



Office of the City Clerk

The City of Morgantown

Linda L. Tucker, CMC
389 Spruce Street, Room 10
Morgantown, West Virginia 26505
(304) 284-7439 Fax: (304) 284-7525
ltucker@morgantownwv.gov

AGENDA
MORGANTOWN CITY COUNCIL
REGULAR MEETING
September 6, 2016
7:00 p.m.

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **PLEDGE TO THE FLAG**
4. **APPROVAL OF MINUTES: SPECIAL MEETING MINUTES AUGUST 16, 2016, REGULAR MEETING MINUTES AUGUST 16, 2016, AND SPECIAL MEETING MINUTES AUGUST 30, 2016.**
5. **CORRESPONDENCE: Proclamation for Constitution Week**
6. **PUBLIC HEARINGS:**
 - A. **AN ORDINANCE AMENDING SECTIONS 1329.02, 1349.08, AND 1365.04 OF THE CITY OF MORGANTOWN PLANNING AND ZONING CODE AS THEY RELATE TO BICYCLE STORAGE REQUIREMENTS.**
 - B. **AN ORDINANCE AMENDING ARTICLES 1383, 1389, AND 1391 OF THE CITY'S PLANNING AND ZONING CODE GOVERNING ADMINISTRATIVE APPEALS AND THE ESTABLISHMENT, POWERS AND DUTIES, AND JUDICIAL REVIEW OF THE BOARD OF ZONING APPEALS.**
 - C. **AN ORDINANCE AMENDING ARTICLE 1329.02, TABLE 1331.05.01, ARTICLE 1365.04, AND ARTICLE 1365.07 OF THE CITY'S PLANNING AND ZONING CODE AS THEY RELATE TO PARKING LOT AND PARKING STRUCTURE USES.**
 - D. **AN ORDINANCE AUTHORIZING A PARKING SPACE LEASE WITH MOTOWN TAXI AT THE MORGANTOWN MUNICIPAL AIRPORT.**
 - E. **AN ORDINANCE AUTHORIZING THE CITY TO SUBMIT AN AMENDMENT TO**

ITS WRITTEN PLAN TO THE HOME RULE BOARD.

7. UNFINISHED BUSINESS:

- A. Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN ORDINANCE AMENDING SECTIONS 1329.02, 1349.08, AND 1365.04 OF THE CITY OF MORGANTOWN PLANNING AND ZONING CODE AS THEY RELATE TO BICYCLE STORAGE REQUIREMENTS. (First reading August 2, 2016)**
- B. Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN ORDINANCE AMENDING ARTICLES 1383, 1389, AND 1391 OF THE CITY'S PLANNING AND ZONING CODE GOVERNING ADMINISTRATIVE APPEALS AND THE ESTABLISHMENT, POWERS AND DUTIES, AND JUDICIAL REVIEW OF THE BOARD OF ZONING APPEALS. (First reading August 2, 2016)**
- C. Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN ORDINANCE AMENDING ARTICLE 1329.02, TABLE 1331.05.01, ARTICLE 1365.04, AND ARTICLE 1365.07 OF THE CITY'S PLANNING AND ZONING CODE AS THEY RELATE TO PARKING LOT AND PARKING STRUCTURE USES. (First reading August 2, 2016)**
- D. Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN ORDINANCE AUTHORIZING A PARKING SPACE LEASE WITH MOTOWN TAXI AT THE MORGANTOWN MUNICIPAL AIRPORT. (First reading August 16, 2016)**
- E. Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN ORDINANCE AUTHORIZING THE CITY TO SUBMIT AN AMENDMENT TO ITS WRITTEN PLAN TO THE HOME RULE BOARD. (First reading August 16, 2016)**

F. BOARDS AND COMMISSIONS

- 8. PUBLIC PORTION WHICH SHALL BE SUBJECT TO RULES ESTABLISHED BY COUNCIL AND ADOPTED BY RESOLUTION**
- 9. SPECIAL COMMITTEE REPORTS:**
- 10. NEW BUSINESS:**

- A. Consideration of **APPROVAL** of (FIRST READING) of **AN ORDINANCE AUTHORIZING EXECUTION WITH THE WEST VIRGINIA BOTANICAL GARDEN, INC. FOR AN 82-ACRE PARCEL KNOWN AS THE TIBBS RUN PROPERTY.**
- B. Consideration of **APPROVAL** of (FIRST READING) of **AN ORDINANCE AMENDING TABLE 1331.05.01 "PERMITTED LAND USES: OF THE CITY'S PLANNING AND ZONING CODE AS IT RELATES TO CHURCHES, PLACES OF WORSHIP.**
- C. Consideration of **APPROVAL** of (FIRST READING) of **AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION AND IMPROVEMENTS TO THE SANITARY SEWER PORTION OF THE CITY OF MORGANTOWN AND FINANCING COST THEREOF THROUGH THE ISSUANCE OF NOT MORE THAN 30,000,000 IN AGGREGATE AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS SERIES 2016C.**

11. **CITY MANAGER'S REPORT:**

New Business:

- 1. Festival Permit Requested for West Virginia Public Theatre
- 2. Salt Bid – Bid Call 2017
- 3. WVDOH Announces Upcoming Highway Project

12. **REPORT FROM CITY CLERK:**

13. **REPORT FROM CITY ATTORNEY:**

14. **REPORT FROM COUNCIL MEMBERS:**

15. **EXECUTIVE SESSION:** Pursuant to WV State Code Section 6-9A-4(b) (2) (A) In Order to Discuss Personnel Matters in considering recruitment for a new City Manager.

16. **ADJOURNMENT:**

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



Office of the City Manager

The City of Morgantown

Interim City Manager
COL (Ret) Glen Kelly
389 SPRUCE STREET

MORGANTOWN, WEST VIRGINIA 26505
(304) 284-7404 FAX: (304) 284-7430
www.morgantownwv.gov

August 31, 2016

City Manger's Report for City Council Meeting on September 6, 2016

New Business:

1. Festival Permit Requested for West Virginia Public Theatre (WVPT)

Attached is a request for a festival permit from the West Virginia Public Theatre to host a fund raising event called "WVPT Oktoberfest", a German-themed event, to be held at eh WV National Guard Readiness Center on October 8, 2016 from 10:00 a.m. – 6:00 p.m. We anticipate no problems with this event and I recommend that City Council authorize a festival permit to be sent to the ABCA for October 8, 2016 to endorse this event.

2. Salt Bid – Bid Call 2017

Salt bids were opened on August 18, 2016. Attached is the Memorandum from the Public Works Department. I recommend you approve the awarding of this contract as listed to Cargill Salt.

3. WVDOH Announces Upcoming Highway Project

The WVDOH has announced proposed plans for a new roundabout project at the intersection of University Avenue, Collins Ferry Road and Baldwin Street in the City of Morgantown. I request council's guidance on a response is as a body should be done during this public comment period. The public response period ends on September 19, 2016.

Glen Kelly
Interim City Manager
Morgantown, West Virginia



24 August 2016

To the members of the Morgantown City Council,

West Virginia Public Theatre (WVPT) will host a fundraising event on October 8, 2016 called "WVPT Oktoberfest." On that day, our organization will invite guests to attend a German-themed event in which they can enjoy live Oomph music, craft beers, and local food. It will be held at the WV National Guard Readiness Center from 10am-6pm within Morgantown city limits near the Pierpont Exit off of Interstate 68.

In compliance with the Fairs and Festivals license from the WV Alcoholic Beverage Commission, WVPT must include a document that proves the event is "sponsored or endorsed by the governing body of either the municipality or of the county wherein the fair or festival is to be conducted." So that we may properly obtain our Fairs and Festivals licensure, WVPT requests the city's official endorsement of the event.

If you have any questions or need to reach, please contact myself, Lindsay Dawson, at lindsay@wvpublictheatre.org, or by calling 304-381-2382.

Thank you so much for your time and consideration.

Gratefully,

Lindsay Dawson
Director of Marketing and Development

WEST VIRGINIA PUBLIC THEATRE

111 High Street
Morgantown, WV 26505
(304) 381-2382

BOARD OF DIRECTORS

Paul Kreider, **President**
Julie Smith, **Vice President**
Timothy Rhodes, **Treasurer**
Ray Prendergast, **Secretary**

Steve Annand
Gregory Bowman
Herb Faulkenberry
Sarah Rowan Giasi
Gerald McGaughey

Ashley Hardesty Odell
Ron Justice
Doug Leech Jr.
Carol Rattrick
Daphne Scordato

Chris Secreto
April Kault Stolzenbach
James Yost

Memo

City of Morgantown

Public Works Department

To: Glen, Interim City Manager

From: Damien Davis, Public Works Director and City Engineer 

Subject: Salt Bid – Bid Call 2017-01

Date: August 18, 2016

Salt bids were opened at 10:00am on August 18, 2016. The results are as follows: (the total cost is based on 1,500 tons for the City of Morgantown)

VENDOR	UNIT PRICE (Option 1)	UNIT PRICE (Option 2)	COST (Option 1)	COST (Option 2)
Cargill Salt	\$69.68/ton	\$82.64/ton	\$104,520.00	\$123,960.00
Compass Minerals	\$69.44/ton	No Bid	\$104,160.00	No Bid
Morton Salt	\$70.79/ton	No Bid	\$106,185.00	No Bid

Option 1 is for BULK ROCK SALT and Option 2 is for BULK ROCK SALT TREATED WITH CORROSION INHIBITED LIQUID MAGNESIUM CHLORIDE.

Salt treated with Magnesium Chloride allows for use at lower temperatures than regular salt. This permits the City to be more affective at clearing the roadways. Also with treated salt less salt is needed in order to maintain the roadway surface.

Last year's price for treated salt was \$89.25/ton. Currently the City has roughly 1500 tons of treated salt on hand. An additional 1500 tons will fill our supply and prepare us for the coming winter.

Given this, I would recommend that the City award the contract to Cargill Salt for the treated salt (Option 2) for the upcoming winter. \$125,000 was budgeted for snow removal in the 2016-17 budget.



WVDOH Announces Upcoming Highway Project

University Avenue Intersection

Morgantown, WV

Monongalia County

State Project #U331-55-1.10 Federal Project #CMAQ-0055(036)D

August 8, 2016



Location Map – CR 55 / CR 57 intersection

The University Avenue Intersection Project is at the intersection of University Avenue (County Route 55), Collins Ferry Road (County Route 57), and Baldwin Street in the City of Morgantown, within Monongalia County, West Virginia. Commercial businesses with entry driveways are located in each quadrant around the intersection. The WVDOH is evaluating alternatives for the most cost effective solution to increase the level of service for this intersection.

Five alternatives are being evaluated for this project.

- **Alternative #1-** Proposes constructing a single roundabout in the intersection.
- **Alternative #2-** Proposes constructing an oval roundabout in the intersection.
- **Alternative #3-** Proposes a traffic signal and added additional turning lanes at the existing intersection.
- **Alternative #4-** Proposes a traffic signal at the intersection with Collins Ferry Road and Baldwin Street then realign to form a plus style intersection.
- **Alternative #5-** Proposes to construct a single lane non-traditional shaped roundabout.

If you would like to comment on the project please mail written comments to:

RJ Scites, P.E., Director, Engineering Division

West Virginia Division of Highways

1334 Smith Street

Charleston, West Virginia 25301

Or visit the WVDOH Website at www.transportation.wv.gov (under Public Comments then Comment on Engineering Projects, Open University Avenue Project). All comments are due by Monday, September 19, 2016.

A COMMENT FORM IS ON THE BACK OF THIS FLYER

DATE:

Mr. RJ Scites, P.E.
Director, Engineering Division
West Virginia Division of Highways
1334 Smith Street
Charleston, West Virginia 25301

**PROJECT: University Avenue Intersection Project
Monongalia County
State Project # U331-55-1.10
Federal Project # CMAQ-0055(036)D**

COMMENTS DUE BY September 19, 2016

Please consider the following comments:

(Please print the following information)

NAME:

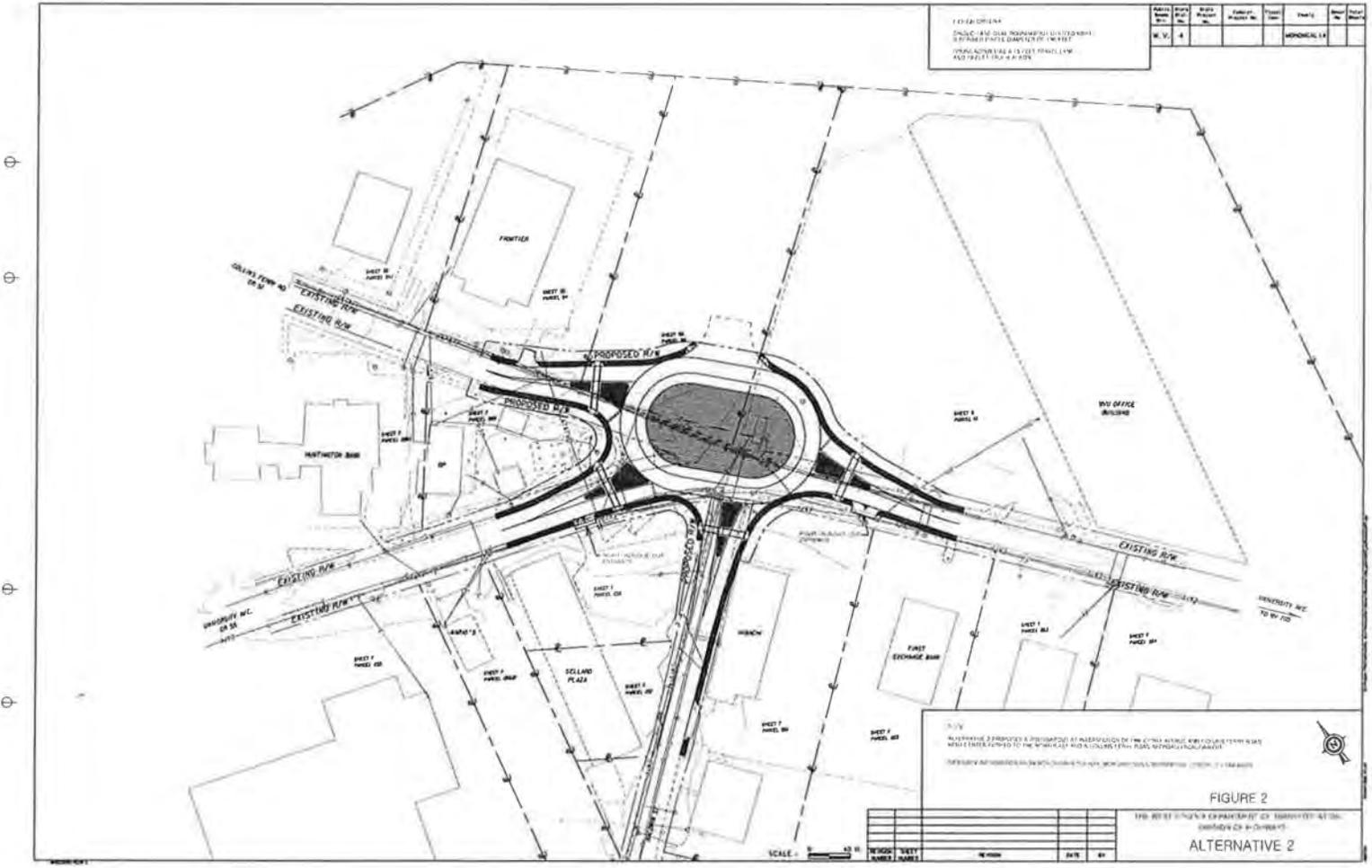
ADDRESS:

ORGANIZATION (IF ANY):

Project Information and Comment Sheets

Can be found online at our WVDOH Website at <http://go.wv.gov/dotcomment>.

Under Engineering Projects, Open, and then click University Avenue Project.



1. CHECK ORIGIN
 2. CHECK AND DATE MODIFICATION (DATE MONTH YEAR)
 3. CHECK AND DATE CANCELLED (DATE MONTH YEAR)
 4. CHECK AND DATE REVISED (DATE MONTH YEAR)
 5. CHECK AND DATE DELETED (DATE MONTH YEAR)

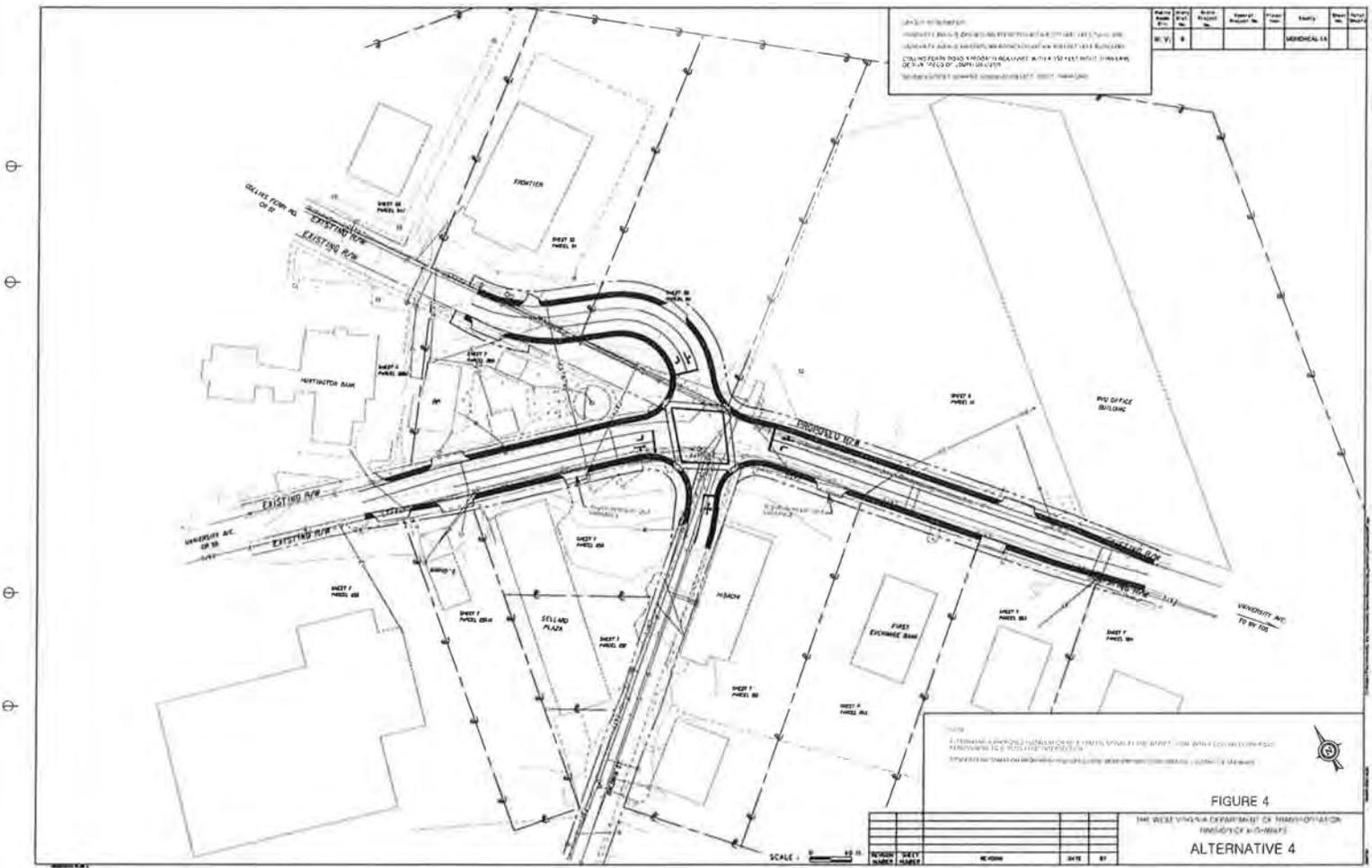
NO.	DATE	BY	REVISION
1	11/14/00	W. V. A.	REVISION 1.1

FIGURE 2
 ALTERNATIVE 2 PROPOSED A. PROPOSED AT INTERSECTION OF THE EXISTING R/W AND ISLAND PLAZA FROM NORTH
 WEST SIDE INTERSECTION TO THE MOUNTWATER AND ISLAND PLAZA FROM MOUNTWATER PLAZA/AVENUE
 INTERSECTION TO THE FINCH EXCHANGE BUILDING FROM MOUNTWATER PLAZA/AVENUE INTERSECTION TO THE FINCH EXCHANGE BUILDING

SCALE: 1" = 40' 0"

REVISION DATE BY

FIGURE 2
 THE CITY OF SALT LAKE COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT
 2000 WEST 100 SOUTH
 SALT LAKE CITY, UT 84143
 801.468.2000



1. THIS PLAN IS A PRELIMINARY DESIGN AND IS SUBJECT TO CHANGE WITHOUT NOTICE.
 2. THE DESIGNER HAS CONDUCTED VISUAL INSPECTIONS OF THE SITE AND HAS FOUND NO OBSTACLES TO THE PROPOSED WORK.
 3. THE DESIGNER HAS CONDUCTED VISUAL INSPECTIONS OF THE ADJACENT PROPERTIES AND HAS FOUND NO OBSTACLES TO THE PROPOSED WORK.
 4. THE DESIGNER HAS CONDUCTED VISUAL INSPECTIONS OF THE ADJACENT STREETS AND HAS FOUND NO OBSTACLES TO THE PROPOSED WORK.
 5. THE DESIGNER HAS CONDUCTED VISUAL INSPECTIONS OF THE ADJACENT UTILITIES AND HAS FOUND NO OBSTACLES TO THE PROPOSED WORK.
 6. THE DESIGNER HAS CONDUCTED VISUAL INSPECTIONS OF THE ADJACENT LANDSCAPE AND HAS FOUND NO OBSTACLES TO THE PROPOSED WORK.
 7. THE DESIGNER HAS CONDUCTED VISUAL INSPECTIONS OF THE ADJACENT TRAFFIC AND HAS FOUND NO OBSTACLES TO THE PROPOSED WORK.
 8. THE DESIGNER HAS CONDUCTED VISUAL INSPECTIONS OF THE ADJACENT ENVIRONMENT AND HAS FOUND NO OBSTACLES TO THE PROPOSED WORK.
 9. THE DESIGNER HAS CONDUCTED VISUAL INSPECTIONS OF THE ADJACENT COMMUNITY AND HAS FOUND NO OBSTACLES TO THE PROPOSED WORK.
 10. THE DESIGNER HAS CONDUCTED VISUAL INSPECTIONS OF THE ADJACENT HISTORY AND HAS FOUND NO OBSTACLES TO THE PROPOSED WORK.

