



Office of the City Clerk

The City of Morgantown

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**AMENDED AGENDA
MORGANTOWN CITY COUNCIL
REGULAR MEETING
August 6, 2013
7:00 p.m.**

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **PLEDGE TO THE FLAG**
4. **APPROVAL OF MINUTES:** Regular Meeting – July 16, 2013
Special Meeting – July 16, 2013
5. **CORRESPONDENCE**
6. **PUBLIC HEARING:**
 - A. **PUBLIC HEARING on AN ORDINANCE AMENDING THE FY 2013-2014 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 COAL SEVERANCE FUND.**
 - B. **PUBLIC HEARING on AN ORDINANCE AMENDING THE FY 2013-2014 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.**
 - C. **PUBLIC HEARING on AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BETWEEN IT AND THE MONONGALIA COUNTY DEVELOPMENT AUTHORITY WHICH PERTAINS TO THE FUNDING OF A MITIGATION PLAN PERTAINING TO THE CONSTRUCTION OF THE MORGANTOWN MUNICIPAL AIRPORT ACCESS ROAD; SAID FUNDING PLAN BEING REQUIRED BY THE UNITED STATES ARMY CORPS OF ENGINEERS.**

7. **UNFINISHED BUSINESS:**

- A. Consideration of **APPROVAL** of **SECOND READING (ADOPTION)** of **AN ORDINANCE AMENDING THE FY 2013-2014 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 COAL SEVERANCE FUND.** (First Reading July 16, 2013)
- B. Consideration of **APPROVAL** of **SECOND READING (ADOPTION)** of **AN ORDINANCE AMENDING THE FY 2013-2014 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.** (First Reading July 16, 2013)
- C. Consideration of **APPROVAL** of **SECOND READING (ADOPTION)** of **AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BETWEEN IT AND THE MONONGALIA COUNTY DEVELOPMENT AUTHORITY WHICH PERTAINS TO THE FUNDING OF A MITIGATION PLAN PERTAINING TO THE CONSTRUCTION OF THE MORGANTOWN MUNICIPAL AIRPORT ACCESS ROAD; SAID FUNDING PLAN BEING REQUIRED BY THE UNITED STATES ARMY CORPS OF ENGINEERS.** (First Reading July 16, 2013)
- D. **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 PROVIDING FOR THE ZONING RECLASSIFICATION OF TWO PARCELS OF REAL ESTATE IN THE THIRD AND FIFTH WARDS OF THE CITY OF MORGANTOWN FROM R-2, SINGLE- AND TWO-FAMILY RESIDENTIAL DISTRICT AND B-2, SERVICE BUSINESS DISTRICT TO B-4, GENERAL BUSINESS DISTRICT BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON**

THE EXHIBIT HERETO ATTACHED AND FULLY DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.

- B. Consideration of APPROVAL of FIRST READING of AN ORDINANCE AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF ONE PARCEL OF REAL ESTATE IN THE FOURTH WARD OF THE CITY OF MORGANTOWN FROM B-1, NEIGHBORHOOD BUSINESS DISTRICT TO B-2, SERVICE BUSINESS DISTRICT BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.**
- C. Consideration of APPROVAL of FIRST READING of AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF MORGANTOWN AND THE MONONGALIA COUNTY BOARD OF EDUCATION, AS THE SAME APPLIES TO A PREVENTION RESOURCES OFFICER IN THE MONONGALIA COUNTY SCHOOL SYSTEM AT MORGANTOWN HIGH SCHOOL.**
- D. Consideration of APPROVAL of FIRST READING of AN ORDINANCE AMENDING SECTION 345.35 OF THE TRAFFIC CODE OF THE CITY OF MORGANTOWN MAKING THE OFFENSE OF FAILURE TO WEAR SAFETY BELTS A PRIMARY OFFENSE.**
- E. Consideration of APPROVAL of A SUPPLEMENTAL RESOLUTION PROVIDING FOR THE ACQUISITION OF THE CANYON PUBLIC SERVICE DISTRICT SEWER SYSTEM AND THE ASSUMPTION, RE-DESIGNATION AND REPLACEMENT OF CANYON PUBLIC SERVICE DISTRICT'S SEWER REVENUE BONDS, SERIES 2008 A (WEST VIRGINIA INFRASTRUCTURE FUND) AS THE CITY OF MORGANTOWN COMBINED UTILITY BONDS, SERIES 2013 A.**

11. CITY MANAGER'S REPORT:

INFORMATION:

- 1. Sunnyside TIF District Engineering Request for Qualifications**
- 2. Administration Team Mini-retreat**

ACTION:

1. **Capital Escrow Budget Amendment**
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

SPECIAL MEETING JULY 16, 2013:

The special meeting of the Common Council of the City of Morgantown was held in the Council Chambers on Tuesday, July 16, 2013 at 6:15 p.m.

PRESENT: Mayor Jenny Selin, and Council Members, Bill Kawecki, Wes Nugent, Marti Shamberger, Mike Fike, and Nancy Ganz. (Ron Bane Absent).

The meeting was called to order by Mayor Selin.

INTERVIEWS TO FILL VACANCY ON THE MORGANTOWN UTILITY BOARD:

Council Members interviewed each applicant: Bill Rice, Bill Ayers and Jesse Bumps. Questions were posed to the candidates who applied to fill a vacancy to serve the remainder of one unexpired term.

Following the interviews, council moved into executive session in order to discuss the results of the interviews and make a determination on which applicant will be chosen to serve the Board.

EXECUTIVE SESSION:

Motion by Councilor Fike, second by Councilor Shamberger, to go into executive session pursuant to Section 6-9A-4(b)-2(A) of the West Virginia Code in order to discuss personnel matters with the following persons present; Mayor Selin, and Council Members .

ADJOURNMENT:

There being no further business, Council adjourned the special meeting at 7:20 pm.

City Clerk

Mayor

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

REGULAR MEETING, JULY 16, 2013: The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers of City Hall on Tuesday, July 16, 2013 at 7:00P.M.

PRESENT: City Manager Jeff Mikorski, Assistant City Manager of Operations Glen Kelly, City Attorney Steve Fanok, City Clerk Linda Little, and Council Members: Bill Kawecki, Wes Nugent, Jenny Selin, Marti Shamberger, Mike Fike and Nancy Ganz. Council Member Ron Bane was Absent.

APPROVAL OF MINUTES: The minutes of the Regular Meeting of July 2, 2013, were approved as presented.

CORRESPONDENCE: Councilor Ganz shared two pieces of correspondence, the first a letter of commendation from Mr. Summers, president of the Police Civil Service Commission, thanking City Clerk Little for her service to the City. The second, a letter from Mrs. Grubbs-Paul, a City election worker who shared her views about the Municipal Election. Councilor Ganz asked that it be made a part of the upcoming election report at the August Committee of the Whole meeting. Ms. Little added that the letters were requested of the poll workers in order to gain insight from their experience and suggestions for inclusion with the report.

PUBLIC HEARING – A BOND ORDINANCE PROVIDING FOR THE ASSUMPTION OF THE SCOTTS RUN PUBLIC SERVICE DISTRICT SEWER SYSTEM AND ITS: (I) SEWER REVENUE BONDS, SERIES 1991 A, (II) SEWER REVENUE BONDS, SERIES 1991 B, (III) SEWER REVENUE BONDS, SERIES 2003 A AND (IV) SEWER REVENUE BONDS, SERIES 2009 A AND RE-DESIGNATING AND REPLACING WITH ITS: (I) COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2013 B; (II) COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2013 C; (III) COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2013 D; AND (IV) COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2013 E (COLLECTIVELY, THE “BONDS”). THE BONDS ARE PAYABLE SOLELY FROM REVENUES TO BE DERIVED FROM THE OWNERSHIP AND OPERATION OF THE COMBINED UTILITY SYSTEM OF THE CITY.

John Stump, Steptoe and Johnson, explained that this is the final reading of the Bonds Ordinance and a Supplemental Resolution will follow. He detailed the acquisition process for Council and its approval through the Public Service Commission.

There being no other appearances, Mayor Selin declared the public hearing closed.

PUBLIC HEARING – AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING A TERMINABLE RIGHT-OF-WAY AND EASEMENT AGREEMENT BY AND BETWEEN THE CITY OF MORGANTOWN, GRANTOR, AND DEDRA F. BLANKENSHIP, GRANTEE, AS THE SAME APPLIES TO A STORMWATER LINE WITHIN THE CITY’S KREPPS PARK REALTY.

There being no appearances, Mayor Selin declared the public hearing closed.

PUBLIC HEARING – AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTIONS 1751.06(b) AND 1751.07(d) OF ITS BUILDING AND HOUSING CODE, AS THE SAME APPLY TO INSPECTIONS AND LETTERS OF COMPLIANCE; AND ADDING A NEW SECTION 1751.18 TO ARTICLE 1751 ADDRESSING CARBON MONOXIDE DETECTORS.

There being no appearances, Mayor Selin declared the public hearing closed.

PUBLIC HEARING – AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING A JANUARY 6, 2009, LEASE AGREEMENT BY AND BETWEEN IT, AS LESSOR, AND THE STATE OF WEST VIRGINIA, LESSEE, PERTAINING TO SPACE WITHIN THE AIRPORT TERMINAL BUILDING BEING UTILIZED BY THE WEST VIRGINIA ARMY NATIONAL GUARD BAND.

There being no appearances, Mayor Selin declared the public hearing closed.

PUBLIC HEARING – AN ORDINANCE BY THE CITY OF MORGANTOWN, AUTHORIZING A LEASE AGREEMENT AMENDMENT BY IT, AS LESSOR, AND THE UNITED STATES OF AMERICA, AS LESSEE, ON BEHALF OF THE TRANSPORTATION SECURITY ADMINISTRATION (TSA), AS THE SAME APPLIES TO LEASE TERM AND RENTAL PAYMENT.

There being no appearances, Mayor Selin declared the public hearing closed.

UNFINISHED BUSINESS:

A BOND ORDINANCE PROVIDING FOR THE ASSUMPTION OF THE SCOTTS RUN PUBLIC RUN SERVICE DISTRICT SEWER SYSTEM: The above entitled Ordinance was presented for second reading.

A BOND ORDINANCE PROVIDING FOR THE ASSUMPTION OF THE SCOTTS RUN PUBLIC SERVICE DISTRICT SEWER SYSTEM AND ITS: (I) SEWER REVENUE BONDS, SERIES 1991 A, (II) SEWER REVENUE BONDS, SERIES 1991 B, (III) SEWER REVENUE BONDS, SERIES 2003 A AND (IV) SEWER REVENUE BONDS, SERIES 2009 A AND RE-DESIGNATING AND REPLACING WITH ITS: (I) COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2013 B; (II) COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2013 C; (III) COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2013 D; AND (IV) COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2013 E (COLLECTIVELY, THE "BONDS"). THE BONDS ARE PAYABLE SOLELY FROM REVENUES TO BE DERIVED FROM THE OWNERSHIP AND OPERATION OF THE COMBINED UTILITY SYSTEM OF THE CITY.

Motion by Ganz, second by Kawecki to adopt the above entitled ordinance. Motion carried 6-0.

AN ORDINANCE AUTHORIZING A RIGHT OF WAY FOR A STORMWATER LINE WITHIN KREPPS PARK REALTY: The below entitled Ordinance was presented for second reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING A TERMINABLE RIGHT-OF-WAY AND EASEMENT AGREEMENT BY AND BETWEEN THE CITY OF MORGANTOWN, GRANTOR, AND DEDRA F. BLANKENSHIP, GRANTEE, AS THE SAME APPLIES TO A STORMWATER LINE WITHIN THE CITY'S KREPPS PARK REALTY.

Motion by Shamberger, second by Nugent to adopt the above entitled ordinance. Motion carried 5-0. Councilor Ganz abstained from voting; Reason cited: "Concerns over City giving up rights of ways with no money transferring or no property traded".

AN ORDINANCE AMENDING THE BUILDING AND HOUSING CODE, ADDRESSING CARBON MONOXIDE DETECTORS: The below entitled Ordinance was presented for second reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTIONS 1751.06(b) AND 1751.07(d) OF ITS BUILDING AND HOUSING CODE, AS THE SAME APPLY TO INSPECTIONS AND LETTERS OF COMPLIANCE; AND ADDING A NEW SECTION 1751.18 TO ARTICLE 1751 ADDRESSING CARBON MONOXIDE DETECTORS.

Motion by Fike, second by Ganz to adopt the above entitled ordinance. Motion carried 6-0.

AN ORDINANCE AMENDING A LEASE AGREEMENT FOR SPACE AT THE AIRPORT UTILIZED BY THE ARMY NATIONAL GUARD BAND: The below entitled Ordinance was presented for second reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING A JANUARY 6, 2009, LEASE AGREEMENT BY AND BETWEEN IT, AS LESSOR, AND THE STATE OF WEST VIRGINIA, LESSEE, PERTAINING TO SPACE WITHIN THE AIRPORT TERMINAL BUILDING BEING UTILIZED BY THE WEST VIRGINIA ARMY NATIONAL GUARD BAND.

Motion by Nugent, second by Shamberger to adopt the above entitled ordinance. Motion carried 6-0.

AN ORDINANCE AMENDING A LEASE AGREEMENT WITH THE U.S. GOVERNMENT FOR TSA LEASE TERM AND RENTAL PAYMENT AT THE AIRPORT: The below entitled Ordinance was presented for second reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN, AUTHORIZING A LEASE AGREEMENT AMENDMENT BY IT, AS LESSOR, AND THE UNITED STATES OF AMERICA, AS LESSEE, ON BEHALF OF THE TRANSPORTATION SECURITY ADMINISTRATION (TSA), AS THE SAME APPLIES TO LEASE TERM AND RENTAL PAYMENT.

Motion by Ganz, second by Kawecki to adopt the above entitled ordinance. Motion carried 6-0.

BOARDS AND COMMISSIONS: By acclamation of Council: Anne Marie Lofaso, Jan Derry and Warren Harger were re-appointed to the Human Rights Commission; Bill Rice was appointed to the Morgantown Utility Board; and Cindy Fike was appointed to the Urban Landscape Commission.

