



Office of the City Clerk

The City of Morgantown

430 Spruce Street
Morgantown, West Virginia 26505
(304) 284-7439
www.morgantownwv.gov

AGENDA

MORGANTOWN BUILDING COMMISSION

November 1, 2022

3:30 p.m.

This meeting format will be both virtual and in-person.

Participate Virtually (Zoom): via Zoom at <https://us02web.zoom.us/j/87186923830> using the meeting number 871 8692 3830. The public can also listen live by calling 309-205-3325 and using the access code 871 8692 3830.

Attend in-person: Public Safety Building, First Floor Conference Room, 300 Spruce Street, Morgantown, WV 26505.

Members: Chair Ana Marlene Robinson-Savino, Vice Chair Terry Jones, Secretary Aaron Reel

1. CALL TO ORDER

2. APPROVAL OF MINUTES: August 2, 2022, and October 25, 2022

3. NEW BUSINESS:

- A. Consider for adoption on second reading a Bond Authorizing Ordinance of the Morgantown Building Commission (the "Building Commission") which would authorize and approve (i) the design, acquisition, construction, furnishing and equipping of improvements to certain recreational facilities of The City of Morgantown (the "City"), including renovation of the Morgantown Ice Arena and construction of a new swimming pool at Marilla Park, together with all necessary appurtenances thereto (the "Projects"); (ii) the leasing of the property associated with the Projects and any additional property as may be required in connection with the financing of the Projects by the Building Commission to the City; (iii) the sale and issuance by the Building Commission of its not to exceed \$29,000,000 principal amount of lease revenue bonds (the "Bonds"), in one or more series, to finance the costs of the Projects, to fund a reserve fund for the Bonds, if required, and to pay costs in connection with the issuance of the Bonds and related costs; and (iv) the execution and delivery of all documents which may be necessary in connection with the foregoing and matters relating thereto.

4. ADJOURNMENT

Please contact us at 304-288-7072, for any accommodations.

**BOND AUTHORIZING ORDINANCE
OF THE MORGANTOWN BUILDING COMMISSION**

AN ORDINANCE AUTHORIZING THE ISSUANCE BY THE MORGANTOWN BUILDING COMMISSION (THE "ISSUER") OF NOT MORE THAN \$29,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF MORGANTOWN BUILDING COMMISSION (WEST VIRGINIA) LEASE REVENUE BONDS, IN ONE OR MORE SERIES, TO PROVIDE ALL OR A PORTION OF THE FUNDS TO ACQUIRE CERTAIN REAL PROPERTY FROM THE CITY OF MORGANTOWN, WEST VIRGINIA (THE "CITY"), AND TO DESIGN, ACQUIRE, CONSTRUCT, FURNISH, AND EQUIP IMPROVEMENTS TO CERTAIN RECREATIONAL FACILITIES OF THE CITY, INCLUDING RENOVATION OF THE MORGANTOWN ICE ARENA AND CONSTRUCTION OF A NEW SWIMMING POOL AT MARILLA PARK, AND TO PAY OTHER COSTS IN CONNECTION THEREWITH AND APPROVING ONE OR MORE LEASE AGREEMENTS BETWEEN THE ISSUER AND THE CITY, PROVIDING FOR THE LEASING OF SAID RECREATIONAL FACILITIES TO THE CITY, ALL AS MORE FULLY SET FORTH HEREIN; AUTHORIZING THE EXECUTION AND DELIVERY OF ONE OR MORE CREDIT LINE DEEDS OF TRUST, FIXTURE FILINGS AND SECURITY AGREEMENTS, ASSIGNMENTS OF LEASES, BOND INDENTURE AND SECURITY AGREEMENTS, AND BOND PURCHASE AGREEMENTS, AUTHORIZING THE DISTRIBUTION OF ONE OR MORE PRELIMINARY OFFICIAL STATEMENTS, IF NECESSARY, AND THE EXECUTION, DELIVERY AND DISTRIBUTION OF ONE OR MORE OFFICIAL STATEMENTS, IF NECESSARY; AUTHORIZING, IF DEEMED ADVISABLE, THE PURCHASE OF ONE OR MORE BOND INSURANCE POLICIES WITH RESPECT TO THE BONDS; AUTHORIZING THE SALE OF SUCH BONDS AND TAKING OTHER NECESSARY ACTIONS IN CONNECTION WITH THE ISSUANCE AND SALE OF SUCH BONDS.

