



**TOWN OF ABINGDON, VIRGINIA  
TOWN COUNCIL MID-MONTH MEETING  
THURSDAY, FEBRUARY 23, 2023 – 2:30 pm  
TOWN HALL – COUNCIL CHAMBERS**

**DRAFT AGENDA**

*Please note there will be an opportunity during the meeting for citizens to address the Town Council when the Mayor declares public comments open. We request that anyone addressing the Council sign up, approach the podium when called, state your first and last name, and provide your complete mailing address.*

- A. WELCOME** – *Mayor Pillion*
- B. ROLL CALL** – *Kim Kingsley, Clerk*
- C. PLEDGE OF ALLEGIANCE** – *Councilmember Wayne Austin*
- D. APPROVAL OF AGENDA** – *Mayor Pillion*
- E. PUBLIC COMMENTS** – Please place your name on the sign-up sheet provided; comments are limited to three (3) minutes per person.
  - Town of Abingdon residents
  - Other public comments (e.g. property owners, organizations)
- F. PROCLAMATIONS**
  - 1. Multiple Sclerosis Education and Awareness Month
- I. PUBLIC HEARING** - Please place your name on the sign-up sheet provided; comments are limited to five (5) minutes per person.
- J. RESOLUTIONS**
  - 1. Resolution regarding requests for funding by a non-departmental entity – *Mike Cochran, Town Manager*
- K. FIRST READING OF ORDINANCES**
- L. SECOND READING OF ORDINANCES**
- M. CONSIDERATION OF BIDS**
  - 1. On-call engineering professional services – *Mayana Rice, Asst. Town Manager and Director of Community Development*
- N. NEW BUSINESS**
  - 1. Presentation from Virginia Highlands Festival – *Ryan Henderson, VHF*
- O. OLD BUSINESS**
- P. MISCELLANEOUS BUSINESS AND COMMUNICATIONS FROM TOWN MANAGER**
  - 1. Recognition of Jorge Daughtry-Hernandez, Public Works employee for completion of VHCC Class A driver training and obtaining Commercial Driver's License – *Mike Cochran, Town Manager*
  - 2. Presentation of The Meadows Inclusive Playground Enhancement – *Kyle Pollard, Director of Recreation*

3. Consideration of appropriation up to \$60,000 from Council Contingency for poured in place safety surfacing for an inclusive playground at The Meadows – *Mike Cochran, Town Manager*
4. Appropriation of Ballard Health sponsorship of \$100,000 for an inclusive playground at The Meadows – *Steve Trotman, Director of Finance*
5. Consideration of Virginia Resources Authority, Administrator of the Virginia Water Facilities Revolving Fund Financing Agreement – *Mike Cochran, Town Manager*
6. Consideration of appropriation of ARPA funds to Council Contingency in the amount of \$328,771 as expenditure for trash truck – *Steve Trotman*

#### **Q. COUNCIL MEMBER REPORTS**

#### **R. APPOINTMENTS TO BOARDS AND COMMITTEES**

1. Historic Preservation Review Board
  - Reappointment of Kristi Hartshorn, who is eligible to serve an additional term
  - Appointment to fill expired term of Byrum L. Geisler, who is ineligible to serve an additional term
2. Sustain Abingdon
  - Appointment to fill expired term of Ricky Bray
  - Appointment to fill expired term of Sydney deBriel
  - Appointment to fill expired term of Ashby Dickerson
3. Tourism Advisory Committee
  - Appointment to fill vacancy for Bed & Breakfast entity

*If Council so desires, Closed Session pursuant to the Code of Virginia, 1950, as amended, Section 2.2-3711(A)(1) for the purpose of considering applications for appointment/reappointment the position(s) on Historic Preservation Review Board, Sustain Abingdon and Tourism Advisory Committee.*

#### **S. CLOSED SESSION**

#### **T. ADJOURNMENT**



**PROCLAMATION**  
**Multiple Sclerosis Education and Awareness Month**  
**March 2023**

**WHEREAS**, multiple sclerosis (MS) is an unpredictable, often disabling disease of the central nervous system that damages the myelin sheath that surrounds and protects nerve cells; and

**WHEREAS**, this damage slows down or blocks messages between the brain and body, leading to symptoms of MS, including visual disturbances, muscle weakness, trouble with coordination and balance, thinking and memory problems, and sensations such as numbness, prickling; and

**WHEREAS**, experts estimate that there are nearly one million people in the United States diagnosed with MS, and twice as many women than men are affected by MS; and

**WHEREAS**, MS can be mild, or can cause individuals to lose their ability to write, speak, or walk; and

**WHEREAS**, most individuals experience their first symptoms of MS between the ages of 20 and 50; and

**WHEREAS**, the exact cause of MS is unknown, and there is no cure, but there are treatments for initial attacks, medications, and therapies to improve symptoms, and recently developed drugs to slow the worsening of the disease; and

**WHEREAS**, the MS Alliance of Virginia (MSAV) provides programs and services for anyone in Virginia whose life has been affected by MS; and

**WHEREAS**, through education, assistance to support groups, special programs and events, and the dissemination of information, the MSAV provides a better informed general population and the means to improve the quality of life for those in Virginia with MS; and

**WHEREAS**, the MSAV is a 100% volunteer organization formed to fill the needs of support groups and provide educational programs, activities, and events, and help others start upbeat groups in their communities; and

**WHEREAS**, raising public awareness of MS will lead to increased support and services for families in the Commonwealth of Virginia impacted by this disease;

**NOW, THEREFORE**, I, Amanda Pillion, recognize March 2023 as Multiple Sclerosis Education and Awareness Month in the Town of Abingdon, and I call this observance to the attention of all our citizens.

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Amanda Pillion, Mayor



**RESOLUTION OF THE COUNCIL FOR THE TOWN OF ABINGDON  
REGARDING REQUESTS FOR FUNDING BY NON-DEPARTMENTAL ENTITY**

**WHEREAS**, the Council of the Town of Abingdon have expressed to the Town Manager a desire to limit non-departmental request; and

**WHEREAS**, the Council concludes that all non-departmental requests abide by the same rules of protocol; and

**WHEREAS**, the Council now desires to adopt a formal policy relative to a non-departmental requests for the Town Manager to implement all requests shall be handled and administered; and

**NOW, THEREFORE, BE IT RESOLVED** that the Council adopts the following formal policy for funding a non-departmental entities to strengthen the Town's coordination and collaboration and ensure opportunities for local funds to be leveraged effectively for tourism. The Council prioritizes investment in events that significantly benefit its citizens and tourism.

- Requested funding must be solely utilized for advertising and promotion; and
- Funding requests for planned annual events must be received by March 1<sup>st</sup> annually by Town funding application; and
- The Tourism and Economic Development department will review requests for additional funding for unplanned events and evaluate to consider funding during the fiscal year; and

**NOW, THEREFORE, BE IT FURTHER RESOLVED** upon the passing, the standing Resolution dated December 6, 2010 will be null and void, and this Resolution shall take full force and effect upon its passage and approval.

**BY:** \_\_\_\_\_  
**Mayor Amanda Pillion**

***The undersigned Clerk of the Town of Abingdon, Virginia (the "Town") hereby certifies that the foregoing constitutes a true and correct copy of a resolution duly adopted at a meeting of the Council held on February 23, 2023. I hereby further certify that such meeting was a regularly scheduled meeting and that, during the consideration of the foregoing resolution a quorum was present. I further certify that the minutes of such meeting reflect the attendance of the members and the voting on the foregoing resolution was as follows:***

Member	Attendance	Vote
Amanda Pillion, Mayor		
Dwyane Anderson, Vice Mayor		
Derek Webb		
Donna Quetsch		
Wayne Austin		

***WITNESS my hand and seal of the Town of Abingdon as of February 23, 2023.***

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***Kimberly Kingsley, Clerk***

# ABINGDON TOWN COUNCIL

## Agenda Item Summary

**MEETING DATE:** 2/23/23

**AGENDA ITEM:**

**ITEM TITLE:** Contract for Engineering Services

**SUMMARY:** In 2022 our Town Engineer Tyler Vencill took another job. We no longer have a Town Engineer. Upon posting the position we recieved no interest from qualified candidates.

We decided to put this work out for bid. The maximum contract will be for \$50,000. This replaces the need for a Town Engineer. The company chosen will conduct the work previously conducted by the Town Engineer.

**PRIOR ACTION(S):** Bids were requested, companies ranked, interviews conducted.

**FISCAL IMPACT:** The contract of \$50,000 is less than the cost of an engineer as a full time employee.

**STAFF CONTACT(S):** Mayana Rice and Heagon Gill

**RECOMMENDATION:** We recommend that the Town Council approve the contract with the Lane Group for Engineering Services.

*Mayana Rice*



**AGREEMENT between  
THE LANE GROUP INC and  
TOWN OF ABINGDON, VIRGINIA  
FOR COMPREHENSIVE CIVIL ENGINEERING SERVICES**

This Agreement entered into on the \_\_\_\_ day of February, 2023, by and between **The Lane Group Inc.**, having offices at **310 West Valley Street, Abingdon VA 24210; (Federal EIN # \_\_\_\_\_)**, and hereafter called “**Firm**”, and **Town of Abingdon, Virginia**, a political subdivision of the Commonwealth of Virginia, having its administrative office at **133 West Main Street, Abingdon, Virginia, 24210**, and hereafter called “**Town**”.

**WITNESSETH:**

**WHEREAS**, Town secured the services of the Firm through sealed Requests for Proposals and confirmed by selection committee designated by the Town and authorized for Award by the Council of the Town of Abingdon.

**WHEREAS**, Firm desires to provide the Town with such goods/services as authorized by the Town, and represents that it is organized and authorized to conduct business within the Commonwealth of Virginia;

**NOW, THEREFORE**, for and in consideration of the promises, the mutual benefits to the parties from entering into this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows.

**SECTION 1. STATEMENT/SCOPE OF WORK.**

- A. Firm will provide services to Town as set forth in the attached Scope of Services (“Scope of Services”/“Services”) attached hereto as Exhibit A and a part hereof.
- B. Firm will use its staff and may use subcontracts to provide Services to Town.
- C. Firm, its subcontractors, and their respective employees, are and shall remain independent contractors in performing the Services under this Agreement.
- D. Services shall be performed and completed by Firm within the time frames set forth in the Scope of Services, time being of the essence of this provision.

**SECTION 2. TERM**

- A. **Term.** This Agreement shall commence on \_\_\_\_, 2023, and shall continue until \_\_\_\_, 202\_\_, when work shall be completed, but may be extended for a period of time upon mutual agreement by both parties, but shall remain subject to termination pursuant to the terms of this Agreement or for non-appropriation of funding by Town.



### SECTION 3. RESPONSIBILITIES OF FIRM.

- A. Firm will not substitute staff or Subcontractors assigned to this Agreement without the prior written consent of Town.
- B. Firm will provide all services under this Agreement in a manner consistent with applicable laws, professional standards and its best efforts.
- C. Firm, its staff and Subcontractors shall comply with Town's standards for acceptable workplace conduct and safety, and shall all times conduct themselves in a professional manner.

### SECTION 4. RESPONSIBILITIES OF THE TOWN.

- A. Upon satisfactory completion of the work specified in the Scope of Work, the Town shall pay to Firm the hourly rate agreed upon, not to exceed **Fifty Thousand Dollars and Zero Cents (\$50,000.00)** per contract term.

### SECTION 5. ADMINISTRATION OF THE AGREEMENT.

- A. All notices and communications with respect to the terms of this Agreement and the performance of the Services shall be through the Party Representatives. The Party Representatives are:

**Town's representative shall be:**

Heagon Gill  
Senior Engineering Technician  
(276) 628 - 3167  
hgill@abingdon-va.gov

**Firm representative shall be:**

Matthew Lane  
President / Project Manager – The Lane Group Inc.  
(276) 206-8571  
mlane@thelanegroupinc.com

- B. **Incorporated Provisions.** This Agreement shall be performed in accordance with any applicable, required contractual provisions set forth in the Town's purchasing or procurement regulations, and the Virginia Public Procurement Act, §§ 2.2-4300, *et seq.*, Virginia Code, in effect at the time of this Agreement, pertaining to non-discrimination § 2.2-4310 and - 4311, compliance with immigration laws § 2.2-4311.1, drug-free workplace § 2.2-4312, which provisions are incorporated herein by reference.
- C. **Contractual.** Disputes with respect to this Agreement shall be governed by Virginia





Code § 2.2-4363 or similar provision in Town's purchasing or procurement ordinances or procedures.

- D. **Ownership and Status of Documents.** Firm shall maintain financial records, supporting documents, statistical records, and other records pertinent to this Agreement for three (3) years from the date of final payment, and make those records available to the Town upon written request.

## **SECTION 6. GENERAL TERMS AND CONDITIONS**

- A. The General Terms and Conditions of Exhibit B are incorporated as if fully set forth.

## **SECTION 7. SEVERABILITY.**

If, for any reason, any part, term, or provision of this Agreement is held by a court of competent jurisdiction to be illegal, invalid, void or unenforceable, the remaining parts, terms, and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be illegal, invalid, void, or unenforceable.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed the day and year first hereinabove written.

**THE TOWN OF ABINGDON, VIRGINIA**  
A Virginia municipal corporation

By: \_\_\_\_\_  
Mike Cochran, Town Manager

## **APPROVED AS TO FORM:**

\_\_\_\_\_  
Cameron Bell, Town Attorney

The Lane Group Inc.

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



## **EXHIBIT A SCOPE OF SERVICES**

Firm shall provide the following services:

- Sanitary sewer design
- Storm sewer design
- Sanitary sewer modeling
- Storm sewer modeling
- Erosion and sediment control plan design
- Storm-water management plan design
- SWPPP development
- Preliminary engineering report development
- Capital improvements plan development
- Phase planning
- Survey and easement acquisition
- Assistance with MS4 program plan development
- Any other engineering related service needed by the Town



## EXHIBIT B

### GENERAL TERMS AND CONDITIONS:

- A. **Advertising:** No indication of services to the Town will be used in product literature or advertising. The Firm shall not state in any of its advertising or product literature that the Town uses any of its services, and the Firm shall not include the Town in any Town list in advertising and promotional materials, unless the Firm has been given written permission by a Town of Abingdon representative who is authorized to sign on behalf of the Town.
- B. **Anti-Trust:** The Firm conveys, sells, assigns, and transfers to the Town all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Town under this Agreement.
- C. **Applicable Laws and Courts:** This Agreement, shall in all aspects be governed by the laws of the Commonwealth of Virginia, notwithstanding conflicts of laws, provisions and any litigation with respect thereto shall be brought in the courts of the Commonwealth in Washington County, Virginia or in the United States District Court at Abingdon. The Town and the Firm are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute using the dispute resolution process. The Firm shall comply with all applicable federal, state and local laws, rules and regulations.
- D. **Assignment of Contract:** This Agreement shall not be assignable by the Firm in whole or in part without the written consent of the Town.
- E. **Authority to Transact Business:** Pursuant to Virginia Code § 2.2-4311.2 and in accordance with Title 13.1, Title 50, or as otherwise required by law, the Firm organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized by the State Corporation Commission to transact business in the Commonwealth as a domestic or foreign business entity and shall maintain registration as current through the life of the Agreement.
- F. **Availability of Funds:** It is understood and agreed between the parties herein that the Town shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this Agreement.
- G. **Cancellation of Contract:** The Town may terminate any agreement at any time, for any reason or for no reason, upon thirty days' advance written notice to the Firm. In the event of such termination, the Firm shall be compensated for services and work performed prior to termination.
- H. **Certification regarding Non-segregated Facilities:** For contracts subject to federal funding 2 C.F.R. Part 200 requirements, by the execution of this Agreement, the Firm certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. It certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location under its control, where segregated facilities are maintained. The Firm further certifies that no employee will be denied access to adequate facilities on the basis of sex or disability. As used in this certification, the term "segregated facilities" means any waiting rooms, work



areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, national origin, age or handicap, because of habit, local custom or otherwise. It agrees that, except where it has obtained identical certification from proposed subcontractors for specific time periods, it will obtain identical certification from proposed subcontractors prior to the award of subcontracts or the consummation of material supply agreements exceeding ten thousand dollars, and that it will retain such certifications in its files.

- I. Changes to the Contract:** Changes can be made to the Agreement in any of the following ways:
- a. The parties may agree in writing to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract. No fixed price contract may be increased by more than twenty-five percent (25%) of the amount of the contract or \$50,000, whichever is greater, without the advance approval of the Town Manager or designee, and under no circumstances may the amount of this contract be increased, without adequate consideration, for any purpose (including, but not limited to, relief of the Firm from the consequences of an error in its bid or offer).
  - b. The Town may order changes within the general scope of the contract at any time by written notice to the Firm. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The Firm shall comply with the notice upon receipt. The Firm shall be compensated for any additional costs incurred as the result of such order and shall give the Town a credit for any savings. Said compensation shall be determined by one of the following methods:
    - i. By mutual agreement between the parties in writing; or
    - ii. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the Firm accounts for the number of units of work performed, subject to the Town's right to audit the Firm's records and/or to determine the correct number of units independently; or
    - iii. By ordering the Firm to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The Firm shall present the Town with all vouchers and records of expenses incurred and savings realized. The Town shall have the right to audit the records of the Firm as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Town within thirty (30) days from the date of receipt of the written order from the Town. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this Agreement. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this Agreement shall excuse the Firm from promptly complying with the changes ordered by the Town or with the performance of the Agreement generally.
- J. Clarification of Terms:** The Town will assume no responsibility for oral instructions, suggestion or interpretation.