Additionally, the following Council Members were assigned to their respective Committees: Mayor Selin and Councilor Shamberger to the MPO; Mayor Selin to the Airport Advisory Committee; Mayor Selin and Councilor Kawecki to Sunnyside Up; and Councilor Fike to the Pedestrian Safety Board;

PUBLIC PORTION:

Paul Heironimus, 760 Spring Branch Road, owns a home at 233 Willowdale Road, reported to Council that over the 23 years of ownership of that residence, there have been numerous auto accidents at the location and many cars have ended up in the front yard and damaging property at the home. He asked Council to place speed bumps or humps in the road as a traffic control measure for the area.

Sera Zegre, 352 Oakland Street, stated that the WVU smoking policy is forcing the employees to cross the street from campus and stand on the sidewalk to smoke. Subsequently there is now constant smoke, litter and loitering of smokers directly in front of her home on a daily basis. She asked that the City urge WVU to amend the policy to allow a more appropriate place for smokers to congregate that will not affect the neighbors or anyone's safety.

There being no more appearances, Mayor Selin declared the public portion closed.

SPECIAL COMMITTEE REPORTS: No Reports.

NEW BUSINESS:

AN ORDINANCE AMENDING THE ANNUAL BUDGET, COAL SEVERANCE FUND:

The below entitled Ordinance was presented for first reading:

AN ORDINANCE AMENDING THE FY 2013-2014 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 COAL SEVERANCE FUND.

Motion by Shamberger, second by Nugent to pass the above entitled Ordinance to second reading. After explanation from the City Manager, motion carried 6-0.

AN ORDINANCE AMENDING THE ANNUAL BUDGET, COAL SEVERANCE FUND:

The below entitled Ordinance was presented for first reading:

AN ORDINANCE AMENDING THE FY 2013-2014 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.

Motion by Nugent, second by Kawecki to pass the above entitled Ordinance to second reading. After explanation from the City Manager, motion carried 6-0.

AN ORDINANCE AMENDING A LEASE AGREEMENT FOR SPACE AT THE AIRPORT UTILIZED BY THE ARMY NATIONAL GUARD BAND:

The below entitled Ordinance was presented for first reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BETWEEN IT AND THE MONONGALIA COUNTY DEVELOPMENT AUTHORITY WHICH PERTAINS TO THE FUNDING OF A MITIGATION PLAN PERTAINING TO THE CONSTRUCTION OF THE MORGANTOWN MUNICIPAL AIRPORT ACCESS ROAD; SAID FUNDING PLAN BEING REQUIRED BY THE UNITED STATES ARMY CORPS OF ENGINEERS.

Motion by Nugent, second by Fike to pass the above entitled Ordinance to second reading. After explanation from the City Manager, motion carried 6-0.

CITY MANAGERS REPORT:

Prior to issuing his report, Mr. Mikorski addressed the concerns of both speakers of the public portion; assuring that the issues of traffic on Willowdale and the effects of the WVU smoking ban will be looked into to see what can be done by the City to help resolve the problems.

INFORMATION:

1. Energy Conservation Measures Verification Report

Mr. Mikorski conveyed energy savings, reported by the Constellation Company as a result of energy efficiency methods employed at City facilities.

2. 2013 Urban Archery Deer Hunt Rules

Mr. Mikorski announced that he approved the revised rules for this year's hunt, and provided Council with a map of hunting locations. He stated that any changes made, along with the final information will be provided to Council when available.

ACTION:

Mr. Mikorski presented a Fair and Festival Permit for beer sales at the Jim Dunn Twilight 5 Miler Event, and recommended its approval by Council.

Motion by Ganz, second by Selin to approve the above mentioned permit. Motion carried 5-0. (Councilor Fike Point of Privilege.)

REPORT FROM CITY CLERK: Announced the upcoming WVML Conference and confirmed travel and accommodations for the Council members participating.

REPORT FROM CITY ATTORNEY: Mr. Fanok noted that only a safe, limited amount of stands are available at the designated locations for the Urban Deer Hunt, and that hunters are not freely roaming the entire parcel. He clarified for new Council members and citizens the highly controlled circumstances under which the hunting takes place.

REPORT FROM COUNCIL MEMBERS:

Councilor Bane: Absent.

Councilor Kawecki Councilor Kawecki announced the upcoming meeting of the South Park Neighborhood Association.

Councilor Nugent: Councilor Nugent announced the upcoming meeting of the Wiles Hill- Highland Park Neighborhood Association. He noted discussion about hands free mobile use and seatbelt laws taken at a recent WVML meeting, and Mr. Fanok added that the Ordinances have been drafted according to new laws and are current. The seat belt Ordinance only needs a minor amendment. Councilor Nugent spoke about Willowdale road traffic and hopes that the Traffic Commission will take up the cause. He sympathized with Mr. Heironimus, and also mentioned overgrown shrubs which need pruning in order to increase traffic visibility; the details of which locations will be reported to the City Manager's Office.

Councilor Shamberger: Councilor Shamberger expressed concerns about the WVU smoking policy and concurred with Ms. Zegre's comments on smokers needing a designated area in order to prevent littering and loitering near private homes. She then asked for clarification from the Manager about how Hotel/Motel tax monies can or cannot be used. Mr. Mikorski replied that by Ordinance, 50%

goes to the CVB, 25% goes to BOPARC and 25% goes to Capital Projects. He clarified that the monies must go to tourism or park related activities only.

Councilor Fike:

Councilor Fike stated that he was proud to participate in the 4th of July parade. He commended the City staff and administration for their hard work. He also commended Ms. Little and echoed the compliments paid in the letter from Mr. Summers. He spoke about the Child Advocacy Center and Friends of Deckers Creek group. He announced a cleanup in the Hartman Run area and reminded citizens of the Jerome Park picnic and BOPARC's Family Fun Fest. He also stated that he has joined the Goodwill City group as a representative of Council.

Councilor Ganz:

Councilor Ganz complimented Mr. Mikorski for the City's designation as Employer of the Year. She also thanked those who applied for MUB. She mentioned that traffic issues are similar to that expressed by Mr. Heironimus on Southview Drive too. She hoped that the City can reap the benefits of the prosperous development of WVU. She then announced the Suncrest Neighborhood picnic.

Mayor Selin:

Mayor Selin announced several upcoming events including shows at the Met Theatre, Family Fun Fest, the Jim Dunn Run, Kid's Day Downtown, WV Botanic Garden Ramble, and MT Pockets theatre. She complimented the Celebration of America festivities on July 4th, as well as the Decker's Creek project.

ADJOURNMENT: There being no further items of business or discussion, the meeting adjourned by unanimous consent at 8:30 p.m.

City Clerk

Mayor

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



Office of the City Manager

The City of Morgantown

Interim 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 August 6, 2013

Information:

Sunnyside TIF District Engineering Request For Qualifications

For your information, the attached Request for Qualifications advertisement has been posted for the upcoming second phase of the Sunnyside TIF District. The City will be contracting with an engineering firm to support the construction projects identified for the second phase of Tax Increment Financing (TIF) funding. The City, working with the Campus Neighborhoods Revitalization Corporation, will be putting a list of projects to be estimated. In the coming months, City Council will be acting on this contract, TIF District project approvals, and on bonding agreements.

Administration Team mini-retreat

On July 31, City Administration held a mini-retreat with all City department heads to begin the development of mission and vision statements for each department and the first step toward developing effective performance measures of mission-critical services. As we finalize performance measures, departments will be working with their employees to implement the measures that will allow City Administration to track the performance indicators on a monthly basis. A presentation on performance measures will be scheduled for the September Committee of the Whole to highlight the departments' work.

Action:

Capital Escrow Budget Amendment

As discussed at previous council meetings, attached is the first Capital Escrow Budget amendment showing a projected increase of \$150,000 in the contribution to the Capital Escrow fund from the General Fund due to increased construction activity. I am recommending the listed adjustments to the Capital Escrow budget projects in the amount of \$150,000.



Jeff Mikorski ICMA-CM,
Morgantown City Manager

NOTICE OF REQUEST FOR QUALIFICATIONS AND INTEREST FOR
ENGINEERING, DESIGN SERVICES

The City of Morgantown, West Virginia, is requesting qualifications and interest for engineering, design, and architectural services for the design and planning of a infrastructure improvement project for the Sunnyside TIF District. Firms interested in participating in this activity will be required to negotiate a contract for services in compliance with Federal and State regulations applicable to architectural and engineering contracts after selection as the best qualified firm. Subcontractor arrangements are acceptable and team efforts will be considered, but a primary consultant must have overall responsibility.

Professional services will include the following: 1) evaluation and surveying of the areas as they relate to the proposed projects 2) preparation of a report containing conceptual designs accompanied by design and construction estimates 3) preparation of all bidding and contract documents for development in accordance with all governmental requirements 4) participation in the evaluation of all bids; 5) monitoring and inspection of all construction activities to insure compliance with plans and specifications.

Procurement of said services will be in accordance with West Virginia State Code 5G-1 and OMB Circular A-102, Attachment 0, Section 11, paragraph C(5). All firms interested in being considered for this project must submit five (5) copies each of the following: A) Letter of Interest; B) Statement of qualifications and experience of personnel who will be directly involved in the project; C) Recent project descriptions, current names, addresses and telephone numbers of at least six (6) references, four (4) of which will include your firm's most recently completed projects; D) At least one example of a project of a similar nature; E) Description of geographical location from which this contract would be serviced, if awarded.

The purpose of this competitive process is to select the firm which will provide the highest quality service at a realistic fee. Accordingly, technical qualifications and experience will be weighed heavily in this objective selection process. The firm determined most qualified will be asked to prepare a final proposal which will include estimated costs plus fixed fees for said services. The selection/rating criteria along with a conceptual background and project description are available upon request. A contract for services will be negotiated after a firm has been selected, based on qualifications.

All firms making a submission must be prepared to provide a presentation (short list candidates) to a selection committee. Presentations must include personnel which will be assigned to this project. Presentations should also include conceptual design elements and plans of recent similar projects.

All submissions must be addressed and submitted to: Jeff Mikorski, City Manager, City of Morgantown, 389 Spruce Street, Morgantown, West Virginia 26505, no later than 5:00 p.m. eastern time, on August 27, 2013.

The City of Morgantown will afford full opportunity to minority business enterprises who submit a show of interest in response to this invitation and will not discriminate against any interested firm or individual on the basis of race, creed, color, sex, age, disability, or national origin in the contract award.

Jeff Mikorski
City Manager

City of Morgantown

Finance Department

389 Spruce Street

Morgantown, WV 26505

Phone 304-284-7407/Fax 304-284-7418

jsabatelli@cityofmorgantown.org

MEMO

DATE: August 1, 2013

TO: Jeff Mikorski, ICMA-CM
City Manager

FROM: JR Sabatelli, CPA 
Finance Director

RE: Capital Escrow Budget Revision

As per our discussions, the items below represent the budget revision for the Capital Escrow Fund for the August 6, 2013 City Council meeting. The increase in contributions from the General Fund reflects the General Fund's Budget Revision #1. The changes to expenditures reflect allocations available with the projected increase in contribution from the General Fund.

Budget Line	Current Unencumbered Balance	Current Budget	Proposed Revised Budget	Net Change
Revenues:				
General Fund Contrib to Capital Escrow		350,000	500,000	150,000
Expenses:				
Celebration of America	-	-	2,000	2,000
YCF	-	-	11,000	11,000
Urban Forestry (Tree Trimming)	-	397	7,397	7,000
Housing Assistance	-	-	10,000	10,000
Access Road	-	628,047	728,047	100,000
Contingencies	-	100,073	120,073	20,000
				<u>150,000</u>
Net Revision				-

BOARDS AND COMMISSIONS - TERMS EXPIRED AND CURRENT VACANCIES

HISTORIC LANDMARKS COMMISSION:

Council still needs to appoint a Council Appointment to this Commission.

LIBRARY BOARD:

Term for Robert Gallagher expired on July 30, 2013. E-mail attached states Mr. Gallagher wishes not to serve again. Also Larry Buchman no longer lives in the City. Attached are 4 applicants for Council to review and decide when they want to interview at a Special Meeting. Residents serve appointed by Mayor, confirmed by Council to serve at large.

PERSONNEL BOARD:

Ken Fones-Wolf's term expires on August 11, 2013. Advertising for Candidates, deadline 8/19/13. Residents and qualified voters serve at large.

TRAFFIC COMMISSION:

Margaret Roberts First Ward representative wishes not to continue to serve. First Ward Councilor (Ron Bane) will check to see if there is a representative in their ward that is interested in serving. Residents appointed by Council, must represent specific categories.

URBAN LANDSCAPE COMMISSION:

Bill Mac Donald, Botanist term expired on 7-1-13. Bill MacDonald wishes to continue to serve. Council can vote on that appointment on August 6, 2013. Julie Lattanzi, Fifth Ward appt. resigned. The Fifth Ward Councilor (Marti Shamberger) will find a replacement. Residents appointed by Council, must represent specific categories.

AD-HOC COMMITTEES:

Council also needs to appoint/re-appoint to:

Metropolitan Planning Organization (Council Member).

***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, 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.*

Boards and Commission interview structure will be reviewed at a Committee of the Whole.7/24/13

Zimbra

llittle@cityofmorgantown.org

Library Candidates

From : Sharon Turner <turnersl@clark.lib.wv.us>

Thu, Jul 18, 2013 11:33 AM

Subject : Library Candidates**To :** 'Linda Little' <llittle@cityofmorgantown.org>

Linda,

Bob Gallagher does not wish to be re-appointed to the Library Board. This appointment would be for a 5 year term.

Larry Buchman has moved out of the city limits so assumes that he will have to step down. His term expires June 30, 2014, so that appointment would be for one year.

As for the applicants -

Rodney Pyles had been on the Board years ago when my predecessor was here, so he is familiar with state requirements, etc. He also volunteered his time to help us work through the WV Collection when we moved things. His biggest asset he brings is a knowledge of historical preservation and would be of great help with the Aull Center. We have greatly missed Larry Sypolt's expertise in that regard. I would like to see him have the 5 year appointment.

Elizabeth McConnell was an employee but had to resign because the schedule did not work with her family obligations. She has continued to do volunteer work with the children's programs periodically. She uses the library and knows the workings as far as public service. She would be good for the one year appointment to give her the opportunity to see if it is something she wants to continue.

Patricia Hein is an unknown. She does have an expired library card, but does not appear to have used us very much. Although she seems interested in a variety of boards where she may be needed, I can certainly work with her if council prefers to put her here.

