

ESCROW AGREEMENT

THIS ESCROW AGREEMENT (this “Agreement”), dated August 20, 2019, between the **COUNTY OF SPOTSYLVANIA, VIRGINIA** (the “County”), and **U.S. BANK NATIONAL ASSOCIATION** and its successors, as escrow agent under this Agreement (the “Escrow Agent”), with respect to the Series 2019 Bonds, as hereinafter defined;

WITNESSETH:

WHEREAS, the County has previously issued its [(a) Water and Sewer System Revenue and Refunding Bonds Series 2010A (Tax-Exempt Revenue and Refunding Bonds) (the “2010A Bonds”), (b) Water and Sewer System Revenue Bonds Series 2010B (Taxable-Direct Payment Build America Bonds) (collectively, the “2010B Bonds” and collectively with the 2010A Bonds, the “2010 Bonds”), (c) Water and Sewer System Revenue Refunding Bonds, Series 2013 (the “2013 Bond”), (d) Water and Sewer System Revenue Refunding Bonds Series 2015 (the “2015 Bonds”)]]; and

WHEREAS, on November __, 2019 (the “Closing Date”), the County will issue its \$_____ Water and Sewer System Revenue and Refunding Bonds, Series 2019[A][B (Taxable)] (the “Series 2019 Bonds”), and will use a portion of the proceeds thereof to refund the Refunded Bonds (as hereinafter defined); and

WHEREAS, the County will issue the Series 2019 Bonds pursuant to the Public Finance Act of 1991, Chapter 26 of Title 15.2 of the Code of Virginia of 1950, as amended, and the Resolution (as hereinafter defined);

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties hereto agree as follows:

ARTICLE I DEFINITIONS

Each of the following capitalized words and terms used in this Agreement shall have the meaning given it below unless the context or use clearly indicates another or different meaning:

“**2010 Bonds**” has the meaning set forth in the recitals to this Agreement.

“**2013 Bond**” has the meaning set forth in the recitals to this Agreement.

“**2015 Bonds**” has the meaning set forth in the recitals to this Agreement.

“**Agreement**” means this Escrow Agreement, dated November __, 2019.

“**Closing Date**” has the meaning set forth in the recitals to this Agreement.

“**Code**” means the Internal Revenue Code of 1986, as amended, including all applicable regulations and revenue rulings.

“**County**” means the County of Spotsylvania, Virginia.

“**Escrow Agent**” has the meaning set forth in the recitals to this Agreement.

“**Escrow Fund**” means the segregated and irrevocable fund established under Section 2.1 of this Agreement.

“**Government Obligations**” means the direct, noncallable, nonprepayable full faith and credit obligations of the United States of America, excluding any investments in unit investment trusts and mutual funds.

“**Initial Cash Balance**” means the initial cash balance established in the Escrow Fund under Section 2.3(b).

“**Redemption Date**” means the date that the Refunded Bonds are to be redeemed in accordance with Exhibit C attached hereto.

“**Refunded Bonds**” means [(1) the 2010 Bonds maturing on _____ through the final maturity date of _____, in the currently outstanding aggregate principal amount of \$_____, as designated for redemption by the County Administrator or the Director of Finance, as provided in the Resolution, in the following amounts and at the following redemption prices:

<u>Maturity Date</u> (_____)	<u>Principal Amount</u>	<u>Redemption Price (%)</u>
2020	\$	100%
2021		100
2022		100
2023		100
2024		100
2025		100
2026		100
2027		100
2028		100
2029		100
2034		100;

(2) the 2013 Bond maturing (i) on January 15, 2035 in the currently outstanding principal amount of \$_____, as designated for redemption by the County Administrator or the Finance Officer, as provided in the Resolution, and (3) the 2015 Bonds maturing on _____ through the final maturity date of _____, in the currently outstanding aggregate principal amount of \$_____, as designated for redemption by the County Administrator or the Finance Officer, as provided in the Resolution, in the following amounts and at the following redemption prices:

<u>Maturity Date</u> ()	<u>Principal Amount</u>	<u>Redemption Price (%)</u>
2020	\$	100%
2021		100
2022		100
2023		100
2024		100
2025		100
2026		100
2027		100
2028		100
2029		100
2034		100;

].

