

**THE CITY OF WHEELING**

**OGLEBAY PARK IMPROVEMENT REVENUE BOND ORDINANCE, SERIES 2025**

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## **THE CITY OF WHEELING**

### **OGLEBAY PARK IMPROVEMENT REVENUE BOND ORDINANCE**

AN ORDINANCE AUTHORIZING THE ISSUANCE OF NOT MORE THAN \$12,000,000.00 AGGREGATE PRINCIPAL AMOUNT OF OGLEBAY PARK IMPROVEMENT REVENUE BONDS, SERIES 2025, FOR THE FINANCING OF A PORTION OF THE COSTS OF CERTAIN IMPROVEMENTS TO FACILITIES LOCATED AT OGLEBAY PARK; PROVIDING FOR THE COSTS OF ISSUANCE OF THE ABOVE BONDS; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS; AND ENACTING OTHER PROVISIONS RELATING THERETO.

Be it Ordained by the City Council of The City of Wheeling, West Virginia:

#### **ARTICLE I**

#### **DEFINITIONS, STATUTORY AUTHORITY AND FINDINGS**

##### **SECTION 1.01. DEFINITIONS**

The following terms shall have the following meanings herein unless the context expressly requires otherwise:

“Act” means Chapter 8, Article 16 of the West Virginia Code of 1931, as amended, and in effect on the date of enactment hereof.

“Architect” means the architect retained by the Commission for the Project.

“Authorized Officer(s)” means the Mayor of the City, the City Clerk or such other officers of the City specifically designated by the Governing Body.

“Bonds” means the Series 2015 Bonds, the Series 2025 Bonds and any future bonds which may be issued as Parity Bonds.

“Bond Construction Fund” or “Construction Fund” means the fund by that name created by Section 4.02 hereof.

“Bond Counsel” means Ballard Spahr LLP, or any other law firm having a reputation in the field of municipal law whose opinions are generally accepted by the purchasers of bonds which may hereinafter be appointed by the City.

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

“Bond Ordinance” or “Ordinance” means this Bond Ordinance and all ordinances and resolutions supplemental hereto or amendatory hereof.

“Bond Registrar” means Wesbanco Bank, Inc., its successors and assigns.

“City” means The City of Wheeling, West Virginia.

“Clerk” means the City Clerk of the City.

“Closing Date” means the date or dates upon which there is an exchange of the Series 2025 Bonds for the proceeds representing the original purchase price thereof.

“Commission” means the Wheeling Park Commission, a public corporation and governmental subdivision of the City.

“Costs” or “Costs of the Project” means those costs described in Section 1.03(E) hereof to be a part of the cost of the Project.

“Debt Service” means the scheduled amount of interest and amortization of principal payable on the Bonds or Series 2025 Bonds, as the case may be, during the period of computation, excluding amounts scheduled during such period which related to principal that has been retired before the beginning of such period.

“Facilities” means Oglebay Lodge which is located within Oglebay Park, including the National Training Center for Public Facilities Managers and ancillary and related recreational facilities within Oglebay Park, including golf courses, pools, concessions and other fee generating services. Oglebay Lodge offers dining and meeting rooms and overnight accommodations.

“Governing Body” means the City Council of the City, or such other body that succeeds to the function as the governing body of the City.

“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, including (i) such obligations which have been stripped from their unmatured interest coupons, interest coupons stripped from such obligations and receipts or certificates evidencing payments from such obligations or interest coupons stripped from such obligations, (ii) evidences of ownership of a proportionate interest in specified direct obligations of, or specified obligations which are unconditionally and fully guaranteed by, the United States of America, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian and (iii) obligations, the sole source of the payment of the principal of and interest on which are obligations of the nature of those described in clause (i), which are irrevocably pledged for such purposes.

“Gross Revenues” means all rates, rents, fees, charges or other income received by the Commission or Oglebay Park, or any agency or instrumentality thereof in control of the management and operation of Oglebay Park, from the operation of the Facilities, and all parts thereof, including the National Training Center for Public Facilities Managers, all as calculated in accordance with generally accepted accounting principles.

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

“Issuer” means The City of Wheeling, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

“Mayor” means the Mayor of the City.

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

“Operating Expenses” means the reasonable, proper and necessary costs of repair, maintenance and operation of the Facilities and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, fees and expenses of the Paying Agent and Registrar (all as herein defined), the accumulation of appropriate reserves for charges not annually recurrent but which are such as may reasonably be expected to be incurred, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles

“Outstanding,” when used with reference to and as of any particular date, describes all Bonds theretofore and thereupon being authenticated and delivered except (i) any Bond cancelled by the Bond Registrar, at or prior to said date; (ii) any Bond 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, as applicable, and set aside for such payment (whether upon or prior to maturity); (iii) any Bond deemed to have been paid as provided in Article VIII hereof, and (iv) for purposes of consents or other action by a specified percentage of Bondholders, any Bonds registered to the Issuer.

“Parity Bonds” means the Series 2015 Bonds, the Series 2025 Bonds and all bonds having a lien payable from Net Revenues on a parity with the Series 2015 Bonds and the Series 2025 Bonds and the which may hereafter be issued by the City in compliance with the terms of Section 5.08 hereof.

“Paying Agent” means Wesbanco Bank, Inc., its successors and assigns.

“Principal and Interest Account” means the account established by Section 4.04 hereof.

“Project” shall have the same meaning stated in Section 1.03(C) hereof

“Project Engineer” means the engineer or engineering firm retained by the Commission for the Project.

“Purchaser” means Wesbanco Bank, Inc., its successors and assigns.

“Qualified Investments” shall mean and include any of the following:

- (a) Government Obligations;

(b) obligations of any of the following federal agencies which obligations represent full faith and credit of the United States of America, including:

Export - Import Bank  
Farmers Home Administration  
General Services Administration  
U. S. Maritime Administration  
Small Business Administration  
Government National Mortgage Association (GNMA)  
U. S. Department of Housing & Urban Development (PHA's)  
Federal Housing Administration;

(c) bonds notes or other evidences of indebtedness rated "AAA" by Standard & Poor's Corporation and "Aaa" by Moody's Investor Services, Inc., issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation with remaining maturities not exceeding three years;

(d) U. S. dollar denominated deposit accounts, federal funds and banker's acceptances with domestic commercial banks which have a rating on their short term certificates of deposit on the date of purchase of "A-1" or "A-1+" by Standard & Poor's Corporation and "P-1" by Moody's Investor Services, Inc. and maturing no more than 360 days after the date of purchase (ratings on holding companies are not considered as the rating of the bank);

(e) commercial paper which is rated at the time of purchase in the single highest classification, "A-1+" by Standard & Poor's Corporation and "P-1" by Moody's Investor Services, Inc. and which matures not more than 270 days after the date of purchase;

(f) investments in a money market fund rated "AAAM" or "AAAm-G" or better by Standard & Poor's Corporation; and

(g) pre-refunded municipal obligations defined as follows:

Any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and (A) which are rated, based on the escrow, in the highest rating category of Standard & Poor's Corporation and Moody's Investor Services, Inc. or any successors thereto; or (B)(i) which are fully secured as to principal and interest and redemption premium, if any, by a fund consisting only of cash or obligations described in paragraph (a) above, which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (ii) which fund is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on

the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to above, as appropriate.