Sharon

Morgantown

Request ID: 28057

Request Form: Volunteer for City Boards and Commissions

Received: Wednesday, July 24, 2013

Status: Completed

Priority: Normal

Assigned To: Bethany Sypolt

Contact Details

From: Nancy Ulrich

Email: nvulrich@gmail.com

Telephone: 304-292-5262

Address1: 801 Augusta Avenue

Address2:

City: Morgantown

State: WV

Zip Code: 26501

Pref. Method of Response: E-Mail

Questions and Answers

Are you a Morgantown resident?:

Yes

In which City Ward do you live?:

Second

Who is your employer? (If retired, answer "retired"):

retired

If Yes, how many years have you lived in the City of Morgantown?:

38 years

What type of business are, or were, you employed in?:

attorney, Chief Public Defender

What is your job description?:

Do you have any professional certifications or licenses?:

Doctorate of Jurisprudence

Registered Nurse

Do you have any pertinent special interests?:

Reading, quilting, gardening, volunteering at Mon General Hospital

On which commission(s) are you interested in serving?:

Library Board

What is your work telephone number?:

Staff Activities

The status of the request was changed from Active to Completed. on 7/24/2013 at 10:19 AM

Public Activities

Request was successfully submitted. by EXEC EXEC on 7/24/2013 at 9:59 AM

An email was sent to nvulrich@gmail.com. by Bethany Sypolt on 7/24/2013 at 10:17 AM

Thank you for your interest in serving the City of Morgantown. We have received your application and will review the information you provided. The City Clerk will notify you if there are vacancies on the boards or commissions in which you have specified interest, pending verification of your eligibility and any given residency requirements. Should you have further questions please feel free to contact our office at 304-284-7439. by Bethany Sypolt on 7/24/2013 at 10:18 AM

Morgantown

Request ID: 27839

Request Form: Volunteer for City Boards and Commissions
Received: Thursday, May 30, 2013
Status: Completed
Priority: Normal
Assigned To: Bethany Sypolt

Contact Details

From: Rodney Pyles
Email: rod.pylz@gmail.com
Telephone: 3045996496
Address1: 536 Harvard Avenue
Address2:

City: Morgantown

State: WV

Zip Code:
26505

Pref. Method of Response: E-Mail

Questions and Answers

Are you a Morgantown resident?:
Yes

In which City Ward do you live?:
Seventh

Who is your employer? (If retired, answer "retired"):
Retired

If Yes, how many years have you lived in the City of Morgantown?:
67

What type of business are, or were, you employed in?:
County Government

What is your job description?:

Do you have any professional certifications or licenses?:
No

Do you have any pertinent special interests?:
History; Wards and Boundaries

On which commission(s) are you interested in serving?:
Library Board

What is your work telephone number?:

Staff Activities

The status of the request was changed from Active to Completed. on 6/3/2013 at 8:52 AM

Public Activities

Request was successfully submitted. by EXEC EXEC on 5/30/2013 at 10:08 PM
An email was sent to rod.pylz@gmail.com. by Bethany Sypolt on 6/3/2013 at 8:51 AM
Thank you for your interest in serving the City of Morgantown. The Clerk will be in touch with you regarding openings on any of the boards or commissions in which you have specified interest. by Bethany Sypolt on 6/3/2013 at 8:52 AM

Morgantown

Request ID: 27893

Request Form: Volunteer for City Boards and Commissions
Received: Tuesday, June 11, 2013
Status: Completed
Priority: Normal
Assigned To: Bethany Sypolt

Contact Details

From: Patricia Hein
Email: triciahein@ymail.com
Telephone: 3046852838
Address1: 433 Devon Road
Address2:
City: Morgantown **State:** WV **Zip Code:** 26505
Pref. Method of Response: E-Mail

Questions and Answers

Are you a Morgantown resident?:
Yes

In which City Ward do you live?:

~~First~~ *Seven*

Who is your employer? (If retired, answer "retired"):
Lowe's/The Learning Curve

If Yes, how many years have you lived in the City of Morgantown?:
10

What type of business are, or were, you employed in?:
Retail/Small Business

What is your job description?:

Do you have any professional certifications or licenses?:

Do you have any pertinent special interests?:
History, Arts, Community Service, Business, The environment

On which commission(s) are you interested in serving?:
Historic Landmarks Commission, Library Board, Mountain Line Transit Authority, Museum Commission, Sister Cities Commission

What is your work telephone number?:

Staff Activities

The address provided is clearly not in first ward as indicated. Will double check address for residency requirements before proceeding. on 6/13/2013 at 9:42 AM

The status of the request was changed from Active to Completed. on 6/13/2013 at 9:42 AM

Public Activities

Request was successfully submitted. by EXEC EXEC on 6/11/2013 at 10:50 AM

An email was sent to triciahein@ymail.com. by Bethany Sypolt on 6/13/2013 at 9:40 AM

Thank you for your interest in serving the City of Morgantown. We have received your application and will review the information you provided. The City Clerk will notify you should there be vacancies on any of the boards or commissions in which you specified interest. by Bethany Sypolt on 6/13/2013 at 9:41 AM

Application to Serve on City Boards and Commissions

THE CITY OF MORGANTOWN HAS NUMEROUS COMMITTEES, BOARDS, AND COMMISSIONS COMPRISED OF CITIZENS WHO GIVE OF THEIR TIME IN VERY IMPORTANT CAPACITIES. STATE LAWS PRESCRIBE THAT SOME OF THOSE BODIES RETAIN MEMBERS WHO HAVE CERTAIN EXPERIENCE, EDUCATION OR PROFESSIONAL CERTIFICATIONS. WE ASK THAT YOU PROVIDE THE FOLLOWING BASIC INFORMATION SO WE MAY EVALUATE PROSPECTIVE APPOINTEES' QUALIFICATIONS IN AN EXPEDIENT MANNER. A RESUME OR OTHER PERTINENT INFORMATION MAY BE SUBMITTED ALONG WITH THIS FORM.

MR/MS: Elizabeth McConnell WORK/CELL PHONE: (304) 322-0020

ADDRESS: 228 Maple Ave HOME PHONE: (304) 296-4480
Morgantown ZIP: 26501

EMAIL ADDRESS: jwmcconnell14@msn.com

CITY RESIDENT? YES NO YEARS OF CITY RESIDENCY 15 WARD 2

WHO IS YOUR EMPLOYER?(If Retired, Answer "Retired"): library volunteer

WHAT TYPE OF BUSINESS ARE (were) YOU EMPLOYED IN? Editorial Assistant
Bethesda, MD.

JOB TITLE or JOB DESCRIPTION: My most recent job was with the
Morgantown Public Library.

PROFESSIONAL CERTIFICATIONS/LICENSES: BA English 1993
Hollins University, Roanoke, VA

SPECIAL INTERESTS: farming and gardening, WV history,
poetry

PLEASE CHECK THE COMMISSIONS YOU ARE INTERESTED IN SERVING:

- | | |
|--|---|
| <input type="checkbox"/> BOCA BOARD OF APPEALS | <input type="checkbox"/> MUSEUM COMMISSION |
| <input type="checkbox"/> BOARD OF PARKS AND RECREATION | <input type="checkbox"/> PARKING AUTHORITY |
| <input type="checkbox"/> BOARD OF ZONING APPEALS | <input type="checkbox"/> PERSONNEL BOARD |
| <input type="checkbox"/> BUILDING COMMISSION | <input type="checkbox"/> PLANNING COMMISSION |
| <input type="checkbox"/> FIRE CIVIL SERVICE | <input type="checkbox"/> POLICE CIVIL SERVICE |
| <input type="checkbox"/> HISTORIC LANDMARKS | <input type="checkbox"/> SISTER CITIES COMMISSION |
| <input type="checkbox"/> HUMAN RIGHTS | <input type="checkbox"/> TRAFFIC COMMISSION |
| <input checked="" type="checkbox"/> LIBRARY BOARD | <input type="checkbox"/> TRANSIT AUTHORITY |
| <input type="checkbox"/> MET BOARD | <input type="checkbox"/> URBAN LANDSCAPE COMMISSION |
| <input type="checkbox"/> MORGANTOWN UTILITY BOARD | <input type="checkbox"/> WARD & BOUNDARY |
| <input type="checkbox"/> YOUTH COMMISSION | |

SUBMIT TO: CITY CLERK, 389 SPRUCE STREET, RM.10, MORGANTOWN, WV, 26505.

AN ORDINANCE AMENDING THE FY 2013-2014 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 COAL SEVERANCE FUND.

The City of Morgantown hereby ordains:

That the FY 2013-2014 Annual Budget of the Coal Severance Fund of the City of Morgantown is amended as shown in the revised budget (Revision 01) attached hereto and made a part of this ordinance.

First Reading:

Adopted:

Mayor

Filed:

Recorded:

City Clerk

Ora Ash, Director
 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

2013-2014

FY

Coal Severance

FUND

1

REV. NO.

1 of 1

PG. OF NO.

Municipality

Government Type

City of Morgantown
 GOVERNMENT ENTITY

389 Spruce Street
 STREET OR PO BOX

Morgantown 26505
 CITY ZIP CODE

Person To Contact Regarding
 Budget Revision: J.R. Sabatelli
 Phone: 304-284-7407
 Fax: 304-284-7418

REVENUES: (net each acct.)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
298	Assigned Fund Balance	4,456	28,058		32,514
	#N/A				

NET INCREASE/(DECREASE) Revenues (ALL PAGES) 28,058

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
444	Contributions / Transfers to Other Funds	125,000	25,000		150,000
699	Contingencies*	11,656	3,058		14,714
	#N/A				

NET INCREASE/(DECREASE) Expenditures 28,058

APPROVED BY THE STATE AUDITOR

BY: _____ Date _____
 Director, Local Government Services Division

AUTHORIZED SIGNATURE OF ENTITY

APPROVAL DATE

AN ORDINANCE AMENDING THE FY 2013-2014 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 2013-2014 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

REQUEST FOR REVISION TO APPROVED BUDGET

CONTROL NUMBER

2013-2014

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

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)

FY

General Fund

FUND

1

REV. NO.

1 of 1

PG. OF NO.

City of Morgantown
 GOVERNMENT ENTITY

389 Spruce Street
 STREET OR PO BOX

Municipality

Government Type

Person To Contact Regarding
 Budget Revision: J.R. Sabatelli
 Phone: 304-284-7407
 Fax: 304-284-7418

Morgantown 26505
 CITY ZIP CODE

REVENUES: (net each acct.)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
299	Unassigned Fund Balance	120,000	80,000		200,000
369	Contributions from other Funds - Must Provide Explanation below	125,000	25,000		150,000
389	Accident Reports	17,000		9,000	8,000
305	Business and Occupation Tax	12,000,000	100,000		12,100,000
	#N/A				
	#N/A				
NET INCREASE/(DECREASE) Revenues (ALL PAGES)			196,000		

Explanation for Account # 378, Municipal Specific:
Explanation for Account # 369, Contributions from Other Funds: From Coal Severance Fund

EXPENDITURES: (net each account category)

(WV CODE 7-1-9)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
412	City Manager's Office	509,519	4,938		514,457
414	Finance Office	752,727	11,292		764,019
415	City Clerk	159,000	1,386		160,386
416	Police Judge's Office	227,418	1,568		228,986
417	City Attorney	286,580	2,692		289,272
420	Engineering	459,473	4,872		464,345
422	Personnel Office	46,705	308		47,013
436	Building Inspection	923,115	8,839		931,954
437	Planning & Zoning	211,895	1,811		213,706
439	Data Processing	190,463	685		191,148
440	City Hall	526,934	2,150		529,084
NET INCREASE/(DECREASE) Expenditures			196,000		

APPROVED BY THE STATE AUDITOR
 BY: _____ Date _____
 Director, Local Government Services Division

 AUTHORIZED SIGNATURE OF ENTITY APPROVAL DATE

EXPENDITURES (CONT'D)
 LGSD: BR City of Morgantown

City of Morgantown
 CONTROL NUMBER

2013-2014

General Fund

1

BUDGET REVISION REQUEST-SUPPLEMENT

ACCOUNT NUMBER	ACCOUNT CATEGORY	PREVIOUSLY APPROVED AMOUNT	FY		REVISED
			INCREASE	DECREASE	AMOUNT
700	Police Department	6,502,357	14,872		6,517,229
706	Fire Department	4,303,333	1,930		4,305,263
750	Streets and Highways	2,334,240	26,051		2,360,291
752	Signs and Signals	595,293	3,495		598,788
754	Central Garage	758,791	4,862		763,653
950	Beautification Programs	126,170	1,316		127,486
699	Contingencies*	89,713		47,067	42,646
444	Contributions / Transfers to Other Funds	350,000	150,000		500,000
	#N/A				

NET INCREASE/(DECREASE) Expenditures (this page)

155,459

City of Morgantown
 General Fund
 Budget Revision #1
 Fiscal Year 2014

Wage related adjustments:

Department 412

City Manager:	Current	New	Revision
Retire	37,860.00	42,700.00	4,840.00
WC	1,246.00	1,344.00	<u>98.00</u>
			4,938.00

Department 414

Finance:	Current	New	Revision
Retire	48,228.00	54,395.00	6,167.00
WC	1,587.00	1,712.00	<u>125.00</u>
			6,292.00

Department 415

City Clerk:	Current	New	Revision
Retire	10,628.00	11,987.00	1,359.00
WC	350.00	377.00	<u>27.00</u>
			1,386.00

Department 416

Municipal Court:	Current	New	Revision
Retire	11,964.00	13,494.00	1,530.00
WC	487.00	525.00	<u>38.00</u>
			1,568.00

Department 417

City Attorney:	Current	New	Revision
Retire	21,153.00	23,857.00	2,704.00
WC	488.00	476.00	<u>(12.00)</u>
			2,692.00

Department 420

Engineering:	Current	New	Revision
Retire	31,761.00	35,822.00	4,061.00
WC	9,609.00	10,420.00	<u>811.00</u>
			4,872.00

Department 422

Personnel:	Current	New	Revision
Retire	2,363.00	2,665.00	302.00
WC	78.00	84.00	<u>6.00</u>
			308.00

Department 436
Code Enforcement:

	Current	New	Revision
Retire	59,832.00	67,482.00	7,650.00
WC	14,113.00	15,302.00	<u>1,189.00</u>
			8,839.00

Department 437
Planning:

	Current	New	Revision
Retire	13,884.00	15,659.00	1,775.00
WC	457.00	493.00	<u>36.00</u>
			1,811.00

Department 439
Info. Technology:

	Current	New	Revision
Retire	5,249.00	5,920.00	671.00
WC	172.00	186.00	<u>14.00</u>
			685.00

Department 440
City Hall:

	Current	New	Revision
Retire	16,204.00	18,276.00	2,072.00
WC	5,747.00	5,825.00	<u>78.00</u>
			2,150.00

Department 700
Police:

	Current	New	Revision
Retire	43,389.00	48,936.00	5,547.00
WC	129,521.00	136,346.00	<u>6,825.00</u>
			12,372.00

Department 706
Fire:

	Current	New	Revision
Retire	6,263.00	7,064.00	801.00
WC	120,554.00	116,683.00	<u>(3,871.00)</u>
			(3,070.00)

Department 750
Streets:

	Current	New	Revision
Retire	129,759.00	146,350.00	16,591.00
WC	118,280.00	127,740.00	<u>9,460.00</u>
			26,051.00

Department 752			
Signs and Signals:	Current	New	Revision
Retire	18,829.00	21,237.00	2,408.00
WC	13,736.00	14,823.00	<u>1,087.00</u>
			3,495.00

Department 754			
Equipment Maintenance:	Current	New	Revision
Retire	31,279.00	35,278.00	3,999.00
WC	10,751.00	11,614.00	<u>863.00</u>
			4,862.00

Department 952			
Urban Landscape:	Current	New	Revision
Retire	8,414.00	9,490.00	1,076.00
WC	2,838.00	3,078.00	<u>240.00</u>
			1,316.00

Total wage related items 80,567.00

Non-wage items requiring adjustment:

	Current	New	Revision
Dept 414 Finance			
Travel and Training	5,950.00	10,950.00	5,000.00
Dept 706 Fire Department			
Travel and Training	16,150.00	21,150.00	5,000.00
Dept 700 Police Department			
Travel and Training	20,500.00	23,000.00	2,500.00
Dept 70 Operating Transfers			
Contrib to Capital Escrow	350,000.00	500,000.00	150,000.00
Total nonwage	392,600.00	555,100.00	162,500.00
Total Increase overall			243,067.00

Totals by Department	
Dept 412 City Manager	4,938.00
Dept 414 Finance	11,292.00
Dept 415 City Clerk	1,386.00
Dept 416 Municipal Court	1,568.00
Dept 417 City Attorney	2,692.00
Dept 420 Engineering	4,872.00
Dept 422 Personnel	308.00
Dept 436 Code Enforcement	8,839.00
Dept 437 Planning	1,811.00
Dept 439 Information Technology	685.00
Dept 440 City Hall	2,150.00
Dept 700 Police	14,872.00
Dept 706 Fire	1,930.00
Dept 750 Street	26,051.00
Dept 752 Signs and Signals	3,495.00
Dept 754 Equipment Maintenance	4,862.00
Dept 952 Urban Landscape	1,316.00
Dept 70 Operating Transfers	150,000.00
Contingencies	<u>(47,067.00)</u>
	196,000.00

Revenue Adjustment

	Current	New	Revision
Prior Year Carryover	120,000.00	200,000.00	80,000.00
Accident Reports	17,000.00	8,000.00	(9,000.00)
B&O Taxes - Construction	1,300,000.00	1,400,000.00	100,000.00
Contrib from Coal Severeance	<u>125,000.00</u>	<u>150,000.00</u>	<u>25,000.00</u>
	1,562,000.00	1,758,000.00	196,000.00

AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BETWEEN IT AND THE MONONGALIA COUNTY DEVELOPMENT AUTHORITY WHICH PERTAINS TO THE FUNDING OF A MITIGATION PLAN PERTAINING TO THE CONSTRUCTION OF THE MORGANTOWN MUNICIPAL AIRPORT ACCESS ROAD; SAID FUNDING PLAN BEING REQUIRED BY THE UNITED STATES ARMY CORPS OF ENGINEERS.

The City of Morgantown hereby ordains that its City Manager is authorized to execute the attached Memorandum of Understanding, between the City and the Monongalia County Development Authority, by and on behalf of the City of Morgantown.

This ordinance shall be effective upon date of adoption.

FIRST READING:

MAYOR

ADOPTED:

FILED:

RECORDED:

CITY CLERK

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("Agreement") entered into this _____ day of July, 2013 by and between the Monongalia County Development Authority, Morgantown, Monongalia County, West Virginia ("MCDA"), a West Virginia Public Corporation, and the City of Morgantown, Morgantown, Monongalia County, West Virginia ("City"), a Municipal Corporation.

WHEREAS, the MCDA has applied to the United States Army Corps of Engineers (Corps) for a Department of the Army Clean Water Act Section 404 permit in connection with the construction of the Morgantown Municipal Airport Access Road; and

WHEREAS, the MCDA submitted, in conjunction with its permit application, a mitigation plan to compensate for unavoidable losses of waters of the United States. The mitigation plan will become a term and condition of MCDA's permit, and is attached hereto and fully incorporated herein (Mitigation Plan) as Exhibit A; and

WHEREAS, the City has agreed to fully implement and execute the Mitigation Plan for MCDA; and

WHEREAS, prior to making a permit decision, , the Corps has requested that MCDA and the City demonstrate that the City accepts the responsibility for the Mitigation Plan, including to the extent required, the maintenance, repair and/or replacement of the Mitigation Plan features, in whole or in part, including the replacement of the acid mine drainage treatment facility and

WHEREAS, the Corps has requested that the MCDA and/or the City demonstrate the financial capacity to fund the cost of maintaining the mitigation project at an average of \$10,000 per year; and

WHEREAS, the City of Morgantown will annually place \$10,000 in a Capital Reserve Fund, held and established by the City for this purpose; and

WHEREAS, the MCDA will advance the funding in the amount of \$10,000 per year to the City to fund implementation and execution of the Mitigation Plan if, for any unforeseen reason, the City is unable to fund the requirements of the Mitigation Plan in a given year.

NOW, THEREFORE, the MCDA and City agree as follows:

- (1) That the attached April 17, 2013 letter from the Morgantown City Manager to Jon T. Coleman, Regulatory Project Manager, United States Army Corps of Engineers, accurately reflects the commitment of both the City and the MCDA to the "mitigation project" at issue as set forth herein; and

- (2) That should it be necessary for the MCDA to advance the City funding, as set forth in the aforementioned April 17, 2013 letter, the City will return the advanced money to the MCDA within the fiscal year of the City that the advance occurs; and
- (3) This Agreement contains the entire understanding and agreement of the MCDA and City. To the extent that this Agreement and the April 17, 2013 letter from the Morgantown City Manager to Jon T. Coleman, Regulatory Project Manager, United States Army Corps of Engineers conflict, this Agreement controls; and
- (4) The City and MCDA represent and warrant that by executing this Agreement, each has the requisite power and authority to enter into this Agreement, and that this Agreement has been duly authorized and approved by the City and MCDA;
- (5) This Agreement may be modified upon the mutual agreement of the Parties. The Corps shall be notified within 30 days of any modification to the Agreement.
- (5) This Agreement shall at all times be governed by the laws of the state of West Virginia.

MONONGALIA COUNTY
DEVELOPMENT AUTHORITY

CITY OF MORGANTOWN

By: _____

By: _____

Its: _____ President _____

Its: _____ City Manager _____



The City of Morgantown

389 SPRUCE STREET
MORGANTOWN, WEST VIRGINIA 26505
(304) 284-7405 TDD (304) 284-7512

OFFICE OF CITY MANAGER

April 17, 2013

Jon T. Coleman, Regulatory Project Manager
United States Army Corp of Engineers
Pittsburgh District
1000 Liberty Avenue
Pittsburgh, PA 15222-4186

Re: Morgantown Municipal Airport Access Road

Dear Mr. Coleman:

This correspondence is being provided as a result of discussions and understandings between the City of Morgantown, Morgantown, West Virginia ("City"), the Monongalia County Development Authority, ("MCDA"), the United States Army Corp of Engineers ("ACOE") and the West Virginia Department of Environmental Protection ("WVDEP"). As part of the Morgantown Municipal Airport Access Road, the City has submitted a certain plan in connection with the 404 and the 401 permits for water quality certification and mitigation associated with acid mine drainage ("AMD") (collectively referred to in this correspondence as the "mitigation project").

Please accept this correspondence as confirmation by the City of Morgantown, of its understanding and acceptance of responsibility for the operation and maintenance of the mitigation project on an ongoing basis, including to the extent required, for the maintenance, repair and/or replacement of the project in whole or in part. This acceptance by the City of responsibility includes the replacement of the treatment facility should the acid mine drainage project fail.

The engineers for the project estimate that the ongoing annual cost of maintaining the project will be an average of approximately Ten Thousand Dollars (\$10,000) per year, which will be placed in a Capital Reserve Fund held and established by the City for this purpose. The City will re-evaluate the Capital Reserve Fund for the project annually and will adjust the funds accordingly as necessary.

If necessary, the MCDA agrees to advance to the City the funding of the annual maintenance cost estimated to be Ten Thousand Dollars (\$10,000) per year. The MCDA has represented to the City that it has the necessary approvals and authority to perform this agreement.

Coleman, Jon T.

April 17, 2013

Page 2

The City of Morgantown represents that by signing below that it has the authority to commit to the representations and responsibilities set forth herein.

If you have any questions or wish to discuss this matter further, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Mikorski", written in a cursive style.

Jeff Mikorski,
City Manager

ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF TWO PARCELS OF REAL ESTATE IN THE THIRD AND FIFTH WARDS OF THE CITY OF MORGANTOWN FROM R-2, SINGLE- AND TWO-FAMILY RESIDENTIAL DISTRICT AND B-2, SERVICE BUSINESS DISTRICT TO B-4, GENERAL BUSINESS DISTRICT BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.

Properties included in this consideration is identified in the Monongalia County Assessor's records as Parcels 263 and 270 of County Tax Map 26; Morgantown Corporation District.

THE CITY OF MORGANTOWN HEREBY ORDAINS:

1. That the zoning classification for Parcels 263 and 270 of County Tax Map 26 of the Monongalia County tax assessment as described herein and illustrated on the exhibit hereto attached and declared to be a part of this Ordinance to be read herewith as if the same was fully set forth herein is reclassified from R-2, Single- and Two-Family Residential District and B-2, Service Business District to B-4, General Business District.
2. That the Official Zoning Map be accordingly changed to show said zoning reclassification.

This Ordinance shall be effective from the date of adoption.

FIRST READING:

Mayor

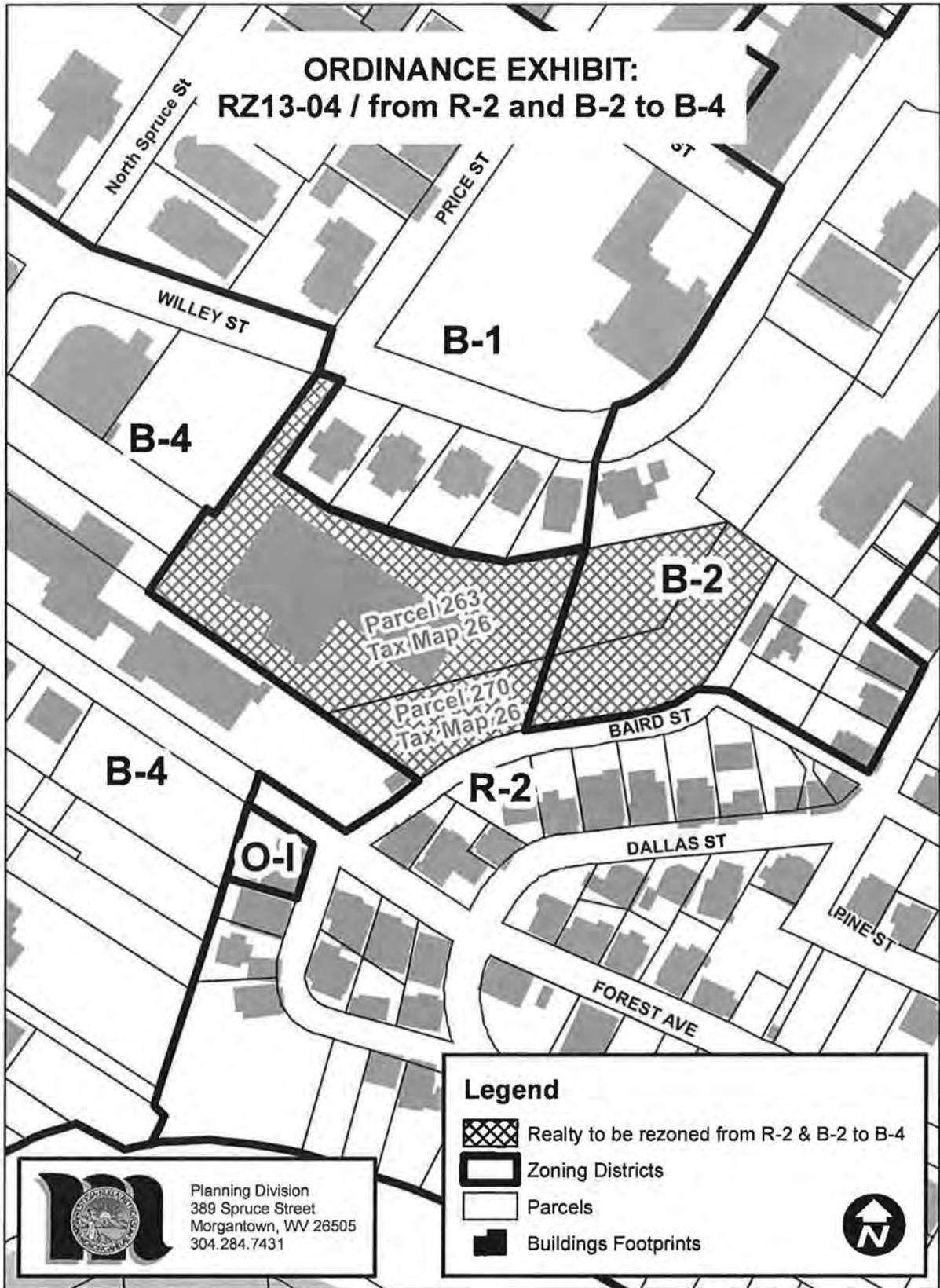
ADOPTED:

FILED:

RECORDED:

City Clerk

**ORDINANCE EXHIBIT:
RZ13-04 / from R-2 and B-2 to B-4**



Planning Division
389 Spruce Street
Morgantown, WV 26505
304.284.7431

ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF ONE PARCEL OF REAL ESTATE IN THE FOURTH WARD OF THE CITY OF MORGANTOWN FROM B-1, NEIGHBORHOOD BUSINESS DISTRICT TO B-2, SERVICE BUSINESS DISTRICT BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.