“Resolution” means the Resolution adopted by the Board of Supervisors of the County on September 10, 2019, to authorize and approve, among other things, the current refunding of the Refunded Bonds with a portion of the proceeds of the Series 2019 Bonds.

“Series 2019 Bonds” has the meaning set forth in the recitals to this Agreement.

“Verification Report” means the report of The Arbitrage Group, Inc., attached as Exhibit B hereto, verifying among other things certain calculations demonstrating that the Initial Cash Balance and the principal of and interest on the Government Obligations, when received, will be sufficient at all times, without reinvestment, to pay all principal of and premium and interest on the Refunded Bonds on their Redemption Date.

ARTICLE II ESTABLISHMENT OF ESCROW FUND

Section 2.1 Establishment of Escrow Fund; Issuance of Series 2019 Bonds.

(a) There is hereby created and established with the Escrow Agent a special, segregated and irrevocable escrow fund, designated the “Spotsylvania County 2019 Water and Sewer System Revenue and Refunding Bonds, Series 2019 Escrow Fund” (the “Escrow Fund”). The Escrow Agent shall hold the Escrow Fund in its custody for the benefit of the holders of each respective series of the Refunded Bonds, and separate and apart from other funds of the County and the Escrow Agent. The Escrow Fund and all amounts in it are irrevocably pledged to the payment of the Refunded Bonds. The Escrow Agent may create such accounts within the Escrow Fund as may be necessary or advisable to effectuate the purposes of this Agreement.

(b) The County by the Resolution has authorized the issuance and delivery of the Series 2019 Bonds, a portion of the proceeds of which are to be used to refund and redeem the Refunded Bonds by depositing into the Escrow Fund such portion of the proceeds in an amount sufficient for the Escrow Agent to purchase, on the County's behalf, the Government Obligations and to establish the Initial Cash Balance.

Section 2.2 Refunding and Defeasance of Refunded Bonds; Sufficiency.

(a) All of the Refunded Bonds are hereby refunded and defeased in advance of their stated maturities by the deposit with the Escrow Agent of moneys sufficient to purchase the Government Obligations and to establish the Initial Cash Balance as described in Section 2.3.

(b) In reliance upon the Verification Report, the County represents that the interest on and the successively maturing principal amounts of the Government Obligations in accordance with their terms (without consideration of any reinvestment of such maturing principal and interest), together with the Initial Cash Balance, are sufficient to assure that moneys will be available to the Escrow Agent in sufficient amounts to pay the principal of and accrued interest on each of the Refunded Bonds through and on their Redemption Date.

(c) If at any time it shall appear to the Escrow Agent that the available proceeds of the Government Obligations and cash held in the Escrow Funds will not be sufficient to make any payment due as set forth in Exhibit B, the Escrow Agent shall notify the County promptly, and the County shall, subject to funds being lawfully appropriated for such purpose, fund the anticipated deficit so that no default in the making of any such payment will occur.

Section 2.3 Deposits; Purchase of Government Obligations and Establishment of Initial Cash Balance.

(a) The County has caused the irrevocable deposit with the Escrow Agent for deposit in the Escrow Fund the aggregate sum of \$_____.

(b) The Escrow Agent shall on the Closing Date apply \$_____ of the amounts described in subsection (a) above to purchase the Government Obligations for the Escrow Fund and shall hold the balance of the deposits described in subsection (a) above of \$_____ as the initial cash balance in the Escrow Fund (the "Initial Cash Balance").

**ARTICLE III
COVENANTS OF ESCROW AGENT**

Section 3.1 General Covenants. The Escrow Agent shall hold the Government Obligations purchased for or deposited in the Escrow Fund and all interest, income, and profit derived therefrom and the Initial Cash Balance and all other uninvested cash in the Escrow Fund (the "Escrow Fund") as an irrevocable segregated and separate escrow fund for the sole and exclusive benefit of the holders of the Refunded Bonds until final payment of each series of the Refunded Bonds. The Escrow Agent shall keep the Escrow Fund wholly segregated from other funds and securities on deposit with it, shall never commingle the Escrow Fund with other funds or securities held by it, and shall never at any time use, lend, or borrow the same in any way other than as provided in this Agreement. Nothing contained in this Agreement shall be construed as requiring the Escrow Agent to keep the identical money, or any part thereof, in the Escrow Fund if it is impractical, but money of an equal amount, except to the extent represented by the Government Obligations purchased or deposited pursuant to this Agreement, must always

be maintained on deposit in the Escrow Fund as funds held by the Escrow Agent in its custodial capacity under this Agreement.