- K. Compliance with All Laws:** Firm shall comply with all federal, state, and local statutes, ordinances, and regulations now in effect or hereafter adopted, in the performance of scope of work set forth herein. Firm represents that it possesses all necessary licenses and permits required to conduct its business and will acquire any additional licenses and permits necessary for performance of this Agreement prior to the initiation of work. The Firm shall keep fully informed of all federal, state, and local laws, ordinances, and regulations, and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any manner affect those engaged or employed on this Agreement, or which in any way affect the conduct of the services provided by the Firm. It shall at all times observe and comply with, and shall cause its agents, subcontractors and employees to observe and comply with, all such laws, ordinances, regulations, orders, and decrees; and shall protect and indemnify the Town and its employees and appointees against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree, whether by itself or its agents, subcontractors or employees. If any discrepancy or inconsistency is discovered between this Agreement and any such law, ordinance, regulation, order, or decree, the Firm shall immediately report the same to the Town in writing.
- L. Compliance with Lobbying Restrictions:** For contracts subject to federal funding 2 C.F.R. Part 200 requirements, by signing this Agreement, the Firm certifies that:
- Since promulgation of the federal requirements implementing Section 319 of PL 101-121, no federal appropriated funds have been paid and none will be paid, by or on behalf of the Firm, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement;
  - If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Firm shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
  - The Firm shall require that the language of this certification be included in all subcontracts at all tiers, and that all subcontractors shall certify and disclose accordingly.
- M. Confidentiality of Personally Identifiable Information:** The Firm assures that, in the event that this Agreement involves information and data obtained as to personal facts and circumstances related to patients, students or Towns, such information and data will be collected and held confidential, during and following the term of this agreement, and will not be divulged without the individual's and the Town's written consent and only in accordance with federal law or the Code of Virginia. Firms who utilize, access, or store personally identifiable information as part of the performance of a contract are required to safeguard this information and immediately notify the Town of any breach or suspected breach in the security of such information. Firms shall allow the Town to both participate in the investigation of incidents and exercise control over decisions regarding external reporting. Firms and their employees, subcontractor or agents working on this project may be required to sign a confidentiality statement.
- N. Firm License Requirements:** State statutes and regulatory agencies require that some firms be properly registered and licensed, or hold a permit, prior to performing specific types of services.



It is the firm's responsibility to comply with the rules and regulations issued by the appropriate State regulatory agencies. A copy of the license must be furnished upon request to the Town.

- O. Contractual Claims:** Contractual claims, whether for money or other relief, shall be submitted in writing no later than 60 days after final payment; however, written notice of the Firm's intention to file a claim shall be given at the time of the occurrence or beginning of the work upon which the claim is based. The Town has established an administrative procedure for consideration of contractual claims, and a copy of such procedure is available upon request from the Town. Contractual disputes shall also be subject to the provisions of Virginia Code § 2.2-4363(D) and (E) (exhaustion of administrative remedies) and § 2.2-4364 (legal actions).
- P. Correction of Errors:** The Firm shall check for accuracy any reports, and the design, drafting and details of final plans prior to submission. The Firm will be required, without additional compensation, to correct any errors, including but not limited to omissions, discrepancies and ambiguities, in any services performed in fulfillment of the obligations of this Agreement, and shall also reimburse the Town for any costs incurred. Acceptance of the plans or reports by the Town shall not relieve the Firm of the responsibility of subsequent correction of errors.
- Q. Disadvantaged Business Enterprises/Small, Woman and Minority Business:** For contracts subject to federal funding 2 C.F.R. Part 200 requirements, the Firm, its agents, employees, assigns, or successors, and any person, firm or agency of whatever nature with whom it may contract or make an agreement, shall comply with the provisions of 49 CFR Part 26, as amended, which is hereby made part of this Agreement by reference. The Firm shall take all necessary and reasonable steps in accordance with 49 CFR Part 26, as amended, to ensure that DBE firms have the maximum opportunity to compete for and perform contracts and subcontracts under this Agreement. Subpart E of 49 CFR 26, Section 26.13 requires each contract signed with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The Firm, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Firm shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the Firm to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate. If a DBE goal has been established for this project, further, the Consultant agrees to provide the Town with the dollar amount contracted and name of each subcontractor which identifies itself as a DBE.
- R. Debarment:** Firm certifies that it is not currently debarred by the Commonwealth of Virginia from submitting offers or proposals on contracts for the type of goods and/or services covered by this Agreement, nor are they an agent of any person or entity that is currently so debarred.
- S. Default:** In case of failure to deliver goods or services in accordance with the contract terms and conditions, the Town, after due oral or written notice, may procure them from other sources and hold the Firm responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the Town may have.
- T. Drug-Free Workplace:** (applies to contracts of \$10,000 or greater); Pursuant to Virginia Code Section § 2.2-4312, during the performance of this Agreement, Firm agrees as follows:

  - 1. Firm will provide a drug-free workplace for Firm's employees.
  - 2. Firm will post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in Firm's workplace and specifying the actions that will be taken against employees for violations of such prohibition.





3. Firm will state in all solicitations or advertisements for employees placed by or on behalf of Firm that Firm maintains a drug-free workplace.
  4. Firm will include the provisions of the foregoing Sections A, B, and C in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or Firm
- U. **Entire Agreement.** This Agreement and the documents to be delivered hereunder constitute the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersede all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements in the body of this Agreement and the Exhibits, the statements in the body of this Agreement will control.
- V. **Error in Extension of Prices:** In the case of error in the extension of prices the unit price shall govern.
- W. **Ethics in Public Contracting:** If applicable to a bid made prior to this Agreement, pursuant to Virginia Code § 2.2-4367: By submitting a bid, the bidder certifies that their bid is made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other bidder, supplier, manufacturer or subcontractor in connection with their bid, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
- X. **Expression of Interest Internal Controls:** For contracts subject to federal funding 2 C.F.R. Part 200 requirements, all firms submitting EOI (prime consultants, joint ventures and subconsultants) must have internal control systems in place that meet federal requirements for accounting. The Firm acknowledges and agrees that it has such systems and that they comply with requirements of 48CFR31, "Federal Acquisition Regulations, Contract Cost Principles and Procedures," and 23CFR172, "Administration of Negotiated Contracts." Firm and any other applicable entity submitted their FAR audit data to the Town within ten work days of being notified of their selection.
- Y. **Form W-9 Required:** Firm acknowledges and agrees that a W-9 form is required in order to issue purchase orders and payments to your firm. A copy of this form can be downloaded from <http://www.irs.gov/pub/irs-pdf/fw9.pdf>
- Z. **Headings:** Section, article and paragraph headings contained within this solicitation have been inserted only as a matter of convenience and for reference, and they in no way define, limit, or describe the scope or intent of any term, condition or provision of this solicitation.
- AA. **Idling Reduction Requirement:** Firm shall comply with the Town's Idling Reduction Policy for Motor Vehicles and Equipment for any work performed within the Town.
- BB. **Immigration Reform and Control Act:** Firm certifies that the Firm does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.
- CC. **Indemnification:** Firm hereby assumes, and shall defend, indemnify and save the Town and all of its officers, agents and employees harmless from and against any and all liability, loss, claim, suit, damage, charge or expense including attorney fees which the Town and all of its officers, agents and employees may suffer, sustain, incur or in any way be subjected to, on account of death of or injury to any person (including, without limitation, Town officers, agents, employees, licensees and invitees) and for damage to, loss of, and destruction of any



property whatsoever, which arises out of, results from, or is in any way connected with actions taken by the Firm in the performance of its obligations under this Agreement, or which occurs as a consequence of any negligence, omission or misconduct of the Firm and any of Firm's subcontractors, agents or employees in the performance of Firm's or any of its subcontractors, agents or employees in performing work under this contract, regardless of whether such loss or expense is caused in part by a party indemnified hereunder.

Pursuant to Virginia law, the Town may not indemnify any party for any purpose. Any provisions in this agreement providing to the contrary are hereby deleted.

**DD. Insurance:** Firm has purchased and will maintain, at its sole expense, and from a company or companies authorized to do business within the Commonwealth of Virginia, insurance policies containing the types of coverages and minimum limits specified in this paragraph, protecting from claims which may arise out of or result from the Firm's performance or non-performance of services under this Agreement, or the performance or non-performance of services under this Agreement by anyone directly or indirectly employed by the Firm or for whose acts it may be liable.

Minimum Limits

General Liability:

\$1,000,000 General Aggregate Limit  
\$1,000,000 Products & Completed Operations  
\$1,000,000 Personal and Advertising Injury  
\$1,000,000 Each Occurrence Limit  
\$ 50,000 Fire Damage Limit  
\$ 5,000 Medical Expense Limit

Automobile Liability: Coverage sufficient to cover all vehicles owned, used, or hired by the Firm, his agents, representatives, employees or subcontractors.

Minimum Limits

Automobile Liability:

\$1,000,000 Combined Single Limit  
\$1,000,000 Each Occurrence Limit  
\$5,000 Medical Expense Limit

Workers' Compensation: Limits as required by the Workers' Compensation Act of Virginia. Employer's Liability: \$1,000,000

**EE. No Third-Party Beneficiaries.** This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

**FF. Non-discrimination:** Firm certifies to the Town that it will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginias with Disabilities Act, the Americans with Disabilities Act and Virginia Code § 2.2-4311. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipients religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color,





gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (Virginia Code §2.2-4343.1(E)). Every contract over \$10,000 shall include the provisions:

1. During the performance of this contract, the Firm agrees as follows:
  - a. The Firm will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability or any other basis prohibited by law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Firm. The Firm agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
  - b. The Firm, in all solicitations or advertisements for employees placed by or on behalf of the Firm, shall state that it is an equal opportunity employer.
  - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
2. The Firm will include the provisions of No. 1 above in every subcontract or purchase order over \$10,000, so that the provision will be binding upon each subcontractor or vendor.

**GG. OSHA Standards:** Firm and subcontractors performing services for the Town are required and shall comply with all Occupational Safety and Health Administration (OSHA), State and County Safety and Occupational Health Standards and any other applicable rules and regulations. Also, Firms and subcontractors shall be held responsible for the safety of their employees and any unsafe acts or conditions that may cause injury or damage to any persons or property within and around the work site area under this contract.

**HH. Ownership of Documents:** All information, documents, and electronic media furnished by the Town of Abingdon to the Firm belong to the Town, are furnished solely for use in connection with the Firm's performance of Services required by this Agreement, and shall not be used by the Firm on any other project or in connection with any other person or entity, unless disclosure or use thereof in connection with any matter other than Services rendered to the Town hereunder is specifically authorized in writing by the Town in advance. All documents or electronic media prepared by or on behalf of the Firm for the Town are the sole property of the Town, free of any retention rights of the Firm. The Firm hereby grants to the Town an unconditional right of use, for any purpose whatsoever, documents or electronic media prepared by or on behalf of the Firm pursuant to this Agreement, free of any copyright claims, trade secrets, or any other proprietary rights with respect to such documents.

## **II. Payment:**

- a. To Firm:
  - i. The Town shall promptly pay for completed delivered goods or services by the required payment date. The required payment date shall be either: (i) the date on which payment is due under the terms of a contract for the provision of goods or services, or (ii) if a date is not established by contract, not more than 45 days after goods or services are received or not more than 45 days after an invoice is rendered, whichever is later. Separate payment dates may be specified for contracts under which goods or services are provided in a series of partial executions or deliveries to the extent that the contract provides for separate payment for partial execution or delivery. Within 20 days after the receipt of an invoice for goods or services, the



Town shall notify the supplier of any defect or impropriety that would prevent payment by the required payment date. In the event that the Town fails to make payment by the required payment date, the Town shall pay any finance charges assessed by the supplier that shall not exceed one percent per month. In cases where payment is made by mail, the date of postmark shall be deemed to be the date payment is made.

- ii. Individual contractors shall provide their social security numbers, and proprietorships, partnerships, and corporations shall provide the Town with a federal employer identification number, prior to receiving any payment from the Town.
  - iii. All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the Firm at the contract price, regardless of which Town department is being billed.
  - iv. Unreasonable Charges. Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the Town of Abingdon shall promptly notify the Firm, in writing, as to those charges which it considers unreasonable and the basis for the determination. A Firm may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve any Town department of its prompt payment obligations with respect to those charges which are not in dispute (Virginia Code § 2.2-4363).
- b. To Subcontractors:
- i. Firm is hereby obligated:
    - a. To pay the subcontractor(s) within seven (7) days of the Firm's receipt of payment from the Town for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
    - b. To notify the Town and the subcontractor(s), in writing, of the Firm's intention to withhold payment and the reason.
  - ii. The Firm is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the Firm that remain unpaid seven (7) days following receipt of payment from the Town, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A Firm's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Town.

**JJ. Permits and Fees:** The amount due under this Agreement includes the cost of any business or professional licenses, permits or fees required by the Town or the Commonwealth of Virginia. The Firm must have all necessary licenses to perform the services in Virginia and, if practicing as a corporation, be authorized to do business in the Commonwealth of Virginia.

**KK. Precedence of Terms:** In the event there is a conflict between any of the other General Terms and Conditions and any Specific Terms and Conditions in this Agreement, or as incorporated from a request for proposal or invitation to bid, the Specific Terms and Conditions shall apply.



- LL. Public Inspection of Certain Records:** Firm acknowledges and agrees that except as otherwise provided, and in accordance with Virginia Code § 2.2-4342, all proceedings, records, contracts and other public records relating to the Town's procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act (Virginia Code § 2.2-3700 et seq.). Any offeror, upon request, shall be afforded the opportunity to inspect bid or proposal records within a reasonable time after the opening of all bids but prior to award, except in the event the Town decides not to accept any of the offers and to reopen the solicitation. Otherwise, bid or proposal records shall be open to public inspection only after award of the contract. Trade secrets or proprietary information submitted by a offeror in connection with this procurement transaction shall not be subject to the Virginia Freedom of Information Act, but only if the offeror (i) invokes the protections of Virginia Code § 2.2-4342 prior to or upon submission of the data or other materials; (ii) identifies the specific data or other materials to be protected, and (iii) states the reasons why protection is necessary. A general designation of a Firm's entire bid or proposal submission or volume as being "confidential" shall not be sufficient to invoke the protections referenced above.
- MM. Records:** The Firm and subcontractors shall retain all books, documents, papers, accounting records and other evidence supporting the costs incurred, for three (3) years after payment of the final estimate or final audit, whichever is later. Such evidence shall be made available at the Firm's offices at all reasonable times and will be subject to audit and inspection by the Town or any authorized representatives of the Federal Government. Evidence of costs incurred by a subcontractor shall be made available at its office at all reasonable times during the contract period between the Firm and the subcontractor and for three years after written acceptance by the Firm, for audit and inspection by the Town or any authorized representatives of the Federal Government. It shall be the Firm's responsibility to notify the Town, in writing, of the completion of that subcontractor's portion of the services so that the records of the subcontractor can be audited within the three-year retention period. Failure to do so may result in the Firm's liability for any costs not supported by the proper documentation for the subcontractor's phase of the services. Final payment for the subcontractor's phase of the services will be made after total costs are determined by the final audit of the subcontractor.
- NN. Severability.** If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify the Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.
- OO. Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. Neither party may assign its rights or obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed. No assignment shall relieve the assigning party of any of its obligations hereunder.
- PP. Taxes:** Firm acknowledges and agrees that The Town of Abingdon is exempt from State Sales Tax and Federal Excise Tax. Tax Exemption Certificate indicating the Town's tax-exempt status will be furnished by the Town upon request.
- QQ. TDD/TTY Equipment for the Deaf:** For contracts subject to federal funding 2 C.F.R. Part



200 requirements, by when seeking public participation through the maintenance of a toll free hot line number and/or publishing project-related materials, the Firm agrees to ensure that all citizens have equally effective communication. The Firm agrees to provide or identify a telecommunications device for the deaf/teletypewriter (TDD/TTY) or acceptable means of telephone access for individuals with impaired speech or hearing. The Firm will provide notice of a TDD/TTY number whenever a standard telephone number is provided.

- RR. Testing and Inspection:** The Town reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.
- SS. Virginia Government Frauds Act:** Firm is and shall be subject to the provisions of the Virginia Governmental Frauds Act, Virginia Code, Title 18.2, Chapter 12, and Article 1.1. and, if applicable to this Agreement, submitted a certification that its offer, or any claim resulting there from, is not the result of, or affected by, any act of collusion with another person engaged in the same line of business or commerce, or any act of fraud punishable under the Act. Any offeror who knowingly makes a false statement on the Certificate of No Collusion shall be guilty of a felony, as provided in Virginia Code § 18.2-498.5. As part of this offer a notarized Certificate of No Collusion must be submitted with the offer. Certificate attached.
- TT. Waiver.** No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving.

**ABINGDON TOWN COUNCIL**  
**Agenda Item Summary**

**MEETING DATE:** 2023.02.23

**AGENDA ITEM:** P - 2

**ITEM TITLE:** Presentation of The Meadows Inclusive Playground Enhancement

**SUMMARY:**

Ballad Health/Niswongers Children Hospital donated \$100,000 toward an enhancement project to help make the playground at The Meadows more inclusive. With this goal, we put together a committee of children in the community to give input about what equipment and activities they would like to see at the playground. After having several meetings and reviewing mock-ups, we have landed on a preferred design that meets the needs and wants of the participants. This plan will make the playground inclusive and more accessible for everyone.

**PRIOR ACTION(S):**

**FISCAL IMPACT:** Funds have been donated and are in the process of being appropriated for the project.

**STAFF CONTACT(S):** Kyle Pollard, Director of Recreation

**RECOMMENDATION:** The staff recommendation is that the Council approve the plan to move forward with the playground design.



## The Meadows Option 2- Revised Colors 2

Design • Build • PLAY!



Alternate View

\*Rendered in Forester Color Palette





January 27, 2023

Mike Cochran  
Town Manager  
Town of Abingdon  
133 West Main Street  
Abingdon, Virginia 24210

Re: **Virginia Water Facilities Revolving Fund  
Town of Abingdon, Virginia  
C-515741 (FY2022 Funding Cycle) Commitment Letter**

Dear Mr. Cochran:

Virginia Resources Authority (the "Authority") is pleased to advise you that the State Water Control Board (the "Board") has authorized funding from the Virginia Water Facilities Revolving Fund (the "Fund") to the Town of Abingdon (the "Town") to finance Collection System Rehabilitation – Phase 1, together with related expenses (the "Project"). Funding consists of a principal repayment loan in an amount up to \$834,200 (the "Principal Repayment Loan") and a principal forgiveness loan in an amount up to \$2,502,600 (the "Principal Forgiveness Loan") for a total funding package of up to \$3,336,800 (the "Loan"). The Principal Repayment Loan will be interest free (0.00%), and payments will begin approximately six months after estimated Project completion for a term of up to 30 years from the date of loan closing.