“Registered Owner” means the Bondholder or Holder in whose name a Bond is registered on the records of the Registrar.

“Registrar” means the Bond Registrar.

“Series 2025 Bonds” means The City of Wheeling Oglebay Park Improvement Revenue Bonds, Series 2025, authorized to be issued by this Ordinance.

“State” means the State of West Virginia.

“Supplemental Resolution” means any resolution, ordinance or order of the Issuer supplementing or amending this Ordinance.

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.

## **SECTION 1.02. AUTHORITY FOR THIS ORDINANCE**

This Ordinance (together with any ordinance, order or resolution supplemental hereto or amendatory hereof, the “Bond Legislation”) is adopted pursuant to the provisions of Chapter 8, Article 16, of the West Virginia Code of 1931, as amended (the “Act”), and other applicable provisions of law.

## **SECTION 1.03. FINDINGS**

It is hereby found, determined and declared that:

(A) The City of Wheeling, West Virginia (hereinafter sometimes referred to as “Issuer” or “City”) is a municipal corporation and a political subdivision of the State of West Virginia in Ohio and Marshall Counties of said State.

(B) The City now owns and operates municipal parks which are managed by the Commission, heretofore established as a public corporation by legislature enactment and operated as an agency of the City by the Charter of the City. Oglebay Park, the largest of the City’s parks, consists of approximately 1,500 acres of land with the major facilities being Oglebay Lodge which offers dining and meeting rooms and overnight accommodations; numerous recreational facilities; and related facilities and amenities.

(C) The Commission proposes to undertake (a) full guest room renovations to the Lakeside Wing of Oglebay Lodge, (b) construction and equipping of the “Base Camp Villas” to be located near the Lion Habitat at the Oglebay Good Zoo, (c) construction and equipping of the Lion Habitat at the Oglebay Good Zoo, (d) renovating and equipping the arrival area at the Oglebay Good Zoo and (e) related and ancillary improvements (collectively, the “Project”).

(D) In order to provide funding for the proposed work for the Project, the Commission has requested that the Issuer issue its Oglebay Park Improvement Revenue Bonds, Series 2025, in the aggregate principal amount not to exceed \$12,000,000.00.

(E) The cost of the Project shall be deemed to include, without being limited to, payment of all construction costs, furnishings and equipment, engineering and architectural fees, and related expenses associated with the planned improvements for the facilities constituting the Project, legal and accounting expenses and other costs of issuance of the Series 2025 Bonds,

(F) The Net Revenues derived from the Facilities are sufficient to pay the Debt Service on the Series 2025 Bonds, the proceeds of which will be used to partially finance the design, construction, furnishing, equipping and renovation of the facilities constituting the Project.

(G) The Series 2025 Bonds will be secured by a shared first priority lien on the Net Revenues of the Facilities in parity with the Bondholders of the City of Wheeling Oglebay Park Improvement and Refunding Revenue Bonds, Series 2015 (the "Series 2015 Bonds").

(H) The enactment of this Ordinance and the execution and issuance of the Series 2025 Bonds will not result in any breach of, or constitute a default under, any instrument to which the Issuer is a party or by which it is bound or affected.

(I) The City has complied with all requirements of West Virginia law relating to authorization of the issuance of the Series 2025 Bonds or will have so complied prior to the issuance thereof.

#### **SECTION 1.04. BOND ORDINANCE CONSTITUTES CONTRACT**

In consideration of the acceptance of the Bonds by those who shall be the registered owners of the same from time to time, this Bond Ordinance shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the registered owners of any and all of such Bonds authorized to be issued hereunder, all of which shall respectively be of equal rank and without preference, priority or distinction between any of the Bonds by reason of priority of issuance or otherwise.

### **ARTICLE II**

#### **AUTHORIZATION FOR THE PROJECT**

##### **SECTION 2.01. AUTHORIZATION FOR THE PROJECT**

There is hereby authorized the funding of the improvements comprising the Project at a cost not to exceed \$12,000,000.00 in accordance with the resolution of the Commission. For the purpose of financing the cost of such Project, there shall be issued the fully registered City of Wheeling Oglebay Park Improvement Revenue Bonds, Series 2025, in the aggregate principal amount not exceeding \$12,000,000.00. The proceeds of the Series 2025 Bonds hereby authorized shall be applied as provided in Article IV hereof.

**SECTION 2.02. AUTHORIZATION OF AND SECURITY FOR THE SERIES 2025 BONDS**

The Series 2025 Bonds and the interest thereon shall be paid solely from the Net Revenues received from the income attributable to the Facilities and not from any other fund or source, except to the extent paid out of the proceeds of the Series 2025 Bonds or insurance or condemnation awards, or as otherwise provided herein. The City and the Commission hereby pledge the Net Revenues derived from the operation of the Facilities as collateral for the payment of the Series 2025 Bonds and the interest thereon equally and ratably with each other and in parity with the Series 2015 Bonds and any future Parity Bonds.

**ARTICLE III**

**AUTHORIZATION, TERMS, EXECUTION AND  
REGISTRATION OF SERIES 2025 BONDS**

**SECTION 3.01. AUTHORIZATION AND TERMS OF SERIES 2025 BONDS**

For the purpose of financing the Project, there shall be issued the Oglebay Park Improvement Revenue Bonds, Series 2025, of the City. The Series 2025 Bonds shall be in the aggregate principal amount not to exceed \$12,000,000.00 and shall be issued in negotiable form, without coupons and shall be dated as of the date of delivery thereof.

The Series 2025 Bonds shall be in the principal amount as shown on the face of each Bond issued hereunder and shall be numbered sequentially and shall have a final payment date of December 1, 2035, according to the maturity schedule attached to each Bond. [Maturity schedule will show interest only for the first three years (through December 1, 2028) with the balance amortized over the remaining 7 years to the maturity of the Series 2025 Bonds.] The Series 2025 Bonds shall bear interest during the time period from the date thereof through December 1, 2030, at a fixed rate equal to the 5-Year Treasury Bond Rate plus 1.95% as determined by Purchaser immediately prior to closing, payable semi-annually on the 1st day of June and December of each year, on the unpaid principal amount of the Series 2025 Bonds with the first interest payment date being [December 1, 2025], and shall bear interest during the time period from December 1, 2030 through December 1, 2035 (the final maturity date of the Bond) at a rate equal to the then 5-Year Treasury Bond Rate plus 1.95% as determined by Purchaser from December 1, 2030, until December 1, 2035, (the final maturity date). Interest on the Series 2025 Bonds shall be computed based on a 360-day year with twelve months of thirty (30) days each.