DATE	BY	REVISION
11/11/11

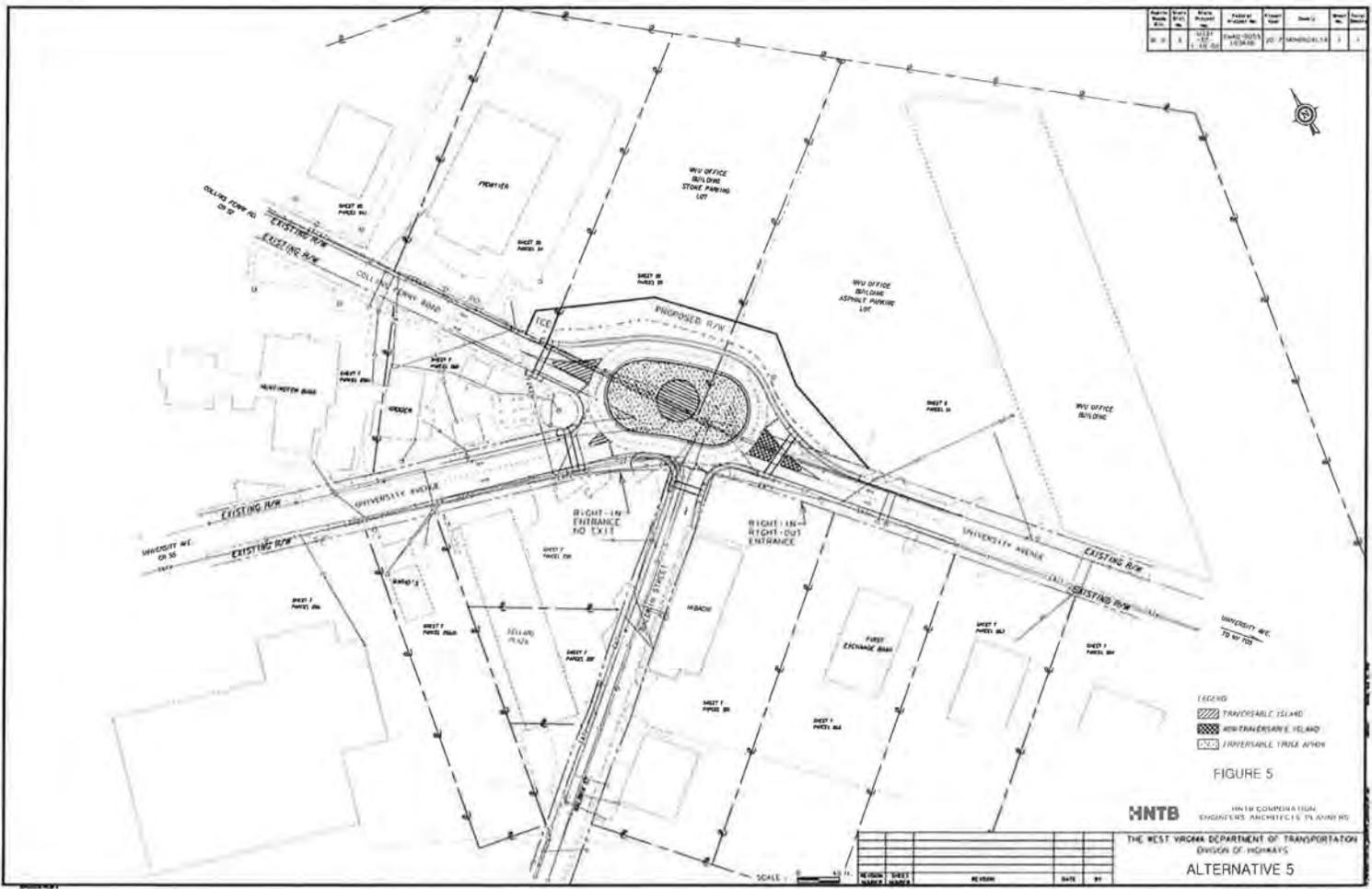
FIGURE 4
 THE WEST VIRGINIA DEPARTMENT OF TRANSPORTATION
 DIVISION OF HIGHWAYS
 ALTERNATIVE 4

SCALE: 1" = 100'

REVISIONS:

NO.	DATE	BY
1

Sheet No.	Scale	Area	Project No.	Project Name	Sheet No.	Total Sheets
10	1" = 100'	1.2	100000000	UNIVERSITY AVENUE	10	10



LEGEND
 TRANSFERABLE ISLAND
 INTERCHANGEABLE ISLAND
 IMPASSIBLE TRUCK AVENUE

FIGURE 5

HNTB HNTB CORPORATION
 ENGINEERS ARCHITECTS PLANNERS
 THE WEST VIRGINIA DEPARTMENT OF TRANSPORTATION
 DIVISION OF HIGHWAYS
 ALTERNATIVE 5

REVISION	DATE	BY

Boards & Commissions Available Positions

<u>Board/Commission</u>	<u>Vacancy/Term</u>	<u>Name of Applicants</u>	<u>Res./Non Res.</u>	<u>Ward</u>	<u>Code Sec.</u>	<u>Other</u>
Library Board	4	Names Attached	Resident		159	Special Meeting
Parking Authority	1	Advertising	Resident		155	Special Meeting
Sister Cities	2	2 Apps. Attached	Resident		172.02	Special Meeting
Traffic Commission	2	Advertising	Resident	6,Vac	151	Special Meeting
Urban Landscape is re-vamping board rules, Marchetta Maupin will notify Clerk.						

Sister Cities Applicant Elizabeth Finklea is out of the country and will contact me for an interview when she returns.

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

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

8/30/2016

Council to interview all

Linda Tucker

From: Sharon Turner <turnersl@clark.lib.wv.us>
Sent: Wednesday, July 20, 2016 3:50 PM
To: Linda Tucker
Subject: Library Board vacancies

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Linda,

The Library Board will have two vacancies to be filled.
First, Lyndell Millecchia, whose term expired this year, does not wish to be re-appointed.
Also, Patricia Hein is leaving the area, so we need a 3 year appointment for her unexpired term (2019).

Thanks,
Sharon Turner
Director
Morgantown Public Library

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 EVERY IMPORTANT CAPACITIES. STATE LAWS PRESCRIBE THAT SOME THOSE BODIES RETAIN MEMBERS WHO HAVE CERTAIN EXPERIENCE, EDUCATION OR PROFESSIONAL CERTIFICATIONS. WE ASK THAT YOU PROVIDE THE FOLLOWING BASIS INFORMATION SO WE MAY EVALUATE PROSPECTIVE APPOINTEES' QUALIFICATIONS IN AN EXPEDIENT MANNER. A RESUME OR OTHER OTHER PERTINENT INFORMATION MAY BE SUBMITTED ALONG WITH THIS FORM.

MR/MS: Susan Carpenter WORK/CELL PHONE: 304-216-0317
 ADDRESS: 266 Caddell St HOME PHONE: 304-296-2196
Morgantown, WV ZIP: 26501
 EMAIL ADDRESS: Suegary26501@yahoo.com
 CITY RESIDENT? YES NO YEARS OF CITY RESIDENCY 33 WARD 1st
 WHO IS YOUR EMPLOYER? (If Retired, answer "Retired") Retired
 WHAT TYPE OF BUSINESS ARE (were) YOU EMPLOYED IN? Health Care
 JOB TITLE OR JOB DESCRIPTION: Director Morgantown Hospice
 PROFESSIONAL CERTIFICATIONS/LICENSE: licensed Social Worker (MSW)

Memberships - SSum Church, Service League of Morgantown, WV Botanic Gardens
 SPECIAL INTERESTS: WV Family Grief Center Board Member
Volunteer for children's library programs

PLEASE CHECK THE COMMISSIONS YOU ARE INTERESTED IN SERVING:

- | | |
|---|--|
| <input type="checkbox"/> BOCCA 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"/> FIRE CODE BOARD OF APPEALS | <input type="checkbox"/> SISTER CITIES COMMISSION |
| <input type="checkbox"/> HISTORIC LANDMARKS | <input type="checkbox"/> TRAFFIC COMMISSION |
| <input type="checkbox"/> HUMAN RIGHTS | <input type="checkbox"/> TRANSIT AUTHORITY |
| <input checked="" type="checkbox"/> LIBRARY BOARD | <input type="checkbox"/> TREE BOARD |
| <input type="checkbox"/> MET BOARD | <input type="checkbox"/> URBAN LANDSCAPE COMMISSION |
| <input type="checkbox"/> MORGANTOWN HOUSING ADVISORY COMMISSION | <input type="checkbox"/> WARD & BOUNDARY |
| <input type="checkbox"/> MORGANTOWN UTILITY BOARD | <input type="checkbox"/> WOODBURN REDEVELOPMENT COMMISSION |

SUBMIT TO: CITY CLERK, 389 SPRUCE STREET, RM. 10, MORGANTOWN, WV. 26505
 APPLICATIONS WILL REMAIN ON FILE IN THE CITY CLERK'S OFFICE FOR 6 MONTHS

Updated: 2/15/2016 HC

VITAE

Susan H. Carpenter

266 Caddell Street • Morgantown, WV 26501 • (304) 296-2196

EMPLOYMENT

January 2005 – November 2013 **Director**

Morgantown Hospice, Morgantown, WV
Responsibilities: Plans, leads, organizes and evaluates the growth and development of hospice services consistent with organizational goals. Establishes challenging and measurable goals that are aligned with corporate strategic goals and objectives. Structures staff work assignments to achieve high levels of efficiency. Monitors activities and corrects significant deviations to ensure effective results.

May 1983 – January 2005

Coordinator Hospice Support Services
Morgantown Hospice, Morgantown, WV

Responsibilities: Assessment of the psycho-social needs of patient and family; development of plan of care with the multi-disciplinary team, supportive counseling regarding the terminal illness and bereavement issues and volunteer placement for respite. Assessment of patient/family spiritual needs and referral as appropriate. Recruitment, training, utilization and supervision of volunteers. Provide bereavement follow-up and co-facilitate bereavement support group. Provide community education re: hospice, end of life decision making, advance directives and bereavement issues.

Teaching – Workshops on death and dying, grief and bereavement and end of life planning. Guest lecturer in various college and high school classes. Adjunct instructor, School of Social Work, West Virginia University.

Sept. 1969 – May 1983

Sales Associate, J.C. Penney Co.

Coordinator, Program for Gifted Students, grades 1-6
and

Coordinator, National Institute of Education Project
Berkeley County Public Schools, Martinsburg, WV

Classroom Teacher

Department of Defense Schools, Kaiserslautern, Germany

Classroom Teacher

Frederick County Public Schools, Frederick, MD

EDUCATION

MSW (Gerontology), MPA and MA (Counseling and Guidance)
West Virginia University, Morgantown, WV

BA (Elementary Education)

Shepherd College, Shepherdstown, WV

Linda Tucker

From: Linda Fredrick <fredrick.linda@gmail.com>
Sent: Sunday, July 31, 2016 10:15 PM
To: Linda Tucker
Subject: Re: Boards and Commission Interview before Council on August 16, 2016

Dear Ms. Tucker,

Thank you for forwarding the Council interview notice (6:00 pm, August 16). I do plan to attend at that time. I assume this will take place in the City Council chamber. Please advise if this is not the case and/or if there is any particular procedure I should follow at that time.

John Fredrick

On Friday, July 29, 2016, Linda Tucker <ltucker@morgantownwv.gov> wrote:

To all candidates: on August 16, 2016 around 6pm Council will interview each one of you for the Commission you are interested in. Please let me know if you can be there at that time. If you have questions feel free to contact me.:

Linda L. Tucker

Morgantown City Clerk

389 Spruce Street, Rm. 10

Morgantown, WV. 26505

(304)284-7439

ltucker@morgantownwv.gov

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 EVERY IMPORTANT CAPACITIES. STATE LAWS PRESCRIBE THAT SOME 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 OTHER PERTINENT INFORMATION MAY BE SUBMITTED ALONG WITH THIS FORM.

MR/MS: John William Fredrick WORK/CELL PHONE: NA
 ADDRESS: 101 Richmond Ave. HOME PHONE: 304-292-7579
Morgantown, WV ZIP: 26501
 EMAIL ADDRESS: Fredrick.linda@gmail.com
 CITY RESIDENT? YES NO YEARS OF CITY RESIDENCY 31 WARD 2
 WHO IS YOUR EMPLOYER? (If Retired, answer "Retired") Picketts Fort Foundation
 WHAT TYPE OF BUSINESS ARE (were) YOU EMPLOYED IN? Historic Interpretation
 JOB TITLE OR JOB DESCRIPTION: Historic Interpreter (Retired Teacher)
 PROFESSIONAL CERTIFICATIONS/LICENSE: Bachelor of Arts in Education
Master of Arts in Education, Certified to teach Social
Studies/History and Special Education (SID, MI) K-12 in WV
 SPECIAL INTERESTS: Great Literature, especially Shakespeare; e.g.
Travel to attend performances of the complete canon; Historic Preservation

PLEASE CHECK THE COMMISSIONS YOU ARE INTERESTED IN SERVING:

- | | |
|---|--|
| <input type="checkbox"/> BOCCA 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"/> FIRE CODE BOARD OF APPEALS | <input type="checkbox"/> SISTER CITIES COMMISSION |
| <input type="checkbox"/> HISTORIC LANDMARKS | <input type="checkbox"/> TRAFFIC COMMISSION |
| <input type="checkbox"/> HUMAN RIGHTS | <input type="checkbox"/> TRANSIT AUTHORITY |
| <input checked="" type="checkbox"/> LIBRARY BOARD | <input type="checkbox"/> TREE BOARD |
| <input type="checkbox"/> MET BOARD | <input type="checkbox"/> URBAN LANDSCAPE COMMISSION |
| <input type="checkbox"/> MORGANTOWN HOUSING ADVISORY COMMISSION | <input type="checkbox"/> WARD & BOUNDARY |
| <input type="checkbox"/> MORGANTOWN UTILITY BOARD | <input type="checkbox"/> WOODBURN REDEVELOPMENT COMMISSION |

SUBMIT TO: CITY CLERK, 389 SPRUCE STREET, RM. 10, MORGANTOWN, WV. 26505
 APPLICATIONS WILL REMAIN ON FILE IN THE CITY CLERK'S OFFICE FOR 6 MONTHS

Updated: 2/15/2016 HC

JOHN WILLIAM FREDRICK
101 Richmond Avenue
Morgantown, WV 26501-6942
(304)292-7579

OBJECTIVE

Service to my community and its vital institutions

EDUCATION

Bachelor of Arts in Education, History and Social Studies (August 1971)
Fairmont State College, Fairmont, West Virginia

Master of Arts, Special Education (December 1976)
West Virginia University, Morgantown, West Virginia

Post-graduate study (1976-2008)
West Virginia University, Morgantown, West Virginia
RESA VII, Fairmont, West Virginia

WORK EXPERIENCE

Historic Interpreter (April 2012 to present)
Pricketts Fort, Job House, Pricketts Fort Foundation Museum and Library
Fairmont, West Virginia

Poll worker/commissioner (2010-2012)
Monongalia County, West Virginia

Special Educator (January 1977- June 2008)
Bruceton School, Bruceton Mills, Preston County, West Virginia

Teaching Practicums:

Gore Junior High School, Harrison County, West Virginia (1971)

Cheat Lake School, Morgantown, West Virginia (1976)

PACE Tech (sheltered workshop 1976)

White School/ WVU School of Human Resources and Education, Fairmont, West Virginia (specific learning disabilities 1981)

Steel Mill Laborer and Product Inspector, Weirton Steel Corporation, Weirton, West Virginia (1968, 1969, 1971-1973)

Kentucky Fried Chicken franchise management trainee, Morgantown, West Virginia (1971)

Security Guard, Tomlinson Run State Park, New Manchester, West Virginia (1974)

Volunteer Tutor:

Kennedy Youth Center, Morgantown, West Virginia (Federal Correctional Institution 1975)

Monongalia County Jail (1980's)

ORGANIZATIONS

- President, West Virginia Mason-Dixon Civil War Round Table
- Board member, officer, and volunteer, Friends of the Morgantown Public Library (2009-2015)
- Member, Osher Lifelong Learning Institute at WVU
- Member, John Stasny Great Book Study Group
- National Trust for Historic Preservation
- The Nature Conservancy
- Amnesty International
- Civil War Trust

REFERENCES AVAILABLE UPON REQUEST

Linda Tucker

From: Barry Wendell <wendell.barry@aol.com>
Sent: Friday, July 29, 2016 3:33 PM
To: Linda Tucker
Subject: Re: Boards and Commission Interview before Council on August 16, 2016

I will be out of town on the 16th.

Barry Wendell
wendell.barry@aol.com

-----Original Message-----

From: Linda Tucker <ltucker@morgantownwv.gov>
To: suegary26501 <suegary26501@yahoo.com>; fredrick.linda <fredrick.linda@gmail.com>; Barry Wendell <wendell.barry@aol.com>; ctmcfarland <ctmcfarland@mix.wvu.edu>; Dr. Ana Casanova <ana.casanova@gmail.com>; Brian Gardner <bgardne3@mix.wvu.edu>
Sent: Fri, Jul 29, 2016 2:18 pm
Subject: Boards and Commission Interview before Council on August 16, 2016

To all candidates: on August 16, 2016 around 6pm Council will interview each one of you for the Commission you are interested in. Please let me know if you can be there at that time. If you have questions feel free to contact me.:

Linda L. Tucker
Morgantown City Clerk
389 Spruce Street, Rm. 10
Morgantown, WV. 26505
(304)284-7439
ltucker@morgantownwv.gov

Linda Tucker

From: Barry Wendell <wendell.barry@aol.com>
Sent: Wednesday, July 27, 2016 5:24 PM
To: Linda Tucker
Subject: Re: Boards & Commissions

Thanks, Linda. At this time, I would like to be considered for the library commission.

Barry Wendell
wendell.barry@aol.com

-----Original Message-----

From: Linda Tucker <ltucker@morgantownwv.gov>
To: Barry Wendell <wendell.barry@aol.com>
Sent: Wed, Jul 20, 2016 10:40 am
Subject: Boards & Commissions

Barry, last night Council noted that it was a hard decision and all the candidates were all qualified, but at this time you were not selected for the Human Rights Commission. We do have openings on other boards though parking and library if you are interested. Or, I can keep your name in the file for 6 months for the next opening on the Human Rights Commission. Let me know what your wishes are. Thank you for your interest in City services☺

Linda L. Tucker
Morgantown City Clerk
389 Spruce Street, Rm. 10
Morgantown, WV. 26505
(304)284-7439
ltucker@morgantownwv.gov

Morgantown

Request ID: 31503

Request Form: Volunteer for Boards and Commissions

Received: Sunday, June 12, 2016

Status: Completed

Priority: Normal

Assigned To: Heather Carl

Contact Details

From: Barry Wendell

Email: wendell.barry@aol.com

Telephone: 304-685-1098

Address1: 1319 Heritage Place

Address2:

City: Morgantown

State: WV

Zip Code:
26505

Pref. Method of Response: E-Mail

Request Address

Number:

Direction:

Street:

Type:

Apt:

City:

State:

Zip Code:

Questions and Answers

Are you a Morgantown resident?:

Yes

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

1

In which City Ward do you reside?:

Seventh

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

retired

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

public schools, clergy

Do you have professional certifications or licenses?:

no

Do you have any pertinent special interests?:

I am the spouse of Rabbi Joe Hample of Tree of Life Congregation. I am

interested in protecting racial and religious minority and LGBT rights.

Are you a Morgantown resident?:
Yes

If Yes, how many years have you lived in the City of Morgantown?:
1

In which City Ward do you reside?:
Seventh

On which Board, Commission, or Authority are you interested in being a volunteer?:

 Library

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

What type of business are you, or were you, employed in?:
public schools, clergy, ran for Delegate in 2016 primary

Do you have professional certifications or licenses?:
no

Do you have any pertinent special interests?:
fostering acceptance of racial and religious minorities and the LGBT community

Staff Activities

The status of the request was changed from Active to Completed. on 6/17/2016 at 11:23 AM

Public Activities

Request was successfully submitted. by Cartegraph Support on 6/12/2016 at 7:52 PM

Request Details



Request #31515 : Volunteer for Boards and Commissions

<p>Are you a Morgantown resident?</p> <p>Are you a Morgantown resident? Yes</p> <p>If Yes, how many years have you lived in the City of Morgantown?</p> <p>If Yes, how many years have you lived in the City of Morgantown? 1</p> <p>In which City Ward do you reside?</p> <p>Who is your current employer (If retired, answer "retired")? West Virginia University</p> <p>In which City Ward do you reside? First</p> <p>Who is your current employer (If retired, answer "retired")?</p> <p>On which Board, Commission, or Authority are you interested in being a volunteer? Library Board; Traffic Commission [REDACTED]</p> <p>What type of business are you, or were you, employed in?</p> <p>What type of business are you, or were you, employed in? Information Technology</p> <p>Do you have professional certifications or licenses?</p> <p>Do you have professional certifications or licenses?</p> <p>Do you have any pertinent special interests?</p> <p>Do you have any pertinent special interests?</p>	<p>Status Completed</p> <p>Priority Normal</p> <p>Received 6/21/2016 at 11:19 AM</p> <p>Source of Request Anon Online by Anonymous</p> <p>Assigned To: Heather Carl</p> <p>Associated To: Anonymous</p> <p>Est. Completion 6/26/2016</p> <p>Actual Completion 6/24/2016</p> <p><input type="button" value="Reactivate"/> <input type="button" value="Print"/></p>
	<p>Citizen Information</p> <p>Patrick Hathaway 359 Sanford Street Morgantown, WV 26501 3042821072 Patrick.Hathaway1@gmail.com</p> <p>Preferred Response Method: E-Mail</p>
	<p>Communication</p> <p>Select Communication Template</p> <p>Standard <input type="button" value="v"/></p> <p><input type="button" value="Print Letter"/></p> <p>View Email Text</p>
<p>Staff Activities</p> <p>Add New Sort</p> <p>The status of the request was changed from Active to Completed. by Heather Carl on 6/24/2016 at 8:05 AM</p>	

Linda Little

From: DO-NOT-REPLY@govtsystems.com
Sent: Wednesday, April 21, 2010 11:22 AM
To: Linda Little
Subject: Request Partner Email

Linda Little,

The Request ID 24990 was just assigned to you.
The details of the request are presented below.

Request Form Name: Volunteer for City Boards and Commissions Request Form Description:
Use this form to apply for a seat on a City Boards, Commissions, and Authorities. Not all
Boards and Commissions have vacancies at this time. The City Clerk will contact you when
a vacancy arises. Your application will remain active for six months.

First Name: George M. ✓
Last Name: Lies
Email: George.Lies@mail.wvu.edu
Telephone: 304-296-9132
Address1: 219 Kingwood Street
Address2:
City: Morgantown
State: WV
Zip Code: 26501
Language Preference:
Preferred Method of Response: E-Mail
Request Entry Method: Anon Online

Are you a Morgantown resident?:
Yes

In which City Ward do you live?:
Sixth

Who is your employer?:
West Virginia University

If Yes, how many years have you lived in the City of Morgantown?:
1976 to 2010

What type of business are you employed in?:
International Education

What is your job description?:
Strategic Planning/Grant Administrator

Do you have any professional certifications or licenses?:

Do you have any pertinent special interests?:

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

What is your work telephone number?:
304-293-6955 x5

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 Helene Friedberg WORK/CELL PHONE: 304-685-1059
ADDRESS: 321 Simpson St. HOME PHONE: 304-291-2332
Morgantown, WV 26501 ZIP: 26501

EMAIL ADDRESS: helenefriedberg@hotmail.com

CITY RESIDENT? YES NO YEARS OF CITY RESIDENCY 32 1/2 WARD 1st

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

WHAT TYPE OF BUSINESS ARE (were) YOU EMPLOYED IN? Non-profit

JOB TITLE or JOB DESCRIPTION: Director

PROFESSIONAL CERTIFICATIONS/LICENSES: Master of Public Health

SPECIAL INTERESTS: I like to travel, discover new places.
I like to go to Mexico & practice Spanish.

PLEASE CHECK THE COMMISSIONS YOU ARE INTERESTED IN SERVING:

See attachment

- | | |
|--|--|
| <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 checked="" type="checkbox"/> SISTER CITIES COMMISSION |
| <input type="checkbox"/> HOUSING AUTHORITY | <input type="checkbox"/> TRAFFIC COMMISSION |
| <input type="checkbox"/> HUMAN RIGHTS | <input type="checkbox"/> TRANSIT AUTHORITY |
| <input type="checkbox"/> LIBRARY BOARD | <input type="checkbox"/> URBAN LANDSCAPE COMMISSION |
| <input type="checkbox"/> MET THEATRE BOARD | <input type="checkbox"/> WARD & BOUNDARY |
| <input type="checkbox"/> MORGANTOWN UTILITY BOARD | <input type="checkbox"/> YOUTH COMMISSION |

ARTICLE 159
Library Board

159.01	Established; appointment and term of members; vacancies.	159.05	Donations of cash, property or real estate.
159.02	Compensation.	159.06	Library to be free service.
159.03	Duties.	159.07	Withdrawal of State or federal funds.
159.04	Annual report to be made.		

CROSS REFERENCES

State law provisions - see W. Va. Code Art. 10-1

159.01 ESTABLISHED; APPOINTMENT AND TERM OF MEMBERS; VACANCIES.

There is hereby established a Board of five directors who shall be chosen from the residents of the City, with reference to their fitness for such office, and who shall be appointed by the Mayor with approval of Council. The directors shall hold office for five years from the 1st day of July following their appointment, and until their successors are appointed and qualified; provided, that upon their first appointment under this article, a proportionate number shall be appointed for one year, for two years, for three years, for four years and for five years. Vacancies in the Board shall be immediately reported to the Board of the governing authority and filled by appointment in like manner, and, if an unexpired term for the remainder of the term only. A director may be removed by just cause in the manner provided by the by-laws of the Library Board. Council may remove any director for just cause. (1967 Code Sec. 2-129.)

159.02 COMPENSATION.

No compensation shall be paid or allowed any director.
(1967 Code Sec. 2-130.)

