

EIGHTH SUPPLEMENTAL TRUST AGREEMENT

by and between

HAMPTON ROADS SANITATION DISTRICT

and

**THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,
as Trustee**

Dated as of September 28, 2020

Securing

Maximum Principal Amount of

\$225,865,648.00

**Subordinate Wastewater Revenue Bond
Series 2020
(Federally Taxable)**

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EXHIBIT A – FORM OF 2020 BOND

THIS EIGHTH SUPPLEMENTAL TRUST AGREEMENT, dated for convenience of reference as of September 28, 2020 (“**Supplemental Trust Agreement**”), by and between

HAMPTON ROADS SANITATION DISTRICT,

a political subdivision of the Commonwealth of Virginia, by Hampton Roads Sanitation District Commission, the governing body of said District, and

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,

a national banking association duly incorporated and validly existing under the laws of the United States of America and having a corporate trust office in Pittsburgh, Pennsylvania, which is authorized under such laws to exercise trust powers and is subject to examination by federal authority (said banking corporation and any bank or trust company becoming successor Trustee under this Supplemental Trust Agreement being hereinafter sometimes called the “**Trustee**”), supplements the Trust Agreement, dated as of October 1, 2011 (the “**Original Trust Agreement**”), as amended and restated as of March 1, 2016 (the “**Amended and Restated Trust Agreement**”), between the District and The Bank of New York Mellon Trust Company, N.A. (the Amended and Restated Trust Agreement, as amended and supplemented heretofore, by this Supplemental Trust Agreement and from time to time hereafter, the “**Trust Agreement**”),

WITNESSETH:

WHEREAS, the Hampton Roads Sanitation District (the “**District**”) was duly created under and pursuant to Chapter 407 of the Acts of Assembly of Virginia of 1940, and the Hampton Roads Sanitation District Commission (the “**Commission**”), created by said Chapter 407, is the governing body of the District; and

WHEREAS, by virtue of Chapter 66 of the Acts of Assembly of Virginia of 1960, as amended (said Chapter 66 as so amended being hereinafter sometimes called the “**Enabling Act**”), the Commission is authorized and empowered:

(a) to construct, improve, extend, enlarge, reconstruct, maintain, equip, repair and operate a wastewater treatment system or systems, either within or without or partly within and partly without the corporate limits of the District,

(b) to issue, at one time or from time to time, revenue bonds, notes or other obligations of the District payable solely from the special funds provided under the authority of the Enabling Act and pledged for their payment, for the purpose of refunding the outstanding bonds, including the payment of any redemption premium thereon, paying the cost of a wastewater treatment system or systems and extensions and additions thereto, and providing funds for any other authorized purpose of the Commission, and

(c) to fix, revise, charge and collect rates, fees and other charges for the use of, and for the services and facilities furnished or to be furnished by, any such wastewater treatment system; and

WHEREAS, the Commission has previously executed and delivered a Master Trust Indenture, dated as of December 1, 1993, as amended and restated March 1, 2008 (as supplemented and as further amended and supplemented from time to time, the “**Senior Trust Agreement**”), between the District and The Bank of New York Mellon Trust Company, N.A., as successor Trustee (in such capacity, the “**Senior Trustee**”), pursuant to which the District may provide for the issuance and incurrence of Senior Obligations (as defined in the Senior Trust Agreement); and

WHEREAS, pursuant to an Amendment dated as of October 1, 2019 (effective as of November 20, 2019) to the Trust Agreement (the “**Amendment**”), between the District and the Senior Trustee, the District agreed that, after the execution and delivery of the Amendment, it would not issue, incur or assume any Senior Obligations, except in connection with the exchange of Senior Obligations or the replacement of mutilated, destroyed, stolen or lost Senior Obligations; and

WHEREAS, Section 705 of the Senior Trust Agreement permits the issuance of Subordinated Indebtedness (as defined in the Senior Trust Agreement) subject to the conditions recited therein; and

WHEREAS, on October 20, 2011, the Commission executed and delivered the Original Trust Agreement to provide for the issuance of Parity Obligations payable solely from the Net Revenues Available for Debt Service derived by the District from its Wastewater System and the money attributable to proceeds of the Bonds and the income from the investment thereof and, coincident with the delivery of the Trust Agreement, determined to execute and deliver a First Supplemental Trust Agreement, dated as of October 1, 2011, to authorize and secure under the Trust Agreement revenue bonds of the District in the aggregate principal amount of Twenty-five Million Dollars (\$25,000,000) (the “**2011 Bonds**”) for the purpose of providing funds, together with other available funds, to (i) provide funds required to finance a portion of the costs of its 2011-2020 Capital Improvement Program and (ii) pay certain expenses incurred in connection with the issuance of the 2011 Bonds by the District; and