WHEREAS, The City of Morgantown (the "City") has, pursuant to an ordinance enacted August 2, 1988, created and established the Morgantown Building Commission (the "Issuer"), a public corporation and municipal building commission, pursuant to the authority granted to it in Chapter 8, Article 33, of the West Virginia Code of 1931, as amended (the "Enabling Act");

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

WHEREAS, the City is empowered and authorized by Chapter 8, Article 12, Section 5 of the West Virginia Code of 1931, as amended, to expend public funds to establish, construct, acquire, provide, equip, maintain and operate recreational parks, playgrounds and other recreational facilities for public use;

WHEREAS, the City has determined that there is a need for the design, acquisition, construction, furnishing and equipping of improvements to certain of the City's recreational facilities operated and maintained by the Board of Park and Recreation Commissioners of Morgantown, West Virginia, including the renovation of the Morgantown Ice Arena, together with all appurtenant facilities (the "Ice Arena Project"), and the demolition of the existing Marilla Park swimming pool and construction of a new swimming pool at Marilla Park, together with all appurtenant facilities (the "Marilla Pool Project" and together with the Ice Arena Project, the "Projects") (the foregoing real estate and any Additional Property (as defined herein) together with the improvements thereon, including without limitation any renovations, improvements, furnishings or equipment resulting from the Projects, and together with all easements and rights of way in connection therewith are collectively referred to herein as the "Property") which Property will be conveyed by the City to the Issuer, prior to the issuance of the Bonds hereinafter authorized and defined, and which Property thereafter will be leased by the Issuer to the City;

WHEREAS, pursuant to and in accordance with the provisions of the Enabling Act, and Chapter 8, Article 16, of the Code of West Virginia of 1931, as amended (the "Bond Act") (the Enabling Act and the Bond Act being hereinafter referred to collectively as, the "Act"), the Issuer proposes to issue its Lease Revenue Bonds in one or more series (the "Bonds"), in the aggregate principal amount of not more than \$29,000,000 to finance all or a portion of (i) the costs of the Projects, (ii) to fund one or more debt service reserve funds for the Bonds, if required, and (iii) to pay costs of issuance of the Bonds and related costs, including the premium for one or more bond insurance policies, if necessary;

WHEREAS, the Bonds, or any individual series thereof, may be either privately placed with one or more banking institutions (the "Private Placement") or sold to an investment banker/underwriter to be marketed for sale to the public (the "Public Offering"), with the final determinations to be made pursuant to one or more Supplemental Parameters Resolutions (defined herein) or Certificates of Determinations (defined herein);

WHEREAS, in the event that the City determines that it is advisable, the City may convey additional real estate to the Issuer for the purpose of providing additional security for the payment of the principal of and the premium, if any, and interest on the Bonds (the foregoing real estate together with the improvements thereon and all easements and rights of way

in connection therewith are collectively referred to herein as the “Additional Property”), which Additional Property shall be specifically identified and the acquisition thereof by the Issuer authorized pursuant to one or more Supplemental Parameters Resolutions;

WHEREAS, pursuant to and in accordance with the provisions of the Enabling Act, the Property will be leased to the City, pursuant to one or more Lease Agreements (each a “Lease” and collectively, the “Leases”) to be dated as of or prior to the dates of the issuance of the Bonds or such other dates as may be set forth in one or more Supplemental Parameters Resolutions or Certificates of Determinations executed by the Chairperson of the Issuer (the “Chairperson”), as further described herein;

WHEREAS, the rentals to be paid by the City under the Leases, to the extent the same are not terminated by the City, have been determined by the Issuer to be at least sufficient to pay the principal of and interest on the Bonds as the same become due and payable;

WHEREAS, the principal of and the premium, if any, and interest on the Bonds and all other payments provided for in one or more Bond Indenture and Security Agreements (each an “Indenture” and collectively, the “Indentures”) between the Issuer and the trustee named therein (the “Trustee”), will be secured by a lien on the Property to be created by one or more Credit Line Deeds of Trust, Fixture Filings and Security Agreements to be executed and delivered by the Issuer (each a “Deed of Trust” and collectively, the “Deeds of Trust”), the pledge and assignment of the Leases to be effectuated by the Indentures and one or more Assignments of Leases to be executed and delivered by the Issuer (each an “Assignment of Leases” and collectively, the “Assignments of Leases”), and any other property or funds pledged under the Indentures, and the Bonds will not constitute an indebtedness or liability of the State of West Virginia, the City or the Issuer or a charge against any of the property thereof except as expressly provided herein or in the Indentures, the Leases, the Deeds of Trust or the Assignments of Leases, or an obligation on the part of any officer or member of the Issuer;

WHEREAS, no owner of the Bonds shall ever have the right to compel the exercise of any taxing power of the State of West Virginia, or any political subdivision, or municipal corporation thereof, including without limitation the City, for the payment of such principal of or such premium, if any, or interest on the Bonds;

WHEREAS, the Issuer has no taxing power;