The Authority hereby offers to extend to the Town the Loan as stated, subject, however, to the satisfaction of the conditions to purchase the Town's Local Bond set forth in the enclosed form of Financing Agreement (Sections 2.1, 3.1, and 3.2). A form of the Funding Agreement for the Principal Forgiveness Loan is also enclosed.

It is understood that the Principal Repayment Loan will be secured by a pledge of revenues from the Town's sewer system and further secured by the Town's full faith and credit. The Town's Local Bond evidencing the Principal Repayment Loan shall be issued on a parity basis with all outstanding bonds secured by the Town's sewer revenues.

Loan closing and the disbursement of funds thereunder shall be subject to the availability of funds from the (a) United States Environmental Protection Agency Capitalization Grant under the Water Quality Act of 1987 and (b) Commonwealth of Virginia match grant.

Loan closing and the disbursement of funds in connection therewith shall remain subject to satisfaction of any condition prerequisite thereto established by the Board. The Town shall comply in all respects with all applicable federal, state and local laws, regulations and other requirements relating to or arising out of or in connection with the Project and the funding thereof by the Authority.

Mike Cochran  
January 27, 2023  
Page 2

The Authority reserves the right to withdraw or alter the terms of this commitment if, between the date of the Town's loan application and the date of closing, (i) the Town incurs any debt or (ii) the financial condition of the Town changes in a way deemed material by the Authority in its sole discretion.

If Loan closing shall not have occurred by July 31, 2023 it is understood that the Authority and the Board reserve the right to modify any of the conditions of this commitment or to withdraw the funding offer. Furthermore, authorization for funding can be withdrawn for not completing requirements in a timely manner.

If you have any questions concerning the foregoing, please call Kimberly Adams at 804-616-3449. **If you concur with the terms and conditions herein stated, please acknowledge your acceptance thereof by signing below and returning to me.** Retain a copy for your records.

Very truly yours,



Shawn B. Crumlish

The Town of Abingdon fully intends (i) to use the offered Loan for the Project and (ii) to commence or continue the Project, as applicable, pending closing of the Loan, on or about the \_\_\_\_\_ day of \_\_\_\_\_, 2023. The foregoing terms and conditions are hereby acknowledged and accepted the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

By: \_\_\_\_\_  
Town Manager

Enclosure

cc: Mr. Michael Surret, Director of Public Works  
Mr. Steve Trotman, Finance Director  
Mr. Cameron S. Bell, Officer, Penn Stuart  
Megan M. Gilliland, Esq., Kaufman and Canoles, P.C.  
Karen M. Doran, Virginia Department of Environmental Quality



**FUNDING AGREEMENT**

**dated as of \_\_\_\_\_ 1, 2023**

**BETWEEN**

**VIRGINIA RESOURCES AUTHORITY,**

**as Administrator of the  
Virginia Water Facilities Revolving Fund**

**AND**

**TOWN OF ABINGDON, VIRGINIA**

**Virginia Resources Authority  
Virginia Water Facilities Revolving Fund**

**Funding No. C-515741**

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## EXHIBITS

Exhibit A.	Project Description
Exhibit B.	Project Budget
Exhibit C.	Form of Requisition

## **FUNDING AGREEMENT**

**THIS FUNDING AGREEMENT** is made as of this first day of \_\_\_\_\_, 2023, between the **VIRGINIA RESOURCES AUTHORITY**, as administrator of the Virginia Water Facilities Revolving Fund, a public body corporate and a political subdivision of the Commonwealth of Virginia (the “Authority”), and **TOWN OF ABINGDON, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (the “Locality”).

Pursuant to Chapter 22, Title 62.1, Code of Virginia of 1950, as amended (the “Act”), the General Assembly created a fund known as the “Virginia Water Facilities Revolving Fund” (the “Fund”). In conjunction with the State Water Control Board (the “Board”), the Authority administers and manages the Fund. Following consultation with the Authority, the Board from time to time directs the distribution of monies to local governments in Virginia to finance the “costs” of “projects” within the meaning of Section 62.1-224 of the Act.

The Locality has requested funding from the Fund and has been approved by the Board to receive monies from the Fund. The Locality will use the monies from the Fund to provide funds for that portion of the Project Costs not being paid from other sources as set forth in the Project Budget.

### **ARTICLE I** **DEFINITIONS**

The capitalized terms contained in this Agreement shall have the meanings set forth below unless the context requires otherwise, and any capitalized terms not otherwise defined herein shall have the meaning assigned to such terms in the Act:

“Act” means Chapter 22, Title 62.1 of the Code of Virginia of 1950, as amended.

“Agreement” means this Funding Agreement between the Authority, as Administrator of the Fund, and the Locality, together with any amendments or supplements hereto.

“Authority” means the Virginia Resources Authority, as Administrator of the Fund, a public body corporate and a political subdivision of the Commonwealth of Virginia.

“Authorized Representative” means any member, official or employee of the Locality authorized by resolution, ordinance or other official act of the governing body of the Locality to perform the act or sign the document in question.

“Consulting Engineer” means the engineer or the firm of independent consulting engineers of recognized standing and experienced in the field of sanitary engineering and registered to do business in the Commonwealth of Virginia which is designated by the Locality from time to time as the Locality’s consulting engineer for the Project in a written notice to the Authority. Such individual or firm shall be subject to the reasonable approval of the Authority. Unless and until the Authority notifies the Locality otherwise, any of the Locality’s employees

that are licensed and registered as professional engineers in the Commonwealth of Virginia may serve as Consulting Engineer under this Agreement.

“Department” means the Department of Environmental Quality, created and acting under Chapter 11.1, Title 10.1, of the Code of Virginia of 1950, as amended.

“Fund” means the Virginia Water Facilities Revolving Fund.

“Project” means the particular project described in **Exhibit A** to be constructed, acquired or improved by the Locality with, among other monies, the funds, with such changes thereto as may be approved in writing by the Board and the Authority.

“Project Budget” means the budget for the Project, a copy of which is attached to this Agreement as **Exhibit B**, with such changes therein as may be approved in writing by the Board and the Authority.

“Project Costs” means the costs described in the Project Budget and such other costs permitted by the Act as may be approved in writing by the Board.

“Project Description” means the description of the Project to be undertaken using the funding made available under this Agreement, a copy of which is attached to this Agreement as **Exhibit A**, with such changes therein as may be approved in writing by the Board and the Authority.

“Transaction” means the funding of some or all of the Locality’s Project, as described in **Exhibit A**, as provided in this Agreement.

## **ARTICLE II**

### **SCOPE OF SERVICES**

The Locality shall provide the services and work as set forth in the Project Description (**Exhibit A**) of this Agreement. All work shall be performed according to sound construction, engineering and architectural principles and commonly accepted safety standards.

## **ARTICLE III**

### **TIME OF PERFORMANCE**

The Locality’s work on the Project commenced on or before the date hereof and will be completed on or before \_\_\_\_\_, 20\_\_.

## **ARTICLE IV**

### **FUNDING; NATURE OF TRANSACTION**

The Locality shall be reimbursed for the payment of Project Costs, in an amount not to exceed \$\_\_\_\_\_ for the purposes set forth in the Project Description and Project Budget. Disbursement of funds will be in accordance with the payment provisions set forth in Section 4.1 and the Project Budget.

The Board has authorized the Transaction as a “principal forgiveness loan.” Notwithstanding anything to the contrary in this Funding Agreement, the Transaction shall not constitute a debt of the Locality, and the Locality is not required or obligated to repay the amount of the Transaction, except as provided in Section 4.3 in the case of Locality’s failure to comply with the terms and conditions of this Funding Agreement, where the Locality may be required to return all or a portion of the amount funded hereunder.

**Section 4.1. Application of Funding.** The Locality agrees to apply the funds solely and exclusively to the payment, or the reimbursement of the Locality for the payment of Project Costs. After approval by the Department, the Authority shall disburse funds from the Fund to the Locality not more frequently than once each calendar month (unless otherwise agreed by the Authority, the Department and the Locality) upon receipt by the Authority of the following:

- (a) A requisition approved by the Department (upon which the Authority shall rely), signed by the Authorized Representative and containing all receipts, vouchers, statements, invoices, reporting forms or other evidence of the actual payment of Project Costs or that Project Costs have been incurred, and all other information called for by, and otherwise being in the form of, **Exhibit C** to this Agreement; and
- (b) If any requisition includes an item for payment for labor or to contractors, builders or materialmen, a certificate, signed by the Consulting Engineer, stating that such work was actually performed or such materials, supplies or equipment were actually furnished or installed in or about the construction of the Project.

Upon receipt of each such requisition and accompanying certificate(s), document(s) and schedule(s), the Authority shall disburse the funds hereunder to the Locality in accordance with such requisition to the extent approved by the Department. The Department shall have no obligation to approve any requisition, and the Authority shall have no obligation to disburse any such funds, if the Locality is not in compliance with any of the terms of this Agreement.

Except as may otherwise be approved by the Department, disbursements shall be held at ninety-five percent (95%) of the total funding amount to ensure satisfactory completion of the Project. Disbursements of Local Bond Proceeds shall also be held if the Borrower does not timely provide a draft FSP and final FSP to the Department as set forth in Section 5.13(d) herein. Upon receipt from the Locality of the certificate specified in Section 4.2 and a final requisition detailing all retainages to which the Locality is then entitled, the Authority, to the extent

approved by the Department and, subject to the provisions of this section and Section 4.2, will disburse to the Locality the remaining funds.

**Section 4.2. Agreement to Accomplish Project.** The Locality agrees to cause the Project to be acquired, constructed, expanded, renovated or equipped as described in **Exhibit A** and in accordance with plans and specifications prepared by the Consulting Engineer and approved by the Department.

When the Project has been completed, the Locality shall promptly deliver to the Authority and the Department a certificate signed by an Authorized Representative of the Locality and by the Consulting Engineer stating (i) that the Project has been completed substantially in accordance with the approved plans and specifications and addenda thereto, and in substantial compliance with all material applicable laws, ordinances, rules and regulations, (ii) the date of such completion, (iii) that all required certificates of occupancy and permits for operation of the Project have been issued or obtained, and (iv) the amount, if any, to be reserved for payment of the final Project Costs.

**Section 4.3. Repayment of Transaction Amount.** In the event of a material failure by the Locality to comply with the terms of this Agreement, the Locality may be obligated, upon an adverse determination by the Department, to repay all or a portion of any funding received pursuant to this Agreement.

## **ARTICLE V**

### **GENERAL PROVISIONS**

**Section 5.1. Liability Insurance.** The Locality shall maintain or cause to be maintained insurance and self-insurance plans during the life of this Agreement as shall protect it from claims for damages for personal injury, including death, as well as from claims for property damage, which may arise from the Locality's activities under this Agreement.

To the extent permitted by law, the Locality shall indemnify and hold harmless the Authority, the Board, the Department, the Fund, and when applicable, its employees and designated representatives, from any and all claims, suits, actions, liabilities and costs of any kind, caused by or arising out of the performance by the Locality of its obligations pursuant to this Agreement. Nothing contained herein shall be deemed an express or implied waiver of the sovereign immunity of the Commonwealth or any entity thereof.

**Section 5.2. Disclaimer.** Nothing in this Agreement shall be construed as authority for either party to make commitments that will bind the other party beyond the covenants contained herein.

**Section 5.3. Termination.** (a) The Board, the Department or the Authority, on behalf of the Fund, may terminate this Agreement for any reason upon 30 days' written notice to the Locality. The Locality shall be paid for no service rendered or expense incurred after receipt of

such notice except such fees and expenses incurred prior to the effective date of termination that are necessary for curtailment of its work under this Agreement.

(b) If any written or oral representation, warranty or other statement furnished or made by or on behalf of the Locality to the Board, the Department or the Authority in connection with this Agreement or the Locality's application for funding from the Fund is false or misleading in any material respect, the Authority shall have the right immediately to terminate this Agreement.

(c) In the event of a breach by the Locality of this Agreement, the Authority shall have the right immediately to terminate this Agreement. In the alternative, the Authority, the Board, or the Department may give written notice to the Locality specifying the manner in which this Agreement has been breached and providing the Locality 30 days within which to cure the breach. If such notice of breach is given and the Locality has not substantially corrected the breach within 30 days of receipt of the written notice, the Authority shall have the right to terminate this Agreement.

(d) In the event of a termination of this Agreement in accordance with paragraphs (b) or (c) of this Section 5.3, all documents and other materials related to the performance of this Agreement shall, at the option of the Authority, the Board, or the Department, become the property of the Authority, as Administrator of the Fund, and the Locality shall repay to the Authority, as Administrator of the Fund, all funding proceeds disbursed hereunder.

**Section 5.4. Integration and Modification.** This Agreement constitutes the entire Agreement between the Locality and the Authority with respect to the funding. No alteration, amendment or modification in the provisions of this Agreement shall be effective unless reduced to writing, signed by both the parties and attached hereto.

**Section 5.5. Collateral Agreements.** Where there exists any inconsistency between this Agreement and other provisions of collateral contractual agreements which are made a part of this Agreement by reference or otherwise, the provisions of this Agreement shall control.

**Section 5.6. Non-Discrimination.** In the performance of this Agreement, the Locality warrants that it will not discriminate against any employee, or other person, on account of race, color, sex, religious creed, ancestry, age, national origin, other non-job related factors or any basis prohibited by law. The Locality agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

The Locality shall, in all solicitations or advertisements for employees placed by or on behalf of the Locality, state that such Locality is an equal opportunity employer; however notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this Agreement.



The Locality shall include the provisions of the foregoing paragraphs of this section in every contract, subcontract or purchase order of over ten thousand dollars (\$10,000), so that such provisions will be binding upon each contractor, subcontractor or vendor.

**Section 5.7. Applicable Laws.** This Agreement shall be governed by the applicable laws of the Commonwealth of Virginia.

**Section 5.8. Severability.** Each paragraph and provision of this Agreement is severable from the entire Agreement; and if any provision is declared invalid, the remaining provisions shall nevertheless remain in effect, at the option of the Authority.

**Section 5.9. Contingent Fee Warranty.** The Locality warrants that it has not paid or agreed to pay any company or person any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon the award or making of this Agreement. For breach of the foregoing warranty, the Authority shall have the right to terminate this Agreement without liability, or, in its discretion, to deduct from the agreed fee, payment or consideration, or otherwise recover the full amount of such prohibited fee, commission, percentage, brokerage fee, gift, or contingent fee.

**Section 5.10. Conflict of Interest.** The Locality warrants that it has fully complied with the Virginia Conflict of Interest Act, Va. Code §§ 2.2-3100 et seq., as amended.

**Section 5.11. Records Availability.** The Locality agrees to maintain complete and accurate books and records of the Project Costs, and further, to retain all books, records, and other documents relative to this Agreement for five (5) years after final disbursement of funding proceeds, or until completion of an audit commenced by the Commonwealth of Virginia within the five (5) years after final disbursement of funding of proceeds. The Authority, the Board, the Department, the Fund, its authorized agents, and/or State auditors shall have full access to and the right to examine any of said materials during said period. Additionally, the Authority, the Fund, the Board, the Department and/or its representatives shall have the right to access worksites for the purpose of ensuring that the provisions of this Agreement are properly carried out and enforced.

**Section 5.12. Ownership of Documents.** Any reports, studies, photographs, negatives, or other documents prepared by the Locality in the performance of its obligations under this Agreement, at the option of the Authority, the Board, or the Department, shall be remitted to the Fund by the Locality upon completion, termination or cancellation of this Agreement. The Locality shall not use, willingly allow or cause to have such materials used for any purpose other than performance of the Locality's obligations under this Agreement without the prior written consent of the Authority.

**Section 5.13. Governmental Requirements.** (a) The Locality agrees to comply with all applicable governmental requirements pertaining to the Project and the use and application of funds provided hereunder, including but not limited to, the Virginia Sewage Collection and Treatment Regulations, 9 VAC 25-790 et seq., as amended, and the requirements and provisions

identified in the Virginia Public Procurement Act, Va. Code §§ 2.2-4300 et seq., as amended, when procuring professional or construction services for work identified in this Agreement.

(b) The Locality agrees to comply with the Davis-Bacon Act and related acts, as amended, with respect to the Project and require that all laborers and mechanics employed by contractors and subcontractors for the Project shall be paid wages at rates not less than those prevailing on projects of a similar character in the Locality, as determined by the United States Secretary of Labor in accordance with Section 513 of the Federal Water Pollution Control Act, as amended.

(c) The Locality agrees to comply with Section 608 of the Federal Water Pollution Control Act and related acts, as amended, with respect to the Project and require that all iron and steel products used for the Project are to be produced in the United States as required under such act. The term “iron and steel products” is defined to mean the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete and construction materials.

(d) The Locality agrees to develop and implement a fiscal sustainability plan (“FSP”) to the reasonable satisfaction of the Department that includes but is not limited to: (1) an inventory of critical assets that are part of the treatment works, (2) evaluation of the condition and performance of inventoried assets or asset groupings, (3) certification that the recipient has evaluated and will be implementing water and energy conservation efforts as part of the plan, and (4) a plan for maintaining, repairing, funding, and as necessary, replacing the treatment works. Except as may otherwise be approved by the Department, disbursements shall be held at eighty percent (80%) of the maximum authorized amount of the funding hereunder until a draft FSP is submitted to the Department and at ninety-five percent (95%) of the maximum authorized amount of the funding hereunder until a final FSP is submitted and approved by the Department.