Property included in this consideration is identified in the Monongalia County Assessor's records as Parcel 260 of County Tax Map 7; Morgantown Corporation District along with a portion of the adjoining University Avenue public right-of-way.

THE CITY OF MORGANTOWN HEREBY ORDAINS:

1. That the zoning classification for Parcel 260 of County Tax Map 7 of the Monongalia County tax assessment along with a portion of the adjoining University Avenue public right-of-way as described herein and illustrated on the exhibit hereto attached and declared to be a part of this Ordinance to be read herewith as if the same was fully set forth herein is reclassified from B-1, Neighborhood Business District to B-2, Service Business District.
2. That the Official Zoning Map be accordingly changed to show said zoning reclassification.

This Ordinance shall be effective from the date of adoption.

FIRST READING:

Mayor

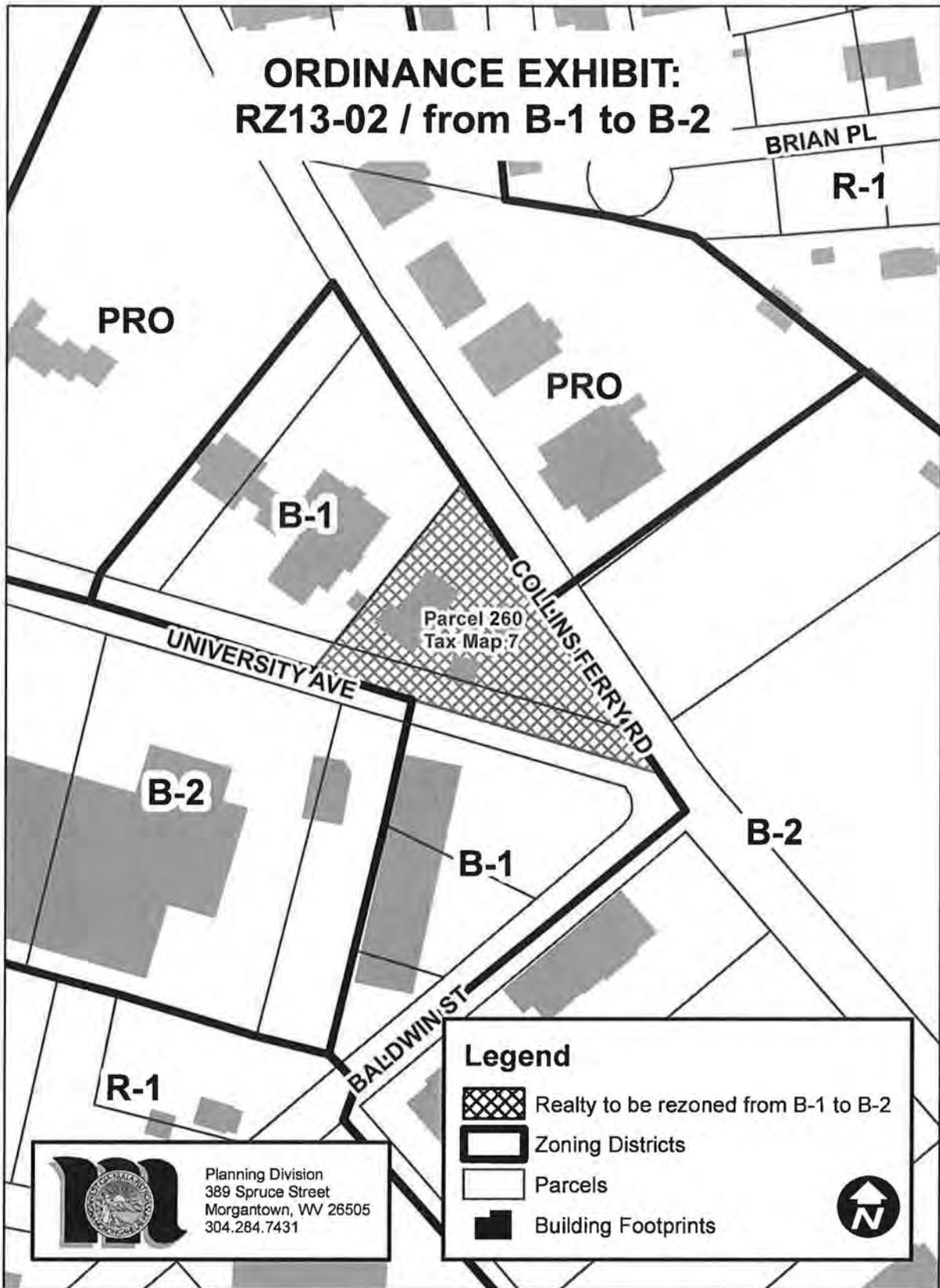
ADOPTED:

FILED:

RECORDED:

City Clerk

ORDINANCE EXHIBIT: RZ13-02 / from B-1 to B-2



AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF MORGANTOWN AND THE MONONGALIA COUNTY BOARD OF EDUCATION, AS THE SAME APPLIES TO A PREVENTION RESOURCES OFFICER IN THE MONONGALIA COUNTY SCHOOL SYSTEM AT MORGANTOWN HIGH SCHOOL.

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:

AGREEMENT

This Agreement, made and entered into this ____ day of ____ 2013 by and between the City of Morgantown, West Virginia (hereinafter referred to as "City") and the Monongalia County Board of Education, West Virginia (hereinafter referred to as "Board").

WITNESSETH:

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

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

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

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

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

SECTION 1: DUTIES AND RESPONSIBILITIES OF CITY

- 1.01 The City will provide one (1) police officer assigned as a Prevention Resource Officer, (hereinafter referred to as "PRO") to the Board for assignment at Morgantown High School.
- 1.02 The PRO will abide by County School Board Policies and Laws, as they relate to School Prevention Resource Officer. The PRO will consult and coordinate instructional activities through the principal. Activities conducted by the PRO, which are part of the regular instruction program of the school, will be under the direction of the principal. The Board will approve the content of education programs and instructional materials used by the PRO.
- 1.03 The PRO will provide to students' instruction in various aspects of law enforcement, public safety, and education as requested and supervised by teachers.
- 1.04 City will be responsible for the control and direction of all aspects of employment of the police officer assigned to the PRO Programs.
- 1.05 City will ensure that the exercise of the law enforcement powers by the PRO is in compliance with the authority granted by law.

- 1.06 City will hold harmless the Board for any injuries suffered by PRO arising under their employment with the PRO Program.
- 1.07 The PRO will not function as a school disciplinarian or safety officer. It is not the responsibility of the PRO to intervene with the normal disciplinary procedures in the school the PRO will perform duties to the following:
- A. To perform law enforcement functions within the school setting.
 - B. To identify and prevent, through counseling and referral, delinquent behavior, including substance abuse.
 - C. To foster a better understanding of the law enforcement function.
 - D. To develop a better appreciation of citizens' rights, obligation and responsibilities.
 - E. To provide information about crime prevention.
 - F. To provide assistance and support for crime victims identified with the school setting.
 - G. To promote positive relations between the students and the law enforcement officer.
 - H. To enhance knowledge of the fundamental concepts and structure of the law.
 - I. To be familiar with confidentiality requirements.
 - J. Any records generated by the officer as part of his/her "PRO Program" duties shall be considered as a school record subject to Family Educational Rights and Privacy Act (34 CFR 99.30 and 99.31).
- 1.08 The PRO will be on duty at the school during regular school hours when students are required to attend and when the required PRO Training Programs are conducted, unless police department emergency needs or law enforcement requirements prohibit.
- 1.09 The PRO will not be required to attend extracurricular activities, which are held beyond his/her regular workday nor require the PRO to leave his/her jurisdiction, but the PRO will have the option if they choose to do so.

SECTION 2: DUTIES AND RESPONSIBILITIES OF THE BOARD

- 2.01 The Principal at Morgantown High School will be the on-site contact person for the PRO. The Superintendent of the Board will designate the Prevention Resource Office Coordinator to serve as the county liaison for the program.

- 2.02 A performance review will be performed at the end of the school year by the Principal and submitted in writing to the Police Chief.
- 2.03 The Board will furnish the City funds in the total sum of \$45,111.00 to offset the cost of salary and related benefits for the employee of the City, who will provide the contracted service and act as PRO to the schools pursuant to the terms hereinafter expressed.

SECTION 3: TERMS OF AGREEMENT

- 3.01 This Agreement will be made of a 12 month term beginning the 1st day of July 2013 through the 30th day of June 2014.
- 3.02 This Agreement will continue in effect until the duration of the term as described in paragraph 3.01 or until terminated by either of the parties in accordance with the term listed in section four (4) below.

SECTION 4: TERMINATION

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

SECTION 5: INVALID PERSON

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

SECTION 6: INDEMNIFICATION

- 6.01 The Board agrees to indemnify and hold harmless the City for any liability whatsoever arising out of negligent acts of the Boards' employees or agents in direction of the PRO in the performance of their instructional programs. The City agrees to indemnify and hold harmless the Board of any liability whatsoever arising to employment as defined by City Ordinances and West Virginia State Law. Nothing in this Agreement will affect any rights, privileges or immunities the City or Board may have.

SECTION 7: ASSIGNMENT

- 7.01 No Party of the Agreement will, neither directly nor indirectly, assign nor purport to assign this Agreement or any of its rights or obligations in whole or in partly to any third party without the prior written consent of the other party.

SECTION 8: NO WAIVER

8.01 The failure of either party to enforce at any time of the provision, rights, or elections or in any way effect the validity of the Agreement. The failure to exercise by either party in any of its rights herein contained will not preclude or prejudice it from exercising the same or any other right it may have under this Agreement, irrespective of any previous action or proceeding taken by it hereunder.

SECTION 9: COMPLETE AGREEMENT

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

SECTION 10: CHOICE OF LAW

10.01 This Agreement will be governed by and interpreted according to the laws of the State of West Virginia. It will be binding upon and insure to the benefit of the successors of the City and the Board.

SECTION 11: NOTICES

11.01 All notices or other communications required or permitted by the Agreement will be in writing and deemed effectively delivered upon mailing by certified mail, return receipt requested, or delivered personally to the following persons and addresses unless otherwise specified herein:

Jeff Mikorski, City Manager
City of Morgantown, WV

Date

Dr. Frank Devono, Superintendent
Monongalia County Board of Education

Date

AN ORDINANCE AMENDING SECTION 345.35 OF THE TRAFFIC CODE OF THE CITY OF MORGANTOWN MAKING THE OFFENSE OF FAILURE TO WEAR SAFETY BELTS A PRIMARY OFFENSE.

The City of Morgantown hereby ordains that Section 345.35 of its Traffic Code is amended as follows (new matter underlined, deleted matter struck through):

345.35 OPERATION OF VEHICLES WITH SAFETY BELTS.

- (a) A person shall not operate a passenger vehicle on a public street or highway unless the person, any passenger in the backseat under eighteen years of age, and any passenger in the front seat of such passenger vehicle is restrained by a safety belt meeting applicable federal motor vehicle safety standards. For the purposes of this section, "passenger vehicle" means a motor vehicle which is designed for transporting ten passengers or less, including the driver, except that such term does not include a motorcycle, a trailer or any motor vehicle which is not required on the date of the enactment of this section under a federal motor vehicle safety standard to be equipped with a belt system. The provisions of this section shall apply to all passenger vehicles manufactured after the first day of January, 1967, and being 1968 models and newer.
- (b) The required use of safety belts as provided herein does not apply to a duly appointed or contracted rural mail carrier of the United States Postal Service who is actually making mail deliveries or to a passenger or operator with a physically disabling condition whose physical disability would prevent appropriate restraint in such safety belt if the condition is duly certified by a physician who shall state the nature of the disability as well as the reason such restraint is appropriate. Any regulations or rules which may be adopted by the West Virginia Division of Motor Vehicles establishing a method to certify any such physical disability and to require the use of an alternative restraint system where feasible or to waive the requirement for the use of any restraint system shall be hereby adopted by reference.
- (c) Notwithstanding any other provision of this Code to the contrary, no points may be entered on any driver's record maintained by the Division of Motor Vehicles as a result of a violation of this section.
- (d) Nothing contained in this section shall be construed to abrogate or alter the provisions of Section 345.31 relating to the mandatory use of child passenger safety devices.
- (e) Any person who violates the provisions of this section shall be fined not more than twenty-five dollars (\$25.00). No court costs or other fees shall be assessed for a violation of this section. ~~Enforcement of this section shall be accomplished only as a secondary action when a driver of a passenger vehicle has been detained for probable cause of violating another section of this code.~~

This Ordinance shall be effective upon date of adoption.

FIRST READING:

Mayor

ADOPTED:

FILED:

City Clerk

RECORDED:

THE CITY OF MORGANTOWN

Combined Utility System Revenue Bonds, Series 2013 A
(West Virginia Infrastructure Fund)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITY DATES, REDEMPTION PROVISIONS, INTEREST RATES, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICES AND OTHER TERMS OF THE COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2013 A (WEST VIRGINIA INFRASTRUCTURE FUND) OF THE CITY OF MORGANTOWN; APPROVING THE ASSUMPTION OF THE LOAN AGREEMENT RELATING TO SUCH BONDS AND THE ASSUMPTION, REDESIGNATION, REPLACEMENT AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; APPROVING A CONFORMED ORDINANCE; DESIGNATING A REGISTRAR, AND PAYING AGENT; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the City council (the "Governing Body") of The City of Morgantown (the "Issuer" or "Governmental Agency") has duly and officially adopted and enacted a bond ordinance, effective July 5, 2011 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE ACQUISITION OF THE SEWER SYSTEM OF CANYON PUBLIC SERVICE DISTRICT; AUTHORIZING THE ASSUMPTION OF THE CANYON PUBLIC SERVICE DISTRICT'S SEWER REVENUE BONDS, SERIES 2008 A (WEST VIRGINIA INFRASTRUCTURE FUND) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$5,000,000 IN CONNECTION WITH THE ACQUISITION OF THE SEWER SYSTEM AND THE RE-DESIGNATION BY THE CITY OF MORGANTOWN OF THE CANYON PUBLIC SERVICE DISTRICT SEWER REVENUE BONDS, SERIES 2008 A (WEST VIRGINIA INFRASTRUCTURE FUND) AS THE CITY OF MORGANTOWN COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2011 A (WEST VIRGINIA INFRASTRUCTURE FUND); 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 ASSUMPTION AND RE-DESIGNATION OF SUCH BONDS; ASSUMING, APPROVING, RATIFYING AND CONFIRMING A LOAN

AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE ASSUMPTION AND RE-DESIGNATION AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, since the enactment of the Bond Ordinance the City has issued additional bonds, particularly the Series 2012 A Bonds, Series 2012 B Bonds and Series 2012 C Bonds. In addition, the Series 1992 Bonds have matured.

