for any reason, with sixty (60) days prior written notice to the other party. It is further understood and agreed in the event the Airport were to cease operating as an air transportation facility, this Agreement would automatically terminate. It is further understood and agreed in the event the United States government or any of its agencies would assume control over the Airport in time of war or National Emergency, then this Agreement would automatically abate during such period. The City agrees to give the Lessee prior notice as is feasible upon the occurrence of such an event.

Section 12.02 Upon the happening of any one of the following events, Lessee shall be deemed to be in default of this Agreement. If Lessee is declared in default, The City may terminate this Agreement by giving the Lessee advance written notice, to be served as hereinafter provided:

- (a) Failure by the Lessee to pay fees and charges specified in this Agreement or if any part thereof is in arrears and unpaid, provided the City shall first give the Lessee written notice to remedy such failure, and if Lessee does not correct such failure within ten (10) days from receipt of such notice;
- (b) The making by the Lessee of a general assignment for the benefit of creditors;
- (c) The filing by the Lessee of a voluntary petition in bankruptcy, or the institution of proceedings in bankruptcy against the Lessee and the adjudication of the Lessee as a bankrupt pursuant to such proceedings;
- (d) The taking over of the Lessee or its assets by a court of competent jurisdiction;
- (e) The death (if an individual) or dissolution of the Lessee or the divestiture of the Lessee's estate herein by other operation of law;
- (f) The failure of the Lessee to comply with and meet all the laws or Rules and Regulations issued by the City, the FAA, or other governmental agency having jurisdiction;
- (g) The failure of the Lessee to keep and perform any of the covenants or agreements herein contained on the Part of the Lessee to be kept and performed, provided the City shall first give the Lessee written notice to remedy such failure, and if Lessee does not correct such failure within ten (10) days from receipt of such notice.

Section 12.03 The City retains the right to recover from the Lessee all minimum monthly payments due up to the time of such termination and all damages for breach of this Agreement. In the event of default by the Lessee of any of the terms of this Agreement, the Lessee shall pay to the City any costs and expenses, including reasonable attorneys fees, incurred by the City to enforce its rights under this agreement or to recover damage for Lessee's breach.

Section 12.04 No waiver of default by the City of any of the terms, covenants, or conditions hereof to be performed, kept, and observed by the Lessee shall be construed to be or act as a waiver of any subsequent default of any of the terms, covenants, and conditions herein contained to be

performed, kept, and observed by the Lessee. The acceptance of payment by the City for any periods after default of any one of the terms, covenants, and conditions herein contained to be performed, kept, and observed by the Lessee shall not be deemed a waiver of any right on the part of the City to terminate this Agreement due to failure by the Lessee to so perform, keep, or observe any of the terms or conditions of this Agreement.

Section 12.05 Should the Leased Premises be totally or partially destroyed by fire or other casualty, either party, at its option, may terminate this Agreement by giving the other party written notice of the termination within fifteen (15) days after such destruction. In the event of termination, any payments made in advance by the Lessee shall be prorated on a daily basis and the portion attributable to the period subsequent to the destruction shall be refunded. Should the parties elect not to terminate the Agreement following total or partial destruction, the Lessee shall restore the Leased Premises to a condition similar to that immediately prior to the destruction, at its sole expense. Any such restoration of the Leased Premises shall begin as soon as reasonably possible.

Article XIII. MISCELLANEOUS

Section 13.01 The terms, covenants, and conditions made and entered into by the Agreement by the parties hereto are declared binding on their respective heirs, executors, administrators, successors, and assigns.

Section 13.02 Should any part of this Agreement be deemed invalid, only that part shall be disregarded. All other parts of the Agreement shall remain in effect.

Section 13.03 Any notice or other communication to the City or the Lessee pursuant hereto shall be deemed validly given, served, or delivered upon deposit in the United States Mail, certified and with proper postage and certification fee prepaid, address as follows:

To City: City of Morgantown
Airport Director
100 Hart Field Road
Morgantown, WV 26505

To Lessee: RSA Flight Training, LLC
82 Hart Field Road, Suite 241
Morgantown, WV 26505

Or such other addresses as the addressee may designate by written notice to the other party, delivered in accordance with the provisions of this paragraph.

Section 13.04 This Agreement is subject to and subordinate to the provision of any agreement made between the City and the United States Government relative to the operations, maintenance, and expansion of the Airport, the execution of which has been or may be made as a condition precedent to the transfer of Federal rights or property to the City for Airport use, or the expenditure of Federal funds for the improvement or development of the Airport in accordance with the provisions of the Federal Aviation Act of 1958, the Airport and Airways Improvement Act of 1982, the Airport and Airway Development Act of 1970, the Airport and Air Safety and Capacity Act of 1987, the Airport Safety and Capacity Expansion Act of 1990, and the Aviation Noise and Capacity Act of 1990 as they have been amended from time to time.

In the event the FAA or its successors requires modification or changes to this Agreement as a condition precedent to the granting of funds to the improvement or expansion of the Airport,

the Lessee agrees to consent to such amendments, modifications, revisions, supplements, or deletions, of any of the terms, conditions, or requirements of the Agreement as may be reasonably required to obtain such funds.

Section 13.05 The City agrees it shall not, during the term of this Agreement, grant to any other individual, firm, or corporation an on-site Flight Training Concession under terms or conditions more favorable than those in this Agreement in respect to fees, time for payment, insurance, privileges, and performance and service standards.

Section 13.06 The parties do hereby covenant and warrant this Agreement contains the entire Agreement between the City and the Lessee for the purposes set forth in the preamble hereinabove; that there are no claims, promises, representations, or conditions not herein contained, either oral or written, which shall or may be charged or enforced or enforceable unless reduced to writing and signed by both of the parties hereto.

Section 13.07 This Agreement shall be governed by the laws of West Virginia.

IN WITNESS WHEREOF, the parties hereunto have caused this Agreement to be executed by their proper officers the day and years above written.

CITY OF MORGANTOWN

By: _____
City Manager

ATTEST:

City Clerk

RSA FLIGHT TRAINING, LLC

By: _____
Joe H. Weiss
Manager/Member

ATTEST:

AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING A LEASE AGREEMENT BY AND BETWEEN IT, AS LESSOR, AND MERKOL, INC., AS LESSEE, REGARDING SPACE WITHIN THE MORGANTOWN MUNICIPAL AIRPORT TERMINAL BUILDING, WHICH WILL BE OPERATED AS A RESTAURANT.

The City of Morgantown hereby ordains that its City Manager is authorized to execute the attached lease agreement by and on behalf of the City of Morgantown.

FIRST READING:

MAYOR

ADOPTED:

FILED:

CITY CLERK

RECORDED:

RESTAURANT LEASE AGREEMENT

CITY OF MORGANTOWN MORGANTOWN MUNICIPAL AIRPORT MORGANTOWN, WEST VIRGINIA

THIS AGREEMENT, made this _____ day of _____, 2014, by and between THE CITY OF MORGANTOWN, 389 SPRUCE STREET, MORGANTOWN, WEST VIRGINIA, 26505, a municipal corporation, hereinafter referred to as the "CITY", and MERKOL, INC., a West Virginia corporation, hereinafter referred to as the "LESSEE".