WHEREAS, the District has applied for financial assistance from the United States Environmental Protection Agency, an agency of the United States of America, acting by and through the Administrator of the Environmental Protection Agency (the “**WIFIA Lender**”) in order to finance eligible projects which qualify for financing under the Water Infrastructure Finance and Innovation Act, as amended by Section 1445 of the Fixing America’s Surface Transportation Act of 2015, as further amended by Section 5008 of the Water Infrastructure Improvements for the Nation Act of 2016 and by Section 4201 of America’s Water Infrastructure Act of 2018; and

WHEREAS, the District, acting by and through the Commission, and the WIFIA Lender propose to enter into a WIFIA Master Agreement, dated the date of execution and delivery thereof (the “**WIFIA Master Agreement**”), pursuant to which the District may request certain loans for eligible projects under a master program; and

WHEREAS, the District, acting by and through the Commission, and the WIFIA Lender desire to enter into that certain WIFIA Loan Agreement, dated as of the date of execution and delivery thereof (the “**WIFIA 2020 Loan Agreement**”), pursuant to which the WIFIA Lender will

make a loan to the District in a maximum principal amount of \$225,865,648.00 (the “**WIFIA Loan**”) to pay a portion of the eligible costs related to the Sustainable Water Initiative for Tomorrow (SWIFT) – Tranche 1 Project (the “**Project**”); and

WHEREAS, the Commission has determined to provide for the issuance under the Trust Agreement at this time of a revenue bond of the District (the “**2020 Bond**”) in the form of a draw-down bond, in the maximum principal amount of \$225,865,648, to evidence the District’s payment obligation to the WIFIA Lender, in its capacity as the Holder of the 2020 Bond, for amounts drawn, from time to time, under the WIFIA 2020 Loan Agreement; and

WHEREAS, the District is entering into this Supplemental Trust Agreement for the purpose of fixing the details of the 2020 Bond; and

WHEREAS, the Trustee has accepted the trusts created by this Supplemental Trust Agreement and in evidence thereof has joined in the execution hereof;

NOW, THEREFORE, THIS SUPPLEMENTAL TRUST AGREEMENT WITNESSETH: that in consideration of the premises, of the acceptance by the Trustee of the trusts hereby created, and of the purchase and acceptance of the 2020 Bond by the Holder thereof, and also for and in consideration of the sum of One Dollar in hand paid by the Trustee at or before the execution and delivery of this Supplemental Trust Agreement, and for other good and valuable consideration, the receipt whereof is hereby acknowledged, and for the purpose of fixing and declaring the terms and conditions upon which the 2020 Bond is to be issued, authenticated, delivered, secured and accepted by all persons who shall from time to time be or become the Holder thereof, and to secure the payment of the 2020 Bond under this Supplemental Trust Agreement and the interest thereon according to its tenor, purport and effect, and to secure the performance and observance of all the covenants, agreements and conditions, express or implied, therein and herein contained, the Commission has executed and delivered this Supplemental Trust Agreement in the name of and on behalf of the District, and has agreed and covenanted, and does hereby agree and covenant, with the Trustee and with the Holder, from time to time, of the 2020 Bond, or any part thereof, as follows:

(end of Preamble)

ARTICLE I

DEFINITIONS

Section 1.1 Meaning of Words and Terms. In addition to words and terms defined in the Amended and Restated Trust Agreement, which words and terms are used herein as therein defined, or elsewhere in this Supplemental Trust Agreement, the following words and terms as used in this Supplemental Trust Agreement shall have the following meanings, unless some other meaning is plainly intended.

“**2011 Bonds**” has the meaning ascribed to such term in the recitals hereto.

“**2020 Bond**” has the meaning ascribed to such term in the recitals hereto.

“**Amended and Restated Trust Agreement**” has the meaning ascribed to such term in the preamble hereto.

“**Amendment**” has the meaning ascribed to such term in the recitals hereto.

“**Commission**” has the meaning ascribed to such term in the recitals hereto.

“**Default Rate**” means an interest rate equal to the sum of (a) the applicable interest rate on the 2020 Bond *plus* (b) two hundred (200) basis points, but in no event greater than the maximum interest rate permitted by law.

“**District**” has the meaning ascribed to such term in the recitals hereto.

“**Electronic Means**” means, e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee, or another method or system specified by the Trustee as available for use in connection with its services under this Supplemental Trust Agreement.

“**Enabling Act**” has the meaning ascribed to such term in the recitals hereto.

“**First Payment Date**” means (a) with respect to the first Interest Payment Date, April 1, 2021, and (b) with respect to the first Principal Payment Date, April 1, 2025.

“**Instructions**” has the meaning ascribed to such term in Section 6.1.

“**Interest Payment Date**” means each April 1 and October 1, commencing April 1, 2021.

“**Maximum Principal Amount**” means \$225,865,648.

“**Original Trust Agreement**” has the meaning ascribed to such term in the preamble hereto.