WHEREAS, the acquisition of the District Bonds, hereinafter defined, did not occur in 2011, but will occur in 2013;

WHEREAS, the Issuer desires to amend the Bond Ordinance through this Supplemental Resolution and Conformed Bond Ordinance (collectively, the "Bond Legislation")

WHEREAS, capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Conformed Bond Ordinance attached as Exhibit A when used herein;

WHEREAS, the Bond Ordinance provides for the assumption of the Canyon Public Service District Sewer Revenue Bonds, Series 2008 A (West Virginia Infrastructure Fund), dated June 26, 2008, issued in the original aggregate principal amount of \$5,000,000 (the "District Bonds") and re-designation and replacement as The City of Morgantown Combined Utility Revenue Bonds, Series 2013 A (West Virginia Infrastructure Fund) in an aggregate principal amount not to exceed \$5,000,000 (the "Series 2013 A Bonds");

WHEREAS, as of June 30, 2013, an amount of \$4,605,260 was outstanding on the District Bonds.

WHEREAS, the Bond Ordinance has authorized the assumption of a loan agreement relating to the District Bonds, by and between the District and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), including all schedules and exhibits attached thereto, by and among the District and the Authority (the "Loan Agreement");

WHEREAS, in the Bond Ordinance it is provided that the District Bonds be re-designated and replaced with the Series 2013 A Bonds and the exact principal amounts, dates, maturity dates, redemption provisions, interest rates, interest and principal payment dates, sale prices and other terms of the Series 2013 A Bonds should be established by a supplemental resolution pertaining to the Series 2013 A Bonds; and that other matters relating to the Series 2013 A Bonds be herein provided for;

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the Loan Agreement be assumed by the Issuer, that the exact principal amount, the dates, the maturity date, the redemption provisions, the interest rates, if any, the interest and principal payment dates of the Series 2013 A Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Series 2013 A Bonds be herein provided for;

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

Section 1. The Issuer hereby approves the Conformed Bond Ordinance attached hereto as Exhibit A. The changes include designating the District Bonds as Series 2013 A Bonds and incorporating the Series 2012 A Bonds, Series 2012 B Bonds and Series 2012 C Bonds issued since the adoption of the ordinance.

Section 2. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered the assumption of the District Bonds and replacement of the District Bonds with The City of Morgantown Combined Utility Revenue Bonds, Series 2013 A (West Virginia Infrastructure Fund), originally represented by a single Bond, numbered AR-1, in the original aggregate principal amount of \$5,000,000 of which \$4,605,260 was outstanding as of June 30, 2013. The Series 2013 A Bonds shall be dated August 22, 2013, shall finally mature on June 1, 2048 and shall bear no interest. The principal of the Series 2013 A Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2013 to and including June 1, 2048 and in the amounts as set forth in Exhibit B of the Series 2013 A Bonds. The Series 2013 A Bonds shall be subject to redemption upon the written consent of the Authority and the Council, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the registered owner of the Series 2013 A Bonds.

Section 3. All other provisions relating to the Series 2013 A Bonds and the text of the Series 2013 A Bonds shall be in substantially the forms provided in the Bond Ordinance.

Section 4. The Issuer does hereby authorize, approve, ratify and accept the Loan Agreement and Acquisition Agreement, copies of which are incorporated herein by reference, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and approved. The Issuer hereby affirms all covenants and representations made in the Loan Agreement and in the applications to the Council and the Authority.

Section 5. The Issuer does hereby appoint and designate The Huntington National Bank, Charleston, West Virginia, to serve as Registrar (the "Registrar") for the Series 2013 A Bonds under the Bond Ordinance and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Series 2013 A Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed.

Section 6. The Issuer does hereby appoint and designate the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Series 2013 A Bonds under the Bond Ordinance.

Section 7. The District's Series 2008 A Bonds Sinking Fund is hereby assumed by the Issuer and renamed as The City of Morgantown, Series 2013 A Bonds Sinking Fund.

Section 8. The District's Series 2008 A Bonds Reserve Account is hereby assumed by the Issuer and renamed as The City of Morgantown, Series 2013 A Bonds Reserve Account. The Series 2013 A Bonds Reserve Account Requirement is \$131,580. Any amount in the Series 2013 A Bonds Reserve Account in excess of the Series 2013 A Bonds Reserve Account Requirement shall be disbursed by the Commission to the Issuer.

Section 9. The Mayor and the Clerk are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Series 2013 A Bonds hereby and by the Bond Ordinance approved and provided for, to the end that the Series 2013 A Bonds may be delivered on or about August 22, 2013, to the Authority.

Section 10. The assumption of the District 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. This Supplemental Resolution shall be effective immediately following adoption hereof.

[Remainder of Page Intentionally Blank]

Adopted this 6th day of August, 2013.

Mayor

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of The City of Morgantown on the 6th day of August, 2013.

Dated: August 22, 2013.

[SEAL]

Clerk

627490.00042

5727247

6

EXHIBIT A
CONFORMED BOND ORDINANCE

CONFORMED BOND ORDINANCE

THE CITY OF MORGANTOWN

ORDINANCE AUTHORIZING THE ACQUISITION OF THE SEWER SYSTEM OF CANYON PUBLIC SERVICE DISTRICT; AUTHORIZING THE ASSUMPTION OF THE CANYON PUBLIC SERVICE DISTRICT SEWER REVENUE BONDS, SERIES 2008 A (WEST VIRGINIA INFRASTRUCTURE FUND) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$5,000,000 IN CONNECTION WITH THE ACQUISITION OF THE SEWER SYSTEM AND THE RE-DESIGNATION BY THE CITY OF MORGANTOWN OF THE CANYON PUBLIC SERVICE DISTRICT SEWER REVENUE BONDS, SERIES 2008 A (WEST VIRGINIA INFRASTRUCTURE FUND) AS THE CITY OF MORGANTOWN COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2013 A (WEST VIRGINIA INFRASTRUCTURE FUND); 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 ASSUMPTION AND RE-DESIGNATION OF SUCH BONDS; ASSUMING, APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE ASSUMPTION AND RE-DESIGNATION 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 and Chapter 31, Article 15A 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, through the Morgantown Utility Board (the "Board"), 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 from the Canyon Public Service District (the "District") the existing sewer system of the District (collectively, the "District Assets") from the District, which District Assets constitute properties for the collection, transportation, treatment, purification, or disposal of liquid or solid wastes, residential sewage or industrial waste (the existing combined waterworks, sewerage and stormwater system of the Issuer, and any further additions, betterments and improvements thereto are herein called the "System"), pursuant to an Acquisition Agreement by and among the Issuer, the Board and the District, substantially in the form attached hereto as Exhibit A (the "Acquisition Agreement"). The form of the Acquisition Agreement is hereby approved.

C. The District has heretofore financed a portion the acquisition and construction of public sewerage facilities consisting of a new sanitary sewer collection system to provide sewer service to approximately 125 new customers in Monongalia County, by the issuance of its Sewer Revenue Bonds, Series 2008 A, dated June 26, 2008 issued in the original aggregate principal amount of \$5,000,000 (the "District Bonds").

D. The District Bonds were issued pursuant to a Resolution of the District previously adopted for such purpose (such resolution, as amended and supplemented, is herein called the "District Resolution").

E. It is deemed necessary and desirable for the Issuer to provide for the acquisition of the System and the Assumption, Re-designation and Replacement of the District Bonds.

F. The District permanently financed a portion of the District Assets through the issuance of the District Bonds to the West Virginia Water Development Authority (the "Authority"), in connection with the West Virginia Infrastructure Fund (the "West Virginia Infrastructure Fund"), which the Authority administers pursuant to the Act on behalf of the West Virginia Infrastructure and Jobs Development Council.

G. It is deemed necessary for the Issuer to assume the District Bonds and re-Designate and replace them as its Combined Utility System Revenue Bonds, Series 2013 A (West Virginia Infrastructure Fund), in the aggregate principal amount of not more than \$5,000,000 (the "Series 2013 A Bonds"), as consideration for acquisition of the District Assets.

H. The period of usefulness of the System is not less than 35 years.

I. It is in the best interests of the Issuer that the Series 2013 A Bonds continue to be held by the Authority pursuant to the terms and provisions of a Loan Agreement by and between the District and the Authority on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), in form satisfactory to the respective parties (the "Loan Agreement"), which Loan Agreement shall be assumed by the Issuer contemporaneously with the acquisition of the District Assets and assumption and replacement of the District Bonds, and which assumption is specifically approved hereby.

J. There are outstanding obligations of the Issuer which will rank on a parity with the Series 2013 A 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"); and (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"), (collectively, the "Prior Bonds").

K. Prior to the assumption, re-designation and replacement of the District 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 and Series 2012 B Bonds to the assumption, re-designation and replacement of the District 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.

L. The estimated revenues to be derived in each year after completion of the acquisition of the District Assets and assumption and re-designation of the District Bonds from the operation of the System will be sufficient to pay all costs of operation and maintenance of the System and the principal of and interest on the Series 2013 A Bonds and the Prior Bonds and to make payments into all funds and accounts and other payments provided for herein.

M. The Issuer has complied with all requirements of West Virginia law and the Loan Agreement relating to authorization of the acquisition of the District Assets and the assumption and re-designation of the District Bonds, or will have so complied prior to the assumption and re-designation of the District Bonds of any thereof, including, among other things, the approval of the acquisition of the District Assets and the assumption and re-designation of the District Bonds by Public Service Commission of West Virginia.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2013 A Bonds by 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 Bondholders of any and all of such Series 2013 A Bonds, all of which shall be of equal rank and without preference, priority or distinction between any one Bond and any other Bonds 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:

“Acquisition Agreement” means the Acquisition Agreement heretofore entered, or to be entered, into by and among the Issuer, the Board and the District, providing for the purchase of the District Assets from the District by the Issuer, the form of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified, by the Supplemental Resolution.

“Act” means, collectively, Chapter 8, Article 20 and Chapter 31, Article 15A of the West Virginia Code of 1931, as amended and in effect on the date of enactment hereof.

“Authority” means the West Virginia Water Development Authority, which is the original purchaser and Registered Owner of the Series 2013 A Bonds, or any other agency, board or department of the State that succeeds to the functions of the Authority, acting in its administrative capacity and upon authorization from the Council under the Act.

“Authorized Officer” means the Mayor or the City Manager of the Issuer, and, in the instance of the Board, the Chairman, the General Manager or the Assistant General Manager, or any other officer of the Issuer or Board specifically designated by resolution of the Governing Body or the Board, as appropriate.

“Board” means the Morgantown Utility Board.

“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 2013 A 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.

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

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

“Closing Date” means the date upon which the District Assets are transferred to the Issuer and the Series 2013 A Bonds are assumed and re-designated by 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. “Consulting Engineer” shall also include a licensed professional engineer employed by the Board, who is responsible for design and/or supervision of improvements, additions or modifications to the System.

“Council” means the West Virginia Infrastructure and Jobs Development Council or any successor thereto.

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

“Depreciation Fund” means the Depreciation Fund created by the Prior Ordinances and continued hereby.

“District” means Canyon Public Service District.

“District Assets” means all assets of the District, including all property, real or personal, tangible or intangible, which is part of the sewerage collection and transportation system of the District.

“District Bonds” means the Canyon Public Service District Sewer Revenue Bonds, Series 2008 A (West Virginia Infrastructure Fund), dated June 26, 2008, issued in the original aggregate principal amount of \$5,000,000.

“District Resolution” means the resolutions of the District authorizing the District Bonds.

“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” include any gains from the sale or other disposition of capital assets, but does not include any increase in the value of capital assets (including Qualified Investments, as hereinafter defined) or any Tap Fees (as hereinafter defined).

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

“Independent Certified Public Accountant” 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.

“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.

“Loan Agreement” means the Loan Agreement heretofore entered into by and between the District and the Authority on behalf of the Council, providing for the purchase of the District Bonds from the District by the Authority, which Loan Agreement shall be assumed by the Issuer contemporaneously with the acquisition of the District Assets and the assumption of and re-designation of the District Bonds by the Issuer, the content of which is hereby approved (with any amendments or modifications required by the Authority as a result of the assumption of and re-designation of the District Bonds), and the assumption by the Issuer authorized and directed.

“Mayor” means the Mayor of the Issuer.

“Net Proceeds” means the face amount of the Series 2013 A Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the Reserve Accounts.

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

“Operating Expenses” means the reasonable, proper and necessary costs of repair, operation and maintenance 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 fees and expenses of the Authority, fiscal agents, the Depository Bank, Registrar and Paying Agent or Paying Agents, 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 any decrease in the value of capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

“Operation and Maintenance Fund” means the Operation and Maintenance Fund established by the Prior Ordinances and continued hereby.

“Outstanding” when used with reference to Bonds or Prior Bonds and as of any particular date, describes all Bonds or Prior Bonds theretofore and thereupon being authenticated and delivered, except (i) any Bond or Prior Bond cancelled by the Bond Registrar or Registrar for Prior Bonds, at or prior to said date; (ii) any Bond or Prior Bonds, for the payment of which moneys, 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; and (v) for purposes of consents or other action by a specified percentage of Bondholders, or holders of Prior Bonds, any Bonds or Prior 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 designated as such for the Series 2013 A 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 and Series 2012 C Bonds.

“Prior Ordinances” means, collectively, the ordinances authorizing the Prior Bonds.