159.03 DUTIES.

The Board of Directors of the library shall:

- (a) Immediately after their appointment, meet and organize by electing one member as president, one member as treasurer and one member as secretary and such other officers as may be necessary. All officers shall hold office for one year and shall be eligible for re-election. The treasurer before entering upon his duties shall give bond to the governing authority in an amount fixed by Council and shall, if requested, give bond to the Library Board in an amount fixed by such Board, which bonds shall be conditioned for the faithful discharge of his official fiscal duties. The cost of such bonds shall be paid from the Library Fund.
- (b) Adopt such by-laws, rules and regulations as are necessary for its guidance and for the administration, supervision and protection of the library and all property belonging thereto as may not be inconsistent with the provisions of the laws of the State.

- (c) Supervise the expenditures of all money credited to the Library Fund. All money appropriated or collected for public library purposes shall be deposited in the treasury of the library directors fund as the library's Board of Directors shall direct, and shall be paid out on the certified requisition of the Library Board, in the manner provided for in the by-laws of the Board.
- (d) Employ a head librarian, and upon his or her recommendation employ such other assistants as may be necessary for the efficient operation of the library. (1967 Code Sec. 2-131.)

159.04 ANNUAL REPORT TO BE MADE.

The Board of Directors shall make an annual report at the end of each fiscal year to the City Manager stating the condition of the library property, the various sums of money received from the Library Fund and all other sources, and how such money was expended, the number of books and periodicals on hand, the number added during the year, the number withdrawn from circulation, the number of books lent, the number of registered users of such library, with such other statistics, information and suggestions as may be deemed of general interest. A copy of this report shall be sent to the State Library Commission. (1967 Code Sec. 2-132.)

159.05 DONATIONS OF CASH, PROPERTY OR REAL ESTATE.

The Board of Library Directors shall be a corporation; and as such it may contract and be contracted with, sue and be sued, plead and be impleaded and shall have and use a common seal.

The title in the future to all bequests or donations of cash or other personal property or real estate for the benefit of such library shall be vested in the Board of Library Directors to be held in trust and controlled by such Board according to the terms and for the purposes set forth in the deed, gift, devise or bequest; provided, however, that the person making the bequest or donation of cash or of her personal property or real estate for the benefit of such library shall have the right and privilege to vest the title thereto in a trustee, or trustees, of his own selection, and to provide for the selection of successor trustees and to designate the manner in which such fund or property shall be invested and used.

Should the Library Board be dissolved, all assets of such Board shall revert to and become the property of the City. (1967 Code Sec. 2-133.)

159.06 LIBRARY TO BE FREE SERVICE.

The library shall be free for the use of all persons living within the City, subject to reasonable rules and regulations adopted by the Library Board. The Board may extend the privilege and use of the library to nonresidents upon such terms and conditions as it may prescribe. The Board may exclude from the use of the library under its charge any person who willfully or persistently violates any rule or regulations prescribed for the use of the library or its facilities. (1967 Code Sec. 2-134.)

159.07 WITHDRAWAL OF STATE OR FEDERAL FUNDS.

In the event State or federal funds are withdrawn from the Municipal Library, such Library will revert to the method of operation prior to adoption of this article. (1967 Code Sec. 2-135.)

ARTICLE 160
Housing Advisory Commission

- 160.01 Established.
- 160.02 Purpose and duties.
- 160.03 Membership.
- 160.04 Terms of office.
- 160.05 Officers.
- 160.06 Meetings.
- 160.07 Written reports.
- 160.08 Freedom of information act applies.

CROSS REFERENCES
Housing Code - see BLDG. AND HOUS. Art. 1751

160.01 ESTABLISHED.
There is hereby established a Housing Advisory Commission for the City.
(Ord. 14-44. Passed 10-21-14.)

160.02 PURPOSE AND DUTIES.
The function of the Housing Advisory Commission is to:

- (a) Serve as the medium for citizen advice and comment on housing issues.
- (b) Provide advocacy for establishing and maintaining diversity in housing types and opportunities.
- (c) Encourage and strengthen collaborative planning and communications between public and private sectors.
- (d) Review, consider, and make recommendations to the City Manager and City Council on all aspects that affect public and private housing.
- (e) Research and discuss housing trends and ideas and make recommendations to the City Manager and City Council regarding housing policy and ordinances.
- (f) Sponsor educational programs on owner and non-owner occupied housing.
(Ord. 14-44. Passed 10-21-14.)

160.03 MEMBERSHIP.

- (a) The Housing Advisory Commission shall consist of thirteen members who shall be appointed by Morgantown City Council as follows:
 - (1) One member of Morgantown City Council;
 - (2) One member from West Virginia University's Off-Campus Housing office;
 - (3) One member from West Virginia University's Office of Student Legal Services;
 - (4) One member from West Virginia University's Student Government;

- (5) One member from the Fairmont-Morgantown Housing Authority;
- (6) One member from West Virginia Fair Housing Network;
- (7) One member being a licensed real estate representative;
- (8) One member being a City Neighborhood Association Representative;
- (9) One member being a City Landlord Representative.
- (10) One member being a Property Manager Representative;
- (11) One member at large member who shall be a resident of the City of Morgantown; and there shall be two ex-officio/non-voting members of the Commission as follows:
- (12) One City of Morgantown Building Code Official; and
- (13) One City of Morgantown Fire Marshal's office representative.

All members shall serve without compensation.

(b) A majority of the Housing Advisory Commission should be City residents, or have housing business interest or activity within City limits.
(Ord. 14-44. Passed 10-21-14.)

160.04 TERMS OF OFFICE.

All members of the Commission, except for the WVU Student Government representative; shall serve a three-year term. The WVU Student Government representative shall serve a one-year term.
(Ord. 14-44. Passed 10-21-14.)

160.05 OFFICERS.

The Housing Advisory Commission shall select from its own membership a chairperson, vice-chairperson and secretary.
(Ord. 14-44. Passed 10-21-14.)

160.06 MEETINGS.

The Housing Advisory Commission shall meet as often as it may deem necessary, upon call of the chairperson. All meetings will be subject to the West Virginia Open Governmental Proceedings Act.
(Ord. 14-44. Passed 10-21-14.)

160.07 WRITTEN REPORTS.

The Commission shall submit annual reports to the City Manager and Council summarizing its past year's activities and recommendations for the ensuing year.
(Ord. 14-44. Passed 10-21-14.)

160.08 FREEDOM OF INFORMATION ACT APPLIES.

As a board of the City, the Housing Advisory Commission shall be subject to the West Virginia Freedom of Information Act.
(Ord. 14-44. Passed 10-21-14.)

ARTICLE 155
Parking Authority

<p>155.01 Created.</p> <p>155.02 Jurisdiction.</p> <p>155.03 Composition and membership; vacancies.</p> <p>155.04 Oath of office.</p> <p>155.05 Members' bonds, (Repealed)</p> <p>155.06 Organization and officers.</p> <p>155.07 Powers and duties.</p> <p>155.08 Appointment of special police officers.</p>	<p>155.085 Parking enforcement officers.</p> <p>155.09 Powers relative to parking facilities.</p> <p>155.10 Members not to be interested in contracts.</p> <p>155.11 Certain State law adopted.</p> <p>155.12 Construction of article.</p>
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CROSS REFERENCES

Municipal public works; bonds - see W. Va. Code Art. 8-16
 Authority to lease off-street parking facilities - see
 W. Va. Code 8-12-12
 Off-street parking - see TRAF. Art. 365

155.01 CREATED.

There is hereby established the Morgantown Parking Authority.
 (1967 Code Sec. 2-108.)

155.02 JURISDICTION.

The construction, acquisition, improvement, extension, equipment, custody, operation and maintenance of all automobile parking facilities, except as otherwise provided by this article, including parking lots, parking buildings, ramps, curb line parking and other parking facilities deemed necessary or incidental to the regulation and control and parking of automobiles is hereby vested in the City Parking Authority, hereinafter referred to in this article as the "Parking Authority".
 (1967 Code Sec. 2-109.)

155.03 COMPOSITION AND MEMBERSHIP; VACANCIES.

The Parking Authority shall consist of five persons, each of whom shall be a resident of the City. Two members of such authority shall also be members of the governing body of the City, one of which is to be appointed by the Mayor, and one of which is to be elected by Council. The term of these two members shall be coextensive with the term of office to which he has been elected or appointed. The remaining members of the Commission shall be appointed by Council for a term of three years, such terms to begin on the first day of July of any year; provided, however, that the three members of the Parking Authority heretofore appointed and in office when this article becomes effective shall, unless sooner removed, continue to serve until their respective terms expire and until their successors have been appointed and qualified. In the event of a vacancy in the membership of the Parking Authority a successor shall be appointed by Council for the unexpired term only. Members other than those appointed from the governing body shall serve until their successors have been appointed and qualified.

Any member of the Parking Authority not also a member of the governing body of the City shall be eligible for reappointment upon expiration of his term, and any member who is also a member of the governing body shall be eligible for reappointment; provided, that he is continuing as a member of the governing body. Members of the Parking Authority shall receive no compensation or salary for their services but shall be reimbursed out of the funds of such Authority for any expenses incurred in their duties as such. Any member of the Parking Authority shall be removed for just cause by Council upon written charges and by the vote of a majority thereof after a public hearing thereon.
(1967 Code Sec. 2-110.)

155.04 OATH OF OFFICE.

Each member of the Parking Authority before entering upon the duties of his office shall make before someone authorized by law to administer oaths, and file with the City Clerk, an oath or affirmation to support the Constitution of the United States and of the State, and to perform faithfully, honestly and impartially the duties of his authority to the best of his skill and judgment.
(1967 Code Sec. 2-111.)

155.05 MEMBERS' BONDS. (REPEALED)

EDITOR'S NOTE: Former Section 155.05 was repealed by Ordinance 14-17.

155.06 ORGANIZATION AND OFFICERS.

As soon after the first day of July of each year as possible the Parking Authority shall hold an annual meeting at which time a chairman and a secretary shall be elected from the membership of such Authority. The chairman shall preside at all meetings of the Parking Authority, shall have the power to call a meeting of such Authority at any time and shall perform such other functions as may be provided for in the rules and regulations and by-laws of the Parking Authority. The secretary shall keep a record of the proceedings of the Parking Authority which shall be considered a public municipal record and shall be available for inspection of any person at all reasonable times. The Finance Director shall be treasurer of the Parking Authority. The treasurer shall be the custodian of the funds of the Parking Authority and shall receive and disburse the same as directed by such Authority.
(1967 Code Sec. 2-113.)

155.07 POWERS AND DUTIES.

The Parking Authority shall have the power and authority within the City to construct, acquire, improve, extend, equip, operate and maintain automobile parking facilities, including parking lots, parking buildings and parking ramps deemed necessary or incidental to provide off-street parking facilities for vehicles within the City, and all such works shall be under the custody, control and supervision of such authority.

Such authority shall have the power to collect revenues therefrom for the services rendered thereby, which revenues shall be delivered to the Finance Director and maintained by him in a separate fund designated as the "Parking Facilities Revenue Fund". The revenues from the operation of off-street parking facilities, after allowance for the cost of maintenance and operation, shall be available for the payment of the interest on and principal of the bonds proposed to be issued, which payments shall be made by the Finance Director, with the approval of Council, and no other expenditures from such Fund shall be made without the approval of Council; except, that the Finance Director may honor requisitions from the Parking Authority for reasonable and necessary expenditures not to exceed the sum of five hundred dollars (\$500.00) in any fiscal year.

The Parking Authority shall have power to take all steps and proceedings, and to make and enter into all contracts or agreements necessary or incidental to the performance of its duties; provided, that any contract involving the expenditure of a sum in excess of five hundred dollars (\$500.00) in any fiscal year, and any contract relating to the financing or the acquisition, construction, extension or equipment of any such works, or the issuance of any bonds, or any trust indenture shall be first approved by Council. Rates or charges for the use of, and for the services rendered by the municipal public automobile parking facilities shall be established by Council.

The Parking Authority shall have the power to employ engineers, architects, inspectors, superintendents, managers, collectors, attorneys and such other employees as in its judgment may be necessary in the execution of its powers and duties, and may fix their compensation, and all such employees shall perform such work and labor as the Parking Authority may direct. All such compensation and expenses incurred in carrying out the provisions of this article shall be paid out of the funds provided under this article and under the provisions of West Virginia Code Article 8-16, and such Authority shall not exercise or carry out any authority or power herein given it so as to bind such Authority or the City beyond the extent to which moneys shall have been, or may be provided for its use by Council, or moneys provided under the authority of West Virginia Code Article 8-16.

No contract or agreement exceeding the sum of one thousand dollars (\$1,000) shall be made without advertising for bids, which bids shall be publicly opened and award made to the lowest responsible bidder, with power in the Parking Authority to reject any and all bids. After the construction, installation, completion or the acquisition of any such public works, the Parking Authority shall operate, manage and control the same, and may order and complete any extensions, betterments and improvements of and to the works that such Authority may deem expedient, if funds therefor are available, or made available as provided in such sections of the Code of West Virginia, and such Authority shall have the right to establish rules and regulations for the use and operation of such works and to do all things necessary or expedient for the successful operation thereof.

The Parking Authority shall also have the power to adopt rules, regulations and by-laws for the conduct of its business and affairs.

The Parking Authority shall make monthly reports to Council. Such reports shall show the financial condition of the various facilities operated by the Parking Authority including receipts and expenditures. The Parking Authority shall provide such other reports and information as Council may from time to time require or request. Any such reports may also in the discretion of the Parking Authority or at the request of Council include such recommendations concerning the activities of the Parking Authority as may be determined proper. (1967 Code Sec. 2-114.)

155.08 APPOINTMENT OF SPECIAL POLICE OFFICERS.

The Parking Authority shall have authority to appoint special police officers, whose sole duties shall be to patrol, and to enforce Municipal ordinances upon or within, designated parking lots and parking buildings under the control of and operated by the Parking Authority. In the performance of such duties, such special police officers shall be vested with power to make arrests, issue summons, sign complaints and request the issuance of capiases. Such special police officers shall be in uniform, shall display a badge or other sign of authority and shall serve at the will and pleasure of the appointing authority. The cost of providing such special parking lot or parking building police officers shall be paid from revenues derived from off-street parking lots or parking buildings. (1967 Code Sec. 2-114.1.)

155.085 PARKING ENFORCEMENT OFFICERS.

The Parking Authority shall have authority to enforce municipal parking ordinances within the City.

The Parking Authority shall appoint parking enforcement officers who will patrol and enforce Municipal parking ordinances upon the streets of the City of Morgantown and, in the performance of such duties shall be vested with power to issue summons and citations and sign complaints.

Parking enforcement officers shall be in uniform and display a badge or other sign of authority.

The salaries of such parking enforcement officers shall be paid by the Parking Authority and the Parking Authority shall retain all income derived from the curblin parking meters.

Parking enforcement officers shall acquire no civil service rights under the civil service rules of the State, shall acquire no rights under the policemen's pension and relief fund provisions of the West Virginia Code, nor shall the limited power delegated to them herein be construed as power or authority of a peace officer.

(Ord. 10-18. Passed 5-18-10.)

155.09 POWERS RELATIVE TO PARKING FACILITIES.

The Parking Authority with reference to automobile parking facilities within the City shall have all of the powers and authorities provided for in West Virginia Code Article 8-16. (Ord. 10-7-86.)

155.10 MEMBERS NOT TO BE INTERESTED IN CONTRACTS.

No member of the Parking Authority shall become or be directly or indirectly interested in any contract or in the profits to be derived therefrom with the Parking Authority. (1967 Code Sec. 2-116.)

155.11 CERTAIN STATE LAW ADOPTED.

In the establishing of the Parking Authority, Council does hereby expressly adopt the provisions of West Virginia Code Article 8-16 as provided under the provisions and in accordance with the requirements of West Virginia Code 8-1-6. (1967 Code Sec. 2-117.)

155.12 CONSTRUCTION OF ARTICLE.

Inasmuch as this article is necessary for the public health, safety and welfare of the residents of the City, it shall be liberally construed to effectuate the purposes thereof. (1967 Code Sec. 2-118.)

ARTICLE 172
Morgantown Sister Cities Commission

172.01	Established.	172.06	Compensation and reimbursement for expenses.
172.02	Members.	172.07	Appropriation of funds.
172.03	Officers.	172.08	Purpose, powers, and duties.
172.04	Meetings.		
172.05	Voting.		

172.01 ESTABLISHED.

There is hereby formed, created and established a municipal Sister Cities Commission, known as the Morgantown Sister Cities Commission (the "Commission").
(Ord. 10-10. Passed 3-2-10.)

172.02 MEMBERS.

The Commission shall consist of nine members who shall be appointed by City Council. The terms of the individual Commission members first appointed shall be as follows:

- Three members - 3 years
- Three members - 2 years
- Three members - 1 year

All vacancies shall be filled for the unexpired term only. All other appointments shall be for a term consistent with that set for the member position in question, to commence on the date following the scheduled expiration date of the previous term. At all times one of the nine members of the Commission shall be a member of City Council. Two of the members may be ex-officio, non-voting members selected from the Greater Morgantown Area as defined by the jurisdictional boundaries of the Morgantown, Monongalia Metropolitan Planning Organization. At all times, seven members of the Commission shall be residents of the City.
(Ord. 13-03. Passed 2-19-13.)

172.03 OFFICERS.

The Commission shall select from its own membership a chairperson, vice-chairperson, and secretary. (Ord. 10-10. Passed 3-2-10.)

172.04 MEETINGS.

The Commission shall meet on a monthly basis. Special meetings may be held as deemed necessary by the Chairperson. Such meetings shall be subject to the requirements of the West Virginia Open Governmental Proceedings Act. A quorum of members must be present before a meeting of the Commission can be held at which any official action of the Commission is to take place.
(Ord. 10-10. Passed 3-2-10.)

172.05 VOTING.

Every member of the Commission present, when a question is put, shall vote unless he/she is interested therein other than as a resident of the City. To be successful, an issue shall require five affirmative votes.
(Ord. 10-10. Passed 3-2-10.)

172.06 COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

The members of the Commission shall receive no compensation for their services, but shall be entitled to reimbursement for reasonable and necessary expenses actually incurred in the performance of their duties as a Commission member, if said Commission member has received approval from the City's Finance Director to make such expenditure prior to incurring said expense.
(Ord. 10-10. Passed 3-2-10.)

172.07 APPROPRIATION OF FUNDS.

City Council may appropriate any funds that it deems necessary to carry out any of the proposals set forth by the Commission, so long as said proposal meets the purpose and intent of this article. (Ord. 10-10. Passed 3-2-10.)

172.08 PURPOSE, POWERS, AND DUTIES.

It shall be the duty of the Commission to advise and recommend to the City Manager and/or City Council means of creating or advancing inter-cultural, educational, social and economic exchanges between the City and the State of West Virginia with other cities with which the City of Morgantown has established not only sister cities formal relationships guided by the organization known as Sister Cities International, but also, informal friendship cities relationships formed under the guidance of the Commission.
(Ord. 11-18. Passed 5-17-11.)

ARTICLE 151
Traffic Commission

- | | | | |
|--------|-----------------------------|--------|----------------------------------|
| 151.01 | Established. | 151.03 | Officers and rules of procedure. |
| 151.02 | Composition and membership. | 151.04 | Duties. |

CROSS REFERENCES

Authority to establish - see CHTR. Sec. 4.02

151.01 ESTABLISHED.

There is hereby established and created a Traffic Commission for the City, the official name of which shall be "The Morgantown Traffic Commission".
(Ord. 15-09. Passed 2-17-15.)

151.02 COMPOSITION AND MEMBERSHIP.

(a) The Traffic Commission shall be composed of: a member of Council; one resident from each of the City wards; one resident at-large to represent bicycling; one resident at-large to represent walking; and one Planning Commission member. All ward, at-large and Planning Commission members shall be appointed by Council. Ex-officio Commission members of the Traffic Commission shall include the Police Chief, or his/her designee; the City Engineer, or his/her designee; the WVU Parking Director/Planner or his/her designee; the Director of the Morgantown Board of Park and Recreation Commissioners (BOPARC) or his/her designee; the Director of the Mountain Line Transit Authority or his/her designee; and the Director of the Morgantown Monongalia Metropolitan Planning Organization (MMMPO) or his/her designee.

(b) The ex-officio members shall serve without any specific term and shall serve by virtue of their office, enjoying all rights of membership except a vote. Each Council and Planning Commission members shall serve until his or her current respective term on Council or Planning Commission expires.

(c) The members appointed by ward residency, and the at-large members shall each serve for a term of three years. (Ord. 15-09. Passed 2-17-15.)

151.03 OFFICERS AND RULES OF PROCEDURE.

(a) The City Engineer shall call the first meeting of the Traffic Commission. The Commission shall meet at least once a month, and shall select from its own membership a chairperson.

(b) The Commission shall adopt its own rules of procedure and shall keep minutes of regular and special meetings.
(Ord. 15-09. Passed 2-17-15.)

151.04 DUTIES.

The duties of the Traffic Commission shall be to receive citizen input pertaining to traffic issues and to act as an advisory to City Council on matters relating to:

- (a) The movement and regulation of motor vehicles, bicycles and pedestrians within the City.
- (b) The coordination of traffic activities.
- (c) Educational activities in traffic matters.
- (d) The ways, means and methods of improving traffic conditions within the City; and
- (e) The administration and enforcement of traffic regulation. The Commission shall receive such reports and information as deemed necessary by City Administration. The Commission may request the assistance and advice of any other department or official of the City. The City Engineer shall provide primary services for agendas, minutes, studies and implementation of tasks resulting from Commission actions.
(Ord. 15-09. Passed 2-17-15.)

Linda Tucker

From: Elizabeth Finklea <Liz.Finklea@mail.wvu.edu>
Sent: Thursday, August 25, 2016 2:09 PM
To: Linda Tucker
Subject: RE: Special Meeting to Interview Boards and Commissions

Hi Linda,

That might be possible but it will be 11:30 pm in Scotland and would cost international rates. If anyone has access to FaceTime, I could be reached that way on my cellphone as long as I have access to the internet. I am not sure whether I will be at my brother's home or in Edinburgh that night as my daughter arrives at Edinburgh airport early the next morning.

Let me know what you decide.

Liz

Liz Finklea
304-685-8312 (cell)

From: Linda Tucker [mailto:ltucker@morgantownwv.gov]
Sent: Thursday, August 25, 2016 1:30 PM
To: Elizabeth Finklea <Liz.Finklea@mail.wvu.edu>
Subject: RE: Special Meeting to Interview Boards and Commissions

Liz, can we call you by phone to do the interview?:)

From: Elizabeth Finklea [mailto:Liz.Finklea@mail.wvu.edu]
Sent: Thursday, August 25, 2016 12:55 PM
To: Linda Tucker <ltucker@morgantownwv.gov>; Barry Wendell <wendell.barry@aol.com>; Helene Friedberg <helenefriedberg@hotmail.com>; George Lies <George.Lies@mail.wvu.edu>
Cc: Ron Bane (CC Ward 1) <rbane@morgantownwv.gov>; William Kawecki (C.C. Ward 2) <wkawecki@morgantownwv.gov>; Wes Nugent (C.C. Ward 3) <wnugent@morgantownwv.gov>; Jenny Selin (C.C. Ward 4) <jselin@morgantownwv.gov>; Marti Shamberger (C.C. Ward 5) <mshamberger@morgantownwv.gov>; Jay Redmond (CC Ward 6) <jredmond@morgantownwv.gov>; Nancy Ganz (CC Ward 7) <nganz@morgantownwv.gov>; Glen Kelly <ckelly@morgantownwv.gov>
Subject: RE: Special Meeting to Interview Boards and Commissions

Unfortunately, Linda, I will be out of the country on September 6th. I will be back in Morgantown on September 15th and can be available after that if needed.

Liz

Liz Finklea
304-685-8312 (cell)

Linda Little

From: DO-NOT-REPLY@govtsystems.com
Sent: Monday, April 19, 2010 11:56 AM
To: Linda Little
Subject: Request Partner Email

Linda Little,

The Request ID 24986 was just assigned to you.
The details of the request are presented below.

Request Form Name: Volunteer for City Boards and Commissions Request Form Description:
Use this form to apply for a seat on a City Boards, Commissions, and Authorities. Not all
Boards and Commissions have vacancies at this time. The City Clerk will contact you when
a vacancy arises. Your application will remain active for six months.