“**Outstanding WIFIA Loan Balance**” means the aggregate principal amount of the WIFIA Loan drawn by the District, minus the aggregate principal amount of the WIFIA Loan

repaid by the District, as determined in accordance with Section 8(d) of the WIFIA Master Agreement.

“Payment Date” means each Interest Payment Date and each Principal Payment Date.

“Principal Payment Date” means each April 1 and October 1, commencing April 1, 2025.

“Project” has the meaning ascribed to such term in the recitals hereto.

“Senior Trust Agreement” has the meaning ascribed to such term in the recitals hereto.

“Senior Trustee” has the meaning ascribed to such term in the recitals hereto.

“Substantial Completion” means the stage at which the Project is able to perform the functions for which it was designed.

“Substantial Completion Date” means the date on which the District certified to the WIFIA Lender, with evidence satisfactory to the WIFIA Lender, that Substantial Completion for the Project has occurred.

“Trust Agreement” has the meaning ascribed to such term in the preamble hereto.

“Trustee” has the meaning ascribed to such term in the preamble hereto.

“WIFIA 2020 Loan Agreement” has the meaning ascribed to such term in the recitals hereto.

“WIFIA Lender” has the meaning ascribed to such term in the recitals hereto.

“WIFIA Loan” has the meaning ascribed to such term in the recitals hereto.

“WIFIA Master Agreement” has the meaning ascribed to such term in the recitals hereto.

Section 1.2 Rules of Construction. This Supplemental Trust Agreement shall have the same rules of construction as are provided for the Trust Agreement in its Section 102. Any provision of this Supplemental Trust Agreement referring to actions to be taken by the District shall be deemed to refer to the Commission to the extent that the Enabling Act authorizes the Commission to take such action instead of the District.

(end of Article I)

ARTICLE II

DETAILS OF THE 2020 BOND

Section 2.1 Details of 2020 Bond.

(a) The 2020 Bond shall be issued in accordance with and secured by the Trust Agreement, including in particular the provisions of Section 209 of the Trust Agreement, as a Current Interest Bond, in a principal amount not to exceed the Maximum Principal Amount, for the purposes set forth in Section 209 of the Trust Agreement and the Preamble of this Supplemental Trust Agreement. The 2020 Bond shall be issued as a single, registered bond, shall be dated its date of delivery, shall be designated the “Hampton Roads Sanitation District (Virginia) Subordinate Wastewater Revenue Bond, Series 2020 (Federally Taxable),” shall be numbered R-1, and shall be issued in substantially the form set forth in Exhibit A hereto.

(b) Upon the written request of the District, the Bond Registrar shall authenticate and deliver the 2020 Bond as a draw-down bond to the WIFIA Lender in the Maximum Principal Amount.

(c) Interest on the 2020 Bond shall accrue and be computed on the Outstanding WIFIA Loan Balance from time to time at the rate set forth in the 2020 Bond on the basis of a three hundred sixty (360) day year comprised of twelve (12) thirty (30) day months; provided that upon the occurrence of an event of default under Section 17(a) of the WIFIA Master Agreement, interest on the 2020 Bond shall be computed on the Outstanding WIFIA Loan Balance at the Default Rate in accordance with the provisions of Section 6 of the WIFIA Master Agreement.

(d) On each Payment Date occurring on or after the applicable First Payment Date, payments due the 2020 Bond shall be made as follows: (i) semi-annual payments of interest on each Interest Payment Date, (ii) semi-annual payments of principal on each Principal Payment Date, and (iii) any other amounts on each other date on which payment thereof is required to be made under the WIFIA Master Agreement or under the WIFIA 2020 Loan Agreement.

(e) Any payment in respect of the 2020 Bond shall be treated as a payment in respect of the WIFIA Loan, and any prepayment of principal in respect of the WIFIA Loan shall be treated as a redemption in respect of the 2020 Bond.

(f) Any adjustments or revisions to the loan amortization schedule set forth in Exhibit B to the WIFIA 2020 Loan Agreement shall be deemed to update the amortization schedule attached as Schedule A to the 2020 Bond *mutatis mutandis*.

(g) The provisions for the manner and place of payment of the 2020 Bond shall be in accordance with Section 8(c) of the WIFIA Master Agreement, including the wire instructions set forth in Schedule IV thereof, as the same may be modified in writing from time to time by the WIFIA Lender.

(h) In accordance with the provisions of Section 502 of the Trust Agreement, the District shall make payments directly to the Trustee for deposit to the 2011 Trust Agreement Bond Fund in amounts sufficient to pay, when due, the principal of and interest on the 2020 Bond.

(i) In accordance with the provisions of Section 503 and, if applicable, Section 504 of the Trust Agreement, the Trustee shall make payments, when due, of principal of and interest on the 2020 Bond from the funds on deposit in the 2011 Trust Agreement Bond Fund.