“Qualified Investments” means and includes any of the following or as otherwise authorized in Chapter 8, Article 13, Section 22a of the West Virginia Code of 1931, as amended:

- (1) Any direct obligation of, or obligation guaranteed as to the payment of both principal and interest by, the United States of America;
- (2) Any evidence of indebtedness issued by any United States government agency guaranteed as to the payment of both principal and interest, directly or indirectly, by the United States of America including, but not limited to, the following: Government National Mortgage Association, federal land banks, federal home loan banks, federal intermediate credit banks, banks for cooperatives, Tennessee Valley Authority, United States postal service, farmers home administration, export-import bank, federal financing bank, federal home loan mortgage corporation, student loan marketing association and federal farm credit banks;
- (3) Any evidence of indebtedness issued by the Federal National Mortgage Association to the extent such indebtedness is guaranteed by the government National Mortgage Association;
- (4) Any evidence of indebtedness that is secured by a first lien deed of trust or mortgage upon real property situate within this state, if the payment thereof is substantially insured or guaranteed by the United States of America or any agency thereof;
- (5) Direct and general obligations of this state;
- (6) Any undivided interest in a trust, the corpus of which is restricted to mortgages on real property and, unless all of such property is situate within the state and insured, the trust at the time of the acquisition of the undivided interest, is rated in one of the three highest rating grades by an agency which is nationally known in the field of rating pooled mortgage trusts;
- (7) Any bond, note, debenture, commercial paper or other evidence of indebtedness of any private corporation or association: *Provided*, That any such security is, at the time of its acquisition, rated in one of the three highest rating grades by an agency which is nationally known in the field of rating corporate securities: *Provided, however*, That if any commercial paper or any such security will mature within one

year from the date of its issuance, it shall, at the time of its acquisition, be rated in one of the two highest rating grades by any such nationally known agency and commercial paper or other evidence of indebtedness of any private corporation or association shall be purchased only upon the written recommendation from an investment advisor that has over \$300 million in other funds under its management;

(8) Negotiable certificates of deposit issued by any bank, trust company, national banking association or savings institution which mature in less than one year and are fully collateralized;

(9) Interest earning deposits including certificates of deposit, with any duly designated state depository, which deposits are fully secured by a collaterally secured bond as provided in section four, article one, chapter twelve of this code: *Provided*, That a banking institution is not required to provide this collaterally secured bond, or other security in lieu of bond, if the deposits accepted are placed in certificates of deposit meeting the following requirements: (A) The funds are invested through a designated state depository selected by the municipality; (B) the selected depository arranges for the deposit of the funds in certificates of deposit in one or more banks or savings and loan associations wherever located in the United States, for the account of the municipality; (C) the full amount of principal and accrued interest of each certificate of deposit is insured by the Federal Deposit Insurance Corporation; (D) the selected depository acts as custodian for the municipality with respect to such certificates of deposit issued for the municipality's account; and (E) at the same time that the municipality's funds are deposited and the certificates of deposit are issued, the selected depository receives an amount of deposits from customers of other financial institutions wherever located in the United States equal to or greater than the amount of the funds invested by the municipality through the selected depository;

(10) Mutual funds registered with the Securities and Exchange Commission which have assets in excess of \$300 million; and

(11) Deposits with any duly designated state depository that is selected and authorized by the municipality to arrange for the redeposit of the funds through a deposit placement program that meets the following conditions:

(a) On or after the date that the municipal funds are received the selected depository: (i) Arranges for the redeposit of the funds into deposit accounts in one or more federally insured banks or savings and loan associations that are located in the United States; and (ii) serves as custodian for the municipality with respect to the funds deposited into such accounts.

(b) Municipal funds deposited in a selected depository in accordance with this section and held at the close of business in the selected depository in excess of the amount insured by the Federal Deposit Insurance Corporation shall be secured in accordance with section four, article one, chapter twelve of this code.

(c) The full amount of the funds of the municipality redeposited by the selected depository into deposit accounts in banks or savings and loan associations pursuant to this subsection (plus accrued interest, if any) shall be insured by the Federal Deposit Insurance Corporation.

(d) On the same date that the funds of the municipality are redeposited pursuant to this subsection, the selected depository receives an amount of deposits from customers of other financial institutions through the direct placement program that are equal to the amount of the municipality's funds redeposited by the selected depository.

“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.

“Reserve Accounts” means, collectively, the respective Reserve Accounts established for the Series 2013 A Bonds and the Prior Bonds.

“Reserve Requirement” means, collectively, the respective amounts required to be on deposit in any Reserve Account for the Prior Bonds and the Series 2013 A 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), of the Issuer, authorized by this Bond Legislation.

“Series 2013 A Bonds Reserve Account” means the Series 2013 A Bonds Reserve Account established by Section 5.02 hereof.

“Series 2013 A Bonds Reserve Requirement” means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2013 A Bonds in the then current or any succeeding year.

“Series 2013 A Bonds Sinking Fund” means the Series 2013 A Bonds Sinking Fund established by Section 5.02 hereof.

“Sinking Funds” means, collectively, the respective Sinking Funds established for the Series 2013 A 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 2013 A Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Series 2013 A Bonds, and not so included may be included in another Supplemental Resolution.

“Surplus Revenues” means the Net Revenues not required by the Bond Legislation to be set aside and held for the payment of or security for the Series 2013 A Bonds, the Prior Bonds or any other obligations of the Issuer, including, without limitation, the Depreciation Fund, the Sinking Funds and the Reserve Accounts.

“System” means, collectively, the District Assets and the complete existing public combined waterworks, sewerage, and stormwater system of the Issuer, as presently existing in its entirety or any integral part thereof, and shall include any 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.

“West Virginia Infrastructure Fund” means the West Virginia Infrastructure Fund established in accordance with Chapter 31, Article 15A, Section 9 of the West Virginia Code of 1931, as amended and in effect on the date of enactment hereof.

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 OF THE DISTRICT ASSETS AND THE ASSUMPTION, RE-DESIGNATION AND REPLACEMENT OF THE DISTRICT BONDS

Section 2.01. Authorization of Acquisition of the District Assets. There is hereby authorized and ordered the acquisition of the District Assets pursuant to the terms of an Acquisition Agreement by and among the Issuer, the Board and the District.

Section 2.02. Authorization of Assumption and Re-designation of the District Bonds. There is hereby authorized and ordered the assumption by the Issuer in full of the entire outstanding principal of and the interest on the District Bonds on the Closing Date in an amount not to exceed \$5,000,000. The Issuer also authorizes the re-designation and replacement of the District Bonds as The City of Morgantown Combined Utility Revenue Bonds, Series 2013 A (West Virginia Infrastructure Fund).

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND ASSUMPTION AND REPLACEMENT OF DISTRICT BONDS; ASSUMPTION OF LOAN AGREEMENT

Section 3.01. Authorization of Assumption of District Bonds. For the purposes of serving as consideration for the acquisition of the District Assets, the Issuer hereby authorizes the assumption of the indebtedness evident by the District Bonds, and the substitution of a new bond of the Issuer for the District Bonds.

The District Bonds shall be assumed as one series of bonds and re-designated and replaced as “The City of Morgantown Combined Utility System Revenue Bonds, Series 2013 A (West Virginia Infrastructure Fund),” in the principal amount of not more than \$5,000,000, and shall have such terms as set forth hereinafter and in the Supplemental Resolution.

Section 3.02. Terms of Bonds. The Series 2013 A Bonds shall be assumed in such principal amount; shall bear interest at such rate or rates, not exceeding the then legal maximum, payable quarterly on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as exists on the Closing Date and as the Issuer shall prescribe in a Supplemental Resolution. The Series 2013 A 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.

As provided by the Supplemental Resolution, the Series 2013 A Bonds shall initially be one series, fully registered to the Authority, with a record of advances and a debt service schedule attached, representing the aggregate principal amount of the Series 2013 A Bonds. The Series 2013 A 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 Authority shall not be obligated to pay any expenses of such exchange.

Section 3.03. Execution of Bonds. The Series 2013 A Bonds shall be executed in the name of the Issuer by the Mayor and the City Manager, 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 2013 A Bonds shall cease to be such officer of the Issuer before the Series 2013 A 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 2013 A 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 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 2013 A Bonds 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 2013 A Bonds 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 2013 A 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 2013 A 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 2013 A Bonds remain outstanding, the Issuer, through the Bond Registrar or its agent, shall keep and maintain books for the registration and transfer of such Bonds.

The registered Series 2013 A 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 2013 A Bonds or transferring the registered Series 2013 A Bonds are exercised, all Series 2013 A Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Series 2013 A Bonds surrendered in any such exchanges or transfers shall forthwith be canceled by the Bond Registrar. For every such exchange or transfer of Series 2013 A 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 2013 A Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Series 2013 A Bonds or, in the case of any proposed redemption of Series 2013 A 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. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2013 A Bonds 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 Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond 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 Bonds so surrendered shall be canceled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Series 2013 A Bonds shall not, in any event, be or constitute an 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 System as herein provided. No Holder or Holders of the Series 2013 A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2013 A Bonds or the interest thereon.

Section 3.08. Bonds Secured by Pledge of Gross Revenues; Lien Position with respect to Prior Bonds. The payment of debt service of the Series 2013 A Bonds shall be secured 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. Such Gross Revenues in an amount sufficient to pay the principal of and interest, if any, on the Series 2013 A Bonds and the Prior Bonds and to make all other payments provided for in the Bond Legislation and Prior Ordinances are hereby irrevocably pledged to such payments as they become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver as substitute the Series 2013 A Bonds to the Registrar, and the Registrar shall authenticate, register and deliver the Series 2013 A Bonds to the original purchasers upon receipt of the documents set forth below:

- A. If other than the Authority, a list of the names in which the Series 2013 A 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 2013 A Bonds to the original purchasers;
- C. An executed and certified copy of the Bond Legislation;
- D. An executed copy of the Loan Agreement; and
- E. The unqualified approving opinion of bond counsel on the Series 2013 A Bonds.

Section 3.10. Form of Bonds. The text of the Series 2013 A 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 assumption and re-designation thereof:

[Remainder of Page Intentionally Blank]

(FORM OF SERIES 2013 A BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE CITY OF MORGANTOWN
COMBINED UTILITY SYSTEM REVENUE BOND, SERIES 2013 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

Replacement Bond
for
Canyon Public Service District
Sewer Revenue Bonds, Series 2008 A
(West Virginia Infrastructure Fund)

No. AR-1

\$ _____

KNOW ALL MEN BY THESE PRESENTS: That on this the _____ day of _____, 2013, 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 special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of _____ DOLLARS (\$ _____) which is the amount outstanding, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 20__ to and including June 1, 2048 as set forth on the "Debt Service Schedule" attached as EXHIBIT A hereto and incorporated herein by reference.

This bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, 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 (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Infrastructure and Jobs Development Council (the "Council"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Canyon Public Service District and the Authority on behalf of the Council, dated June 26, 2008, which Loan Agreement was assumed by the Issuer on _____, 2013.

The Issuer is simultaneously assuming the Canyon Public Service District Sewer Revenue Bonds, Series 2008 A (West Virginia Infrastructure Fund), (the "District Bonds") and has re-designating and replacing the District Bonds with this Bond to be known as "The City of Morgantown Combined Utility System Revenue Bonds, Series 2013 A (West Virginia Infrastructure Fund)" 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 and

Chapter 31, Article 15A of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on July 5, 2011, and a Supplemental Resolution and Conformed Bond Ordinance duly adopted by the Issuer on August 6, 2013 (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 ASSUMED 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"); AND

(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"), (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 moneys in the reserve account created under the Bond Legislation for the Bonds (the "Series 2013 A Bonds Reserve Account"). 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 an 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 hereon, except from said special fund provided from the Gross Revenues, the moneys in the Series 2013 A 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 on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Prior Bonds; provided, however, that so long as there exists in the Series 2013 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest 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 the Bonds, including the Prior 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.

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 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.

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 assumption and re-designation 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 of 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 City Manager, 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]

By: _____
Mayor

By: _____
City Manager

ATTEST:

By: _____
City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2013 A 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: _____, 2013.

THE HUNTINGTON NATIONAL BANK,
as Registrar

By: _____
Its: Authorized Officer

EXHIBIT A

DEBT SERVICE SCHEDULE

(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: _____

Section 3.11. Sale of Bonds; Approval and Ratification of Execution of Loan Agreement. The District Bonds were sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. The Loan Agreement, including all schedules and exhibits attached thereto, and as assumed by the Issuer are hereby approved and incorporated into this Bond Legislation.

Section 3.12. Reserved.

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 or the Issuer and from each other:

- (1) Revenue Fund (established by the Prior Ordinances);
- (2) Depreciation Fund (established by the Prior Ordinances); and
- (3) Operation and Maintenance Fund (established by the Prior Ordinances).

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created with and shall be held by the Commission, separate and apart from all other funds or accounts of the Commission or 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 B Bonds Sinking Fund (established by Prior Ordinances);
- (26) Series 2012 B Bonds Reserve Account (established by Prior Ordinances);
- (27) Series 2012 C Bonds Sinking Fund (established by Prior Ordinances);
- (28) Series 2012 C Bonds Reserve Account (established by Prior Ordinances);
- (29) Series 2013 A Bonds Sinking Fund; and
- (30) Series 2013 A Bonds Reserve Account

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System and all parts thereof shall be deposited upon receipt by the Issuer 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 the Prior Ordinances and this Bond Legislation. All moneys 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.

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) the amounts required by the Prior Ordinances to pay the principal of the Prior Bonds; and (ii) for deposit in the Series 2013 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2013 A

Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2013 A Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) the amounts required by the Prior Ordinances to be deposited in the Reserve Accounts for the Prior Bonds; and (ii) for deposit in the Series 2013 A Bonds Reserve Account, an amount equal to 1/120th of the Series 2013 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2013 A 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 2013 A 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, from the moneys remaining in the Revenue Fund, on the first day of each month transfer to the Depreciation Fund, an amount equal to 2 ½% 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 Depreciation 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 Depreciation Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in the Reserve Accounts (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 moneys from the Depreciation Fund.

(6) After making all of the foregoing deposits and payments, any excess moneys then remaining in the Revenue Fund ("Surplus Revenues") may be used for any lawful purpose of the System.

Moneys in the Series 2013 A Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest on the Series 2013 A Bonds, as the same shall become due. Moneys in the Series 2013 A Bonds Reserve Account shall be used only for the purpose of paying principal of and interest on the Series 2013 A Bonds, as the same shall come due, when other moneys in the Series 2013 A Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 2013 A Bonds Sinking Fund and the Series 2013 A Bonds Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment due on the Series 2013 A Bonds, and then to the next ensuing principal payment due thereon.

Any withdrawals from the Series 2013 A Bonds Reserve Account which results in a reduction in the balance therein to below the Series 2013 A Bonds Reserve Requirement shall be subsequently restored from the first Gross Revenues available after all required payments have been made in full in the order set forth above.

As and when additional Bonds ranking on a parity with the Series 2013 A 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 thereof.

The Issuer shall not be required to make any further payments into the Series 2013 A Bonds Sinking Fund or the Series 2013 A Bonds Reserve Account, when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 2013 A Bonds issued pursuant to this Bond Legislation then Outstanding and all interest to accrue until the maturity thereof.