First Name: Elizabeth ✓
Last Name: Finklea
Email: liz.finklea@mail.wvu.edu
Telephone: 304-291-1755
Address1: 100 Maple Avenue
Address2:
City: Morgantown
State: WV
Zip Code: 26501
Language Preference:
Preferred Method of Response: E-Mail
Request Entry Method: Anon Online

Are you a Morgantown resident?:
Yes

In which City Ward do you live?:
Second

Who is your employer?:
WVU

If Yes, how many years have you lived in the City of Morgantown?:
almost 24 years

What type of business are you employed in?:
education (support services)

What is your job description?:
Community outreach coordinator/Web Administrator for the Office of International Students
and Scholars, Events Coordinator/Web Administrator for the Center for Women's Studies

Do you have any professional certifications or licenses?:
No

Do you have any pertinent special interests?:
As an immigrant (from the UK - my husband is an American) I am interested in helping
international visitors to Morgantown navigate American culture, understand the differences
and realize the similarities between us. I have been working with Women Across Cultures
and Girl Scouts for many years to this end.

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

SPECIAL MEETING August 16, 2016:

The Special Meeting of the Common Council of the City of Morgantown was held in the Council Chambers on Tuesday, August 16, 2016 at 6:15 p.m.

PRESENT: Interim City Manager Glen Kelly, City Clerk Linda Tucker, Deputy Mayor Bill Kawecki and Council Members, Ron Bane, Jenny Selin, Jay Redmond, and Nancy Ganz. Mayor Marti Shamberger & Wes Nugent were absent.

The meeting was called to order by the Deputy Mayor.

INTERVIEWS FOR VARIOUS BOARDS AND COMMISSIONS:

Questions were posed to the following candidates from Council:

Sue Carpenter – Library

John Fredrick – Library

Tyler McFarland – Morgantown Housing Authority

Dr. Ana Casanova – Sister Cities

Brian Gardner – Sister Cities

City Clerk informed Council that there are two more candidates for the Library Board to interview.

Deputy Mayor Kawecki informed those interviewing for the Library that a decision will not be made on appointments until interviews are completed.

EXECUTIVE SESSION: Pursuant to WV State Code Section 6-9A-4(b) (2) (A) motion by Bane, second by Ganz to go into executive session in order to discuss personnel matters in considering appointments to Boards and Commissions. Present: Council. Time: 7:00 p.m.

ADJOURNMENT:

There being no further business, Council adjourned the Special Meeting at 7:05 p.m.

City Clerk

Mayor

A COMPREHENSIVE DVD IS AVAILABLE OF ALL COUNCIL MEETINGS ON DVD AT THE MORGANTOWN CITY LIBRARY

REGULAR MEETING August 16, 2016: The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers of City Hall on Tuesday, August 16, 2016 at 7:13 p.m.

PRESENT: Interim City Manager & Airport Director Glen Kelly, City Attorney Ryan Simonton, City Clerk Linda Tucker, Council Members: Ron Bane, Deputy Mayor Bill Kawecki, Wes Nugent, Jenny Selin, Jay Redmond, and Nancy Ganz. Mayor Shamberger Absent

The meeting was called to order by Deputy Mayor Kawecki.

APPROVAL OF MINUTES: July 19, 2016 Regular Meeting Minutes, August 2, 2016 Special Meeting Minutes, and August 2, 2016 Regular Meeting Minutes were approved by acclamation.

CORRESPONDENCE: Councilor Nugent mentioned an e-mail from the Owners of Slight Indulgence requesting repair of a sidewalk and potholes on Burroughs Street & Collins Ferry. After discussion, Glen Kelly Interim City Manager noted that City Manager's office is addressing these issues.

PUBLIC HEARING – AN ORDINANCE AMENDING ARTICLE 767 OF THE CITY CODE PROVIDING FOR A HOTEL TAX.

Deputy Mayor Kawecki declared the Public Hearing open.

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

UNFINISHED BUSINESS:

AN ORDINANCE AMENDING ARTICLE 767 OF THE CITY CODE PROVIDING FOR A HOTEL TAX: The below entitled Ordinance was presented for the second reading.

AN ORDINANCE AMENDING ARTICLE 767 OF THE CITY CODE PROVIDING FOR A HOTEL TAX.

Interim City Manager Glen Kelly explained. Motion by Ganz, second by Selin, to approve the above entitled Ordinance to second reading. Motion carried 6-0.

BOARDS AND COMMISSIONS: By acclamation Council appointed Tyler McFarland to the Morgantown Housing Authority and Dr. Ana Casanova & Brian Gardner to the Sister Cities Commission.

PUBLIC PORTION:

Deputy Mayor Kawecki declared the Public Portion open.

John Kotcon, presented a letter on behalf of the Green Team. He stated that the latest draft of the Urban Agriculture ordinance should be rejected. He noted that the Ordinance seems to contradict itself by stating that it promotes Urban Agricultural in one area, but in another section it actually restricts Urban Agricultural and home gardens; and requested the Ordinance to be tabled.

Rachel Fetty, 131 Waitman Street, presented Council with a bowl of tomatoes picked from her garden. She stated that regulation of on home gardens without animals serves no purpose, and requested Council to table the Urban Agriculture.

Tracy Fresh, read a letter from Tom Sal, 514 Callen Avenue who was unable to attend the meeting. Mr. Sal requested Council to think about what they are doing in restricting and limiting property owners of their rights to grow vegetables. He asked Council not to pass the ordinance as it is written.

William Pyler, 733 Astor Avenue, commented that the Urban Agriculture ordinance as written is restrictive and needs more work. He requested Council add a clause in the ordinance in reference to "protection of the property owner" in protecting citizens' rights.

Dave O'Connor, 1468 Fenwick Avenue, commented that he has a garden and raises rabbits for meat. He stated that the ordinance is over reaching the bounds as written with penalties and restrictions. He noted that the present ordinance needs augmented.

Adele Douglas, 114 Fairview Avenue, stated that her main objection to this ordinance is that the City Code already has language to regulate urban agriculture. She suggested instead of have an ordinance developed, the City could support what is in place.

Ken Downey, 417 Linden Street, stated he has lived the urban thing. He mentioned that his neighbor has too many ducks and it smells awful. He commented that there must be regulation to how many animals a person can have for the properties are too close together. He stated that he is not against gardens if they are manicured and taken care of.

Ryan Stocking, 36 Logan Avenue, requested clarity on having bees for producing honey.

Deputy Mayor Kawecki suggested that Mr. Stocking contact the City Manager's office to get more information and clarity on bee-keeping.

There being no more appearances Deputy Mayor Kawecki declared the Public Portion closed.

SPECIAL COMMITTEE REPORTS: No reports.

NEW BUSINESS:

AN ORDINANCE AUTHORIZING A PARKING SPACE LEASE WITH MOTOWN TAXI AT THE MORGANTOWN MUNICIPAL AIRPORT: The below entitled Ordinance was presented for the first reading.

AN ORDINANCE AUTHORIZING A PARKING SPACE LEASE WITH MOTOWN TAXI AT THE MORGANTOWN MUNICIPAL AIRPORT.

Interim City Manager Glen Kelly explained. Motion by Bane, second by Ganz to approve the above entitled ordinance to second reading. Motion carried 6-0.

AN ORDINANCE AUTHORIZING THE CITY TO SUBMIT AN AMENDMENT TO ITS WRITTEN PLAN TO THE HOME RULE: The below entitled Ordinance was presented for the first reading.

AN ORDINANCE AUTHORIZING THE CITY TO SUBMIT AN AMENDMENT TO ITS WRITTEN PLAN TO THE HOME RULE.

Interim City Manager Glen Kelly explained, motion by, second by, to approve the above entitled Ordinance to second reading. Motion carried 6-0.

CITY MANAGER'S REPORT:

Interim City Manager Glen Kelly wished Veterans Happy Airborne Day and thanked Republic for removing garbage on Frat Hill.

New Business:

1. Upper Mon River Grant Match Request

The Upper Monongahela River Association, Inc. has been successful at generating attention to recreational activities on the Monongahela River and working the Army corps of Engineers to maintain minimum hours to allow recreational boaters and fisherman to use the Morgantown Lock. Attached is a letter from Barry Pally requesting a grant match of \$1,500 toward a \$21,440 Department of Transportation grant. The grant will be used to print 40,000 Upper Monongalia water trail maps. City Manager Jeff Mikorski recommends contributing \$1,500 to the Upper Monongahela River Association, Inc. to match a portion of the grant and continue to highlight the river for recreation.

Motion by Bane, second by Selin to contribute \$1,500 to the Upper Mon River Association. Motion carried 6-0.

2. BOPARC Request

BOPARC Executive Director, Melissa Burch, has provided a list of capital projects that will need to be funded to maintain park property. Because BOPARC is primarily funded through the City of Morgantown, it is necessary to assist with capital projects that contribute to the image and goal of the park system. Dorsey's Knob was established with private donations, City funds, and federal land and water grant funds. In order to maintain the park as a visitor destination and an outdoor recreational area, a land slip needs to be addressed. Without immediate action, the slip could impact the road and possibly the lodge retaining wall. City Manager Jeff Mikorski recommends that up to \$150,000 be budgeted for remediation of the Dorsey's Knob slip.

After discussion, motion by Bane, second by Selin to approve \$150,000 be budgeted for the Dorsey Knob slip. Motion carried 6-0.

3. City Council Video Broadcast Upgrades

This past year we upgraded the audio system for live broadcasts of public meetings from the council chambers. The next phase is upgrading the 8-10-year-old video equipment and computers that broadcast, record, and provide graphics to public meetings. This upgrade would include replacing the outdated VHS camera placed in the public area with another digital pan/tilt/zoom camera that would be placed in the back of the room, new computer system with computer switching, and the transition from a projector system to a LED flat-screen to be located on the front wall above the mayor dais. City Manager Jeff Mikorski recommends approving the quote totaling \$31,434.78 from Electronic Specialty Company for the installation and equipment to move this upgrade forward and integrate into the newly updated audio system.

Motion by Ganz, second by Selin to approve quote from Electronic Specialty Company of \$31,434.78 to upgrade audio sound system. After discussion, Ganz and Selin rescinded their motion as Council requested Interim City Manager Glen Kelly to bring back additional cost options to the Regular Meeting on 9-6-16.

REPORT FROM CITY CLERK: No report.

REPORT FROM CITY ATTORNEY: No report.

REPORT FROM COUNCIL MEMBERS:

Councilor Bane:

Councilor Bane announced that the next First Ward Neighborhood meeting will be on 8-22 at South Middle School at 6:30 p.m. He mentioned the Madigan Wall and that there are fundraisers being held to help with funding to repair wall. He requested a City Engineer look at wall as a safety precaution. He thanked Interim City Manager Glen Kelly for taking care of the issues on Elysian, McCullough and Urban Agriculture questions.

Councilor Nugent:

Councilor Nugent complemented Councilor Redmond on his prayer, and sent condolences to Mayor Shamberger family. He welcomed Interim City Manager Glen Kelly and thanked him for taking care of the trash containers that were overflowed. He noted the presentation at the Upper Monongahela River Association and that Alleys in his ward have more traffic/parking on them and are needing some maintenance. He announced the Wiles Hill Highland Park Neighborhood meeting will be on 8-17-16 at the BOPARC Senior Center.

Councilor Selin:

Councilor Selin announced that on Sunday, August 28, from 4:30 until 7:30 p.m., venture out to the West Virginia Botanic Garden at 1061 Tyrone Road for a Hammock Haven garden party. She mentioned the Urban Agriculture ordinance and noted that she is not in favor of the ordinance in its current form. She noted attending a Veterans Advocacy Boot Camp today at the College of Law which provided veterans with a variety of legal needs. She presented a proclamation on 8-14-16 at Dorsey's Knob to the WV Council of International Programs.

Councilor Redmond:

Councilor Redmond welcomed Interim City Manager Glen Kelly and looks forward to working with him. He mentioned the vagrant issue in our downtown and noted that it is an ongoing, perplexing problem. He requested the Interim City Manager Glen Kelly address the issue and mentioned having discussion of such on a COW.

Councilor Ganz:

Councilor Ganz reported that she, Mayor Shamberger and Deputy Mayor Kawecki attended the WVML Conference at Stonewall Resort 8-3 to 8-5. She noted that it was nice to know that there are WVML Members that care about what is happening in Morgantown. She mentioned checking with Board & Commission Chairs on meeting schedules that this may help the DP get meetings correct in the paper. She appreciates the work done on Dogwood by Public Works; but stated more work needs done on trash. She mentioned that the City has milling remains; and suggested that this could be used as a filler for the alleys. She was hoping that a paving study will be done after this paving season to include roads that are busy, bus routes and roads that are of bad repair. She acknowledged that BOPARC is seriously underfunded and the City needs to discuss options of funding with County. She alluded to the fact that County residence use our facilities and we should share in the cost of maintaining the facilities. She thanked citizens who spoke during the Public Portion on the Urban Agriculture Ordinance. She indicated that she too had a flower garden and felt there must be balance with proper care and maintenance of gardens/animals. She thanked Ben Conley and Matthew Cross for the article in the DP on Pedestrian and safety. She is hoping for a Safe Community and a Safe Semester in the City. She thanked those that care about the City; and noted thanks to all the volunteers on Boards and Commissions.

Deputy Mayor Kawecki:

Deputy Mayor Kawecki while standing in for the Mayor he had the opportunity to experience some positive things. He stated meeting with the CIP Group of students from WVU, that will be giving their knowledge to the community as interns. He presented certificates on behalf of Diabetes research and education to Doctors at WVU. He noted that the research is well known over 22 Countries due to Dr. Raju, Ophthalmologist here in Morgantown. Deputy Mayor made the following announcements; 1st day of classes for WVU and Mon County Students is 8/18/16; Marilla and Krepps Pool's will be closing on 8/21/16; Mac n Cheese Cook off 8/20/16 2pm at the Morgantown Market Place; WV Botanic Gardens on being

environmentally conscious 2pm at the Botanic Gardens; Picnic Parties Evening Story Time 8/23/16 6:30pm – 7:30pm at the Morgantown Library; Stella & Lou presented by Empty Pockets 8/20/16 8 – 9:30; Morning Yoga in the Garden 8/19/16 9:30am – 10:30am at the Botanic Gardens; High Street Bazaar 8/20/16 downtown High Street; WV Botanic Wild Flower Walk 8/20/16 at 10am; Meet your Neighbor 8/28/16 2pm at the Morgantown Market Place; Dog Splash 8/28/16 at Marilla Park; WV Botanic Gardens MOC Program Story Time 8/30/16 at 7:30pm; South Park Association of Neighbors Annual Super Sale 8/20/16; there are up to 54 families that participate in this annual sale; First Christian Church will be making breakfast and lunch for those who would like to come over before or after the annual sale.

Mayor Shamberger:

Absent.

ADJOURNMENT: There being no further items of business or discussion, the meeting adjourned by unanimous consent at 8:40 p.m.

City Clerk

Mayor

A FULL TRANSCRIPT OF ALL COUNCIL MEETINGS ARE AVAILABLE ON DVD AT THE MORGANTOWN CITY LIBRARY

SPECIAL MEETING August 30, 2016:

The Special Meeting of the Common Council of the City of Morgantown was held in the Council Chambers on Tuesday, August 30, 2016 at 6:00 p.m.

PRESENT: Interim City Manager Glen Kelly, City Clerk Linda Tucker, Mayor Marti Shamberger, Deputy Mayor Bill Kawecki and Council Members, Ron Bane, Wes Nugent, Jenny Selin, Jay Redmond, and Nancy Ganz.

The meeting was called to order by the Mayor.

NEW BUSINESS:

A RESOLUTION AUTHORIZING A GRANT AGREEMENT WITH UNITED STATES DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION FOR PURPOSE OF SNOW REMOVAL EQUIPMENT: The above entitled Resolution was presented for approval.

Motion by Bane, second by Selin to approve the above stated Resolution. Motion carried 7-0.

A RESOLUTION AUTHORIZING A GRANT AGREEMENT WITH UNITED STATES DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION FOR INSTALLATION OF TAXIWAY LIGHTING: The above entitled Resolution was presented for approval.

After discussion, motion by Selin, second by Ganz to approve the above stated Resolution. Motion carried 7-0.

EXECUTIVE SESSION: Pursuant to WV State Code Section 6-9A-4(b) (2) (A) motion by Bane, second by Ganz to go into executive session in order to discuss personnel matters in considering appointments to Boards and Commissions. Present: Council, City Attorney, Interim City Manager and Police Chief. Time: 6:05 p.m.

ADJOURNMENT:

There being no further business, Council adjourned the Special Meeting at 7:04 p.m.

City Clerk

Mayor

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AN ORDINANCE AMENDING SECTIONS 1329.02, 1349.08, AND 1365.04 OF THE CITY OF MORGANTOWN PLANNING AND ZONING CODE AS THEY RELATE TO BICYCLE STORAGE REQUIREMENTS.

WHEREAS, the Morgantown Bicycle Board's 2012 Greater Morgantown Bicycle Plan, the City of Morgantown's 2013 Comprehensive Plan Update, and the Morgantown-Monongalia Metropolitan Planning Organization's 2040 Long Range Transportation Plan encourage the expanded use of the bicycles as a mode of transportation, necessitating increased infrastructure to include bicycle storage; and,

WHEREAS, bicycle storage standards are not unique to the City of Morgantown and are utilized throughout the United States to encourage and facilitate bicycle use; and,

WHEREAS, bicycle storage standards, which have been recommended by the Morgantown Bicycle Board, the Morgantown Traffic Commission, and the Morgantown Planning Commission, will provide flexibility for developers to deliver bicycle storage amenities at a level that is of minimal disturbance.

NOW, THEREFORE, the City of Morgantown hereby ordains that Sections 1329.02, 1349.08, and 1365.04 of the City's Planning and Zoning Code are amended as follows (deleted matter struck through; new matter underlined and bolded):

1329.02 DEFINITION OF TERMS

AMENITY – Aesthetic or other characteristics of a development that increase its desirability to a community or its marketability to the public. Amenities may differ from development to development but may include such things as a unified building design, recreational facilities (e.g. swimming pool, walking trails, bicycle trails, lakes, tennis courts, picnic areas, playgrounds, fitness center, etc.), views, landscaping, bicycle storage, etc.

~~BICYCLE STORAGE – An indoor, secure, and sheltered storage space for bicycles, which is provided as an amenity for residents, tenants, etc. of a development.~~

BICYCLE STORAGE, SHORT-TERM – A secure storage space for bicycles, which is provided as an amenity for residents, tenants, etc. of a development for temporary purposes.

BICYCLE STORAGE, LONG-TERM – An indoor, secure, and sheltered storage space for bicycles, which is provided as an amenity for residents, tenants, etc. of a development.

~~PARKING, BICYCLE – Parking of bicycles on a temporary basis with a minimum width of three (3) feet, a minimum length of six (6) feet, and a means of securing individual bicycles.~~

1349.08 PARKING AND LOADING STANDARDS

- ~~(C) Bicycle Storage — For all Developments of Significant Impact in this district, the following minimum bicycle storage amenities must be provided:~~
- ~~(1) One (1) indoor, secure, sheltered bicycle storage space per dwelling unit.~~
 - ~~(2) Each space shall be a minimum of 3 feet X 6 feet X 4 feet.~~
 - ~~(3) Each bicycle shall be individually secured with a lock to a permanent structure.~~
 - ~~(4) There should be sufficient space for easy access to each bicycle.~~

1365.04 DETERMINING THE NUMBER OF SPACES REQUIRED.

- (C) Shared Parking Facilities in the B-4 District.
- (2) Shared parking facilities for two or more uses, whose main traffic generation peak times do not substantially overlap, may be approved as a conditional use provided that:
 - (c) This reduction may, with the approval of the Board of Zoning Appeals, be in addition to the reductions allowed for proximity to public transit, and/or motorcycle parking, ~~and/or bicycle parking.~~
 - (3) Shared parking facilities for two or more uses, whose main traffic generation peak times substantially overlap, may be approved as a conditional use provided that:
 - (c) This reduction may, with the approval of the Board of Zoning Appeals, be in addition to the reductions allowed for proximity to public transit, and/or motorcycle parking, ~~and/or bicycle parking.~~
- (P) In the B-4 district, minimum parking requirements may be reduced as a conditional use under one or more of the following provisions:
- ~~(4) By a factor of one (1) automobile parking space for every three (3) bicycle parking spaces provided, up to a maximum reduction of three (3) automobile parking spaces. This reduction shall not be permitted for uses that are required to provide six (6) or fewer parking stalls. Nor shall this reduction be permitted for uses that primarily sell large, bulky merchandise not typically transported via bicycle. Required bicycle storage may not be used to reduce minimum parking requirements.~~
- (Q) Bicycle Storage – Long-term bicycle storage and short-term bicycle storage shall be provided in all Developments of Significant Impact.
- (1) For all Developments of Significant Impact, the minimum Long-term bicycle storage amenities described in this Subsection must be provided. The minimum Long-term bicycle storage amenities are as follows:

- (a) For residential uses and for residential use components of mixed-used development, one (1) long-term bicycle storage space per dwelling unit.
- (b) For non-residential uses and for non-residential use components of mixed-used development, one (1) Long-term bicycle storage space increasing by one (1) additional space for every twenty (20) automobile parking spaces as required in accordance with Table 1365.04.01: Minimum Off-Street Parking Requirements.
- (c) Long-term bicycle storage is required to be covered and shall include use of one of the following:
 - (i) A locked room;
 - (ii) An area enclosed by a fence with a locked gate;
 - (iii) An area within view of an attendant or security guard or monitored by a security camera; or,
 - (iv) An area visible from employee work areas.
- (d) The long-term bicycle storage area should be located within fifty (50) feet of the primary entrance of the building it serves and shall be in a location that can be reached by an accessible route. Long-term bicycle storage must be located either:
 - (i) On the same site as the use it serves; or,
 - (ii) Off-site within 300 feet of the use it serves; provided, conditional use approval is granted by the Board of Zoning Appeals. Conditional use approval shall include a condition that the off-site long-term bicycle storage amenity is encumbered by an easement or similar agreement duly executed and acknowledged, which specifies that the land upon which the off-site long-term bicycle storage amenity is located is encumbered by the bicycle storage use. Said instrument shall specify and bind the time period to the anticipated life of the building or use to which the long-term bicycle storage amenity are accessory. Said instrument shall be filed with the applicable Building Permit files of the Department of Planning, and placed on public record in the Office of the Clerk of the County Commission of Monongalia County, WV. Further, if the pedestrian access between the off-site long-term bicycle storage amenity and the use(s) it serves is to cross an arterial street, appropriate safety measures, as determined by the Planning Director and City Engineer, must be in place to ensure pedestrian safety.
- (e) If the long-term bicycle storage is provided in an auto storage garage, the bicycle storage spaces shall be clearly marked as such and shall be separated from automobile parking.
- (f) Long-term bicycle storage designs must adhere to the design standards in section 1365.04(Q)(3), Bicycle Rack Requirements.

(2) For all Developments of Significant Impact, the minimum short-term bicycle storage amenities described in this Subsection must be provided. The minimum short-term bicycle storage amenities are as follows:

- (a) One (1) short-term bicycle storage space increasing by one (1) additional space for every twenty (20) automobile parking spaces as required in accordance with Table 1365.04.01: Minimum Off-Street Parking Requirements.
- (b) Each short-term bicycle storage space shall be located:
 - (i) Outside a building, but not within the public right-of-way, or within an automobile garage; provided, that in the B-4 District where the public right-of-way may also be used with the approval of the City Engineer.
 - (ii) Within fifty (50) feet of a main building entrance; and
 - (iii) At the same grade as the sidewalk or at a location that can be reached by an accessible route.
- (c) Short-term bicycle storage space designs must adhere to the design standards in 1365.04(Q)(3): Bicycle Rack Requirements.
- (d) Short-term bicycle storage spaces should be placed under roof to encourage cycling and bicycle rack use.
- (e) Short-term bicycle storage shall consist of a physical improvement that is installed on a permanent foundation (e.g., concrete pad) to ensure stability; is securely anchored into or on the foundation with tamper-proof nuts if surface mounted; provides support for an upright bicycle by its frame horizontally in two (2) or more places; keeps both bike wheels on the ground; is designed to prevent the bicycle from tipping over; is able to support a variety of bicycle sizes and frame shapes; provides space to secure the frame and one or both wheels to the rack with a cable, chain, or u-lock; and has a locking pole with a diameter of no more than 1.5 inches.