Section 3.2 Reinvestments; Substitution.

(a) Neither the Initial Cash Balance nor the maturing principal of or interest on the Government Obligations shall be reinvested. The Escrow Agent shall hold the Initial Cash Balance and all other cash balances in the Escrow Fund not invested or reinvested as provided in this Agreement in cash on deposit in the Escrow Fund.

(b) [Intentionally Omitted.]

Section 3.3 Disclaimers. The Escrow Agent shall not be liable or responsible (i) for the accuracy of the Verification Report or (ii) for the sufficiency of the Escrow Fund and the earnings on it to pay the principal of and premium and interest on the Refunded Bonds.

Section 3.4 Tax Covenant. The Escrow Agent will not knowingly or intentionally take any action with respect to the Escrow Fund or the Government Obligations acquired hereunder that would cause the Series 2019 Bonds or the Refunded Bonds to be classified as “arbitrage bonds” under Section 148 of the Code.

Section 3.5 Collection and Application of Income. The Escrow Agent will promptly collect the principal of, interest on, and income and profit from the Government Obligations held under this Agreement and promptly apply the same solely and only to the payment of the principal of and premium, if any, and interest on the Refunded Bonds as the same become due and to the other purposes expressly stated in this Agreement. The Escrow Agent shall have no obligation to reinvest such income and profits unless requested by the County.

Section 3.6 Payments of Principal of and Premium and Interest on the Refunded Bonds. On the Redemption Date of the Refunded Bonds, as described in Exhibit C attached hereto, the Escrow Agent shall transfer sufficient moneys from the matured principal of and interest on the Government Obligations and the cash balances held in the Escrow Fund for the payment of the principal of and interest on the Refunded Bonds accrued to the Redemption Date, to the holder thereof.

Section 3.7 Duties Under Escrow Agreement.

(a) The Escrow Agent will have no duties or responsibilities to the County or any other person in connection herewith except those specifically provided herein and will not be responsible for anything done or omitted to be done by it except for its own negligence or willful misconduct in the performance of any obligation imposed on it hereunder. The Escrow Agent, except as herein specifically provided for, is not a party to, nor is it bound by nor need it give consideration to the terms or provisions of any other agreement or undertaking between the County and any other person, and the Escrow Agent assents to and is to give consideration only to the terms and provisions of this Agreement.

(b) Unless specifically provided herein, the Escrow Agent has no duty to determine or inquire into the happening or occurrence of any event or contingency or the

performance or failure of performance of the County with respect to arrangements or contracts with others, the Escrow Agent's sole duty under this Agreement being to safeguard the Escrow Fund and to dispose of and deliver the same in accordance with this Agreement. If, however, the Escrow Agent is called upon by the terms of this Agreement to determine the occurrence of any event or contingency, the Escrow Agent will be obligated, in making such determination, to exercise reasonable care and diligence, and in event of error in making such determination the Escrow Agent will be liable for its own willful misconduct or its negligence.

(c) In determining the occurrence of any such event or contingency the Escrow Agent may request from the County or any other person such reasonable additional evidence as the Escrow Agent in its discretion may deem necessary to determine any fact relating to the occurrence of such event or contingency, and in this connection may inquire of and consult with the County at any time. The Escrow Agent may consult with legal counsel, and the opinion of such counsel will be full and complete authority and protection to the Escrow Agent as to any action taken or omitted by it in good faith and in accordance with such opinion.