Section 2.2 Optional Prepayment. From any available moneys, the District may, at its option, prepay the 2020 Bond, in whole or in part (and, if in part, the amounts thereof to be prepaid shall be determined by the District; provided that such prepayments shall be in principal amounts of at least \$1,000,000 or any integral multiple of \$1.00 in excess thereof), without penalty or premium, in accordance with Section 9 of the WIFIA Master Agreement and Section 9 of the WIFIA 2020 Loan Agreement.

Section 2.3 Prepayment Notice. The District shall send notice of any prepayment of the 2020 Bond to the WIFIA Lender not less than ten (10) days or more than thirty (30) days prior to the date set for prepayment, unless otherwise agreed by the WIFIA Lender. Such notice shall identify the principal amount to be prepaid and the date for such prepayment. At any time between delivery of such written notice and the applicable optional prepayment, the District may, without penalty or premium, rescind the announced optional prepayment by further written notice to the WIFIA Lender. The failure by the District to make any optional prepayment shall not constitute a breach or default under the Trust Agreement, the WIFIA Master Agreement or the WIFIA 2020 Loan Agreement. Upon making any prepayment, the District shall promptly give notice of the same to the Trustee.

Section 2.4 Cancellation. Upon the payment or prepayment of the 2020 Bond in full in immediately available funds, the WIFIA Lender shall surrender the 2020 Bond to the Trustee, and the Trustee shall cancel the 2020 Bond upon surrender thereof.

Section 2.5 Mandatory Prepayment. The 2020 Bond is subject to acceleration and mandatory prepayment on the terms and conditions set forth in Section 803 of the Trust Agreement and Section 9(a) of the WIFIA Master Agreement, respectively.

Section 2.6 WIFIA Lender Consent Required for Defeasance. Notwithstanding the provisions of Section 1201 of the Trust Agreement, the 2020 Bond may not be defeased before its maturity or redemption date without the prior written consent of the WIFIA Lender.

(end of Article II)

ARTICLE III

APPLICATION OF THE PROCEEDS OF THE 2020 BOND

Section 3.1 Application of the Proceeds of the 2020 Bond.

(a) The proceeds of all principal advances under the 2020 Bond shall be requisitioned as and when needed from the WIFIA Lender in accordance with Section 4 of the WIFIA Master Agreement and Section 4 of the WIFIA 2020 Loan Agreement. Such proceeds shall be used to pay, or reimburse the District for, Eligible Project Costs (as defined in the WIFIA Master Agreement); provided that such costs shall also constitute, for purposes of the Trust Agreement, Issuance Costs of the 2020 Bond or Capital Improvement Program Costs related to the Project. Such proceeds, as and when requisitioned, shall be disbursed directly by the WIFIA Lender to the District, and no deposit shall be required to the 2011 Trust Agreement Issuance Fund or the 2011 Trust Agreement Construction Fund established under the Trust Agreement.

(b) No proceeds of the 2020 Bond or other funds of the District shall be deposited in the 2011 Trust Agreement Debt Service Reserve Fund upon delivery of the 2020 Bond. If the District shall hereafter elect to fund the 2011 Trust Agreement Debt Service Reserve Fund, the provisions of Section 504 of the Trust Agreement shall control.

(end of Article III)

ARTICLE IV

RELEASE

Section 4.1 Release of this Supplemental Trust Agreement. When (a) the 2020 Bond secured hereby shall have become due and payable in accordance with its terms or otherwise as provided in this Supplemental Trust Agreement and the whole amount of the principal and the interest so due and payable upon the 2020 Bond shall have been paid in full in immediately available funds, and (b) sufficient funds shall also have been provided or provision made for paying all other obligations payable hereunder by the District, then and in that case the right, title and interest of the Trustee in the funds and accounts mentioned in this Supplemental Trust Agreement shall thereupon cease, determine and become void and, on demand of the District and upon being furnished with an opinion, in form and substance satisfactory to the Trustee, of counsel approved by the Trustee, to the effect that all conditions precedent to the release of this Supplemental Trust Agreement and the payment of the 2020 Bond have been satisfied, the Trustee shall release this Supplemental Trust Agreement and shall execute such documents to evidence such release as may reasonably be required by the District and, subject to the provisions of the Trust Agreement, shall turn over to the District any surplus in, and all balances remaining in, all funds and accounts created under this Supplemental Trust Agreement.

(end of Article IV)

ARTICLE V

ADDITIONAL COVENANTS RELATED TO WIFIA LENDER

Section 5.1 Application of Proceeds Received from the VRA. Any proceeds received by the Trustee from the VRA pursuant to the terms of that certain Intercreditor Agreement, dated as of September 28, 2020, by and among the District, the Trustee and the VRA, shall be applied by the Trustee promptly, on a *pro rata* basis among all of the Bonds in accordance with the provisions of Section 805(a) of the Trust Agreement.