(3) Bicycle Rack Requirements. Long-term and short-term bicycle storage spaces using bicycle rack facilities shall observe the following design standards:

- (a) Each bicycle storage space shall a minimum dimension of three (3) feet in width by six (6) feet in length by four (4) feet in height.
- (b) Bicycle storage areas shall include a minimum of three (3) feet of clearance around racks or lockers to give cyclists room to maneuver and to prevent conflicts with pedestrians or parked automobiles.
- (c) Adequate lighting (no less than 2.0 footcandles) must be provided for a bicycle storage area and the route from the storage area to the nearest building entrance intended for the cyclist.
- (d) Racks shall conform to Americans with Disabilities Act (ADA) standards for protrusions in the right-of-way including the ability to detect the rack with a white cane. To be detected by a white cane the protruding or leading edge

of the rack shall be 27" or less above the sidewalk surface. Between 27" and 80" above the sidewalk surface, protruding or leading edges may overhang a maximum of 12".

- (e) The top of the bicycle rack design shall be a minimum of 36 inches tall. Except for the bicycle rack supporting brackets, the shortest section of the bicycle rack must be a minimum of 27 inches tall to be perceived by pedestrians and avoid tripping hazards.
- (f) The space between rack features shall be larger than 9" and smaller than 3.5" to avoid children trapping their heads.
- (g) The design shall not include sharp edges.
- (h) Areas having more than one row of racks shall be separated by aisles. An aisle is measured from tip to tip of the bicycle storage spaces between racks. The minimum separation between aisles shall be a minimum of four (4) feet.
- (i) Racks near walls should be placed so the rack's two (2) bicycle connection points are perpendicular to such wall. Racks placed near walls shall maintain a four (4) foot minimum separation between the edge of the bicycle storage space and the wall.
- (j) Racks placed near curbs should maintain a minimum separation between the edge of the bicycle storage space of four (4) feet.
- (k) Racks should have protective coatings designed to protect bicycle frames from scratching and damage.
- (l) Racks should be able to resist being cut or detached using common hand tools, such as bolt cutters, pipe cutters, wrenches, and pry bars.

This ordinance shall be effective upon date of adoption.

FIRST READING:

Mayor

ADOPTED:

FILED:

RECORDED:

City Clerk

AN ORDINANCE AMENDING ARTICLES 1383, 1389, AND 1391 OF THE CITY'S PLANNING AND ZONING CODE GOVERNING ADMINISTRATIVE APPEALS AND THE ESTABLISHMENT, POWERS AND DUTIES, AND JUDICIAL REVIEW OF THE BOARD OF ZONING APPEALS.

WHEREAS, the City of Morgantown Board of Zoning Appeals is established pursuant to West Virginia Code Chapter 8A, Article 8; and

WHEREAS, the mandatory provisions of West Virginia Code Chapter 8A, Article 8 establish the jurisdiction and certain duties of the Board;

NOW, THEREFORE, the City of Morgantown hereby ordains that Articles 1383, 1389, and 1391 of the City Code are amended as follows:

**ARTICLE 1383
Administrative Appeals**

1383.01 AUTHORITY APPLICATION FOR APPEAL.

~~The Board of Zoning Appeals shall hear and determine appeals from any order, requirement, decision or determination made by an administrative official, board, or staff member charged with the enforcement of this Zoning Ordinance.~~

- (A) An appeal from any order, requirement, decision or determination made by an administrative official or board charged with the enforcement of the zoning ordinance, or rule and regulation adopted pursuant to the zoning ordinance, shall be filed with the Board of Zoning Appeals.
- (B) The appeal shall:
- (1) Specify the grounds of the appeal;
 - (2) Be filed within thirty (30) days of the original order, requirement, decision or determination made by an administrative official or board charged with the enforcement of the zoning ordinance; and,
 - (3) Be on a form prescribed by the Board of Zoning Appeals.

- (C) Upon request of the Board of Zoning Appeals, the administrative official or board shall transmit all documents, plans and papers constituting the record of the action from which the appeal was taken.

~~1383.02 INITIATION.~~

~~An appeal may be filed with the Board of Zoning Appeals by any person aggrieved by the order, requirement, decision or determination described in Section 1383.01. An appeal filed with the Board must specify the grounds of the appeal, be filed in the form established by rules of the Board, and be filed within 30 days of the original order, requirement, decision or determination.~~

1383.032 PROCESSING FILING AND NOTICE OF APPEAL.

- (A) An appeal shall be filed with the Planning staff, who shall forward such appeal to the Board of Zoning Appeals.
- (B) Within 10 days of receipt of the appeal by the Board of Zoning Appeals, the Board shall set a date and time for the public hearing of the appeal and give notice. The public hearing on the appeal shall must be held within forty-five (45) days of receipt of the appeal by the Board.
- (C) At least 15 days prior to the date set for the public hearing on the appeal, the Board of Zoning Appeals shall publish a notice of the date, time and place of the hearing on the appeal as a Class I legal advertisement in compliance with the provisions of West Virginia Code Chapter 59, Article 3, and written notice shall be given to interested parties. The publication area shall be the area covered in the appeal.
- (D) The Board of Zoning Appeals may require the party taking the appeal to pay for the cost of public notice and written notice to interested parties.

1383.043 PUBLIC HEARING.

- (A) A public hearing on the appeal shall be conducted by the Board of Zoning Appeals in conformance with the West Virginia Code and the Morgantown City Board of Zoning Appeals Rules of Procedure. ~~The party making the appeal shall be required to pay any fee established by City Council.~~
- (B) At the hearing, any party may appear in person, by agent or by an attorney licensed to practice in the State of West Virginia.

1383.054 DECISIONS.

~~The Board of Zoning Appeals shall hear testimony and evidence concerning appeals, and prepare findings of fact and conclusions of law and shall render a final decision on all appeals. A written copy of such decision, as described in the Rules of Procedure, shall be available in the Planning Department within five (5) days after making such decision.~~

- (A) Every decision by the Board of Zoning Appeals must be in writing and state findings of fact and conclusions of law on which the Board based its decision. If the Board fails to provide findings of fact and conclusions of law adequate for decision by the Circuit Court and as a result of the failure, the Circuit Court returns an appeals matter to the Board and dismisses jurisdiction over an applicant's appeal without deciding the matter, whether the Court returns the matter with or without restrictions, the Board shall pay any additional costs for court filing fees, service of process and reasonable attorney's fees required to permit the person appealing the Board's decision to return the matter to the Circuit Court for completion of the appeal.
- (B) The written decision by the Board of Zoning Appeals shall be rendered within thirty (30) days after the hearing. If the Board fails to render a written decision within thirty (30) days after the hearing, then any party may pursue additional legal remedies to obtain a decision, including, but not limited to, seeking a writ of mandamus.
- (C) Any appeal determined by the Board of Zoning Appeals shall be particular to that case and site, and shall not be applied to the entire Ordinance, except as noted in Section 1375.05, Administrative Interpretations.

1383.065 ~~APPEAL OF DECISIONS STAYS; EXCEPTION.~~

~~Every decision or order of the Board of Zoning Appeals shall be subject to review by certiorari. Any person or persons jointly or severally aggrieved by any decision or order of the Board of Zoning Appeals may present to the Circuit Court of Monongalia County a petition duly verified, setting forth that such decision or order is illegal in whole or in part, and specifying the grounds of the alleged illegality. The petition must be presented to the Court within thirty days after the date of the decision or the order of the Board of Zoning Appeals complained of. In the event that an appeal is filed to the Circuit Court, the City, upon receiving notice of such appeal from the Court, shall send written notification of said appeal to the same property owners that were originally notified during initial consideration of the case.~~

- (A) When an appeal has been filed with the Board of Zoning Appeals, all proceedings and work on the premises in question shall be stayed, except as provided in subsection (b) of this section.
- (B) A stay may not be had:
 - (1) If the official or board from where the appeal was taken certifies in writing to the Board of Zoning Appeals that a stay would cause imminent peril to life or property;
 - (2) Upon further administrative proceedings, including, but not limited to, submissions to and reviews by the staff or any administrative body; or
 - (3) Upon engineering or architectural work that does not disturb the real estate beyond what is necessary to complete engineering, survey work or other tests.
- (C) If the written certification is filed pursuant to subdivision (1), subsection (b) of this section, then proceedings or work on the premises shall not be stayed.
- (D) Nothing in this section prevents a party from obtaining a restraining order.

ARTICLE 1389
Board of Zoning Appeals

1389.01 ESTABLISHMENT.

- (A) The Board of Zoning Appeals is hereby established and shall consist of five (5) members to be appointed by City Council, all of ~~which~~ whom shall be residents of the City and ~~three-fifths~~ each of such members shall have been a residents of the City for at least three (3) years prior to the time of ~~their~~ his or her appointment.
- (B) No member of the Board of Zoning Appeals shall be a member of the Planning Commission nor shall any member hold any other elective or appointive office in the municipal government of the City of Morgantown.
- (C) The members of the Board shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their official duties. If a vacancy occurs by resignation or otherwise among the members of the Board of Zoning Appeals, City Council shall appoint a member for the unexpired term.

- (D) City Council may appoint up to three additional members to serve as alternate members of the Board who shall meet the same eligibility requirements as regular Board members. The term for an alternate Board member shall be three years and Council may appoint alternate members on a staggered term schedule.
- (E) An alternate Board member shall serve on the Board when one of the regular members is unable to serve. The alternate Board member shall serve until a final determination is made in the matter to which the alternate member was initially called on to serve.
- (F) The Board of Zoning Appeals shall establish rules and procedures for designating an alternate member who shall have the same powers and duties as a regular Board member.
- (G) ~~Any decision of the City Manager in the enforcement of this ordinance may be appealed to the Board by any person claiming to be adversely affected by such decision.~~ City Council shall provide the Board of Zoning Appeals with suitable offices for the holding of meetings and the preservation of plans, maps, documents and accounts; and appropriate money to defray the reasonable expenses of the Board.

1389.02 POWERS AND DUTIES.

The Board shall have the following powers ~~and it shall be its duty to:~~

- (A) Hear, review and determine appeals from any order, requirement, decision or determination made an administrative official or board charged with the enforcement of the zoning ordinance or rules and regulations adopted pursuant thereto ~~by the City Manager in the enforcement of this ordinance;~~
- (B) Authorize exceptions to the district rules and regulations only in the classes of cases or in particular situations, as specified in this ordinance;
- (C) Hear and decide conditional uses upon which the Board is required to act under ~~this~~ the zoning ordinance;
- (D) Authorize, upon appeal in specific cases, a variance from the terms of ~~this~~ the zoning ordinance;

- (E) Reverse, affirm or modify the order, requirement, decision or determination appealed from and have all the powers and authority of the City-Manager official or board charged with enforcement of the zoning ordinance from whom which the appeal was taken;
- (F) Adopt rules and regulations concerning:
 - (1) The filing of appeals, including the process and forms for the appeal;
 - (2) Applications for variances and conditional uses;
 - (3) The giving of notice;
 - (4) The conduct of hearings necessary to carry out the Board's duties as authorized by State law;
- ~~(G)~~ (5) Keep minutes of its proceedings;
- ~~(H)~~ (6) Keep an accurate and complete audio record of all the Board's proceedings and official actions and keep the audio record in a safe manner, accessible within twenty-four hours of demand, for three years;
- ~~(I)~~ (7) Record the vote on all actions taken;
- ~~(J)~~ (8) Take responsibility for the custody and preservation of all papers and documents of the Board, which shall be filed in the Planning Office and made public record;
- ~~(K)~~ (9) With consent from City Council, hire employees necessary to carry out the duties and responsibilities of the Board, provided that Council sets the salaries; and
- ~~(L)~~ (G) Supervise the fiscal affairs and responsibilities of the Board.

1389.05 JUDICIAL REVIEW.

Every decision or order of the Board of Zoning Appeals shall be is subject to review by certiorari. ~~Any person or persons jointly or severally aggrieved by any decision or order of the Board of Zoning Appeals may present to the Circuit Court of the County of Monongalia a petition duly verified, setting forth that such decision or order is illegal in whole or in part, and specifying the grounds of the alleged illegality. The petition must be presented to the Court within thirty (30) days after the date of the decision or the order of the Board of Zoning Appeals complained of.~~

Within thirty (30) days after the decision or order, any aggrieved person may present to the Monongalia County Circuit Court a duly verified petition for a writ of certiorari setting forth:

- (1) That the decision or order of the Board of Zoning Appeals is illegal in whole or in part; and,
- (2) Specify the grounds of the alleged illegality.

ARTICLE 1391

Permit, Certificate, and Approval Revocation

1391.04 APPEAL OF REVOCATION.

The revocation of any permit or approval issued pursuant to ~~this~~ the zoning ordinance may be appealed to the Board of Zoning Appeals ~~by any person claiming to be adversely affected by the revocation,~~ under the processes set forth for administrative appeals in Article 1374 1383, ~~Administrative Appeals.~~

This ordinance shall be effective upon date of adoption.

FIRST READING:

Mayor

ADOPTED:

FILED:

RECORDED:

City Clerk

AN ORDINANCE AMENDING ARTICLE 1329.02, TABLE 1331.05.01, ARTICLE 1365.04, AND ARTICLE 1365.07 OF THE CITY'S PLANNING AND ZONING CODE AS THEY RELATE TO PARKING LOT AND PARKING STRUCTURE USES.

The Morgantown City Council hereby ordains that Article 1329.02, Table 1331.05.01, Article 1365.04, and Article 1365.07 of the City's Planning and Zoning Code are amended as follows (deleted matter struck through; new matter underline):

1329.02 DEFINITIONS OF TERMS.

PARKING LOT, ACCESSORY – An off-street, ground level facility including paved parking spaces and adjacent drives and aisles for maneuvering, access, entrance, and exit; improved in a way to accommodate the parking of four (4) or more motor vehicles for the use of the owners, tenants, lessees, occupants, customers, and/or visitors of the principal use of premises on which the parking lot is located. This term includes deck parking and underground or under-building parking areas; provided, no more than one (1) level of parking area is provided. Accessory parking lot facilities shall be considered a part of the principal use to which it is accessory and, where applicable, shall be restricted by the maximum parking standards of the zoning ordinance.

~~PARKING LOT, COMMERCIAL – A private parking lot that is the stand-alone use of a parcel, and whose stalls are leased to individuals for any length of time.~~

PARKING LOT, PRINCIPAL USE – An off-street, ground level facility including paved parking spaces and adjacent drives and aisles for maneuvering, access, entrance, and exit; improved in a way to accommodate the parking of four (4) or more motor vehicles where the parking lot is either the principal use of the premises or the stand-alone use of the parcel.

~~PARKING LOT, PRIVATE – An open area, other than a street or alley, designed to be used for the temporary parking of more than four motor vehicles, whether free or for compensation, and available for private use or as an accommodation for clients or customers.~~

~~PARKING STRUCTURE – A structure designed to accommodate vehicular parking spaces that are fully or partially enclosed or located on the deck surface of a building. This definition includes parking garages, deck parking and underground or under building parking areas.~~

PARKING STRUCTURE, ACCESSORY – Parking spaces and adjacent access drives, aisles, and ramps that are located in a structure with two (2) or more levels for the use of the owners, tenants, lessees, occupants, customers, and/or visitors of the principal use of premises on which the parking structure is located and where the parking structure is not the principal use of the premises or the stand-alone use of the parcel. A parking structure may be totally below grade (as in an underground parking garage) or either partially or totally above grade with those levels being either open or enclosed. This term includes parking spaces that are integrated into a larger structure that houses the principal use of the premises. Accessory parking structure facilities

shall be considered a part of the principal use to which it is accessory and, where applicable, shall be restricted by the maximum parking standards of the zoning ordinance.

PARKING STRUCTURE, PRINCIPAL USE – Parking spaces and adjacent access drives, aisles, and ramps that are located in a structure with two (2) or more levels, where the parking structure is the principal use of the premises or the stand-alone use of the parcel. A parking structure may be totally below grade (as in an underground parking garage) or either partially or totally above grade with those levels being either open or enclosed.

Table 1331.05.01 PERMITTED LAND USES

Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
Parking Lot, Commercial				C		P	P	P				28
Parking Lot, Private			C	C	C	C						
Parking Lot, Principal Use				C		P	P	C		P	P	
Parking Structure, Principal Use				C		P	P	C		P	P	28

1365.04 DETERMINING THE NUMBER OF SPACES REQUIRED.

(B) Shared Parking Facilities.

- (1) Shared parking facilities for two or more separate but adjacent buildings or mixed uses may be permitted as a conditional use provided that:
 - (a) The total number of spaces used is not less than the sum required for various buildings or uses if computed separately.
 - (b) That the lot is in the same zoning district as the principal use, or in a district that permits ~~commercial parking lots~~ principal use parking lots or principal use parking structures as a principal or conditional use.
 - (c) Each use of the shared spaces shall function as if having been provided separately.

1365.07 OFF-STREET PARKING FACILITIES.

- (A) In Business, Industrial and Multi-Family Districts, the Board of Zoning Appeals may grant Conditional Use Approval to provide required spaces on a site that is:
 - (1) Within 300 feet of the principal use, and
 - (2) Within a district that permits ~~commercial parking lots~~ principal use parking lots or principal use parking structures as a principal or conditional use.

- (3) B-4 District - within 500 feet of the principal use, but not within a residential district or within the B-4 Neighborhoods Preservation Overlay District (B-4NPOD).
- (D) It is the responsibility of the business owner to maintain current and valid parking as required by this Ordinance. Evidence of such parking is required prior to approval and proof of current leases shall be made available at the request of the Planning Director. Each leased space shall have a sign noting the business for which the space is reserved. Signs shall be 12 inches wide by 18 inches tall and shall be mounted between three feet and five feet above the finished surface of the parking stall. The text on the sign shall state "This space is reserved for patrons of [name of the business] only, per City Code 1365.07(D)." All leased stalls shall be improved, paved, and striped. ~~No unimproved stalls shall be used for commercial parking.~~ Leasing of stalls shall not reduce the available parking below the minimum requirement for uses sharing the lot, except in conditions of shared parking as described in Section 1365.04(B) of the City Code.

This ordinance shall be effective upon date of adoption.

FIRST READING:

Mayor

ADOPTED:

FILED:

RECORDED:

City Clerk

AN ORDINANCE AUTHORIZING A PARKING SPACE LEASE WITH MOTOWN TAXI AT THE MORGANTOWN MUNICIPAL AIRPORT

WHEREAS, the City is the owner of the real estate and buildings constituting the Morgantown Municipal Airport and intends to promote transportation opportunities for travelers by leasing space for taxicab services; and

WHEREAS, Motown Taxi has agreed to lease a space at the airport for the provision of these services;

NOW, THEREFORE, The City of Morgantown hereby ordains that the City Manager is authorized to execute the attached Parking Space Lease, which is incorporated into this ordinance by reference.

This Ordinance shall be effective from the date of its adoption.

First Reading:

Adopted:

Mayor

Filed:

Recorded:

City Clerk

PARKING SPACE LEASE

The Morgantown Municipal Airport, on behalf of the City of Morgantown, ("Lessor"), does hereby agree to lease to Motown Taxi, LLC, a duly authorized West Virginia limited liability company, ("Lessee") a parking space located at the Morgantown Municipal Airport and specifically depicted on "Exhibit A" to this Lease.

The following terms and conditions shall apply to this Parking Space Lease Agreement ("Lease"):

1. **Use of Space.** Lessee and its authorized taxicab operators may occupy the leased space with appropriately designated and marked "Motown Taxi" vehicles solely for the purpose of providing taxicab services, including pickup, drop-off, and waiting for potential fares. The leased space shall not be used for long-term parking outside the normal course of Lessee's business operations.
2. **Damage to Vehicle or Contents.** Lessor shall not be responsible for damage to Lessee's vehicles, whether or not such damage is caused by other vehicle(s) or person(s) in the parking lot and surrounding area. Lessor shall not be responsible for damage or loss to possessions or items left in Lessee's vehicles.
3. **Claims of Passengers and Occupants.** Lessor shall not be responsible for any claim, demand, or damage arising in any way out of Lessee's use of the leased space or provision of taxicab services. Lessee agrees to defend, indemnify, and hold harmless Lessor for any claim, demand, or damage arising out of Lessee's use of the leased space or operations relating to the leased space, excluding only claims alleging sole negligence by Lessor.
3. **Parking Lot Oversight.** Lessor will provide proper signage identifying Lessee's entitlement to the leased space. Lessee shall not be entitled to remove any vehicle from the premises but shall inform Lessor of any unlawfully parked vehicles.
4. **Payments by Lessee.** Lessee agrees to pay \$20.00 per month for the lease of the parking space. Lessee is to make such leasehold payment to the Morgantown Municipal Airport, care of the Airport Director, in person or by mail at 100 Hart Field Road, Morgantown, WV 26505. Payments shall be made in advance by Lessee by the first day of each month.
5. **Receipts by Lessor.** Lessor agrees to provide a receipt to Lessee for each payment received upon demand made at the time of payment. Such receipt shall show the amount paid and identify the leased parking space.
6. **Termination.** Either party may terminate this Agreement by providing 30 days' written notice to the other party. Any such notice shall be directed to a party at the party's address as listed below in this Agreement.

7. Damages and Loss of Equipment. Lessee is responsible for any and all damages beyond normal wear and tear to the parking facilities and any airport property damaged by Lessee's operations.

8. Jurisdiction and governing law. This Agreement shall be construed according to the laws of the State of West Virginia. Any dispute arising out of this Agreement shall be resolved in the Circuit Court of Monongalia County, West Virginia.

9. Entire Agreement. This Agreement constitutes the entire agreement between the parties and may not be modified, altered, changed or extended unless made in writing and signed by all parties. The failure of the parties to insist upon a strict adherence to the covenants of this Agreement shall not be deemed a waiver of any subsequent breach or default in the terms, conditions and covenants herein contained.

10. Successors and Assigns. This Agreement shall be a binding obligation upon and inure to the benefit of the respective parties, their successors and assigns, trustees and legal representatives.

IN WITNESS WHEREOF, the parties have caused this document to be executed as of the _____ day of _____, 2016, by the following signatures of their duly authorized representatives:

Morgantown Municipal Airport

By: Glen Kelly, Acting Airport Director
100 Hart Field Road
Morgantown, WV 26505

Motown Taxi, LLC

By: Andrew Vecchio, Member
330 Scott Avenue
Morgantown, WV 26508

“Exhibit A”

Motown Taxi, LLC Parking Space



**AN ORDINANCE AUTHORIZING THE CITY TO SUBMIT AN AMENDMENT TO ITS WRITTEN
PLAN TO THE HOME RULE BOARD**

The City of Morgantown hereby ordains that its City Manager is authorized to submit the attached "Proposed Amendment to the City of Morgantown Home Rule Application" to the Municipal Home Rule Board.

FIRST READING:

Mayor

ADOPTED:

FILED:

City Clerk

RECORDED:

Proposed Amendment to the City of Morgantown Home Rule Application

I. Introduction

The City of Morgantown (the “City”) has been approved to participate in West Virginia’s Municipal Home Rule Pilot Program, Phase II (“Home Rule Program”) and its initial written plan has been approved by the Municipal Home Rule Board (the “Board”). An amendment to the City’s written plan was approved by the Board on September 14, 2015.

Pursuant to *W. Va. Code* § 8-1-5a(l), “[a] municipality selected to participate in the Municipal Home Rule Pilot Program may amend its written plan at any time.” The Board has provided guidance for municipalities proposing plan amendments. The guidance requires a public hearing and statement of the reasons for amendment similar to those required in an initial plan under *W. Va. Code* § 8-1-5a(f) and (g).

The City seeks to amend its written plan to propose an ordinance permitting alcohol sales for on-premises consumption prior to 1:00 p.m. on Sundays. The applicable laws and reasons for amendment are set out below.

II. Specific Laws Applicable

West Virginia Code sections 60-7-12(a)(5), 60-8-34, 11-16-18(a)(1), 7-1-3pp.

III. Limitations Presented by Applicable Law

Current law prohibits alcohol sales at private clubs between the hours of 3:00 a.m. and 1:00 p.m. on Sundays (*W. Va. Code* § 60-7-12(a)(5)) and at private wine bed and breakfast or restaurant establishments between 2:00 a.m. and 1:00 p.m. on Sundays (*W. Va. Code* § 60-8-34). All licensees are prohibited from selling alcohol between 2:00 a.m. and 1:00 p.m. except as otherwise provided in Chapter 60, Article 7. *W. Va. Code* § 11-16-18(a)(1). Senate Bill 293, passed in the 2016 regular session and effective June 10, 2016, modifies these limitations by permitting on premise alcohol sales beginning at 10:00 a.m. on Sundays only after an election. (2016 S.B. 293; *W. Va. Code* § 7-1-3pp (eff. June 10, 2016)). Any election approving Sunday alcohol sales – or declining to do so – could not occur in Monongalia County until November.