Section 3.8 Indemnification. The Escrow Agent shall be under no obligation to institute any suit or action or other proceeding under this Agreement or to enter any appearance in any suit, action, or proceeding in which it may be defendant or to take any steps in the enforcement of its, or any, rights and powers hereunder, nor shall be deemed to have failed to take any such action, unless and until the Escrow Agent shall have been indemnified to its satisfaction against, or provisions satisfactory to the Escrow Agent shall have been made for the payment of, any and all costs and expenses, outlays, counsel fees, and other disbursements, including the Escrow Agent's own reasonable fees.

Section 3.9 Liability of Escrow Agent. The Escrow Agent shall have no other responsibilities to the County or any other person in connection with this Agreement except as specifically provided in this Agreement. So long as the Escrow Agent applies any funds, the Government Obligations and the earnings therefrom to pay the Refunded Bonds as provided in this Agreement and complies fully with the terms of this Agreement, the Escrow Agent shall not be liable for any deficiencies in the amounts necessary to pay the Refunded Bonds.

Section 3.10 Dealing in Bonds. The Escrow Agent may in good faith buy, sell, or hold and deal in any of the Series 2019 Bonds or the Refunded Bonds.

Section 3.11 Statements. The Escrow Agent will submit to the County statements within fifteen (15) days after the first day of each month, commencing September 2019, itemizing all moneys received by it and all payments made by it under the provisions of this Agreement during the preceding period, and also listing the Government Obligations and cash balances on deposit in the Escrow Fund and all moneys held by it received as interest on or profit from the collection of the Government Obligations, as of the date of the report.

Section 3.12 Intentionally Omitted.

Section 3.13 Notice of Redemption. The Escrow Agent, in its capacity as Paying Agent for the County, shall send a notice of redemption of the Refunded Bonds substantially in the form set forth on Exhibit C attached hereto on the date specified therein to DTC and the MSRB in a format prescribed by the MSRB. Notwithstanding the foregoing, no defect in such

notice and no failure to give all or any portion of such notice shall in any manner affect the effectiveness of any call for optional redemption of the Refunded Bonds.

ARTICLE IV COVENANTS OF THE COUNTY

Section 4.1 Limitation of Escrow Agent's Liability. The Escrow Agent shall have no responsibility or liability whatsoever for (i) any of the County's recitals in this Agreement, and (ii) any undertaking of the County under this Agreement.

Section 4.2 Optional Redemption of Refunded Bonds. The County irrevocably exercises its option to redeem the Refunded Bonds on their Redemption Date.

Section 4.3 No Further Direction. All payments to be made by, and all acts and things required to be done by, the Escrow Agent under the terms and provisions hereof shall be made and done by the Escrow Agent without any further direction or authority of the County except as provided in Section 5.1.

Section 4.4 Escrow Agent Compensation. The County agrees to pay to the Escrow Agent the compensation and reimbursement to which it is entitled for exercising its duties hereunder. The Escrow Agent shall have no lien whatsoever for the payment of fees and expenses for services rendered by it hereunder upon any of the moneys or Government Obligations and the proceeds thereof on deposit in, or credited to, the Escrow Fund.

ARTICLE V AMENDMENTS, REINVESTMENT OF FUNDS, IRREVOCABILITY OF AGREEMENT

Section 5.1 Amendments.

(a) Subject to Section 5.1(b) below, this Agreement may be amended or supplemented for any one or more of the following purposes: (i) to make provision for the curing of any ambiguity, or of curing or correcting any defective provision contained in this Agreement, (ii) to grant to, or confer upon, the Escrow Agent for the benefit of the holders of the Refunded Bonds, any additional rights, remedies, powers or authority that may lawfully be granted to, or conferred upon, such holders or the Escrow Agent, (iii) to subject to this Agreement any additional funds, securities or properties, and (iv) to sever any provision of this Agreement that has been determined to be illegal by a court of competent jurisdiction

(b) No amendment to this Agreement shall be effective unless and until the County submits to the Escrow Agent the following items:

(1) A certified copy of the proceedings of the County authorizing the amendment and copy of the document effecting the amendment signed by duly designated officers of the County and the Escrow Agent.