WHEREAS, the "CITY", owns, controls, and operates an airport known as the MORGANTOWN MUNICIPAL AIRPORT, hereinafter referred to as "AIRPORT", located in the City of Morgantown, Monongalia County, West Virginia; and

WHEREAS, the "LESSEE" has submitted a proposal to the "CITY", which the Morgantown City Manager, on behalf of the "CITY", after careful evaluation, desires to accept, thereby granting to the "LESSEE", the right, privilege, and obligation to operate the aforesaid restaurant, as described and limited by the terms and conditions contained herein.

NOW THEREFORE, the "CITY", and the "LESSEE", hereby mutually agree, each for itself, and for its successors and assigns, that the Airport Restaurant Lease Agreement conditions are as follows:

ARTICLE I

DEFINITIONS

- 1.1 "Agreement" shall mean the contract, including any and all attachments, between the "CITY", and "LESSEE", for the right, privilege and obligation to use such Airport property as defined herein for the conduct of an Airport Restaurant within said property under the terms and conditions expressly set forth herein.
- 1.2 "Airport" shall mean the tract of land, with all the improvements thereon and to be erected thereon, designated as the "Morgantown Municipal Airport".
- 1.3 "Airport Terminal" and "Terminal" shall mean the airline terminal building at the Airport.
- 1.4 "Assigned Area" shall mean the area or areas at the Airport designated by this

Agreement and the Exhibits thereto as the place or places where the business of "LESSEE", may be conducted as designated by the "CITY".

- 1.5 "Airport Manager" shall mean the Airport Manager of the Morgantown Municipal Airport, who is designated by the City of Morgantown to act with respect to all matters contained within this agreement.
- 1.6 "Annual Rental Payment" is the amount of money due the Airport annually from "LESSEE", in consideration of the area or areas at the Airport designated by this Agreement. Payment will be made on a monthly basis according to the terms of this Agreement.
- 1.7 "Minority" as defined by the Federal Aviation Administration is either: Female, Black, Hispanic, Asian (Chinese, Japanese, Pacific Islander), Filipino and American Indian or Alaskan Native. A "Disadvantaged Business Enterprise" is a business, whether it is a company or a corporation, of which at least 51 percent of the interest is owned and controlled by one or more minority group members.

ARTICLE II

- 2.1 The Assigned Area, as shown on Exhibit "A", located at the center of the Airport Terminal, shall consist of approximately two thousand nine hundred fifty eight (2,958) square feet of improved space on the main floor (runway level) of the Airport Terminal containing, at the time of execution of this Agreement, a dining area, counter serving area, cashier area, and kitchen, and approximately one thousand two hundred and seven one (1,271) square feet of unimproved space on the lower floor (main road level) of the Airport Terminal containing, at the time of this Agreement, a storage area, trash room, and rest room.

ARTICLE III

- 3.1 This Agreement shall be effective and binding upon execution. The original term of this Agreement shall be for a two (2) year period beginning August 1, 2014, and ending on July 31, 2016, unless sooner terminated pursuant to this Agreement. "LESSEE" shall have four (4) optional two (2) year terms thereafter. This Agreement shall be automatically renewed for each of the foregoing optional two (2) year terms unless within ninety (90) days prior to the new term written notice is sent by "LESSEE" to "LESSOR" by certified mail advising "LESSOR" that the lease will not be renewed, provided "LESSEE" is not in default of any terms and conditions contained within this Agreement.

At the conclusion of all two (2) year extension periods, the parties may agree to extend this lease for a total period not to exceed ten (10) years. Any such agreement to extend shall be in writing, be executed by the parties, and shall address the specific time period of extension and the rental payments to be paid by LESSEE. All remaining terms and conditions within this lease agreement shall be carried over and

be in effect during any agreed upon extension. The City Manager shall have sole discretion as to whether he/she wishes to approve said extension agreement and execute the same on behalf of the City of Morgantown.

- 3.2 It is the mutual intent of the parties that this Agreement remains in effect for the full Term, subject to each party's right on breach.

ARTICLE IV

USES AND PRIVILEGES

- 4.1 The "LESSEE" has the right, privilege, and obligation to operate and manage the Airport Restaurant in the Assigned Area for the sale of food, alcoholic beverage, catering in the Airport Terminal. The rights above shall be exclusive as to the "LESSEE" only within the Assigned Area during the term, either original or extended, of this Agreement. The right to provide catering services at the Airport shall be non-exclusive. While not a part of the area being leased to "LESSEE" by this Agreement, "CITY" agrees to allow "LESSEE" to use the meeting room adjacent to the restaurant facilities, subject to the following conditions:
- a. That "LESSEE" must obtain permission from the Airport Manager in advance of each instance that "LESSEE" wishes to use said meeting room;
 - b. That the "CITY" has the right to deny "LESSEE" use of said meeting room if it conflicts with the City's scheduled usage of said meeting room;
 - c. That the "CITY" agrees to not convert the meeting room into any other type of room as long as this lease is in effect.
- 4.2 Nothing herein shall be construed to prevent the "CITY" from permitting any hotel or motel to establish food and beverage facilities on Airport property in conjunction with its right to operate such hotel or motel; nor shall this Agreement prohibit or limit the right of the "CITY" to authorize the installation of vending machines for the sale of food, beverage, snack or tobacco items within the Airport Terminal, as the "CITY", in its sole discretion, may deem appropriate.
- 4.3 "LESSEE" shall have reasonable rights of ingress and egress from the Airport Terminal to its Assigned Area during the hours of 6:00 a.m. until 11:00 p.m. daily. Such rights of ingress or egress shall apply to the "LESSEE'S" employees, guests, Patrons, invitees, and suppliers. "LESSEE" shall be totally responsible for its Assigned Area, locks, and keys, as well as securing the facility when closed.
- 4.4 "LESSEE" agrees not to use, or suffer or permit any person to use the Assigned

Areas or any part thereof, for any illegal purposes, or for any purpose in violation of any Federal or State laws, rules, orders, regulations or ordinances of the "CITY" now in effect or hereafter enacted or adopted and in the event of any violation, or in case the "CITY", or its representatives, or any representatives of the Department of Health shall deem any conduct on the part of the "LESSEE" its agents or employees, to be objectionable or improper the "CITY" shall have the right and power and is hereby authorized by the "LESSEE" to at once declare the Agreement terminated without previous notice to the "LESSEE".