Interest, principal or reserve payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Prior Bonds and the Series 2013 A 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 2013 A Bonds Sinking Fund and the Series 2013 A Bonds Reserve Account created hereunder, and all amounts required for said accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. 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.

Moneys in the Series 2013 A Bonds Sinking Fund and the Series 2013 A Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2013 A Bonds Sinking Fund and the Series 2013 A Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2013 A Bonds under the conditions and restrictions set forth herein.

B. The Issuer shall on the first day of each month (if such day is not a business day, then the next succeeding business day), deposit with the Commission the required interest, principal and reserve payments with respect to the Series 2013 A 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. The Issuer shall complete the "Monthly Payment Form," a form of which is attached to the Loan Agreement and submit a copy of said form along with a copy of its payment check to the Authority by the 5th day of such calendar month.

D. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinabove 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 the Act, such excess shall be considered as surplus revenues (the "Surplus Revenues"). Surplus Revenues may be used for any lawful purpose of the System.

E. 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. In the case of payments to the Commission under this paragraph, the Issuer shall, if required by the Authority at anytime, make the necessary arrangements whereby such required payments shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required.

F. The moneys in excess of the maximum amounts insured by FDIC in any of the 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.

G. 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 revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

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

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

J. All Tap Fees, as received, shall be deposited in the Revenue Fund and may be used for any lawful purpose of the System.

ARTICLE VI

[RESERVED]

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 2013 A 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 2013 A 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 2013 A Bonds or the interest thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2013 A 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 the Series 2013 A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2013 A Bonds or the interest thereon.

Section 7.03. Bonds Secured by Pledge of Gross Revenues; Lien Position with respect to Prior Bonds. The payment of debt service of the Series 2013 A Bonds shall be secured 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. Such Gross Revenues in an amount sufficient to pay the principal of and interest on the Series 2013 A Bonds and the Prior Bonds and to make all other payments provided for in this Bond Legislation and the Prior Ordinances are hereby irrevocably pledged to such payments as they become due.

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 Loan 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 June 21, 2011, the sewer rate ordinance of the Issuer enacted November 20, 2012, 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 2013 A 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 Loan Agreement. In the event the schedule of rates, fees and charges initially established for the System in connection with the Series 2013 A Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and

the Loan Agreement, 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, fees and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreement.

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. Additionally, so long as the Series 2013 A Bonds are outstanding and except as otherwise required by law or with the written consent of the Council and the Authority, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to fully pay all the Bonds Outstanding, in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Series 2013 A Bonds, immediately be remitted to the Commission for deposit in the Series 2013 A Bonds Sinking Fund and, with the written permission of the Council and the Authority, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal of and interest on the Series 2013 A Bonds. Any balance remaining after the payment of the Series 2013 A Bonds and interest thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of \$50,000, the Board shall, by resolution, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Revenue Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of \$50,000 but not in excess of \$200,000, the Board shall first, determine, that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property upon public bidding. The proceeds of any such sale shall be deposited in the Depreciation Fund. The payment of such proceeds into the Depreciation Fund shall not reduce the amount required to be paid into such account by other provisions of this Bond Legislation.

No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of \$200,000 and insufficient to pay all Bonds then Outstanding, without the prior approval and consent in writing of the Holders, or their duly authorized representatives, of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Moneys received upon any such sale under this paragraph, after deduction of all costs of such sale, shall be deposited in the Revenue Fund.

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 other 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 2013 A Bonds and the Prior Bonds. All obligations issued by the Issuer after the assumption and re-designation of the Series 2013 A 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 2013 A 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 2013 A Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Series 2013 A Bonds and the interest thereon in this Bond Legislation, or upon the System or any part thereof.

The Issuer shall give the Authority and the Council prior written notice of its issuance of any other obligations to be used for the System, payable from the revenues of the System or from any grants for the System.

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. In addition, no Parity Bonds, payable out of the revenues of the System, shall be issued after the assumption and re-designation of the Series 2013 A Bonds pursuant to this Bond Legislation, without the prior written consent of the Authority and the Council and without complying with the conditions and requirements herein provided (unless less restrictive than the provisions of the Prior Ordinances).

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 2013 A Bonds.

No such Parity Bonds shall be issued except for the purpose of financing the costs of design, acquisition or construction of extensions, additions, improvements or betterments to the System or refunding any outstanding Bonds, or both such purposes.

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 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 expected 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 improvements to be financed by such Parity Bonds and any increase in rates enacted by the Issuer, the time for appeal of which shall have expired (without successful appeal) prior to the issuance of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Independent Certified Public Accountants, 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, on account of increased rates, rentals, fees and charges for the System enacted by the Issuer, the time for appeal of which shall have 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 theretofore or subsequently issued from time to time within the limitations of and in compliance with this section. All Bonds, 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 the Gross Revenues, without preference of any Bond over any other. 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 2013 A Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from 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 2013 A 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 and the Prior Ordinances, shall have been made in full as required to the date of delivery of the Parity Bonds, and the Issuer then be in full compliance with all the covenants, agreements and terms of this Bond Legislation and the Prior Ordinances.

Section 7.08. Books; Records and Audit. The Board shall permit the Authority and the Council, or their agents and representatives, to inspect all books, documents, papers and records relating to the System at all reasonable times for the purpose of audit and examination. The Board shall submit to the Authority and the Council such documents and information as they may reasonably require in connection with the operation and maintenance of the System.

The Board shall permit the Authority and the Council, or their agents and representatives, to inspect all records pertaining to the operation and maintenance of the System at all reasonable times.

The Board 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. Separate control accounting records shall be maintained by the Board. 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 Board. The Board 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 Board shall be reported to such agent of the Issuer as the Board shall direct.

The Board shall file with the Authority and the Council, or any other original purchaser of the Series 2013 A Bonds, and shall mail in each year to any Holder or Holders of the Series 2013 A Bonds, requesting the same, an annual report containing the following:

(A) A statement of Gross Revenues, Operating Expenses, Net Revenues and Surplus Revenues derived from and relating to the System.

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Bond Legislation and the status of all said funds and accounts.

(C) The amount of any Bonds, notes or other obligations payable from the revenues of the System outstanding.

The Board shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountant (and to the extent legally

required, in compliance with the applicable OMB Circular, or any successor thereof, and the Single Audit Act, or any successor thereof), and shall mail upon request, and make available generally, the report of the Independent Certified Public Accountant, or a summary thereof, to any Holder or Holders of the Series 2013 A Bonds and shall submit said report to the Authority and the Council, or any other original purchaser of the Series 2013 A Bonds. Such audit report submitted to the Authority and the Council shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if there are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service and reserve requirements.

The Board shall provide the Authority and the Council, or their agents and representatives, with access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority and the Council with respect to the System pursuant to the Act.

Section 7.09. Rates. Prior to the assumption and re-designation of the Series 2013 A Bonds, equitable rates or charges for the use of and service rendered by the System shall be 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 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 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 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 on the Series 2013 A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2013 A Bonds, including the Prior Bonds; provided that, in the event that amounts equal to or in excess of the reserve requirements are on deposit in the Series 2013 A Bonds Reserve Account and any reserve accounts for obligations on a parity with the Series 2013 A Bonds are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2013 A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2013 A Bonds, including the Prior Bonds. In any event, the Issuer shall not reduce the rates or charges for services set forth in the rate ordinances described in Section 7.04.

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 Independent Certified Public Accountant that less than the above-required coverage exists or in the event that the annual audit report shows 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 Board 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 and shall submit a copy of such budget to the Authority and the Council within 30 days of adoption thereof.

Section 7.11. Engineering Services and Operating Personnel. The Issuer shall employ qualified operating personnel properly certified by the State to operate the System during the entire term of the Loan Agreement.

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 Board 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 20 days after the same shall become due and payable, 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 stormwater portion of the System and any services and facilities of the waterworks portion of the System, to all users of the services of the stormwater system delinquent in payment of charges for the services of the stormwater system and will not restore such services of either the waterworks system or the stormwater system until all delinquent charges for the services of the stormwater 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. If the waterworks facilities are not owned by the Issuer, the Issuer shall use diligent efforts to enter into a termination agreement with the provider of such water services, subject to any required approval of such agreements by the Public Service Commission of West Virginia.

Section 7.14. No Free Services. The Board 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 the Board, or any department, agency, instrumentality, officer or employee of either 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,

the Board 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 A. The Board hereby covenants and agrees that so long as the Series 2013 A Bonds remain Outstanding, the Board 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 Board 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 Depreciation Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for the Depreciation Fund.

(2) PUBLIC LIABILITY INSURANCE, with limits of not less than \$1,000,000 per occurrence to protect the Board 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 and the Board 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 OR COMPLETION BONDS, such bonds to be in the amounts of not less than 100% of the amount of any construction contract and to be required of each contractor dealing directly with the Board 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 any additions, extensions or improvements for the System in compliance with West Virginia Code, Section 38-2-39.

(4) FIDELITY BONDS will be provided as to every officer and employee of the Board or the Issuer 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.

(5) FLOOD INSURANCE, if the System facilities are or will be located in designated special flood or mudslide-prone areas and to the extent available at reasonable cost to the Issuer.

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

Section 7.16. Mandatory Use. The mandatory use of the sewer facilities 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. Accordingly, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, every owner, tenant or occupant of any real property located near the sewer portion of the System, and where sewer from real property affects or drains into the sewer portion of the System, shall be deemed to be a user served by the sewer portion of the System and it is declared that the mandatory use of the sewer portion of the System by such real property owner is necessary and essential for the health and welfare of the inhabitants and residents of the Issuer and the State. To the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, every such owner, tenant or occupant shall, after a 30-day notice of the availability of the sewer portion of the System, pay the rates and charges established therefor.

Section 7.17. Operation and Maintenance; Permits and Orders. The Board shall 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 Board has obtained all permits required by state and federal laws for the acquisition of the District Assets and assumption and re-designation of the District Bonds and all approvals for acquisition of the District Assets and assumption and re-designation of the Series 2013 A Bonds required by state law, with all requisite appeal periods having expired without successful appeal and the Issuer shall supply an opinion of counsel to such effect.

Section 7.18. Compliance with Loan Agreement and Law. The Issuer and the Board shall perform, satisfy and comply with all the terms and conditions of the Loan Agreement and the Act. Notwithstanding anything herein to the contrary, the Issuer and the Board shall provide the Council with copies of all documents submitted to the Authority.

The Issuer and the Board shall also comply with all applicable laws, rules and regulations issued by the Authority and the Council or other state, federal or local bodies in regard to the operation, maintenance and use of the System.

The Issuer shall perform an annual maintenance audit which maintenance audit shall be submitted to the Authority and the Public Service Commission of West Virginia.

Section 7.19. Reserved.

Section 7.20. Securities Laws Compliance. The Issuer shall provide the Authority, 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) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17 CFR Part 240).

Section 7.21. Reserved.

Section 7.22. Statutory Mortgage Lien. For the further protection of the Holders of the Series 2013 A 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 2013 A 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

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, the Depository Bank, or such other bank or national banking association, as the case may be, 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 or such other bank or national banking association, as the case may be, 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 as 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 2013 A Bonds are Outstanding and as long thereafter as necessary to assure the exclusion of interest, if any, on the Series 2013 A Bonds from gross income for federal income tax purposes.

Section 8.02. Covenants as to Use of Proceeds. The Issuer covenants (i) to comply with the Code and all Regulations from time to time in effect and applicable to the Series 2013 A Bonds as may be necessary in order to maintain the status of the Series 2013 A Bonds as governmental bonds; (ii) that it shall not take, or permit or suffer to be taken, any action with respect to the Issuer's use of the proceeds of the Series 2013 A Bonds which would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the

Code, issued by the Authority or the Council, as the case may be, from which the proceeds of the Series 2013 A Bonds are derived, to lose their status as tax-exempt bonds; and (iii) to take such action, or refrain from taking such action, as shall be deemed necessary by the Issuer, or requested by the Authority or the Council, to ensure compliance with the covenants and agreements set forth in this Section, regardless of whether such actions may be contrary to any of the provisions of this Ordinance.

The Issuer shall annually furnish to the Authority, information with respect to the Issuer's use of the proceeds of the Series 2013 A Bonds and any additional information requested by the Authority.

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 2013 A Bonds:

(1) If default occurs in the due and punctual payment of the principal of or interest on any Series 2013 A 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 2013 A Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 2013 A 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 Commission, the Depository Bank, the Registrar, the Paying Agent or any other Paying Agent or a Holder of a Bond; or

(3) If the Issuer or Board 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 however, that all rights and remedies of the Holders of the Series 2013 A Bonds shall be on a parity with those of the Holders of 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 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 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 do.

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 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 2013 A Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Gross Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2013 A 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 on the Series 2013 A Bonds from gross income for federal income tax purposes.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to the assumption and re-designation of the Series 2013 A Bonds, this Ordinance may be amended or supplemented in any way by the Supplemental Resolution. Following assumption and re-designation of the Series 2013 A 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 2013 A Bonds shall be made without the consent in writing of the Registered Owners of the Series 2013 A 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 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 Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of the Series 2013 A 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 excludability of interest on the Series 2013 A 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 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 2013 A 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; 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 Manager, the City Clerk and members of the Governing Body and the Board 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 PLLC, Charleston, West Virginia, as bond counsel to the Issuer and the Board in connection with the assumption and re-designation by the Issuer of the Series 2013 A 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 newspaper published and 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 assumption and re-designation of the Series 2013 A 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.

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

Passed on First Reading: June 7, 2011

Passed on Second Reading: June 21, 2011

Passed on Final Reading
Following Public Hearing: July 5, 2011

By: _____
Mayor

ATTEST:

By: _____
City Clerk

APPROVED AND CORRECT AS TO FORM:

By: _____
City Solicitor

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of THE CITY OF MORGANTOWN on the 5th day of July, 2011 as supplemented by Supplemental Resolution dated August 6, 2013.

Dated: August 22, 2013.

[SEAL]

City Clerk

EXHIBIT A

Form of Acquisition Agreement

THE CITY OF MORGANTOWN

**ASSUMPTION OF
CANYON PUBLIC SERVICE DISTRICT, SEWER REVENUE BONDS, SERIES 2008 A
(WEST VIRGINIA INFRASTRUCTURE FUND)**

AND RE-DESIGNATION AND REPLACEMENT AS

**COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2013 A
(WEST VIRGINIA INFRASTRUCTURE FUND)**

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