Morgantown is home to many local restaurants which could lose business as other jurisdictions adopt standards permitting alcohol sales with Sunday meals. Morgantown also regularly hosts visitors from around the country, including those attending West Virginia University events. The addition of Sunday alcohol sales would present these visitors with additional local amenities and boost the local economy. Both the Morgantown Area Chamber of Commerce and the Greater Morgantown Convention and Visitors Bureau support Morgantown’s effort to authorize on premise alcohol sales to benefit city and county residents as well as visitors in advance of any

ballot issue. The letter of support prepared by these organizations is attached to this Application as "Exhibit 1."

Several home rule municipalities have already obtained approval to use the program to implement municipal ordinances permitting Sunday alcohol sales for on premise consumption beginning at 10:00 a.m. Morgantown would like to join these communities in exercising local authority to expand opportunities for residents, businesses, and visitors.

IV. Proposed solution

Upon approval of the Board, the City will adopt an ordinance permitting alcohol sales by West Virginia Alcohol Beverage Control Administration Class A license holders for on premise consumption beginning at 10:00 a.m. on Sundays. The Corporation of Shepherdstown has successfully implemented this measure through the Home Rule program to support local businesses and promote tourism and the local economy. Additional municipalities were approved to exercise this authority at the Board's July 11th meeting.

EXHIBIT 1

**Morgantown Area Chamber of Commerce
And
Greater Morgantown Convention and Visitors Bureau
Letter of Support**



Dear Members of the Morgantown City Council:

This letter is being sent to you on the behalf of the Morgantown Area Chamber of Commerce and the Greater Morgantown Convention and Visitor's Bureau. Like you, we are very pleased with the recent passage of Senate Bill 298 by the West Virginia Legislature.

It is now our hope to garner support from across Monongalia County in order that businesses throughout the county may be able to offer this opportunity to their patrons and so that citizens across the county may enjoy this experience. We recognize that the City plans to move forward through the usage of the Home Rule Process in order to secure this privilege for Morgantown businesses and citizens. It is our belief that it will take until November for this process to play out before Brunch can be enjoyed at any establishment in the county, including Morgantown.

We are also under the belief that the statute will allow for the institution of brunch opportunities once the election is certified in November for any business across the county (assuming passage of the ballot issue).

Our request is that while you move forward in your process, that you join us in supporting vigorously the efforts to win the vote across the county, inclusive of the citizens inside the Morgantown City Limits. In simple terms, if the ballot question passes.... The entire county will have the benefit of this "brunch" experience, and.... If the vote should not pass, you would already be poised to provide the opportunity for Morgantown citizens on the exact same schedule as you are presently.

We hope that our recent history of showing what Monongalia County can achieve together...you would join us in supporting this effort for businesses and citizens across the county.

Sincerely,

A handwritten signature in blue ink that reads "Daniel Kimble".

Daniel Kimble, President
Morgantown Area Chamber of Commerce

A handwritten signature in black ink that reads "Peggy J. Myers-Smith".

Peggy J. Myers-Smith, President/CEO
Greater Morgantown CVB

AN ORDINANCE AUTHORIZING EXECUTION OF A LEASE AGREEMENT WITH THE WEST VIRGINIA BOTANICAL GARDEN, INC. FOR AN 82-ACRE PARCEL KNOWN AS THE TIBBS RUN PROPERTY

The City of Morgantown hereby ordains that the City Manager is authorized to execute, on behalf of the City of Morgantown, the Lease Agreement attached to, and made a part of, this ordinance.

This Ordinance shall be effective from the date of its adoption.

First Reading:

Adopted:

Mayor

Filed:

Recorded:

City Clerk

LEASE AGREEMENT

This Lease Agreement (the "Agreement") is executed by and between The City of Morgantown, a municipal corporation and political subdivision of the State of West Virginia, ("LESSOR") and West Virginia Botanic Garden, Inc., a West Virginia nonprofit corporation ("LESSEE") as of the ____ day of _____, 2016.

1. Premises and Term: LESSOR does hereby lease to LESSEE, and LESSEE does hereby lease from LESSOR, a parcel of real property consisting of 82 acres, more or less, and known as the Tibbs Run property, more particularly described on the attached "Exhibit 1," which is incorporated herein by reference (the "Premises"), subject to all existing easements, encumbrances, and other matters of record or discernible by visible inspection. The Premises are leased to Tenant for a term commencing **October 1, 2016**, and extending until midnight on the day preceding the **FIFTIETH** anniversary of such date; provided that, on and after the **TENTH** anniversary of the effective date, upon appropriate legal action by the governing body of LESSOR and written acceptance by the authorized representative of LESSEE, this lease may be renewed for an additional term of fifty years. The foregoing renewal provision shall be in addition to, and not derogation of, any other powers and authorities of the parties.
2. Consideration: As consideration for the use of the Premises, LESSEE agrees to pay LESSOR one dollar (\$1.00) per year beginning with the execution of this Lease Agreement and continuing on the fifteenth day of each successive year that the lease is in effect.
3. Operations: LESSEE agrees to do the following:
 - a. Provide to and maintain with LESSOR its current Articles of Incorporation, the names and addresses of its Directors and Officers, annual financial statements, and minutes of all proceedings of its Members, Board of Directors and Committees having any of the authority of the Board of Directors. These documents may be supplied to LESSOR via electronic means.
 - b. Allow LESSOR and/or its designated representative access for inspection purposes to all books and records maintained by LESSEE.
 - c. LESSEE shall not diminish the value of the premises in any fashion, including, but not limited to, the harvest or felling of any trees or the harvest of other natural resources located thereon, without the express and written permission of LESSOR, except that dead and other hazardous trees may be removed by LESSEE at any time, and those trees which must be removed to accommodate any improvements expressly approved in writing by LESSOR may be removed by LESSEE at any time. Any value of such trees removed in accordance with these allowed exceptions may be enjoyed by LESSEE.
 - d. LESSEE shall endeavor to apply for all necessary permits and approvals in a timely manner.

- e. LESSEE shall be financially responsible for all costs associated with the LESSEE'S development and operation of the leased area undertaken during the term of this Agreement.
- f. LESSEE shall be responsible for paying any real or personal property taxes which may be assessed and due against the leased Premises during LESSEE'S possession of same under this Agreement.
- g. LESSEE shall be responsible for general upkeep and maintenance of the Premises to the satisfaction of LESSOR.

4. Annual Report: Within sixty (60) days after the end of each fiscal year of LESSEE, LESSEE shall submit to LESSOR a detailed written report describing the past year's operations and activities. The report may be supplied by electronic means.

5. Construction and Improvement Activities:

- a. Prior to beginning any project involving grading, earth removal, stream or pond modification, construction of a building, or any alteration to the Premises involving a permanent improvement or fixture, LESSEE will present detailed plans for the same to the LESSOR for review and comment. Work on any such project will not commence until such time as the LESSOR approves said plans. All construction shall conform to all applicable statutes, building codes, and laws, including the Americans with Disabilities Act. Upon completion of any such construction, LESSEE shall provide evidence to satisfaction of LESSOR, by written statement, and any other means or devices deemed necessary by LESSOR, that no liens exist on any of the construction and improvements made and that all contractors and subcontractors have been paid all amounts due and owing to them.
- b. Planting of trees, shrubs, and other minor horticultural activities by LESSEE will not require permission from LESSOR.
- c. It is agreed and understood that construction upon and any improvements to the Premises shall become the property of the LESSOR upon termination of this Agreement, free and clear of any liens or encumbrances whatsoever; provided, however, that any equipment, signs and other personal property of LESSEE not permanently affixed to the leased premises shall remain the property of LESSEE and shall so remain unless the LESSEE shall fail, following the termination of this Agreement and following thirty (30) days' written notice, to remove such personal property, in which event, at the option of LESSOR, title to same shall vest in LESSOR, at no cost to LESSOR.

6. Utilities: LESSEE shall be responsible for obtaining and paying for all utility services to the Premises.

7. Maintenance: LESSEE shall be responsible, at its sole expense, for the reasonable maintenance of the Premises and for the repair or replacement of any improvements to the Premises.

8. Right to Enter: LESSOR and its duly authorized representatives or agents shall have the right to enter and inspect the Premises at any time to determine whether LESSEE is in compliance with the terms of the Agreement and to perform any necessary inspections or operations. LESSEE will provide LESSOR with the means to access any obstructions to entry or movement on the premises, including keys to all locked gates, doors, or other structures. LESSOR shall not provide copies of any such means of access to any agency or individual not having official business on the property.

9. Insurance: LESSEE shall procure and maintain during the term of this Lease Agreement, at its sole expense, insurance coverage in the following amounts, with the LESSOR named as an additional insured. A Certificate of Insurance or a copy of the insurance policies involved shall be furnished to LESSOR.

- a. Comprehensive Public Liability and Property, including, but not limited to, personal injury, protecting LESSOR against any and all liability arising out of LESSEE'S conduct incident to the use of the Premises or resulting from any accident occurring on or about the leased realty, caused by or arising out of any act or omission of LESSEE, in the minimum amount of two million dollars (\$2,000,000.00)
- b. Building Fire and Extended Coverage Insurance on the Premises and on all construction and improvements erected by LESSEE in the amount of one hundred percent (100%) of the full insurable value as from time to time determined by a competent appraiser. Said insurance coverage will provide that any such loss shall be payable jointly to LESSOR and LESSEE, and LESSEE shall have the right, if done within thirty (30) days of receipt thereof, to use the proceeds of any such loss to repair or replace the damaged or destroyed structure; otherwise, the entire proceeds of such policy shall be the property of LESSOR. Should LESSEE wish to exercise the right to repair or replace said damage or destroyed structure, it will notify LESSOR of such intent immediately upon receipt of such loss proceeds, obtain approval from LESSOR regarding LESSEE'S plans regarding such work, and jointly work with LESSOR in arrangement of and payment for repair or replacement activities.
- c. Excess liability insurance coverage, with a limit of liability no less than two million dollars (\$2,000,000.00), each occurrence of bodily injury and/or property damage combined and two million dollars (\$2,000,000.00) aggregate (where applicable) in excess of the limits of primary coverage described above.

10. Indemnification: LESSEE shall protect, defend, indemnify and hold LESSOR and its officers, agents, representatives and employees completely harmless from and against any claims, demands, actions, suits, or judgments relating to the Premises, including any claim, demand, action, suit, or judgment arising by reason of the injury or death of any person or damage to or loss of any property, and including all reasonable costs for investigation and defense thereof (including, but not limited to, attorney fees, court costs and expert fees), and of any nature whatsoever arising out of or incidental to this Agreement, LESSEE'S use or occupancy of the Premises, or the acts or omissions of invitees, regardless of where the injury, death, loss or damage may occur, unless such injury, death, loss or damage is caused by the sole negligence of LESSOR. LESSOR shall give LESSEE reasonable notice of any such claims or actions. The provision of this Article shall survive the expiration or earlier termination of this Lease Agreement.

11. Assignment and Subletting: LESSEE shall not assign, transfer or sublease this Agreement, by process or operation of law or in any other manner whatsoever, without the prior, written consent of LESSOR, which said consent may be withheld in the sole direction of the LESSOR. In the event LESSOR consents to any assignment, transfer, subleasing or subletting on the part of LESSEE of any rights or privileges granted in this Agreement, LESSEE shall continue to be primarily liable for the faithful performance of all terms, covenants and conditions on the part of LESSEE herein contained.

12. Nondiscrimination: Notwithstanding any other or inconsistent provisions of this Agreement, during the term of this Agreement, LESSEE, for itself, its heirs, personal representatives, successors in interest and assigns, as part of the consideration for this Agreement, does hereby agree that:

- a. No person on the grounds of race, color, religion, sex, handicap or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination in the use of the leased premises.
- b. In the construction of and any improvement on, over or under the leased premises, and the furnishing of services therein or thereon, no person on the grounds of race, color, religion, sex, handicap or national origin shall be excluded from participation in or denied the benefits of, such activities or otherwise be subject to discrimination.

13. Default and Termination: This Lease Agreement shall be subject to termination by LESSOR should anyone or more of the following conditions of default occur:

- a. If LESSEE shall neglect or fail to perform or observe any of the terms, provisions, conditions or covenants herein contained and on LESSEE'S part to be performed and observed and if LESSEE fails to commence corrective actions or measures within 30 days after receipt of written notice from LESSOR, to LESSEE.
- b. If LESSEE shall abandon all or any substantial part of the lease premises or shall discontinue any or all of its operations.

- c. LESSEE files a voluntary or involuntary petition in bankruptcy, including a reorganization plan, makes a general or other assignment for the benefit of creditors, is adjudicated as bankrupt or if a receiver is appointed for the property or affairs of LESSEE and such receivership is not vacated within thirty (30) days after appointment of such receiver.
- d. The occurrence of any act which operates to deprive the LESSEE permanently of the rights, powers and privileges necessary for the proper conduct and operation of its business granted herein.
- e. If the estate hereby created shall be taken by execution or by other process of law.
- f. If LESSEE shall substantially fail to abide by all applicable laws, ordinances, rules and regulations of the United States of America, State of West Virginia, and the LESSOR fails to commence corrective actions or measures within 30 days after receipt of written notice from LESSOR to LESSEE.

In the event any condition of default shall occur, LESSOR then, or at any time thereafter, during which such breach is continuing, shall have the right, at its election, to terminate this Agreement by giving at least thirty (30) days written notice to LESSEE at which time LESSEE will then quit and surrender the leased premises to LESSOR.

The failure of LESSOR to insist, in any one or more instance, upon the strict performance by the LESSEE of any of the provisions, terms, covenants, reservations, conditions or stipulations contained in this Agreement shall not be considered a waiver or relinquishment thereof for the future, and no waiver of the conditions or stipulation hereof shall be deemed to have been made in any instance unless made expressly in writing.

Upon the expiration or other termination of this Lease Agreement, LESSEE'S rights to use the leased premises, facilities, services and privileges provided herein shall cease, and LESSEE shall forthwith upon such expiration or termination surrender the same.

14. General Provisions: If any term, clause or provision of this Agreement shall be adjudged by any court or government agency to be invalid or contrary to any applicable law or regulation or prevent financial or other assistance to the LESSOR by any federal or state government agency, such invalidation or determination shall not affect the validity and enforceability of the remaining portions of Agreement; and, to this end, the terms, clauses and provisions of this Agreement are hereby agreed to be severable.

The parties acknowledge and agree that this document contains the entire agreement between the parties and that they have not relied upon any statements, representations, agreements or warranties, except such as are expressed herein, and that no amendment or modification of this lease shall be valid or binding unless expressed in writing and executed by the parties hereto in the same manner as the execution of this Agreement.

This agreement shall be deemed to have been made in and construed in accordance with the laws of the State of West Virginia.

Any notice or other communication to the LESSOR or the LESSEE shall be deemed validly given, served or delivered upon deposit in the United States Mail, certified and with proper postage and certification fee prepaid, addressed as follows:

To LESSEE: West Virginia Botanic Garden, Inc.
714 Venture Drive PMB #121
Morgantown, WV 26508

To LESSOR: City of Morgantown
City Manager's Office
389 Spruce Street
Morgantown, WV 26505

or to such other address as the addressee may designate by written notice to the other party, delivered in accordance with the provisions of this paragraph. Any communication which is sent via electronic means, as specifically permitted by this Agreement, shall be sent to the following addresses:

To LESSOR: callen@morgantownwv.gov

To LESSEE: info@wvbg.org

or such other address as designated by the parties.

This Agreement may be executed in duplicate copies, each of which shall be considered an original document.

15. Superseding Agreement: LESSOR and LESSEE agree that this Agreement terminates, replaces, and supersedes that certain "LEASE AGREEMENT" dated the 18th day of April, 2012, providing for the lease of the Premises described herein, and any amendments thereto, and that the provisions of this Agreement shall govern and control the obligations of the parties, provided that any continuing obligation of LESSEE under that prior "LEASE AGREEMENT" shall remain in effect. LESSOR and LESSEE shall execute any documents, and enter into any arrangements, necessary to give effect to the provisions of this paragraph.

[Signature page follows]

Executed this _____ day of _____, 2016 by the parties as follows:

City of Morgantown,
LESSOR

By

Mayor

City Manager

West Virginia Botanical Garden, Inc.,
LESSEE

By

President

Executive Director

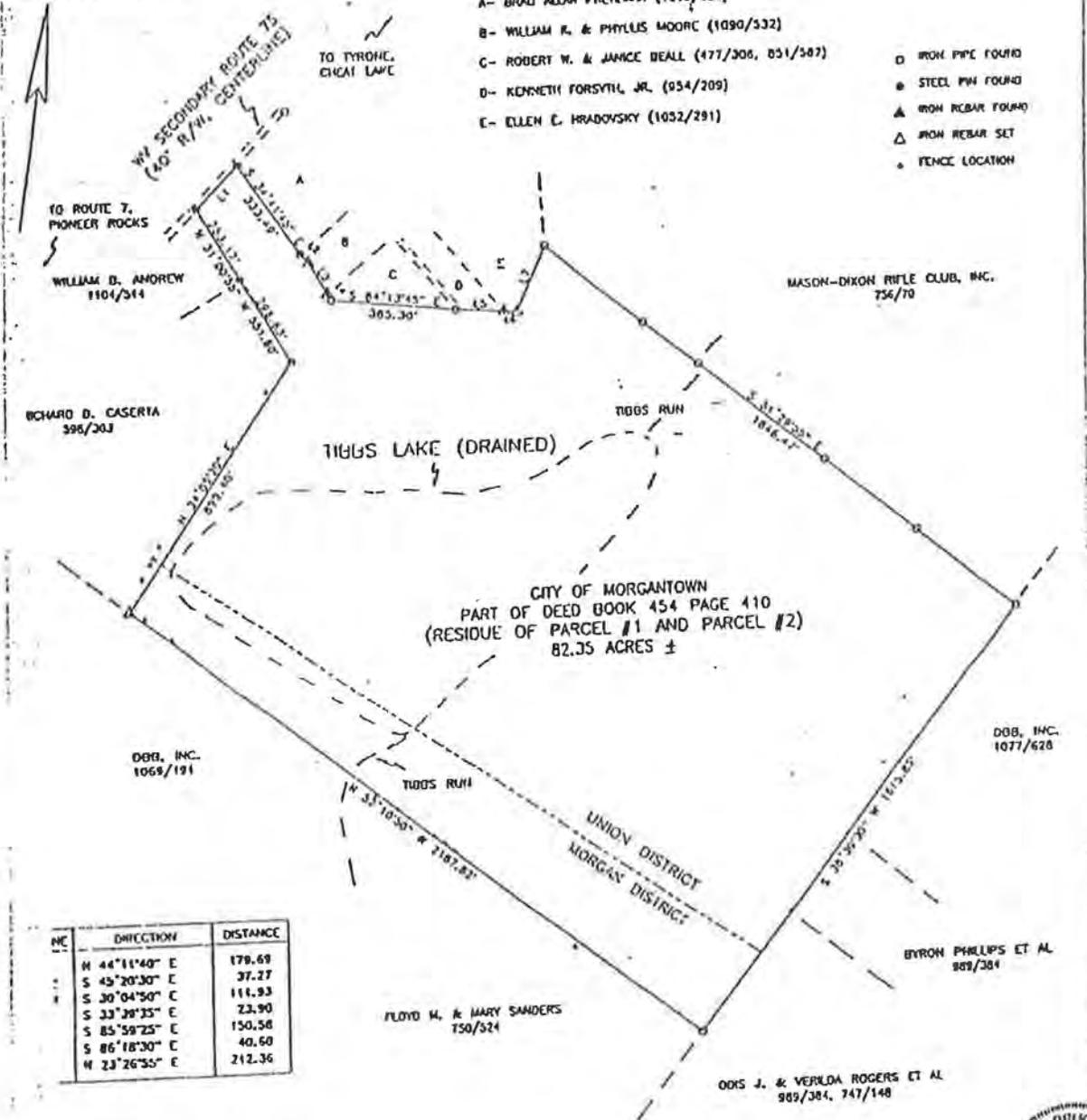
Plat Map

UNION DISTRICT TAX MAP 23 P.

DECLARATION IS 7-25 WEST
2000, W.V., JANUARY, 1986

- A- BRAD ALLAN PRETZMAN (1069/633)
- B- WILLIAM R. & PHYLLIS MOORE (1090/332)
- C- ROBERT W. & JANICE DEALL (177/306, 051/307)
- D- KENNETH FORSYTH, JR. (054/209)
- E- ELLEN C. HRADOVSKY (1032/291)

- IRON PIPE FOUND
- STEEL PIN FOUND
- ▲ IRON REBAR FOUND
- △ IRON REBAR SET
- FENCE LOCATION



MC	DIRECTION	DISTANCE
1	N 44°11'40" E	179.69
2	S 45°20'30" E	37.27
3	S 30°04'50" E	111.93
4	S 33°38'35" E	23.90
5	S 85°59'25" E	150.58
6	S 86°18'30" E	40.60
7	N 23°26'35" E	212.36

PLAT OF SURVEY FOR
THE CITY OF MORGANTOWN
IN
UNION AND MORGAN DISTRICTS
ALIA COUNTY WEST VIRGINIA
1"=300' SEPTEMBER 29, 1995

CERTIFY THAT THIS PLAT OF SURVEY REFLECTS THE
BOUNDARY OF THE PROPERTY, BASED ON DEEDS OF RECORD,
AND/OR OTHER EVIDENCE, AND IS CORRECT, TO THE BEST
OF MY KNOWLEDGE AND BELIEF, AND COMPLETS WITH ALL
LAW, RULES, AND REGULATIONS GOVERNING THE PRACTICE



SURVEYED BY: JAMES
W.V.L.P.S. 1796, TO

James Bruce

ORDINANCE NO. _____

AN ORDINANCE AMENDING TABLE 1331.05.01 "PERMITTED LAND USES" OF THE CITY'S PLANNING AND ZONING CODE AS IT RELATES TO CHURCHES, PLACES OF WORSHIP.

The City of Morgantown hereby ordains that Table 1331.05.01 "Permitted Land Uses" of the City's Planning and Zoning Code is amended as follows (new matter underline):

Table 1331.05.01 PERMITTED LAND USES

Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
Churches, Places of Worship	C	C	C	C	<u>C</u>	C	P	P	<u>C</u>	P	<u>C</u>	12

This ordinance shall be effective upon date of adoption.

FIRST READING:

Mayor

ADOPTED:

FILED:

RECORDED:

City Clerk

MEMORANDUM

TO: City Council
Glen Kelly, City Manager

FROM: Timothy L. Ball, General Manager, MUB

DATE: August 31, 2016

SUBJECT: WWTP Funding and Related New Bond Ordinance

As discussed with you at last night's Committee of the Whole, we have received some good news related to the funding for our Wastewater Treatment Plant (WWTP) project. DEP has just committed (on Monday 8/29) to increasing their loan for the WWTP project, from \$5.5 million to \$15.5 million. Terms will be 1% 30 years, with \$0.5 million to be forgiven.

The additional \$10 million now provided by DEP will replace the two \$10 million loans that DEP had previously and informally indicated their intention (but NOT made a binding commitment) to provide in 2018 and 2019.

DEP has very recently raised the rates that would have been charged on the potential 2018 and 2019 loans. Those rates would be 2% 30 years (double the interest that we originally expected).

An exhibit is attached to show the various funding scenarios that have been used to support the project.

We believe that the certainty of the new DEP proposal is far superior to the uncertainty of the original plan. The relative costs will be close enough to not be a factor. But " a bird in the hand...."

Because the original plan was for only a \$5 million DEP loan, the original bond ordinance approved a max of only \$10 million. We never expect to get more than 2x the planned amount.

In order to take advantage of the new DEP offer, we will need to revise the recently approved bond ordinance. We respectfully request to run the ordinance in the following Council meetings: Sep 6, Sep 20, Oct 4.

This schedule for the Ordinance is necessary so that this new development does not delay the project. The Bond issue is currently scheduled to be executed (closed) on/about November 30.

MUB appreciates the City Council's support of these critical projects. We look forward to beginning their construction later this year, and we are working diligently and urgently toward that goal.