ARTICLE V

OPERATIONAL STANDARDS

- 5.1 The "CITY", by and through its City Manager and Airport Manager, shall have the right to determine the "LESSEE'S" compliance with all operational conditions and requirements. "LESSEE'S" failure or refusal to comply with these Operational Standards shall be deemed a default in its performance hereunder and may be grounds for termination of this Agreement.
- 5.2 The Airport Restaurant in the Assigned Area, shall be operated, ready to serve its guests and patrons, between the hours of 11:00 a.m. until 7:00 p.m., Monday through Saturday and shall be closed on Sundays. The "LESSEE" shall have the option to operate beyond 7:00 p.m.
- 5.3 The "LESSEE" shall operate the Airport Restaurant every day of the Agreement unless a holiday schedule or permission is granted in writing by the Airport Manager to close it as a result of some contingency beyond the control of the "CITY" or the "LESSEE" which shall make it necessary to close the restaurant for any portion of the period of this Agreement.
- 5.4 All items served by the "LESSEE" shall be first quality, shall conform to all applicable regulations and laws, and shall be purchased from reliable sources.
- 5.5 "LESSEE" shall serve, at a minimum, separate and dedicated combination lunch and dinner menu. "LESSEE" shall serve adequate portions and charge reasonable and justifiable prices which are comparable to those maintained at other similar first class establishments in the Morgantown, West Virginia, area, while at the same time maximizing revenues.
- 5.6 "LESSEE" shall make all reasonable efforts to maintain, develop and increase business conducted by it in the Airport Terminal.
- 5.7 "LESSEE" agrees to operate the Restaurant in a highly efficient and attractive manner and to conduct the operation in such a manner as to win public esteem.

- 5.8 All operation shall be supervised at all times by an active, qualified, competent manager or a qualified subordinate in the manager's absence. The manager or qualified subordinate shall be available at the Assigned Area(s) during all business hours.
- 5.9 "LESSEE" shall employ and maintain, at its expense, a sufficient number of employees, help and labor as may be necessary to provide, at all times, effective and efficient service required or authorized in this Agreement. "LESSEE" shall ensure and control the professional conduct, demeanor and appearance of its employees and representatives, who shall be properly trained by the "LESSEE" and shall possess such food handling certificates and qualifications as may be required by law in carrying out the responsibilities of this Agreement.
- 5.10 All personnel employed by the "LESSEE" shall be neat, clean and courteous at all times. Employees shall wear appropriate uniforms and name tags while on duty. No loud, boisterous or otherwise improper actions or language shall be permitted while on or about the Airport.
- 5.11 "LESSEE" shall comply with all health codes and laws applicable to the sale of food, non-alcoholic and alcoholic beverages. "LESSEE" shall cooperate with all local health and fire officials, and comply with all applicable codes, rules and regulations.
- 5.12 "LESSEE" shall accept no less than two (2) major credit cards for purchases. No additional charges shall be levied against the customer using such credit card(s), nor shall discounts be permitted for customers paying cash.
- 5.13 "LESSEE" shall remove and dispose of all garbage, waste and debris from the Assigned Areas and the grounds surrounding the Airport Restaurant and keep the Assigned Areas occupied under this Agreement in a clean and sanitary condition and in conformity with all laws and rules and regulations pertaining to sanitation and public health. A commercial trash dumpster shall be provided for all Airport tenants and each tenant, including "LESSEE", shall be responsible for its own disposal of garbage therein.

ARTICLE VI

RENTS, FEES, AND ACCOUNTABILITY

- 6.1 Annual Rent Payment - In consideration of the rights, privileges, and obligations granted by this Agreement, 'LESSEE' agrees to pay to the "CITY", for the two (2) year period beginning on August 1, 2014, and ending July 31, 2016, of the original term of this Agreement, a rental payment of \$1,200.00 monthly or \$14,400.00 annually.
- 6.2 Annual Rental Payment – (1st Additional Two (2) Year Period). In consideration

of the rights, privileges, and obligations granted by this Agreement, "LESSEE" agrees to pay to the "CITY" during the first additional two (2) year period, beginning August 1, 2016, and ending July 31, 2018, of this Agreement, a rental payment of \$1,300.00 monthly or \$15,600.00 annually.

- 6.3 Annual Rental Payment – (2nd Additional Two (2) Year Period). In consideration of the rights, privileges, and obligations granted by this Agreement, "LESSEE" agrees to pay to the "CITY" during the second two (2) year period, beginning August 1, 2018, and ending July 31, 2020, of this Agreement, a rental payment of \$1,400.00 monthly or \$16,800.00 annually.
- 6.4 Annual Rental Payment – (3rd Additional Two Year (2) Year Period). In consideration of the rights, privileges, and obligations granted by this Agreement, "LESSEE" agrees to pay the "CITY" during the third two (2) year period, beginning August 1, 2020, and ending July 31, 2022, of this Agreement, a rental payment of \$1,500.00 or \$18,000.00 annually.
- 6.5 Annual Rental Payment – (4th Additional Two (2) Year Period). In consideration of the rights, privileges, and obligations granted by this Agreement, "LESSEE" agrees to pay the "CITY" during the fourth two (2) year period, beginning August 1, 2022, and ending July 31, 2024, of this Agreement, a rental payment of \$1,600.00 Monthly or \$19,200.00 annually.
- 6.6 Payments: All payments due the "CITY" from "LESSEE" shall be on a check, no cash shall be accepted, made payable to the following:

Morgantown Municipal Airport

- 6.7 Place of Payment: All payments due the "CITY" from "LESSEE" shall be delivered to the following:

City of Morgantown
Airport Manager's Office
Morgantown Municipal Airport
100 Hart Field Road
Morgantown, West Virginia, 26505

- 6.8 Delinquency Charge: A delinquency charge of five percent (5%) per month shall be added to payments required by Paragraphs 7.1 through 7.10, above, which are rendered more than five (5) days delinquent.

ARTICLE VII

- 7.1 All fixed improvements, equipment and interior design and décor installed by the "LESSEE", its agents, or contractors, including the plans and specifications, shall

conform to all applicable Federal, State and local statutes, ordinances, building codes, the Americans with Disabilities Act, and Morgantown Municipal Airport rules and regulations. Prior to commencing such work, the "LESSEE" shall first obtain approval from the Airport Manager. The approval given by the "CITY" shall not constitute a representation or warranty as to such conformity; responsibility for compliance at all times shall remain in "LESSEE".

- 7.2 All improvements, additions and alterations made to the Assigned Areas by the "LESSEE", shall be and remain the property of the "LESSEE" until the expiration of the term, either original or extended, of this Agreement or upon termination of this Agreement (whether by mutual rescission, cancellation, forfeiture, or otherwise), whichever first occurs, at which time the said improvements, less furniture and readily removable equipment owned by "LESSEE", shall become the property of the "CITY".
- 7.3 The "LESSEE" shall not remove or demolish, in whole or in part, any improvements upon the assigned Areas without the written consent of the "CITY". Consent may be conditional upon the obligation of "LESSEE" to replace the same with a specified improvement. The "CITY" shall not withhold consent unreasonably.
- 7.4 The "LESSEE" may, at its own expense, install and operate necessary and appropriate identification signs on the Airport for the purpose of advertising the Airport Restaurant, subject to the approval of the "CITY" as to the number, size, height, location, color and general type and design.