The Series 2025 Bonds shall be payable as to principal at the office of the Paying Agent in any coin or currency which on the respective date of payment of principal and interest is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Series 2025 Bonds shall be paid by check or draft of the Paying Agent to the Registered Owner thereof at the address that appears on the books of the Registrar.

The Series 2025 Bonds shall be issued in series, fully registered to the Purchaser thereof, and shall mature in accordance with the maturity schedule attached to each Bond. Subsequent series of Bonds, if any, shall be issued in fully registered form and in denominations as determined

by a Supplemental Resolution. The Bonds shall be dated as of the date specified in such Supplemental Resolution and shall bear interest from such date.

The Series 2025 Bonds may be redeemable in whole or in part, at the times, in the manner, and upon payment of the redemption prices, as may be requested by the Issuer. Any prepayments of the Series 2025 Bonds may be made at any time without penalty. Payment of all of the outstanding Series 2025 Bonds and the interest due thereon is the only method available for defeasance of the liens and pledges herein provided as to the Series 2025 Bonds.

### **SECTION 3.02. EXECUTION OF BONDS**

Bonds shall be executed in the name of the City by the manual or facsimile signature of the Mayor, and the seal of the City shall be affixed thereto or imprinted thereon and attested by the manual or facsimile signature of the Clerk. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer of the City before the 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 Bonds may be signed and sealed on behalf of the City by such person as at the actual time of the execution of such Bonds shall hold the proper office in the City, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

### **SECTION 3.03. DESIGNATION OF REGISTRAR; AUTHENTICATION AND REGISTRATION**

Wesbanco Bank, Inc. is hereby designated as the Registrar for the Issuer under the provisions of this Ordinance. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Ordinance unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth herein, shall have been manually executed by the 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 Ordinance. The Certificate of Authentication and Registration on any Bond shall be deemed to have been executed by the Registrar if manually signed by an authorized officer of the Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Series 2025 Bonds issued hereunder.

### **SECTION 3.04. NEGOTIABILITY, TRANSFER AND REGISTRATION**

Subject to the provisions for transfer or registration set forth below, the Series 2025 Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Registered Owner, in accepting any of said Series 2025 Bonds, shall be conclusively deemed to have agreed that such Series 2025 Bonds shall be, and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Registered Owner shall further be conclusively deemed to have agreed that said Series 2025 Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as any of the Series 2025 Bonds remain Outstanding, the Registrar shall keep and maintain books for the registration and transfer of the Series 2025 Bonds. The Series 2025 Bonds shall be transferable only upon the Bond Register by the Registered Owner thereof in person or by its attorney or legal representative duly authorized in writing, upon surrender thereto, together with a written instrument of transfer satisfactory to the Registrar duly executed by the Registered Owner or such duly authorized attorney or legal representative.

In all cases in which the privilege of exchanging Series 2025 Bonds or transferring the Series 2025 Bonds is exercised, Series 2025 Bonds shall be delivered in accordance with the provisions of this Ordinance. All Series 2025 Bonds surrendered in any such exchanges or transfer shall forthwith be cancelled by the Registrar. For every such exchange or transfer of Series 2025 Bonds, the 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 said Registrar incurred in connection therewith, which charges and expenses shall be paid by the Registered Owner requesting such transfer or exchange. The Registrar shall not be obligated to make any such change or transfer of Series 2025 Bonds during the period beginning with the Record Date or, in a case of any partial redemption of Series 2025 Bonds during the fifteen days next preceding the date of the selection of Series 2025 Bonds to be redeemed and ending on the interest payment date of the redemption date as the case may be.

### **SECTION 3.05. SERIES 2025 BONDS MUTILATED, DESTROYED, STOLEN OR LOST**

In case any Series 2025 Bonds shall become mutilated or be destroyed, stolen or lost, the Issuer may in its discretion issue and deliver a new Bond in exchange and substitution for such Series 2025 Bonds so mutilated, destroyed, stolen or lost, upon surrender and cancellation of such mutilated Bond or in lieu of and substitution for the Bond, if any, destroyed, stolen or lost, and upon the holder's furnishing the Issuer proof of ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and Bond Registrar may incur. All Series 2025 Bonds so surrendered shall be cancelled by the Registrar and held for the account of the Issuer. If 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 therefore.

Any such duplicate Series 2025 Bonds issued pursuant to this Section shall constitute original, additional contractual obligations on the part of the City, whether or not the lost, stolen or destroyed Series 2025 Bonds be at any time found, and such duplicate Series 2025 Bonds shall be entitled to equal and proportionate benefits and rights as to lien and source of security for payment from the revenues pledged herein with all other Series 2025 Bonds issued hereunder.

### **SECTION 3.06. SERIES 2025 BONDS NOT TO BE INDEBTEDNESS OF THE ISSUER**

The Series 2025 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 Net Revenues derived from the operation of the Facilities as herein provided. No

Holder or Holders of any of the Series 2025 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2025 Bonds or the interest thereon.

### **SECTION 3.07. BONDS SECURED BY SHARED FIRST LIEN PLEDGE OF NET REVENUES**

The payment of the Debt Service of all of the Series 2025 Bonds shall be secured forthwith equally and ratably with each other by a shared first lien on the Net Revenues derived from the operation of the Facilities in parity with the Debt Service for the Series 2015 Bonds and any additional Parity Bonds issued in the future. Such Net Revenues, in the amount sufficient to pay the principal of and interest on the Series 2025 Bonds and to make the payments into the funds and accounts hereinafter established, are hereby irrevocably pledged to the payment of the principal of and interest on the Series 2025 Bonds as the same become due.

### **SECTION 3.08. NOTICE OF REDEMPTION**

The Registrar shall cause notice of any redemption of Series 2025 Bonds to be mailed by first class mail to the Owners of all Series 2025 Bonds to be redeemed at the addresses thereof appearing in the Registration Books. Each such notice shall (i) be mailed not more than 60 days nor less than 30 days prior to the redemption date, (ii) identify the Series 2025 Bonds to be redeemed, (iii) specify the redemption date and the Redemption Price, and (iv) state that on the redemption date the Series 2025 Bonds called for redemption will be payable at the principal corporate trust office of the Paying Agent, that from that date the Series 2025 Bonds called for redemption will be deemed to be paid, and interest will cease to accrue, and that no representation is made as to the accuracy or correctness of the notice of redemption or mailing thereof (including any failure to mail such notice), shall affect the validity of the redemption proceedings for any other Series 2025 Bonds for which notice was properly given.

If at the time of mailing of any notice of redemption the Issuer or Commission shall not have deposited with the Paying Agent moneys sufficient to redeem all the Series 2025 Bonds called for redemption, such notice shall state that it is subject to the deposit of such moneys with the Paying Agent not later than the opening of business on the redemption date and shall be of no effect unless such moneys are so deposited. If such moneys are not deposited by such date and time, the Registrar promptly shall notify the Owners of all Series 2025 Bonds called for redemption of such fact.