(2) An unqualified opinion of the County's bond counsel to the effect that (A) the amendment will not cause the Refunded Bonds to lose their status as tax-

advantaged bonds, or cause or interest on any of the Series 2019 Bonds to become includable in gross income for federal income tax purposes, and (B) the amendment does not adversely affect the legal rights of the holders of the Refunded Bonds.

(3) A Substitute Verification Report of a firm of nationally recognized independent certified public accountants to the effect that the amounts (which will consist of cash and Government Obligations, all of which shall be held in the Escrow Fund) available or to be available for payment of the Refunded Bonds will remain sufficient, without reinvestment, to pay when due all principal of and premium and interest on the Refunded Bonds after the effective date of the amendment.

Section 5.2 Escrow Agent's Obligations Irrevocable. Except as provided in Section 5.1, all of the rights, powers, duties, and obligations of the Escrow Agent hereunder shall be irrevocable and shall not be subject to amendment by the Escrow Agent and shall be binding on any successor to the Escrow Agent during the term of this Agreement.

Section 5.3 County's Obligations Irrevocable. Except as provided in Section 5.1, all of the rights, powers, duties, and obligations of the County under this Agreement shall be irrevocable and shall not be subject to amendment by the County and shall be binding on any successors to the officials of the County during the term of this Agreement.

ARTICLE VI NOTICES

Section 6.1 Notices to the County. All notices and communications to the County shall be addressed in writing to:

County of Spotsylvania, Virginia
8800 Courthouse Road
Spotsylvania, Virginia 22553
Attention: County Administrator

or at such other address as is furnished from time to time by the County.

Section 6.2 Notices to Escrow Agent. All notices and communications to the Escrow Agent shall be addressed in writing to:

U.S. Bank National Association
Global Corporate Trust Services
1021 East Cary Street, Suite 1850
Richmond, Virginia 23219
Attention: Stephanie Haysley

or at such other address as is furnished from time to time by the Escrow Agent.

**ARTICLE VII
REPLACEMENT OF ESCROW AGENT,
ACTS BY ESCROW AGENT**

Section 7.1 Reliance by Escrow Agent. The Escrow Agent may act upon any notice, request, waiver, consent, certificate, receipt, authorization, power of attorney or other written or oral communication that the Escrow Agent in good faith believes to be genuine and correct and to have been signed or sent or communicated by the proper person or persons.

Section 7.2 Resignation and Discharge of Escrow Agent.

(a) The Escrow Agent may resign and thereby become discharged from the duties hereby created, by written notice mailed to the County by registered or certified mail. Such resignation shall take effect upon the appointment of a new Escrow Agent hereunder and acceptance of the duties hereby created. The Escrow Agent shall continue to serve as Escrow Agent until a successor is appointed, and the Escrow Agent may, after sixty (60) days subsequent to its resignation, petition the Circuit Court of the City of Richmond, Virginia, for the appointment of a successor Escrow Agent if one has not yet been appointed.

(b) If the Escrow Agent resigns before this Agreement expires, the Escrow Agent shall rebate to the County a ratable portion of any fee theretofore paid by the County to the Escrow Agent for its services under this Agreement.

**ARTICLE VIII
TERMINATION OF AGREEMENT; MISCELLANEOUS**

Section 8.1 Termination. Upon the final disbursement for the payment of the Refunded Bonds as provided for above, the Escrow Agent will transfer any balance remaining in the Escrow Fund to the County and thereupon this Agreement shall terminate. This Agreement is irrevocable prior to its termination.

Section 8.2 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.

Section 8.3 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.

Section 8.4 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 County and the Escrow Agent as the case may be, only to the extent permitted by law.

Section 8.5 Entire Agreement. This Agreement, together with its exhibits, constitutes the entire agreement and understanding of the County and the Escrow Agent with

respect to the subject matter hereof; however, if there is a conflict between the terms, conditions, representations, warranties and covenants contained in this Agreement.

Section 8.6 USA Patriot and Freedom Act. To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify and record information that identifies each person who opens an account. For a non-individual person such as a business entity, a charity, a trust or other legal entity the Escrow Agent will request documentation to verify its formation and existence as a legal entity. The Escrow Agent may also request financial statements, licenses, and identification and authorization documents from individuals claiming authority to represent the County or other relevant documentation.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the County has caused this Escrow Agreement to be signed in its name by its County Administrator, and U.S. Bank National Association, Richmond, Virginia, as Escrow Agent, has caused this Agreement to be signed in its corporate name by one of its duly authorized representatives, all as of the date first above written.