ARTICLE VIII

MAINTENANCE AND REPAIRS

- 8.1 The "LESSEE" agrees to provide at its own expense such maintenance, custodial, and cleaning services and supplies as may be necessary or required in the operation and maintenance of its Assigned Areas; including, but not limited to, proper maintenance of all grease traps and ventilation fans and hoods.
- 8.2 The "LESSEE" agrees to maintain and make necessary repairs to the interior of all of its Assigned Areas and any equipment which might be furnished by the "CITY". "LESSEE" shall also maintain without limitation, the interior windows, doors and entrances, storefronts, signs, floor coverings, interior walls and ceiling, the surfaces of interior columns exclusive of structural deficiencies, any columns erected by the "LESSEE" and any lighting tubes or bulbs within the Assigned Areas. "LESSEE" agrees to keep and maintain in good and safe condition its electrical equipment and the plumbing fixtures located at or within its Assigned Areas.
- 8.3 The "CITY" agrees to make, at its expense, all structural repairs to the building and repair or replacement of ceiling tiles provided, however, that if repairs or

replacement are necessitated by the negligence of the "LESSEE", its agents, or employees, or by willful destruction, said structural repairs or replacements shall be at the expense of the "LESSEE".

- 8.4 All repairs done by the "LESSEE" or on its behalf shall be of first class quality in both materials and workmanship. All repairs shall be made in conformity with the rules and regulations prescribed from time to time by Federal, State and/or local authorities having jurisdiction over the work in the "LESSEE'S" Assigned Areas.
- 8.5 Representatives of the "CITY" shall have the right to enter the "LESSEE'S" Assigned Areas to:
 - a. Inspect the Assigned Areas at reasonable intervals during the "LESSEE'S" regular business hours or at any time in case of emergency, to determine whether the "LESSEE" has complied with and is complying with the terms and conditions of the Agreement. The "CITY", Airport Manager, may, at its/her discretion, require the "LESSEE" to effect repairs at the "LESSEE'S" own cost; and
 - b. Perform any and all things which "LESSEE" is obligated to and have failed to do after providing "LESSEE" fifteen (15) days written notice to act, including maintenance, repairs and replacements to "LESSEE" Assigned Areas. The cost of all labor, materials, and overhead charges required for performance of such work will be paid by the "LESSEE" to the "CITY" within ten (10) days following receipt of invoice for said charges by "LESSEE".

ARTICLE IX

UTILITIES

- 9.1 The "CITY" shall pay for all electric current, water, and natural gas which enters the Assigned Area via presently installed underground utility lines and pipes, to the Terminal Building, and operated by local utility companies. The "LESSEE" shall be expected to exercise all practical economy in utilizing such utilities, and failure to do so will constitute unsatisfactory operations. The "CITY" shall have the right to insist upon and institute practices, which it deems necessary, which the "LESSEE" shall be expected to implement to insure misuse or abuse of this privilege.

ARTICLE X

LIABILITY, INDEMNIFY AND INSURANCE

- 10.1 Each party hereto shall give to the other prompt and timely written notice of any claim made or suit instituted coming to its knowledge which in any way directly or indirectly, contingency or otherwise, affects or might affect the other party, and

each shall have the right to participate in the defense of the same to the extent of its own interest.

- 10.2 It is expressly understood and agreed by and between the parties hereto that the "LESSEE" is and shall be responsible to all parties for all of its acts or omissions, and the "CITY" shall in no way be responsible therefor. The "LESSEE", and its officers, directors, employees, and agents, shall not be construed to be employees or agents of the "CITY". It is further agreed that in its use and enjoyment of the Airport or premises and facilities herein referred to, the "LESSEE" will indemnify and save harmless the "CITY", and its members, officers, and City Council, employees and agents from any and all claims, liabilities, causes or actions or losses, (including the cost of defense) that may result in liability to the "CITY" from any actions or omissions on the part of the "LESSEE", and/or its employees, authorized agents or representatives, and shall always hold the "CITY", and its members, officers, City Council, employees and agents harmless from same. The "LESSEE" shall save harmless the "CITY", and its members, officers, City Council, employees and agents from all liabilities, claims, judgments, costs, and expenses, including all costs to defense, which may in any manner arise against the "CITY", and its members, officers, City Council, employees and agents in consequence of the granting of this Agreement, which results from the negligence of the "LESSEE", its agents, customers, servants, or employees.
- 10.3 During the term, either original or extended, of this Agreement, the "LESSEE" shall effect and maintain, with a company satisfactory to the "CITY":
- a. Public Liability and Property Damage Insurance including, if deemed necessary by the "CITY", Automobile Liability Insurance - covering claims for damages for bodily injury, including accidental death, and for claims for property damage which may rise from operations under this Agreement, whether such operations are by "LESSEE" or its duly authorized agents, representatives or employees. The "LESSEE'S" public liability insurance shall include coverage for the sale of alcoholic beverages, and shall be in a minimum amount of one million dollars (\$1,000,000.00) for each occurrence and five hundred thousand dollars (\$500,000.00) for property damage covering the acts of the "LESSEE", its agents and employees. "LESSEE" agrees to deliver copies of any and all policies of insurance and certificates of said insurance required by this Agreement to the Airport Manager upon the execution of this Agreement. Additionally, the "CITY" shall be notified in writing by the insurer and "LESSEE" at least thirty (30) days prior to the cancellation of any public liability insurance required under the terms and conditions of this Agreement. "LESSEE" agrees to insure that "CITY" and its officers, agents, and employees are held harmless against any and all claims arising out of "LESSEE'S" services at the Airport.
 - b. Worker's Compensation and Employer's Liability Insurance – "LESSEE" shall provide such coverage for its operations under this Agreement in the

amounts and form required by the Worker's Compensation Act and insurance laws of the State of West Virginia.

- 10.4 "LESSEE" shall not use or permit the storage of any illumination oils, lamps, turpentine, benzene, naphtha, and other similar substances, or explosive of any kind, or any substance or thing prohibited in the standard policies of fire insurance in the State of West Virginia, or by the West Virginia State Fire Code.
- 10.5 It is understood that smoking is prohibited within the Airport facility and that there are designated smoking areas on the north and south ends outside of the building.
- 10.6 During the term, either original or extended, of this Agreement, the "CITY", at its sole discretion, shall have the right to adjust the minimum amounts of all liability insurance coverage required hereunder.