Section 5.2 Additional Restriction on the Incurrence of Additional Indebtedness. The District covenants that, for purposes of demonstrating compliance with Section 704 of the Trust Agreement (Limitations on Indebtedness), clause (iv) of Section 704(a) of the Trust Agreement shall be deemed not to apply during the Master Availability Period (as defined in the WIFIA Master Agreement) or while there are Outstanding any Bonds (including the 2020 Bond) held by the WIFIA Lender.

Section 5.3 Modifications to this Article V. Notwithstanding anything to the contrary in Section 1102 of the Trust Agreement or any other provision of the Trust Agreement or this Supplemental Trust Agreement, neither Section 5.1 above nor Section 5.2 above shall be modified without the prior written consent of the WIFIA Lender.

(end of Article V)

ARTICLE VI

MISCELLANEOUS

Section 6.1 Manner of Giving Notice. All notices, demands and requests to be given to or made hereunder by the District or the Trustee shall be given or made in writing and shall be deemed to be properly given or made if sent by United States registered mail, return receipt requested, postage prepaid, addressed as follows:

- (a) As to the District—

Hampton Roads Sanitation District
1434 Air Rail Avenue
Virginia Beach, Virginia 23455
Attention: General Manager
Email: [REDACTED]
Telephone: [REDACTED]
Telecopier: [REDACTED]

- (b) As to the Trustee—

The Bank of New York Mellon Trust Company, N.A.
500 Ross Street, 12th Floor
Pittsburgh, Pennsylvania 15262
Attention: [REDACTED]
Email: [REDACTED]
Telephone: [REDACTED]
Telecopier: [REDACTED]

- (c) As to the Bond Registrar—

The Bank of New York Mellon Trust Company, N.A.
500 Ross Street, 12th Floor
Pittsburgh, Pennsylvania 15262
Attention: [REDACTED]
Email: [REDACTED]
Telephone: [REDACTED]
Telecopier: [REDACTED]

Any such notice, demand or request may also be transmitted to the appropriate above-mentioned party by telegram, telecopy or telephone and shall be deemed to be properly given or made at the time of such transmission if, and only if, such transmission of notice shall be confirmed in writing and sent as specified above.

The Trustee agrees to accept and act upon instructions or directions, including funds transfer instructions (“**Instructions**”), pursuant to the Trust Agreement or any other document reasonably relating to the 2020 Bond sent by the District by Electronic Means, provided, however, that the District shall provide to the Trustee an incumbency certificate listing designated persons

with the authority to provide such Instructions and containing specimen signatures of such designated persons, which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. If the District elects to give the Trustee Instructions by Electronic Means and the Trustee, in its discretion, elects to act upon such Instructions, the Trustee's understanding of such Instructions shall be deemed controlling. The District understands and agrees that the Trustee cannot determine the identity of the actual sender of such Instructions and that the Trustee shall conclusively presume that directions that purport to have been sent by a designated person listed on the incumbency certificate provided to the Trustee have been sent by such designated person. The District shall be responsible for ensuring that only designated persons transmit such Instructions to the Trustee and that the District and all designated persons are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords or authentication keys upon receipt by the District. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such Instructions notwithstanding such Instructions conflict or are inconsistent with a subsequent written Instruction. The District agrees (i) to assume all risks arising out of the use of such Electronic Means to submit Instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Trustee and that there may be more secure methods of transmitting Instructions than the method(s) selected by the District; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures.

Any of such addresses may be changed at any time upon written notice of such change sent by United States registered mail, postage prepaid, to the other parties by the party effecting the change.

All documents received by the Trustee under the provisions of this Supplemental Trust Agreement, or photographic copies thereof, shall be retained in its possession until this Supplemental Trust Agreement shall be released under the provisions of Section 4.1 of this Supplemental Trust Agreement, subject at all reasonable times to the inspection of the District and any Holder and the agents and representatives thereof.

Section 6.2 Substitute Mailing. If, because of the temporary or permanent suspension of postal service, the District or the Trustee shall be unable to mail any notice required to be given by the provisions of this Supplemental Trust Agreement, the District or the Trustee shall give notice in such other manner as in the judgment of the District or the Trustee shall most effectively approximate mailing (but, if by unsecured facsimile or electronic transmission, then in compliance with and subject to the provisions of Section 6.1 above) and the giving of notice in such manner shall for all purposes of this Supplemental Trust Agreement be deemed to be in compliance with the requirement for the mailing thereof.

Section 6.3 Parties, Bond Registrar and the Holder of 2020 Bond Alone Have Rights under Trust Agreement. Except as herein otherwise expressly provided, nothing in this Supplemental Trust Agreement, express or implied, is intended or shall be construed to confer

upon any person, firm or corporation, other than the Trustee, the Bond Registrar, the District and the Holder of the 2020 Bond, any right, remedy or claim, legal or equitable, under or by reason of this Supplemental Trust Agreement or any provision being intended to be and being for the sole and exclusive benefit of the Trustee, the District, the Bond Registrar and the Holder of the 2020 Bond.