WHEREAS, the name of the Bonds may be changed by the Issuer by the adoption by the Issuer of a Supplemental Parameters Resolution or by one or more Certificates of Determinations executed by the Chairperson;

WHEREAS, there will be prepared with respect to the Bonds one or more Bond Purchase Agreements (each a “Bond Purchase Agreement” and collectively, the “Bond Purchase Agreements”), which will be presented for approval by one or more Supplemental Parameters Resolutions to be adopted by the Issuer or by one or more Certificates of Determinations to be executed by the Chairperson;

WHEREAS, the Trustee, and the forms of the Bond Purchase Agreements, the Indentures, the Leases, the Deeds of Trust, the Assignments of Leases and one or more Tax

Regulatory Agreements with respect to the Bonds (each a “Tax Agreement” and collectively, the “Tax Agreements”) shall, if acceptable to the Issuer, be as approved by one or more supplemental resolutions to be adopted by the Issuer (each a “Supplemental Parameters Resolution” and collectively, the “Supplemental Parameters Resolutions”) or one or more certificates of determinations (each a “Certificate of Determinations” and collectively, the “Certificates of Determinations”);

WHEREAS, the Bonds shall be sold to such purchaser or purchasers designated in the Supplemental Parameters Resolutions or the Certificates of Determinations (the “Original Purchaser” whether one or more);

WHEREAS, in the event of a Public Offering with respect to one or more series of Bonds, there will be prepared with respect to such series of Bonds one or more Preliminary Official Statements (each a “Preliminary Official Statement” and collectively, the “Preliminary Official Statements”), which shall be presented for approval by the Supplemental Parameters Resolutions or the Certificates of Determinations, and one or more Final Official Statements (each an “Official Statement” and collectively, the “Official Statements”);

WHEREAS, the Issuer finds and determines that it has full power and authority to issue the Bonds and to make the pledges for the payment thereof as are to be more particularly set forth in the Indentures, and to enter into the Bond Purchase Agreements, the Indentures, the Leases, the Deeds of Trust and the Assignments of Leases and to grant a lien on and security interest in the Property, the Leases and the other assets pledged under the Indentures, or encumbered under the Deeds of Trust or the Assignments of Leases, all pursuant to the Act, and that the Issuer has taken or will take by the enactment and adoption of this Bond Authorizing Ordinance (the “Ordinance”) and the Supplemental Parameters Resolutions and by the execution by the Chairperson of the Certificates of Determinations, if Certificates of Determinations are utilized, subject to the public hearing thereon hereinafter provided for, all actions necessary to authorize its proper officers to sign, seal and deliver the Bond Purchase Agreements, the Indentures, the Leases, the Deeds of Trust, the Assignments of Leases, the Tax Agreements and the Bonds; and

WHEREAS, the Issuer will (i) determine whether the Bonds, or any individual series thereof, shall be issued via Private Placement or Public Offering; (ii) establish the exact principal amounts and purchase prices of and the interest rate or rates on the Bonds; (iii) designate the date of the Bonds, the Leases, the Bond Purchase Agreements, the Indentures, the Deeds of Trust and the Assignments of Leases, if different from the date of issuance; (iv) determine the redemption provisions, maturity date or dates and other terms and provisions of the Bonds; (v) designate the Original Purchaser; (vi) approve the forms of the Bond Purchase Agreements, the Indentures, the Leases, the Deeds of Trust, the Assignments of Leases, the Preliminary Official Statements, if necessary, the Official Statements, if necessary, and the Tax Agreements, by the Supplemental Parameters Resolutions or the Certificates of Determinations.

NOW, THEREFORE, BE IT ORDAINED BY THE MORGANTOWN BUILDING COMMISSION, AS FOLLOWS:

Section 1. Findings and Determinations. The Issuer specifically finds and determines as follows:

(a) This Ordinance is enacted pursuant to and in accordance with the provisions of the Act, the Bonds shall be issued pursuant to the Act, and the Bonds shall contain a recital that they are issued pursuant to the Act;

(b) The purposes for issuing the Bonds include, among other things, the financing of all or a portion of (i) the costs of the Projects, (ii) the funding of one or more debt service reserve funds for the Bonds, if required, and (iii) the payment of costs relating to the issuance of the Bonds and related costs, including the premium for one or more bond insurance policies, if necessary;

(c) It is necessary to have a special meeting on Tuesday, November 15, 2022, for the purpose of holding a public hearing upon the enactment of this Ordinance and consideration of enactment of the Ordinance on third reading; and

(d) The abstract of this Ordinance in the form of the notice set forth as **Exhibit A** hereto and made a part of this Ordinance as though set forth in full herein contains sufficient information as to give notice of the contents of this Ordinance.