ARTICLE XI

ASSIGNMENT, SUBLEASING, AND CHANGE OF OWNERSHIP

- 11.1 The "LESSEE" shall not assign, delegate, sublease or transfer this Agreement or any other right, privilege, or license conferred by this Agreement, or any duty or obligation slated herein, either in whole or in part, or sublet or in any manner encumber the Assigned Areas or any portion thereof, except as otherwise provided in this Agreement, without obtaining in advance the written consent of the "CITY", which may be withheld at the sole discretion of the "CITY".
- 11.2 The "LESSEE" must obtain the consent of the "CITY" to keep the Agreement in effect prior to any transfer or merger of ownership between the "LESSEE" and any other legal entity. Transfer shall include the transfer of corporate stock from one party to another, but shall not include transfers of stock among shareholders of record as of the date of execution of this lease agreement.

ARTICLE XII

COMPLIANCE

- 12.1 The "LESSEE", its officers, agents, servants, employees, contractors, licensees, and any other person over which the "LESSEE" has the right to control shall comply with all present and future laws, ordinances, orders, directives, rules and regulations of the Federal, State, County, and "CITY" governments which may be applicable to its operations at the Airport.
- 12.2 "LESSEE" shall pay on or before its respective due dates, to the appropriate collecting authority, all Federal, State, and local taxes and fees, which are now or may hereafter be levied upon the Assigned Areas, or upon "LESSEE" or upon

the business conducted on the Assigned Areas, or upon any of the "LESSEE" property used in connection therewith; and shall have and maintain in current status all Federal, State, and local licenses and permits required in the operation of the business conducted by the "LESSEE".

- 12.3 "LESSEE" agrees to pay, or guarantee payment of all lawful fines and penalties as may be assessed by the "CITY" or against the "CITY" for violations of Federal, State, and local laws, ordinances, ruling or regulations, or Airport rules and regulations caused by "LESSEE'S" acts or omissions or those of its employees or agents.
- 12.4 "LESSEE", its employees and agents shall at all times comply with rules and regulations for the Morgantown Municipal Airport (and its Manager) as may be adopted from time to time by the "CITY". In the event that there is a conflict between the provisions of this Agreement and such rules and regulations, this Agreement shall govern unless otherwise directed by the "CITY".

ARTICLE XIII

CANCELLATION BY "LESSEE"

- 13.1 In addition to all other remedies available to the "LESSEE" this Agreement shall be subject to cancellation by the "LESSEE" by giving a thirty (30) day written notice to the "CITY", should any one or more of the following occur, provided however, that none of the compensation and fees which are to be paid by "LESSEE" herein will be refunded to "LESSEE":
- a. The abandonment or the permanent removal of all certificated passenger airline service from the Airport for longer than six (6) months.
 - b. The assumption by the United States Government, or any additional agency thereof, of the operation, control or uses of the Airport, or any substantial part or parts thereof in such manner as to substantially restrict "LESSEE" from operating thereon for a period of at least six (6) months.
 - c. The complete destruction of all of a substantial portion of the Assigned Areas from a cause other than the negligence or omission to act of "LESSEE", its subcontractors, agents or employees, and the failure of the "CITY" to repair or reconstruct said premises within six (6) months after such destruction.
 - d. The breach by the "CITY" in the performance of any covenant or any Agreement required to be performed by the "CITY" and the failure of the "CITY" to commence to remedy such breach for a period of thirty (30) days after receipt of notice of such breach by "CITY" from "LESSEE".
 - e. The issuance by any court of competent jurisdiction of any injunction preventing or restraining the use of the Airport in such a manner as to substantially restrict the "LESSEE" from conducting its restaurant business not caused by the act or omission of the "LESSEE" and the remaining in force of such injunction for at least ninety (90) days.

ARTICLE XIV

CANCELLATION BY "CITY"

- 14.1 In addition to all other remedies provided herein or at law, "CITY" may cancel this Agreement by giving a thirty (30) day written notice to the "LESSEE" should any one or more of the following events occur:
- a. "LESSEE" fails to make any payments required hereunder when due to the "CITY" or within ten (10) days after receipt of written notice from the "CITY" of non-payment.
 - b. "LESSEE" permits to continue, for a period of three (3) days after receipt of written notice from the Airport Manager, the unsafe or unsanitary conditions or practices in or about the Assigned Areas; provided however, if the unsafe or unsanitary condition is such as to require replacement, repair, or construction, "LESSEE" shall have a reasonable time in which to correct said condition, but must begin action on the matter immediately upon receipt of said notice.
 - c. The interest of "LESSEE" under this Agreement is transferred, passes to or devolves upon, by operation of law or otherwise, any other person, firm or corporation without the prior written consent of the "CITY", as per sections 11.1 and 11.2 herein.
 - d. "LESSEE" becomes, without written approval of the "CITY" a successor or merger corporation in a merger, a constituent corporation in a consolidation, or a corporation in dissolution, as per sections 11.1 and 11.2 herein.
 - e. "LESSEE" shall neglect or fail to perform and observe any other promise, covenant or condition set forth in this Agreement within ten (10) days after receipt of written notice of breach from the "CITY" or the Airport Manager, except where fulfillment of such obligation requires activity over a period of time and "LESSEE" has commenced to perform whatever may be required within ten (10) days after receipt of such notice and continues such performance without interruption except for causes beyond its control.
 - f. The levy of any attachment or execution, or the appointment of any receiver, or the execution of any other process of any court of competent jurisdiction which is not vacated, dismissed or set aside within a period of ninety (90) days and which does, or as a direct consequence of such process will, interfere with "LESSEE'S" use of the Assigned Areas or with its operations under this Agreement.
 - g. "LESSEE" becomes insolvent, or takes the benefit of any present or future insolvency statute, or make an assignment for the benefit of creditors, or files a voluntary petition in bankruptcy, or a petition or answer seeking an arrangement for its reorganization, or the arrangement for their reorganization, or the readjustment of the indebtedness under the Federal bankruptcy laws or under any other law or statute of the United States, or under any State laws, or consents to the appointment of a receiver, trustee or liquidator of all or

substantially all of the property or its property located within the Assigned Area.

- h. A petition under any part of the Federal bankruptcy laws, or an action under any present or future insolvency law or statute is filed against "LESSEE" and is not dismissed within ninety (90) days.
 - i. By or pursuant to, or under authority of, any legislative act, resolution or rule, order or decree of any court, governmental board, agency or officer having jurisdiction, a receiver, trustee or liquidator takes possession or control or all or substantially all of the property of "LESSEE", and such possession or control continues in effect for a period of ninety (90) days.
 - j. Any lien is filed against the Assigned Area (s) because of any act or omission of "LESSEE" and such lien is not removed, enjoined or a bond for satisfaction of such lien is not posted within thirty (30) days.
 - k. "LESSEE" abandons, deserts, vacates or discontinues its operation of the business herein authorized for a period of five (5) days without prior written consent of the "CITY".
- 14.2 Acceptance by the "CITY" of any rental payments specified herein, after a breach of any of the terms of this Agreement shall not be deemed a waiver of any right on the part of the "CITY" to cancel this Agreement on account of such breach, unless said breach is fully and completely corrected and cured to the satisfaction of the "CITY" prior to said cancellation, or of the "CITY'S" right to cancel this Agreement because of any subsequent breach of a similar or different nature.
- 14.3 The "CITY" may reenter the Assigned Areas and may remove all persons and property from same upon the date or reentry specified in the "CITY'S" written notice to "LESSEE". Such date of reentry shall not be less than thirty (30) days from the date of said notice. Upon any removal of "LESSEE'S" property by "CITY" hereunder, said property may be stored at a public warehouse or elsewhere at "LESSEE'S" sole cost and expense.