### **SECTION 3.09. FORM OF BOND**

The text of the Bond, and the form of the Certificate of Authentication and Registration thereon, shall be of substantially the following tenor, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted by this Ordinance or any subsequent resolution or ordinance adopted or enacted prior to the issuance thereof:

[REST OF PAGE IS INTENTIONALLY BLANK]

**(FORM OF SERIES 2025 BOND)**

**UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
THE CITY OF WHEELING  
OGLEBAY PARK IMPROVEMENT REVENUE BOND  
SERIES 2025**

No. R-1

\$12,000,000.00

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF WHEELING, a municipal corporation organized and existing under the laws of the State of West Virginia (hereinafter referred to as the “City”), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the Registered Holder hereof the aggregate principal sum of Twelve Million Dollars (\$12,000,000.00), on such dates and in such amounts as are set forth in the maturity schedule attached hereto [Maturity schedule will show interest only for the first three years (through December 1, 2028) with the balance amortized over the remaining 7 years to the maturity of the Series 2025 Bonds], and to pay to the Registered Holder hereof interest on the principal sum due hereunder from the effective date of registration of this bond shown in the Bond Registrar Certificate hereon through December 1, 2030, at a fixed rate of [5-Year Treasury Bond Rate plus 1.95% as determined by Purchaser immediately prior to closing] percent per annum (\_\_\_\_%), payable semi-annually on the 1st day of June and December of each year, on the unpaid principal amount of the Series 2025 Bonds with the first interest payment date being [December 1, 2025], and shall bear interest during the time period from December 1, 2030 through December 1, 2035 (the final maturity date of the Bond) at a fixed rate equal to the [then 5-Year Treasury Bond Rate plus 1.95% as determined by Purchaser] from December 1, 2030, until December 1, 2035, (the final maturity date). The principal of and interest on these Series 2025 Bonds are payable only out of the revenues hereinafter referred to and shall be paid in lawful money of the United States of America. Such payments are payable at the office of Wesbanco Bank, Inc., Wheeling, West Virginia (the “Paying Agent”). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the Registered Holder thereof at the address as it appears on the books of Wesbanco Bank, Inc., Wheeling, West Virginia (the “Registrar”) on the 15 day of the month next preceding an interest payment date (the “Record Date”).

This Bond is the only one of an issue of Bonds aggregating the principal amount of \$12,000,000.00 (the “Series 2025 Bonds”) issued by the City pursuant to the hereinafter cited sections of the West Virginia Code. The Bond is numbered R-1 and matures according to the schedule attached to this Bond with the final payment due on December 1, 2035, all as more particularly set forth in the Ordinance hereinafter described.

This Bond may be redeemed prior to its stated date of maturity in whole or in part. Notice of any such redemption shall be given to the Registered Holder in accordance with the provisions of the Ordinance. Any prepayments of the Bond may be made at any time without penalty. Payment of all of the outstanding Series 2025 Bonds and the interest due thereon is the only method available for defeasance of the liens and pledges herein provided as to the Series 2025 Bonds.

The purpose of the Series 2025 Bonds is to provide funds to finance (a) full guest room renovations to the Lakeside Wing of Oglebay Lodge, (b) construction and equipping of the “Base Camp Villas” to be located near the Lion Habitat at the Oglebay Good Zoo, (c) construction and equipping of the Lion Habitat at the Oglebay Good Zoo, (d) renovating and equipping the arrival area at the Oglebay Good Zoo and (e) related and ancillary improvements. Such improvements are hereinafter collectively referred to as the “Project,” as further identified in the Ordinance authorizing this Bond.

This Bond is also issued to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including but not limited to Chapter 8, Article 16, of the West Virginia Code of 1931, as amended (the “Act”), and an Ordinance duly enacted and adopted by the City on [October 21, 2025], and is subject to all of the terms and conditions thereof.

This Bond is payable only from and is secured by a shared first lien on the Net Revenues (as defined in the Bond Ordinance) in parity with the Series 2015 Bonds to be derived from the operation of the Facilities, which is under the supervision and control of the City and Commission. Said revenues shall be sufficient to pay the principal of and interest on all Bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose.

This Bond does not constitute an indebtedness of the City within any constitutional or statutory provision or limitation, nor shall the City be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues. Pursuant to the Bond Ordinance, the City and Commission have covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the Facilities so as to always provide Net Revenues at least sufficient to provide for all reasonable expenses of repair, maintenance and operation of the Facilities as well as the payment, when due, the interest on and principal of the Bonds and all other obligations secured by or payable from such Net Revenues. Such required payments shall constitute a first charge upon all the Net Revenues of the Facilities. The City has entered into certain further covenants with the holders of the Bonds for the terms of which reference is made to the Bond Ordinance. Remedies provided the Holders of the Bonds are exclusively as provided in the Bond Ordinance, to which reference is here made for a detailed description thereof.

This Bond is transferable, only upon the books of the Registrar which shall be kept for that purpose at the office of the Registrar, by the Registered Owner or by its attorney or legal representative duly authorized in writing, upon surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar duly executed by the Registered Owner or its duly authorized attorney or legal representative duly authorized in writing.

Subject to registration requirements, 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 moneys received from the sale of this Bond shall be applied solely to the Costs of the Project described in the Bond Legislation and to pay costs of issuance in connection therewith, and there shall be, and hereby is, created and granted a lien upon such moneys, until so applied, in favor of the Holder 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 have existed, 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 said City, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia, and that a sufficient amount of the Net Revenues of the Facilities has been pledged to and will be set aside into said special fund by said City for the prompt payment of the principal of and interest on this Bond.

All provisions of the Bond Ordinance 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.

This Bond shall not be valid or obligatory for any purpose or entitled to any security or benefit under the Bond Ordinance unless and until the Certificate of Authentication and Registration attached hereto shall have been manually executed by the Bond Registrar.

IN WITNESS WHEREOF, the City has caused this Bond to be signed by its Mayor, attested by its City Clerk and its corporate seal to be imprinted hereon, all as of the \_\_ day of October 2025.

THE CITY OF WHEELING, WEST VIRGINIA

By: \_\_\_\_\_  
Mayor

[SEAL]

ATTEST:

By: \_\_\_\_\_  
City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Oglebay Park Improvement Bonds, Series 2025, described in the within-mentioned Bond Ordinance and the effective date of registration of this Bond is \_\_\_\_\_, 2025.

WESBANCO BANK, INC.  
Bond Registrar

By: \_\_\_\_\_  
Its Authorized Officer

REGISTRATION

EFFECTIVE DATE OF REGISTRATION	IN WHOSE NAME REGISTERED	ADDRESS	REGISTRY OFFICER
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

[Form of Assignment]

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto \_\_\_\_\_ the within Bond and does hereby irrevocably authorize the transfer of said Bond on the books kept for registration by the Bond Registrar.