Section 2. Details of the Bonds; Acquisition of the Property; Authorization of the Projects. (a) It is hereby authorized and directed that the Bonds be issued pursuant to the Act, be designated “Morgantown Building Commission (West Virginia) Lease Revenue Bonds,” or such other name as may be designated by the Issuer in the Supplemental Parameters Resolutions or by the Chairperson in the Certificates of Determinations, and be issued in one or more series as provided by a Supplemental Parameters Resolutions or Certificates of Determinations relating to each such series. The Bonds shall be dated as of the date of issuance or such other date as may be set forth in the Supplemental Parameters Resolutions or Certificates of Determinations. The Bonds shall be issued in the aggregate principal amount of not more than \$29,000,000. The actual amount to be issued, interest rate or rates (calculated as Net Interest Cost), which interest rate or rates shall not exceed eight percent (8.00%) per annum, redemption provisions, maturity date or dates not to exceed thirty (30) years from the date of issuance and other terms and provisions of the Bonds to the extent not otherwise set forth herein shall be established by the Supplemental Parameters Resolutions or the Certificates of Determinations.

(b) The form of the Bonds and other details with respect thereto shall be as set forth in Indentures, as executed by the Chairperson and shall be substantially in the form of **Exhibit B** attached hereto and made a part hereof with such changes as shall be approved by the Chairperson as evidenced by his or her execution and delivery of the definitive Bonds.

(c) The acquisition of the Property by the Issuer from the City pursuant to such deeds or other instruments of conveyance as shall be acceptable to the Chairperson of the Issuer and the Issuer’s legal counsel is hereby authorized and ordered. The Additional Property, if any, to be conveyed to the Issuer by the City for the purpose of providing additional security

for the Bonds shall be specifically identified and the acquisition thereof by the Issuer authorized pursuant to one or more Supplemental Parameters Resolutions.

(d) The Projects are hereby authorized and approved and the design, acquisition, construction, renovation, furnishing and equipping of the Property in connection with the Projects are hereby ordered.

Section 3. Security. The Bonds shall be secured by the pledge effected by the Indentures, by the encumbrances effectuated by the Deeds of Trust on the Property and by the assignment of the Leases effectuated by the Indentures and the Assignments of Leases and shall be payable from and secured by a pledge of the Leases and any other property or funds described in the Indentures. The Bonds, the premium, if any, and the interest thereon are special, limited obligations of the Issuer and are payable solely from the revenues and funds provided pursuant to the Indentures and the Leases, which revenues, funds and security will be pledged and assigned to the Trustee pursuant to the Indentures to secure payment of the Bonds, which security shall also include proceeds from any sale of the Property and any other property encumbered by the Deeds of Trust. The Bonds and the premium, if any, and the interest thereon shall never constitute an indebtedness of the State of West Virginia, the City or the Issuer within the meaning of any West Virginia constitutional provision or statutory limitation or a charge against any of the property of the aforementioned except as expressly provided herein or in the applicable documents; shall never constitute or give rise to a pecuniary liability of the City (except as provided in the Leases) or a charge against the general credit or taxing power of the City (except as provided in the Leases), or the State of West Virginia, and shall never give any right against any officer or member of the Issuer.

The Authorized Representatives (as defined herein) are further authorized to determine on behalf of the Issuer and the City whether the purchase of one or more insurance policies securing payment of one or more series of the Bonds would be advantageous to the Issuer and the City or the terms of the financing represented by the Bonds. The Authorized Representatives are authorized to negotiate with and secure, with proceeds of the Bonds or otherwise, such insurance policies, from one or more institutions, the claims-paying ability of which are then assigned one of the two highest rating categories by a nationally recognized credit rating agency. The Authorized Representatives are authorized to execute and deliver any instruments or documents necessary in connection with the purchase of any such insurance policies, including those making provision for the repayment of amounts advanced by the institutions issuing such insurance policies. The Authorized Representatives are further authorized to pursue and obtain on behalf of the Issuer and the City a rating or ratings on the City and the Bonds from any rating agency deemed advantageous by the underwriter or placement agent for the Bonds, to pay the costs of obtaining such ratings from the proceeds of the Bonds and to execute and deliver such documents as may be necessary in connection therewith.

Section 4. Forms of Documents. The forms of the Bond Purchase Agreements, the Indentures, the Leases, the Deeds of Trust, the Assignments of Leases, the Tax Agreements and the Preliminary Official Statements shall be considered and, if found acceptable to the Issuer and its legal counsel, approved by the Supplemental Parameters Resolutions or the Certificates of Determinations.