ARTICLE XV

GENERAL PROVISIONS

15.1 Nondiscrimination

- a. The "LESSEE", as a part of the consideration hereof, does hereby covenant and agree:
 - 1. That no person, on the grounds of race, color, religion, creed, political ideas, sex, age, or handicap shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities;
 - 2. That in the construction of any improvements and the furnishing of services, no person, on the grounds of race, color, religion, creed, political

ideas, sex, age, or handicap, shall be excluded from participation in, denied benefits of, or be otherwise subject to discrimination in the use of said facilities;

3. That the "LESSEE" shall use the Assigned Areas in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.
 4. That the "CITY" has provided handicapped accessible ingress and egress to the leased area and "LESSEE" shall not close or otherwise cause said access way to be nonfunctional without first providing an alternative means of access which has been approved in writing by the Airport Manager.
- b. The "LESSEE" shall furnish its accommodations and/or services on a fair, equal, and nondiscriminatory basis to all users thereof, and it shall charge fair, reasonable, and nondiscriminatory prices for each unit of services; however, the "LESSEE" may be allowed to make reasonable discounts to other similar type of price reductions to purchasers on a nondiscriminatory basis.
 - c. "LESSEE" acknowledges that the provisions of 49 CFR, Part 23, Disadvantaged Business Enterprise (DBE) and 14 CFR, Part 152, Affirmative Action Employment Program, are applicable to the activities of "LESSEE" under the terms of this Agreement, and unless exempted by said regulations, hereby agrees to comply with all requirements of the Department, the Federal Aviation Administration, and the U.S. Department of Transportation, in reference thereto. These requirements may include, but not be limited to, the compliance with MBE, DBE, and/or Employment Affirmative Action participation goals, the keeping of certain records of good faith compliance efforts, which would be subject to review by the various agencies, the submission of various reports, and including, if directed by the Department, the contracting of specified percentage of goods and services contracts to Minority Business Enterprises.
 - d. Noncompliance by "LESSEE" with the requirements of section 16.1 of this Agreement shall constitute a material breach thereof. In the event of such noncompliance, the "CITY" shall have the right to cancel this Agreement after all actions required by the United States Government have been exhausted.
- 15.2 Federal Aviation Act, Section 300: Nothing herein contained shall be deemed to grant the "LESSEE" any exclusive right or privilege within the meaning of Section 308 of the Federal Aviation Act for the conduct of any aeronautical activity on the Airport, except that, subject to the terms and conditions hereof, the "LESSEE" shall have the right to process the Assigned Area under the provisions of this Agreement.
- 15.3 Subordination to Agreements With The United States Government: This

Agreement is subject and subordinate to the provisions of any agreement heretofore or hereafter made between the "CITY" and the United States Government, relative to the operations and maintenance of the Airport, the execution of which has been required as a condition precedent to the transfer of federal rights or property to the "CITY" for Airport purposes, or the expenditure of federal funds for the improvement or development of the Airport, in accordance with the provisions of the Federal Aviation Act of 1958, as amended from time to time. The "CITY" covenants that to the best of its knowledge and belief it has no existing agreements with the United States Government in conflict with the express provisions of this Agreement.

- 15.4 Waiver of Damages: The "LESSEE" hereby expressly waives any and all claims for compensation for any and all loss or damages sustained by reason or any defect, deficiency or impairment of the electrical apparatus, water supply equipment, equipment or wires used in the Assigned Areas, herein mentioned, or by reason of any loss or impairment of light, current or water supply which may occur from time to time for any cause, or for loss or damage sustained by the "LESSEE" resulting from fire, water, windstorm, tornado, civil commotion, or riots and the "LESSEE" hereby expressly waives all right, claims and demands and forever releases the "CITY", its officers, employees and agents, from any and all demands, claims, actions, and causes of action arising from any such cause.
- 15.5 Nonwaiver of Rights: Failure of the "CITY" to insist upon strict performance of any provision or condition of this Agreement, or to exercise any right herein, shall not operate or be construed to be a waiver of such condition or right in any other instance.
- 15.6 Notices: Notices required herein may be given by registered or certified mail by Depositing the same in the United State mail in the continental United States, postage prepaid. Any such notice so mailed shall be presumed to have been received by the addresses seventy-two (72) hours after deposit of same in the mail. Notices in writing may also be delivered by personal service of said notice to the agents for each party at the addresses listed below. Either party shall have the right, by giving notice to the other, to change the address at which its notices are to be received. Until such change is made, notices to the "CITY" shall be delivered as follows:

City of Morgantown
Airport Manager's Office
Morgantown Municipal Airport
Morgantown, WV 26505

Notices to "LESSEE" shall be deemed sufficient if in writing and mailed to, registered or certified, postage prepaid, addressed to "LESSEE" at:

Elias Hishmeh
82 Hart Field Road
Suite 255
Morgantown, WV 26505

- 15.7 Right to Develop Airport: It is further covenanted and agreed that the "CITY" reserves the right to further develop or improve the Airport, including the Terminal and all landing areas as it may see fit, regardless of the desires or views of the "LESSEE" and without interference or hindrance. The "CITY" shall have the right to construct or install over, in, under or through the Assigned Areas new lines, pipes, mains, wires, conduit and equipment.
- 15.8 Relationship of Parties: Nothing contained herein shall be deemed or construed by the parties hereto, or any third party, as creating the relationship of principal and agent, partners, joint venture, or any other similar such relationship, between the CITY OF MORGANTOWN and "LESSEE". The parties shall understand and agree that neither the method of computation of rent, nor any other provision contained herein, nor any acts of the parties hereto creates a relationship other than the relationship of the "CITY" and "LESSEE". This agreement is not intended to and shall not be construed to vest in the "LESSEE" any title, tenure or any property rights in the real estate, fixtures or personal property belonging to the "CITY" now located, or which may hereafter be located, in or around the Assigned Areas.
- 15.9 Right to Amend: In the event that the Federal Aviation Administration or its successors requires modifications or changes in this Agreement as a condition precedent to the granting of funds for the improvement of the Airport or otherwise, the "LESSEE" agrees to consent to such amendments, modifications, revisions, supplements, or decisions of any of the terms, conditions, or requirements of this Agreement as may be reasonably required.
- 15.10 Termination: Upon the termination or cancellation of this Agreement for any cause the "LESSEE" shall vacate the Assigned Area and shall not remove any of the "LESSEE'S" supplies, property or equipment from the Assigned Areas until all license fees, Business and Occupation taxes, and other sums due the "CITY" have been paid.