If you have any questions, please feel free to contact me.

MUB – WWTP Funding Scenarios

Scenario #1 (original worst case)

\$64.5 million at market rates

\$20.0 million extraordinary call (but not ever called early)

\$5.0 million DEP 0.75% + 0.25%, 30 yrs

\$0.5 million DEP forgiven

Scenario #2 (original plan)

\$64.5 million at market rates

\$20.0 million extraordinary call (half called in 2018 and half in 2019)

\$5.0 million DEP 0.75% + 0.25%, 30 yrs

\$0.5 million DEP forgiven

\$10 million DEP 0.75% + 0.25%, 30 yrs issued 2018

\$10 million DEP 0.75% + 0.25%, 30 yrs issued 2019

Scenario #3 (original plan - revised new DEP rates)

\$64.5 million at market rates

\$20.0 million extraordinary call (half called in 2018 and half in 2019)

\$5.0 million DEP 0.75% + 0.25%, 30 yrs

\$0.5 million DEP forgiven

\$10 million DEP 1.5% + 0.50%, 30 yrs issued 2018

\$10 million DEP 1.5% + 0.50%, 30 yrs issued 2019

Scenario #4 (the current plan)

\$74.5 million at market rates

\$15.0 million DEP 0.75% + 0.25%, 30 yrs

\$0.5 million DEP forgiven

BOND ORDINANCE
THE CITY OF MORGANTOWN

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE SANITARY SEWER PORTION OF THE EXISTING COMBINED UTILITY SYSTEM OF THE CITY OF MORGANTOWN AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$30,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2016 C (WEST VIRGINIA SRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A BOND PURCHASE AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, The City of Morgantown (the "Issuer" or the "City") presently owns and operates, through The City of Morgantown Utility Board (the "Board"), a public combined waterworks, sanitary sewerage and stormwater system (collectively, the "System") and has heretofore financed the acquisition and construction of the System and certain additions, betterments and improvements thereto through the issuance of several series of bonds or refunding bonds, of which there are presently outstanding the Prior Bonds, as hereinafter defined.

WHEREAS, all of the Prior Bonds were issued pursuant to ordinances of the Issuer previously enacted (such ordinances, as so amended and supplemented, collectively herein called the "Prior Ordinances");

WHEREAS, under the provisions of Chapter 8, Article 20 of the West Virginia Code of 1931, as amended (the "Act"), the Issuer is authorized and empowered to

acquire, construct and operate extensions, additions, betterments and improvements for the System;

WHEREAS, the Issuer has determined, and does hereby affirm, that the acquisition and construction of certain extensions, additions, betterments and improvements to the sanitary sewerage collection and treatment portion of the System, is necessary, appropriate, useful and desirable for the health, safety, and welfare of the inhabitants of the Issuer and surrounding areas;

WHEREAS, the Issuer has determined that the aforementioned acquisition and construction of extensions, additions, betterments and improvements to the sanitary sewerage collection and treatment portion of the System, including but not limited to Star City treatment plant upgrades, collection system improvements, pumping stations and all necessary appurtenances (further defined herein as the "Sewer Treatment Plant Project" or "the Project") should be financed, as provided under the Act, in whole or in part, from the proceeds of multiple series of combined utility system revenue bonds to be issued by the Issuer, to pay all or any portion of the costs thereof;

WHEREAS, the Issuer has determined to initially finance the costs of the Sewer Treatment Plan Project through the simultaneous issuance of three series of combined utility system revenue bonds designated, and in the not to exceed amounts, as follows:

(1) The City of Morgantown, Combined Utility System Revenue Bonds, Series 2016 A (Tax Exempt), in the aggregate principal amount of not more than \$100,000,000 (the "Series 2016 A Bonds");

(2) The City of Morgantown, Combined Utility System Revenue Bonds, Series 2016 B (Tax Exempt – Extraordinary Optional Call), in the aggregate principal amount of not more than \$30,000,000 (the "Series 2016 B Bonds"); and

(3) The City of Morgantown, Combined Utility System Revenue Bonds, Series 2016 C (SRF Program), in one or more series, in the aggregate principal amount of not more than \$30,000,000 (collectively, the "Series 2016 C Bonds," and collectively with the Series 2016 A Bonds and the Series 2016 B Bonds, the "Sewer Treatment Plant Project Bonds").

WHEREAS, the Issuer has determined to enact this Ordinance and issue the Series 2016 C Bonds to have such security and such other terms and provisions as are hereinafter provided, all in the manner set forth herein;

WHEREAS, the Issuer has also determined that the design, acquisition and construction of certain extensions, betterments and improvements to the potable water raw water supply and storage, treatment, treated water storage and distribution system (the "Potable Water System"), specifically including, but not limited to, the design, acquisition and construction of a new water reservoir, transmission lines, distribution lines, storage,

booster stations and the installation of emergency generators to serve facilities of the Potable Water System, and all necessary appurtenances (collectively, the "Water Reservoir Project"), is necessary, appropriate, useful and desirable for the health, safety, and welfare of the inhabitants of the Issuer and surrounding areas;

WHEREAS, the Issuer has determined to finance all or a portion of the costs of the Water Reservoir Project through the issuance of its The City of Morgantown, Combined Utility System Revenue Bonds, Series 2016 D (Tax Exempt), in the aggregate principal amount of not more than \$40,000,000 (the "Series 2016 D Bonds"), to be issued either simultaneously with, or after, the issuance of the Sewer Treatment Project Bonds, pursuant to an ordinance of the Issuer (the "Series 2016 D Ordinance") to be enacted simultaneously with the enactment of the ordinances authorizing the issuance of the Sewer Treatment Plant Bonds; and

WHEREAS, the Series 2016 A Bonds, the Series 2016 B Bonds, the Series 2016 C Bonds and the Series 2016 D Bonds (collectively, the "Series 2016 Bonds") will be issued on a parity with one another, and the Prior Bonds, with respect to their lien on and security interest in the Gross Revenues of the System, and the Series 2016 C Bonds shall contain such other terms and provisions as are hereinafter provided, all in the manner set forth herein.

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 22C, Article 2 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. The Issuer presently owns and operates the System through the Morgantown Utility Board (the "Board"). It is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer, and for the improvement of the water environment of the City and specifically of the project area, that there be acquired and constructed certain extensions, additions, betterments and improvements to the sanitary sewer portion of the existing public combined waterworks, sewerage, and stormwater system of the Issuer, specifically including, the Sewer Treatment Plant Project as herein defined (the existing public combined potable waterworks, sanitary sewer, and stormwater system of the Issuer, the

Sewer Treatment Plant Project and any further extensions, additions, betterments and improvements thereto are herein called the "System"), in accordance with the plans and specifications prepared by the Consulting Engineers as herein defined.

B. The Issuer intends to permanently finance a portion of such the costs of acquisition and construction of the Sewer Treatment Plant Project through the issuance of its combined utility revenue bonds to the West Virginia Water Development Authority (the "Authority"), which administers the West Virginia Clean Water State Revolving Fund Program (the "SRF Program"), all pursuant to the Act.

C. It is deemed necessary for the Issuer to issue its Series 2016 C Bonds as herein defined, in one or more series, in the aggregate principal amount of not more than \$30,000,000, to permanently finance a portion of the costs of acquisition and construction of the Sewer Treatment Plant Project. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor and eligible under the SRF Program; interest, if any, upon the Series 2016 C Bonds for a period not exceeding 6 months after completion of construction of the Sewer Treatment Plant Project; amounts which may be deposited in the Series 2016 C Bonds Reserve Account (as hereinafter defined) or amounts which may be used to purchase a surety bond to fund the Series 2016 C Bonds Reserve Account; engineering and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, commitment fees, fees and expenses of the Authority, including the SRF Administrative Fee (as hereinafter defined); discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2016 C Bonds and such other expenses as may be necessary or incidental to the financing herein authorized, the acquisition or construction of the Sewer Treatment Plant Project and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof, provided, that reimbursement to the Issuer or the Board for any amounts expended by them for allowable costs prior to the issuance of the Series 2016 C Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

D. The period of usefulness of the System after completion of the Sewer Treatment Plant Project is not less than 35 years.

E. It is in the best interests of the Issuer that its Series 2016 C Bonds be sold to the Authority pursuant to the terms and provisions of a Bond Purchase Agreement by and among the Issuer, the Authority and the West Virginia Department of Environmental Protection (the "DEP"), in form satisfactory to the respective parties (the "Bond Purchase Agreement"), approved hereby if not previously approved by resolution of the Issuer.

F. There are outstanding obligations of the Issuer which will rank on a parity with the Series 2016 C Bonds as to liens, pledge, source of and security for payment, being the Issuer's:

1. 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");
2. 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");
3. 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");
4. 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");
5. 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");
6. 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");
7. 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");
8. 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");
9. 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");

10. 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");
11. 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");
12. 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");
13. Combined Utility System Revenue Bonds, Series 2013 A (West Virginia Infrastructure Fund), dated August 22, 2013, issued in the original aggregate principal amount of \$4,605,260 (the "Series 2013 A Bonds");
14. Combined Utility System Revenue Bonds, Series 2014 B dated July 23, 2014, issued in the original aggregate principal amount of \$505,421 (the "Series 2014 B Bonds");
15. Combined Utility System Revenue Bonds, Series 2015 A (West Virginia Water Development Authority), dated March 31, 2015, issued in the original aggregate principal amount of \$137,568 (the "Series 2015 A Bonds");
16. Combined Utility System Revenue Bonds, Series 2015 B (West Virginia Water Development Authority), dated March 31, 2015, issued in the original aggregate principal amount of \$4,586 (the "Series 2015 B Bonds");
17. Combined Utility System Revenue Bonds, Series 2015 C (West Virginia SRF Program), dated March 31, 2015, issued in the original aggregate principal amount of \$8,111,813 (the "Series 2015 C Bonds");
18. Combined Utility System Revenue Bonds, Series 2015 D (West Virginia SRF Program), dated March 31, 2015, issued in the original aggregate principal amount of \$1,688,394 (the "Series 2015 D Bonds"); and
19. Combined Utility System Revenue Bonds, Series 2015 E (West Virginia SRF Program), dated June 11, 2015, issued in the

original aggregate principal amount of \$662,300 (the "Series 2015 E Bonds"), (collectively, the "Prior Bonds").

Simultaneously with the issuance of the Series 2016 C Bonds, the Issuer intends to finance the remaining costs of the Sewer Treatment Plant Project through the issuance of the following bonds:

20. Combined Utility System Revenue Bonds, Series 2016 A (Tax Exempt), to be issued simultaneously herewith, issued in the original aggregate principal amount not to exceed \$100,000,000 (the "Series 2016 A Bonds"); and

21. Combined Utility System Revenue Bonds, Series 2016 B (Tax Exempt – Extraordinary Redemption Call), to be issued simultaneously herewith, issued in the original aggregate principal amount not to exceed \$30,000,000 (the "Series 2016 B Bonds").

G. Prior to the issuance of the Series 2016 Bonds, the Issuer will (i) a 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 2000 A Bonds, Series 2000 B Bonds, Series 2006 A Bonds, Series 2007 A Bonds, Series 2010 B Bonds, Series 2010 C Bonds, Series 2010 D Bonds, Series 2010 E Bonds, Series 2012 A Bonds, Series 2013 A Bonds, Series 2015 A Bonds, Series 2015 B Bonds, Series 2015 C Bonds, Series 2015 D Bonds and Series 2015 E Bonds to the issuance of the Series 2016 C Bonds on a parity with the Series 2000 A Bonds, Series 2000 B Bonds, Series 2006 A Bonds, Series 2007 A Bonds, Series 2010 B Bonds, Series 2010 C Bonds, Series 2010 D Bonds, Series 2010 E Bonds, Series 2012 A Bonds, Series 2013 A Bonds, Series 2015 A Bonds, Series 2015 B Bonds, Series 2015 C Bonds, Series 2015 D Bonds, and Series 2015 E Bonds. The Series 2010 A Bonds, Series 2010 F Bonds, Series 2012 C Bonds and Series 2014 B 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.

H. The estimated revenues to be derived in each year after completion of the Wastewater Treatment Plant Project and the Water Reservoir Project 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, if any, on the Series 2016 Bonds and the Prior Bonds and to make payments into all funds and accounts and other payments provided for herein.

I. The Issuer has complied with all requirements of West Virginia law and the Bond Purchase Agreement relating to authorization of the acquisition, construction and operation of the Sewer Treatment Plant Project and the System and issuance of the Series 2016 C Bonds, or will have so complied prior to issuance of any thereof, including,

among other things, the approval of the Project and the financing thereof by the West Virginia Infrastructure and Jobs Development Council.

J. The Sewer Treatment Plant Project has been reviewed and determined to be technically and financially feasible by the West Virginia Infrastructure and Jobs Development Council as required under Chapter 31, Article 15A of the West Virginia Code of 1931, as amended.

K. Prior to construction the Issuer will enact a Project Ordinance in compliance with Chapter 24, Article 2, Paragraph 11 of the West Virginia Code of 1931, as amended.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2016 C 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 2016 C 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:

“Act” means, collectively, Chapter 8, Article 20 and Chapter 22C, Article 2 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 expected to be the original purchaser and Registered Owner of the Series 2016 C 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 DEP 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 of the Issuer.

“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 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.

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

“Bond Purchase Agreement” means the Bond Purchase Agreement heretofore entered, or to be entered, into by and among the Issuer, the Authority and the DEP, providing for the purchase of the Series 2016 C Bonds from the Issuer by the Authority, the form of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified, by the Supplemental Resolution.

“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 2016 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” or “Clerk” means the City Clerk of the Issuer.

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

“Closing Date” means the date upon which there is an exchange of the Series 2016 C Bonds for all or a portion of the proceeds of the Series 2016 C Bonds from the Authority and the DEP.

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

“Completion Date” means the completion date of the Project, as defined in the SRF Regulations.

“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.

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

“DEP” means the West Virginia Department of Environmental Protection, or any other agency, board or department of the state that succeeds to the function of the DEP.

“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.

“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.

“Grants” means any grants committed to the Project.

“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.

“Mayor” means the Mayor of the Issuer.

“Net Proceeds” means the face amount of the Series 2016 C 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” shall mean the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the Costs, fees and expenses of the Authority, fiscal agents, the Depository Bank, the Registrar and Paying Agent (all as hereinafter defined), other than those capitalized as part of the Costs, the SRF Administrative Fee, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that “Operating Expenses” does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

“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 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 2016 C Bonds in the Supplemental Resolution.

“Prior Bonds” means, collectively, the Series 2000 A Bonds, Series 2000 B 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 C Bonds, Series 2013 A Bonds, Series 2014 B Bonds, Series 2015 A Bonds, Series 2015 B Bonds, Series 2015 C Bonds, Series 2015 D Bonds and Series 2015 E Bonds..

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

“Project” or “Sewer Treatment Plant Project” means the Project as described in Section 1.02A hereof.

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

(a) Government Obligations;

(b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;

(c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;

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

(e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly

as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

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

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

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

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

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

"Registrar" means the Bond Registrar.

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

"Reserve Accounts" means, collectively, the respective Reserve Accounts established for the Series 2016 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 2016 C Bonds.

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

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

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

"Series 2014 B Bonds" means the Issuer's Combined Utility System Revenue Bonds, Series 2014 B dated July 23, 2014, issued in the original aggregate principal amount of \$505,421.

"Series 2015 A Bonds" means the Issuer's Combined Utility System Revenue Bonds, Series 2015 A (West Virginia Water Development Authority), dated March 31, 2015, issued in the original aggregate principal amount of \$137,568.

"Series 2015 B Bonds" means the Issuer's Combined Utility System Revenue Bonds, Series 2015 B (West Virginia Water Development Authority), dated March 31, 2015, issued in the original aggregate principal amount of \$4,586.

"Series 2015 C Bonds" means the Issuer's Combined Utility System Revenue Bonds, Series 2015 C (West Virginia SRF Program), dated March 31, 2015, issued in the original aggregate principal amount of \$8,111,813.

"Series 2015 D Bonds" means Issuer's Combined Utility System Revenue Bonds, Series 2015 D (West Virginia SRF Program), dated March 31, 2015, issued in the original aggregate principal amount of \$1,688,394.

"Series 2015 E Bonds" means Issuer's Combined Utility System Revenue Bonds, Series 2015 E (West Virginia SRF Program), dated June 11, 2015, issued in the original aggregate principal amount of \$662,300.

"Series 2016 Bonds" means collectively, the Series 2016 A Bonds, Series 2016 B Bonds, Series 2016 C Bonds and, if issued, the Series 2016 D Bonds.

"Series 2016 A Bonds" means Issuer's Combined Utility System Revenue Bonds, Series 2016 A (Tax Exempt), to be issued simultaneously herewith, in the original aggregate principal amount not to exceed \$100,000,000.

"Series 2016 B Bonds" means Issuer's Combined Utility System Revenue Bonds, Series 2016 B (Tax Exempt – Extraordinary Redemption Call), to be issued

simultaneously herewith, in the original aggregate principal amount not to exceed \$30,000,000.

“Series 2016 C Bonds” means the Combined Utility System Revenue Bonds, Series 2016 C (West Virginia SRF Program), of the Issuer, issued in one or more series, authorized by this Bond Legislation.

“Series 2016 C Bonds Construction Trust Fund” means the Series 2016 C Bonds Construction Trust Fund established by Section 5.01 hereof.

“Series 2016 C Bonds Reserve Account” means the Series 2016 C Bonds Reserve Account established by Section 5.02 hereof.

“Series 2016 C Bonds Reserve Requirement” means, as of any date of calculation, the maximum amount of principal and interest, if any, which will become due on the Series 2016 C Bonds in the then current or any succeeding year.

“Series 2016 C Bonds Sinking Fund” means the Series 2016 C Bonds Sinking Fund established by Section 5.02 hereof.

“Series 2016 D Bonds” means Issuer’s Combined Utility System Revenue Bonds, Series 2016 D (Tax Exempt), to be issued simultaneously herewith, or after the issuance of the Series 2016 C Bonds, in the original aggregate principal amount not to exceed \$40,000,000, for purpose of financing the Water Reservoir Project.

“Sewer Treatment Plant Project Bonds” means collectively, the Series 2016 A Bonds, Series 2016 B Bonds and Series 2016 C Bonds.

“Sinking Funds” means, collectively, the respective Sinking Funds established for the Series 2016 Bonds and the Prior Bonds.

“SRF Administrative Fee” means any administrative fee required to be paid pursuant to the Bond Purchase Agreement.

“SRF Program” means the State's Clean Water State Revolving Fund Program, under which the Authority purchases the water pollution control revenue bonds of local governmental entities satisfying certain legal and other requirements with the proceeds of a capitalization grant award from the United States Environmental Protection Agency and funds of the State.

“SRF Regulations” means the regulations set forth in Title 47, Series 31 of the West Virginia Code of State Regulations.

“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 2016 C Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Series 2016 C 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 2016 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 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 the Sewer Treatment Plant Project and the Water Reservoir Project and 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.

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

ARTICLE II

AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE SEWER TREATMENT PLANT PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Sewer Treatment Plant Project. There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost of not to exceed \$140,000,000, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 2016 C Bonds hereby authorized shall be applied as provided in Article VI hereof. The Issuer will receive bids and will enter into contracts for the acquisition and construction of the Project, compatible with the financing plan submitted to the DEP and the Authority.

The cost of the Sewer Treatment Plant Project is estimated not to exceed \$140,000,000, of which not to exceed \$30,000,000 will be obtained from proceeds of the Series 2016 C Bonds, not to exceed \$100,000,000 will be obtained from the proceeds of the Series 2016 A Bonds and not to exceed \$30,000,000 will be obtained from the proceeds of the Series 2016 B Bonds.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION OF BOND PURCHASE AGREEMENT

Section 3.01. Authorization of Bonds. For the purposes of capitalizing interest on the Series 2016 C Bonds, if any, funding a reserve account or purchasing a surety bond to fund a reserve account for the Series 2016 C Bonds, paying Costs of the Project not otherwise provided for and paying certain costs of issuance of the Series 2016 C Bonds and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be issued the negotiable Series 2016 C Bonds of the Issuer. The Series 2016 C Bonds shall be issued in one or more series designated as "Combined Utility System Revenue Bonds, Series 2016 C (West Virginia SRF Program)," in the principal amount of not more than \$30,000,000, for a term not to exceed forty (40) years, and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 2016 C Bonds remaining after purchasing a surety bond to fund the Series 2016 C Bonds Reserve Account or cash funding the Series 2016 C Bonds Reserve Account (if funded from Bond proceeds) and capitalization of interest, if any, shall be deposited in or credited to the Series 2016 C Bonds Construction Trust Fund established by Section 5.01 hereof, and applied as set forth in Article VI hereof.

Section 3.02. Terms of Bonds. The Series 2016 C Bonds shall be issued 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 (not to exceed forty (40) years), and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution or as specifically provided in the Bond Purchase Agreement. The Series 2016 C Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest, if any, on the Series 2016 C Bonds shall be paid by check or draft of the Paying Agent or its agent, mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

As provided by the Supplemental Resolution, the Series 2016 C Bonds shall initially be issued in one or more series, fully registered to the Authority, with a record of advances and a debt service schedule attached, representing the aggregate principal amount of the respective Series 2016 C Bonds. The Series 2016 C 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.

Subsequent series of Series 2016 C Bonds, if any, shall be issued in fully registered form and in denominations as determined by a Supplemental Resolution. Such Series 2016 C Bonds shall be dated and shall bear interest, if any, as set forth in a Supplemental Resolution.

Section 3.03. Execution of Bonds. The Series 2016 C Bonds shall be executed in the name of the Issuer by the Mayor, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the City Clerk. In case any one or more of the officers who shall have signed or sealed the Series 2016 C Bonds shall cease to be such officer of the Issuer before the Series 2016 C 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 2016 C 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 2016 C 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 2016 C 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 2016 C 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 2016 C 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 2016 C 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 2016 C 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 2016 C Bonds or transferring the registered Series 2016 C Bonds are exercised, all Series 2016 C Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Series 2016 C Bonds surrendered in any such exchanges or transfers shall forthwith be canceled by the Bond Registrar. For every such exchange or transfer of Series 2016 C 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 2016 C Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Series 2016 C Bonds or, in the case of any proposed redemption of Series 2016 C 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 2016 C 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 2016 C 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 2016 C Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2016 C Bonds or the interest, if any, 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 2016 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 2016 Bonds and the Prior Bonds and to make all other payments provided for in the Bond Legislation are hereby irrevocably pledged to such payments as they become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 2016 C Bonds to the Registrar, and the Registrar shall authenticate, register and deliver the Series 2016 C 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 2016 C 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 2016 C Bonds to the original purchasers;
- C. An executed and certified copy of the Bond Legislation;
- D. An executed copy of the Bond Purchase Agreement; and
- E. The unqualified approving opinion of bond counsel on the Series 2016 C Bonds.

Section 3.10. Form of Bonds. The text of the Series 2016 C Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

[Remainder of Page Intentionally Blank]

(FORM OF SERIES 2016 C BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE CITY OF MORGANTOWN
COMBINED UTILITY SYSTEM REVENUE BOND, SERIES 2016 C
(WEST VIRGINIA SRF PROGRAM)

No. CR-1

§

KNOW ALL MEN BY THESE PRESENTS: That on this the _____ day of _____, 2016, 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 or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing ___ 1, 20___, to and including _____ 1, 20___, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. The SRF Administrative Fee of _____ % (as defined in the hereinafter described Bond Legislation) shall be payable quarterly on March 1, June 1, September 1, and December 1 of each year, commencing _____ 1, 20___, as set forth on EXHIBIT B attached hereto.