Section 5. Sale of Bonds. The sale of the Bonds by the Issuer to the Original Purchaser on the terms and conditions to be set forth in the Bond Purchase Agreements and upon the basis of the representations set forth therein, is determined to be in the best interests of the Issuer and is hereby approved. The final purchase prices and other terms of the Bonds will be determined and set forth in the Supplemental Parameters Resolutions or the Certificates of Determinations. The Chairperson is hereby authorized and directed to execute and deliver the Bond Purchase Agreements with such changes, insertions and omissions as may be required to reflect the terms of the sale of the Bonds and as may be approved by the Chairperson, which final terms shall be within the parameters as to interest rate and par as provided in this Ordinance and as may be described in any Supplemental Parameters Resolutions as shall be adopted by the Issuer. The execution of the Bond Purchase Agreements by the Chairperson shall be conclusive evidence of such approval and the final terms.

Section 6. Preliminary Official Statements; Official Statements. In the event of a Public Offering with respect to one or more series of Bonds, the forms of the Preliminary Official Statements shall be as approved by the Supplemental Parameters Resolutions or the Certificates of Determinations. The distribution of the Preliminary Official Statements, if necessary, is hereby authorized and approved. The Chairperson is hereby authorized and directed to execute and deliver the Official Statements, which shall be in substantially the form of the Preliminary Official Statements with such changes, insertions and omissions as may be required to reflect the terms of the sale of the Bonds and as the Chairperson may approve. The execution and delivery of the Official Statements by the Chairperson are hereby authorized and directed.

Section 7. Execution and Delivery. The Bonds shall be executed and authenticated in accordance with the provisions of the Indentures. Upon such execution and authentication, the entire issue of the particular series of Bonds directed to be issued shall be delivered and sold to the Original Purchaser as provided in the Bond Purchase Agreements, the Supplemental Parameters Resolutions or the Certificates of Determinations.

Section 8. Trustee, Paying Agent, and Bond Registrar. The Trustee, the Paying Agent and the Bond Registrar under the Indentures shall be designated pursuant to the Supplemental Parameters Resolutions or the Certificates of Determinations.

Section 9. Certificates of Determinations. The Chairperson shall have the power and authority to execute and deliver one or more Certificates of Determinations determining specific provisions and terms of the Bonds within the parameters established in this Ordinance and any Supplemental Parameters Resolutions adopted by the Issuer, which may include, without limitation, (i) provisions determining whether the Bonds shall be issued via Private Placement or Public Offering; (ii) fixing the aggregate principal amount of Bonds to be issued, not to exceed \$29,000,000 in the aggregate; (iii) fixing the maturity schedules for the Bonds, the final maturity to be no later than thirty (30) years from the date of issuance of the Bonds, (iv) fixing interest rates or yields for such Bonds, which may be a variable rate, such initial rate or yield not to exceed eight percent (8%) per annum, (v) fixing the amounts and time of sinking fund installments on the Bonds, including times and redemption prices, (vi) fixing the purchase prices for the Bonds, which may include original issuance premiums, underwriting discounts and/or original issue discounts, (vii) fixing mandatory, optional and extraordinary

redemption provisions for the Bonds, (viii) determining whether the Bonds are to be evidenced by certificates or are to be issued by means of a book-entry system; (ix) modifying or otherwise completing and finalizing the provisions of the Bond Purchase Agreements, the Indentures or other documents; and (x) designating the Original Purchaser.

Section 10. Execution of Documents; Further Actions. The Chairperson, Secretary and other proper officers of the Issuer (the “Authorized Representatives”) are each hereby authorized and directed to execute and deliver on behalf of the Issuer the Bonds, the Bond Purchase Agreements, the Indentures, the Leases, the Deeds of Trust, the Assignments of Leases, the Tax Agreements, the Official Statements, if necessary, and any and all other papers and instruments and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by this Ordinance, including without limitation affixing the seal of the Issuer on such documents and attesting the same as deemed necessary or appropriate by the Chairperson or Secretary.

Section 11. Notice. The Secretary shall cause an abstract of this Ordinance with notice in substantially the form of **Exhibit A** attached hereto and incorporated in this Ordinance by reference to be published once a week for two consecutive weeks in *The Dominion Post*. The public hearing shall be held on Tuesday, November 15, at __: __.m., prevailing local time, at 430 Spruce Street, Morgantown, West Virginia. A copy of this Ordinance shall be on file in the office of the Clerk of the City available for inspection by members of the public during regular office hours.

Section 12. Effective Date. This Ordinance shall become effective immediately upon the conclusion of the hearing herein described in Section 11, above; provided, however, that if at such hearing the Issuer determines that sufficient objections or suggestions have been raised, or that 30% or more of the freeholders of City have filed written protests with respect to the financing provided for in this Ordinance, the Issuer shall take such further action with respect to this Ordinance as it deems appropriate and in accordance with the Act.