Dated: \_\_\_\_\_

In the presence of: \_\_\_\_\_

**AMORTIZATION SCHEDULE**

[TO BE INSERTED HERE]

## **ARTICLE IV**

### **BOND PROCEEDS; FUNDS AND ACCOUNTS**

#### **SECTION 4.01. APPLICATION OF BOND PROCEEDS**

From the proceeds received from the sale of any or all of the Series 2025 Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

(A) From the proceeds of the Series 2025 Bonds there shall be paid all costs of issuance of the Series 2025 Bonds including but not limited to all legal and accounting fees.

(B) Next, from the proceeds of the Series 2025 Bonds there shall be deposited the remaining monies derived from the sale of the Series 2025 Bonds with the Paying Agent in the Construction Fund and applied solely to payment of the Costs of the Project in the manner set forth in Section 4.03 below.

#### **SECTION 4.02. DESIGNATION OF PAYING AGENT; CREATION OF BOND CONSTRUCTION FUND**

Wesbanco Bank, Inc. is hereby designated as the Paying Agent for the Issuer under the provisions of this Ordinance, and the proceeds of the Series 2025 Bonds shall be deposited with the Paying Agent. There is hereby authorized and directed to be established in the custody of the Paying Agent a separate fund or account designated as the Construction Fund which the Paying Agent shall hold in trust pursuant to the terms hereof.

#### **SECTION 4.03. DISBURSEMENTS FROM THE BOND CONSTRUCTION FUND**

The Bond proceeds deposited into the Construction Fund shall be used solely for the payment of the Costs of the Project. Payments for Costs of the Project shall be made not more often than monthly absent any unanticipated or extenuating circumstances.

Disbursements from the Construction Fund shall be made only after submission to the Paying Agent of a certificate, signed by an Authorized Officer of the Commission stating:

(A) That none of the items for which the payment is proposed to be made has formed the basis for any disbursement theretofore made;

(B) That each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a cost of the Project;

(C) That each of such costs has been otherwise properly incurred; and

(D) That payment for each of the items proposed is then due and owing.

Such certificate shall have included or attached (i) an architect's certification of work completed and estimate of balance of funds to complete AIA Form G702 and G703 or comparable

forms, and (ii) copies of all invoices covering materials, labor, etc. in connection with such requisition.

In case any contract provides for the retention of a portion of the contract price, the Paying Agent shall disburse from the Construction Fund only the net amount remaining after deduction of any such portion. All payments made from the Construction Fund shall be presumed by the Paying Agent to be made for the purposes set forth in said certificate, and the Paying Agent shall not be required to monitor the application of disbursements from the Construction Fund. The Architect or Project Engineer shall from time-to-time file with the Paying Agent written statements advising the Paying Agent of its then authorized representative.

Pending such application, moneys in the Construction Fund, including any accounts therein, shall be invested and reinvested in Qualified Investments at the written direction of the Issuer or Commission. The Paying Agent shall act as a trustee and fiduciary for the Bondholders with respect to the Construction Fund and shall comply with all requirements with respect to the disposition of the Construction Fund set forth in the Bond Ordinance. Moneys in the Construction Fund shall be used solely to pay the expenditures set forth in this Section 4.03, and until so expended are hereby pledged as additional security for the Series 2025 Bonds.

After completion of the Project, as certified by the Architect or Project Engineer, the Paying Agent shall transfer any moneys remaining in the Construction Fund to the Principal and Interest Account established pursuant to Section 4.04 hereof.

#### **SECTION 4.04. CREATION OF PRINCIPAL AND INTEREST ACCOUNT**

There is hereby authorized and directed to be established in the hands of the Paying Agent in a separate account to be known as the Principal and Interest Account. The Issuer covenants and agrees that from and after the delivery of any of the Series 2025 Bonds and, continuing so long as any of the Series 2025 Bonds shall remain outstanding, the Issuer will maintain the Principal and Interest Account with the Paying Agent. At least fifteen (15) days in advance of the next date that principal and interest payments are due to the Bondholders, the Paying Agent shall notify the Commission in writing of the amount of Net Revenues required to pay the principal of and interest on the Series 2025 Bonds together with any and all amounts due for expenses in the administration of any fund or account created hereby. All such Net Revenues intended to pay the principal of and interest on the Series 2025 Bonds shall be applied and allocated by the Paying Agent to the Principal and Interest Account. All amounts credited to and deposited in the Principal and Interest Account shall be used by the Paying Agent for the sole purpose of paying the principal of and interest on the Series 2025 Bonds as and when the same become due or are called for redemption and payment.

#### **SECTION 4.05. PLEDGE OF FUNDS; INVESTMENTS**

All of the funds provided for in this Article shall constitute trust funds and shall be used only for the purposes and in the order provided herein, and until so used the Bondholders shall have a statutory lien thereon for further securing payment of the Series 2025 Bonds and the interest thereon, and the Issuer hereby pledges the same for such purpose. The moneys in excess of the sum insured by the Federal Deposit Insurance Corporation in the Construction Fund and the

Principal and Interest Account shall at all times be secured, to the full extent thereof in excess of such insured sum, by Qualified Investments as shall be eligible for securing deposits of State and Municipal Funds under the laws of the State of West Virginia. The Issuer shall keep any moneys in the Construction Fund and the Principal and Interest Account invested and reinvested to the fullest extent practicable in Qualified Investments as directed by the Issuer or the Commission.

After payment in full of the Series 2025 Bonds and the applicable fees, charges, and expenses of the Paying Agent and Bond Registrar and other amounts required to be paid hereunder, all amounts remaining in any fund or account created hereby shall be paid to the Commission.

## **ARTICLE V**

### **ADDITIONAL COVENANTS OF THE ISSUER**

#### **SECTION 5.01. GENERAL COVENANTS OF THE ISSUER**

All the covenants, agreements and provisions of this Ordinance 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 2025 Bonds. In addition to the other covenants, agreements and provisions of this Ordinance, the Issuer hereby covenants and agrees with the Holders of the Series 2025 Bonds as hereinafter provided in this Article V. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of said Series 2025 Bonds, or the interest thereon, is outstanding and unpaid.

#### **SECTION 5.02. SERIES 2025 BONDS NOT TO BE INDEBTEDNESS OF THE ISSUER**

The Series 2025 Bonds shall not constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness but shall be payable solely from the Net Revenues of the Facilities as herein provided. No holder or holders of any Series 2025 Bonds issued hereunder shall ever have the right to compel the exercise of the taxing power of the Issuer to pay said Series 2025 Bonds or the interest thereon.

#### **SECTION 5.03. SERIES 2025 BONDS SECURED BY SHARED FIRST LIEN PLEDGE OF NET REVENUES**

The payment of the Debt Service on the Series 2025 Bonds shall be secured equally and ratably, and with each other, by a shared first lien on the Net Revenues in parity with the Series 2015 Bonds that are derived from the operation of the Facilities to the extent necessary to make the payments required under this Ordinance. The Net Revenues, in an amount sufficient to pay the principal of and interest on the Series 2025 Bonds, and to make the payments into the Principal and Interest Account, and make all other payments provided for in this Ordinance, are hereby irrevocably pledged in the manner provided in this Ordinance, to the payment of the principal of and interest on the Series 2025 Bonds as the same become due and for the other purposes provided in this Ordinance.