ARTICLE XVI

ENTIRE AGREEMENT

- 16.1 The parties hereto understand and agree that this instrument, including the items specifically incorporated by reference into it consistent with the terms of this document, and its attached Exhibits contain the entire Agreement between the parties. The parties further understand and agree that neither party nor its agents have made representations or promises with respect to this Agreement

except as expressly set forth herein; and that no claim or liability shall arise for any representations or promises not expressly stated in this Agreement, any other writing or parole agreement with the other party being expressly waived.

THE CITY OF MORGANTOWN
a municipal corporation,
"CITY"

By: _____
Jeff Mikorski, City Manager

Witness: _____

MERKOL, INC. A West Virginia
corporation, "LESSEE"
"MERKOL, INC."

By: _____

Its: _____

Witness: _____

AN ORDINANCE AMENDING THE FY 2014-2015 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND.

The City of Morgantown hereby ordains:

That the FY 2014-2015 Annual Budget of the General Fund of the City of Morgantown is amended as shown in the revised budget (Revision 01) attached hereto and made a part of this ordinance.

First Reading:

Adopted:

Mayor

Filed:

Recorded:

City Clerk

Ora Ash, Deputy State Auditor
 West Virginia State Auditor's Office
 200 West Main Street
 Clarksburg, WV 26301
 Phone: 627-2415 ext. 5114
 Fax: 627-2417

REQUEST FOR REVISION TO APPROVED BUDGET

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

CONTROL NUMBER
 FY: **2014-2015**
 Fund: **General**
 Rev. No. **1**
 Pg. of No. **1 of 1**

City of Morgantown
 GOVERNMENT ENTITY

389 Spruce Street
 STREET OR PO BOX

Municipality
 Government Type

Person To Contact Regarding Request:

Name: **J.R. Sabatelli**

Phone: **304-284-7407**

Fax: **304-284-7418**

Morgantown
 CITY

26505
 ZIP CODE

REVENUES: (net each acct.)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
299	Unassigned Fund Balance	360,000	160,000		520,000
305	Business and Occupation Tax	13,130,000		100,000	13,030,000
	#N/A				

NET INCREASE/(DECREASE) Revenues (ALL PAGES) 60,000

Explanation for Account # 378, Municipal Specific:

Explanation for Account # 369, Contributions from Other Funds:

EXPENDITURES: (net each account category)

(WV CODE 7-1-9)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
699	Contingencies*	266,662	16,500		283,162
700	Police Department	6,630,520	17,500		6,648,020
444	Contributions / Transfers to Other Funds	1,753,806	26,000		1,779,806
	#N/A				

NET INCREASE/(DECREASE) Expenditures 60,000

APPROVED BY THE STATE AUDITOR

BY: Deputy State Auditor, Local Government Services Division Date

AUTHORIZED SIGNATURE OF ENTITY

APPROVAL DATE

City of Morgantown

Finance Department

389 Spruce Street

Morgantown, WV 26505

Phone (304) 284-7407/Fax 7418

jsabatelli@cityofmorgantown.org

MEMO

DATE: July 9, 2014

TO: Jeff Mikorski, ICMA-CM, City Manager

FROM: J.R. Sabatelli, CPA, Finance Director 

RE: General Fund Budget Revision 1

Included herewith you will find the proposed ordinance and "Request for Revision to Approved Budget" for the FY2015 General Fund Budget. An explanation of the proposed changes follows:

The adjustments to revenue reflect an increase from the projected and approved carryover from the previous fiscal year (FY14) to the current projected carryover based on actual figures, coupled with a small conservative decrease in Business & Occupation Taxes based on the results of the recently completed fiscal year.

The adjustments to expenditures include an increase in contributions to the Community Development Fund to cover administrative costs not covered by the Community Development Block Grant. Also included is an increase to the Police Department telephone expense which will more accurately reflect costs realized over previous fiscal years. A slightly more detailed breakdown of individual lines affected in each department is included as supplementary information.

City of Morgantown
 General Fund
 Budget Revision #1
 Fiscal Year 2015

Non-wage items requiring adjustment:

	Current	New	Revision
Dept 700 Police Department Telephone	22,500.00	40,000.00	17,500.00
Dept 70 Operating Transfers CDBG Fund Support	23,806.00	49,806.00	26,000.00
Total nonwage	23,806.00	49,806.00	43,500.00
Total Increase overall			43,500.00
Totals by Department			
Dept 700 Police Department			17,500.00
Dept 70 Operating Transfers			26,000.00
Contingencies			<u>16,500.00</u>
			60,000.00

Revenue Adjustment

	Current	New	Revision
Prior Year Carryover	360,000.00	520,000.00	160,000.00
B&O Taxes	<u>10,900,000.00</u>	<u>10,800,000.00</u>	<u>(100,000.00)</u>
	11,260,000.00	11,320,000.00	60,000.00

RESOLUTION

WHEREAS, the City of Morgantown provides medical health insurance and services to city employees and retirees;

WHEREAS, the City of Morgantown wishes to provide city employees and non-Medicare retirees with affordable quality medical health care through a free onsite clinic;

WHEREAS, the City of Morgantown wishes to apply to the State of West Virginia Health Care Authority for a Certificate of Need for a health clinic for employees and non-Medicare retirees;

WHEREAS, the City of Morgantown intends to fund all costs, capital and operational, of the onsite health clinic through its self-funded Life and Health Insurance program

BE IT HEREBY RESOLVED that Jeff Mikorski, City Manager, is authorized to apply to and execute all applications and agreements with and for the State of West Virginia Health Care Authority for a Certificate of Need for an onsite health clinic,

BE IT FURTHER RESOLVED that all expenditures related to the capital and operational needs of an onsite health clinic will be paid through the City's self-funded Life and Health Insurance Fund.

This Resolution shall be effective from this _____ day of _____, 2014.

MAYOR

CITY CLERK

THE CITY OF MORGANTOWN

Combined Utility System Revenue Bonds, Series 2014 B

SUPPLEMENTAL PARAMETERS RESOLUTION

SUPPLEMENTAL PARAMETERS RESOLUTION AUTHORIZING AND APPROVING CERTAIN PARAMETERS AS TO THE PRINCIPAL AMOUNT, DATES, MATURITY DATE, INTEREST RATES, INTEREST AND PRINCIPAL PAYMENT DATES AND OTHER TERMS OF THE COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2014 B OF THE CITY OF MORGANTOWN; AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF SUCH BONDS; AND MAKING OTHER PROVISIONS AS TO THE SERIES 2014 B BONDS, AUTHORIZING A TAX COMPLIANCE POLICY, A CERTIFICATE OF DETERMINATIONS AND OTHER INSTRUMENTS RELATING TO THE BONDS;

WHEREAS, The City of Morgantown (the "Issuer") in the County of Monongalia, State of West Virginia, is a municipality and political subdivision of said State, the governing body of which is its Council (the "Governing Body");

WHEREAS, the Governing Body has duly and officially enacted on July 15, 2014, an Ordinance (the "Ordinance") entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE STORMWATER PORTION OF THE COMBINED SYSTEM OF THE CITY OF MORGANTOWN AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$850,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2014 B; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; AND AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

Bonds shall be 100% of par value, there being no interest accrued thereon.