(e) The Borrower agrees to comply with all federal requirements imposed by 2 C.F.R. § 200.216, implementing P.L. 115-232, Section 889, as amended and supplemented and in effect from time to time, with respect to the Project. Such requirements include, among other things, that the Borrower is prohibited from obligating or expending the Local Bond Proceeds to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use certain covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

**Section 5.14. Notices.** Unless otherwise provided for herein, all notices, approvals, consents, correspondence and other communications under this Agreement shall be in writing and shall be deemed delivered to the following:

Fund: Virginia Resources Authority  
As Administrator of the Virginia  
Water Facilities Revolving Fund

1111 East Main Street, Suite 1920  
Richmond, Virginia 23219  
Attention: Executive Director

Authority: Virginia Resources Authority  
1111 East Main Street, Suite 1920  
Richmond, Virginia 23219  
Attention: Executive Director

Department  
and Board: Virginia Department of Environmental Quality  
State Water Control Board  
Construction Assistance Program  
P.O. Box 1105  
Richmond, Virginia 23218  
Attention: Executive Director

Locality: Town of Abingdon, Virginia  
133 West Main Street  
Abingdon, Virginia 24210  
Attention: Town Manager

A duplicate copy of each notice, approval, consent, correspondence or other communications shall be given to each of the other parties named.

## **ARTICLE VI** **COUNTERPARTS**

This Agreement may be executed in any number of Counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

*[Remainder of this page intentionally left blank]*

**WITNESS** the following signatures, all duly authorized.

**VIRGINIA RESOURCES AUTHORITY, as  
Administrator of the Virginia Water Facilities  
Revolving Fund**

By: \_\_\_\_\_  
Shawn B. Crumlish, Executive Director

**TOWN OF ABINGDON, VIRGINIA**

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

Its: \_\_\_\_\_

**Exhibit A**

**PROJECT DESCRIPTION  
TOWN OF ABINGDON, VIRGINIA  
C-515741**

The Project includes financing Collection System Rehabilitation – Phase 1, together with related expenses.

**Exhibit B**

**PROJECT BUDGET  
TOWN OF ABINGDON, VIRGINIA  
C-515741**

[To Come.]

**Exhibit C**

**FORM OF REQUISITION  
TOWN OF ABINGDON, VIRGINIA  
C-515741**

[LETTERHEAD OF LOCALITY]

[Date]

Karen M. Doran, Program Manager  
Construction Assistance Program  
Department of Environmental Quality  
P. O. Box 1105  
Richmond, Virginia 23218

Re: Town of Abingdon, Virginia  
Funding No. C-515741

Dear Ms. Doran:

This requisition, Number \_\_\_\_\_, is submitted in connection with the Financing Agreement and Funding Agreement, each dated as of \_\_\_\_\_ 1, 2023 (the “Agreements”), between the Virginia Resources Authority, as Administrator of the Virginia Water Facilities Revolving Fund (the “Authority”), and Town of Abingdon, Virginia (the “Borrower”). Unless otherwise defined in this requisition, all capitalized terms used herein shall have the meaning set forth in Article I of the Agreements. The undersigned Authorized Representative of the Borrower hereby requests disbursement of loan proceeds under the Agreements in the amount of \$\_\_\_\_\_, for the purposes of payment or reimbursement of the Project Costs as set forth in Schedule 1 attached hereto.

Attached hereto are invoices relating to the items for which payment is requested.

To the extent the Borrower will not apply the amounts requested by this Requisition to reimburse itself for the payment of Project Costs already paid, the Borrower will spend such amounts on Project Costs within five banking days following the Borrower’s receipt of such amounts. In addition, the undersigned certifies that the Borrower has conducted adequate oversight for compliance with the Davis-Bacon Act and related acts through (a) the review of payrolls and associated certifications, and (b) the posting of all wage determinations and additional classifications (as appropriate) on the work site, and through this oversight, the Borrower has determined to the best of its ability that the Project complies with the requirements



of the Davis-Bacon Act and related acts. The Borrower further certifies that all products included in this request satisfy the appropriate provisions of the American Iron and Steel requirements included in the Agreements.

The undersigned further certifies that (a) no Event of Default or Default has occurred and is continuing, and no condition exists which, with the passing of time or with the giving of notice or both, would constitute an Event of Default hereunder, and (b) the representations and warranties of the Borrower contained in the Agreements are true, correct and complete and the Borrower has performed all of its obligations thereunder required to be performed as of the date hereof.

This requisition includes an accompanying Certificate of the Consulting Engineer as to the performance of the work.

Very truly yours,

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

Its:\_\_\_\_\_

Attachments

cc: DEQ Regional Engineer (with all attachments)

**CERTIFICATE OF THE CONSULTING ENGINEER  
FORM TO ACCOMPANY REQUEST FOR DISBURSEMENT**

This Certificate is being executed and delivered in connection with Requisition Number \_\_\_\_, dated \_\_\_\_\_, 20\_\_, submitted by Town of Abingdon, Virginia (the “Borrower”), pursuant to the Financing Agreement and the Funding Agreement, each dated as of \_\_\_\_\_ 1, 2023 (the “Agreements”), between the Virginia Resources Authority, as Administrator of the Virginia Water Facilities Revolving Fund (the “Authority”), and the Borrower. Capitalized terms used herein shall have the same meanings set forth in Article I of the Agreements.

The undersigned Consulting Engineer for the Borrower hereby certifies to the Authority that, insofar as the amounts covered by this Requisition include payments for labor or to contractors, builders or materialmen, such work was actually performed or such materials, supplies or equipment were actually furnished to or installed in the construction portion of the Project.

\_\_\_\_\_  
[Consulting Engineer]

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

Date:\_\_\_\_\_

**SCHEDULE 1**  
**VIRGINIA WATER FACILITIES REVOLVING FUND**  
**FORM TO ACCOMPANY REQUEST FOR DISBURSEMENT – FUNDING PROCEEDS**

**REQUISITION #** \_\_\_\_\_

**LOCALITY: TOWN OF ABINGDON, VIRGINIA**

**FUNDING NUMBER: C-515741**

**CERTIFYING SIGNATURE:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

Cost Category	Amount Budgeted	Previous Disbursements	Expenditures This Period	Total Expenditures to Date	Net Balance Remaining

**Total Funding Amount \$** \_\_\_\_\_  
**Previous Disbursements \$** \_\_\_\_\_  
**This Request \$** \_\_\_\_\_  
**Funding Proceeds Remaining \$** \_\_\_\_\_

**FINANCING AGREEMENT**

**dated as of \_\_\_\_\_ 1, 2023**

**BETWEEN**

**VIRGINIA RESOURCES AUTHORITY,**

**as Administrator of the  
Virginia Water Facilities Revolving Fund**

**AND**

**TOWN OF ABINGDON, VIRGINIA**

Virginia Resources Authority  
Virginia Water Facilities Revolving Fund

Loan No. C-515741

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## **FINANCING AGREEMENT**

**THIS FINANCING AGREEMENT** is made as of this first day of \_\_\_\_\_, 2023, between the **VIRGINIA RESOURCES AUTHORITY**, a public body corporate and a political subdivision of the Commonwealth of Virginia (the “Authority”), as Administrator of the **VIRGINIA WATER FACILITIES REVOLVING FUND**, and the **TOWN OF ABINGDON, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (the “Borrower”).

Pursuant to Chapter 22, Title 62.1 of the Code of Virginia (1950), as amended (the “Act”), the General Assembly created a permanent and perpetual fund known as the “Virginia Water Facilities Revolving Fund” (the “Fund”). In conjunction with the State Water Control Board, the Authority administers and manages the Fund. From the Fund, the Authority from time to time makes loans to and acquires obligations of local governments in Virginia to finance or refinance the costs of wastewater treatment facilities within the meaning of Section 62.1-224 of the Act.

The Borrower has requested a loan from the Fund and will evidence its obligation to repay such loan by the Local Bond the Borrower will issue and sell to the Authority, as Administrator of the Fund. The Borrower will use the proceeds of the sale of the Local Bond to the Authority to finance that portion of the Project Costs not being paid from other sources, all as further set forth in the Project Budget.

### **ARTICLE I** **DEFINITIONS**

**Section 1.1. Definitions.** The capitalized terms contained in this Agreement and not defined above shall have the meanings set forth below unless the context requires otherwise and any capitalized terms not otherwise defined herein shall have the meaning assigned to such terms in the Act:

“Additional Payments” means the payments required by Section 6.2.

“Agreement” means this Financing Agreement between the Authority and the Borrower, together with any amendments or supplements hereto.

“Annual Budget” means the annual budget of the Borrower as described in Section 5.2.

“Authorized Representative” means any member, official or employee of the Borrower authorized by resolution, ordinance or other official act of the governing body of the Borrower to perform the act or sign the document in question.

“Board” means the State Water Control Board.

“Closing Date” means the date of the delivery of the Local Bond to the Authority, as Administrator of the Fund.

“Commitment Letter” means the commitment letter from the Authority to the Borrower, dated January \_\_, 2023, and all extensions and amendments thereto.

“Consulting Engineer” means the engineer or the firm of independent consulting engineers of recognized standing and experienced in the field of sanitary engineering and registered to do business in the Commonwealth of Virginia which is designated by the Borrower from time to time as the Borrower’s consulting engineer in accordance with Section 4.5 in a written notice to the Authority. Such individual or firm shall be subject to the reasonable approval of the Authority. Unless and until the Authority notifies the Borrower otherwise, any of the Borrower’s employees that are licensed and registered as professional engineers in the Commonwealth of Virginia may serve as Consulting Engineer under this Agreement.

“Default” means an event or condition the occurrence of which would, with the lapse of time or the giving of notice or both, become an Event of Default.

“Department” means the Department of Environmental Quality, created and acting under Chapter 11.1, Title 10.1, of the Code of Virginia, as amended.

“Event of Default” shall have the meaning set forth in Section 11.1.

“Existing Parity Bonds” means any of the Borrower’s bonds, notes or other evidences of indebtedness, as further described on Exhibit F, that on the date of the Local Bond’s issuance and delivery were secured by or payable from a pledge of Revenues on a parity with the pledge of Revenues securing the Local Bond.

“Fiscal Year” means the period of twelve months established by the Borrower as its annual accounting period.

“Funding Agreement” means the Funding Agreement, dated as of the date hereof, between the Authority, as Administrator of the Fund, and the Borrower.

“Local Bond” means the bond in substantially the form attached to this Agreement as Exhibit A issued by the Borrower to the Authority, as Administrator of the Fund, pursuant to this Agreement.

“Local Bond Proceeds” means the proceeds of the sale of the Local Bond to the Authority, as Administrator of the Fund, pursuant to this Agreement.

“Local Resolution” means all resolutions or ordinances adopted by the governing body of the Borrower approving the transactions contemplated by and authorizing the execution and delivery of this Agreement and the execution, issuance and delivery of the Local Bond.

“Net Proceeds” means the gross proceeds from any insurance recovery or condemnation award remaining after payment of attorneys’ fees and expenses of the Authority and all other expenses incurred in the collection of such gross proceeds.

“Net Revenues Available for Debt Service” means the Revenues less amounts necessary to pay Operation and Maintenance Expense.

“Operation and Maintenance Expense” means the costs of operating and maintaining the System determined pursuant to generally accepted accounting principles, exclusive of (i) interest on any debt secured by or payable from Revenues, (ii) depreciation and any other items not requiring the expenditure of cash, (iii) any amounts expended for capital replacements, repairs and maintenance not recurring annually or reserves therefor, and (iv) reserves for administration, operation and maintenance occurring in the normal course of business.

“Opinion of Counsel” means a written opinion of recognized bond counsel, acceptable to the Authority.

“Parity Bonds” means bonds, notes or other evidences of indebtedness of the Borrower issued under Section 10.5.

“Prior Bonds” means any of the Borrower’s bonds, notes or other evidences of indebtedness, as further described in Exhibit F, that on the date of the Local Bond’s issuance and delivery are secured by or payable from a pledge of Revenues, all or any portion of which is superior to the pledge of Revenues securing the Local Bond.

“Project” means the particular project described in Exhibit B, the costs of the construction, acquisition or equipping of which are to be financed or refinanced in whole or in part with the Local Bond Proceeds.

“Project Budget” means the budget for the financing or the refinancing of the Project, a copy of which is attached to this Agreement as Exhibit C, with such changes therein as may be approved in writing by the Authority.

“Project Costs” means the costs of the construction, acquisition or equipping of the Project, as further described in the Project Budget, and such other costs as may be approved in writing by the Authority, provided such costs are permitted by the Act.

“Qualified Independent Consultant” shall mean an independent professional consultant having the skill and experience necessary to provide the particular certificate, report or approval required by the provision of this Agreement in which such requirement appears, including

without limitation a Consulting Engineer, so long as such individual is not an employee of the Borrower, and an independent certified public accountant or firm of independent certified public accountants. Such individual or firm shall be subject to the reasonable approval of the Authority.

“Revenues” means (i) all rates, fees, rentals, charges and income properly allocable to the System in accordance with generally accepted accounting principles or resulting from the Borrower’s ownership or operation of the System, excluding customer and other deposits subject to refund until such deposits have become the Borrower’s property, (ii) the proceeds of any insurance covering business interruption loss relating to the System, (iii) interest on any money or securities related to the System held by or on behalf of the Borrower, (iv) amounts transferred or derived from the general fund of the Borrower that are specifically intended or appropriated for purposes related to the System, and (v) any other income from other sources pledged by the Borrower to the payment of its Local Bond.

“Service Agreements” means [collectively the service agreement with Washington County, Virginia, as amended on April 9, 2019, and \_\_\_\_].

“Subordinate Bonds” means bonds, notes or other evidences of indebtedness of the Borrower secured by or payable from a pledge of Revenues expressly made subordinate to the pledge of Revenues securing the payment of the Local Bond.

“System” means all plants, systems, facilities, equipment or property, including but not limited to the Project, owned, operated or maintained by the Borrower and used in connection with the collection or treatment of wastewater, as the same may from time to time exist.

**Section 1.2. Rules of Construction.** The following rules shall apply to the construction of this Agreement unless the context requires otherwise:

(a) Singular words shall connote the plural number as well as the singular and vice versa.

(b) All references in this Agreement to particular Sections or Exhibits are references to Sections or Exhibits of this Agreement unless otherwise indicated.

(c) The headings and table of contents as used in this Agreement are solely for convenience of reference and shall not constitute a part of this Agreement nor shall they affect its meaning, construction or effect.

## **ARTICLE II** **REPRESENTATIONS**

**Section 2.1. Representations by Borrower.** The Borrower makes the following representations as the basis for its undertakings under this Agreement:

(a) The Borrower is a duly created and validly existing “local government” (as defined in Section 62.1-224 of the Act) of the Commonwealth of Virginia and is vested with the rights and powers conferred upon it by Virginia law.

(b) The Borrower has full right, power and authority to (i) adopt the Local Resolution and execute and deliver this Agreement and the other documents related thereto, (ii) issue, sell and deliver the Local Bond to the Authority, as Administrator of the Fund, (iii) own and operate the System, (iv) fix, charge and collect charges for the use of and for the services furnished by the System, (v) construct, acquire or equip the Project (as described in Exhibit B) and finance or refinance the Project Costs by borrowing money for such purpose pursuant to this Agreement and the issuance of the Local Bond, (vi) pledge the Revenues of the System and the Borrower’s full faith and credit to the payment of the Local Bond, and (vii) carry out and consummate all of the transactions contemplated by the Local Resolution, this Agreement and the Local Bond.

(c) This Agreement and the Local Bond were duly authorized by the Local Resolution and are in substantially the same form as presented to the governing body of the Borrower at its meeting at which the Local Resolution was adopted.

(d) All governmental permits, licenses, registrations, certificates, authorizations and approvals required to have been obtained as of the date of the delivery of this Agreement have been obtained for (i) the Borrower’s adoption of the Local Resolution, (ii) the execution and delivery by the Borrower of this Agreement and the Local Bond, (iii) the performance and enforcement of the obligations of the Borrower thereunder, (iv) the acquisition, construction, equipping, occupation, operation and use of the Project, and (v) the operation and use of the System. The Borrower knows of no reason why any such required governmental permits, licenses, registrations, certificates, authorizations and approvals not obtained as of the date hereof cannot be obtained as needed.

(e) This Agreement has been executed and delivered by duly authorized officials of the Borrower and constitutes a legal, valid and binding obligation of the Borrower enforceable against the Borrower in accordance with its terms.

(f) When executed and delivered in accordance with the Local Resolution and this Agreement, the Local Bond will have been executed and delivered by duly authorized officials of the Borrower and will constitute a legal, valid and binding general obligation of the Borrower enforceable against the Borrower in accordance with its terms.

(g) The issuance of the Local Bond and the execution and delivery of this Agreement and the performance by the Borrower of its obligations thereunder are within the powers of the Borrower and will not conflict with, or constitute a breach or result in a violation of, (i) to the best of the Borrower’s knowledge, any federal, or Virginia constitutional or statutory provision, including the Borrower’s charter or articles of incorporation, if any, (ii) any agreement or other instrument to which the Borrower is a party or by which it is bound or (iii)

any order, rule, regulation, decree or ordinance of any court, government or governmental authority having jurisdiction over the Borrower or its property.

(h) The Borrower is not in default in the payment of the principal of or interest on any of its indebtedness for borrowed money and is not in default under any instrument under and subject to which any indebtedness for borrowed money has been incurred. No event or condition has happened or existed, or is happening or existing, under the provisions of any such instrument, including but not limited to this Agreement, which constitutes, or which, with notice or lapse of time, or both, would constitute an event of default thereunder.

(i) The Borrower (i) to the best of the Borrower's knowledge, is not in violation of any existing law, rule or regulation applicable to it in any way which would have a material adverse effect on its financial condition or its ability to perform its obligations under this Agreement or the Local Bond and (ii) is not in default under any indenture, mortgage, deed of trust, lien, lease, contract, note, order, judgment, decree or other agreement, instrument or restriction of any kind to which the Borrower is a party or by which it is bound or to which any of its assets is subject, which would have a material adverse effect on its financial condition or its ability to perform its obligations under this Agreement or the Local Bond. The execution and delivery by the Borrower of this Agreement or the Local Bond and the compliance with the terms and conditions thereof will not conflict with or result in a breach of or constitute a default under any of the foregoing.