Section 6.4 Effect of Partial Invalidity. In case any one or more of the provisions of this Supplemental Trust Agreement or the 2020 Bond shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Supplemental Trust Agreement or the 2020 Bond, but this Supplemental Trust Agreement and the 2020 Bond shall be construed and enforced as if such illegal or invalid provisions had not been contained therein. In case any covenant, stipulation, obligation or agreement contained in the 2020 Bond or this Supplemental Trust Agreement shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the Commission or the District to the full extent permitted by law.

Section 6.5 Effect of Covenants; Governing Law. All covenants, stipulations, obligations and agreements of the District contained in this Supplemental Trust Agreement shall be deemed to be covenants, stipulations, obligations and agreements of the District to the full extent permitted by the Constitution and laws of the Commonwealth of Virginia. This Supplemental Trust Agreement shall be governed by the laws of the Commonwealth of Virginia without regard to choice of law principles.

Section 6.6 No Recourse Against Members, Officers or Employees of Commission or District. No recourse under, or upon, any statement, obligation, covenant, or agreement contained in this Supplemental Trust Agreement, or in the 2020 Bond hereby secured, or in any document or certification whatsoever, or under any judgment obtained against the Commission or the District or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise or under any circumstances, shall be had against any member, officer or employee, as such, of the Commission or the District, either directly or through the Commission or the District, respectively, or otherwise, for the payment for or to, the Commission or the District or any receiver of either of them, or for, or to, any Holder or otherwise, of any sum that may be due and unpaid upon the 2020 Bond. Any and all personal liability of every nature, whether at common law or in equity or by statute or by constitution or otherwise, of any such member, officer or employee, as such, to respond by reason of any act or omission on his or her part or otherwise, for the payment for, or to, the Commission or the District or any receiver of either of them, or for, or to, any Holder or otherwise, of any sum that may remain due and unpaid upon the 2020 Bond hereby secured, is hereby expressly waived and released as an express condition of, and in consideration for, the execution of this Supplemental Trust Agreement and the issuance of the 2020 Bond.

Section 6.7 Legal Holidays. In any case where a Payment Date is not a Business Day, then payment of such principal and interest need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on such Payment Date, and in the case of such payment, no interest shall accrue for the period from and after such date.

Section 6.8 Multiple Counterparts. This Supplemental Trust Agreement may be executed in multiple counterparts, each of which shall be regarded for all purposes as an original, and such counterparts shall constitute but one and the same instrument.

Section 6.9 Headings. Any heading preceding the text of the several articles hereof, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Supplemental Trust Agreement, nor shall they affect its meaning, construction or effect.

Section 6.10 Further Authority. The officers of the Commission or the District, attorneys, engineers and other agents or employees of the Commission or the District are hereby authorized to do all acts and things required of them by this Supplemental Trust Agreement and the Trust Agreement for the full, punctual and complete performance of all of the terms, covenants and agreements contained in the 2020 Bond and this Supplemental Trust Agreement.

(end of Article VI)

IN WITNESS WHEREOF, the Hampton Roads Sanitation District has caused these presents to be signed in its name and on its behalf and attested by its duly authorized officers and to evidence its acceptance of the trusts hereby created, the Trustee has caused these presents to be signed in its name and on behalf by its duly authorized officer, all as of the 28th day of September, 2020.

HAMPTON ROADS SANITATION DISTRICT

(Seal)

By: _____
Director of Finance
Hampton Roads Sanitation District Commission

Attest:

By: _____
Secretary
Hampton Roads Sanitation District Commission

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Trustee

By: _____
Authorized Officer

FORM OF 2020 BOND

Interest on this bond is not excludable from the gross income of the registered owner hereof for federal income tax purposes.

No. R-1

HAMPTON ROADS SANITATION DISTRICT
(VIRGINIA)
SUBORDINATE WASTEWATER REVENUE BOND,
SERIES 2020
(FEDERALLY TAXABLE)

<u>Maturity Date</u>	<u>Interest Rate</u>	<u>Dated</u>	<u>CUSIP</u>
April 1, 2060	_____	September 28, 2020	409327 LR2

Registered Owner: UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Maximum Principal Amount: TWO HUNDRED TWENTY-FIVE MILLION, EIGHT HUNDRED SIXTY-FIVE THOUSAND, SIX HUNDRED FORTY-EIGHT AND 00/100 DOLLARS (\$225,865,648.00)