COUNTY OF SPOTSYLVANIA, VIRGINIA

By: _____
Ed Petrovitch, County Administrator

U.S. BANK NATIONAL ASSOCIATION,
as Escrow Agent

By: _____
Stephanie Haysley
Assistant Vice President

[ESCROW AGENT'S SIGNATURE PAGE –
ESCROW AGREEMENT OF COUNTY OF SPOTSYLVANIA]

EXHIBIT A

DESCRIPTION OF GOVERNMENT SECURITIES

UNITED STATES TREASURY SECURITIES –
STATE AND LOCAL GOVERNMENT SERIES

Security Number	Security Type	Principal Amount	Interest Rate	Maturity Date	First Interest Payment Date	Security Description
1						
2						
3						
4						

EXHIBIT B

VERIFICATION REPORT

[Attached]

EXHIBIT C

NOTICE OF REDEMPTION

[REFUNDED BONDS TO BE DETERMINED]

NOTICE IS HEREBY GIVEN, pursuant to a resolution of the Board of Supervisors of the County of Spotsylvania, Virginia (the "County"), adopted on September 10, 2019, to the holders of the County's (the "Refunded Bonds"), that the County's [(a) Water and Sewer System Revenue and Refunding Bonds Series 2010A (Tax-Exempt Revenue and Refunding Bonds) (the "2010A Bonds"), (b) Water and Sewer System Revenue Bonds Series 2010B (Taxable-Direct Payment Build America Bonds) (collectively, the "2010B Bonds" and collectively with the 2010A Bonds, the "2010 Bonds"), (c) Water and Sewer System Revenue Refunding Bonds, Series 2013 (the "2013 Bond"), (d) Water and Sewer System Revenue Refunding Bonds Series 2015 (the "2015 Bonds")] (the "Refunded Bonds") will be redeemed on _____, 2019. The Refunded Bonds to be redeemed mature on _____ in the years and amounts, bear interest at the rates, have CUSIP numbers, and shall be redeemed at the redemption prices set forth below:

<u>Maturity Date</u> <u>(July 15)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest Rate</u>	<u>Redemption</u> <u>Price</u>	<u>CUSIP Number*</u>
2020	\$	%	100%	
2021			100	
2022			100	
2023			100	
2024			100	
2025			100	
2026			100	
2027			100	
2028			100	
2029			100	
2034			100	

On _____, 2019, the Refunded Bonds will be due and payable at the corporate trust office of U.S. Bank national Association upon presentation and surrender of the Refunded Bonds, and from and after [October 15,], 2019, interest on the Refunded Bonds will cease to accrue. Refunded Bonds may be presented in the following manner:

U.S. Bank National Association
Corporate Trust Services
1111 Fillmore Ave. E.
St. Paul, Minnesota 55107

Registered or certified mail is suggested when submitting Refunded Bonds for payment. When inquiring about this redemption, please have the Refunded Bond number available. Please inform the customer service representative of the CUSIP number(s) of the affected Refunded Bonds. Our customer service number is 804.343.1567.

NOTICE

Withholding of [28%] of gross redemption proceeds of any payment made within the United States may be required by the Growth Tax Relief Reconciliation Act of 2003 (the “Act”), unless the Paying Agent has the correct taxpayer identification number (social security number or employer identification number) or exemption certificate of the payee. Please furnish a properly completed Form W-9 or exemption certificate or equivalent when presenting Refunded Bonds for payment.

** The County and U.S. Bank National Association, as Paying Agent for the County, shall not be responsible for the use of CUSIP numbers selected, nor is any representation made as to the correctness of such numbers as indicated in this notice or as printed on any Refunded Bond. CUSIP numbers are included solely for the convenience of the holders of the Refunded Bonds.*

Dated: November __, 2019

U.S. BANK NATIONAL ASSOCIATION, as
Paying Agent