#### **SECTION 5.04. RATES AND CHARGES**

The Commission will, in the manner provided in the Acts, fix and collect from time to time such rates, fees or other charges for the Facilities, and will revise the same from time to time whenever necessary, as will always provide revenues in each fiscal year sufficient to produce Net Revenues equal to not less than one hundred twenty percent (120%) of the maximum annual amount required to pay the Debt Service of the Bonds and all other obligations secured by or payable from such Net Revenues as the same become due and accomplish retirement of all Bonds for the payment of which such Net Revenues have or shall have been pledged, charged or otherwise encumbered.

#### **SECTION 5.05. OPERATION AND MAINTENANCE**

The Issuer will maintain the Facilities in good condition and will operate the same as a revenue-producing enterprise in an efficient and economical manner, making such expenditures for equipment and for renewal, repair and replacement as may be proper for the economical operation and maintenance thereof.

#### **SECTION 5.06. SALE OF FACILITIES**

The Facilities may not be sold, mortgaged, leased, or otherwise disposed of only as a whole, or substantially as a whole, unless the net proceeds to be realized shall be sufficient fully to pay or redeem at or prior to maturity all of the Bonds Outstanding. The proceeds from such sale, mortgage, lease or other disposition of the Facilities shall immediately be remitted to the City for deposit in the respective accounts, and the City shall apply such proceeds to the payment of principal and interest at the maturity of the Bonds about to mature and to the redemption prior to maturity, at the earliest date permitted hereby and at the redemption price, of all other outstanding Bonds. Any balance remaining after the redemption or payment of all the Bonds and interest thereon shall be remitted to the Commission.

#### **SECTION 5.07. GENERAL COVENANT AGAINST ENCUMBRANCES**

So long as any of the Series 2025 Bonds are Outstanding, the Issuer shall not issue any other obligations whatsoever payable from the Net Revenues of the Facilities, excluding the previously issued Series 2015 Bonds, which rank prior to, or equally, as to lien on and source of and security for payment from such Net Revenues with the Series 2025 Bonds without the prior written consent of all of the Holders of the Series 2025 Bonds issued hereunder.

#### **SECTION 5.08. ISSUANCE OF PARITY BONDS**

No Parity Bonds payable out of the Net Revenues of the Facilities shall be issued except upon the prior written consent of all of the Holders of the Bonds hereunder.

#### **SECTION 5.09. INSURANCE**

The Commission will carry such insurance and in such amounts as is customarily carried with respect to works and properties similar to the Facilities with a reputable insurance carrier or carriers, against loss or damage by fire, explosion, hurricane, earthquake, cyclone, occupancy or

other hazards and risks including builder's risk insurance. The Commission will require that each of its contractors and all subcontractors maintain, during the life of the Project or any other construction contract, carry workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance. The proceeds of all such insurance policies shall be disposed of as provided in this Ordinance and otherwise shall be placed in the Construction Fund or Principal and Interest Account and used only for the repair and restoration of the damaged or destroyed properties or for the other purposes provided herein. The Commission will also carry liability insurance for damage or injury to persons or property in amounts adequate for such purposes and customarily carried with respect to works and properties similar to Oglebay Park. To the extent available at reasonable cost to the Commission, the Commission shall also carry business interruption insurance. All such insurance policies shall name Wesbanco Bank, Inc., as the Bondholder, as a lender loss payee.

#### **SECTION 5.10. PUBLIC PURPOSE BONDS**

The Facilities will be solely operated for a public purpose and as a local government activity of the City.

#### **SECTION 5.11. RIGHT TO AMEND**

The City retains the right to make any amendments, insertions or deletions by Supplemental Resolution of this Ordinance as the City deems desirable or necessary prior to the issuance of the Series 2025 Bonds.

#### **SECTION 5.12. PARTIES INTERESTED HEREIN**

Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City, the Paying Agent and the Registered Owners of the Series 2025 Bonds, any right, remedy or claim under or by reason of this Ordinance or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Paying Agent and the Registered Owners of the Series 2025 Bonds.

#### **SECTION 5.13 COVENANTS OF THE COMMISSION**

The Commission shall:

(A) During the term of the Series 2025 Bonds maintain its primary operating deposit account with Wesbanco Bank, Inc.;

(B) Pay all fees and costs incurred by the City and the Bondholder in connection with the issuance of the Series 2025 Bonds;

(C) Furnish to the Bondholder its audited fiscal year-end financial statements not later than 120 days after the related fiscal year-end; and

(D) Maintain a minimum Debt Service Coverage Ratio equal to 1.20 to 1.00 per annum. Minimum Debt Service Coverage Ratio shall be defined as the ratio, the numerator of which shall equal (i) net income for the year as reflected on the Commission's operating statement and determined in accordance with GAAP, plus (ii) interest expense, depreciation and amortization expenses, plus or minus distributions and other non-cash or extraordinary items, and the denominator of which shall equal (Y) total scheduled principal and interest payments on all indebtedness for the year.

## **ARTICLE VI**

### **DEFAULTS AND REMEDIES**

#### **SECTION 6.01. EVENTS OF DEFAULT**

Each of the following events shall constitute an "Event of Default" with respect to the Series 2025 Bonds:

(A) If default occurs in the due and punctual payment of the principal of or interest on any Bonds;

(B) If default occurs in the City's observance of any of the covenants, agreements or conditions on its part relating to the Bonds set forth in this Ordinance, any Supplemental Resolution or in the Bonds and such default shall have continued for a period of thirty (30) days after the City shall have been given written notice of such default by the Paying Agent holding any fund or account hereunder or a Registered Owner of a Bond; or

(C) If the City files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America.

#### **SECTION 6.02. 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 City to perform its duties under the Act and this Ordinance relating thereto, including but not limited to the making and collection of sufficient rates or charges for the use of the Facilities, (iii) bring suit upon the Bonds, (iv) by action at law or bill in equity require the City 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 Ordinance with respect to the Bonds, or the rights of such Registered Owners.

#### **SECTION 6.03. APPOINTMENT OF RECEIVER**

Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the City under this Ordinance and the Act, including the making and collection of sufficient rates and charges for the use of the Facilities and segregation of the revenues therefrom and the application thereof and performing any construction necessary for the Facilities. If there

be any default in the payment of interest on any Bonds when the same shall become due, or in the payment of the principal of any Bond or Bonds either at the specified date of maturity thereof or at a date set for redemption thereof, or otherwise in the performance of any covenant contained in this Ordinance other than as to such payment and such default shall continue for a period of thirty (30) days after written notice to the City of such default, any Registered Owner 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 Facilities on behalf of the City with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of the Bonds and any interest thereon, the deposits into the funds and accounts herein provided and the payment of operating expenses of the Facilities and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Ordinance 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 the Facilities and shall hold, operate and maintain, manage and control such Facilities, and each and every part thereof, and in the name of the City exercise all the rights and powers of the City with respect to said facilities as the City itself might do.