Section 4. A. Section 7.08 of the Ordinance is amended to include the following paragraph:

The Issuer shall provide the Purchaser with audited financial statements of the Issuer and of the Morgantown Utility Board, free of significant deficiencies or material weakness, and prepared by an independent Certified Public Accountant, within 270 days of the close of the fiscal year.

B. Section 7.10 of the Ordinance is amended to include the following paragraph:

The Issuer shall provide the Purchaser with a copy of its annual budget, as adopted or amended, within 30 days of adoption or amendment.

Section 5. The Issuer does hereby appoint and designate JP Morgan Chase Bank, NA, Beckley, West Virginia, the Registrar for the Series 2014 B Bonds.

Section 6. The Issuer does hereby appoint and designate the Municipal Bond Commission (the "Commission") as Paying Agent for the Series 2014 B Bonds.

Section 7. Series 2014 B Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2014 B Bonds Sinking Fund, as capitalized interest.

Section 8. Series 2014 B Bonds proceeds in the amount prescribed in the Certificate of Determinations shall be deposited in the Series 2014 B Bonds Reserve Account.

Section 9. The Issuer hereby authorizes the Morgantown Utility Board to requisition proceeds of the Bonds.

Section 10. The issuance of the Series 2014 B Bonds and the acquisition and construction of the Project with proceeds of the Series 2014 B Bonds is in the public interest, serves a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 11. The firm of Steptoe & Johnson PLLC, Charleston, West Virginia, is hereby appointed bond counsel to the Issuer in connection with the issuance of the Series 2014 B Bonds.

Section 12. The Tax Compliance Policy attached hereto as Exhibit B is hereby approved.

Section 13. The Mayor and Clerk, and all other appropriate officers and employees of the Issuer are hereby authorized, empowered and directed to do any and all things proper and necessary to cause the Series 2014 B Bonds to be duly and properly issued by the Issuer and delivered to the Original Purchaser as herein authorized and to otherwise facilitate the transaction contemplated by this Supplemental Parameters Resolution, and no further authority shall be necessary to authorize any such officers or employees to give such further assurance and do such further acts as may be legally required.

CERTIFICATION

Certified a true copy of a Supplemental Parameters Resolution duly adopted by the Council of The City of Morgantown on July 15, 2014.

Dated: July 23, 2014.

[SEAL]

Clerk

627490.00056

Determination of Taxability. Any interest being past due on the Series 2014 B Bonds by reason of such increase shall become immediately due and payable.

C. The Series 2014 B Bond shall be payable in _____ monthly installments, commencing _____, 2014, and continuing on the 1st day of each month thereafter to and including _____, 20_____. The monthly installments shall consist of principal and interest and shall be as listed on the debt service schedule attached hereto.

D. The Series 2014 B Bonds are subject to optional redemption in whole or in part, on any interest payment date subsequent to July 31, 2019 at a price of par plus accrued interest, with 30 days written notice to Bank via US Mail.

E. All payments received by the Paying Agent on account of the Series 2014 B Bonds shall be applied first to payment of interest accrued on the Series 2014 B Bonds and next to payment of principal of the Series 2014 B Bonds. If not sooner paid, the entire principal amount of the Series 2014 B Bonds unpaid on _____, 20_____, together with all accrued interest and any other sums due and owing upon the Series 2014 B Bonds shall be due and payable on such date.

3. The Series 2014 Bonds shall mature in the amounts and on the dates and shall be subject to mandatory sinking fund redemption in the amounts and on the dates set forth on Schedule 1 attached hereto and incorporated herein.

4. Series 2014 B Bonds proceeds in the amount of \$-0- shall be deposited at Closing in the Series 2014 B Bonds Reserve Account. The Series 2014 B Bonds Reserve Account will be funded over 10 years until funded in the amount of \$_____ (the "Reserve Requirement").

5. United Bank, Inc., Morgantown, West Virginia is appointed as the Depository Bank.

The undersigned hereby certifies that the foregoing terms and conditions of the Series 2014 B Bonds are within the parameters prescribed by the Supplemental Parameters Resolution, and the Series 2014 B Bonds may be issued with such terms and conditions as authorized by the Supplemental Parameters Resolution.

Debt Service Schedule

THE CITY OF MORGANTOWN
AGENDA ITEMS FOR JULY 15, 2014

- A. To conduct a public hearing and act upon a proposed Bond Ordinance.
- B. To consider on third reading and act upon a proposed Bond Ordinance entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE STORMWATER PORTION OF THE COMBINED SYSTEM OF THE CITY OF MORGANTOWN AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$850,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2014 B; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; AND AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.
- C. To consider and act upon a proposed Supplemental Parameters Resolution relating to the Bonds.

627490.00056

RESOLUTION

A Resolution of the Morgantown City Council protesting Proposed Electric Rate Increases

WHEREAS, the Monongahela Power Company and the Potomac Edison Power Company have given public notice of a tariff for furnishing electric service that includes a proposed base rate increase and new vegetation management surcharge; and

WHEREAS, the proposed increase, Case Number 14-0702-E-42T, has been filed with the Public Service Commission of West Virginia for public hearings prior to consideration of a decision; and

WHEREAS, the proposed increase will affect nearly 525,000 customers in northern, central, eastern and northwestern portions of West Virginia in the following counties: Barbour, Berkeley, Braxton, Brooke, Calhoun, Clay, Doddridge, Fayette, Gilmer, Grant, Greenbrier, Hampshire, Hancock, Hardy, Harrison, Jackson, Jefferson, Lewis, Marion, Mineral, Monongalia, Monroe, Morgan, Nicholas, Pendleton, Pleasants, Pocahontas, Preston, Randolph, Ritchie, Roane, Summers, Taylor, Tucker, Tyler, Upshur, Webster, Wetzell, Wirt and Wood; and

WHEREAS, the proposed total rate increase with surcharge will impact various classes of customers amounting to a 15.85% increase for residential customers, a 14.54% increase for commercial customers, a 10.12% increase for industrial customers, and a 25.07% increase for street lighting customers; and

WHEREAS, the proposed increase will not only affect the budgets of all municipal, county and state governmental entities, academic institutions, retail establishments and non-profit organizations, but will also affect every taxpayer as well; and

WHEREAS, the Morgantown City Council does hereby formally protest the petition of the Monongahela Power Company and the Potomac Edison Power Company currently before the Public Service Commission of West Virginia to increase utility rates and charges.

FURTHERMORE, upon adoption, a copy of this Resolution shall be forwarded to the Public Service Commission of West Virginia.

MAYOR

CITY CLERK