Hampton Roads Sanitation District (the “District”), a political subdivision of the Commonwealth of Virginia, by the Hampton Roads Sanitation District Commission (the “Commission”), the Commission of the District, for value received, promises to pay, but solely from the sources and in the manner hereinafter provided, to the registered owner named above, acting by and through the Administrator of the Environmental Protection Agency or its assigns (the “WIFIA Lender”), the lesser of (x) the Maximum Principal Amount set forth above and (y) the aggregate unpaid principal amount of all disbursements (the “Disbursements”) made by the WIFIA Lender (such lesser amount being hereinafter referred to as the “Outstanding Principal Sum”), together with accrued and unpaid interest (including, if applicable, interest at the Default Rate in accordance with that certain WIFIA Loan Agreement, dated September 28, 2020, by and between the WIFIA Lender and the District (the “WIFIA 2020 Loan Agreement”), on the Outstanding Principal Sum and all fees, costs and other amounts payable in connection therewith, all as more fully described in the WIFIA 2020 Loan Agreement. The principal hereof shall be payable in the manner and at the place provided in the WIFIA 2020 Loan Agreement in accordance with Exhibit B (WIFIA Debt Service) to the WIFIA 2020 Loan Agreement, as revised from time to time in accordance with the WIFIA 2020 Loan Agreement and that certain WIFIA Master Agreement, dated September 28, 2020, by and between the WIFIA Lender and the District (the “WIFIA Master Agreement”), until paid in full (which Exhibit B, as modified from time to time

in accordance with the terms of the WIFIA 2020 Loan Agreement and the WIFIA Master Agreement, is incorporated in and is a part of this Bond). The WIFIA Lender is hereby authorized to modify the loan amortization schedule included in Exhibit B to the WIFIA 2020 Loan Agreement from time to time in accordance with the terms of the WIFIA Master Agreement and the WIFIA 2020 Loan Agreement to reflect the amount of each disbursement made thereunder and the date and amount of principal or interest paid by the District thereunder. Any adjustments or revisions to the loan amortization schedule included in Exhibit B to the WIFIA 2020 Loan Agreement shall be deemed to update the amortization schedule attached as Schedule A hereto *mutatis mutandis*. Absent manifest error, the WIFIA Lender's determination of such matters as set forth on Exhibit B to the WIFIA 2020 Loan Agreement shall be conclusive evidence thereof; provided, however, that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the District's obligations hereunder or under any other WIFIA Loan Document (as defined in the WIFIA Master Agreement).

Payments on this Bond are to be made in accordance with Section 8(c) (Payment of Principal and Interest – Manner of Payment) and Section 31 (Notices) of the WIFIA Master Agreement as the same become due. Principal of and interest on this Bond shall be paid in funds available on or before the due date and in any lawful coin or currency of the United States of America that at the date of payment is legal tender for the payment of public and private debts. If the Substantial Completion Date occurs on any date prior to April 1, 2025, the due date of this Bond shall be deemed to be amended to the Principal Payment Date immediately preceding the date that is thirty-five (35) years following such Substantial Completion Date without any further action required on the part of the Borrower or the WIFIA Lender and such amendment shall in no way amend, modify or affect the other provisions of this Bond without the prior written agreement of the WIFIA Lender. Any such amendment shall be reflected in a revised Exhibit B to the WIFIA Loan Agreement.

Interest on this Bond shall accrue and be computed on the Outstanding WIFIA Loan Balance from time to time at the interest rate stated above, on the basis of a three hundred sixty (360) day year comprised of twelve (12) thirty (30) day months; provided that upon the occurrence of any event of default under Section 17(a) of the WIFIA Master Agreement, interest on this Bond shall be computed on the Outstanding WIFIA Loan Balance at the Default Rate in accordance with the provisions of Section 6 of the WIFIA Master Agreement.

This Bond is issued under a trust agreement, dated as of October 1, 2011, between the District and The Bank of New York Mellon Trust Company, N.A., Pittsburgh, Pennsylvania, as Trustee (said banking corporation and any bank or successor trustee under the Trust Agreement being hereinafter referred to as the "Trustee"), as amended and restated as of March 1, 2016, and as the same may be amended and supplemented from time to time (the "Trust Agreement"), including pursuant to the Eighth Supplemental Trust Agreement dated as of September 28, 2020 (the "Eighth Supplemental Agreement"). The Bond is being issued for the purpose of providing funds, together with other available funds, (i) to finance a portion of the eligible costs of the Project and (ii) to pay a portion of the expenses incurred in connection with the issuance of this Bond by the District. Reference is made to the WIFIA Master Agreement and the WIFIA 2020 Loan Agreement for further terms and conditions relating to the obligations of the District hereunder and thereunder, which terms and conditions shall for all purposes have the same effect as if fully set forth herein. All capitalized terms used in this Bond and not defined herein shall have the

meanings set forth in the Eighth Supplemental Agreement, or if not defined therein, in the Trust Agreement.

This Bond may be prepaid at the option of the District in whole or in part (and, if in part, the principal installments and amounts thereof to be prepaid are to be determined in accordance with the WIFIA 2020 Loan Agreement; provided that such prepayments shall be in principal amounts of at least \$1,000,000 or any integral multiple of \$1 in excess thereof), from time to time, but not more than once in any Fiscal Year, without penalty or premium, by paying to the WIFIA Lender all or part of the principal amount of this Bond in accordance with the WIFIA 2020 Loan Agreement.