Whenever all that is due upon the Bonds issued and authorized pursuant to this Ordinance and interest thereon and under any covenants of this Ordinance for other funds or accounts and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the Net Revenues of the Facilities, shall have been paid and made good, and all defaults under the provisions of this Ordinance shall have been cured and made good, possession of the Facilities shall be surrendered to the City upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner of Bonds issued pursuant to this Ordinance shall have the same right to secure the other 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 Facilities in the name of the City and for the joint protection and benefit of the City and Registered Owners of Bonds issued pursuant to this Ordinance. 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 Facilities, but the authority of such receiver shall be limited to the possession, operation and maintenance of the Facilities, for the sole purpose of the protection of both the City and Registered Owners, and the curing and making good of any default under the provisions of this Ordinance, and the title to and ownership of said Facilities shall remain in the City, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, mortgage, or otherwise dispose of any assets of the Facilities.

## **ARTICLE VII**

### **INVESTMENT OF FUNDS**

#### **SECTION 7.01. INVESTMENTS**

Any moneys held as a part of the funds and accounts created by this Ordinance shall be invested and reinvested by the Paying Agent, as the case may be, at the direction of the City or Commission in any Qualified Investments to the fullest extent possible under applicable laws, this Ordinance, the need for such moneys for the purposes set forth herein and the specific restrictions and provisions set forth in this Section.

Except as otherwise provided, any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held and used for the purpose of such fund or account. The interest accruing thereof and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The determination of the value of the investments shall be made once a month. The Paying Agent 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 Paying Agent shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any account is insufficient to make the payments required from such fund or account, regardless of the loss of such liquidation. Such Paying Agent may make any and all investments permitted by this Section through its own trust department and shall not be responsible for any losses from such investments, other than for its own gross negligence or willful misconduct.

## **ARTICLE VIII**

### **DEFEASANCE**

#### **SECTION 8.01 DEFEASANCE**

When the principal of and interest on the Bonds shall have been paid and discharged, the requirements contained herein and the pledge of revenues made hereunder and all other rights granted hereby shall cease and terminate. Said principal and interest shall be deemed to have been paid and discharged within the meaning of this Ordinance when there shall have been deposited with the Paying Agent at or prior to the maturity or redemption date of the Bonds, in trust irrevocably appropriated thereto, sufficient moneys, including investments authorized by this Section, for the payment of the principal thereof and interest to the date of maturity or redemption, as the case may be, or if default in such payment shall have occurred on such date, then to the date of the tender of such payments, and provisions shall also have been made for all other sums payable under the provisions hereof; provided, also, that if the City shall have elected to redeem any Bonds prior to their maturity and the Commission shall have given, in the manner provided hereby, any instructions necessary therefore under Section 3.08 hereof, notice of such redemption shall have been given in the manner provided hereby.

Any moneys or investments which at any time shall be deposited with the Paying Agent by or on behalf of the City, for the purpose of paying and discharging any of the Bonds shall be, and are hereby assigned, transferred, and set over to the Paying Agent in trust for the respective Holders of the Bonds, and such moneys and investments shall be and are hereby irrevocably appropriated to the payment and discharge thereof.

For purposes of this Section, "Investments" shall mean bills, certificates of indebtedness, notes, bonds, or similar securities which are direct obligations of, or the principal and interest of which are unconditionally guaranteed by, the United States of America. Investments shall become due prior to the respective times on which the proceeds thereof shall be needed, in accordance with a schedule established and agreed upon between the City, the Commission, and the Paying Agent at the time of the creation of an escrow or trust, or the Investments shall be subject to redemption at the option of the Holders thereof to insure such availability as so needed to meet such schedule.

Any moneys on deposit with the Paying Agent and remaining unclaimed by the Holders of the Bonds for six (6) years after the date upon which the principal or interest on the Bonds shall have become due and payable shall be repaid to the City by the Paying Agent on demand; and the Holder of any of the Bonds entitled to receive such payment shall thereafter look only to the City as the holder of a general claim for the payment thereof; provided, however, that the Paying Agent before being required to make any such repayment, may, at the expense of the Commission, cause to be published once a week for two consecutive weeks (in each case on any day of the week) in a newspaper or financial journal printed in the English language and customarily published at least once a day, at least five days each calendar week and of general circulation in the City of Wheeling, West Virginia, a notice that said moneys have not been so applied and that after a date specified therein any unclaimed balance of said moneys then remaining will be returned to the City. All moneys deposited with the Paying Agent shall be deemed to be deposited in accordance with and subject to all the provisions contained herein.

## **ARTICLE IX**

### **MISCELLANEOUS**

#### **SECTION 9.01. MODIFICATION OR AMENDMENT**

After issuance of the Series 2025 Bonds, no material modification or amendment of this Ordinance or of any ordinance or resolution amendatory hereof or supplemental hereto which would materially and adversely affect the rights of Bondholders shall be made without the consent in writing of holders of two-thirds (2/3) or more in principal amount of the Bonds then outstanding; provided, however, 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 City to pay such principal and interest out of the Net Revenues of the Facilities without the consent of the Holder thereof. No amendment or modification shall be made which would reduce the percentage of the principal amount of Bonds required for consent to the above permitted amendments or modifications.

## **SECTION 9.02. SEVERABILITY OF INVALID PROVISIONS**

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

## **SECTION 9.03. COVENANT OF DUE PROCEDURE**

The City 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 final enactment and passage of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, the City Clerk and members of City Council 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 9.04. CERTIFICATE OF DETERMINATIONS**

The Mayor shall have the power and authority to execute and deliver the Certificate of Determinations in the form of Exhibit A attached hereto, which may include, without limitation, (i) fixing the aggregate principal amount of Series 2025 Bonds to be issued, not to exceed \$12,000,000 in the aggregate; (ii) fixing the maturity schedule for the Series 2025 Bonds to be issued, (iii) fixing interest rates for the Series 2025 Bonds, which interest rates shall not exceed twelve percent (12%) per annum; (iv) fixing the amounts and time of sinking fund installments on the Series 2025 Bonds, including times and redemption prices; (v) fixing the purchase price of the Series 2025 Bonds; (vi) fixing optional redemption provisions for the Series 2025 Bonds; (vii) fixing the origination fee for the purchase of the Series 2025 Bonds; and (viii) fixing any additional conditions and financial covenants applicable to the Series 2025 Bonds.

## **SECTION 9.05. EXECUTION OF DOCUMENTS; FURTHER ACTIONS**

The Authorized Officers of the Issuer are each hereby authorized and directed to executed and deliver the Series 2025 Bonds 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.

## **SECTION 9.06. EFFECTIVE DATE**

This Ordinance shall take effect after passage, public hearing and otherwise in the manner prescribed by law.