[Remainder of Page Intentionally Left Blank]

CERTIFICATION

Certified a true copy of an Ordinance finally enacted by the MORGANTOWN BUILDING COMMISSION on the ___ day of _____, 2022, and put into effect following a public hearing held on _____, 2022, which ordinance was adopted pursuant to the bylaws and rules of procedure of the Issuer and the open meetings laws of the State of West Virginia, has not been modified or amended following enactment and is in full force and effect as of the date indicated in this certificate below.

Dated: _____, 2022.

Secretary, Morgantown Building Commission

EXHIBIT A

FORM OF NOTICE OF PUBLIC HEARING

Notice is hereby given that on November 15, 2022, at 3:30 p.m., prevailing time, a public hearing will be held in the first floor conference room of the Morgantown Public Safety Building, 300 Spruce Street, Morgantown, West Virginia. To participate in the public hearing remotely, join the meeting at _____, meeting number _____, or by calling _____, access code _____. At such hearing all parties and interests may appear before the Morgantown Building Commission (the "Building Commission") and may be heard as to whether the following described Ordinance shall be put into effect.

Notice is further hereby given that on November 1, 2022, the Building Commission adopted on second reading an Ordinance authorizing and directing the issuance of not more than \$29,000,000 in aggregate principal amount of Morgantown Building Commission Lease Revenue Bonds in one or more series (the "Bonds") to finance costs of the design, acquisition, construction, furnishing and equipping of improvements to certain of the City of Morgantown's (the "City") recreational facilities operated and maintained by the Board of Park and Recreation Commissioners of Morgantown, West Virginia, including the renovation of the Morgantown Ice Arena, together with all appurtenant facilities (the "Ice Arena Project"), and the demolition of the existing Marilla Park swimming pool and construction of a new swimming pool at Marilla Park, together with all appurtenant facilities (the "Marilla Pool Project" and together with the Ice Arena Project, the "Projects") (the foregoing real estate and any Additional Property (as defined herein) together with the improvements thereon, including without limitation any renovations, improvements, furnishings or equipment resulting from the Projects, and together with all easements and rights of way in connection therewith are collectively referred to herein as the "Property"). The Ordinance further provides for the acquisition of the Property from the City and the leasing of the Property to the City pursuant to one or more Lease Agreements (the "Leases"). In the event that the City determines it is advisable, the City may convey additional real estate to the Building Commission for the purpose of providing additional security for the payment of the principal of and the premium, if any, and interest on the Bonds (the foregoing real estate together with the improvements thereon and all easements and rights of way in connection therewith are collectively referred to herein as the "Additional Property"). The Additional Property shall be specifically identified and the acquisition thereof by the Building Commission authorized pursuant to one or more supplemental resolutions to be adopted by the Building Commission.

The Bonds will be special obligations of the Building Commission payable solely from the revenues, rentals, and other monies received by the Building Commission pursuant to the Leases and any other permitted lease of the Property and other security held pursuant to a bond purchase agreement described below and will not constitute a debt or liability of the City (except as provided in the Leases), or the State of West Virginia.

The Ordinance further provides for one or more bond purchase agreements, one or more bond indenture and security agreements by which the Building Commission will assign to the trustee for the Bonds, the right to receive rental and other payments under the Leases or other leases permitted by the bond indenture and security agreements, or the deeds of trust that

will encumber the Property to further secure the owners of the Bonds and the Building Commission will deliver the Bonds in return for the purchase price thereof to be used to pay all or a portion of the costs of the Projects, the funding of one or more debt service reserve funds, if required, and costs of issuing the Bonds and related costs.

A certified copy of the Ordinance is on file for review by interested persons during regular office hours in the temporary office of the City Clerk of The City of Morgantown, West Virginia, 430 Spruce Street, Morgantown, West Virginia.

Secretary, Morgantown Building Commission

principal office of its successor in trust (the “Trustee”) under a Bond Indenture and Security Agreement dated as of _____ 1, 2022 (the “Indenture”), between the Issuer and the Trustee, and to pay from such sources to the Registered Owner hereof, at the close of business on the 15th day of the calendar month next preceding any Interest Payment Date (the “Regular Record Date”), interest on said sum in like coin or currency at the interest rate per annum specified above payable semiannually on _____ 1 and _____ 1 each year, commencing _____ 1, 202_, until payment of the principal hereof has been made or provided for. This Bond will bear interest from the most recent Interest Payment Date to which interest has been paid or provided for, or if no interest has been paid, from the date of this Bond. Any such interest not timely paid or duly provided for shall cease to be payable to the person who is the Registered Owner hereof at the close of business on the Regular Record Date and shall be payable to the person who is the Registered Owner hereof at the close of business on a Special Record Date (as defined in the Indenture) for the payment of any defaulted interest. Such Special Record Date shall be fixed by the Trustee whenever monies become available for payment of the defaulted interest and notice of the Special Record Date shall be given to the Registered Owners of the Bonds of the series of which this is one not less than ten days prior thereto. Payment of interest shall be payable by check or draft or, at the written request of any Registered Owner of at least \$1,000,000 in principal amount of Bonds, by wire transfer, to such account or accounts within the continental United States as shall be designated by the Registered Owner at least five (5) Business Days prior to the Regular Record Date. Unless transferred otherwise, such interest shall be mailed by the Trustee to the Registered Owner at his address as it last appears on the registration books kept for that purpose at the office of the Trustee.