(j) There are not pending nor, to the best of the Borrower's knowledge, threatened against the Borrower, any actions, suits, proceedings or investigations of a legal, equitable, regulatory, administrative or legislative nature, (i) affecting the creation, organization or existence of the Borrower or the title of its officers to their respective offices, (ii) seeking to prohibit, restrain or enjoin the approval, execution, delivery or performance of the Local Resolution, this Agreement or the Local Bond or the issuance or delivery of the Local Bond, (iii) in any way contesting or affecting the validity or enforceability of the Local Resolution, this Agreement, the Local Bond or any agreement or instrument relating to any of the foregoing, (iv) in which a judgment, order or resolution may have a material adverse effect on the Borrower or its business, assets, condition (financial or otherwise), operations or prospects or on its ability to perform its obligations under the Local Resolution, this Agreement or the Local Bond, (v) in any way affecting or contesting the undertaking of the Project, or (vi) contesting or challenging the power of the Borrower to pledge the Revenues to the payment of the Local Bond or to pledge the Borrower's full faith and credit to the payment of the Local Bond.

(k) There have been no defaults by any contractor or subcontractor under any contract made by the Borrower in connection with the construction or equipping of the Project.

(l) No material adverse change has occurred in the financial condition of the Borrower as indicated in the financial statements, applications and other information furnished to the Authority.



(m) Except as may otherwise be approved by the Authority or permitted by the terms of this Agreement, the System at all times is and will be owned by the Borrower and will not be operated or controlled by any other entity or person.

(n) There is no indebtedness of the Borrower secured by or payable from a pledge of Revenues on a parity with or prior to the lien of the pledge of Revenues securing the Local Bond except any Existing Parity Bonds or Prior Bonds set forth on Exhibit F.

(o) No Event of Default or Default has occurred and is continuing.

(p) The Service Agreements are in full force and effect; no default or event of default has occurred and is continuing under the Service Agreements; and the Borrower is not currently aware of any fact or circumstance that would have an adverse impact on the Borrower's ability to set rates, to receive payments, or to exercise any other rights and remedies available to the Borrower, under or pursuant to the Service Agreements.

### **ARTICLE III**

#### **ISSUANCE AND DELIVERY OF THE LOCAL BOND**

**Section 3.1. Loan to Borrower and Purchase of the Local Bond.** The Borrower agrees to borrow from the Authority, and the Authority agrees to lend to the Borrower, from the Fund, the principal amount equal to the sum of the principal disbursements made pursuant to Section 4.1, but not to exceed \$\_\_\_\_\_, for the purposes herein set forth. The Borrower's obligation shall be evidenced by the Local Bond, which shall be in substantially the form of Exhibit A attached hereto and made a part hereof and delivered to the Authority on the Closing Date. The Local Bond shall be in the original principal amount of the loan and shall mature and be payable as hereinafter provided.

**Section 3.2. Conditions Precedent to Purchase of the Local Bond.** The Authority shall not be required to make the loan to the Borrower and purchase the Local Bond unless the Authority shall have received the following, all in form and substance satisfactory to the Authority:

- (a) The Local Bond and the Funding Agreement.
- (b) A certified copy of the Local Resolution.
- (c) A certificate of appropriate officials of the Borrower as to the matters set forth in Section 2.1 and such other matters as the Authority may reasonably require.
- (d) A closing certificate from the Department certifying that the Project is in compliance with all federal and state laws and project requirements applicable to the Fund.
- (e) A certificate of the Consulting Engineer estimating the total Project Costs to be financed with the Local Bond Proceeds, which estimate is in an amount and otherwise compatible with the financing plan described in the Project Budget.

(f) A certificate of the Consulting Engineer to the effect that in the opinion of the Consulting Engineer (i) the Project will be a part of the System, and (ii) the Local Bond Proceeds and funds available from the other sources specified in the Project Budget will be sufficient to pay the estimated Project Costs.

(g) A certificate, including supporting documentation, of a Qualified Independent Consultant that in the opinion of the Qualified Independent Consultant, during the first two complete Fiscal Years of the Borrower following completion of the Project, the projected Net Revenues Available for Debt Service will satisfy the Rate Covenant made by the Borrower in Section 5.2(b). In providing this certificate, the Qualified Independent Consultant may take into consideration future System rate increases, provided that such rate increases have been duly approved by the governing body of the Borrower and any other person or entity required to give approval for the rate increase to become effective. In addition, the Qualified Independent Consultant may take into consideration additional future revenues to be derived under existing contractual arrangements entered into by the Borrower and from reasonable estimates of growth in the consumer base of the Borrower.

(h) A certificate of the Consulting Engineer as to the date the Borrower is expected to complete the acquisition, construction and equipping of the Project.

(i) Evidence satisfactory to the Authority that all governmental permits, licenses, registrations, certificates, authorizations and approvals for the Project required to have been obtained as of the date of the delivery of this Agreement have been obtained and a statement of the Consulting Engineer that he knows of no reason why any future required governmental permits, licenses, registrations, certificates, authorizations and approvals cannot be obtained as needed.

(j) Evidence satisfactory to the Authority that the Borrower has obtained or has made arrangements satisfactory to the Authority to obtain any funds or other financing for the Project as contemplated in the Project Budget.

(k) Evidence satisfactory to the Authority that the Borrower has performed and satisfied all of the terms and conditions contained in this Agreement to be performed and satisfied by it as of such date.

(l) An Opinion of Counsel, substantially in the form of Exhibit D, addressed to the Fund and the Authority.

(m) An opinion of counsel to the Borrower in form and substance reasonably satisfactory to the Authority.

(n) Evidence satisfactory to the Authority that the Borrower has complied with the insurance provisions set forth in Sections 9.1 and 9.2 hereof.

(o) Evidence that the Borrower has satisfied all conditions precedent to the issuance of the Local Bond as a “Parity Bond” under the financing agreements for the Existing Parity Bonds.

(p) Evidence satisfactory to the Authority that the Service Agreements are in full force and effect and are binding and enforceable agreement as to the Borrower and the other party to such agreements.

(q) Such other documentation, certificates and opinions as the Authority, the Board or the Department may reasonably require.

#### **ARTICLE IV**

#### **USE OF LOCAL BOND PROCEEDS AND CONSTRUCTION OF PROJECT**

##### **Section 4.1. Application of Proceeds.**

(a) The Borrower agrees to apply the Local Bond Proceeds solely and exclusively to the payment, or the reimbursement of the Borrower for the payment, of Project Costs and further agrees to exhibit to the Department or the Authority receipts, vouchers, statements, bills of sale or other evidence of the actual payment of such Project Costs. The Authority shall disburse money from the Fund to or for the account of the Borrower not more frequently than once each calendar month (unless otherwise agreed by the Authority and the Borrower) upon receipt by the Authority (with a copy to be furnished to the Department) of the following:

(1) A requisition (upon which the Authority, the Board and the Department shall be entitled to rely) signed by an Authorized Representative and containing all information called for by, and otherwise being in the form of, Exhibit E to this Agreement;

(2) If any requisition includes an item for payment for labor or to contractors, builders or materialmen,

(i) a certificate, signed by the Consulting Engineer, stating that such work was actually performed or such materials, supplies or equipment were actually furnished or installed in or about the construction of the Project; and

(ii) a certificate, signed by an Authorized Representative, stating either that such materials, supplies or equipment are not subject to any lien or security interest or that such lien or security interest will be released or discharged upon payment of the requisition.

Upon receipt of each such requisition and accompanying certificate or certificates and approval thereof by the Department, the Authority shall disburse Local Bond Proceeds hereunder to or for the account of the Borrower in accordance with such requisition in an amount and to the extent approved by the Department and shall note the date and amount of each such

disbursement on a schedule of principal disbursements to be included on the Local Bond. The Authority shall have no obligation to disburse any such Local Bond Proceeds if the Borrower is in default hereunder nor shall the Department have any obligation to approve any requisition if the Borrower is not in compliance with the terms of this Agreement.

(b) The Borrower shall comply with all applicable laws of the Commonwealth of Virginia, including but not limited to, the Virginia Public Procurement Act, as amended, regarding the awarding and performance of public construction contracts related to the Project. Except as may otherwise be approved by the Department, disbursements shall be held at ninety-five percent (95%) of the maximum authorized amount of the Local Bond to ensure satisfactory completion of the Project. Disbursements of Local Bond Proceeds shall also be held if the Borrower does not timely provide a draft FSP and final FSP to the Department as set forth in Section 10.12 herein. Upon receipt from the Borrower of the certificate specified in Section 4.2 and a final requisition detailing all retainages to which the Borrower is then entitled, the Authority, to the extent approved by the Department and subject to the provisions of this Section and Section 4.2, will disburse to or for the account of the Borrower Local Bond Proceeds to the extent of such approval.

The Authority shall have no obligation to disburse Local Bond Proceeds in excess of the amount necessary to pay for approved Project Costs. If principal disbursements up to the maximum authorized amount of the Local Bond are not made, principal installments due on the Local Bond shall be reduced only in accordance with Section 6.1.

**Section 4.2. Agreement to Accomplish Project.** The Borrower agrees to cause the Project to be acquired, constructed, expanded, renovated or equipped as described in Exhibit B and in accordance with the Project Budget and the plans, specifications and designs prepared by the Consulting Engineer and approved by the Department. The Borrower shall use its best efforts to complete the Project by the date set forth in the certificate provided to the Authority pursuant to Section 3.2(h). All plans, specifications and designs shall be approved by all applicable regulatory agencies. The Borrower agrees to maintain complete and accurate books and records of the Project Costs and permit the Authority and the Department through their duly authorized representatives to inspect such books and records at any reasonable time. The Borrower and the Authority, with the consent of the Department, may amend the description of the Project set forth in Exhibit B.

When the Project has been completed, the Borrower shall promptly deliver to the Authority and the Department a certificate signed by an Authorized Representative and by the Consulting Engineer stating (i) that the Project has been completed substantially in accordance with this Section, the plans and specifications as amended from time to time, as approved by the Department, and in substantial compliance with all material applicable laws, ordinances, rules and regulations, (ii) the date of such completion, (iii) that all certificates of occupancy or other material permits necessary for the Project's use, occupancy and operation have been issued or obtained, and (iv) the amount, if any, to be reserved for payment of the Project Costs.

**Section 4.3. Permits.** The Borrower, at its sole cost and expense, shall comply with, and shall obtain all permits, consents and approvals required by local, state or federal laws, ordinances, rules, regulations or requirements in connection with the acquisition, construction, equipping, occupation, operation or use of the Project. The Borrower shall, upon request, promptly furnish to the Authority and the Department copies of all such permits, consents and approvals. The Borrower shall also comply with all applicable lawful program or procedural guidelines or requirements duly promulgated and amended from time to time by the Department in connection with the acquisition, construction, equipping, occupation, operation or use of projects financed from the Fund under the Act. The Borrower shall also comply in all respects with all applicable federal laws, regulations and other requirements relating to or arising out of or in connection with the Project and the funding thereof from the Fund. Where noncompliance with such requirements is determined by the Authority or the Department, the issue shall be referred to the proper governmental authority or agency for consultation or enforcement action.

**Section 4.4. Construction Contractors.** Each construction contractor employed in the accomplishment of the Project shall be required in the construction contract to furnish a performance bond and a payment bond each in an amount equal to one hundred percent (100%) of the particular contract price. Such bonds shall list the Borrower, the Fund, the Authority, the Department and the Board as beneficiaries. Each contractor shall be required to maintain during the construction period covered by the particular construction contract builder's risk insurance, workers' compensation insurance, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Consulting Engineer. Upon request of the Authority, the Department and the Board, the Borrower shall cause each contractor to furnish evidence of such bonds and insurance to the Authority, the Department or the Board.

**Section 4.5. Engineering Services.** The Borrower shall retain a Consulting Engineer to provide engineering services covering the operation of the System and the supervision and inspection of the construction of the Project. The Consulting Engineer shall certify to the Fund, the Authority and the Department as to the various stages of the completion of the Project as disbursements of Local Bond Proceeds are requested and shall upon completion of the Project provide to the Fund, the Authority and the Board the certificates required by Sections 4.1 and 4.2.

**Section 4.6. Borrower Required to Complete Project.** If the Local Bond Proceeds are not sufficient to pay in full the cost of the Project, the Borrower will complete the Project at its own expense and shall not be entitled to any reimbursement therefor from the Fund, the Authority, the Department or the Board or any abatement, diminution or postponement of the Borrower's payments under the Local Bond or this Agreement.

**ARTICLE V**  
**PLEDGE, REVENUES AND RATES**

**Section 5.1. Pledge of Full Faith and Credit.** Under the Local Resolution, the Borrower has pledged its full faith and credit to secure the payment of the principal of the Local Bond. The Borrower agrees, unless other funds are lawfully available and appropriated for timely payment of the Local Bond, to levy an annual ad valorem tax upon all property subject to local taxation in its jurisdiction sufficient to pay the principal of the Local Bond. Notwithstanding anything herein to the contrary, all of the obligations for the payment of money set forth in this Agreement (with the exception of principal of the Local Bond) shall be payable only from Revenues or other legally available funds.

**Section 5.2. Pledge of Revenues; Rate Covenant.** (a) Subject to the Borrower's right to apply Revenues to the payment of Operation and Maintenance Expense, the Revenues are hereby pledged to the Authority, as Administrator of the Fund, to secure the payment of the principal of the Local Bond and the payment and performance of the Borrower's obligations under this Agreement. This pledge shall be valid and binding from and after the execution and delivery of this Agreement. The Revenues, as received by the Borrower, shall immediately be subject to the lien of this pledge without any physical delivery of them or further act. Except as stated above, the lien of this pledge of the Revenues is on a parity with the lien of the similar pledge securing the Existing Parity Bonds. The lien of this pledge shall, subject to the right of the Borrower to apply Revenues to the payment of Operation and Maintenance Expense, have priority over all other obligations and liabilities of the Borrower, and the lien of this pledge shall be valid and binding against all parties having claims of any kind against the Borrower regardless of whether such parties have notice of this pledge.

(b) The Borrower covenants and agrees that it will fix and collect rates, fees and other charges for the use of and for services furnished or to be furnished by the System, and will from time to time revise such rates, fees and other charges so that in each Fiscal Year the Net Revenues Available for Debt Service (it being understood for purposes of the foregoing calculation in this Section 5.2(b) that Net Revenues Available for Debt Service shall take into account any interfund transfers such that transfers of funds by the Borrower into its sewer enterprise fund are included as Revenues and transfers of funds by the Borrower out of its sewer enterprise fund are included as an Operation and Maintenance Expense) will equal at least 100% of the amount required during the Fiscal Year to pay the principal of the Local Bond, any Additional Payments, any Prior Bonds, any Existing Parity Bonds and Parity Bonds and all other indebtedness of the Borrower secured by or payable from Revenues, including without limitation, indebtedness under leases which are treated as capital leases under generally accepted accounting principles (the "Rate Covenant"). If, for any reason, the Revenues are insufficient to satisfy the foregoing covenant, the Borrower shall within ninety (90) days adjust and increase its rates, fees and other charges or reduce its Operation and Maintenance Expense so as to provide sufficient Revenues to satisfy such requirement.

(c) On or before the last day of each Fiscal Year, the Borrower shall review the adequacy of its rates, fees and other charges for the next Fiscal Year, and, if such review indicates the Borrower's rates, fees and other charges are insufficient to satisfy the Rate Covenant in subsection (b) of this Section, the Borrower shall promptly take appropriate action to increase its rates, fees and other charges or reduce its Operation and Maintenance Expense to cure any deficiency.

**Section 5.3. Annual Budget.** The Borrower agrees before the first day of each Fiscal Year to adopt a budget for such Fiscal Year containing all information called for by, and otherwise being in the form of, Exhibit H to this Agreement, for such Fiscal Year setting forth a schedule of the rates, fees and other charges to be imposed by the Borrower, the Revenues estimated to be generated thereby, and the expenditures anticipated by the Borrower for operations, maintenance, repairs, replacements, improvements, debt service and other purposes. Such budget as approved by the Borrower's governing body is referred to in this Agreement as the Annual Budget. The Borrower may at any time during any Fiscal Year amend the Annual Budget for such Fiscal Year so long as such amendment does not result in a Default. The Borrower shall submit a copy of the Annual Budget and any amendments thereto to the Authority.

**Section 5.4. Qualified Independent Consultant's Report.** (a) If at the end of any Fiscal Year, the Borrower is not in compliance with the Rate Covenant made by the Borrower in Section 5.2(b), within two hundred ten (210) days after the end of such Fiscal Year, the Borrower shall obtain a report from the Qualified Independent Consultant giving advice and making recommendations as to the proper maintenance, repair, replacement and operation of the System for the next ensuing Fiscal Year and estimating the costs thereof as to the rates, fees, and other charges which should be established by the Borrower to satisfy the Rate Covenant in Section 5.2(b). The Borrower shall promptly furnish a copy of such report to the Authority and, subject to Section 5.4(b), take measures to implement the recommendations of the Qualified Independent Consultant within ninety (90) days of obtaining such report.

(b) If the Borrower determines that the Qualified Independent Consultant's recommendations are impractical or inappropriate, the Borrower may in lieu thereof adopt other procedures which the Borrower believes will bring it into compliance with the Rate Covenant made by the Borrower in Section 5.2(b) when such measures have been implemented and become fully effective. Such alternative plan shall be filed with the Authority not later than thirty (30) days after receipt of the Qualified Independent Consultant's report along with a detailed explanation of the Borrower's reasons for rejecting the Qualified Independent Consultant's recommendations. Notwithstanding anything herein to the contrary, the Authority reserves the right, in its sole discretion, to reject such alternate procedures and require the Borrower to comply with the Qualified Independent Consultant's recommendations.