## **SECTION 9.07. STATUTORY NOTICE AND PUBLIC HEARING**

An abstract of this Ordinance with notice in substantially the form of Exhibit B attached hereto and incorporated in this Ordinance by reference 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 *The Wheeling News Register and Intelligencer*, which is a qualified newspaper of general circulation in the City of Wheeling, together with a notice stating that this Ordinance has been adopted and that the City contemplates the issuance of the Series 2025

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 the abstract and notice, and present protests, and that a certified copy of the 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. The public hearing shall be held on October 21, 2025, at 12:00 p.m., prevailing local time, in the City Council Chambers, 1500 Chapline Street, Wheeling, West Virginia.

Passed on First Reading	September 16, 2025
Second Reading	October 7, 2025
Effective following Third Reading and Public Hearing held on	October 21, 2025

**CITY OF WHEELING, WEST VIRGINIA**

By: \_\_\_\_\_  
Mayor

[SEAL]

ATTEST:

\_\_\_\_\_  
City Clerk

**CERTIFICATION**

The undersigned does hereby certify that the attached Ordinance is a true and accurate copy of an Ordinance duly enacted by the Council of THE CITY OF WHEELING, WEST VIRGINIA on and effective as of October 21, 2025, and that the foregoing document remains in full force and effect and has not been amended.

Dated: October \_\_, 2025.

[SEAL]

\_\_\_\_\_  
City Clerk

**EXHIBIT A**  
**CERTIFICATE OF DETERMINATIONS**

**CERTIFICATE OF DETERMINATIONS**

The undersigned, Denny Magruder, Mayor of The City of Wheeling, West Virginia (the “City”), in accordance with a Bond Authorizing Ordinance enacted by the Council of the City on October 21, 2025 (the “Ordinance”), with respect to not more than \$12,000,000 in aggregate principal amount of The City of Wheeling Oglebay Park Improvement Revenue Bonds, Series 2025 (the “Bonds”) hereby finds and determines this \_\_\_ day of October 2025 as follows:

1. The Bonds shall be dated as of October \_\_, 2025 and shall be issued in an aggregate principal amount of \$\_\_\_\_\_ (which is not in excess of the \$12,000,000 maximum principal amount set forth in the Ordinance).

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

3. The Bonds shall bear interest, payable semi-annually on December 1 and June 1 of each year commencing, December 1, 2025, at the rates set forth on Schedule 1 attached hereto and incorporated herein.

4. The Bonds shall be sold to Wesbanco Bank, Inc. at 100% of their aggregate principal amount of \$\_\_\_\_\_ (which is not in excess of the \$12,000,000 maximum principal amount set forth in the Ordinance). In addition, Wesbanco Bank, Inc. shall be paid an origination fee equal to 0.38% of the principal amount of the Bonds.

5. The proceeds of the Bonds shall be applied as set forth in the Ordinance.

The undersigned hereby certifies that the foregoing terms and conditions of the Bonds are within the limitations prescribed by the Ordinance and the Bonds may be issued with such terms and conditions as authorized by the Ordinance.

Dated as of the day and year first written above.

**THE CITY OF WHEELING, WEST VIRGINIA**

\_\_\_\_\_  
**BY: DENNY MAGRUDER,**

**SCHEDULE 1**

**\$12,000,000**

**THE CITY OF WHEELING, WEST VIRGINIA  
OGLEBAY PARK IMPROVEMENT REVENUE BONDS, SERIES 2025**

**MATURITY SCHEDULE**

Principal on the Bonds shall be payable in accordance with the payment schedule listed below. No principal payments will be due on the Bonds until December 1, 2028.

<b><u>Payment Date</u></b>	<b><u>Principal Amount</u></b>
December 1, 2028	
June 1, 2029	
December 1, 2029	
June 1, 2030	
December 1, 2030*	
June 1, 2031	
December 1, 2031	
June 1, 2032	
December 1, 2032	
June 1, 2033	
December 1, 2033	
June 1, 2034	
December 1, 2034	
June 1, 2035	
December 1, 2035	

\*The interest rate for the initial five-year period from the closing through December 1, 2030, will be \_\_\_\_%. The interest rate for the Bonds will be adjusted for the final five-year period ending December 1, 2035, to a rate equal to the then 5-year treasury plus 1.95% and the principal amounts for the amortization for the final ten semi-annual payments (June 1, 2031 through December 1, 2035, (the maturity date)) will be adjusted accordingly.

Interest on the Series 2025 Bonds shall be computed based on a 360-day year with twelve months of thirty (30) days each.

**Optional Redemption**

The Bonds are subject to redemption prior to maturity, at the option of the City (as directed by the City of Wheeling Park Commission), in whole or in part on any date at a redemption price equal to the principal amount thereof, plus accrued interest to the date of redemption.

**EXHIBIT B**  
**NOTICE OF PUBLIC HEARING**

NOTICE OF PUBLIC HEARING

Notice is hereby given that on October 21, 2025, at 5:30 p.m., prevailing time, a public hearing will be held in the City Council Chambers located at 1500 Chapline Street, Wheeling West Virginia, at which time and place all parties and interests may appear before the Council of the City of Wheeling, West Virginia (the “Council”) and may be heard as to whether the following described Ordinance shall be put into effect.

AN ORDINANCE AUTHORIZING THE ISSUANCE OF NOT MORE THAN \$12,000,000.00 AGGREGATE PRINCIPAL AMOUNT OF OGLEBAY PARK IMPROVEMENT REVENUE BONDS, SERIES 2025, FOR THE FINANCING OF A PORTION OF THE COSTS OF CERTAIN IMPROVEMENTS TO FACILITIES LOCATED AT OGLEBAY PARK; PROVIDING FOR THE COSTS OF ISSUANCE OF THE ABOVE BONDS; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS; AND ENACTING OTHER PROVISIONS RELATING THERETO.

The above-entitled Ordinance was introduced by the Council on September 16, 2025, and the second reading of such Ordinance occurred on October 7, 2025.

The above quoted title of the Ordinance describes generally the contents thereof and the purposes of the bond issue contemplated thereby (the “Bonds”). The proceeds of the Bonds will be used to provide a portion of the financing for (a) full guest room renovations to the Lakeside Wing of Oglebay Lodge, (b) construction and equipping of the “Base Camp Villas” to be located near the Lion Habitat at the Oglebay Good Zoo, (c) construction and equipping of the Lion Habitat at the Oglebay Good Zoo, (d) renovating and equipping the arrival area at the Oglebay Good Zoo and (e) related and ancillary improvements (collectively, the “Project”). The Bonds are payable solely from net revenues to be derived from the ownership and operation of Oglebay Park, including Oglebay Lodge which is located within Oglebay Park, the National Training Center for Public Facilities Managers, and ancillary and related recreational facilities within Oglebay Park, including golf courses, pools, concessions and other fee generating services. No taxes may be levied at any time for the payment of the Bonds and the interest thereon. A certified copy of the above-entitled Ordinance is on file in the office of the Clerk of the City of Wheeling for review by interested parties during regular office hours.

Following said public hearing, the City Council intends to consider the enactment of said Ordinance upon final reading.

Dated: October 7, 2025

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CLERK

Publish: October 8 and 15, 2025

The Wheeling News Register and Intelligencer