This bond is one of a duly authorized series of bonds of the Issuer designated “Morgantown Building Commission (West Virginia) Lease Revenue Bonds, Series 2023 __ (_____)” (the “Bonds”) in the aggregate principal amount of \$ _____ issued under and equally and ratably secured by the Indenture. The Bonds have been issued under Chapter 8, Article 33, and Chapter 8, Article 16 of the Code of West Virginia, 1931, as amended (collectively, the “Act”) and pursuant to the Indenture, to finance the costs of the design, acquisition, construction, furnishing and equipping of improvements to certain of the recreational facilities of The City of Morgantown (the “City”) operated and maintained by the Board of Park and Recreation Commissioners of Morgantown, West Virginia, including _____ (the “Project”) (the foregoing real estate together with the improvements thereon, including without limitation any renovations, improvements, furnishings or equipment resulting from the Project, and together with all easements and rights of way in connection therewith are collectively referred to herein as the “Property”). In addition, the Issuer has leased the Property to the City under a Lease Agreement dated as of _____ 1, 2023, and effective _____, 2023, by and between the Issuer, as lessor, and the City, as lessee (the “Lease Agreement”).

This Bond is a special limited obligation of the Issuer payable solely from and secured by the moneys and properties constituting the Trust Estate, as set forth and described in the Indenture, which Trust Estate includes (a) a pledge of the rights of the Issuer under the Lease Agreement (except the Unassigned Issuer’s Rights as described in the Indenture and Lease Agreement), (b) a pledge of certain of the Funds established with the Trustee pursuant to the Indenture (as defined in the Indenture), and (c) the pledges and security interests granted by the Issuer under a Credit Line Deed of Trust, Fixture Filing and Security Agreement dated as of

_____ 1, 2023, and effective as of _____, 2023, by and between the Issuer, as grantor, and the trustee named therein (the “Deed of Trust”).

THE ISSUER SHALL NOT BE OBLIGATED TO PAY THE PRINCIPAL OF, PREMIUM IF ANY, OR INTEREST ON THIS BOND, EXCEPT FROM THE TRUST ESTATE PROVIDED FOR IN THE INDENTURE. NEITHER THE ISSUER, THE CITY, THE STATE OF WEST VIRGINIA, NOR ANY COUNTY, MUNICIPALITY OR ANY OTHER POLITICAL SUBDIVISION THEREOF, SHALL BE OBLIGATED TO PAY THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS OR ANY OTHER COSTS INCIDENT THERETO EXCEPT FROM THE REVENUES AND MONIES PLEDGED THEREFOR, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF WEST VIRGINIA, OR ANY COUNTY, MUNICIPALITY OR ANY OTHER POLITICAL SUBDIVISION THEREOF, INCLUDING THE ISSUER OR THE CITY, IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, PREMIUM IF ANY, OR INTEREST ON THE BONDS OR OTHER COSTS INCIDENT THERETO. THE ISSUER HAS NO TAXING POWER.

NO OFFICER, DIRECTOR, MEMBER, AGENT OR EMPLOYEE OF THE ISSUER OR THE CITY SHALL BE PERSONALLY LIABLE ON THE BONDS OR THE INDENTURE, OR SUBJECT TO ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF THE EXECUTION AND DELIVERY OF THE INDENTURE OR THE ISSUANCE OF THE BONDS, NOR SHALL THE ISSUANCE OF THE BONDS BE CONSIDERED A MISFEASANCE IN OFFICE, EXCEPT WITH REGARD TO NEGLIGENT, INTENTIONAL AND/OR WILLFUL ACTS THEREOF.

Reference is hereby made to the Indenture and all indentures supplemental thereto, to the Lease Agreement and to the Deed of Trust for a detailed description of the revenues and other properties and collateral pledged, the nature and extent of the security, the rights, duties, immunities and obligations of the Issuer, the City, the Trustee, and the Registered Owners of the Bonds and the terms and conditions upon which the Bonds are, and are to be, secured.