## **ARTICLE VI** **PAYMENTS**

**Section 6.1. Payment of Local Bond.** The Local Bond shall be dated the date of its delivery to the Authority and shall not bear interest on the disbursed principal balance thereof. Commencing \_\_\_\_\_ 1, 202\_, and continuing semi-annually thereafter on each \_\_\_\_\_ 1 and \_\_\_\_\_ 1, principal due under the Local Bond shall be payable in equal installments of \$\_\_\_\_\_, with a final installment of \$\_\_\_\_\_ due and payable on \_\_\_\_\_ 1, 20\_\_ when, if not sooner paid, all amounts due hereunder and under the Local Bond shall be due and payable in full. If principal disbursements up to the maximum authorized amount of the Local Bond are not made, the principal amount due on the Local Bond shall not include such undisbursed amount. However, unless the Borrower and the Authority agree otherwise in writing, until all amounts due hereunder and under the Local Bond shall have been paid in full, less than full disbursement of the maximum authorized amount of the Local Bond shall not postpone the due date of any semi-annual installment due on the Local Bond, or change the amount of such installment unless the principal amount due under the Local Bond is less than the amount of such installment. If any installment of principal of the Local Bond is not paid within ten (10) days after its due date, the Borrower agrees to pay to the Authority on demand a late payment charge in an amount equal to five percent (5.0%) of the overdue installment.

**Section 6.2. Payment of Additional Payments.** In addition to the payments of principal of the Local Bond, the Borrower agrees to pay on demand of the Authority the following Additional Payments:

(1) The costs of the Fund, the Authority, the Department or the Board in connection with the enforcement of this Agreement, including the reasonable fees and expenses of any attorneys used by any of them; and

(2) All expenses, including reasonable attorneys' fees, relating to any amendments, waivers, consents or collection or enforcement proceedings pursuant to the provisions hereof.

The Borrower agrees to pay interest on any Additional Payments enumerated in (1) above not received by the Authority within ten (10) days after demand therefor at a rate of five percent (5.0%) per annum of the overdue installment from its due date until the date it is paid.

## **ARTICLE VII** **PREPAYMENTS**

**Section 7.1. Prepayment of Local Bond.** Upon completion of the Project and after giving at least ten (10) days' written notice to the Authority, the Borrower may prepay the Local Bond at any time, in whole or in part and without penalty. Such written notice shall specify the date on which the Borrower will make such prepayment and whether the Local Bond will be



prepaid in full or in part, and if in part, the principal amount to be prepaid. Any such partial prepayment shall be applied against the principal amount outstanding under the Local Bond but shall not postpone the due date of any subsequent payment on the Local Bond, or change the amount of such installment, unless the Borrower and the Authority agree otherwise in writing.

## **ARTICLE VIII** **OPERATION AND USE OF SYSTEM**

**Section 8.1. Ownership and Operation of Project and System.** Except as otherwise may be approved by the Authority or permitted by the terms hereof, the Project and the System at all times shall be owned by the Borrower and shall not be operated or controlled by any other entity or person.

**Section 8.2. Maintenance.** At its own cost and expense, the Borrower shall operate the System in a proper, sound and economical manner and in compliance with all legal requirements, shall maintain the System in good repair and operating condition and from time to time shall make all necessary repairs, renewals and replacements.

**Section 8.3. Additions and Modifications.** At its own expense, the Borrower from time to time may make any renewals, replacements, additions, modifications or improvements to the System which it deems desirable and which do not materially reduce the value of the System or the structural or operational integrity of any part of the System, provided that all such renewals, replacements, additions, modifications or improvements comply with all applicable federal, state and local laws, rules, regulations, orders, permits, authorizations and requirements. All such renewals, replacements, additions, modifications and improvements shall become part of the System.

**Section 8.4. Use of System.** The Borrower shall comply with all lawful requirements of any governmental authority regarding the System, whether now existing or subsequently enacted, whether foreseen or unforeseen or whether involving any change in governmental policy or requiring structural, operational and other changes to the System, irrespective of the cost of making the same.

**Section 8.5. Inspection of System and Borrower's Books and Records.** The Authority and the Department and their duly authorized representatives and agents shall have such reasonable rights of access to the System as may be necessary to determine whether the Borrower is in compliance with the requirements of this Agreement and shall have the right at all reasonable times and upon reasonable prior notice to the Borrower to examine and copy the books and records of the Borrower insofar as such books and records relate to the System.

**Section 8.6. Ownership of Land.** The Borrower shall not construct, reconstruct or install any part of the System on lands other than those which the Borrower owns or can acquire title to or a perpetual easement over, in either case sufficient for the Borrower's purposes, unless

such part of the System is lawfully located in a public street or highway or is a main, conduit, pipeline, main connection or facility located on land in which the Borrower has acquired a right or interest less than a fee simple or perpetual easement and such lesser right or interest has been approved by written opinion of counsel to the Borrower as sufficient for the Borrower's purposes.

**Section 8.7. Sale or Encumbrance.** No part of the System shall be sold, exchanged, leased, mortgaged, encumbered or otherwise disposed of except as provided in any one of the following subsections, or as may be otherwise consented and agreed to by the Authority in writing:

(a) The Borrower may grant easements, licenses or permits across, over or under parts of the System for streets, roads and utilities as will not adversely affect the use of the System;

(b) The Borrower may sell or otherwise dispose of property constituting part of the System if it uses the proceeds of such disposition and any other necessary funds to replace such property with property serving the same or a similar function; or

(c) The Borrower may sell or otherwise dispose of property constituting part of the System; provided, however, (i) no such property shall be sold or otherwise disposed of unless there is filed with the Authority a certificate of the Borrower, signed by an Authorized Representative, stating that such property is no longer needed or useful in the operation of the System, and, if the proceeds of such sale or disposition, together with the aggregate value of any other property sold or otherwise disposed of during the Fiscal Year, shall exceed \$125,000, there shall also be filed with the Borrower and the Authority a certificate of the Consulting Engineer stating that such property is not necessary or useful to the operation of the System, and (ii) the proceeds to be received from any sale or disposition shall be applied first to cure any default that may exist in the payment of the principal of the Local Bond, and then, if such property constitutes part of the Project, to the prepayment of the Local Bond under Article VII hereof.

**Section 8.8. Collection of Revenues.** The Borrower shall use its best efforts to collect all rates, fees and other charges due to it, including, when appropriate, by perfecting liens on premises served by the System for the amount of all delinquent rates, fees and other charges where such action is permitted by law. The Borrower shall, to the full extent permitted by law, discontinue and shut off, or cause to be discontinued and shut off, services and facilities of the System, and use its best efforts to cause to be shut off water service furnished otherwise than through the System, to customers of the System who are delinquent beyond any customary grace periods in the payment of rates, fees and other charges due to the Borrower.

**Section 8.9. No Free Service.** The Borrower shall not permit connections with or the use of the System, or furnish any services afforded by the System, without making a charge therefor based on the Borrower's applicable schedule of rates, fees and charges; provided, however, that the

restrictions contained in this Section shall not apply to buildings or facilities that are owned or operated by the Borrower.

**Section 8.10. No Competing Service.** The Borrower shall not provide, grant any franchise to provide or give consent for anyone else to provide, any services which would compete with the System.

**Section 8.11. Mandatory Connection.** The Borrower shall adopt and enforce rules and regulations, consistent with applicable laws, requiring the owner, tenant or occupant of each lot or parcel of land which is served or may reasonably be served by the System and upon which lot or parcel a building shall have been constructed for residential, commercial or industrial use, to connect such building to the System; provided, however, such rules and regulations may permit and provide that any such building already in existence at the time the services of the System became available to the applicable lot or parcel may continue to use a private sewage disposal system approved by the applicable board of health or health officer until such approved private sewage disposal system shall cease to be approved or shall require major repairs to continue to be approved, at which time such building shall be required to connect to the System.

**Section 8.12. Lawful Charges.** The Borrower shall pay when due all taxes, fees, assessments, levies and other governmental charges of any kind whatsoever (collectively, the "Governmental Charges") which are (i) assessed, levied or imposed against the System or the Borrower's interest in it, or (ii) incurred in the operation, maintenance, use and occupancy of the System. The Borrower shall pay or cause to be discharged, or shall make adequate provision to pay or discharge, all lawful claims and demands for labor, materials, supplies or other objects which, if unpaid, might by law become a lien upon all or any part of the System or the Revenues (collectively, the "Mechanics' Charges"). The Borrower, however, after giving the Authority ten (10) days' notice of its intention to do so, at its own expense and in its own name, may contest in good faith any Governmental Charges or Mechanics' Charges. If such a contest occurs, the Borrower may permit the same to remain unpaid during the period of the contest and any subsequent appeal unless, in the reasonable opinion of the Authority, such action may impair the lien on Revenues granted by this Agreement, in which event, such Governmental Charges or Mechanics' Charges promptly shall be satisfied or secured by posting with the Authority or an appropriate court a bond in form and amount reasonably satisfactory to the Authority. Upon request, the Borrower shall furnish to the Authority proof of payment of all Governmental Charges and the Mechanics' Charges required to be paid by the Borrower under this Agreement.

## **ARTICLE IX**

### **INSURANCE, DAMAGE AND DESTRUCTION**

**Section 9.1. Insurance.** Unless the Authority otherwise agrees in writing, the Borrower continuously shall maintain or cause to be maintained insurance and self-insurance plans against such risks as are customarily insured against by public bodies operating systems similar in size and character to the System, including, without limitation:

(a) Insurance in the amount of the full replacement cost of the System's insurable portions against loss or damage by fire and lightning, with broad form extended coverage endorsements covering damage by windstorm, explosion, aircraft, smoke, sprinkler leakage, vandalism, malicious mischief and such other risks as are normally covered by such endorsements (limited only as may be provided in the standard form of such endorsements at the time in use in Virginia); provided that during the construction of the Project, the Borrower may provide or cause to be provided, in lieu of the insurance in the amount of the full replacement cost of the Project, builders' risk or similar types of insurance in the amount of the full replacement cost thereof. The determination of replacement cost shall be made by a recognized appraiser or insurer selected by the Borrower and reasonably acceptable to the Authority.

(b) Comprehensive general liability insurance, with at least a combined single limit of \$2,000,000 per year against liability for bodily injury, including death resulting therefrom, and for damage to property, including loss of use thereof, arising out of the ownership, maintenance, operation or use of the System.

(c) Unless the Borrower qualifies as a self-insurer under the laws of Virginia, workers' compensation insurance.

The Authority shall not have any responsibility or obligation with respect to (i) the procurement or maintenance of insurance or the amounts or the provisions with respect to policies of insurance, or (ii) the application of the proceeds of insurance.

The Borrower shall provide no less often than annually and upon the written request of the Authority a certificate or certificates of the respective insurers evidencing the fact that the insurance required by this Section is in full force and effect.

**Section 9.2. Requirements of Policies.** All insurance required by Section 9.1 shall be maintained with generally recognized, responsible insurance companies selected by the Borrower and reasonably acceptable to the Authority. Such insurance may be written with self-insurance retention or deductible amounts comparable to those on similar policies carried with respect to other utility systems of like size and character to the System, and shall contain an undertaking by the insurer that such policy shall not be modified adversely to the interests of, or canceled without at least thirty (30) days' prior notice to, the Authority. If any such insurance is not maintained with an insurer licensed to do business in the Commonwealth of Virginia or placed pursuant to the requirements of the Virginia Surplus Lines Insurance Law (Chapter 48, Title 38.2, Code of Virginia of 1950, as amended) or any successor provision of law, the Borrower shall provide evidence reasonably satisfactory to the Authority that such insurance is enforceable under Virginia law.

**Section 9.3. Notice of Damage, Destruction and Condemnation.** In the case of (i) any damage to or destruction of any material part of the System, (ii) a taking of all or any part of the System or any right therein under the exercise of the power of eminent domain, (iii) any

loss of the System because of failure of title, or (iv) the commencement of any proceedings or negotiations which might result in such a taking or loss, the Borrower shall give prompt notice thereof to the Authority describing generally the nature and extent of such damage, destruction, taking, loss, proceedings or negotiations.

**Section 9.4. Damage and Destruction.** If all or any part of the System is destroyed or damaged by fire or other casualty, and the Borrower shall not have exercised its option to prepay in full the Local Bond pursuant to Article VII, the Borrower shall restore promptly the property damaged or destroyed to substantially the same condition as before such damage or destruction, with such alterations and additions as the Borrower may determine and which will not impair the capacity or character of the System for the purpose for which it then is being used or is intended to be used. The Borrower may apply so much as may be necessary of the Net Proceeds of insurance received on account of any such damage or destruction to payment of the cost of such restoration, either on completion or as the work progresses. If such Net Proceeds are not sufficient to pay in full the cost of such restoration, the Borrower shall pay so much of the cost as may be in excess of such Net Proceeds. If the Net Proceeds are derived from property constituting part of the Project, any balance of such Net Proceeds remaining after payment of the cost of such restoration shall promptly be applied to prepayment of the Local Bond pursuant to Article VII.

**Section 9.5. Condemnation and Loss of Title.** If title to or the temporary use of all or any part of the System shall be taken under the exercise of the power of eminent domain or lost because of failure of title, and the Borrower shall not have exercised its option to prepay in full the Local Bond pursuant to Article VII, the Borrower shall cause the Net Proceeds from any such condemnation award or from title insurance to be applied to the restoration of the System to substantially its condition before the exercise of such power of eminent domain or failure of title. If such Net Proceeds are not sufficient to pay in full the cost of such restoration, the Borrower shall pay so much of the cost as may be in excess of such Net Proceeds. If the Net Proceeds are derived from property constituting part of the Project, any balance of such Net Proceeds remaining after payment of the cost of such restoration shall promptly be applied to the prepayment of the Local Bond pursuant to Article VII.

## **ARTICLE X**

### **SPECIAL COVENANTS**

**Section 10.1. Maintenance of Existence.** The Borrower shall maintain its existence as a "local government" (as defined in the Act) of the Commonwealth of Virginia and, without consent of the Authority and the Department, shall not dissolve or otherwise dispose of all or substantially all of its assets or consolidate or merge with or into another entity. Notwithstanding the foregoing, the Borrower may consolidate or merge with or into, or sell or otherwise transfer all or substantially all of its assets to a political subdivision of the Commonwealth of Virginia, and the Borrower thereafter may dissolve, if the surviving, resulting or transferee political subdivision, if other than the Borrower, assumes, in written form acceptable to the Authority and the Department, all of the obligations of the Borrower contained in the Local Bond and this

Agreement, and there is furnished to the Authority and the Department an Opinion of Counsel acceptable to the Authority and the Department, subject to customary exceptions and qualifications, to the effect that such assumption constitutes the legal, valid and binding obligation of the surviving, resulting or transferee political subdivision enforceable against it in accordance with its terms.

**Section 10.2. Financial Records and Statements.** The Borrower shall maintain proper books of record and account in which proper entries shall be made in accordance with generally accepted government accounting standards, consistently applied, of all its business and affairs related to the System. The Borrower shall have an annual audit of the financial condition of the Borrower (and at the reasonable request of the Authority, of the System) made by an independent certified public accountant, within one hundred and eighty (180) days after the end of each Fiscal Year. The annual audit shall include a supplemental schedule demonstrating whether the Borrower during such Fiscal Year satisfied the Rate Covenant made by the Borrower in 5.2(b). The Borrower shall furnish to the Authority copies of such report immediately after it is accepted by the Borrower. Such report shall include statements in reasonable detail, certified by such accountant, reflecting the Borrower's financial position as of the end of such Fiscal Year and the results of the Borrower's operations and changes in the financial position of its funds for the Fiscal Year.

**Section 10.3. Certificate as to No Default.** The Borrower shall deliver to the Authority, within one hundred and eighty (180) days after the close of each Fiscal Year, a certificate signed by an Authorized Representative stating that, during such year and as of the date of such certificate, no event or condition has happened or existed, or is happening or existing, which constitutes an Event of Default or a Default, or if such an event or condition has happened or existed, or is happening or existing, specifying the nature and period of such event or condition and what action the Borrower has taken, is taking or proposes to take to rectify it.

**Section 10.4. Additional Indebtedness.** The Borrower shall not incur, without the prior written consent of the Authority, any indebtedness or issue any bonds, notes or other evidences of indebtedness secured by or payable from a pledge of Revenues, except Subordinate Bonds or Parity Bonds.

**Section 10.5. Parity Bonds.** Provided the Borrower is not in default hereunder, the Borrower may issue bonds, notes or other evidences of indebtedness ("Parity Bonds") ranking on parity with the Local Bond with respect to the pledge of Revenues to (i) pay Project Costs to complete the Project, (ii) pay the cost of improvements, additions, extensions, replacements, equipment or betterments and of any property, rights or easements deemed by the Borrower to be necessary, useful or convenient for the System, (iii) refund some or all of the Local Bond, Parity Bonds, Existing Parity Bonds or Prior Bonds, or (iv) effect some combination of (i), (ii) and (iii); provided in each case the following conditions are satisfied. Except to the extent otherwise consented and agreed to by the Authority in writing, before any Parity Bonds are issued or delivered, the Borrower shall (1) provide at least 30 days' prior written notice to the Authority of its intent to issue Parity Bonds, and (2) deliver to the Authority the following in form and

substance reasonably satisfactory to the Authority:

(a) Certified copies of all resolutions and ordinances of the Borrower authorizing the issuance of the Parity Bonds.

(b) A certificate of an appropriate official of the Borrower setting forth the purposes for which the Parity Bonds are to be issued and the manner in which the Borrower will apply the proceeds from the issuance and sale of the Parity Bonds.

(c) If the Parity Bonds are authorized for any purpose other than the refunding of the Local Bond, Parity Bonds, Existing Parity Bonds or Prior Bonds, in form and substance satisfactory to the Authority, a certificate of the Consulting Engineer, or with respect to subsection (iv)(C) below, a certificate, including supporting documentation, of the Qualified Independent Consultant, to the effect that in the opinion of the Consulting Engineer or Qualified Independent Consultant, as applicable, (i) the improvements or property to which the proceeds from the issuance of the Parity Bonds are to be applied will be a part of the System, (ii) the funds available to the Borrower from the issuance of the Parity Bonds and other specified sources will be sufficient to pay the estimated cost of such improvements or property, (iii) the period of time which will be required to complete such improvements or acquire such property, and (iv) (A) the Parity Bond proceeds are necessary to complete the Project, (B) the failure to make such improvements or acquire or construct such property will result in an interruption or reduction of Revenues, or (C) during the first two complete Fiscal Years following completion of the improvements or the acquisition of the property financed with the proceeds of the Parity Bonds, the projected Net Revenues Available for Debt Service will satisfy the Rate Covenant in Section 5.2(b). In providing this certificate, as applicable, the Qualified Independent Consultant may take into consideration future System rate increases, provided that such rate increases have been duly approved by the governing body of the Borrower and any other person and entity required to give approval for the rate increase to become effective. In addition, the Qualified Independent Consultant may take into consideration additional future revenues of the System to be derived under then existing contractual agreements entered into by the Borrower and from reasonable estimates of growth in the customer base of the Borrower.