This Bond shall be subject to mandatory prepayment on the terms and conditions set forth in the WIFIA Master Agreement, the WIFIA 2020 Loan Agreement and the Trust Agreement.

This Bond is issued and the Trust Agreement was made and entered into under and pursuant to the Constitution and laws of the Commonwealth of Virginia, and particularly in conformity with the provisions, restrictions and limitations of Chapter 66 of the Acts of Assembly of Virginia of 1960, as amended.

Indebtedness secured by the Trust Agreement is in all respects subordinate and inferior to the lien thereon of indebtedness (“Senior Obligations”) secured by that certain trust agreement, dated as of March 1, 2008 (as the same may be amended and supplemented from time to time, the “Senior Trust Agreement”), between the District and The Bank of New York Mellon Trust Company, N.A., as trustee (in such capacity, the “Senior Trustee”), outstanding under the Senior Trust Agreement.

The District has agreed to perform, observe and comply with certain covenants, conditions and agreements set forth in the Trust Agreement. The District may incur additional indebtedness, including notes, guaranties and other indebtedness secured by the Trust Agreement on a pari passu basis (collectively, “Parity Obligations”) for the purposes, under the terms and conditions and to the extent described therein and in the WIFIA Master Agreement.

This Bond is a special obligation of the District and is payable solely from Net Revenues Available for Debt Service derived by the District from its Wastewater System and the money attributable to proceeds of the Bond and the income from the investment thereof and not from any other fund or source. This Bond shall not be deemed to constitute a debt, or a pledge of the faith and credit, of the Commonwealth of Virginia or of any county, city, town or political subdivision thereof. The issuance of this Bond shall not directly or indirectly or contingently obligate the Commonwealth of Virginia or any county, city, town or political subdivision thereof to levy or to pledge any form of taxation whatever therefor.

This Bond is issued as a fully registered Bond. The transfer of this Bond is registrable by the registered owner hereof in person or by his attorney or legal representative at the corporate trust office of the Bond Registrar for the delivery of the Bond, but only in the manner and subject to the limitations and conditions provided in the Trust Agreement and upon surrender and cancellation of this Bond. Upon any such registration of transfer, the District shall execute and the Bond Registrar shall authenticate and deliver in exchange for this Bond a new Bond, registered

in the name of the transferee, in a principal amount equal to the then outstanding principal amount of this Bond, of the same series and maturity and bearing interest at the same rate.

The Holder of this Bond shall have no right to enforce the provisions of the Trust Agreement or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Trust Agreement, or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Trust Agreement and except that the Holder of this Bond may institute action to enforce the payment of the principal of or the interest on this Bond. Any delay on the part of the Holder of this Bond in exercising any right hereunder shall not operate as a waiver of any such right, and any waiver granted with respect to one default shall not operate as a waiver in the event of any subsequent default.

Upon the occurrence of certain events, and on the conditions, in the manner and with the effect set forth in the Trust Agreement, the Outstanding principal amount of this Bond may become or may be declared due and payable before the stated maturity thereof, together with the interest accrued thereon.

Modifications or alterations of the Trust Agreement or any trust agreement supplemental thereto may be made only to the extent and in the circumstances permitted by the Trust Agreement.

This Bond shall be governed by the laws of the Commonwealth of Virginia without regard to choice of law principles.

All acts, conditions and things required to happen, exist and be performed precedent to and in the issuance of this Bond have happened, exist and have been performed as so required.

Neither the members, officers or employees of the Commission or the District, nor any person executing this Bond, is liable personally hereon or subject to any personal liability or accountability by reason of issuance hereof.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Trust Agreement until it shall have been authenticated by the execution by the Bond Registrar of the certificate of authentication endorsed hereon.

IN WITNESS WHEREOF, the Hampton Roads Sanitation District has caused this Bond to be executed in its name and on its behalf with the [facsimile] signatures of the Chair and the Secretary of the Hampton Roads Sanitation District Commission and [a facsimile of] the official seal of said Commission to be impressed hereon and this Bond to be dated the Dated Date.

HAMPTON ROADS SANITATION DISTRICT

By _____
Chair
Hampton Roads Sanitation District Commission

By _____
Secretary
Hampton Roads Sanitation District Commission

[Seal]

CERTIFICATE OF AUTHENTICATION

Date of authentication: _____

This Bond is a Bond issued under the provisions of the within-mentioned Trust Agreement.

**THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.,**
as Bond Registrar

By _____
Authorized Signatory

[FORM OF ASSIGNMENT]

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

[Please Print or Typewrite Name and Address of Transferee]

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to register the transfer of the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Date: _____

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by an institution which is a participant in the Securities Transfer Agent Medallion Program (STAMP) or similar program.

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

SCHEDULE A

Amortization Schedule

[To be attached]