The Bonds are subject to redemption prior to maturity as follows: [redemption provisions for each series of Bonds to be inserted when determined]

The Bonds are issuable as fully registered bonds in the denominations of _____. Bonds upon surrender thereof at the principal corporate trust office of the Trustee may, at the option of the Registered Owner thereof, be exchanged for an equal aggregate principal amount of Bonds of other authorized denominations of the same maturity in the manner, subject to the conditions and on payment of the charges provided in the Indenture.

This Bond is fully transferable by the Registered Owner hereof in person or by his duly authorized attorney on the registration books kept at the principal corporate trust office of the Trustee on surrender of this Bond together with a duly executed written instrument of transfer satisfactory to the Trustee. Upon such transfer a new fully registered Bond or Bonds of authorized amount will be issued to the transferee in exchange hereof, all subject to the terms and conditions and to the payment of the charges set forth in the Indenture.

The Issuer and the Trustee may deem and treat the person in whose name this Bond is registered as the absolute owner hereof, whether or not this Bond shall be overdue, for the purpose of receiving payment and for all other purposes, and neither the Issuer nor the Trustee shall be affected by any notice to the contrary.

To the extent permitted by, and as provided in, the Indenture, modifications or amendments of the Indenture, or of any indenture supplemental thereto, and of the rights and obligations of the Issuer and of the Registered Owners of the Bonds may be made with the consent of the Issuer and, in certain instances, with the consent of the Registered Owners of not less than a majority in aggregate principal amount of the Bonds then outstanding; provided, however, that no such modification shall be made of the principal of, premium, if any, or interest on any of the Bonds, which are unconditional unless consented to by all Registered Owners adversely affected thereby. Any such consent by the Registered Owner of this Bond shall be conclusive and binding upon such Registered Owner and upon all future Registered Owners of this Bond and of any Bond issued upon the transfer or exchange of this Bond whether or not notation of such consent is made upon this Bond. Any indenture supplemental to the Indenture may also be, in the circumstances provided in such Indenture, modified or amended.

The Registered Owner of this Bond shall have no right to enforce the provisions of the Indenture, the Lease Agreement or the Deed of Trust or to institute action to enforce the pledge, assignment or covenants made therein or to take any action with respect to an event of default under the Indenture, the Lease Agreement or the Deed of Trust or to institute, appear in or defend any suit, action or other proceeding at law or in equity with respect thereto, except as provided in the Indenture, the Lease Agreement or the Deed of Trust. In case an event of default under the Indenture shall occur, the principal of all the Bonds at any such time outstanding under the Indenture may be declared or may become due and payable, upon the conditions and in the manner and with the effect provided in the Indenture. The Indenture provides that such declaration may in certain events be rescinded by the Trustee or the Registered Owners of a requisite principal amount of the Bonds outstanding under the Indenture.

Neither the Issuer or City, any officers or members thereof nor any person executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all conditions, acts and things required by the Constitution or statutes of the State of West Virginia or by the Act or the Indenture to exist, to have happened or to have been performed precedent to or in the issuance of this Bond exist, have happened and have been performed.

This Bond shall never constitute the debt or indebtedness of the Issuer or the City within the meaning of any constitutional provision or statutory limitation of the State of West Virginia and shall not constitute nor give rise to a pecuniary liability of the Issuer or City or a charge against their general credit or taxing powers, if any.

This Bond shall not be entitled to any benefit under the Indenture or any indenture supplemental thereto, or become valid or obligatory for any purpose until the Trustee shall have signed the certificate of authentication hereon.

IN TESTIMONY WHEREOF, the Morgantown Building Commission, has caused this Bond to be executed by the manual or facsimile signature of its Chairperson, has caused its corporate seal or a facsimile thereof to be impressed or printed hereon, duly attested by the manual or facsimile signature of its Secretary, and has caused this Bond to be dated as of the Dated Date set forth above.

MORGANTOWN BUILDING COMMISSION

[SEAL]

By _____
Its Chairperson

ATTEST:

By _____
Its Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This is to certify that this Bond is one of the Bonds described in and issued under the provisions of the within-mentioned Indenture.

_____,
as Trustee and Registrar

By _____
Authorized Officer

Dated: _____, 20__.

ASSIGNMENT

For value received, the undersigned hereby sells, assigns, and transfers unto _____ the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, attorney to register the transfer of said Bond on the Bond Register, with full power of substitution in the premises.

Registered Owner

Dated: _____, 20__.

Signature Guaranteed _____

Social Security Number or
Employer Identification
Number of Transferee _____

NOTICE: The assignor's signature to this Assignment must correspond with the name as it appears on the face of the within Bond in every particular without alternation or any change whatever.