(d) If the Parity Bonds are authorized solely to refund the Local Bond (with the consent of the Authority), Existing Parity Bonds, Parity Bonds or Prior Bonds, either (i) a certificate, including supporting documentation, of a Qualified Independent Consultant satisfactory to the Authority that the refunding Parity Bonds will have annual debt service requirements in each of the years the Local Bond, Existing Parity Bonds, Parity Bonds or Prior Bonds to be refunded would have been outstanding which are lower than the annual debt service requirements in each such year on the Local Bond, Existing Parity Bonds, Parity Bonds or the Prior Bonds to be refunded, or (ii) a certificate, including supporting documentation, of the Qualified Independent Consultant to the effect that during the first two complete Fiscal Years following the issuance of the refunding Parity Bonds, the projected Net Revenues Available for Debt Service will satisfy the Rate Covenant in Section 5.2(b). In providing the certificate described in clause (ii), the

Qualified Independent Consultant may take into account the factors described in the last two sentences of subsection (c) of this Section.

(e) An Opinion of Counsel satisfactory to the Authority subject to customary exceptions and qualifications, approving the form of the resolution authorizing the issuance of the Parity Bonds and stating that its terms and provisions conform with the requirements of this Agreement and that the certificates and documents delivered to the Authority constitute compliance with the provisions of this Section.

**Section 10.6. Further Assurances.** The Borrower shall to the fullest extent permitted by law pass, make, do, execute, acknowledge and deliver such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable for the better assuring, conveying, granting, assigning and confirming the rights, Revenues and other funds pledged or assigned by this Agreement, or as may be required to carry out the purposes of this Agreement. The Borrower shall at all times, to the fullest extent permitted by law, defend, preserve and protect the pledge of the Revenues and other funds pledged under this Agreement and all rights of the Authority, the Department and the Board under this Agreement against all claims and demands of all persons.

**Section 10.7. Other Indebtedness.** The Borrower agrees to pay when due all amounts required by any other bonded indebtedness and to perform all of its obligations in connection therewith.

**Section 10.8. Assignment by Borrower.** The Borrower may not assign its rights under this Agreement without the prior written consent of the Authority and the Department. If the Borrower desires to assign its rights under this Agreement to another “local government” (as defined in the Act), the Borrower shall give notice of such fact to the Authority and the Department. If the Authority and the Department consent to the proposed assignment, the Borrower may proceed with the proposed assignment, but such assignment shall not become effective until the Authority and the Department are furnished (i) an assumption agreement in form and substance satisfactory to the Authority and the Department by which the assignee agrees to assume all of the Borrower’s obligations under the Local Bond and this Agreement, and (ii) an Opinion of Counsel to the assignee, subject to customary exceptions and qualifications, that the assumption agreement, the Local Bond and this Agreement constitute legal, valid and binding obligations of the assignee enforceable against the assignee in accordance with their terms and that the assignment and assumption comply in all respects with the provisions of this Agreement. Notwithstanding the foregoing, the assignment of the rights of the Borrower under the Local Bond and this Agreement or the assumption of the obligations thereunder by the assignee shall in no way be construed as releasing the Borrower’s obligations.

**Section 10.9. Continuing Disclosure Obligations.** (a) For purposes of this Section, the following terms and phrases shall have the following meanings:

“Annual Financial Information” with respect to any Fiscal Year for the Borrower, means the following:



(i) the financial statements (consisting of at least a balance sheet and statement of revenues and expenses) of the System, or, if not available, the financial statements (consisting of at least a balance sheet and a statement of revenues and expenses) of the Borrower, which financial statements must be (A) prepared annually in accordance with generally accepted accounting principles in effect from time to time consistently applied (provided that nothing in this clause (A) will prohibit the Borrower after the date of this Agreement from changing such other principles so as to comply with generally accepted accounting principles as then in effect or to comply with a change in applicable law) and (B) audited by an independent certified public accountant or firm of such accountants in accordance with generally accepted auditing standards as in effect from time to time (provided that if audited financial statements are not available for filing when required by this Section or the Rule (as defined herein), unaudited financial statements will be filed and audited financial statements will be filed as soon as possible thereafter); and

(ii) operating data of the type set forth in Exhibit G.

“Dissemination Agent” shall mean any person, reasonably acceptable to the Authority, whom the Borrower contracts in writing to perform its obligations as provided in subsection (b) of this Section.

“Leveraging Bonds” means the bonds and other evidences of indebtedness issued and sold by the Authority pursuant to the Virginia Resources Authority Act, Chapter 21, Title 62.1 of the Code of Virginia (1950), as amended, the Act, and any successor provisions of law, including without limitation the bonds and other evidences of indebtedness issued by the Authority under the Second Amended and Restated Master Indenture of Trust dated as of September 1, 2020, between the Authority and U.S. Bank Trust Company, National Association, as trustee, as supplemented and amended.

“Local Government” shall have the meaning set forth in Section 62.1-199 of the Code of Virginia of 1950, as amended.

“Local Obligations” shall mean any bonds, notes, debentures, interim certificates, bond, grant or revenue anticipation notes, leases or any other evidences of indebtedness of a Local Government evidencing a loan made by the Authority to a Local Government from the Fund or the proceeds of Leveraging Bonds.

“Make Public” or “Made Public” shall have the meaning set forth in subsection (c) of this Section.

“Material Local Government” shall mean a Local Government that satisfies a set of objective criteria established by the Authority at the time of sale of each series of Leveraging Bonds and based on the level of participation of each Local Government in the aggregate

outstanding principal amount of all Local Obligations. For all Leveraging Bonds currently outstanding as of the date of this Agreement, a Material Local Government is any Local Government whose aggregate outstanding principal amount of Local Obligations represents twenty percent (20%) or more of the aggregate outstanding principal amount of all Local Obligations.

“Rule” means Rule 15c2-12, as it may be amended from time to time, under the Securities Exchange Act of 1934 and any similar rules of the SEC relating to disclosure requirements in the offering and sale of municipal securities, all as in effect from time to time.

“SEC” means the U.S. Securities and Exchange Commission.

(b) The Borrower shall Make Public or cause to be Made Public:

(1) Within 270 days after the end of the Borrower’s Fiscal Year (commencing with the Fiscal Year in which the Closing Date occurs), Annual Financial Information for such Fiscal Year as of the end of which the Borrower constitutes a Material Local Government. Annual Financial Information may be set forth in the documents Made Public or may be included by reference in a document Made Public to any document previously filed with the SEC. If the document referred to is a final official statement within the meaning of the Rule, then it must be available from the Municipal Securities Rulemaking Board (“MSRB”).

(2) In a timely manner, notice of any failure by the Borrower to Make Public or cause to be Made Public Annual Financial Information pursuant to the terms of part (1) of this subsection.

(c) For purposes of this Section, information and notices shall be deemed to have been Made Public if transmitted to the Authority and to the MSRB for publication on its Electronic Municipal Market Access system (“EMMA”). All documents provided to the MSRB shall be accompanied by identifying information prescribed by the Authority and the MSRB.

(d) The Borrower shall also notify the Authority within five (5) business days of becoming aware of any of the following events that may from time to time occur with respect to the Local Bond:

- (1) principal and interest payment delinquencies;
- (2) non-payment related defaults;
- (3) unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) unscheduled draws on any credit enhancement reflecting financial difficulties;

- (5) substitution of credit or liquidity providers, or their failure to perform;
- (6) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other notices or determinations with respect to the tax status of the Local Bond, or other events affecting the tax status of the Local Bond;
- (7) modifications to rights of the holders of the Local Bond;
- (8) bond calls and tender offers;
- (9) defeasances of all or any portion of the Local Bond;
- (10) release, substitution, or sale of property securing repayment of the Local Bond;
- (11) rating changes;
- (12) bankruptcy, insolvency, receivership or similar event of the Borrower\*;
- (13) the consummation of a merger, consolidation or acquisition involving the Borrower or the sale of all or substantially all of the assets of the Borrower, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms;
- (14) appointment of a successor or additional trustee or the change in the name of a trustee;
- (15) incurrence of a financial obligation\*\* of the Borrower, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the Borrower, any of which affect security holders, if material; and
- (16) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the Borrower, any of which reflect financial difficulties.

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\* This event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the Borrower in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Borrower, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Borrower.

\*\* The term “financial obligation” is defined to mean a (A) debt obligation; (B) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (C) a guarantee of (A) or (B). The term “financial obligation” does not include municipal securities as to which a final official statement has been otherwise provided to the MSRB consistent with the Rule.

(e) Notwithstanding anything in this Agreement to the contrary, the Borrower need not comply with the provisions of subsections (a) through (d) above unless and until the Authority has issued Leveraging Bonds and has notified the Borrower that it satisfied the objective criteria for a Material Local Government as of the end of the Authority's immediately preceding fiscal year. As of the date of execution and delivery of this Agreement, the Authority has not issued Leveraging Bonds and the Borrower does not constitute a Material Local Government for purposes of this Section.

(f) The obligations of the Borrower under this Section will terminate upon the redemption, defeasance (within the meaning of the Rule) or payment in full of all of the Leveraging Bonds.

(g) The Borrower may modify its continuing disclosure obligations in this Section without the consent of holders of the Leveraging Bonds provided that this Section as so modified complies with the Rule as it exists at the time of modification. The Borrower shall within a reasonable time thereafter send to the Authority and the MSRB through EMMA a description of such modification(s).

(h) (1) If the Borrower fails to comply with any covenant or obligation set forth in this Section, any holder (within the meaning of the Rule) of Leveraging Bonds then Outstanding may, by notice to the Borrower, proceed to protect and enforce its rights and the rights of the holders by an action for specific performance of the Borrower's covenants or obligations set forth in this Section.

(2) Notwithstanding anything herein to the contrary, any failure of the Borrower to comply with any obligation regarding Annual Financial Information specified in this Section (i) shall not be deemed to constitute an Event of Default under this Agreement and (ii) shall not give rise to any right or remedy other than that described in part (h)(1) of this Section.

(i) The Borrower may from time to time disclose certain information and data in addition to that required under this Section. Notwithstanding anything in this Agreement to the contrary, the Borrower shall not incur any obligation to continue to provide, or to update, such additional information or data.

(j) The Borrower may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligation to Make Public the Annual Financial Information, and may discharge any such Agent, with or without appointing a successor Dissemination Agent.

**Section 10.10. Davis-Bacon Act.** The Borrower agrees to comply with the Davis-Bacon Act and related acts, as amended, with respect to the Project and require that all laborers and mechanics employed by contractors and subcontractors for the Project shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality, as

determined by the United States Secretary of Labor in accordance with Section 513 of the Federal Water Pollution Control Act, as amended.

**Section 10.11. American Iron and Steel.** The Borrower agrees to comply with Section 608 of the Federal Water Pollution Control Act and related acts, as amended, with respect to the Project and require that all iron and steel products used for the Project are to be produced in the United States as required under such act. The term “iron and steel products” is defined to mean the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete and construction materials.

**Section 10.12. Fiscal Sustainability Plan.** The Borrower agrees to develop and implement a fiscal sustainability plan (“FSP”) to the reasonable satisfaction of the Department that includes but is not limited to: (1) an inventory of critical assets that are part of the treatment works, (2) evaluation of the condition and performance of inventoried assets or asset groupings, (3) certification that the recipient has evaluated and will be implementing water and energy conservation efforts as part of the plan, and (4) a plan for maintaining, repairing, funding, and as necessary, replacing the treatment works. Except as may otherwise be approved by the Department, disbursements shall be held at eighty percent (80%) of the maximum authorized amount of the Local Bond until a draft FSP is submitted to the Department and at ninety-five percent (95%) of the maximum authorized amount of the Local Bond until a final FSP is submitted and approved by the Department.

**Section 10.13. Service Agreements.** The Borrower shall give prompt notice to the Authority of any renewal, extension, amendment, default or termination of the Service Agreements. The Borrower shall enforce the terms of the Service Agreements and use its best efforts to ensure that the Service Agreements remain in full force and effect during their terms.

**Section 10.14. Prohibition on Telecommunications Services or Equipment.** The Borrower agrees to comply with all federal requirements imposed by 2 C.F.R. § 200.216, implementing P.L. 115-232, Section 889, as amended and supplemented and in effect from time to time, with respect to the Project. Such requirements include, among other things, that the Borrower is prohibited from obligating or expending the Local Bond Proceeds to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use certain covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

## **ARTICLE XI**

### **DEFAULTS AND REMEDIES**

**Section 11.1. Events of Default.** Each of the following events shall be an “Event of Default”:

(a) The failure to pay when due any payment of principal due hereunder or to make any other payment required to be made under the Local Bond or this Agreement;

(b) The Borrower's failure to perform or observe any of the other covenants, agreements or conditions of the Local Bond or this Agreement and the continuation of such failure for a period of thirty (30) days after the Authority gives the Borrower written notice specifying such failure and requesting that it be cured, unless the Authority shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice is correctable but cannot be corrected within the applicable period, the Authority will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the Borrower within the applicable period and diligently pursued until the Default is corrected;

(c) Any warranty, representation or other statement by or on behalf of Borrower contained in this Agreement or in any instrument furnished in compliance with or in reference to this Agreement or in connection with the issuance and sale of the Local Bond is false or misleading in any material respect;

(d) The early termination of the Funding Agreement pursuant to Sections 5.3(b) and (c) thereof.

(e) The occurrence of a default by the Borrower under the terms of any Subordinate Bonds, Parity Bonds, Existing Parity Bonds or Prior Bonds and the failure to cure such default or obtain a waiver thereof within any period of time permitted thereunder;

(f) An order or decree shall be entered, with the Borrower's consent or acquiescence, appointing a receiver or receivers of the System or any part thereof or of the Revenues thereof, or if such order or decree, having been entered without the Borrower's consent or acquiescence, shall not be vacated, discharged or stayed on appeal within sixty (60) days after the entry thereof;

(g) Any proceeding shall be instituted, with the Borrower's consent or acquiescence, for the purpose of effecting a composition between the Borrower and its creditors or for the purpose of adjusting the claims of such creditors, pursuant to any federal or state statute now or hereafter enacted, if the claims of such creditors are under any circumstances secured by or payable from Revenues; or

(h) Any bankruptcy, insolvency or other similar proceeding shall be instituted by or against the Borrower under any federal or state bankruptcy or insolvency law now or hereinafter in effect and, if instituted against the Borrower, is not dismissed within sixty (60) days after filing.

**Section 11.2. Notice of Default.** The Borrower agrees to give the Authority prompt written notice if any order, decree or proceeding referred to in Section 11.1(f), (g) or (h) is entered or instituted against the Borrower or of the occurrence of any other event or condition

which constitutes a Default or an Event of Default immediately upon becoming aware of the existence thereof.

**Section 11.3. Remedies on Default.** Whenever any Event of Default referred to in Section 11.1 shall have happened and be continuing, the Authority shall, in addition to any other remedies provided herein or by law, including rights specified in Section 62.1-228 of the Act, have the right, at its option without any further demand or notice, to take one or both of the following remedial steps:

(a) Declare immediately due and payable all payments due or to become due on the Local Bond and under this Agreement, and upon notice to the Borrower, the same shall become immediately due and payable by the Borrower without further notice or demand; and

(b) Take whatever other action at law or in equity may appear necessary or desirable to collect the payments then due and thereafter to become due on the Local Bond and under this Agreement or to enforce any other of the Fund's, the Authority's, the Department's or the Board's rights under this Agreement or to enforce performance by the Borrower of its covenants, agreements or undertakings contained herein or in the Local Bond, which the Borrower hereby agrees are assigned to the Authority upon the occurrence of an Event of Default.

**Section 11.4. Delay and Waiver.** No delay or omission to exercise any right or power accruing upon any Default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Default or Event of Default or acquiescence therein, and every such right or power may be exercised from time to time and as often as may be deemed expedient. No waiver of any Default or Event of Default under this Agreement shall extend to or shall affect any subsequent Default or Event of Default or shall impair any rights or remedies consequent thereto.

**Section 11.5. State Aid Intercept.** The Borrower acknowledges that the Authority may take any and all actions available to it under the laws of the Commonwealth of Virginia, including Section 62.1-216.1 of the Code of Virginia of 1950, as amended, to secure payment of the principal of the Local Bond, if payment of such principal shall not be paid when the same shall become due and payable.

## **ARTICLE XII** **MISCELLANEOUS**

**Section 12.1. Successors and Assigns.** This Agreement shall be binding upon, inure to the benefit of and be enforceable by the parties and their respective successors and assigns.

**Section 12.2. Amendments.** The Authority and the Borrower, with the written consent of the Department, shall have the right to amend from time to time any of the terms and

conditions of this Agreement, provided that all amendments shall be in writing and shall be signed by or on behalf of the Authority and the Borrower; provided, however, that the written consent of the Department shall not be required for the Authority and the Borrower to amend Articles I, V, IX and XI or Sections 10.4, 10.5, 10.9 and 10.13 of this Agreement.

**Section 12.3. Liability of Officials.** In the absence of fraud, no present or future director, official, officer, employee or agent of the Borrower shall be liable personally in respect of this Agreement or the Local Bond or for any other action taken by such individual pursuant to or in connection with the financing provided for in this Agreement or the Local Bond.

**Section 12.4. Applicable Law.** This Agreement shall be governed by the applicable laws of the Commonwealth of Virginia.