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 on behalf of the West Virginia Department of Environmental Protection (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Bond Purchase (the "Bond Purchase Agreement") by and among the Issuer, the Authority, and the DEP, dated _____, 20___.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the sanitary

sewer portion of the existing combined waterworks, sewerage and stormwater system (the "Sewer Treatment Plant Project"); [(ii) fund the Series 2016 C Bonds Reserve Account]; and (iii) to pay certain costs of issuance of the Bonds of this Series (the "Seis 2016 C Bonds") and related costs. The Sewer Treatment Plant Project, and any further extensions, additions, betterments or improvements o the existing combined waterworks, sewerage and stormwater system are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 20 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on _____, 20__ and a Supplemental Resolution duly adopted by the Issuer on _____, 20____ (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

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

1. COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 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");
2. 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");
3. 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");
4. 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");
5. 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");

6. 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");
7. 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");
8. 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");
9. 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");
10. 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");
11. 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");
12. 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");
13. COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2013 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED AUGUST 22, 2013, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$4,605,260 (THE "SERIES 2013 A BONDS");
14. COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2014 B DATED JULY 23, 2014, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$505,421 (THE "SERIES 2014 B BONDS");
15. COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2015 A (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED MARCH 31, 2015,

ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$137,568 (THE "SERIES 2015 A BONDS");

16. COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2015 B (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED MARCH 31, 2015, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$4,586 (THE "SERIES 2015 D BONDS");
17. COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2015 C (WEST VIRGINIA SRF PROGRAM), DATED MARCH 31, 2015, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$8,111,813 (THE "SERIES 2015 C BONDS");
18. COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2015 D (WEST VIRGINIA SRF PROGRAM), DATED MARCH 31, 2015, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,688,394 (THE "SERIES 2015 D BONDS"); AND
19. COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2015 E (WEST VIRGINIA SRF PROGRAM), DATED JUNE 11, 2015, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$662,300 (THE "SERIES 2015 E BONDS"), (AND COLLECTIVELY WITH THE BONDS LISTED ABOVE, THE "PRIOR BONDS");
20. COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2016 A (TAX EXEMPT), DATED _____, 2016, ISSUED SIMULTANEOUSLY HERewith, IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$_____ (THE "SERIES 2016 A BONDS");
21. COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2016 B (TAX EXEMPT – EXTRAORDINARY REDEMPTION CALL), DATED _____, 2016, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$_____ (THE "SERIES 2016 B BONDS"); AND
22. [COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2016 D (TAX EXEMPT), DATED _____, 2016 ISSUED SIMULTANEOUSLY HERewith, IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$_____ (THE "SERIES 2016 D 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, the Series 2016 A Bonds, the Series 2016 B Bonds, [the Series 2016 D Bonds] and from monies in the Reserve Account created under the Bond Legislation for the Series 2016 C Bonds (the "Series 2016 C Bonds Reserve Account"), and unexpended proceeds of the Series 2016 C Bonds. Such Gross Revenues shall be sufficient to pay the principal of

and interest, if any, 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, except from said special fund provided from the Gross Revenues, the monies in the Series 2016 C Bonds Reserve Account and unexpended proceeds of the Series 2016 C Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Series 2016 C Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with or junior or subordinate to the Series 2016 C Bonds including the Prior Bonds, the Series 2016 A Bonds, the Series 2016 B Bonds, and [Series 2016 D Bonds]; provided however, that, so long as there exists in the Series 2016 C Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Series 2016 C Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations Outstanding on a parity with or junior and subordinate to the Series 2016 C Bonds, including the Prior Bonds, the Series 2016 A Bonds, the Series 2016 B Bonds, [and the Series 2016 D 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 Series 2016 C Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the Registered Owners of the Series 2016 C Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

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

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

[Remainder of Page Intentionally Blank]

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

[SEAL]

By: _____
Mayor

ATTEST:

By: _____
City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2016 C 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: _____, 2016.

UNITED BANK, INC.,
as Registrar

By: _____
Its: Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

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

TOTAL _____

EXHIBIT B

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 Bond Purchase Agreement. The Series 2016 C Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Bond Purchase Agreement. If not so authorized by previous ordinance or resolution, the Mayor are specifically authorized and directed to execute the Bond Purchase Agreement in the form approved by Supplemental Resolution, and the City Clerk is directed to affix the seal of the Issuer, attest the same and deliver the Bond Purchase Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed.

Section 3.12. Filing of Amended Schedule. Upon completion of the acquisition and construction of the Project, the Board will file with the Authority and the DEP, a schedule setting forth the actual costs of the Project and sources of funds therefor.

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);
- (3) Operation and Maintenance Fund (established by the Prior Ordinances); and
- (4) Series 2016 C Bonds Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created (or continued if previously established by the Prior Ordinances) 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 2000 A Bonds Sinking Fund (established by Prior Ordinances);
- (2) Series 2000 A Bonds Reserve Account (established by Prior Ordinances);
- (3) Series 2000 B Bonds Sinking Fund (established by Prior Ordinances);
- (4) Series 2000 B Bonds Reserve Account (established by Prior Ordinances);
- (5) Series 2006 A Bonds Sinking Fund (established by Prior Ordinances);
- (6) Series 2006 A Bonds Reserve Account (established by Prior Ordinances);
- (7) Series 2007 A Bonds Sinking Fund (established by Prior Ordinances);
- (8) Series 2007 A Bonds Reserve Account (established by Prior Ordinances);
- (9) Series 2010 A Bonds Sinking Fund (established by Prior Ordinances);
- (10) Series 2010 A Bonds Reserve Account (established by Prior Ordinances);
- (11) Series 2010 C Bonds Sinking Fund (established by Prior Ordinances);
- (12) Series 2010 C Bonds Reserve Account (established by Prior Ordinances);
- (13) Series 2010 D Bonds Sinking Fund (established by Prior Ordinances);
- (14) Series 2010 D Bonds Reserve Account (established by Prior Ordinances);
- (15) Series 2010 E Bonds Sinking Fund (established by Prior Ordinances);
- (16) Series 2010 E Bonds Reserve Account (established by Prior Ordinances);
- (17) Series 2010 F Bonds Sinking Fund (established by Prior Ordinances);

- (18) Series 2010 F Bonds Reserve Account (established by Prior Ordinances);
- (19) Series 2012 A Bonds Sinking Fund (established by Prior Ordinances);
- (20) Series 2012 A Bonds Reserve Account (established by Prior Ordinances);
- (21) Series 2012 C Bonds Sinking Fund (established by Prior Ordinances);
- (22) Series 2012 C Bonds Reserve Account (established by Prior Ordinances);
- (23) Series 2013 A Bonds Sinking Fund (established by Prior Ordinances);
- (24) Series 2013 A Bonds Reserve Account (established by Prior Ordinances);
- (25) Series 2014 B Bonds Sinking Fund (established by Prior Ordinances);
- (26) Series 2014 B Bonds Reserve Account (established by Prior Ordinances);
- (27) Series 2015 A Bonds Sinking Fund (established by Prior Ordinances);
- (28) Series 2015 A Bonds Reserve Account (established by Prior Ordinances);
- (29) Series 2015 B Bonds Sinking Fund (established by Prior Ordinances);
- (30) Series 2015 B Bonds Reserve Account (established by Prior Ordinances);
- (31) Series 2015 C Bonds Sinking Fund (established by Prior Ordinances);
- (32) Series 2015 C Bonds Reserve Account (established by Prior Ordinances);
- (33) Series 2015 D Bonds Sinking Fund (established by Prior Ordinances);
- (34) Series 2015 D Bonds Reserve Account (established by Prior Ordinances);
- (35) Series 2015 E Bonds Sinking Fund (established by Prior Ordinances);

- (36) Series 2015 E Bonds Reserve Account (established by Prior Ordinances);
- (37) Series 2016 A Bonds Sinking Fund (established by Prior Ordinances);
- (38) Series 2016 A Bonds Reserve Account (established by Prior Ordinances);
- (39) Series 2016 B Bonds Sinking Fund (established by Prior Ordinances);
- (40) Series 2016 B Bonds Reserve Account (established by Prior Ordinances);
- (41) Series 2016 C Bonds Sinking Fund and
- (42) Series 2016 C 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 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, Series 2012 C Bonds and Series 2014 B 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) to the Commission commencing 4 months prior to the first date of payment of principal of the Series 2016 C Bonds, for deposit in the Series 2016 C Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2016 C 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 2016 C 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) for deposit in the respective Reserve Accounts for the Prior Bonds, the amounts required by the Prior Ordinances; (ii) commencing 4 months prior to the first date of payment of principal of the Series 2016 C Bonds, if not fully funded upon issuance of the Series 2016 C Bonds or otherwise provided for pursuant to a surety bond, for deposit in the Series 2016 C Bonds Reserve Account, an amount equal to 1/120th of the Series 2016 C Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 2016 C 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 2016 C 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 2.5% of the Gross Revenues each month (as previously set forth in the Prior Ordinances and not in addition thereto), exclusive of any payments for account of any Reserve Account. All funds in the 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.

Moneys in the Series 2016 C Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the Series 2016 C Bonds, as the same shall become due. Moneys in the Series 2016 C Bonds Reserve Account shall be used only for the purpose of paying principal of and interest, if any, on the Series 2016 C Bonds, as the same shall come due, when other moneys in the Series 2016 C Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 2016 C Bonds Sinking Fund and the Series 2016 C Bonds Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Series 2016 C Bonds Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment, if any, due on the Series 2016 C Bonds, and then to the next ensuing principal payment due thereon.

Any withdrawals from the Series 2016 C Bonds Reserve Account which results in a reduction in the balance therein to below the Series 2016 C 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 2016 C Bonds are issued, provision shall be made for additional payments into the respective sinking fund sufficient to pay the interest, if any, 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 2016 C Bonds Sinking Fund or the Series 2016 C Bonds Reserve Account, when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 2016 C 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 2016 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 2016 C Bonds Sinking Fund and Series 2016 C 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 2016 C Bonds Sinking Fund and the Series 2016 C Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2016 C Bonds Sinking Fund and the Series 2016 C Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2016 C 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, if any, principal and reserve payments with respect to the Series 2016 C 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. The Issuer shall, on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission, the SRF Administrative Fee as set forth in the Schedule Y attached to the Bond Purchase Agreement.

C. 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. Surplus Revenues may be used for any lawful purpose of the System.

D. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent or the Depository Bank, on such dates as the Commission, the Registrar, the Paying Agent or the Depository Bank, as the case may be, shall require such additional sums as shall be necessary to pay their respective charges and fees then due. In the case of payments to the Commission under this paragraph, the Issuer shall, 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.

E. 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.

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

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

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

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

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

Section 5.04. Reserve Account Letter of Credit or Surety Bond. With the advance written consent of the Authority, the Issuer may, in lieu of funding the Series 2016 C Bonds Reserve Account with cash or Qualified Investments, satisfy the Series 2016 C Bonds Reserve Requirement by obtaining a reserve account letter of credit, a surety bond, or other credit facility satisfactory to the Authority in an amount equal to the Series 2016 C Bonds Reserve Requirement. The Issuer hereby authorizes the purchase of a reserve account letter of credit, a surety bond, or other credit facility satisfactory to the Authority, all as set forth in a Supplemental Resolution, and the execution and delivery of any applicable reimbursement agreement or note in such forms as shall be described in a Supplemental Resolution.

ARTICLE VI

BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the moneys received from the sale of the Series 2016 C Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2016 C Bonds, there shall first be deposited with the Commission in the Series 2016 C Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest.

B. Next, from the proceeds of the Series 2016 C Bonds, the Issuer may purchase a surety bond to fund the Series 2016 C Bonds Reserve Account as set forth in the Supplemental Resolution, or there shall be deposited with the Commission in the Series 2016 C Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding of the Series 2016 C Bonds Reserve Account.

C. As the Issuer receives advances of the remaining moneys derived from the sale of the Series 2016 C Bonds, such moneys shall be deposited with the Depository Bank in the Series 2016 C Bonds Construction Trust Fund and applied solely to payment of

the costs of the Project in the manner set forth in Section 6.02 hereof and until so expended, are hereby pledged as additional security for the Series 2016 C Bonds.

D. After completion of construction of the Project, as certified by the Consulting Engineers, and all costs have been paid, any remaining proceeds of the Series 2016 C Bonds shall be expended as approved by the DEP.

Section 6.02. Disbursements From the Series 2016 C Bond Construction Trust Fund. On or before the closing date, the Board shall have delivered to the Authority and the DEP a report listing the specific purposes for which the proceeds of the Series 2016 C Bonds will be expended and the disbursement procedures of such proceeds, including an estimated monthly draw schedule. Payments for Costs of the Project shall be made monthly.

The Issuer hereby appoints and designates the Board, and the Authorized Officers thereof, as its agent (i) for the review and approval of all invoices for the Project to be paid from the proceeds of the Series 2016 C Bonds; (ii) to take any and all actions necessary to apply for and obtain a commitment from the DEP, specifically including, but not limited to, any administrative loan documents required by DEP; and (iii) to act on and execute documents on behalf of the Issuer for any and all federal and state actions as they relate to the planning, design and/or construction of the Project.

Except as provided in Section 6.01 hereof, disbursements from the Series 2016 C Bonds Construction Trust Fund shall be made only after submission to, and approval from, the Authority and the DEP of a completed and signed "Payment Requisition Form," a form of which is attached to the Bond Purchase Agreement, in compliance with the construction schedule.

Pending such application, moneys in the Series 2016 C Bonds Construction Trust Fund shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Series 2016 C 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 2016 C 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 2016 C Bonds or the interest, if any, thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2016 C Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of the Series 2016 C Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2016 C Bonds or the interest, if any, 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 2016 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 2016 Bonds and the Prior Bonds and to make all other payments provided for in the Bond Legislation 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 Bond Purchase Agreement and the Issuer shall supply a certificate of certified public accountant to such effect.

So long as the Series 2016 C Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Bond Legislation and in compliance with the Bond Purchase Agreement. In the event the schedule of rates, fees and charges initially established for the System in connection with the Series 2016 C Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and the Bond Purchase 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 Bond Purchase 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 2016 C Bonds are outstanding and except as otherwise required by law or with the written consent of 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 2016 C Bonds, immediately be remitted to the Commission for deposit in the Series 2016 C Bonds Sinking Fund, and, with the written permission of 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, if any, on the Series 2016 C Bonds. Any balance remaining after the payment of the Series 2016 C Bonds and interest, if any, 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 Board 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 \$1,000,000, 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 \$1,000,000 but not in excess of \$5,000,000, 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 Board 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 \$5,000,000 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.

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 2016 Bonds and the Prior Bonds. All obligations issued by the Issuer after the issuance of the Series 2016 C 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 2016 C 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 2016 C Bonds, and the interest, if any, thereon, upon any of the income and revenues of the System pledged for payment of the Series 2016 C Bonds and the interest, if any, thereon in this Bond Legislation, or upon the System or any part thereof.

The Issuer shall give the Authority 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 Project, or any other obligations related to the Project or 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 issuance of the Series 2016 C Bonds pursuant to this Bond Legislation, without the prior written consent of the Authority 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 2016 C 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 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 2016 C 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 2016 C 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 keep complete and accurate records of the cost of acquiring the Project site and the costs of acquiring, constructing and installing the Project. The Board shall permit the Authority and the DEP, or their agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at all reasonable times for the purpose of audit and examination. The Board shall submit to the Authority and the DEP such documents and information as they may reasonably require in connection with the acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the loan or any grants or other sources of financing for the Project.

The Board shall permit the Authority and the DEP, or their agents and representatives, to inspect all records pertaining to the operation and maintenance of the System at all reasonable times following completion of construction of the Project and commencement of operation thereof, or, if the Project is an improvement to an existing system, at any reasonable time following commencement of construction.

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 DEP, or any other original purchaser of the Series 2016 C Bonds, and shall mail in each year to any Holder or Holders of the Series 2016 C 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 2016 C Bonds and shall submit said report to the Authority and the DEP, or any other original purchaser of the Series 2016 C Bonds. Such audit report submitted to the Authority and the DEP 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.

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

The Issuer shall provide the DEP with all appropriate documentation to comply with any special conditions established by federal and/or state regulations as set forth in Exhibit E of the Bond Purchase Agreement or as promulgated from time to time.

The Board shall permit the Authority and the DEP, or their agents and representatives, to enter and inspect the Project site and Project facilities at all reasonable times. Prior to, during and after completion of construction and commencement of operation of the Project, the Board shall also provide the Authority and the DEP, 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 DEP with respect to the System pursuant to the Act.

Section 7.09. Rates. Prior to the issuance of the Series 2016 C 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, if any, on the Series 2016 C Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2016 C Bonds, including the Series 2016 A Bonds, Series 2016 B Bonds, [Series 2016 D Bonds] and 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 2016 C Bonds Reserve Account, and any reserve accounts for obligations on a parity with the Series 2016 C 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 2016 C Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2016 C Bonds, including the Series 2016 A Bonds, Series 2016 B Bonds, [Series 2016 D Bonds] and 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.

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 DEP within 30 days of adoption thereof.

Commencing on the date contracts are executed for the acquisition and construction of the Project and for 2 years following the completion of the Project, the Board shall each month complete a "Monthly Financial Report," a form of which is attached to the Bond Purchase Agreement, and forward a copy of such report to the Authority and the DEP by the 20th day of each month.

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

The Board shall provide and maintain competent and adequate engineering services satisfactory to the Authority and the DEP covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such engineer shall certify to the Authority and the DEP and the Issuer at the completion of construction that construction of the Project is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

The Issuer shall require the Consulting Engineers to submit Record Drawings, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Issuer shall notify the DEP in writing of such receipt. The Issuer shall submit a "Performance Certificate," a form of which is attached to the Bond Purchase Agreement as Exhibit A, to the DEP within 60 days of the end of the first year after the Project is completed.

The Issuer shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to the DEP when the Project is 90% completed. The Issuer shall at all times provide operation and maintenance of the System in compliance with all state and federal standards.

The Issuer shall employ qualified operating personnel properly certified by the State before the Project is 50% complete and shall retain such a certified operator to operate the System during the entire term of the Bond Purchase Agreement. The Issuer shall notify the DEP in writing of the certified operator employed at the 50% completion stage.

The Issuer shall serve the additional customers at the location(s) as set forth in Certificate of Engineer. The Issuer shall not reduce the amount of additional customers served by the project without the prior written approval of the Board of the Water Development Authority. Following completion of the Project the Issuer shall certify to the Authority the number of customers added to the System.

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 and Construction Bonds. A. The Board hereby covenants and agrees that so long as the Series 2016 C 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. The Board will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the Board, the Authority, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the Bond Purchase Agreement, during construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Issuer, the Board, the contractors and subcontractors, as their interests may appear.

(2) PUBLIC LIABILITY INSURANCE, with limits of not less than \$1,000,000 per occurrence to protect the 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.

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

The Board shall also require all contractors engaged in the construction of the Project to carry such workers' compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project; provided, that the amounts and terms of such coverage are satisfactory to the Authority and the DEP. The Board shall verify such insurance prior to commencement of construction. In the event the Bond Purchase Agreement so requires, such insurance shall be made payable to the order of the Authority, the Issuer, the Board, the prime contractor and all subcontractors, as their interests may appear.

Section 7.16. Mandatory Use. The mandatory use of the stormwater 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 stormwater portion of the System, and where stormwater from real property affects or drains into the stormwater portion of the System, shall be deemed to be a user served by the stormwater portion of the System and it is declared that the mandatory use of the stormwater 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 stormwater portion of the System, pay the rates and charges established therefor.

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

The Board has obtained all permits required by state and federal laws for the acquisition and construction of the Project, all orders and approvals from the DEP necessary for the acquisition and construction of the Project and the operation of the System and all approvals for issuance of the Series 2016 C Bonds required by state law, with all requisite appeal periods having expired without successful appeal and the Issuer shall supple an opinion of counsel to such effect.

Section 7.18. Compliance with Bond Purchase Agreement and Law. The Issuer and the Board shall perform, satisfy and comply with all the terms and conditions of the Bond Purchase Agreement and the Act. Notwithstanding anything herein to the contrary, the Issuer and the Board shall provide the DEP 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 DEP or other state, federal or local bodies in regard to the acquisition and construction of the Project and the operation, maintenance and use of the System.

The Issuer shall perform an annual maintenance audit which maintenance audit shall be submitted to the Authority and the Public Service Commission of West Virginia in the manner prescribed by and the guidelines established by 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. Contracts; Change Orders; Public Releases. A. The Issuer shall, simultaneously with the delivery of the Series 2016 C Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

B. The Issuer shall submit all proposed change orders to the DEP for written approval. The Issuer shall obtain the written approval of the DEP before expending any proceeds of the Series 2016 C Bonds held in “contingency” as set forth in the schedule attached to the Certificate of the Consulting Engineer. The Issuer shall also obtain the written approval of the DEP before expending any proceeds of the Series 2016 C Bonds made available due to bid or construction or project underruns.

C. The Issuer shall list the funding as being provided by the Authority and the DEP in any press release, publication, program bulletin, sign or other public

communication that references the Project, including but not limited to any program document distributed in conjunction with any ground breaking or dedication of the Project.

Section 7.22. Statutory Mortgage Lien. For the further protection of the Holders of the Series 2016 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 2016 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 2016 C Bonds are Outstanding and as long thereafter as necessary to assure the exclusion of

interest, if any, on the Series 2016 C 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 2016 C Bonds as may be necessary in order to maintain the status of the Series 2016 C 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 2016 C 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 DEP, as the case may be, from which the proceeds of the Series 2016 C Bonds are derived, to lose their status as tax-exempt bonds; and 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 DEP, 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 2016 C 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 2016 C Bonds:

- (1) If default occurs in the due and punctual payment of the principal of or interest, if any, on any Series 2016 C 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 2016 C Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 2016 C 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; or

- (5) If default occurs with respect to the Series 2016 A Bonds, Series 2016 B Bonds or Series 2016 D Bonds or the respective ordinances authorizing the Series 2016 A Bonds, Series 2016 B Bonds and Series 2016 D Bonds.

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 2016 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 completion of the Project and after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds, any Registered Owner of a Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

The receiver so appointed shall forthwith, directly or by his or her or its agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate and maintain, manage and control such facilities, and each and every part thereof, and in the name of the Issuer exercise all the rights and powers of the Issuer with respect to said facilities as the Issuer itself might 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 completion of the Project and the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Registered Owners of such Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this Bond Legislation, and the title to and ownership of said System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

ARTICLE X

PAYMENT OF BONDS

Section 10.01. Payment of Bonds. If the Issuer shall pay or there shall otherwise be paid to the Holders of the Series 2016 C Bonds, the principal of and interest, if any, 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 2016 C Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest, if any, on the Series 2016 C Bonds from gross income for federal income tax purposes.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to the issuance of the Series 2016 C Bonds, this Ordinance may be amended or supplemented

in any way by the Supplemental Resolution. Following issuance of the Series 2016 C 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 2016 C Bonds shall be made without the consent in writing of the Registered Owners of the Series 2016 C 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 2016 C 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 2016 C 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 2016 C 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, Morgantown, West Virginia, as bond counsel to the Issuer and the Board in connection with the issuance by the Issuer of the Series 2016 C 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 issuance of the Series 2016 C Bonds, and that any person interested may appear before the Governing Body upon a date certain, not less than ten days subsequent to the date of the first publication of such abstract of this Ordinance and notice, and present protests, and that a certified copy of this Ordinance is on file with the Governing Body for review by interested persons during office hours of the Governing Body. At such hearing, all objections and suggestions shall be heard and the Governing Body shall take such action as it shall deem proper in the premises.

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

Passed on First Reading: September 6, 2016

Passed on Second Reading: September 20, 2016

Passed on Final Reading
Following Public Hearing: October 4, 2016

THE CITY OF MORGANTOWN

By: _____
Mayor

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of THE CITY OF MORGANTOWN on the _____ day of November, 2016.

[SEAL]

City Clerk

**THE CITY OF MORGANTOWN
COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2016 C
(WEST VIRGINIA SRF PROGRAM)**

BOND ORDINANCE

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- Section 1.02. Findings.
- Section 1.03. Bond Legislation Constitutes Contract.
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AND SALE OF BONDS; AUTHORIZATION AND EXECUTION
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- Section 3.07. Bonds not to be Indebtedness of the Issuer.
- Section 3.08. Bonds Secured by Pledge of Gross Revenues; Lien Position with respect to Prior Bonds.
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[RESERVED]**

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- Section 7.12. No Competing Franchise.
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- Section 7.14. No Free Services.
- Section 7.15. Insurance and Construction Bonds.
- Section 7.16. Mandatory Use.
- Section 7.17. Completion of Project; Permits and Orders.
- Section 7.18. Compliance with Bond Purchase Agreement and Law.
- Section 7.19. RESERVED.
- Section 7.20. Securities Laws Compliance.
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- Section 7.22. Statutory Mortgage Lien.

**ARTICLE VIII
INVESTMENT OF FUNDS**

- Section 8.01. Investments.
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**ARTICLE IX
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- Section 9.01. Events of Default.
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**ARTICLE X
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- Section 10.01. Payment of Bonds.

**ARTICLE XI
MISCELLANEOUS**

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

SIGNATURES
CERTIFICATION