**Section 12.5. Severability.** If any clause, provision or section of this Agreement shall be held illegal or invalid by any court, the illegality or invalidity of such clause, provision or Section shall not affect the remainder of this Agreement which shall be construed and enforced as if such illegal or invalid clause, provision or section had not been contained in this Agreement. If any agreement or obligation contained in this Agreement is held to be in violation of law, then such agreement or obligation shall be deemed to be the agreement or obligation of the Authority and the Borrower, as the case may be, only to the extent permitted by law.

**Section 12.6. Notices.** Unless otherwise provided for herein, all demands, notices, approvals, consents, requests, opinions and other communications under the Local Bond or this Agreement shall be in writing and shall be deemed to have been given when delivered in person or mailed by first class registered or certified mail, postage prepaid, addressed as follows:

Fund: Virginia Water Facilities Revolving Fund  
c/o Virginia Resources Authority  
1111 East Main Street, Suite 1920  
Richmond, VA 23219  
Attention: Executive Director

Authority: Virginia Resources Authority  
1111 East Main Street, Suite 1920  
Richmond, VA 23219  
Attention: Executive Director

Department and Board: State Water Control Board  
Department of Environmental Quality  
P. O. Box 1105  
Richmond, VA 23218  
Attention: Executive Director



Borrower: Town of Abingdon, Virginia  
133 West Main Street  
Abingdon, Virginia 24210  
Attention: Town Manager

A duplicate copy of each demand, notice, approval, consent, request, opinion or other communication given by any party named in this Section shall also be given to each of the other parties named. The Authority, the Department, the Board and the Borrower may designate, by notice given hereunder, any further or different addresses to which subsequent demands, notices, approvals, consents, requests, opinions or other communications shall be sent or persons to whose attention the same shall be directed.

**Section 12.7. Right to Cure Default.** If the Borrower shall fail to make any payment or to perform any act required by it under the Local Bond or this Agreement, the Authority without prior notice to or demand upon the Borrower and without waiving or releasing any obligation or default, may (but shall be under no obligation to) make such payment or perform such act. All amounts so paid by the Authority and all costs, fees and expenses so incurred shall be payable by the Borrower as an additional obligation under this Agreement, together with interest thereon at the rate of interest of five percent (5.0%) per annum until paid. The Borrower's obligation under this Section shall survive the payment of the Local Bond.

**Section 12.8. Headings.** The headings of the several articles and sections of this Agreement are inserted for convenience only and do not comprise a part of this Agreement.

**Section 12.9. Term of Agreement.** This Agreement shall be effective upon its execution and delivery, provided that the Local Bond shall have been previously or simultaneously executed and delivered. Except as otherwise specified, the Borrower's obligations under the Local Bond and this Agreement shall expire upon payment in full of the Local Bond and all other amounts payable by the Borrower under this Agreement.

**Section 12.10. Commitment Letter.** The Commitment Letter is an integral part of this Agreement and shall survive closing hereunder.

**Section 12.11. Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

*[Remainder of Page Intentionally Left Blank – Signature Page Follows]*

**WITNESS** the following signatures, all duly authorized.

**VIRGINIA RESOURCES AUTHORITY, as  
Administrator of the Virginia Water Facilities  
Revolving Fund**

By: \_\_\_\_\_  
Shawn B. Crumlish, Executive Director

**TOWN OF ABINGDON, VIRGINIA**

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

Its: \_\_\_\_\_

**EXHIBIT A**  
**FORM OF LOCAL BOND**  
**TOWN OF ABINGDON, VIRGINIA**  
**C-515741**

[To Come from Borrower's Bond Counsel]

**EXHIBIT B**

**PROJECT DESCRIPTION  
TOWN OF ABINGDON, VIRGINIA  
C-515741**

The Project includes financing Collection System Rehabilitation – Phase 1, together with related expenses.

**EXHIBIT C**

**PROJECT BUDGET  
TOWN OF ABINGDON, VIRGINIA  
C-515741**

[To Come]

**EXHIBIT D**

**OPINION OF BORROWER'S BOND COUNSEL  
TOWN OF ABINGDON, VIRGINIA  
C-515741**

[To Come from Borrower's Bond Counsel]

**EXHIBIT E**  
**FORM OF REQUISITION**  
**TOWN OF ABINGDON, VIRGINIA**  
**C-515741**

[LETTERHEAD OF BORROWER]

[Date]

Karen M. Doran, Program Manager  
Construction Assistance Program  
Water Division  
Department of Environmental Quality  
P. O. Box 1105  
Richmond, Virginia 23218

Re: Town of Abingdon, Virginia  
Loan No. C-515741

Dear Ms. Doran:

This requisition, Number \_\_\_\_, is submitted in connection with the Financing Agreement and the Funding Agreement, each dated as of \_\_\_\_\_ 1, 2023 (the "Agreements") , between the Virginia Resources Authority, as Administrator of the Virginia Water Facilities Revolving Fund, and the Town of Abingdon, Virginia (the "Borrower"). Unless otherwise defined in this requisition, all capitalized terms used herein shall have the meaning set forth in Article I of the Agreements. The undersigned Authorized Representative of the Borrower hereby requests disbursement of loan proceeds under the Agreements in the amount of \$\_\_\_\_\_, for the purposes of payment of the Project Costs as set forth in Schedule 1 attached hereto.

Attached hereto are invoices relating to the items for which payment is requested.

The undersigned certifies that (a) the amounts requested by the requisition will be applied solely and exclusively to the payment, or to the reimbursement of the Borrower for the payment, of Project Costs, and (b) any materials, supplies or equipment covered by this requisition are not subject to any lien or security interest or such lien or security interest will be released upon payment of the requisition. In addition, the undersigned certifies that the Borrower has conducted adequate oversight for compliance with the Davis-Bacon Act and related acts through (a) the review of payrolls and associated certifications, and (b) the posting of all wage determinations and additional

classifications (as appropriate) on the work site, and through this oversight, the Borrower has determined to the best of its ability that the Project complies with the requirements of the Davis-Bacon Act and related acts. The Borrower further certifies that all products included in this request satisfy the appropriate provisions of the American Iron and Steel requirements included in the Agreements.

The undersigned further certifies that (a) no Event of Default or Default has occurred and is continuing, and no condition exists which, with the passing of time or with the giving of notice or both, would constitute an Event of Default hereunder, and (b) the representations and warranties of the Borrower contained in the Agreements are true, correct and complete and the Borrower has performed all of its obligations thereunder required to be performed as of the date hereof.

This requisition includes an accompanying Certificate of the Consulting Engineer as to the performance of the work.

Very truly yours,

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

Its: \_\_\_\_\_

Attachments

cc: DEQ Regional Engineer (with all attachments)



CERTIFICATE OF THE CONSULTING ENGINEER  
FORM TO ACCOMPANY REQUEST FOR DISBURSEMENT

This Certificate is being executed and delivered in connection with Requisition Number \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_, submitted by the Town of Abingdon, Virginia (the “Borrower”) pursuant to the Financing Agreement and the Funding Agreement, each dated as of \_\_\_\_\_ 1, 2023 (the “Agreements”), between the Virginia Resources Authority, as Administrator of the Virginia Water Facilities Revolving Fund (the “Authority”), and the Borrower. Capitalized terms used herein shall have the same meanings set forth in Article I of the Agreements referred to in the Requisition.

The undersigned Consulting Engineer for the Borrower hereby certifies to the Authority that, insofar as the amounts covered by this Requisition include payments for labor or to contractors, builders or materialmen, such work was actually performed or such materials, supplies or equipment were actually furnished to or installed in the construction portion of the Project.

\_\_\_\_\_  
[Consulting Engineer]

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

Date: \_\_\_\_\_

SCHEDULE 1  
VIRGINIA WATER FACILITIES REVOLVING FUND  
FORM TO ACCOMPANY REQUEST FOR DISBURSEMENT

REQUISITION # \_\_\_\_\_

BORROWER: TOWN OF ABINGDON, VIRGINIA

LOAN NUMBER: C-515741

CERTIFYING SIGNATURE: \_\_\_\_\_

TITLE: \_\_\_\_\_

Cost Category	Amount Budgeted	Previous Disbursements	Expenditures This Period	Total Expenditures To Date	Net Balance Remaining
TOTALS:					

Total Loan Amount \$ \_\_\_\_\_  
Previous Disbursements \$ \_\_\_\_\_  
This Request \$ \_\_\_\_\_  
Loan Proceeds Remaining \$ \_\_\_\_\_

**EXHIBIT F**

**PRIOR BONDS AND EXISTING PARITY BONDS  
TOWN OF ABINGDON, VIRGINIA  
C-515741**

[To Be Updated by Borrower's Bond Counsel]

Prior Bonds:

None

Existing Parity Bonds:

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**EXHIBIT G**  
**OPERATING DATA**  
**TOWN OF ABINGDON, VIRGINIA**  
**C-515741**

*Description of Borrower.* A description of the Borrower including a summary description of the System, and its management and officers.

*Debt.* A description of the terms of the Borrower's outstanding debt, including a historical summary of outstanding debt and a summary of annual debt service on outstanding debt as of the end of the preceding Fiscal Year. The Annual Financial Information should also include (to the extent not shown in the latest audited financial statements) a description of contingent obligations as well as pension plans administered by the Borrower and any unfunded pension liabilities.

*Financial Information and Operating Data.* Financial information for the System as of the end of the preceding Fiscal Year, including a description of revenues and expenditures, largest users, a summary of rates, fees and other charges of the System, and a historical summary of debt service coverage.

**EXHIBIT H**  
**FORM OF BUDGET**  
**TOWN OF ABINGDON, VIRGINIA**  
**C-515741**

(To Be on Borrower's Letterhead)

[Date]

Executive Director  
Virginia Resources Authority  
1111 East Main Street, Suite 1920  
Richmond, VA 23219

Dear Mr./Ms. \_\_\_\_\_:

Pursuant to the Financing Agreement[s] between Virginia Resources Authority and the Town of Abingdon, Virginia, a copy of the fiscal year [20xx] annual budget is enclosed. Such annual budget provides for the satisfaction of the rate covenant as demonstrated below.

Revenues	Operation & Maintenance Expense	Net Revenues Available for Debt Service* (Revenues – O&M Expense)	Debt Service	Coverage (Net Revenues Available for Debt Service/Debt Service)

\*For the purpose of calculating coverage for the Rate Covenant, Net Revenues Available for Debt Service shall take into account any interfund transfers such that transfers of funds by the Borrower into its sewer enterprise fund are included as Revenues and transfers of funds by the Borrower out of its sewer enterprise fund are included as an Operation and Maintenance Expense).

All capitalized terms used herein shall have the meaning set forth in the Financing Agreement[s].

Very truly yours,

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

Its: \_\_\_\_\_



**PUBLIC DOCUMENT –  
SUBJECT TO FREEDOM OF INFORMATION ACT**

**APPLICATION EXPIRES DECEMBER 31, 2023**

**Board and Commission Application**

The Abingdon Town Council has adopted this application for use by individuals interested in appointment to any of the Town's advisory boards and commissions. To ensure your application will receive full consideration, please answer all questions completely. Questions? Call 276-492-2149

**Please return this application either:**

- **In person (3<sup>rd</sup> floor of the Town Hall), 133 West Main Street, Abingdon, VA;**
- **By mail, Boards and Commissions, Town of Abingdon, P.O. Box 789, Abingdon, VA 24212; or**
- **kkingsley@abingdon-va.gov**

**\*\*\*PLEASE PRINT OR TYPE\*\*\***

Name Brooke H. Bunn Date: 2/12/23

Address 153 Valley Street NE City/State VA Zip 24210

Do you live inside the Town limits of Abingdon? Yes X No       

Telephone: 304-550-6625

Email Address: *(required)* brookebunn153@gmail.com

Place of Employment: N/A

Address: N/A

Description of job duties: N/A

Educational background:  
BS - Business Management - Emory & Henry College (2001)

Are you currently serving on a board or commission of the Town of Abingdon? Yes ☒ No ☐

If so, which Board(s) or Commission(s)? N/A

When do(es) your present term(s) expire? (mm/yy) N/A

Have you ever served on any boards or commissions in the past, either Abingdon or in other localities?  
Yes ☒ No ☐

If so, name and date(s) of service? Washington County, VA Drug Court Advisory Committee (current)

Why do you wish to serve the Town in this capacity? Do you have an area of interest or background that you believe would be a beneficial service in this capacity? If so, what is it and how would it be helpful?

As a native of Abingdon, I truly appreciate the work of the HPRB and believe its efforts at historical preservation is one of the many things that makes Abingdon special. Personally, I have a passion for old buildings and have renovated several historic homes over the years including two on Valley Street with the involvement of the HPRB.

Are you presently more than 30 days delinquent on Town of Abingdon taxes? Yes ☐ No ☒

*To the best of my ability, all information on this application is true and correct.*

SIGNATURE Brooke H. Ginn

**Thank you for your interest in appointment to the Town's Advisory Boards and Commissions. \*\***

**Members of the Planning Commission, Economic Development Authority, Board of Zoning Appeals, Housing and Redevelopment Authority, and Historic Preservation Review Board are required to complete a Statement of Economic Interest.**

Please circle any other committees you are willing to serve on:

Board of Building Code Appeals **	Planning Commission */**
Board of Zoning Appeals	Recreation Advisory Commission
Economic Development Authority	Sinking Spring Cemetery Committee **
Infrastructure Advisory Committee	Sustain Abingdon Committee
<b>Historic Preservation Review Board */**</b>	Tourism Advisory Committee **
Housing and Redevelopment Authority	Tree Commission
Abingdon Arts Commission	Virginia Highlands Small Business Incubator
Veterans Advisory Board	

**\*May be required to attend training and/or obtain certification during term**

**\*\*Appointment contingent upon residency, qualified voter, or other qualifications as set forth in Ordinance and/or bylaws**

**Note: All applicants are subject to background verification.**



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- [kkingsley@abingdon-va.gov](mailto:kkingsley@abingdon-va.gov)

**\*\*\*PLEASE PRINT OR TYPE\*\*\***

Name Kevin Sigmon Date: 2/10/23

Address 430 Brookhill Drive City/State AVA Zip 24210

Do you live inside the Town limits of Abingdon? Yes ☒ No ☐

Telephone: 276-623-3412 (c)

Email Address: (required) ksigmon@abingdon-va.gov

Place of Employment: Town of Abingdon

Address: PO Box 789, Abingdon, VA 24212

Description of job duties: Town Arborist

Educational background: BS Forest Mgmt VaTech - 1982



Are you currently serving on a board or commission of the Town of Abingdon? Yes ☒ No ☐

If so, which Board(s) or Commission(s)? Tree Commission

When do(es) your present term(s) expire? (mm/yy) N/A

Have you ever served on any boards or commissions in the past, either Abingdon or in other localities?  
Yes ☒ No ☐

If so, name and date(s) of service? Trees VA, MAC-ISA

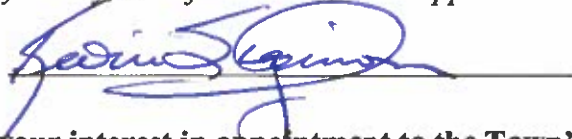
Why do you wish to serve the Town in this capacity? Do you have an area of interest or background that you believe would be a beneficial service in this capacity? If so, what is it and how would it be helpful?

With increased involvement with the Town, this is a good opportunity to get the 2 Commissions to be closer in function and effort.

Are you presently more than 30 days delinquent on Town of Abingdon taxes? Yes ☐ No ☒

*To the best of my ability, all information on this application is true and correct.*

SIGNATURE



**Thank you for your interest in appointment to the Town's Advisory Boards and Commissions. \*\***

**Members of the Planning Commission, Economic Development Authority, Board of Zoning Appeals, Housing and Redevelopment Authority, and Historic Preservation Review Board are required to complete a Statement of Economic Interest.**

Please circle any other committees you are willing to serve on:

Board of Building Code Appeals **	Planning Commission */**
Board of Zoning Appeals	Recreation Advisory Commission
Economic Development Authority	Sinking Spring Cemetery Committee **
Infrastructure Advisory Committee	<u>Sustain Abingdon Committee</u>
Historic Preservation Review Board */**	Tourism Advisory Committee **
Housing and Redevelopment Authority	Tree Commission
Abingdon Arts Commission	Virginia Highlands Small Business Incubator
Veterans Advisory Board	

**\*May be required to attend training and/or obtain certification during term**

**\*\*Appointment contingent upon residency, qualified voter, or other qualifications as set forth in Ordinance and/or bylaws**

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- **kkingsley@abingdon-va.gov**

**\*\*\*PLEASE PRINT OR TYPE\*\*\***

Name David G. Dalton Date: 02/10/2023

Address 2933 Heathmoor Ln City/State Charlotte, NC Zip 28211

Do you live inside the Town limits of Abingdon? Yes \_\_\_\_\_ No Not yet, Moving into 108 Court Street

Telephone: 704 996-6406

Email Address: (required) davidgdalton@outlook.com; ddalton@vintagepropertiesva.com;

Place of Employment: Creepers End Lodging - Owners

Address: 121 and 123 Railroad Street, Abingdon, VA

Description of job duties: Managing Partner

Educational background: UNC-CH - Radio, Television, Motion Pictures

Are you currently serving on a board or commission of the Town of Abingdon? Yes \_\_\_\_\_ No No

If so, which Board(s) or Commission(s)? \_\_\_\_\_

When do(es) your present term(s) expire? (mm/yy) \_\_\_\_\_

Have you ever served on any boards or commissions in the past, either Abingdon or in other localities?  
Yes X No \_\_\_\_\_

If so, name and date(s) of service? Mecklenburg County NC Parks and Recreation; Arts and Science Council;  
Festival in the Park, E4 Carolinas, Charlotte Regional Partnership

Why do you wish to serve the Town in this capacity? Do you have an area of interest or background that you believe would be a beneficial service in this capacity? If so, what is it and how would it be helpful?  
We have had Creepers End since 2011; Love every aspect of Tourism and Economic Development. Currently restoring Wm King House and Dooley House.

Are you presently more than 30 days delinquent on Town of Abingdon taxes? Yes \_\_\_\_\_ No X

*To the best of my ability, all information on this application is true and correct.*

SIGNATURE David G. Dalton

**Thank you for your interest in appointment to the Town's Advisory Boards and Commissions.** \*\*

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